

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 23rd April, 2014

The House met at 9.00 a.m.

[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, I can see we do not have a quorum. Could the Division Bell be rung?

(The Division Bell was rung)

COMMUNICATION FROM THE CHAIR

DEPLOYMENT OF KENYA DEFENCE FORCES TO SOUTH SUDAN

Hon. Deputy Speaker: Order! Hon. Members, we now have quorum. We can begin business. Hon. Members walking in, please, walk quickly.

Hon. Members, I have a short Communication regarding the deployment of Kenya Defence Forces (KDF) to South Sudan. I have received a letter from the Secretary of the National Security Council dated 8th April, 2014, requesting the approval of the National Assembly for deployment of troops to South Sudan for peace-keeping operations, pursuant to Article 240(8)(a) of the Constitution and Section 18(c) and 36(2)(a) of the KDF Act, 2012.

Due to the urgency of this matter, I direct that this Motion appears on the Order Paper for this afternoon for consideration and approval.

NOTICE OF MOTION

DEPLOYMENT OF KENYA DEFENCE FORCES TO SOUTH SUDAN

Hon. Deputy Speaker: Hon. Washiali you have a notice of Motion?

Hon. Washiali: Thank you, hon. Speaker. On behalf of the Leader of Majority Party, I would like to give notice of the following Motion:-

THAT, pursuant to Article 240(8)(a) of the Constitution and Section 18 of the Kenya Defence Forces Act (No. 25 of 2012) this House approves the deployment of the

Kenya Defence Forces to South Sudan for the purpose of regional peace support operations.

Hon. Deputy Speaker: Okay. Next Order!

STATEMENTS

Hon. Deputy Speaker: Today as has been our practice, we will go through responses to Statements. We will begin with the response from the Chair of the Committee on Administration and National Security, on the Killing of Mr. Simon Muguro Nyokabi. This was requested by hon. Kariuki Ndirangu.

This is really not a good show on the part of the Chairs of the Committees. Hon. Members, the first three responses are from the Chair of the Committee on Administration and National Security. Is the Vice-Chair there? Can we move to the response from the Chair of the Committee on Agriculture, Livestock and Cooperatives?

You still do not have your card? We do not want the long stories of how many wives you have. Go ahead. The microphone is on. We are hearing you.

Hon. Nooru: Thank you, hon. Deputy Speaker. On Statement No.017/2014, I am waiting for the answer from the Clerk who is bringing it. On No.011/2014 we have already dealt with this Statement from hon. Moses Injendi and I do not know why it has appeared again for the second time. I am sure if the Member was in the House, he would have been satisfied.

Hon. Deputy Speaker: You are not very clear Chair. I think you better use one of the extra microphones. It is difficult to hear you.

Hon. Nooru: Thank you, hon. Deputy Speaker. I was just saying that we have dealt with Statement No.5 of hon. Moses Injendi already. It may have appeared on the Order Paper by mistake. If the Member is in the House, he can confirm that. I am sure he is satisfied with that Statement, which we have already dealt with. On Statement No.017/2014, I am waiting for the answer from the Clerk and I will answer it in the next five minutes.

Hon. Deputy Speaker: Is that the Statement you are giving him?

ILLEGAL IMPORTATION OF SUGAR INTO THE COUNTRY

Hon. Nooru: Thank you, hon. Deputy Speaker, I beg to respond to Statement No.5 on the Order Paper. Hon. Opiyo had asked for clarification on three areas one, how the excess sugar entering the country is causing a major stock-pile and whether duty has ever been paid on the same.

Yes, the excess sugar has found its way into the country through the following means:-

- (i) Smuggling through the porous border points.
- (ii) Diversion of transit sugar into the local market.
- (iii) Over-importation against the earlier authorized quantities by the Kenya Sugar Board.
- (iv) Disguised declaration of sugar imports as rice and fertilizer.

(v) Official auctioning of the impounded sugar by KRA and releasing it into the market.

Two, on the issue of whether the Kenya Sugar Board (KSB), Kenya Revenue Authority (KRA) and Kenya Bureau of Standards (KBS) approves this importation, yes, to some extent, there is approval by KSB. However, excess and illegal sugar importations are not authorized by KSB. The auction is undertaken within the law and, subsequently, those imports are allowed to enter into the market.

Three, what is the Government doing to stop illegal trade? To ensure there is no illegal importation of sugar, the Government has put in place the following measures:-

(a) Enhancing the surveillance and investigation activities across the country, including the establishment of permanent inter-agency enforcement units on sugar trade to increase scrutiny on the cross border trade and setting up of border patrols to stop sugar smuggling. Consultations between Kenya Ports Authority (KPA), Public Health, Kenya Sugar Board (KSB), the Police and Kenya Revenue Authority are at an advanced stage with the formal working framework targeted for the eradication of the same.

(b) A 100 per cent verification of sugar imports through our formal entry points to net sugar entries into the market, which is concealed as other low value commodities such as rice, pasta or fertilizers. Those measures have been put in place.

(c) Millers shift to direct sales to retail outlets on terms that will benefit flow-out to all players along the value chain, including consumers. This will help break existing sugar cartels.

(d) Strengthening of laws governing the regulations of sugar imports and exports to provide for higher accountability standards for the re-packaged sugar and for deterrent penalties of offenders. The new regulations will demand proper labeling for the purpose of traceability, upstream and downstream the value chain.

(e) Sugar being classified as restricted import under the East African Custom Management Act and illegal sugar be prohibited and destroyed and owners/agents prosecuted as opposed to the present administrative corrective measures such as imposition of penalties and collection of taxes for the sugar being impounded. That illegal sugar is released to the importers or allowed back to the market by way of persisting public auctions by KRA. That should stop forthwith.

(f) Prosecution of offenders.

(g) Seizure and destruction of impounded sugar consignment and the blacklisting of offenders.

(h) The intensive due-diligence of all applicants and up-scaled quality checks on the documents.

Thank you, hon. Deputy Speaker.

Hon. Member: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: We will give the first opportunity to the person who requested for the Statement, that is hon. Jared Opiyo. Then we can take a round of about five minutes each. Chair, you can take note of the questions and respond to them.

Hon. Opiyo: Thank you, hon. Deputy Speaker for giving me this opportunity. I want to thank the Chairman of the Committee on Agriculture, Livestock and Cooperatives for the Statement. This matter of illegal sugar importation has really been hurting the local industry.

Hon. Deputy Speaker: Remember you are seeking clarifications.

Hon. Opiyo: Yes, I am seeking clarifications. First of all, the answers that we have been given here, to me, look too general. For example, what they are saying about what the Government is doing to ensure that no illegal imports come into the country. To me, they look like proposals of what they want to do and not the actual things that they are doing. I want to ask the Chair to categorically state whether what he has given us as some of the measures the Government is undertaking to ensure that there is no illegal sugar coming into the country are actually what they are doing or what they propose to do in future.

Hon. Deputy Speaker, the last part of the Statement that I sought has not been answered. The last question which was number “e” in my Statement was:- What is the Government doing to address the anomaly by way of intervention to cushion the innocent farmers and the local industry from the adverse effects of the illegal importation? That is because we already have the sugar in the country and, from very reliable sources, if nothing is done urgently by way of intervention, the sugar industry is going to close down in two months.

So, hon. Deputy Speaker, I want the Chair to actually clarify to us that part of the question. Lastly, I want to ask the Chairman to clarify to us here how supermarkets in this country like Nakumatt, Naivas and Tuskys have their own sugar. If you go to Nakumatt, sometimes, you will buy Nakumatt Blue Sugar. How? In which premises do they manufacture that sugar in this country?

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. John Mbadi. We have several questions. Chairperson, just take down the clarifications and then you will answer them together.

Hon. Ng’ongo: Thank you, hon. Deputy Speaker. Actually, the answer given by the Chair of the Committee actually sounded to me like an academic or research paper read in a university classroom.

Hon. Deputy Speaker, the Chair talked about smuggling of sugar. He said the causes of excess sugar in the country include smuggling of sugar and excess importation beyond the recommended limit. Could the Chairman categorically indicate to this House whether he inquired into this matter really? What steps has the Government taken because smuggling, to me, amounts to an illegal activity? Therefore, what has the Government done to address that in terms of prosecution? Could he deny or confirm whether the culprits or those who are involved in this excess importation of sugar are actually senior people in the administration of the Jubilee Government? Thank you.

Hon. Deputy Speaker: The hon. Agostino Neto.

Hon. Oyugi: Thank you, hon. Deputy Speaker. Of course, I think this matter is raising general interest because some of us come from sugar belt areas. I listened to the Chair and I just have a couple of clarifications I would like to seek from him.

(Loud consultations)

Hon. Deputy Speaker, save me from my Chair who is loudly consulting with hon. Gumbo. I know hon. Gumbo is also a victim of this sugar importation.

Hon. Deputy Speaker, the first clarification is: He says we are on the verge of strengthening the sugar importation regulations. Where are we with this, if at all they are there? I hope he gets that clarification.

The second clarification is: He says that there is an advanced stage of inter-agency and enhanced surveillance. Where are we? At what stage are we with that? Otherwise, we are just talking about academic issues.

The third thing is: He says that Kenya Sugar Board (KSB) is authorising the legal importation. In my understanding, that is an unequivocal response. So, is the KSB authorising the legal importation and if it is true, to what extent are they authorising the legal importation?

The fourth and the last one is: He says that the illegal importation of sugar is disguised as rice and flour. To what extent have we tried to curtail the disguised illegal importation? Thank you.

Hon. Deputy Speaker: Thank you. David Wafula.

Hon. Wekesa: Thank you, hon. Deputy Speaker. Indeed, the Chairman has admitted that there is illegal importation of sugar. It is time we are told who those individuals or companies who are involved in illegal importation of sugar are. Secondly, what action is the Government taking? Who issued them with licences? Thank you.

Hon. Deputy Speaker: Okay. Eric Keter.

Hon. E. Keter: Thank you, hon. Deputy Speaker. I stand to seek more clarifications on the illegal sugar importation because this country has got very few industries. But sugar industries are being violated by few unscrupulous traders and that must be addressed. I would like to get more clarifications. How many of such traders have been apprehended? What steps have been taken in the last one year? That is because the Chairman has really outlined very good measures that the Ministry intends to take. However, how practical are they? That is because down there, many sugar industries are limping. So, can we be told exactly how many have been apprehended, taken to court and what action has been taken in the past one year so that this issue is solved?

Hon. Deputy Speaker: Hon. Benjamin Washiali.

Hon. Washiali: Thank you, hon. Deputy Speaker. I want to speak as a Member of Mumias East and my question to the Chairman is this: Why are sugar-cane farmers treated differently? To authorize maize to be imported into this country, that authority only comes when there is no maize? Why is sugar licensed to be imported when there is still a lot of sugar being produced in this country?

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. Washiali: I know in his point of order, he wants to claim that I am a member of the Departmental Committee on Agriculture, Livestock and Cooperatives. We are questioning this Statement.

Hon. Deputy Speaker: Order, hon. Washiali! Allow the hon. Member who has a point of order to raise it. What is out of order, hon. Mbadi?

Hon. Ng'ongo: Hon. Deputy Speaker, I know that hon. Washiali actually comes from the sugar belt and has a lot of interest in this matter. But this is a Statement from the Committee in which hon. Washiali sits. Therefore, to save Parliament's time, he should have raised the issues that he is raising this morning in the Committee and allow other

Members who did not have the privilege of sitting in that Committee to also raise their issues. So, is it in order for a member of the Committee to start asking his Chairman questions and he knows very well that his Chairman is not in the Executive?

Hon. Deputy Speaker: Okay. I think that is a valid point of order. Hon. Washiali, what more are you coming to ask here that you did not ask in the Committee meeting?

Hon. Washiali: Thank you, hon. Deputy Speaker. When this matter came up in the Committee, there was no media like television and what have you.

(Laughter)

The people I represent can only know what I said in the Committee meeting from the main plenary. It is important because this is the source of livelihood of my people and I cannot just let this go without my contribution.

Hon. Deputy Speaker: Okay. I think your point has been made. Hon. Makali Mulu. I think he has had his moment and so, let us move on.

Hon. Mulu: Thank you, hon. Deputy Speaker. I do not come from a sugar growing area but I need to get this clarification because the problem of excess and illegal importation of sugar in this country is not new. It is known by all Kenyans and I am surprised by the response that we have got. It did not even indicate what strategies the Government is putting in place to address the issue of cartels in that sector. So, could the Chairman tell us why the whole issue of cartels in the sector is not being addressed in the response?

Hon. Deputy Speaker: Hon. Gideon Irea of Central Imenti.

Hon. Irea: Hon. Deputy Speaker, I need your guidance. You have only given chances to Members from Western and Nyanza to speak. Sugar also affects us. So, I think you should also consider us.

Hon. Deputy Speaker: I am sure you realise that all of us have different interests. When it is an issue of *miraa*, you will see me giving more chances to the people who come from *miraa*-growing areas. When it is an issue of tea, I will also give chances to people who have more interest in it than other Members. So, it is always fair.

Hon. Irea: Hon. Deputy Speaker, I thought that we use that product more than them.

Hon. Deputy Speaker: Okay. So, let us have hon. Timothy Bosire.

Hon. Bosire: Hon. Deputy Speaker, thank you for the opportunity. I need a small clarification from the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives. What is categorised as illegal importation, in my view, could be a top-up of a problem of local production. Could the Chairman give information by way of clarification that the local production is able to meet the local demand? If it is not able to meet the local demand, could it be the cause of this so-called illegal importation? What is the state of our local factories which deal with sugar production?

(Hon. Murungi stood up in his place)

Hon. Deputy Speaker: Hon. Murungi, are you on a point of order?

Hon. Murungi: Hon. Deputy Speaker, I want some clarification.

Hon. Deputy Speaker: Then use the right button!

Hon. Murungi: Hon. Deputy Speaker, my clarification is what hon. Opiyo has stated and it has not been answered. That is because at the end of it, he said everything about the sugar that is imported illegally into this country. But the problem is the innocent farmer who is suffering in Nyanza or western Kenya. What is the Government doing because that sector is collapsing? It is unfortunate that hon. Opiyo is stating that in the next two months, that industry will collapse. As we speak, tea is also collapsing because farmers have missed out on the mini-bonus which they used to pay school fees. If tea, sugar, pyrethrum and everything else is collapsing, where are we ending up as a country? That is the pertinent question that hon. Opiyo is asking. I am fighting for my tea farmers because they are not being cushioned by the Government when the sector is collapsing.

Hon. Deputy Speaker: Now we are becoming a bit repetitive. The Chairman of the Committee, can you address those clarifications sought by hon. Members?

Hon. Nooru: Hon. Deputy Speaker, they are many but I will try to address as many as possible. There are two issues. There is the smuggling of sugar and the most critical one is what measures have been put in place to stop the excess sugar in this country. First and foremost, the importation of sugar arises out of the shortage of local production in this country. So, there is a shortage of over 230 metric tonnes for the local consumption that the local factories cannot meet. That warrants the Kenya Sugar Board (KSB), which is the regulatory body, to authorize the filling of the gap. In most cases, when they authorize 230 metric tonnes, the traders who are given that authority to import may use the same authority to import excess sugar. But where checks can be carried out is at the level of the Kenya Revenue Authority (KRA), who are given the mandate to quantify what is imported by particular traders. That is one way that the excess sugar is getting into this country.

The other one is about people declaring sugar as rice or fertilizer. That is also because of lack of checks and balances. There are so many agencies involved. There is the Kenya Bureau of Standards (KEBS), KRA, Kenya Ports Authority and so many other people who are supposed to check. The verification of those commodities is not done effectively. That is why there is importation of excess sugar. The other problem is the borders which are supposed to be policed by the Kenya Police, especially the Kenya/Somali border. Where I come from in North Eastern, the border is very wide such that it requires a lot of policing and KRA checks. Sometimes, because of insecurity, those borders are left unmanned. So, people take advantage of that situation and bring in excess sugar.

For the measures that have been put in place, it is only yesterday that I said I have not got a satisfactory answer on this matter---

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultations are too high and we cannot hear the Chairman's response.

Hon. Nooru: Hon. Deputy Speaker, I have just read the Statement as it is, and as presented by the Ministry. However, the Committee has carried investigations on this

issue and we have a lot of information and within two weeks--- In fact, we have summoned one of the agencies tomorrow, the Commissioner-General of KRA to question him on how that excess sugar is coming into the Port without taxation or verification. We will have the Inspector-General of Police next Tuesday. We have also called the Kenya Ports Authority (KPA) Managing Director and within the next two weeks, we will give you a detailed report and not this Ministry's answer. The report will be from the Committee. We can give you the recommendations and the way forward on this matter.

Hon. Deputy Speaker: Hon. Members, we do not have to go any further with this Statement as we have been informed. The Committee is already conducting a more comprehensive and exhaustive investigations into this matter. So, we can rest our clarifications except the owner of the Statement. I will give you the last chance as we wait to get further clarifications when we get the report of the Committee.

Hon. Opiyo: Hon. Deputy Speaker, when I said that there was a part of the Statement that was not responded to, I was thinking that the Chairman would give Kenyans hope by saying that the Government is going to avail money to mop up all the sugar in the market to allow the industry to sell its sugar so that farmers can be paid. In SONY Sugar, for example, where I come from, farmers have not been paid from the month of October 2013 and the children are at home. They are not going to school and there is serious suffering among farmers. He did not acknowledge that there is a part of the Statement that was not responded to and I think that is sad.

I just want to say here that the problems that are facing the sugar sector are so grave that if, in your wisdom, you would allow us; we would bring a Motion here to ask that we be allowed to form an *ad hoc* Committee to look into this matter once and for all. I think that is the way to go because it looks like the Departmental Committee on Agriculture, Livestock and Cooperatives has too much work and, therefore, cannot address adequately serious sectoral issues.

Hon. Deputy Speaker: You know the process that you follow if you want to form an *ad hoc* Committee. You know the procedure and so you can go ahead and request for it. We do not have to order it from the Chairman or the Speaker. But the Departmental Committee on Agriculture, Livestock and Cooperatives, you said that your report will be ready in the next two weeks. Is that the position? We can then, after hearing what they have done, decide whether that report is adequate or not and, therefore, require a taskforce or an *ad hoc* Committee. Hon. Nooru, can you clarify that?

Hon. Nooru: Hon. Deputy Speaker, thank you for your ruling. I have no problem with an *ad hoc* Committee if our report has not addressed the problems conclusively. If there will be need for further investigations, it is okay. However, I assure this House that within the next two weeks, the report is going to be ready.

On the issue of farmers, I agree and sympathize with the situation. It is a fact that farmers cannot be paid because millers cannot sell sugar because of the excess sugar in the market. For now, there is no importation going on. We have just told the authorities which give the licences to stop further importation until further notice. Within a short time, I hope the situation is going to normalize because if there is no excess sugar coming from outside, then we can manage with what we have with our farmers. As I said, I am sure you are going to be happy about the report. It is a very cross-cutting problem; from the regulator, the millers, importers and the cartels themselves. One of the issues that we

want to get rid of is the cartels selling sugar directly from the factories to anybody who requires a 50 kilogramme bag or any wholesaler who requires 50 tonnes of sugar. That is one way of controlling those cartels. There used to be some cartels which almost closed the entire production of---

Hon. Deputy Speaker: I think you are now presenting your report, hon. Nooru. Can we have faith in the Committees that we have set up in this House so that we do not duplicate work that has been done? Let us wait for the Committee's report and then we make the decision once that report is given.

Hon. Wetangula, do you have a burning issue different from what we have said or can it wait until we get the report?

Hon. Wetangula: Hon. Deputy Speaker, I just wanted to seek a clarification but I can wait for the report to interrogate it.

Hon. Deputy Speaker: Thank you, let us move on. I believe hon. Injendi can wait until the report comes before the House. I know this is an emotive matter and that is why an hon. Member was asking why I am giving chances to people from the sugar belt. That is because they know it. They are the ones who are representing *wananchi* from that area and, therefore, they need to be seen to be representative of the people who are directly affected. Of course, all of us are indirectly affected, but there are those who are directly affected by the current problem.

The Chair of the Committee concerned with security, hon. Abongotum, you are not even listening. Hon. Member for Tiaty, you have made us change the order of business because of your being absent when you should have been the first one with the first three responses. You will have to really summarize very quickly.

Hon. Abongotum: I will do that hon. Deputy Speaker

Hon. Deputy Speaker: After apologizing first.

Hon. Abongotum: Yes, Of course! I apologize for coming slightly late because of the jam challenges. So, I will start with the Statement requested by hon. Kariuki Ndirangu.

KILLING OF SIMON MUGURO NYOKABI

The hon. Member requested for a Statement regarding the killing of Mr. Simon Muguro Nyokabi by a police officer. The hon. Member alleges that when the police officer realized that he had shot an innocent person, he requested the Deputy Officer Commanding Station (OCS) to assist in taking the victim to the hospital and, instead of doing that, the Deputy OCS ordered for the killing of the victim. The hon. Member has, therefore, requested to be informed why the Deputy OCS gave the "shoot to kill order" and the action that the Government has taken against him. I wish to respond as follows:-

On 11th February 2014 at about 1.00 p.m. police officers who were on patrol received information that there were three suspicious persons who were planning to commit crime within the area. When the officers confronted the suspects and ordered them to surrender, two of them ran away in different directions while the third one drew a pistol prompting the officer to shoot him and thus sustaining gunshot wounds. The officer recovered a home-made gun from the suspect with two rounds of ammunitions of 9 mm caliber. Thereafter, the officers called the Deputy OCS, Jogoo Police Station who

visited the scene and, contrary to the hon. Member's allegations, assisted to take the wounded suspect to Kenyatta National Hospital where he was pronounced dead on arrival. The incident was booked at Jogoo Police Station Occurrence Book No. ---

Hon. Deputy Speaker: Hon Abongotum, can we first determine that you are answering a Statement to a person who is in the House. Is hon. Kariuki Ndirangu in the House? Sorry about that. But you know we do not give answers to Statements when Members who asked for them choose not to be in the House.

Hon. Abongotum: What about other Members from Nairobi? Can they assist him?

Hon. Deputy Speaker: No! He is the one who knows why he decided to ask this question.

Hon. Abongotum: But I made sure by calling my clerk to call all the Members or text to inform them that this Statement will be issued today. I do not know what to say about that.

Hon. Deputy Speaker: He can come and look for that Statement from the Chair. Go to your next Statement by hon. Melly.

Hon. Abongotum: So, I should go to the next Statement?

Hon. Deputy Speaker: Yes! The next one. Is hon. Melly in?

Hon. Abongotum: The next Statement will be issued by my Deputy, hon. Lentoimaga. He can respond to that.

Hon. Deputy Speaker: The hon. Vice-Chair. What is your point of order, hon. Ng'ongo?

Hon. Ng'ongo: On a point of order hon. Deputy Speaker. In this House, we have complained in the past of Chairs who are not answering or bringing Statements. Remember that, yesterday, the Speaker made a ruling on this. We should apply the rules both ways. If a Member who has sought a Statement, it is listed for answering and he or she deliberately absents himself or herself from the House, I think that Statement should be dropped. That will instill discipline in the House.

Hon. Deputy Speaker: I think you are perfectly in order. We were reprimanding the chairpersons the other time for not being in. But it equally applies for the other way. You have been informed. I hope the clerks inform the Members that they have Statements. Not only that Members, you do not have to be informed. We call ourselves the digital group. All of you know that the Order Paper is there the day before. It is your responsibility to find out what is on that Order Paper and if your question is coming up, then it is your job to present yourself. You know very clearly that we now have set it out. There are days for asking for Statements. There are days for responses to Statements. So, Members, all of us need to pull up our socks in the way we are interacting and carrying out the business in this House. That Statement will not come again in the Order Paper. You can only have a private session with the Committee if they need to do that.

Hon. Deputy Chair of the Committee, answer the next one. But determine, first of all, whether that Member is in the House.

Hon. Abongotum: I do not think so.

Hon. Deputy Speaker: Hon. Melly, again. So, the question is dropped. The last one by hon. Duba. You are in! The Chair can then go ahead and prosecute that one.

MEASURES TO MITIGATE INTER-TRIBAL CONFLICT IN SAMBURU COUNTY

Hon. Abongotum: Okay. Thank you, hon. Deputy Speaker. On 12th March 2014, hon. Duba, the Member of Parliament from Moyale, requested a Statement on measures that have been taken to mitigate inter-tribal conflict in Marsabit County. The hon. Member sought to be informed on the following:-

(Loud consultations)

(i) The plans by the Government--- I want hon. Members to consult in low tones because we all know the issue of Marsabit and Moyale is big in this country.

Hon. Deputy Speaker: Order Members!

Hon. Abongotum: Hon. Deputy Speaker, the plans by the national Government to ensure that a comprehensive assessment of the damage to property, loss of lives and displacement of people in the county was done and the situation declared a national disaster.

(ii) Consideration by the Government to establish a judicial commission of inquiry to investigate the underlying issues surrounding the conflict that has taken quite a different dimension from the traditional tribal conflict.

(iii) Whether the Government has extended sufficient humanitarian assistance to those who have been affected by the conflict.

(iv) Whether the Government could establish a special land committee to demarcate traditional grazing lands between communities in the county, preferably using the 1963 boundaries so as to deal with modern land grabbing menace.

(v) Alternative conflict resolution mechanisms that the Government intends to put in place considering the fact that the traditional grazing land demarcation method of conflict resolution has broken down.

(vi) Lastly, both the short term and long term provision of security for sandwiched villages like Moyale.

I wish to respond as follows:-

(Loud consultations)

Hon. Deputy Speaker: Order Members! The consultations are too high. We cannot hear. Hon. Arati, if you are sitting, please, sit.

Hon. Abongotum: In an effort to address the persistent conflicts in Marsabit County, His Excellency the President appointed hon. Francis Ole Kaparo, the former Speaker of the National Assembly and hon. Senator Mohamed Yusuf Haji, the Chairman of the Senate Committee on Security, Foreign and International Affairs as mediators in the conflict with a view to finding a lasting just and equitable solution to the conflict. The mediators engaged select representatives of the parties to the conflict in a rigorous mediation process and agreed on a number of issues aimed at ending the conflict. Since then, relative calm has been experienced in the county as the local people have embraced the ongoing mediation process. The whole process of peace-building and conflict

management is bearing fruit and hence no need of declaring the situation as a national disaster.

Hon. Deputy Speaker, in the same spirit, the mediation process should be given time instead of establishing a judicial commission of inquiry that will run concurrently, especially with the current austerity measures.

Further, a team consisting of representatives drawn from the Government, line Ministries, Marsabit County Government and humanitarian organisations operating in the county is profiling internally displaced persons and developing a data-bank to capture the names of the affected households, names of family members and their national identity card numbers. The data-bank also states the nature of loss experienced by people affected by the conflicts, a profile of houses and public facilities burnt and/or destroyed. That has also been developed. I wish to table a summary of the profile and the hon. Member has that tabulation.

(Hon. Abongotum laid the document on the Table)

Hon. Deputy Speaker, the National Treasury has released Kshs397,122,472 to facilitate and enhance security deployment, peace rallies, humanitarian assistance including provision of relief supplies and reconstruction of houses and schools and replenishment of medical kits. On 17th March, 2014, the Government, through the Kenya Medical Supplies Authority (KEMSA), provided drugs worth Kshs23 million to be distributed to health centre facilities in Marsabit County.

Further, the Government, through the Department of Special Programmes, has provided humanitarian assistance to people affected by conflicts in the county. I wish to table a list of relief food that has been allocated to Marsabit County from January up to February, 2014, and hon. Duba has that information.

(Hon. Abongotum laid the document on the Table)

Since disputes over land and communal boundaries have sparked internal communal conflicts in Marsabit County over the years, the National Land Commission (NLC) has been asked to address the issue since it falls within its mandate. In addition, the Government has employed the following alternative conflict resolution mechanisms in the county:-

(i) The Government has initiated the Marsabit mediation process with a view to finding a lasting solution to the Marsabit conflict and the process is bearing fruits and warring communities have stopped fighting each other.

(ii) Cross-border meetings between the Government officials from Kenya and Ethiopia have been initiated.

(iii) The pastoralist communities have formed pasture committees whose members include eminent elders. Those committees have been negotiating with host communities before their livestock migrate to rangelands owned by other communities. The committees agree on how to share resources including water, pastures and the period of stay and come up with an agreement that guide them when resolving disputes when they arise.

(iv) Inter-communal peace forums are going on in Marsabit County to defuse tension and promote peaceful co-existence.

(v) Elected leaders from Marsabit County have agreed to engage in consultations to ensure that there is equitable distribution of resources and job opportunities, while respecting the formula set by the Commission on Revenue Allocation (CRA) and considering dynamics in Marsabit County.

(vi) Rolling out community policing under the *Nyumba Kumi* initiative in the county.

In addition, the following measures have been employed to provide security in the county:-

(1) Security patrols have been intensified in identified hot spot areas. A company of Kenya Defence Forces (KDF) officers based at Oda is involved in patrols around Moyale and along Kenya-Ethiopia border. An additional company of KDF officers have been deployed to Moyale to reinforce security officers on the ground.

(2) Officers from Rapid Deployment Unit (RDU) and regular police are currently deployed in Moyale.

(3) All the firearms issued to national police reservists in Moyale have been withdrawn. Vetting of the national police reservists will be carried out followed by training and well co-ordinated deployment. This exercise will be extended to other parts of Marsabit County.

(4) The Government has held meetings with elected leaders from Marsabit County to address the conflict.

(5) Holding of inter-communal peace meetings.

(6) Arresting and arraigning suspects before courts.

(7) Enhanced intelligence gathering and sharing of information in order to comprehensively address the conflict in Marsabit.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: That is okay. Hon. Roba Duba, you will get the first chance if you want to seek any further clarification.

Hon. Duba: Yes, hon. Deputy Speaker. I want to thank the Chairman of the Committee for his attempt to respond. I also take cognizance of the fact that, of course, he is not the person directly responsible for this portfolio. It is just that the rules require him to come and present matters as given to him.

In the first instance, I want to thank the President because he personally got involved in this matter while the operatives he had put in office who were responsible for this never took any initiative. We had to make a direct appeal. For that, we want to thank the President.

Secondly, there is the Kaparo-Haji Committee which is not gazetted and its terms are not very clear. It is a kind of trial and error. They have confided in us that they cannot go beyond where they have reached. So, it is not correct to rely on them to bring peace and try to resettle or rehabilitate people who are affected. To that extent, I think reliance on the Kaparo-Haji Committee only as a means to solving this problem is absolutely inadequate and we need to address it.

I want to protest the ruling by the Speaker then that I am invited to this Committee when the security apparatus were to be summoned to respond to this. The

Speaker then took cognizance of the fact that it was a very serious issue and it was a matter of national importance and all the arms of Government responsible for this were to be summoned and that I was to be invited. That did not happen. This is already a flaw. That is why the response we have got here, which I will shortly look at, is really a public relations exercise. That is the furthest it can go.

I will acknowledge one or two areas where there has been some achievement. It is always good to appreciate the effort. Coming to the points, there is a case where the Government response is that there is no need to declare the situation a national disaster. Is there a disaster? You need to acknowledge that there is or there is not. There is a disaster because it is still an on-going problem. If there is, why not make the declaration? This is a matter we laid before the President when we were invited. It was agreed that this matter be declared a national disaster for two reasons.

First, in order to enlist the support of Parliament and everybody or all Kenyans in trying to find a solution to this conflict and secondly, in order to attract other donors or well-wishers both nationally and internationally, that is why we sought for this declaration. Unless somebody says that there is no need, the circumstances are such that it is necessary that, that declaration must be made. The reasons given here of austerity measures and running parallel do not hold.

The circumstances are very serious. The Commission that we sought---

Hon. Deputy Speaker: Could you, please, seek your clarification?

Hon. Duba: Hon. Deputy Speaker, my clarification is that the Chairman is not responding properly to the issues which are raised. There is a disaster and yet, the respondent is saying that there is no need for a declaration. I am saying that this is very serious. He must move with speed and make sure that, that declaration is made.

There has been data which has been collected. I want to know whether sufficient data has been gathered on the intensity and extensity of that conflict and he says "yes". I am saying that, that data has no integrity and it must be checked. That is why it was important for me to be present in this Committee. Therefore, that is the point I want him to rise in that response. He says that the National Treasury has released Kshs397 million. The money has been released to whom because the public has not seen it? He is not serious! Released where? We have tried to check and we cannot see the money? Where is the Kshs400 million?

Last time, when I was at the constituency, the public sought to know from me where the money is. We know the President had ordered that, that money be sent so that it can help the people. It has not been seen and I am not able to ask because I was not invited. I want the Chair to declare this response as absolutely inadequate and order them to call a meeting of security apparatus and get me invited.

Hon. Deputy Speaker, there is the other issue of the management of that kitty. We agreed, during the search for peace, which is the underlying thing in this process that the Kshs400 million, which is the national Government money, should be put in a kitty where we can also look for donors to participate in this process. It was not done. You can see that it lays itself bare! It says: "Has been released," but it does not say to who it has been released. If we get to know, then it is better. There is the question of cross-border meeting. We have a problem with cross-border meetings.

(Hon. Bosire and Simba consulted loudly)

Hon. Deputy Speaker: Order! Hon. Bosire, if you need to talk to hon. Arati, please, find a suitable place.

Hon. Duba: Hon. Deputy Speaker, it is the same old story. It falls completely short of what we intend to achieve in this matter. As I had said earlier, the Kaparo-Haji Committee needs to be facilitated more. In fact, we agreed during the inter-county discussions that, that money be given to a lead agency like the Red-Cross---

Hon. Deputy Speaker: Hon. Duba, you are even going to lose the Chair in the clarification that you are seeking because you are almost going through what he has said.

Hon. Duba: But I need to acknowledge whether it is sufficient. If it is not sufficient, it is my duty to bring this to the attention of the Chair so that she can make the necessary orders. That is my intention.

The Chairman, through the Government response said that there is what we call rangeland grazing modalities. We are saying that the new Constitution says that land is free. We have lost that position where communities acknowledge that rangeland is managed by communities. That is why I sought that, that mechanism be put in place to address this matter. Nothing has been done and they talk about rangeland which is not acknowledged by the communities. That is where we have a problem and that is the reason for the trouble.

Hon. Deputy Speaker: Lastly, make your conclusion, hon. Duba.

Hon. Duba: Hon. Deputy Speaker, I want to draw your attention to this. What I am trying to say is that, the data given here in terms of food ration, if you look at this document, it shows Moyale, which is the epicenter of the conflict, gets the same rations with those who are far placed. They are not party to this conflict. That shows you that there is no integrity in this process.

Hon. Deputy Speaker, therefore, could you make the necessary orders? I request - and I am not ordering you to do that - to declare that this response is inadequate and within the next one week, the Committee invites me to a meeting where the Government apparatus responsible for this will be attending so that we can interrogate this matter and make sense out of the issues we want the public to benefit from.

Thank you.

Hon. Deputy Speaker: Okay. Let us get other clarifications that have been sought.

Hon. Chacha Ganya.

Hon. Ganya: Thank you, hon. Deputy Speaker. I want to thank the Chairman of the Committee for a very comprehensive answer. It is well informing and they took their time to understand the issues in detail. I thank our President and the Deputy President. They took personal charge of the crisis in Marsabit County. They went out of their way to ensure that lasting peace is brought to Marsabit County. I want to seek only three clarifications. One, the Chairperson of the Committee did mention that all the home guards in Moyale Constituency have been disarmed. That is a constituency right at the border with Ethiopia where the Ethiopians are all armed with a lot of ammunition. Our people have been rendered vulnerable. What plans are there to ensure that the people of

Moyale and those along the Kenya-Ethiopia border, including North Horr Constituency, will be safe now that our home guards have been disarmed?

Secondly, you did mention that cross-border talks between the two governments have been initiated and we welcome that position. I really want the Chairman to consider involving the county governments and, particularly, the governor, so that they are able to mobilize the people of Marsabit County to support the peace process. They should appreciate that, that is a national function. The county government can also support the peaceful co-existence of our people along the two borders. Therefore, will he consider also inviting the county government to do their bit by officially enabling them to be part of that process?

Finally, you did mention that the National Land Commission (NLC) has been invited to really re-look at this issue of land, which has been the epicentre of the crisis in that county. Since they have been invited, what is the time-frame under which they are expected to address this problem?

Hon. Dido: Thank you, hon. Deputy Speaker. I want to thank the Chair for his response. I think if we proceed this way in responding to issues of serious national concern, then we will be encouraging our communities to continue fighting. I want to ask for three clarifications. There are over 50,000 inhabitants of Moyale who are refugees in Ethiopia. What is their fate? Have they returned? I believe by saying that there is peace, it means then those inhabitants must have returned to their homes.

The second clarification is on the Committee of Administration and National Security, which is not an extension of the Executive. Does that Committee plan to visit Moyale so that they are able to establish, through first hand information, whether the issues raised by hon. Members are pertinent or otherwise?

Finally, I want to plead with the hon. Chair, if the hon. Member for Moyale is not aware that Kshs400 million has been released to help the people of Moyale - he does not know where a cent of that money is- who is the Government dealing with?

Hon. Oyugi: Thank you, hon. Deputy Speaker. Marsabit County is a county that is in my very central core, having worked there for a couple of years. I listened to the responses by the Chair of the Committee and I would want to agree with hon. Duba that some of the answers given really fall short of the substantive issue that he raised.

First, I think the Chair did raise five clarifications on what hon. Roba Duba was seeking. Amongst them is if at all there is an establishment of a judicial inquiry into the ongoing conflict in Marsabit and, if at all it is in the process of being established and what the status is. I think the Chair needs to clarify that.

The second is that hon. Roba Duba requested if at all the Government finds it fit to declare the ongoing conflict in Marsabit a national disaster. If it does not, why does the Government think so? If it is a national disaster, why does the Government not declare that it is a national disaster?

Thirdly, I would like to seek clarification on whether the Chair of the Committee on Administration and National Security is able to find out, if at all, there is co-relation between the ongoing conflict in Marsabit and the formation of the county government. If at all there is a co-relation in the formation of the county government and the on-going conflict in Marsabit, what could be done or can the county government be used in a manner that ensures lasting peace in Marsabit County?

Fourthly, the Chair did say that part of the interventions that the Government is doing is giving relief food to the people of Marsabit County and issues like those, but why would the Government perpetually put people of Marsabit County on relief food whereas Marsabit County is a county that is able to be self-reliant in terms of food production? Whereas food is a problem in terms of the ongoing conflict issues, from time to time, why is the Government unable to come up with a proper plan in terms of ensuring the county is food secure?

Five, the Chair said that there is established a mediation committee that is now ensuring that there is going to be long lasting peace in Marsabit County. Is he assuring us that with the formation of the mediation committee, there is going to be peace post the formation of the mediation committee? I can see him tweeting and, perhaps, he did not get that. I will go over it again. He told us that there has been formed a mediation committee dealing with the issues of conflict in Marsabit County. Is he assuring the House henceforth, because a mediation committee has been formed to deal with the issues of peace in Marsabit County, that there is not going to be any conflict in the county? That is what I would like him to clarify.

Sixth, hon. Deputy Speaker---

Hon. Deputy Speaker: No! Those are too many.

Hon. Oyugi: Just one last one, hon. Deputy Speaker. I told you that Marsabit County is very close to my heart and when the Chair answers the way he does, I am not happy. Most of my bread has been made in Marsabit County. So, I must make sure that they enjoy the peace that I enjoy in Homa Bay.

The second last clarification---

Hon. Deputy Speaker: No! You said the last one. Get on with it.

Hon. Oyugi: Hon. Deputy Speaker, the Chair said that the *Nyumba Kumi* initiative is being used in Marsabit County to help counter insecurity issues. Whatever *Nyumba Kumi* is, it could be a very good initiative, but the circumstances of Marsabit County, if you find how the conflict is planned and how it happens, half of it is planned in pastoral land. How would you then have *Nyumba Kumi* in a pastoral settlement to help initiate these things? He also talks about peace committees being established. Peace committees have been in Marsabit for the longest time possible. What is so new in these peace committees the Government has established that they are going to help the Marsabit County enjoy lasting peace? I wish you could give me more time, but thank you.

Hon. Serut: Thank you, hon. Deputy Speaker, the purpose of asking these questions in this House is for the entire House - if not all but almost everybody - to interrogate the Statements which are issued from the various Ministries. If you listen to the Statement given by the Chair, it has not informed this House as to the issues that led to the conflict. Therefore, we are left at (c), to even interrogate this Statement. However, allow me to ask the Chair the following question: How many communities are involved in this conflict and what were the reasons for the conflict? All the Ministry is trying to do is to give us answers for issues which we are not aware of.

Hon. F.K. Wanyonyi: Hon. Deputy Speaker, if I got it right, in the conflict area of Moyale, which is about two minutes away from the border of Ethiopia, what is the rationale of this conflict mediation committee in disarming our Kenya Police Reservists

on our side? If I got it right from the Member, the Government disarmed the KPRs. In fact, the Ethiopians will have an easy access into our territory and that is why we have been having this conflict year in, year out. I am perplexed because in a conflict area in which the Government has spent a lot of resources to quell, that was wrong. The Chair should ask if, indeed, they have disarmed our people, they should immediately arm our KPRs to defend our communities there.

Hon. (Ms.) Shakila Mohamed: Hon. Deputy Speaker, we seek Ministerial Statements to get solutions to the existing problems. My clarification is: What efforts does the Committee make to ensure that the recommendations they have given are fully implemented?

Hon. Waititu: Hon. Deputy Speaker, the issue of Marsabit has been a long standing conflict. The Chair has just said that they have taken the illegal firearms. Could he clarify what types of firearms were there and how many they have taken from the people? How did the illegal firearms get to the people? What is the Government doing to stop those illegal firearms from getting to Marsabit?

Hon. Simba: Hon. Deputy Speaker, I want to know from the Chairperson if, indeed, it is his confirmation that this Government is unable to run the business of security of this country. What they are doing is fire-fighting. The sure part of it is that it is not only Moyale where we have insecurity. It is all over the country. Therefore, it is a confirmation that it is unable and its due time to go home has come. That is the point.

Hon. M'uthari: Hon. Deputy Speaker, in this conflict in Moyale, just like in other incidents of insecurity, we are given rhetorics and very little is being done as far as security matters are concerned. We are supposed to know who are funding those conflicts. There is no way that, that conflict continues year after year without having some people who are involved. In the report, we also need to know whether our security agents are unable to know who are funding that conflict. Can we continue like this forever? How will the country move when we have no security? How far can we go? Why is the Government not taking the necessary steps against those who are involved? Why is the Government not apprehending the people who are funding that conflict? Are they feared? Who is benefiting from that conflict? We need to know because we cannot have one part of the country, which borders Ethiopia, taking advantage of us. They come, kill the people, take their livestock and, year in, year out, this has remained the same. I am sure if this matter is followed properly, there are individuals who are involved, funding and supporting that conflict. That is why it has continued and something must be done.

Hon. Muluvi: Hon. Deputy Speaker, I would also want to seek a clarification from the Chair on two issues. One, for a Government to make a decision to disarm the KPRs from our end, it is a clear manifestation that the threat is not from across the border. Has the Government identified the inter-clan leaders who might be fueling the problem on our side? Two, who are funding the conflict? That is because the people must be funded to do what they are doing? Unless that is identified and proper action in terms of prosecuting and taking the people to court is done, then it will be "musical chairs".

Hon. Abongotum: Hon. Deputy Speaker, first I want to confirm to you that we will invite hon. Duba and members from the county to a meeting that we will hold, probably, in the next one week with the Cabinet Secretary and other officials, so that the

issues that have not been clarified can be addressed in that meeting. We will do that because of the gravity of the matter in Marsabit.

Hon. Deputy Speaker, of course, the Government has taken this matter very seriously. I want to thank the President and the Deputy President for personally being involved in this matter. I know that they have had several meetings in State House and also in the Office of the Deputy President in order to address the matter. So, the Government has taken this matter very seriously.

I also want to thank hon. Members from that area, including hon. Duba, hon. Dido Rasso, hon. Chachu and hon. Lekuton for getting involved to ensure that there is lasting peace in this area. If you go to Marsabit at the moment, you will realize that it looks like a ghost town because of the fighting that took place there. I urge the hon. Members to continue with the same spirit, so that the people of Marsabit can engage in development issues instead of killing each other.

Hon. Deputy Speaker, I want to respond to the issue that the Kaparo and Haji Commission was not gazetted. The President, because of the urgency of the matter, deployed them to Marsabit to address this matter. The issue of gazettment will be clarified by the Committee; it will say whether or not it is necessary. However, because of the urgency of the matter, as I have said, the two eminent Kenyans were deployed to that area to mediate and come up with a solution that will end the conflict.

With regard to the issue of delivery of peace and resettlement, I think that is being done. The Government will address the matter of the funds that were disbursed. I certainly cannot confirm that the amount of money is enough. It may not be enough because a lot of destruction took place. However, this will be looked into by my Committee and the Cabinet Secretary.

On the issue of the Committee visiting that area, we have very tight budgets. The money that we had for this quarter, as a Committee, was actually used in our visit to Nyakach and other parts of Nyanza Province. As we speak now, we have only about Kshs300,000. We will use the Kshs300,000 to cover parts of Kericho. When we get the next disbursement, I want to promise that we will go to Marsabit to confirm what is happening and then report to the House.

With regard to the issue of declaring a national disaster, I think that this is an issue that the President cannot---

Hon. Deputy Speaker: Order, Chairman! Hon. Ali Rasso is on a point of order.

Hon. Dido: On a point of order, hon. Deputy Speaker. In fact, I am really disappointed by the Statement being given by the Chairman. He says that this is an issue of serious national security concerns, yet he still goes ahead to say that his Committee does not have enough money to go to that site, which is in the Republic of Kenya. Hon. Duba might provide some of his CDF money, so that that Committee visits that area. Is he in order to say that his Committee lacks enough funds to address an issue of national security?

Hon. Deputy Speaker: I think that is a valid point of order.

Hon. Abongotum: Hon. Deputy Speaker, I think I will just have to be very plain. I have to inform Members that every Committee has a budget. We used this year's quarter when visiting Nyakach and Rongo. We will be using the remaining Kshs300,000 in Kericho. If the House is in a position to give us money, then we can leave next week.

We do not have that money and I really have to say that Parliament has a budget for all Committees; I do not think there is an extra fund. If you give us some extra funds I am prepared to leave next week with my Committee.

Hon. Deputy Speaker on the issue of declaring that matter a national disaster, I think that this is an issue that has to be discussed by the National Security Council. Considering what is transpiring at the moment, and that there is peace now that has been brought by the mediation committee, Members of Parliament and the County Government, in its wisdom, the National Security Council felt that the matter does not merit to be declared a national disaster.

You all know that this House approved the deployment of Kenya Defence Forces to that particular area. That also gives you the confidence that the Government is taking this issue very seriously.

With regard to the issue of a data bank – hon. Duba said that it has no integrity – this will be addressed by my Committee, the Cabinet Secretary and the hon. Member when we meet. He will have a chance to critique and give his part of the story in terms of whether or not the figures given have integrity.

Hon. Chachu raised the issue of disarmament of the KPR. The Ethiopian Government has its security personnel at the borders well armed. Because of the urgency of this matter, as you all know many communities, be they Gabbra, Burji, Borana, Rendille or Somalis--- It was felt that these firearms are being used by the same communities to kill each other. They were withdrawn, but at a later stage they will be vetted and only the people with integrity will be given the firearms. So, this is a temporary measure and not a permanent one.

Hon. Murungi: On a point of order, hon. Deputy Speaker. The issue of security is very weighty, especially in Moyale Sub-county.

Hon. Deputy Speaker: What is your point of order? What is not in order?

Hon. Murungi: The Chairman stated very well that his Committee will invite the Cabinet Secretary and other Members who are interested in this matter. I request that he does that because whatever he is giving is not substantive. Hon. Members are continuing to ask questions about that Statement. I ask that you kindly rule that the Cabinet Secretary should appear before the Committee, so that all Members interested in the matter attend that meeting.

Hon. Deputy Speaker: I think that is perfectly in order. You know there is a mechanism that is being worked on at the moment on how Cabinet Secretaries can come and respond to issues. It is not yet in place, but on the question of the Committee calling the Cabinet Secretary, I think the Chairman has already said that he will do that. He will also invite hon. Duba, who sought this Statement, everybody interested in this matter and all the leaders in that area.

As you have already indicated, this is a national issue. But we do not want to belabour the point. If the Cabinet Secretary is going to be there with all the other security personnel then we can allow you to have that meeting. Please, make sure that they are informed in time, so that they appear for the meeting. The problem is that a lot of Members are not informed when the Cabinet Secretaries are appearing before the Committees; that is why we have a lot of questions being raised on the Floor. If we could

have the Members asking Cabinet Secretaries questions directly, we would not be having these questions being raised on the Floor.

Hon. Abongotum, conclude and then indicate to the Members when that meeting with the Cabinet Secretary is going to take place.

Hon. Abongotum: Hon. Deputy Speaker, I have confirmed through the request of hon. Duba that we will convene that meeting and the Members who will have interest like my good friend, the Member from Meru, should attend it.

On the issue of the National Land Commission as raised by hon. Chachu, this Commission has several experts who will assist the people of Marsabit on all issues concerning land, pasture management and grazing.

Hon. Deputy Speaker: Hon. Chair, if the agreement is that that meeting is going to take place, I am asking you to conclude, so that you do not go through everybody's question, since those who have an interest in this topic will attend that meeting with the Cabinet Secretary and ask directly about where the money that hon. Duba is talking about went and who is in charge. All that can be answered to directly by the Cabinet Secretary or those concerned. I do not want you to go through all the questions. Clearly, you are not going to satisfy them.

Hon. Abongotum: Let me just touch on salient issues. On the issue of the Kshs400 million, this money comes through a county commission because it is under the national administration.

On the issue of correlation of conflict with the county government, this matter is being addressed by the Kaparo and---

Hon. Deputy Speaker: You are answering the questions all over again, Chair. We have said that you just conclude, and Members will get answers from the Cabinet Secretary directly.

Hon. Abongotum: Hon. Deputy Speaker, you gave them the chance to ask questions and I thought that I should also have the chance to respond.

Hon. Deputy Speaker: Well, they have concurred that they would be---

Hon. Abongotum: If I have concurrence, when we call that meeting, those who are interested, especially the Members who have just raised issues, will be invited, so that they can ask what they want to know.

Hon. Deputy Speaker: I will give you the last one, hon. Duba

Hon. Duba: Thank you, hon. Deputy Speaker. The undertaking that we will interrogate this matter during the session with the Cabinet Secretary and other Government operatives is welcome, but there is something I did not get clearly. Is the National Land Commission the one that is assumed to replace a judicial commission to inquire into the original, probable or immediate issue that may have led to this conflict? Is that the understanding that I need to carry home from the Chair?

Hon. Deputy Speaker: That point only, Chair.

Hon. Abongotum: Hon. Deputy Speaker, I was interrupted by hon. Ndegwa, who has issues with you concerning the question that was asked earlier. It was actually misdirected, but it is hon. Duba who asked for that Statement. Could he repeat his question?

Hon. Deputy Speaker: Hon. Duba, he is asking you to just ask again because he was interrupted by the Member from Lamu.

Hon. Duba: Hon. Deputy Speaker, I was asking the Chair whether he intends to have the National Land Commission as a sub-committee to look into this matter and, therefore, satisfy my need for a judicial commission of inquiry to investigate the origin, both probable and immediate, of this conflict. Without getting to the root cause, it will recur.

Hon. Abongotum: Hon. Deputy Speaker, in that meeting, because most of the issues in Marsabit revolve around matters to do with land and boundaries, we will ensure that we have an official from the National Land Commission to clarify and give a full report about this. Alternatively, hon. Duba can approach this matter from the Committee on Lands, because our issues are normally security related; but we will ensure that officials from the National Land Commission attend that meeting.

Hon. Deputy Speaker: That issue will be revisited during your meeting. Now we move to the next Order, please.

BILLS

First Readings

THE ORDER OF PRECEDENCE BILL

THE ALCOHOLIC DRINKS CONTROL
(AMENDMENT) BILL

*(Orders for First Readings read – Read the First Time
and ordered to be referred to the relevant
Departmental Committees)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Hon. Deputy Speaker (Dr. Laboso) left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Kajwang') took the Chair]*

THE VALUE ADDED TAX (AMENDMENT) BILL

*(Resumption of consideration in Committee
interrupted on 22.4.2014)*

The Temporary Deputy Chairman (Hon. Kajwang'): Members, this is the Committee of the whole House to consider the Value Added Tax (Amendment) Bill,

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National Assembly Bill No.37 of 2013. You have the order of business on the Order Paper that has been circulated. The amendments appear under the notices, particularly on page 124 of the Order Paper. This is a session that resumed after we reported progress in the last session. So, we shall proceed.

Clause 2

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 2 be deleted.

First of all, let me just inform the House that the Committee has consulted with the stakeholders plus the sponsor of the Bill. I want to report that we had consensus on all the issues. The amendment in Clause 2 has the effect of deleting that clause. After consultations in the Committee, we thought that this deals with fines for wrong claims. The Committee felt that if you increase it from double the amount, it will create another loophole for corrupting people. The Committee felt that two times is a good penalty. So, I want the House to support my amendment. The sponsor of the Bill has no problem with this.

The Temporary Deputy Chairman (Hon. Kajwang’): I appreciate you, hon. Benjamin Langat, but could you put it in terms that the HANSARD can pick, namely that you propose the deletion of that clause.

Hon. Langat: I propose the amendment as shown on the Order Paper; it proposes to delete Clause 2.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Mbadi.

Hon. Ng’ongo: I just wanted to confirm that we did consult and my intention was to increase the penalty. The House needs to understand, the increase of penalty for those who lodge fraudulent claims from two to five times. Having consulted with the Committee, we agreed that at this point, it is not right to bring amendments on administrative procedures; therefore I support the proposed amendments.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Chidzuga from Kwale, Member from Lamu West; Member from North Imenti. Who is the Member for Lamu West?

Hon. Kariuki Ndegwa: Here I am.

The Temporary Deputy Chairman (Hon. Kajwang’): All right, just hold your guns. Let us hear from Member for North Imenti first. I will come back to you in a short while.

Hon. Dawood: Thank you, hon. Temporary Deputy Chairman. As a Member of the Committee on Finance, Planning and Trade, I agree with the amendments brought by my Chairman, and I agree that Clause 2 be deleted.

The Temporary Deputy Chairman (Hon. Kajwang’): All right; Member for Lamu West.

Hon. Ndegwa Kariuki: It was meant for the previous session on Statements, but unfortunately, the Deputy Speaker has already left.

The Temporary Deputy Chairman (Hon. Kajwang’): All right; I see. Can you withdraw all those requests that you made earlier, so that we are on the same page?

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 2 deleted)

Clause 3

The Temporary Deputy Chairman (Hon. Kajwang’): Mover!

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 3 be delete.

I wish to propose the amendment as appearing in the Order Paper, which has the effect of deleting Clause 3.

Let me also make a general statement about the amendments which we are presenting to the House. When the Committee sat, we had read the lips of the sponsor of the Bill, when he was moving it. His intention was to bring amendments that would really see the basic items that affect the common *mwananchi* exempted and prices lowered. When you look at these other amendments, they touch on the administrative issues of the law. We agreed that anything that touches on administrative issues should not be handled at this stage.

So, Clause 3 actually deletes a section in the main Act, which deals with enforcement by the Commissioner; the sponsor agreed that at this stage we leave the Commissioner with the powers to enforce the tax laws. I request the House to approve my amendment.

The Temporary Deputy Chairman (Hon. Kajwang’): All right; but have you proposed that you intend to have that clause deleted. Did I hear that from you?

Hon. Langat: Yes, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): The sponsor of the Bill, Member for Suba.

Hon. Ng’ongo: I just want to confirm that was actually the agreement between the Committee and I.

Thank you, hon. Temporary Deputy Chairman.

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 3 deleted)

Clause 4

The Temporary Deputy Chairman (Hon. Kajwang’): Mover!

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 4 be deleted.

Again for the same reasons, these are administrative issues in the law. As I said earlier on, the Committee agreed to deal with the issues which the sponsor wanted us to address. These are administrative issues; therefore, the Committee agreed to leave the Commissioner to do his job, using all the powers given to him.

The Temporary Deputy Chairman (Hon. Kajwang’): Just a minute, hon. Langat. I am really with you but I want terms which the HANSARD can pick. I want to hear those words which you propose to be deleted.

Hon. Langat: I have done that but, maybe, I should say it again. I propose that Clause 4 be deleted.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you. Member for Suba.

(Question of the amendment proposed)

Hon. Ng’ongo: Thank you; I confirm that the same reasons which justified deletion of Clauses 2 and 3 also apply to Clause 4.

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 4 deleted)

Clause 5

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Langat, so that we are clear, I want to invite hon. Eseli and hon. Nyikal to a discussion. Where is hon. Eseli, is anybody holding his brief?

For the benefit of the Members, on the Order Paper hon. Langat has several major amendments that touch on several sections. You can also see that Member for Tongaren, not “Tongareni”, hon. (Dr.) Eseli Simiyu is also making proposals, the same with Member for Seme.

We have been studying the contents of your amendments at the Table. Looking at the amendments proposed by the hon. Member for Seme, and comparing them with what has been proposed by the Chair himself--- You will see that on page 124 of the Order Paper, under Item 49, if we take the amendments proposed by hon. Langat, we see that they take care of the amendments proposed by hon. Nyikal.

I want hon. Members to go through them and agree, where possible. Looking at the amendments by hon. Eseli, which are on page 124, under Item 40, you will see that all these amendments speak to the same thing. So, hon. Member for Seme, do you consider that if these amendments by the Committee Chair are approved, then your amendments will have been taken care of? Let us start from there.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, partly yes. If you see my amendments, they are: “Inputs procured for the manufacture of products for medical

use by companies licensed by the Pharmacy and Poisons Board.” I think I will accept that there is a slight difference which, maybe, I will consider at this point. In my amendment, we are talking of inputs for products. What has been put under Clause 49 is basically for pharmaceuticals; the difference is that my amendment is for equipment, which is different from pharmaceutical products.

I think if you look at also the amendment that is proposed by the Member for Tongaren under Item 41, it is talking of medical equipment, laboratory reagents, medical sundries and consumables. I can concede that, that will partly take care of my amendment; I accept that at this point in time, but I do not think it will also fully take care of the Member of Tongaren’s amendment, because of the issue of equipment, which is not taken care of.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. That is fine. We are making progress. At least the Member for Seme concedes that the Member for Tongaren’s amendment is almost the same as, or similar to, his amendment. Now from there we will go to the next stage between hon. Eseli and the Chair of the relevant Committee. Chair, do you think that is clear enough?

Hon. Langat: Hon. Temporary Deputy Chairman, I think I spoke to Prof. Nyikal and Dr. Eseli; I think we agreed that the amendments are 90 per cent the same. Actually for hon. Nyikal the Committee amendments are even more comprehensive. They capture many things more than even what is proposed. So, I want to thank him because he has accepted to withdraw his amendment.

I have already spoken to Dr. Eseli and he has no problem with my amendment. He is actually coming to withdraw his amendment.

The Temporary Deputy Chairman (Hon. Kajwang’): I do not doubt the fact that you may have talked to Dr. Eseli but we want to capture it on record. We have moved to the first stage. The first stage is, therefore, that the Member for Seme concedes that the Member for Tongaren has amendments which speak to the same thing, or subject, that you are talking about; let us go there now.

Member for Tongaren and the Chair of the Committee, the only difference seems to be the person who will approve. The Member for Tongaren is talking about the Pharmacy and Poisons Board, while you are talking about Cabinet Secretary for the National Treasury. Really that is the difference. If both of you can agree on who, therefore, does the approval then we will be moving closer to one text of an amendment that we can bring before the House. Without engaging you in a debate, will you just cross over? Member for Seme, I understand that you hold brief for Member for Tongaren. Is that correct?

Hon. (Prof.) Nyikal: Yes Chair. We discussed this and I think, as to who will authorize, there is an agreement; what has been put---

The Temporary Deputy Chairman (Hon. Kajwang’): What is the agreement?

Hon. (Prof.) Nyikal: The agreement is on what is proposed in Clause 49; authorisation is okay.

The Temporary Deputy Chairman (Hon. Kajwang’): By the Cabinet Secretary. Is that correct?

Hon. (Prof.) Nyikal: Yes. What I was raising is under Item 41 on medical equipment and laboratory reagents. Those are not really taken care of by this. It may be

necessary that we find a way of incorporating Item 41. Item 49 does not take care of it. It talks of “pharmaceutical manufacturers in Kenya for manufacturing medicaments.” “Medicaments” is the issue here.

The Temporary Deputy Chairman (Hon. Kajwang’): Okay. I understand. I think that has been well put. I appreciate that. Now it is good that the Member for Tongaren is in the Chamber. The point of convergence seems to be this: First of all, the hon. Member for Seme has accepted to drop his amendments. Number two is that there is an agreement that the person to approve should be the Cabinet Secretary. The only small difference, which the hon. Member for Tongaren may want to address us on, is whether your amendment takes care of the question of equipment. If that is taken care of then both of your amendments will be dropped and we will consider the amendment by the Chair. Member for Tongaren, just help the Member for Seme; do you think your amendment takes care of equipment? That is the only issue that I want you to speak to.

Hon. (Dr.) Simiyu: Thank you Chair. The amendments by the Committee do not take care of all the issues that I wanted to take care of; as you said earlier, considering that everything needs to be approved by the Committee, if I insist on medical equipment and laboratory reagents, this might just delay the whole process. So, I am willing to drop my amendment in favour of the one by the Committee, which takes care of the raw materials. We can wait for another day to have medical equipment exempted. This is because, as the ruling stated, whatever we do has to be in line with what the Committee brings, which must have the concurrence of the Cabinet Secretary. Now, it appears like a bit of my amendment might not have had that input – the part on the medical equipment. On the part on raw materials, I think the Committee’s amendment fairly covers it. In order for me to fight on another day, I am willing to drop the amendment; but that does not mean there will be no more fighting. This “dog” will come back.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. There is never fighting in the Chamber; there are only debates. Now, hon. Member for Seme, when you talk about “Inputs procured for manufacture” are you not also talking about equipment? I do not want to force you into a situation where you drop something when you think that it has not been taken care of. Does this not include equipment?

Hon. (Prof.) Nyikal: Yes, mine includes equipment; but when you talk of “manufacturer of medicaments”, medicaments are different from equipment, but I will agree with the hon. Member for Tongaren; I accept that we can---

The Temporary Deputy Chairman (Hon. Kajwang’): That solves my issue. Your concession on the HANSARD sorts out my problems.

Member for Suba I do not want to entertain anything on this because they have dropped their amendments. Therefore, we begin on the clause which has just been called out.

*(Proposed amendments by Dr. Simiyu
and Prof. Nyikal dropped)*

Mover, I beg your pardon. Hon. Member for Suba reminds me that you are the Chair of the relevant Committee and he is the sponsor of the Bill. Member for Suba, you are just the sponsor of the Bill.

Proceed.

Hon. Langat: Hon. Temporary Deputy Chairman, I do not know whether you may need to guide me again here so that the legal---

The Temporary Deputy Chairman (Hon. Kajwang’): Just because we do not seem to have a serious debate on this, can we just do it wholesale?

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 5 be amended—

(a) in paragraph (a), by—

(i) deleting the proposed new item 43;

(ii) deleting the proposed new item 45;

(iii) deleting the proposed new item 46;

(iv) deleting the proposed new item 47;

(v) inserting the following new items immediately after the proposed new item 47—

“48. Specialised solar equipment and accessories, including solar water heaters and deep cycle-sealed batteries which exclusively use or store solar power.

49. Inputs or raw materials (either procured locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing of medicaments, as approved from time to time by the Cabinet Secretary for National Treasury in consultation with the Cabinet Secretary responsible for health”;

(b) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) in Part II by inserting the following new item immediately after item 18—

“19. Air ticketing services supplied by travel agents”;

(c) by inserting the following new paragraphs immediately after paragraph (b)—

“(c) in Part I, Section A, by—

(i) deleting tariff number “8802.20.00 Aeroplanes and other aircraft, of unladen weight exceeding 2,000kg” appearing in item 39 and substituting therefor tariff number “8802.20.00 Aeroplanes and other aircraft, of unladen weight not exceeding 2,000 kg”;

(ii) inserting the following new item immediately after item 39—

“40. Unprocessed green tea”;

(iii) deleting tariff number “2106.90.20 Food preparation specially prepared for infants”;

(iv) inserting the following new items immediately after item 17—

“17A. Sugarcane of tariff No. 1212.93.00.

17B. Unprocessed produce of plant species *camellia sinensis*”;

(v) deleting the word “Tax” appearing in item 30 immediately before the word “supplies” and substituting therefor the word “Taxable”.

If you read the main Bill by hon. Ng’ongo, this section, Item 43, is about exemption, increasing exemptions list. That section reads “milk and cream”, concentrated or containing added sugar or other sweetening matter of tariff No.04021000. I have said this section deals with exemptions. There are so many things which the Bill has brought on board, some of them being fishing nets, mosquito nets and ordinary milk consumed by ordinary *wananchi*. This is a luxury kind of milk but, reading the mood of the sponsor,

we were supposed to deal with basic items consumed by ordinary *wananchi*. The Committee proposes that those consuming such luxury goods should pay VAT.

Item 45 - This is for the reason that this deals with insecticides generally. The reason we are proposing a deletion is that it has already been provided for by the main Act. It is already provided for under Item 31 of the main Act, VAT Act, 2013. This would have been a repetition and I have explained to the sponsor of the Bill. This is just to clean the Bill.

Item 46 - This was dealing with ambulances and the reason is that the Committee felt that if we are exempting services like providing ambulances, it would touch the common *mwananchi*. But this is a service provided by the most expensive hospitals and normally we pay through insurance. In public hospitals, the Government provides this service and so there is no need for this exemption.

Item 47 - This again is the most expensive bread which even hon. Ng'ongo himself said he does not consume because of the price. So we agreed that we delete it.

Items 48 and 49 - For these two items, the Committee realized that there are so many parts of this country that are not within the national grid. Usually the Government provides rural electrification to areas where we have the national grid; but we have many areas where people still rely on solar panels. The common *mwananchi* buys solar panels and batteries. That is what they use to light their houses. Therefore, we thought that it would touch the *mwananchi* in a positive way if we exempted these items as they normally use them. The Committee was unanimous.

On the raw materials for pharmaceuticals, in the VAT Act 2013, we exempted all the final pharmaceutical products like medicines; unfortunately when you exempt the final product, it means that the manufacturers are not registered for VAT. They cannot claim the VAT on input. That input VAT becomes a cost and, therefore, stakeholders--- I mentioned the two doctors in the House because they came to me.

It was very unanimously agreed that we need to exempt the raw materials because we exempted the final product. That will save the sector. In fact, when the stakeholders came---

The Temporary Deputy Chairman (Hon. Kajwang'): With a lot of respect, just explain very briefly. Do not go into details which we dealt with during debate.

Hon. Langat: Hon. Temporary Deputy Chairman, the other thing we are trying to do is that the sponsor of the Bill, as I said earlier on, wanted to touch on basic issues. He wants us to exempt some services consumed by the banks from credit reference bureaus when you borrow. The Committee felt that these are business transactions which people should pay for.

The other thing is about sanitary and pest control services provided to households. These are usually provided by the Government, especially for malaria. On issues of postal services, the Committee felt that there are so many alternatives nowadays. We have SMS, emails and so many others. We are no longer in those days when we used to send letters.

On the supply of electricity, we discovered that supply to households is restricted to 200 kilowatt hours. The Committee felt that these are middle class people. If we were to exempt this, we would likely lose revenue of up to Kshs5 billion by this amendment that allows 200 kilowatts hours. I want the House to be cautious in this matter and I agree

with the sponsor that this matter needs more time, so that we get statistics in future and see how many consumers of the Kenya Power really fall in this category. I want the House to be cautious and agree with the Committee because we have consulted and the Committee has both sides of the political divide.

On supply of water drilling services, this is a service that is provided by the Government.

On supply of rural electrification, this is a service that we all know is supplied by the Government and, therefore, there is no need of exempting what the Government has already provided.

So, I wish to request the House to support the Committee on all the amendments that have been proposed. Please guide me on how to proceed because---

The Temporary Deputy Chairman (Hon. Kajwang'): I have provided the necessary guidance; be brief but cover the subject. Do not take too long on anything.

Hon. Langat: Hon. Temporary Deputy Chairman, the other thing we are saying is that when the Committee called the stakeholders, travel agents talked to the Committee, and it felt that we need to consider that air ticketing is done through a common system, and somebody using a billing system in Uganda, Tanzania or South Africa is able to access it.

So, it is possible for me to book my ticket in Uganda through an agent and it is emailed to me. That means we are actually killing our own travel agency business because those in Uganda or Tanzania are not charged VAT. We cannot kill our sector and export jobs to our neighbouring countries. We thought we should protect our sectors and also protect other pharmaceutical companies. I propose that the House supports these issues because we have considered them carefully. I know hon. Ng'ongo has one or two items which are--- Generally, we have agreed on these issues. In Part (c), we are saying we insert the following new paragraph immediately after paragraph (b). That is (c) in Part I Section (a), by deleting tariff number---

The Temporary Deputy Chairman (Hon. Kajwang'): All right, what about (ii) of (c)? What is your proposal?

Hon. Langat: Chair I am saying that for (a) and (c)(i), we are just correcting the--

The Temporary Deputy Chairman (Hon. Kajwang'): I have picked that.

Hon. Langat: Two, we are saying that if you look at the spirit of the VAT Act, what is not mentioned in the---

The Temporary Deputy Chairman (Hon. Kajwang'): Are you proposing the inclusion of unprocessed green tea?

Hon. Langat: Yes. We are including unprocessed green tea.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you. What about (iii)?

Hon. Langat: Then we are including unprocessed sugarcane and also unprocessed produce of plant species - *camellia sinensis*. This is also a type of tea. The reason why we are doing that is because in the spirit of VAT Act, 2013, anything which is not processed is exempt. If you look at the law, anything that is not mentioned in the exemption list, the implication is that it must be levied VAT. To remove that doubt, we

said that farmers, especially tea and sugarcane farmers had the fear that they may be told to pay VAT; therefore, we agreed that they should be included in the exemption list.

The Temporary Deputy Chairman (Hon. Kajwang’): How about (v)? What are you proposing on (v)?

Hon. Langat: *(Inaudible)*

The Temporary Deputy Chairman (Hon. Kajwang’): Sorry! Did I hear you?

Hon. Langat: I am saying that we are proposing that we delete the word tax--- *(Inaudible)* --- This is just to correct the terminology in tax terms.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you.

(Question of the amendment proposed)

Member for Ugenya, you are on a point of order. Can we hear you first?

Hon. Ochieng: I am not on a point of order. I just want to contribute.

The Temporary Deputy Chairman (Hon. Kajwang’): Sorry!

Hon. Ochieng: Sorry! I just want to contribute. It is not a point of order.

The Temporary Deputy Chairman (Hon. Kajwang’): Okay. I found you on the intervention list.

Hon. Ochieng: I think that is what we do at the Committee Stage. We intervene. We do not---

The Temporary Deputy Chairman (Hon. Kajwang’): All right. Fair enough. Proceed.

Hon. Ochieng: Thank you so much Chair. I want to thank the Chair of the Committee for the contribution he has made. I also want to thank the Mover, hon. Ng’ongo, for this very important intervention.

I want to oppose the proposals made by the Chair of the relevant Committee in as far as Clause 5(a)(i) is concerned. It talks about milk and cream containing added sugar. This is like a supplement. The Chair may not need sugar, as you can see. But children suffering in refugee camps and the people who are under Red Cross may need this for nutrition. That is why I propose that this should be retained as it is and I oppose. Sugar is a very important item in nutrition. If we remove it from this list, it will attract VAT and that may cause difficulties to people dealing with persons who are in that kind of a disadvantage.

Going down, Item 45 talks about insecticides and pesticides. When we passed the *Uwezo* Fund Regulations, the Youth Development Fund and Women Enterprise Development Fund recently, we were encouraging women and youth to start producing things like flowers and livestock on a large scale. If you remove this - although he says he wants to remove the confusion - it will not capture animals. You need this to enable our people to go into these new areas of horticulture and agribusiness. That is why we need to retain Item No.45.

Item 46 is very important. One of the major issues facing this country is funding health. Funding the provision of health services is a problem. We want people to invest in this area. The statement by the Chair that ambulances and hearses are provided by the hospitals is untrue. We want people to start investing in those businesses in the rural

areas. In my county for example, I want private persons to come up with ambulances because they are few. The public ones are very few and far between.

I propose that we retain this item, so that we allow investments in this area. In Ugenya where I come from, I have heard some youth group saying that they want to start preparing cassava and sweet potatoes crisps. We want to retain this to enable them to invest in those new areas. That is why this idea of crisp bread being excluded does not make sense to me.

Thank you so much.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. Hon. Members, this is the Committee of the whole House. We have discussed these issues during the Second Reading. I will still recognize you when you want to ventilate on an issue. But you need to be as brief as you can get and on the point. I can see a long list of requests. Let the amendments that have been proposed before the House not ignite a lot of requests. Let us speak to the text of the amendment, the content and the substance. That is where we are.

Member for Mbita! Maybe, I should say that a minute should be enough for every Member speaking on anything.

Hon. (Ms.) Odhiambo-Mabona: Thank you Chair. It is very difficult because he has actually moved Clause 5 with very many parts. There are parts I support and parts I do not support.

The Temporary Deputy Chairman (Hon. Kajwang): Just go into those issues that you want to flag out for us.

Hon. (Ms.) Odhiambo-Mabona: In one minute it becomes very difficult.

What I would want to say is that I do not support the deletion of 43. I really do not care much about the deletion of 45. It may be retained or not, but I really oppose the deletion of 46 on ambulances and hearses. In Mbita Constituency, we bury almost 20 people every weekend and the Government does not assist. If you are able to afford the services of a hearse, which are not provided by the Government--- Burying people is almost a socio-economic need. On the issue of ambulances, we do not have any Government supplied ones. I think there is only one Government supplied ambulance in the whole constituency. What we want to buy now--- Because I have been searching, I know what the implications are. If you look at the cost of buying and the VAT element, it is completely prohibitive. It eats into money that can be used to build classrooms.

So, Chair, I do not support some items, but I support the one on solar equipment. If you actually compare what he is saying on ambulances to what we are seeking to exempt in air ticketing, there is a class issue. It is air ticketing versus ambulances. Ambulances touch on very ordinary people. Air ticket touches on me and *mheshimiwa*.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. Member for Samburu West.

Hon. Lati: Thank you, Chair. I support my Chair. We have had a lot of interaction with---

The Temporary Deputy Chairman (Hon. Kajwang’): If you really support, make it not more than 30 seconds. That is if you are supporting

Hon. Lati: Let me run through a few issues that are---

The Temporary Deputy Chairman (Hon. Kajwang’): No! We are trying to keep time, unless you are objecting to something. You see, this is your last moment to persuade Members to vote one way or the other. Really, the Chair has explained everything that we want to hear. So, 30 seconds should be enough.

Hon. Lati: Hon. Temporary Deputy Chairman, one thing that we noted in the Committee is that some of these things actually have a comparative advantage for our country and for our business investors. If you look at the manufacturers of medicine and those people who deal with aircraft, you will find that they were disadvantaged by the previous VAT Act because they had to compete with Tanzania and Uganda---

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. Thank you.

Yes, the Member for Mumias East.

Hon. Washiali: Thank you, hon. Temporary Deputy Chairman. I wanted, first of all, to thank the Chair, hon. Langat, for the clarification he has given on the taxes that were initially put on sugarcane. I also want to add that already companies are levying VAT on sugarcane. This is what has contributed to debit income that the farmers have been earning. Could the Chairman go a notch higher and insist that the VAT that has already been deducted, now that he has clarified that it was not supposed to have been levied, be refunded to farmers?

The Temporary Deputy Chairman (Hon. Kajwang’): Find out what the Majority Leader is smiling about. He must be trying to advise you on something.

Hon. Wambugu: Thank you, hon. Temporary Deputy Chairman. Mine is on Clause 5(c). I do agree with the Chair on the deletion of that part of the Clause. The way it has been amended leaves a lot to be desired because reverse in one direction and put the advantage to the aircraft below 2000 Kgs. The amendment should have been on aircraft---

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Mathioya, you are in support of these amendments, are you not?

Hon. Wambugu: Yes, but you did not give the Chair the chance to explain that part and what is supposed to be done next.

The Temporary Deputy Chairman (Hon. Kajwang’): No! No! You are in support, it is on the Order Paper and Members have understood what it is all about.

Yes, the Member for Kitui Central.

Hon. Mulu: Thank you, hon. Temporary Deputy Chairman. I support most of the recommendations, but there are some which I do not support.

The Temporary Deputy Chairman (Hon. Kajwang’): Just go straight to those issues.

Hon. Mulu: Hon. Temporary Deputy Chairman, I support the one on water drilling services. I think the explanation given by the Chairman is that this is done by the Government. You will realize that there is a lot of drilling which is done by Non-Governmental Organizations (NGOs) and some of our development partners. I think this will affect such drilling in the dry areas like where I come from, namely Kitui and North Eastern, where the Majority Leader comes from. There are also areas where we do not need to increase air ticketing. If you ask how many Kenyans know about air ticketing, you will find that it is less than 10 per cent. So, in this area I will not support the inclusion. This is an area we should also delete as we delete the other areas.

Thank you, hon. Temporary Deputy Chairman.

Hon. Makenga: Thank you, hon. Temporary Deputy Chairman. I request the House to retain Item No.46 on ambulance and assets. Not all counties are advantaged to have ambulances. For example, we have not had a single ambulance in my constituency since Independence. It is just the other day when we, as a constituency, received---

The Temporary Deputy Chairman (Hon. Kajwang’): I understand the Member for Kaiti, and have a lot of sympathy for the people of that constituency. However, that has been well put. Could you move on to the other point?

Hon. Makenga: Hon. Temporary Deputy Chairman, the other one is on drilling equipment. Water is very scarce in my constituency. I have got some donors who are willing to donate drilling equipment as well as ambulances. The moment they know that this has been deleted, they will stop the donation and my constituency---

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. The second last one on this order is the Member for Igembe Central.

Hon. Iringo: Thank you, hon. Temporary Deputy Chairman. I support the amendments by my Chairman. On Item No.46---

The Temporary Deputy Chairman (Hon. Kajwang’): Is there anything that you are finding objectionable? Do you have any objection on anything?

Hon. Iringo: No, I support all the amendments, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you very much.

Let us hear the sponsor, the Member for Suba.

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, it is a bit tricky and I do not know how we are going to handle this in terms of procedure. This is because I feel that there are many amendments here which I agree with, but there are a few that I disagree with. Since this is the last---

The Temporary Deputy Chairman (Hon. Kajwang’): Go into those that you disagree with!

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, because this is the last clause just indulge me to make quick comments on its items. First of all, deleting the proposed new Item No.43 even though my intention was to make sure that we simplify the tax--- In tax law, simplicity is very important, as a principle.

The Temporary Deputy Chairman (Hon. Kajwang’): That is why we are asking you to be very simple and go into those items that you find objectionable.

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, I intended to make all milk products exempted, so that you do not create room for tax collectors to seek--- Anyway that one I accept.

However, I want the House to listen to me on Item 45. If you look at what the Committee is proposing, you will find that it is the same item, Item No.31 in the parent Act. I have looked at what is provided under Item No.31 in the Act and found that it talks about agricultural pest control products. I have consulted with the groups that use these items and I realized that the lists that are provided include even animal pest control. However, the one that is in the Act is restricted to just agriculture. So, I urge the House to reject the deletion of Item No.45.

I do not have a problem with Item No.46, although I wanted ambulances and hearses to be removed. In the discussion I had with the Committee, I accepted its position.

On Item No.47 on crisps, I accept the Committee's proposal---

The Temporary Deputy Chairman (Hon. Kajwang'): Just go to the ones that you have issues with. That is the very last one.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, the ones that I disagree with are one--- If you go to Clause 5(b) - this is where I have a big problem - you will find that I agree with the deletion of credit reference bureau services, sanitariums, pest control services and postal services. I disagree with the deletion of Item Nos.22, 23 and 24. This is because supply of electricity is restricted to 200 kilowatt hours for those who use it for lighting, and these are very poor Kenyans. As a matter of fact, before we repealed the Act, this group was exempted. I do not think it is true to say that this is the middle class.

Secondly, the supply of water drilling services---

The Temporary Deputy Chairman (Hon. Kajwang'): That has been spoken to by the Member for Kaiti. Could you move on to something else?

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I just want to inform the House that a large area of this country is either arid or semi-arid and the Government does not drill boreholes. These boreholes are mostly drilled by NGOs and the Constituencies Development Fund (CDF). So, if you are given CDF and then you return 16 per cent of it, this denies our people service.

I do not think that the supply of rural electrification has been spoken to. The policy of this Government is to discourage use of wood fuel. The policy of this Government is also to light rural areas. We can only do that if we make the supply of electricity to rural areas cheap.

Hon. Temporary Deputy Chairman, my last concern is how we will proceed.

The Temporary Deputy Chairman (Hon. Kajwang'): That is for the Chair, please.

Hon. Ng'ongo: Thank you.

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Chair, you do not have to respond to this.

Hon. Members, I will split the issues here so that we deal with paragraph (a), (b) and (c) in that order. I am sure that hon. Members are alert; they should vote whichever way they are inclined to vote.

Hon. (Prof.) Nyikal, there has been enough time to ventilate on this matter, unless you are on a point of order. What is out of order?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, it is not a point of order. If we said that, perhaps, I was not alert--- I think there are things that are important for this country and we are not being allowed---

The Temporary Deputy Chairman (Hon. Kajwang'): No; if you are on a point of order, raise it,

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I want to---

The Temporary Deputy Chairman (Hon. Kajwang'): No, we have passed that; we are so sorry. I have to rule---

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, you have to put it, please.

The Temporary Deputy Chairman (Hon. Kajwang’): Spend the next five seconds to explain because we have another Bill to move to. It is a whole Bill and we have one hour to dispose of it. This is the reason why we must speed up. All right, go on.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I know this is late, but I think we need to re-look at the issue of ambulances. I know we went through the Committee and we discussed it, but I know I will not sleep well, if we exclude ambulances.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you, I hope hon. Members have heard hon. (Prof.) Nyikal, persuaded or not, I will put it to them, and we will decide by the vote.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, you may then guide me on the process on how to put it, so that---

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Member for Seme, there is no way other than you persuading hon. Members, so that they vote for it.

Hon. (Prof.) Nyikal: What will be before the House?

The Temporary Deputy Chairman (Hon. Kajwang’): That is the reason you were not listening, with a lot of respect. I have said that I am going to split them, so that we carefully walk through them; we will vote for them one by one. Hon. Magwanga, you do not seem comfortable.

Hon. Magwanga: Yes, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Why?

Hon. Magwanga: There is an issue here about deleting the tariff that deals with food preparation, especially for infants. Infants do not have anybody to speak for them in the House.

The Temporary Deputy Chairman (Hon. Kajwang’): You are young enough to speak for infants!

(Laughter)

Hon. Magwanga: That is why I am now speaking for them. It is not fair for food prepared for infants to attract tax. Generally, as House, we need to protect infants, and they need to live well and become members of Parliament in future.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you very much. Let us go on.

*(Question that the words to be left out,
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof, be inserted put and agreed to)*

(Clause 5 as amended agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I do not know the point we are at; I had an issue but you have gone very far.

The Temporary Deputy Chairman (Hon. Kajwang'): As the sponsor of the Bill, do we understand that you have a communication for the Chair?

Hon. Ng'ongo: Well, I will respect the procedure and move on.

Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Value Added Tax (Amendment) Bill, National Assembly Bill No. 37 of 2013 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Kajwang'): This is the Committee of the whole House convened to consider the Public Procurement and Disposal (Amendment) Bill. The amendments have been circulated to hon. Members as are appearing on the Order Paper, specifically on pages 126 to 129.

Clause 3

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move:-
THAT clause 3 be amended—

(a) in subclause (9) by inserting the word “spend” immediately after the word “procurement” and the words “women and persons with disabilities” immediately after the word “youth”;

(b) by inserting the following new sub-sections immediately after subsection 9—

(10) Every procuring entity shall ensure that all money paid out to an enterprise owned by youth, women or persons with disability is paid into an account where the mandatory signatory is a youth, woman or a person with disability.

(11) The procuring entities at the national and county level shall make a quarterly report to the Authority.

(12) A report made under subsection 12 shall—

(a) certify compliance with the provisions of this section; and

(b) provide data disaggregated to indicate the number of youth, women and persons with disability whose goods and services have been procured by the procuring entity.

(13) The Authority shall make a quarterly report to Parliament for consideration by the relevant committee responsible for equalization of

opportunities for youth, women and persons with disability`, which report shall contain details of the procuring entities and how they have complied with the provisions of this section.

(c) by renumbering the existing subclause (10) as subclause (15).

Hon. Temporary Deputy Chairmen, the intention of these amendments is to ensure, first of all, at this point that the youth, women and people with disability are able to access 30 per cent procurement preferences as decreed by Government. Specifically, I will go to the sub-clause which states that we want to insert the word “spend” after the word “procurement” and the words “women and persons with disabilities” after the word “youth” so that it is not just 30 per cent contracts of procurement but 30 per cent of the value, and so that if a procurement entity is getting Kshs100 billion, Kshs30 billion must be for the youth, women and people with disability.

Clause 3 (b) is to ensure that if any procuring entity pays out money to an enterprise owned by youth, women or people with disability, that money is spread out to an account where the mandatory signatory is a youth, or a woman or a person with disability, as the case may be to prevent the mischief where you find some unscrupulous business people are registering businesses on behalf of young people, but they are the only ones who are benefitting.

Therefore, any money paid out to these companies, the procuring entity must ensure that the account into which they are paying the money is controlled by the desired group, be it the youth, women or persons living with disability.

Sub-clause (11) is to make sure that we monitor. The Chair will realize that we might have a good legislation, but if there is no monitoring and evaluation, young people, the women and the people with disability may not benefit from these provisions.

So, Sub-clause (11) says that the procuring entities at the national and county level shall make a quarterly report to the Public Procurement and Oversight Authority (PPOA). The details of that report are given in Sub-clause (12) that the report shall certify that they have complied with the provisions of this section. Then the report shall provide details to indicate the young people, women and people with disabilities whose goods and services have been procured by the procuring entities and who have benefitted. The value of those contracts also must be shown, so that we can know that, indeed, it is 30 per cent. Then 13 provides that the PPOA must make a quarterly report to Parliament and that report should be made through the Committee that is responsible for equalization of opportunities for the youth, women and people with disabilities, which is the Joint Committee on National Cohesion and Equal Opportunity. So that as Parliament we can then be able to bring to task all procuring entities, be they national Government or otherwise. You realize that this is a clause that also goes to the Senate because also the county governments must comply with these provisions.

Finally, Clause 3(c) is just renumbering the existing sub-clause 10 to be sub clause 15 because of the amendments made earlier.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): I can see that people are requesting to contribute but I suppose that this must have been earlier requests. Member for Mbita, are you speaking to this or this was an earlier request?

I will come back to you if you are on the Order Paper. You do not even have to request. I am seeing a request from you. Do you want to speak to this or something else? This is your time to speak to it. You are speaking to the amendments by hon. Sakaja as proposed.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, I support the proposed amendment by hon. Sakaja. I would want to urge that if he is willing, we could adopt my further amendments on sub-clauses 10 and 12, to make it richer, then I would not have to propose my amendment. The rest of our amendments are similar.

The Temporary Deputy Chairman (Hon. Kajwang’): Well, I must apologize that I did not give this direction when it should have been given. We have considered the amendments proposed by the Member for Mbita as well as the amendments proposed by the Member for Kipkelion. It is the view of the Chair that the amendments by the Member for Mbita and the Member for Kipkelion are substantially similar to the amendments proposed by the sponsor of the Bill, in which case, if therefore, the amendment by hon. Sakaja were upheld, then the amendments proposed by the Member for Mbita or Kipkelion would have been taken care of.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Temporary Deputy Chairman. Whereas I agree with you that substantively our amendments are the same, the Chair has not taken into account the amendments that I am proposing in sub-clauses 10 and 12. So, I wholly support his amendments, but I do not know how we will do it. If I can move mine in 10 and 12 or he can adopt mine in 10 and 12 because they essentially speak to inclusion of persons with disabilities and women, it will fine. However, mine is wider because I also include 10 and 12. So, whichever way you wish to go, if hon. Sakaja can adopt by amendments in 10 and 12 or he moves his and then I include mine in 10 and 12, it is fine.

Maybe to make it shorter, could I propose a further amendment to hon. Sakaja’s then after that I can drop mine? I would propose a further amendment to hon. Sakaja’s by including amendment to sub clauses 10 and 12 in the manner that I have provided in the Order Paper. Then it will be a further amendment to hon. Sakaja’s.

The Temporary Deputy Chairman (Hon. Kajwang’): No, so that there is no confusion in the Chamber, this is what we will do; we will go clause by clause. Hon. Sakaja, you have an amendment on Clause 3(a). Let me direct you and the Standing Orders allow me to do so. Change the word “spend” to “spent”. Member for Mbita, you see, therefore, that your amendment is substantially similar on that respect to what hon. Sakaja is proposing except for the word “spent”, so that you are proposing to insert the new words “women and persons with disabilities”. That is the same thing that the Member for Mbita is trying to do. That is the same thing that the Member for Kipkelion is trying to do. So, in that respect, they are similar. Therefore, if they are similar, we will consider the amendments proposed by hon. Sakaja; number one. Then on Sub-clause 10, Member for Mbita, you have something much more than what hon. Sakaja is proposing. So, we will come to you at that time. I just want to look at those issues which are similar, so that we dispose of them.

When we go to Sub-clause 12, the Member for Kipkelion, are you there? Look at the amendment you propose in (c) and find that they are substantially the same with what the Member for Mbita is proposing. Then we will consider the amendments proposed by the Member for Mbita in 12 in the sense that they are similar. If therefore, we have that understanding, let us go through them clause by clause.

Hon. Sakaja: Hon. Temporary Deputy Chairman, I am on two things. One, I have not amended sub clause 10. I have inserted a clause after 9, which I have numbered as 10. So, that is why if you look at my last amendment in (c) it is to renumber. So, when I am talking about mandatory signatory, that is an insertion after sub clause 9. But what hon. Millie is trying to do in sub clause 10 of the amendment that I have, I agree with her fully because it just enriches the references to the Constitution, namely Article 54 and 57. Secondly, I do not know if we are together.

The Temporary Deputy Chairman (Hon. Kajwang’): We are together. I will help you in this. Yes, you have renumbered, but we will renumber it at the Table when everything has been brought together. So, do not be worried that your amendment will go away. We will take care of it. The only thing that the Member for Mbita seems to be doing is to expand the number, if that is my understanding---

Hon. Sakaja: Of references to the Constitution.

The Temporary Deputy Chairman (Hon. Kajwang’): Yes, but those new amendments will still be there. We will ultimately, at the Legislative Table, renumber them.

Hon. Sakaja: We are trying to ensure that 30 per cent of the procurement is spend, meaning the value of procurement---

The Temporary Deputy Speaker (Hon. Kajwang’): It is spent.

Hon. Sakaja: No! No! “Spend” is the amount of money actually spent by the entity. In fact, to make it better we ought to have said, “Thirty per cent of the total value of procurement”. I am not talking about the actual---

The Temporary Deputy Speaker (Hon. Kajwang’): Yes. So, can we talk about English which is very direct? Can we talk about value?

Hon. Sakaja: Yes, hon. Temporary Deputy Chairman. I was advised otherwise by the legal team.

The Temporary Deputy Speaker (Hon. Kajwang’): No, it will cause confusion in the law.

Hon. Sakaja: Yes, so I would rather we amend and say, “At least Thirty per cent of the value of procurement in every financial year.”

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Subclause 9 be further amended by inserting the word “value” after the word “procurement” in the third sentence of the paragraph.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, let us have these things clause by clause.

(Question of the amendment proposed)

Member for Ugenya, please remember that we are only considering Clause 3(a) which is amending Subclause 9. Remember there is a further amendment that hon. Sakaja has

moved, that we substitute the word “spend” with the word “value”. That way, it is very clear in law what we are dealing with, that is, value.

Hon. Ochieng: Hon. Temporary Deputy Chairman, if we had Clause 3(a), I support it wholly plus the further amendment moved by hon. Sakaja.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Member for Kipkelion East, I want us to wade through this minefield very fast.

Hon. Limo: Hon. Temporary Deputy Speaker, I want to support that amendment. There was confusion previously when it plainly stated, “Thirty per cent”. Most of the procurement entities were just counting the numbers. The value is very important.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 3(a) as amended agreed to)

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, I think I will propose the Question that Clause 3(b) be amended as proposed by hon. Sakaja.

(Question of the amendment proposed)

Hon. Member for Ugenya, what is the issue?

Hon. Ochieng: Hon. Temporary Deputy Chairman, with regard to the current numbering, that is, 10, before we can summarily deal with Clause 3(b)(10) as has been proposed by the Chairman that every procuring entity shall ensure that all money is paid out into accounts, I think this assumes a lot. It assumes that we have passed a very important stage. I do not want to pre-empt debate, but what is proposed at Clause 2 has a lot to do with what is now in Clause 3(b)(10). This is because if we defined “youth” the way the Constitution defines it then we will not need Clause 3(b)(10). It presupposes that someone can pay money into an account that does not belong to a company owned by the youth, persons with disabilities, or women.

My point is this: If you look at what is being proposed now you will realize that we are opening up the ownership of companies by young people. That is the---

The Temporary Deputy Speaker (Hon. Kajwang’): Alright. That is okay. Hon. Members, can I put the Question now?

(Loud consultations)

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Temporary Deputy Chairman. I stand under Standing Order No.134 and request that the House do sit again and report progress.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Suba, you are a second term Member of this Assembly and you now know the repercussion of Standing Order No.134. The Chair does not have discretion to stop you from doing what you are asking to be done. However, you should also know that to extend the sitting of the House which I think is what you want done should have been done 30 minutes before.

Hon. (Ms.) Odhiambo-Mabona: Yes, but it is 30 minutes before time.

The Temporary Deputy Speaker (Hon. Kajwang’): We will deal with it when it comes in the House and it may or may not be what you are saying. Under Standing Order No.134, I do not have discretion. I will allow you to do what you are doing. I am sorry, Member for Mbita not Suba.

Hon. (Ms.) Odhiambo-Mabona: I am Nyasuba, but Member for Mbita. I am requesting that the House resumes so that we can request formally when the House is sitting fully and not as a Committee. We have 30 minutes and I can request when the House is sitting if we can sit in the next one minute.

The Temporary Deputy Chairman (Hon. Kajwang’): Well upon the proposal made on the Floor by the Member for Mbita that the House do report progress and sit again, I now put the Question.

(Question, that the sitting of the House be extended, put and agreed to)

PROGRESS REPORTED

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Public Procurement and Disposal (Amendment) Bill (National Assembly Bill No.31 of 2013) and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu) in the Chair]

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to move that a Committee of the whole House has considered the Public Procurement and Disposal (Amendment) Bill (National Assembly Bill No.31 of 2013) and seeks leave to sit again.

Hon. Langat seconded.

Hon. Ng’ongo: On a point of order, hon. Temporary Deputy Speaker. Procedurally, I thought that we referred two Bills to the Committee of the whole House and I thought we should go by the order in which the two Bills were transacted, so that we finish with the Value Added Tax (Amendment) Bill and then we go to the Public Procurement and Disposal (Amendment) Bill. The Chairman should have started with the Value Added Tax (Amendment) Bill, in my view.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Mover, so that we can agree with reporting progress.

Hon. Sakaja: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. Langat seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, because we had two Bills, the Value Added Tax (Amendment) Bill and the Public Procurement and Disposal (Amendment) Bill, I give direction that we will start with the Value Added Tax (Amendment) Bill.

Hon. Millie, you are on a point of order. You are not being seen.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Temporary Deputy Speaker. I think there must be something wrong with my intervention button. I am standing under Standing Order No.31 as read together with Standing Order No.1 requesting that we extend the sitting time until 1 O'clock because we have a lot of business. If you look at the nature of this House, many Private Members have a lot of Bills that we need to transact. We have just come back from recess and if you look at the Parliamentary calendar, we will soon be going on recess. You can see that the Parliamentary calendar is very heavy. I am requesting that we sit until 1 O'clock, so that we can transact more business.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Millie Odhiambo, you are very aware and you are very informed about the Standing Orders. It is now 30 minutes before, it is not possible to extend the time at the time of the request. So, we can report progress on the VAT Bill and then we can go back to the Committee. It should be at least 30 minutes before time. Hon. Millie is very informed. She has been here before and she is very informed about the Standing Orders. It should be 30 minutes before.

Hon. Ochieng: Hon. Temporary Deputy Speaker, this is one of the times when we say in law that laws are made as hand maidens of justice and not harsh maintainers of justice. We seek your indulgence to allow us to finish this by bending the rules a bit, because you have the discretion to allow us to sit until 1 O'clock.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have hon. Sakaja raising his sentiments, so that we can come to an agreement. The Standing Orders dictate 30 minutes before. This is a House of procedures and rules and we cannot break laws when we are the law makers in this House.

Hon. Sakaja: Hon. Temporary Deputy Speaker, it is for that very reason that we are in this House. We are making laws. I would like to urge you to use your great wisdom and invoke Standing Order No.1, so that we can finish the business of this because the Value Added Tax (Amendment) Bill and the Public Procurement and Disposal (Amendment) Bill are things that a lot of Kenyans are waiting for. We cannot push them to next week.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Sakaja, thank you. I direct that we report progress on the Value Added Tax (Amendment) Bill and then we can go to the Public Procurement and Disposal (Amendment) Bill. We were discussing two Bills and it is important to dispose of one. The Chairperson is reporting on the Value Added Tax (Amendment) Bill, so that we are informed.

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE VALUE ADDED TAX (AMENDMENT) BILL

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Value Added Tax (Amendment) Bill (National Assembly Bill No.37 of 2013) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The honourable Mover.

Hon. Ng’ongo: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. (Ms.) Odhiambo-Mabona seconded.

(Question proposed)

(Question put and agreed to)

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us get a point of order from hon. Millie Odhiambo since this is a House of rules and procedures.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Temporary Deputy Speaker and thank you again for observing rules and procedures but sometimes it will be very nice to indulge Members, especially using your discretion in Standing Order No.1. What we were really trying to do was to save time but instead we have actually ended up spending and not wasting because in Parliament we cannot waste time, but we have ended up using that time in activities that would, otherwise have been used another time.

So, hon. Temporary Deputy Speaker, to help us save time more I am requesting hon. Sakaja to please adopt my amendments because I have another committee meeting in the Committee Stage. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, there is a point of order and hon. Members we are through with reporting progress of the VAT (Amendment) Bill. Now, there is a point of order from hon. Johnson Sakaja. Let us get what is out of order. What is your intervention?

Hon. Sakaja: Thank you, hon. Temporary Deputy Speaker. I would like to move a Procedural Motion that the House sits until it completes business under the current Order, until 1.00 p.m. You can use your discretion on this. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you know how powerful the Chair is. I will use my discretion as the Chair and I say yes, we extend. So, I will put the Question.

(Question put and agreed to)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Kajwang') took the Chair]*

*(Resumption of consideration interrupted
in Committee today)*

THE PUBLIC PROCUREMENT AND
DISPOSAL (AMENDMENT) BILL

(Resumption of consideration of Clause 3)

The Temporary Deputy Chairman (Hon. Kajwang'): May you resume your seats. Hon. Members, this is the Committee of the whole House convened to consider the Public Procurement and Disposal (Amendment) Bill, 2013. So that we make progress, let us avoid the minefields as much as we can so that we make progress. There will be very little time we can save if we have debates during the Committee Stage. We only have 45 minutes. So, let us use them wisely so that we can see what we can do.

We have considered Clause 3(a). We were considering Clause 3(b) and I propose the Question.

(Question of the amendment proposed)

Hon. Lentoimaga: Thank you, hon. Temporary Deputy Speaker. I rise to support.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 3(b) as amended agreed to)

Clause 3(c)

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 3(c) as amended agreed to)

(Clause 3 as amended agreed to)

New Clause 4

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, I beg to move:-
THAT the Bill be amended by inserting a new Clause 4 immediately after Clause 3 as follows:-
Amendment of
Section 129 of Act
No.3 of 2005

4. Section 129 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)-

(3A) Despite subsection (3) or any other provisions of this Act, radioactive or electronic waste shall be disposed of only to persons licensed to handle the respective waste under Section 88 of the Environmental Management and Coordination Act, 1999.

This is in order to protect persons involved in disposing electronic waste given that we are increasingly getting to dispose computers and other electronic gadgets that have radioactive components in them.

The Temporary Deputy Chairman (Hon. Kajwang³): Hon. Members, let me say that the amendment was received and approved by the Speaker in good time except that for reasons of pressure of work, we did not include it in the Order Paper. But it has been circulated to hon. Members. It is at the door and those who can pick one can do so but it has been moved and the content of it has been read to you by hon. (Ms.) Abdalla who is proposing it.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 2A

The Temporary Deputy Chairman (Hon. Kajwang’): Is hon. (Ms.) Odhiambo-Mabona in the House? She is not here but desires to prosecute!

Hon. Sakaja: Hon. Temporary Deputy Chairman, the hon. Member had requested me to carry her amendments as she was leaving but I see there are similarities--

The Temporary Deputy Chairman (Hon. Kajwang’): Next time as a matter of order, hon. Sakaja, let the hon. member instruct you in writing. That is the Standing Orders. Look at the relevant Standing Order. She would have to do that in writing but just proceed under Standing Order No.1.

Hon. Sakaja: Thank you for your discussion. I beg to move:-
THAT the following new clauses be inserted immediately after Clause 2 of the Bill-

2A. The principal Act is amended in section 9 by-

(a) Inserting the following new paragraph immediately after paragraph (d)-
(e) to ensure the procurement entities implement the preference and reservations and provide date to the Authority disaggregated to indicate the number of disadvantaged groups that have benefitted;

(b) renumbering the existing paragraph (e) as (f).

However, my New Clause 2A is talking about who the preferences and reservations shall refer to. Given the fact that this is just strengthening the provisions that I have already provided for, I think I support 2A from hon. Millie.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Let us move on to New Clause 2B by Millie Odhiambo.

Hon. Sakaja: Hon. Temporary Deputy Chairman, again, I am not hon. Millie Odhiambo but allow me to stand in for her.

On this one, I suggest that we do not accept it because my New Clause 2A that I have proposed which, of course, will need to be renumbered has actually broken down those groups. It says that preferences and reservations shall apply to:-

- (a) candidates such as disadvantaged groups;
- (b) micro, small and medium enterprises et cetera.

I propose that we ignore New Clause 2B and go to my New Clause 2A.

The Temporary Deputy Chairman (Hon. Kajwang²): Well, hon. Member, since you have the brief of the hon. Member for Mbita, the address should be whether you want to drop that amendment or not. Speak on the microphone that you have the brief of the Member for Mbita and that you are dropping New Clause 2B.

Hon. Sakaja: Hon. Temporary Deputy Chairman, given the fact that I have the brief by the Member, I drop New Clause 2B.

The Temporary Deputy Chairman (Hon. Kajwang): That amendment is dropped.

*(Proposed New Clause 2B by hon.
Odhiambo-Mabona dropped)*

The Member for Suba, if you want to control the House from the debating Chamber, it will be very difficult. Please come and control it from the Chair and not from--- All right.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I think we need to be very clear and the record should be very clear. When it comes to amendments, you can only delegate them by writing a letter to the Speaker. So, it should be clear. If hon. Millie is not here to move her amendment, then she is not there.

The Temporary Deputy Chairman (Hon. Kajwang²): I disagree. In the Standing Orders, a Member can delegate it by writing not to the Speaker. I have no reason to doubt that hon. Sakaja has that instruction.

Hon. Ng'ongo: But you can see the way he has executed it. Ordinarily, she would have delegated that to me and not hon. Sakaja!

(Laughter)

Hon. Sakaja: Thank you, hon. Temporary Deputy Chairman. I beg to move:-
THAT the following new clause be inserted immediately after clause 2 –
2A. The principal Act is amended in section 39 by –

Amendment
of section 39
of Act No. 3
of 2005

deleting subsection (4) and substituting therefore the following subsection –

“(4) The preferences and reservations shall apply to-

- (a) candidates such as disadvantaged groups;
- (b) micro, small and medium enterprises;
- (c) works, services and goods, or any combination thereof;
- (d) identified regions; and
- (e) such other categories as maybe prescribed.”

Hon. Temporary Deputy Chairman, the motivation behind this is very simple; to put a distinction because previously it was just candidates such as disadvantage groups but you might have disadvantaged groups whose businesses are either micro, small or medium enterprises.

I beg to move that this clause is supported.

(Question of the new clause proposed)

New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Hon. Ochieng: Thank you, hon. Temporary Deputy Chairman, I support.

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 1A

Hon. G.W. Omondi: Thank you, hon. Temporary Deputy Chairman, I beg to move:-

THAT the Bill be amended by inserting a new clause immediately after Clause 1 as follows:-

Amendment
of section 2 of 2005 1A. Section 2 of the Public Procurement and Disposal Act 2005 (hereinafter referred to as 'the principal Act') is amended by inserting the following new paragraph immediately after paragraph (f)-

(g) to facilitate affirmative action for the youth in accordance with Article 55 of the Constitution and also advance the youth participation in the procurement process in accordance with Article 227 of the Constitution.

I must confess that matters related to the youth are very close to my heart and that is why I am coming up with the amendment that should anchor the issue of the youth in this Bill in its objectives. I am proposing that we include or add sub-clause (g) to the objectives of the Procurement Act. What has come out in most of the amendments is that they are inside the Act. I wanted to add that if somebody goes and reads the Act, he sees the youth already anchored there. That is the purpose of my amendment.

Thank you.

(Question of the new clause proposed)

New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): There is a tendency that is growing, unfortunately; that you do not allow the Chairman to apply his mind. When you rise on a point of order while I am thinking, you confuse my thinking. Therefore, will you allow something to be disposed of and then with a lot of dignity and integrity rise on a point of order?

Hon. Limo: Thank you, hon. Temporary Deputy Chairman. I wanted to propose a further amendment to New Clause 1A to include “women, youth and people with disability”. Let it read; “Youth, women and people with disability in accordance with Articles 54, 55 and 56.” This will go hand in hand with that.

The Temporary Deputy Chairman (Hon. Kajwang’): Sorry, did I hear that you have a further amendment?

Hon. Limo: Yes, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): What is the content of your amendment?

Hon. Limo: The amendment which I am trying to propose is that---

The Temporary Deputy Chairman (Hon. Kajwang’): Are you aware that it should have been in written form, even if it is a further amendment?

Hon. Limo: I am aware, hon. Temporary Deputy Chairman, but---

The Temporary Deputy Chairman (Hon. Kajwang’): Would you give it in a written form?

Hon. Limo: If this one will not be taken, then we will propose that we actually do not accept the amendment because--

The Temporary Deputy Chairman (Hon. Kajwang’): That is okay. It is part of your right to come and persuade hon. Members not to accept or to accept. But my point here is, for you to be able to propose a further amendment, which again is your right to do; we will need it in written form.

Hon. Limo: I take your advice, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Yes. But when we get to debate, it is perfectly within your right to persuade hon. Members to disagree or to agree, all right?

Hon. Limo: Thank you, hon. Temporary Deputy Chairman. I will do that.

The Temporary Deputy Chairman (Hon. Kajwang’): So, can I put the Question? The only thing I needed to point out the Member for Alego Usonga, is that first of all, hon. Millie had covered the same subject. It may not be as you wanted it, but Article 55 has already been covered by what the Member for Mbita was doing. The second thing is that this amendment seems to be repeating what the Constitution has already provided. There is nothing wrong in the law repeating itself, but we would only want those amendments that are bringing new things that the law has not spoken to. But anyhow, let me put the Question.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

Hon. Sakaja: Hon. Temporary Deputy Chairman, even as I move, I just hope that we can go back to what the Member for Kipkelion was proposing. If you look at the objectives of the Bill, what hon. Mabona has proposed is to say that one of the objectives is to provide for the preferential treatment for the youth. The Member for Kipkelion was moving an amendment to include women and people with disabilities just in the definition in as much as it is already covered in the provisions that we amended, but also, it is good for it to be part of the objectives of the Bill. So, I hope we can look at that.

So, I seek your indulgence on whether I move right now or we deal with that issue first.

The Temporary Deputy Chairman (Hon. Kajwang’): What is the issue that you want us to deal with?

Hon. Sakaja: I was taking you back to the amendment that was proposed by the Member for Kipkelion.

The Temporary Deputy Chairman (Hon. Kajwang’): Do not take me to what we have passed. Make us current.

Hon. Sakaja: But I would just like to persuade you so that you understand the import of it. The amendment by hon. Mabona is amending the objectives of Public Procurement and Disposal Act.

The Temporary Deputy Chairman (Hon. Kajwang’): By expanding it.

Hon. Sakaja: By expanding and it includes the youth, which is good. What we have today, we have included not only the youth, but women and people with disabilities in the substantive amendments that I have brought, such that the objective should not only have the youth alone. Subsequent to the amendments that we have done today, we should also have women and people with disability. So, it is only those words that were being added by the Member for Kipkelion.

The Temporary Deputy Chairman (Hon. Kajwang’): I appreciate it. I got the Member for Kipkelion correctly. His only undoing was that he did not apply himself to the Standing Order to have given the Table an amendment in writing and because the Chair intends to enforce very strictly the issue of written amendments, he fell by the side. So, will you, please, address yourself to the question at hand?

Clause 2

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 2 of the Bill be amended –

(a) in the definition of the word ‘youth’ by inserting the following words, “at least seventy percent of the shareholders, members or persons and a majority of the directors” immediately after the words “in which”;

(b) by inserting the following new definitions in the proper alphabetical sequence

—
 “disadvantaged group” means a group of persons perceived to be denied by mainstream society of access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identity as members of a certain group without regard to their individual qualities, and includes enterprises in which a majority of the members or shareholders are youth, women or persons with disability;

“persons with disability” means a person with disability who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of the directors are persons with disability;

“women” means a person of the female gender who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholder, members or persons and a majority of its directors are of the female gender;

Clause 2 deals with definitions and I would like, at least, to get the attention of the Members in these particular definitions, especially hon. Mbadi, who needs to listen.

Originally, when I brought the amendments, I defined “youth” in the way that it is defined in the Constitution, which is simple: a person who has attained the age of 18 years and has not attained the age of 35. It includes---

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Sakaja, be very brief because we have read through.

Hon. Sakaja: Hon. Temporary Deputy Chairman, the definition of “youth” meant a company or business that is owned 100 per cent by young people.

This also goes for the definition of “women”, “disadvantaged groups” and “people with disabilities.”

Hon. Temporary Deputy Chairman, we had consultation, especially with the Association of Women in Business who persuaded us that for most women, you find that they cannot own 100 per cent of the businesses. Sometimes you find that they have given a certain percentage to their children or they give a certain percentage to the spouse who is a sponsor of that particular company.

When we spoke to a lot of the young people, in as much as they do not want to be taken advantage of, which is why we have amended it and said the signatory must be a youth, they said that sometimes if a sponsor is helping a young person to start a business, they retain certain shares whether it is five or ten per cent. Some young people are also in the habit, which is natural as they start up in business, of giving their parents a share. So, I was proposing that in the definition of “youth” we say that the youth who own a

company be at least 70 per cent of the shareholders and a majority of the directors be the youth. For disadvantaged groups, we have also defined them in 2(b) to say that they are people who are not mainstreamed in society but also we have said that 70 per cent minimum so that even their sponsors can get a certain percentage, and for women as well.

The Temporary Deputy Chairman (Hon. Kajwang’): I now propose the Question.

(Question of the amendment proposed)

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Chairman. Hon. Sakaja is my Chair in the caucus called “Kenya Young Members of Parliament Association” and he knows the definition of “youth” very well. I have discussed this with him and we have made comparisons with what happens elsewhere. Youth and those intending to benefit from this programme are the youth.

Hon. Temporary Deputy Chairman, the moment you open up and even if you allowed non-youth to own only one per cent, there is a lot of room for cheating and for making this programme not to work. I want us to use the constitutional provision of Article 260 which says:

“Youth means the collectivity of all individuals in the Republic who have attained the age of eighteen years; but have not attained the age of thirty-five years.”

So, companies owned by these people are the ones being approved because they belong to that category but the moment you open it up and say only 70 per cent should be youth and any other person can join, then you are saying that you can have anybody giving money to these young people to go and look for tenders, finance them and have business. The youth will not benefit, especially the youth in the rural areas.

Hon. Temporary Deputy Chairman, the matter of the youth is a constitutional matter and I want you to rule on it. The proposal that 70 per cent should own and 30 per cent can be owned by somebody else goes against the Constitution. Companies owned by the youth should be owned by the youth 100 per cent.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. As I understand it, the question of the Constitution is only in terms of defining the youth but the question on how to go about public procurement and disposal is a legislative matter. It is a statute law and yes hon. Sakaja you may want to reevaluate yourself, whether you are still holding yourself within the Memorandum and Objects and Reasons of your Bill. This is because you said that “to ensure that at least 30 per cent of annual procurement be allocated to youth in accordance with such conditions as the Cabinet Secretary deems fit.”

So, I think the point that the Member for Ugenya is raising is that you may be departing from the stated Memorandum and Objects and Reasons to the extent that some people who are not youth are being included or may benefit from these services. However, unfortunately we are not going to open debate on it. What we want to do is that we hope that you have stated your case. The Member for Ugenya has opened our ears and has also stated his case. Members have been persuaded. So, do you want to drop it?

Hon. Sakaja: Hon. Temporary Deputy Chairman, I am not too finicky about Clause 2(a) because the objective is for the youth to benefit. For those who have been

saying that for them to benefit they need a sponsor who is injecting capital to get even a few percentage points, it is an argument that we can have the whole day on whether they can be taken advantage of or whether we are helping the young people. So, for Clause 2(a), if hon. Members feel that we should not have that, I am not too finicky about it and I can drop it.

The Temporary Deputy Chairman (Hon. Kajwang’): So, will you be on the HANSARD whether you want to carry it or you want to drop it?

Hon. Sakaja: Hon. Temporary Deputy Chairman, let me drop it because it might be misunderstood by many young people. But for Clause 2(b), the women caucus in Parliament is the one which approached me and said we give them 70 per cent. They want their husbands and children to own shares. The Kenya Association of Women in Business and such groups also approached me. So, I will not drop Clause 2(b). For the youth and those who cannot get financing, they should see hon. Ochieng to support them.

The Temporary Deputy Chairman (Hon. Kajwang’): So Clause 2(a) is dropped by hon. Sakaja. So I will put the Question on Clause 2(b).

*(Proposed amendment in Clause 2(a) by
hon. Sakaja dropped)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Public Procurement and Disposal (Amendment) Bill, National Assembly Bill No.31 of 2013, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Public Procurement and Disposal (Amendment) Bill, National Assembly Bill No.31 of 2013, and approved the same with amendments.

Hon. Sakaja: Thank you, hon. Temporary Deputy Speaker.

I beg to move that the House doth agree with the Committee in the said Report.

Hon. Langat seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we are through with reporting progress on the Public Procurement and Disposal (Amendment) Bill. Now, we will move to the Third Reading. We will start with the Value Added Tax (Amendment) Bill, National Assembly Bill No.37 of 2013. I now call upon the Mover, hon. John Mbadi.

THE VALUE ADDED TAX (AMENDMENT) BILL

Hon. Ng’ongo: Hon. Temporary Deputy Speaker, I beg to move that the Value Added Tax (Amendment) Bill, National Assembly Bill No.37 of 2013 be now read the Third Time.

Hon. Sakaja seconded.

(Question proposed)

Hon. Ng’ongo: Thank you, hon. Temporary Deputy Speaker. Mine is to thank the National Assembly for supporting this Bill unanimously. Actually, we got support from both sides of the House. I want to say that this Bill will now send a very strong signal to the country that the cost of basic commodities; those that were not exempted previously are now exempted. Therefore, it is a warning to those unscrupulous business people who have been exploiting Kenyans that their days are now numbered and they have no excuse whatsoever.

Thank you. I support.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker. I also wish to thank the Mover of this Bill and other Members for listening to the cries of the country and intervening. I would like to state that we have had very many instances in the past where traders, even after such amendments are moved and certain goods and services are removed from certain tax brackets, the benefit is not conferred on the consumer. I request the authorities that are supposed to check what is happening to ensure that indeed, this benefit is enjoyed by the consumers. If it is not enjoyed, let the culprits be brought to book.

I support.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I also want to take this opportunity to thank both sides of the House for having taken time to look at this Bill critically with all the amendments. To me, this is good because if we had passed the Bill as it was, there would be problems or issues that would not be very clear. Things are very clear with the passage of this Bill.

Out there, there are people particularly from the Kenya Revenue Authority (KRA) who have been using the loopholes to fleece traders and people who do not know some of these things. I think it is a clear signal and I hope that from today on the writing is on the wall. I hope we will do better.

I support the amendments and look forward to getting a better way of doing business in our country.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. This is a House of rules and procedures. We will not be able to put the Question because of obvious reasons. I now direct that the Question will be put at the right time during the next sitting; probably this afternoon.

Hon. Members, we will now move to the Third Reading of the Public Procurement and Disposal (Amendment) Bill, by hon. Sakaja.

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

Hon. Sakaja: Hon. Temporary Deputy Speaker, I beg to move that the Public Procurement and Disposal (Amendment) Bill be now read a Third Time.

Hon. Gichigi seconded.

(Question proposed)

Hon. Sakaja: Thank you very much, hon. Temporary Deputy Speaker. I would like to sincerely thank hon. Members of the National Assembly for having supported this amendment from the time it was introduced to the House, through publication.

I would also like to thank the Committee on Finance, Planning and Trade, for supporting this Bill as well as hon. Members who contributed at the Second Reading. I think this set a record in terms of contributions to Bills in this House; more than 70 hon. Members contributed and all were unanimous in support of this provision.

That is a clear indication that hon. Members of the National Assembly believe in the young people, women and all the disadvantaged groups of this country. For a long time, young people in this country have been associated with negative issues. They have been associated with crime, drugs and poverty. I think it is time they are defined by something greater because we are now able. This Bill has been passed by the National Assembly to ensure that annually Kshs210 billion goes to businesses owned by young people, women and people with disability. It is then up to us to make sure that we monitor and make sure there is compliance because that is the only way we will be able to lift our youth, women and disadvantaged groups from the poverty that they are facing.

Hon. Temporary Deputy Speaker, I would like to thank President Uhuru Kenyatta. Even before this Bill had been passed, he had made a decree that 30 per cent of

procurement goes to these groups. I would also like to thank the Cabinet Secretary, Ms. Anne Waiguru; she has been doing a sterling job. In her office, there is a director of procurement, one Ms. Otunga, who has been a single person battalion. She has led the entire secretariat to actually deliver to young people.

This Bill seeks to ensure that our young people do not have to come all the way to Treasury to register their businesses. They can actually have those businesses registered at the grassroots. Those are the aspirations we have been trying to bring as an amendment or I should bring it separately. But we will bring it so that the young people in Suba, Mbita or in Nyeri can get certification from the ground or wherever they are.

Hon. Temporary Deputy Speaker, even as I also thank the young Parliamentarian Association for supporting this Bill, I would also like to caution unscrupulous businessmen who have been trying to use and have been using young people to register businesses and they are the ones who benefit. We have made it very clear that there shall be strict monitoring by the Public Procurement Oversight Authority (PPOA) and the Joint Committee on National Cohesion and Equal Opportunity; which I also happen to chair. Every quarter we will be able to tell who has been following this and who has not.

As I close, I would like to appeal to the Senate, because this is a Bill concerning counties; we actually started and provided that the counties must also now for the first time adhere to the 30 per cent rule. I would like to appeal to our hon. Senators to stand with the young people, women and people living with disabilities so that they can actually gain from these provisions.

With those remarks, I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. Members, we are not debating. We did our debate during the Second Reading. We can give our comments at this Third Reading.

Let us hear from hon. Makali Mulu.

Hon. Mulu: Hon. Temporary Deputy Speaker, let me also join hon. Sakaja in thanking the Members of this House for supporting these amendments. They are very important to the youth, women and people with disability of this country. So, I want just to challenge the groups concerned to take advantage of this legal framework and use this opportunity to make their lives better. I want to thank all the Members. I also want to thank Kenyans for making sure that we have this new law.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the voice of a lady Member and this is hon. Priscilla Nyokabi.

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Speaker, I also want to join the House in congratulating hon. Sakaja for bringing this Bill and seeing it through in what we would call a record time in terms of a Private Members' Bill. This is actually one of the early Private Members' Bills of this House. As I thank hon. Sakaja and also the Jubilee Coalition for the 30 per cent tool, I want to ask that we now go into the implementation. We are in a country where we pass good laws, say good things in this Chamber, but then the result on the ground is not felt. So, I am hoping that with the Kenya Young Parliamentary Association and with many other caucuses that we have, this is not one of those dreams that we put on the table and on law, but it is not actualized in terms of the ground work. So, every county, every Government entity, every procuring

entity would have to reserve the categories that are going to be available for women, youth and those that are going to be available for persons with disability.

More importantly, that our private sector does listen to this message by the House today and allows the young people credit and funds, so that when one gets a tender to supply products, then the private sector and the banks in particular, should give you sufficient loan to do that. So, it is just really to thank the House and hope that in terms of these economic laws, we see economic changes in the lives of our young people. For Nyeri County, I could not have been happier. Our Governor has already promised to do 30 per cent. So, in Nyeri County, the women, youth and the disability groups, from as early as tomorrow, even before the Presidential assent, because I am sure this is one of those laws that the President would not hesitate to assent, will start taking advantage of the opportunities. Thank you and congratulations to hon. Sakaja.

Hon. Ochieng: Thank you, hon. Temporary Deputy Speaker. As I thank this House for doing this, I want to request the county governments and the national Government to consider that since the youths may not have capital, where possible, let them try to ensure that they have access to initial money to enable them to do this. I really want to thank hon. Sakaja, my Chairman in KYPA for bringing this. I hope the youth will not let Parliament down.

Hon. Limo: Thank you, hon. Temporary Deputy Speaker. This is a very good day for us because of the passage of this Bill. I thank hon. Sakaja, first for accepting to expand because initially the Bill was only talking about the youth and now, it has included women and people with disability. This is a great day. We want to encourage all the people in this country to encourage the youth, women and people with disability to register enterprises and use the Uwezo Fund, which is provided by the Jubilee Government to do business.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, it is now 1.00 p.m. This House, therefore, stands adjourned until today at 2.30 p.m.

The House rose at 1.05 p.m.