

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

### Ninth Parliament - Fourth Session

*(Ninth Parliament established by Proclamation -  
Legal Notice No.8 of 24th January, 2003)*

**Wednesday, 16th March, 2005**

### STATE OPENING OF A NEW SESSION

*The National Assembly met at Thirty minutes  
past Two o'clock at Parliament Buildings  
on Wednesday, 16th March, 2005, it being  
the first day of the Fourth Session.*

### ARRIVAL OF HIS EXCELLENCY THE PRESIDENT

*[His Excellency the President (Mr. Mwai Kibaki),  
escorted by the Speaker and accompanied  
by the Mace of the National Assembly,  
entered the Chamber at ten minutes  
to Three o'clock]*

*[His Excellency the President  
(Mr. Mwai Kibaki) took the Chair]*

*(The Mace of the National Assembly was  
placed on the Table)*

### PRAYERS

**Mr. Speaker:** Your Excellency, hon. Members, may I call upon the Spiritual Leaders to offer prayers for this new Session.

*(Prayers were then said by the following: The Rt. Rev. Archbishop Benjamin Nzimbi; His Grace Archbishop Raphael Ndingi Mwana a'Nzeki, The Rev. Dr. David M. Gathii; The Chief Kadhi Sheikh Hammad Kassim and Mr. Siopin Lekolool)*

### COMMUNICATION FROM THE CHAIR

#### WELCOME TO HIS EXCELLENCY THE PRESIDENT

**Mr. Speaker:** Order, order, Members! Your Excellency the President of the Republic of Kenya, hon. Members, on behalf of all hon. Members, it is my honour and privilege to welcome you on this auspicious occasion of the State Opening of the Fourth Session of the Ninth Parliament. This occasion provides the opportunity for your Excellency to address, not only hon. Members of this House, but the entire nation, on the Government's achievements and the Parliamentary programme for

the coming Session.

Your Excellency, a new Session is now upon us. This does not only afford us the opportunity to account comprehensively to the citizens for our actions and responsibilities as entrusted on us, but also to renew our commitment to face the great challenges and tasks ahead and to provide leadership to ensure that the aspirations of our people are achieved. This Parliament remains the bridge between the Government and the people of Kenya.

Your Excellency, during the last Session, the Parliamentary Service Commission, which I chair, continued to implement programmes to improve facilities and services to enable hon. Members to discharge their functions and responsibilities more efficiently and effectively. As I mentioned last year, the Commission is engaged in an on-going modernisation programme to rehabilitate this Chamber so as to provide more sitting space, live coverage of House proceedings, electronic voting and introduction of Interconnectivity (ICT). The people of Kenya need and demand to evaluate the performance of their elected representatives on a continuous basis. The project will move in earnest during this Session and Members will soon, and I mean soon, have to move to the Old Chamber so that the work is completed before the next Session.

Your Excellency, Parliamentary Committees remain an important avenue through which hon. Members execute the legislative oversight role of Parliament. The Parliamentary Service Commission will continue to facilitate their effective operations by strengthening their capacity; in terms of staffing and other resources. It is our hope and expectation that the reports and recommendations of Committees will be taken into account in the execution and implementation of Government policies and programmes.

Your Excellency, one of the cardinal responsibilities of Parliament is to provide the legislative bedrock for measures that the Executive may wish to introduce. The completion of the constitutional review process and the ultimate enactment of a new constitution, therefore, remain a key legislative agenda before this House.

*(Applause)*

The smooth conclusion of the process and enactment of a new constitution will mark an historical milestone for the Ninth Parliament.

The review process calls for a clear vision that will guide the nation beyond our individual ambitions that will bequeath the coming generation a nation worthy of what our founding fathers fought and died for. It is my hope and wish that the envisaged debate for a new constitution will be guided by the vision to lay a foundation for a peaceful and prosperous nation.

Your Excellency, on regional co-operation, I wish to commend the efforts of Your Excellency and, indeed, the efforts of the Heads of State of the Republic of Uganda and the United Republic of Tanzania for the bold and visionary measures that you have taken to bring into reality the integration process of the East African Community. This House fully supports your initiatives towards the integration of East Africa. On their part, hon. Members have participated in several fora in which they have had opportunity to share ideas and experiences with their counterparts from Uganda and Tanzania.

May, I on behalf of the House, extend our congratulations to the Government for its efforts that culminated in the historic signing of the peace agreement between the Government of Sudan and the Sudanese Peoples Liberation Movement/Army. It is our hope that the conclusion and signing of the agreement will bring stability in this region. Similarly, the formation of a Government of National Unity in Somalia will foster not only economic growth but also peace in the Horn of Africa. Certainly, these are developments that Kenyans feel honoured and privileged to have hosted and facilitated. We trust that peace and prosperity in Somalia will, in due course, bring forth political stability and economic growth in this region.

Your Excellency, our Parliament is a committed member of both the Commonwealth

Parliamentary Association (CPA), which brings together all Parliaments of the Commonwealth, and the Inter-Parliamentary Union (IPU), which is the union of world Parliaments. In recognition of our Parliamentary history and respect for democracy, Kenya has been chosen to host the Commonwealth Speakers and Presiding Officers Conference in January, 2006 and the IPU Conference in May, 2006, respectively. This is a big honour for us as it opens a window for Kenya to show its attributes to the world. As the Chairman of the Kenya branches of the CPA and IPU, I wish to thank the Government for supporting our endeavour to host these two major international conferences. Through the two conferences, we will no doubt reclaim our country's glory on the international stage.

Your Excellency, on behalf of the House, it is my pleasure and, indeed, great honour, to congratulate the 2004 Nobel Peace laureate, the hon. Wangari Maathai. She has not only brought honour and glory to this nation but to the entire continent of Africa. Hon. Wangari Maathai is an inspiring role model and embodiment of patience, selflessness, steadfastness, patriotism and hard work. As a nation, we owe her a responsibility to ensure that Kenya remains an international model of excellence as we borrow a leaf from her dedication.

*(Applause)*

In conclusion, may I urge all hon. Members to use the opportunity that I always avail in this House to lead the country from the front. We must approach all issues in a state of sobriety, devoid of emotions and parochialism. This is our land and all the people of Kenya are our people. Let us, therefore, reason together as the leaders of one, un-divided and indivisible nation. Let us rise to the occasion and provide leadership that is expected, nay, demanded of us by the people of Kenya. Disagreements or divergent views on a matter should not create enmity. In public debates, let leaders disagree with honour and respect. Let Members of this House be the shining example of decorum and honourable leadership.

Hon. Members, it is now my honour and privilege to invite His Excellency to address this House.

Hon. Members, His Excellency the President of the Republic of Kenya.  
Your Excellency.

*(Applause)*

**His Excellency the President** (Mr. Kibaki): Thank you, Mr. Speaker, Sir. Today, the Ninth Parliament begins its Fourth Session after the Christmas recess. I believe that hon. Members took advantage of that opportunity to consult with their constituents on their development priorities. Hon. Members are now fully energized and equipped to deal with the business of the House in the coming months.

Mr. Speaker, Sir, the Kenyan people place a considerable responsibility and high expectations on the institution of Parliament. As the supreme organ of the State, Parliament is expected to provide leadership in tackling the challenges that continue to confront us. Some of those challenges include the revival of the economy, governance and social well-being of the Kenyan people. There is a common saying that the world has become a global village in which we must compete for limited resources and markets. In those circumstances, building human capacity, efficiency of our institutions of governance and providing modern legal framework for economic activity to take place are critical to the advancement of our country's competitiveness.

Mr. Speaker, Sir, the economic recovery remains on top of the Government's agenda. The development of our country remains low by international standards. Our effort to improve on the performance index calls for unity of purpose of our leadership and creation of an enabling environment to unleash the energies of our people. We have set ourselves a high economic growth rate of 7 per

cent. That is achievable if we can focus more of our energies on economic activities, rather than dwelling on divisive and non-productive politics. Since coming into office two years ago, my Government presented to this Parliament the Sessional Paper on the economic recovery programme, followed by important Bills on economic management and governance. Those Bills, which are now part of our laws, include, and I quote: The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act, the Kenya National Audit Act, the Investment Code and the Financial Management Act. I thank the August House for enacting those important laws.

Mr. Speaker, Sir, in addition, my Government has taken specific measures to ensure macro-economic stability and revamp the economy. Those measures have born positive results. I can now report that, at the end of the last financial year, the agricultural and livestock sectors were on an upward trend and Kenyans are beginning to reap the fruits of the improved situation. For example, the tea sub-sector grew by 17 per cent while the horticultural exports increased by 10 per cent. In the sugar sub-sector, cane deliveries increased by 15 per cent while coffee deliveries rose by 4.5 per cent. In the energy sector, consumption of electricity increased by 8 per cent. The tourism sector, which had been depressed for years, improved by 24 per cent. In addition, mobile telephone services increased by 58 per cent. Cargo at the port of Mombasa expanded by 7.7 per cent. Cement production rose by 8 per cent and locally assembled vehicles increased by 47 per cent.

In the financial sector, the balance sheet of the banking sector expanded with total assets increasing by 14 per cent. Net lending to the private sector increased by Kshs31 billion. On the aggregate, our Gross Domestic Product (GDP) growth rate improved to 2.4 per cent last year, which is the highest since 1997. We expect to achieve, at least, 3 per cent growth by the end of this year. This growth, together with intensified tax compliance, has increased our tax revenue by 24.5 per cent over the previous year. The benefits of the increased revenue flows will be realised up to the grassroots level, where the Government is spending between Kshs50 million and Kshs70 million annually, per constituency, to support development projects.

Mr. Speaker, Sir, those resources are being channelled to the constituencies through the Constituency Development Fund (CDF), the Local Authorities Transfer Fund (LATF), the Constituency Bursary Fund (CBF), the Roads Maintenance Fund (RMF) and the HIV/AIDS Campaign. Indeed, I believe that hon. Members are, today, the most empowered Members of Parliament in Kenya's history.

*(Applause)*

But those resources are for the development of the people. I urge hon. Members to explain to their constituents that, that is their money and they should, therefore, ensure that it is used properly and efficiently. The Controller and Auditor-General is also alert, and will ensure that irregularities are detected early, in order to effect appropriate corrective measures.

Mr. Speaker, Sir, in the last few weeks, we have witnessed incidents of violent disputes over land. Land is a limited economic resource which attracts intense emotions in this country. In recognition of that, the Government has formulated a new land policy to be presented to the House as a Sessional Paper. At the same time, I urge hon. Members to pursue dialogue in dealing with land matters. As leaders, we should not incite people to violence every time land issues arise. There is nothing that cannot be resolved through the law. The existing legal and administrative mechanisms should be employed fully in tackling land disputes. In that regard, I am pleased to note that the NARC Government has accelerated land adjudication in Kwale, Meru North and Mwingi districts. Those are areas where the process has been frustrated for the last 40 years. Over the last two years, thousands of families in the three districts have been issued with title deeds. Land adjudication will be intensified until it is completed.

Related to this is the precarious situation of our forests, which have over the years been

depleted to a dangerous level. The country has less than 2 per cent forest cover, while the internationally recommended minimum forest cover is 10 per cent. The Government has, therefore, embarked on a programme of removing illegal settlements from the forests. Some difficult decisions had to be made that have caused suffering to the affected people. These are short-term costs that we have to pay. In the long-run, this policy will benefit all Kenyans. I call on all leaders to support the exercise and avoid politicising the issue. Let us work together to restore the Government gazetted forests and trustlands.

Mr. Speaker, Sir, the fight against corruption is being accorded priority by the Government. I will continue to lead the fight against corruption in all its forms, whether it involves diversion of funds or inefficiency in the implementation of public projects. However, we must not allow partisan politics to undermine these efforts. We cannot afford to be divided in our efforts to fight corruption. Corruption steals from all of us. It undermines the development of our country and erodes the wellbeing of our people. Indeed, I am glad to note that we are making good progress. We should maintain a united front in this fight. For example, we have totally eliminated grabbing of public land.

Turning to the legislative programme for this Session, my Government will be tabling various legislations to speed up the implementation of economic and governance reforms agenda. In July, 2003, the Government set up a Commission of Inquiry into the illegal and irregular allocation of public land. This is also known as the "Ndung'u Commission". The Government accepted the recommendations presented by the Commission and will be tabling a Bill on the implementation of the recommendations of that particular Commission. To further strengthen the legislative framework for combating corruption, the Government will be tabling a Bill seeking to amend the Public Officer Ethics Act. The amendment is intended to facilitate disclosure of information from wealth declarations to the public.

(Applause)

Mr. Speaker, Sir, lengthy procedures have sometimes undermined efficiency in the public procurement system. Delayed implementation of public projects is a denial of jobs, services and better lives for the people. To comprehensively address this issue, my Government will table a revised version of the Public Procurement and Disposal Bill. This will be very soon. This will be done during this Session. The overall objective of this Bill is to establish a sound legal framework for public procurement. When enacted, the new law will accelerate procurement procedures in the Government. The Bill also includes specific provisions to govern the procurement of security related projects. We will continue to ensure that the Kenyan public get value for the taxes they pay to the Government.

Mr. Speaker, Sir, the performance of local authorities has a direct bearing on the rhythm of the development of the entire country. The pathetic state of many of our urban centres is, therefore, most disturbing. We need to pay special attention to the operations and the management of local authorities. We have both the financial and the human resources to make our towns clean and pleasant for our people to live in. My Government intends to table legislation which will strengthen local authorities. In this regard, the Government has already finalised a Bill for the establishment of a Financial Management and Control Board. The Board will be expected to restore the financial and management health of the affected local authorities. In addition, the Government is in the process of finalising the establishment of the Local Authorities Bill. This Bill is intended to provide for the creation of a metropolitan city of Nairobi.

Mr. Speaker, Sir, during the last Session of Parliament, the Bill proposing the introduction of the National Social Health Insurance Fund was passed. The primary focus of the Bill is to increase access to health care services. The Government regards the health of our people as a top priority and, therefore, fully supports this initiative. However, this Bill has far-reaching cost implications which cannot be met under our current financial circumstances. My Government will, therefore, re-submit an

amended Bill to Parliament. The amended Bill provides for the phased implementation of the scheme in line with the current fiscal framework.

With regard to education, my Government will continue with its sectorwide reform of education in the country. The Government has both developed a Sessional Paper on "Meeting the Challenges of Education, Training and Research in Kenya in the 21st Century" to be tabled before this House.

Mr. Speaker, Sir, during the last Session, the House passed the Banking (Amendment) Bill, 2004. However, following in-depth scrutiny of the Bill, some of the clauses were found to contain ambiguities that needed to be rectified. The Government will be re-tabling an amended Bill for consideration by the House.

The creation of an enabling environment for investments is the key commitment of my Government. While key legislation in this area has already been enacted, there is need for further legislation to make the investment environment more hospitable. Moreover, outdated company laws and regulations have been a major obstacle to effective management of companies. In this connection, the Government will table the Companies Bill to provide a modern framework for conducting business in the country. Closely related to this is the Deposit Taking Micro-finance Bill 2005, which will be tabled before this House for debate and enactment. The Bill will facilitate credit to the micro-enterprises, currently employing over 2.3 million people, and enable them to grow.

Mr. Speaker, Sir, during the last Session, hon. Members deliberated on the Privatization Bill and made recommendations that were to be incorporated in the Bill. A revised version of this Bill is now ready and will be tabled afresh. When enacted, the Bill will provide a legal framework to guide the privatization process in an open, transparent and accountable manner. The new law will also create an autonomous Privatisation Commission to manage the privatization process.

Mr. Speaker, Sir, sustainable development cannot take place in the absence of prudent management of the environment. To this end, my Government will bring back the Forests Bill, which was not passed by Parliament during the last Session. The Bill has been reviewed and the contributions of the House and all stakeholders have now been incorporated.

Related to this is the Wildlife Conservation and Management (Amendment) Bill which was passed by Parliament in December last year. After detailed examination of this Bill, the Government concluded that there was need to prepare and table before the House a comprehensive Sessional Paper and a Bill which would adequately address wildlife conservation and management in its totality.

Furthermore, in our effort to revitalise agriculture and livestock, my Government intends to present several Bills and policy papers to Parliament. Among the Bills and policy papers to be tabled are: the Sessional Paper on Cotton Development and Enabling Bill; Sessional Paper on Pyrethrum; aimed at revitalizing the pyrethrum industry; Sessional Paper on Revitalization of Sugar Industry and a Sessional Paper on the Dairy Industry and an enabling Bill.

Besides the above, and as part of the effort towards entrenching our democracy, the Government will also table the Political Parties Bill. This is intended to provide an appropriate legislation system for political parties; their democratic management and State funding.

*(Applause)*

Mr. Speaker, Sir, regarding regional issues, my Government remains focused on the process of economic and political integration of the East African region. The East African Community Customs Union came into force on 1st January, 2005.

Mr. Speaker, Sir, the necessary Bill aimed at facilitating the domestication of the Customs Union Law into the national laws of Kenya will be tabled before this House. A Sessional Paper on the fast tracking of the establishment of the East African Federation will also be tabled.

Mr. Speaker, Sir, the Somali Peace Process was successfully concluded at the end of October,

2004 and culminated in the formation of the Somali Transitional Government. The people of Somalia now have a chance of peace and development. We encourage them to fully embrace the new Government.

On Southern Sudan, the signing of the Comprehensive Peace Agreement brought a new era of peace to Southern Sudan. I encourage the Kenyan business community to take advantage of the emerging business opportunities following the realisation of peace in Sudan and Somalia.

Mr. Speaker, Sir, my Government, in collaboration with the governments of Ethiopia and Sudan, is promoting development of tarmac roads and railways to link Kenya with the two countries, so that we can exploit the enormous economic potential that exists in our three countries. We have already got some interested parties in all these sectors with whom we are discussing. We will achieve this through mobilization of internal resources, external financing from development partners and through public-private partnerships.

The Government together with the Government of Uganda, is also concessioning the Kenya-Uganda Railway, which is a vital transport system for this region. This will be complemented by the Government's plan to transform the Port of Mombasa into a landlords port where most of the services will be conducted by private operators. We are determined to make Mombasa one of the most efficient ports on the East Coast of Africa.

*(Applause)*

Mr. Speaker, Sir, turning to the review of the Constitution, I want to assure hon. Members that the completion of constitutional review process remains my personal priority and that of my Government. As Members are aware, significant efforts have been made to address the contentious issues in several forums. Consensus on these issues is certainly within reach. Following the passage of the Constitution of Kenya Review (Amendment) Act, we are now in the process of bringing the Bomas Constitutional Draft Bill to Parliament for debate. The law requires Parliament to develop consensus on the content of this Bill through the Parliamentary Select Committee. The outcome will be presented to the Kenyan people for adoption in a referendum. I urge Members to put aside personal interests and to work together as Kenyans to complete the review process in the shortest time possible. I would like to add that the Constitution is not about individual or sectarian interests. It is about the present and future of the Kenyan nation.

I, therefore, urge hon. Members to avoid sectarian politics while dealing with the important issue of the Constitution. As an institution, this House represents the entire Kenyan people. Accordingly, nobody should doubt the sovereign authority of our Parliament. I urge this House, as the custodian of the common will and vision of the Kenyan people, to deal with the remaining issues in a sober and objective manner.

As I conclude, I would like to express our appreciation for the immense support we have continued to receive from our development partners. This assistance has been very useful in augmenting our own efforts to improve the livelihoods of our people. We look forward to continued support especially in the areas of infrastructure development, health and education. Finally, I appeal to hon. Members to take time to critically, but positively consider the Bills that will be tabled for discussion throughout this Session.

Mr. Speaker, Sir, as hon. Members are aware, this country has many talented, skilled and hardworking young people. All that is needed is to empower them by providing an enabling legal and policy environment.

With these remarks, it is now my honour and pleasure to declare this Fourth Session of the Ninth Parliament officially open.

*(Applause)*

**NOTICE OF MOTION**  
THANKS FOR THE PRESIDENTIAL ADDRESS

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the thanks of this House be recorded for the exposition of public policy contained in his Excellency's Presidential Address from the Chair on Wednesday, 16th March, 2004.

**Hon. Members:** It is 2005!

*(Laughter)*

**The Vice-President and Minister for Home Affairs** (Mr. Awori): My secretary wrote this! I will have to--- It should be Wednesday, 16th March, 2005.

*(Applause)*

**DEPARTURE OF HIS EXCELLENCY THE PRESIDENT**

**Mr. Speaker:** Order, hon. Members! That is quite in order, Mr. Vice-President. The Giver of the Notice has amended it even before it has reached the Speaker. You will all arise now. His Excellency the President will lead us in getting out.

**ADJOURNMENT**

**Mr. Speaker:** Hon. Members, that concludes our business for today. Therefore, the House stands adjourned until tomorrow, Thursday, 17th March, 2005 at 2.30 p.m.

*(Hon. Members rose in their places  
while His Excellency the President  
left the Chamber)* The House rose at 3.55 p.m.