

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 22<sup>nd</sup> July, 2009

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker  
(Prof. Kaloki) in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Agro Chemical and Food Company Ltd. for the year ended 30<sup>th</sup> June, 2005 and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Agro Chemical and Food Company Ltd. for the year ended 30<sup>th</sup> June, 2006 and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Agro Chemical and Food Company Ltd. for the year ended 30<sup>th</sup> June, 2007 and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Coffee Development Fund for the year ended 30<sup>th</sup> June, 2007 and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Pest Control Products Board for the year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads  
(Dr. Machage) on behalf of the  
Minister for Agriculture)*

Annual Report and Accounts of the Council of Legal Education – Kenya School of Law for the year ended 30<sup>th</sup> June, 2006 and the Certificate thereon by the Controller and Auditor-General

Annual Report and Accounts of the University of Nairobi for the year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads  
(Dr. Machage) on behalf of the  
Minister for Higher Education,*

*Science and Technology)*

Annual Report and Accounts of the Kenya Tourism Board for the year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the controller and Auditor-General.

*(By the Assistant Minister for Roads  
(Dr. Machage) on behalf of the  
Minister for Tourism)*

Annual Report and Financial Statements of the Kenya Wildlife Services for the year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the controller and Auditor-General.

*(By the Assistant Minister for Roads  
(Dr. Machage) on behalf of the  
Minister for Forestry and Wildlife)*

**ORAL ANSWERS TO QUESTIONS***Question No.116***GOVERNMENT EXPENDITURE ON  
SUBSIDIZED FERTILIZER**

**Ms. Karua** asked the Minister for Agriculture:-

(a) how much money the Government has spent on subsidized and/or free fertilizer in the last one year, as well as the quality, size and brands procured; and,

(b) the recipients of the subsidized/free fertilizer, by name(s) and location(s).

**The Minister for Agriculture** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

I had actually replied to this Question and there was some supplementary information that the hon. Member wanted. Maybe, if she can ask those supplementary questions, I will respond.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, having gone through the documents supplied by the Minister, firstly, I notice that only about Kshs47,000 farmers were given the free fertilizer. I would like the Minister to make some clarifications. What was the selection criteria of identifying the beneficiaries of the fertilizer? Secondly, what was the criteria used to select DAP, CAN, MON and Urea? What scientific basis did he use, considering that the soils are different at the various places?

Thirdly, I need a clarification of the expenditure on each of the types of fertilizer used because then it will give Parliament and the country an indication as to whether the money was used reasonably. The other final issue is, in view of the fact that the fertilizer was being distributed at a time when we have many internally displaced persons (IDPs), whether the Minister could confirm whether the IDPs got their share of the free fertilizer?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, the IDPs got their share of the fertilizer, not this year alone, but last year as well. In fact, last year, we managed to plough the farms for many IDPs who had been displaced and assisted them with free seed and fertilizer to enable them to plant. The price of fertilizer that the hon. Member has asked, is as follows:-

(i) The price of DAP came down from Kshs6,000. We managed to get it into the country at the price of Kshs2,850. However, the fertilizer was sold to farmers at Kshs2,500, which means that the Government absorbed the Kshs350 as subsidy.

(ii) The CAN was sold at Kshs1,700, but it was delivered into the country at a price of Kshs2,000.

Those are the details of the prices for the fertilizer that was brought into the country.

Thirdly, on the broad picture, I informed the hon. Member that 66,100 metric tones of assorted fertilizer was purchased at a price of Kshs2.940 billion. Another 62,050 metric tones of assorted fertilizer was purchased at a price of Kshs2.09 billion. Additionally, I informed the House that the Government spent Kshs533,834,000 to procure 8,879 metric tones of fertilizer from local stockists, which was then given free to farmers in the context of the "Kilimo Plus Programme".

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, could the Minister tell the House which company won the tender for the supply of that fertilizer? In view of the history of this Ministry, could he table the tender documents to show and prove that yes, indeed, that company was subjected to international competitive bidding? Could he also confirm what exactly will be the price at which farmers will buy fertilizer for the next planting season?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Minister, are you prepared to answer that question?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I am prepared to answer that question if the Questioner could put it directly to me. The information that I have here was for the Question asked by hon. Karua. I will be happy to table before this House the tender documents and any other documents to show that, that exercise was subjected to a bidding process that was above board. We are still analyzing the price indications of the fertilizer that we received about a week ago, which is about 1.2 million bags. That fertilizer is meant to take care of the short rains and part of the long rains, early next year.

We are also still negotiating with the Treasury to see whether it is possible for us to enhance the subsidy component, so that we can make fertilizer affordable to many farmers and, therefore, enhance agricultural production in the country.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Please, let it be on a different issue because the Minister cannot answer Questions which are not on the Order Paper.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, to ask me to bring a different Question is to allow the Minister to hide behind that particular request when, in fact, he knows very well that this is a very valid supplementary question. If he was prepared to come here to talk about the amount of money that he spent, then intelligence dictates that he should have known that Parliament will be interested to know who brought the fertilizer, at how much and whether the correct tendering procedure was followed. So, to hide behind it, is actually trying to defeat the purpose of asking this Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Dr. Khalwale! That is a different Question! You are asking about tender documents. That is not included in this Question the Minister is answering. So, we cannot compel the Minister to answer a Question that is not on the Order Paper!

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to remind the Chair that the Chair ruled on a Question asked during Prime Minister's Time; that the Prime Minister lays the contract on the table of the House. Therefore, it is something the Chair has done unless the Chair wants to revise that ruling; it arises out of the supplementary.

**The Temporary Deputy Speaker** (Prof. Kaloki): I think I have ruled on that issue. The Question to do with the tender documents is not here. So we will proceed like that.

Mr. C. Kilonzo, please, proceed!

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the issue of fertilizers has been raised in this House on very many occasions. I am particularly concerned with the issues of Kilimo Plus Programme where farmers are given free fertilizer. From the answer, only 47,000 farmers have received fertilizer through Kilimo Plus Programme. If you go through the tabulation, in Eastern Province only 8,000 farmers benefited. Is the Government committed to promoting small scale farmers or is the Minister totally unable to convince his own Government to support him on the issue of fertilizers?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, there is a question that Ms. Karua asked which I did not answer. That was to do with the criteria for the identification of the beneficiaries of the free fertilizer. I will proceed to answer that and then respond to Mr. C. Kilonzo.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Agriculture, using the Agricultural Extension Officers (AEO) across the country, identified an Agricultural Stakeholder Forum in every location of our country. Using these stakeholder fora, the beneficiaries of the free fertilizers were identified. These are people who are needy. These are people with farms but are not able to buy fertilizer. Last Sunday I was in Vanga in Msambweni. I went to assess some of the farmers that had benefitted from this programme. A farmer who could hardly produce five bags of maize told me that this year he produced 24 bags of maize. In fact, that farmer has actually bought two cows as a result of the good harvest that he got. He has gone ahead to buy fertilizer for himself for next year.

Mr. Temporary Deputy Speaker, Sir, I want to inform hon. Members that using grassroots stakeholder forums of farmers, the farmers themselves identify the beneficiaries who must be needy Kenyans who have the capacity to plough their farms but do not have the capacity to buy fertilizers.

On the point raised by Mr. C. Kilonzo, this year we endeavored to increase the number of farmers who will benefit from this fertilizer. This is because we are constrained by the resources allocated to us. I am happy to report that the World Bank has seen the benefits that arise out of this initiative and have given us additional money this year. We might just be able to give free fertilizer to double the number of farmers we gave last year.

Lastly, I will be very happy to table the documents here when Dr. Khalwale does his bit. I do not see why Dr. Khalwale should hide behind this Question when he can

actually ask me his Question straight. I can answer him tomorrow instead of creating unnecessary insinuations.

Dr. Khalwale, I am prepared to table the documents. Bring the Question forward and I will reply.

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, first I want to thank the Minister because he has been doing a good job. We must appreciate somebody who is working hard for this country.

I believe in the interest of the country, knowing that we are getting into very dry spells where we do not have enough rains, could the Minister in future, come with an index of poverty in terms of farmers' needs? That way, this House can vote for more money for the Ministry to support people who are likely to die from lack of food in future.

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I would be happy to do that.

**The Temporary Deputy Speaker** (Prof. Kaloki): Last question, Ms. Karua!

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, it is obvious that the average small scale farmer in this country cannot afford fertilizer and other inputs. Therefore, to leave farmers in a stakeholder's forum, which I think is a chief's forum, to identify the needy is to actually leave them to adopt opaque methods.

I do not know whether the Minister is aware that in most places, the chiefs and agricultural officers handpick who to receive the fertilizers. Some of this fertilizer was actually sold by unscrupulous people.

Could the Minister consider having better informed criteria of identifying beneficiaries and which is not open to abuse? Noting that the Minister spent Kshs500 million which only helped less than 50,000 farmers, could he consider studying what is happening in Malawi on subsidies and apply it here with modification? This has helped Malawi to be food sufficient.

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, while I thank the Member for the suggestion she has made, I want to inform her that the Farmers Stakeholder Forums are the most transparent fora. It brings together all the farmers and farmer interest groups in every location. The chairman of that forum is neither our extension officer nor the chief or any public official. It is mandatory that the chairman of the Farmers Stakeholder Forum at the location is a farmer chosen by the farmers themselves. However, we are prepared to continue to refine this methodology so that we get the best way of identifying farmers and avoid any possibility of undeserving cases getting the fertilizers.

I welcome any suggestions from the hon. Member or any other person on how we can best improve the mechanism of availing the free fertilizer to farmers whenever the Government has set aside a budget to do that.

Mr. Temporary Deputy Speaker, Sir, on the issues of Malawi, it is a very important development but we should not exaggerate what happens in Malawi. This House needs to understand that the Minister for Agriculture in Malawi is the President himself. He, therefore, could force subsidies of up to 67 per cent. The subsidy I managed to negotiate here is only about 15 per cent. The difference is enormous but I think progressively, as we appreciate the necessity to make our farmers plant using fertilizer and use any means to make the fertilizer affordable and available, we will ensure that we avail fertilizer to our farmers.

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir, I did hear the hon. Minister who is a friend of mine very well. He said that the reason subsidies have worked in Malawi is because the Head of State is also the Minister for Agriculture. I am wondering whether he is suggesting that his Ministry be given to the Head of State or when he becomes the President, he will be the Minister for Agriculture.

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I was just making a statement of fact that the President of Malawi is the Minister for Agriculture. The fact is that the subsidy component in Malawi of fertilizer is 67 per cent. I was just making a statement of a fact.

**The Temporary Deputy Speaker (Prof. Kaloki):** Hon. Members, we have taken a lot of time on this particular Question. We have other Questions that we need to deal with. Therefore, let us rest this case at that and move to the next Question.

**Mr. Chachu:** Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I need your guidance. If you look at my Question, you will see that it is clearly directed to the Government of Kenya and not towards any individual Minister. Questions with regard to drought management and what the Government is doing to manage the drought, a national disaster affecting over 10 million Kenyans in this country---

**The Temporary Deputy Speaker (Prof. Kaloki):** Order, Mr. Chachu! Are you asking Question No.248?

**Mr. Chachu:** Mr. Temporary Deputy Speaker, Sir, I need your guidance before I proceed to ask the Question. This Question was addressed to the Prime Minister. It talks about the national disaster which is affecting over 10 million Kenyans. This is an issue which needs the attention of the national leadership and not a specific Ministry. Owing to that, I need your guidance. If you look at the wording of the Question, everything is clearly stated there.

**The Temporary Deputy Speaker (Prof. Kaloki):** That is all right, Mr. Chachu. We will defer that Question and then redirect it to the Office of the Prime Minister.

**Mr. Chachu:** Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Information and Communications (Mr. Khaniri):** On a point of order, Mr. Temporary Deputy Speaker, Sir. With all fairness, the Minister in charge of that region is here and he is ready to answer the Question. The hon. Member had his Question ready and it is up to the Government to decide who is to answer a certain Question. The hon. Member cannot dictate to the Government who is to answer a certain Question.

**The Temporary Deputy Speaker (Prof. Kaloki):** Mr. Khaniri, there was a request by the hon. Member that the Question be answered by the Office of the Prime Minister. The request has already been accepted and we will redirect it.

*Question No.248*

MEASURES TO MITIGATE NEGATIVE EFFECTS OF  
DROUGHT IN NORTHERN KENYA

*(Question deferred)*

*Question No.301*

PARTICULARS OF PROPERTIES AFFECTED  
BY EXPANSION OF THIKA ROAD

**Mr. C. Kilonzo** asked the Minister for Roads to:-

- (a) provide the particulars of the properties that were affected by the expansion of Thika Road (A2) and the owners thereof, indicating the ones that were demolished;
- (b) state who ordered the demolitions, table copies of the notices served on the owners before the demolition and explain why the demolitions were done in defiance of a court order;
- (c) lay on the table copies of the road design drawings and indicate when the construction works commenced ; and,
- (d) indicate the compensation due to the respective property owners, why they have not been compensated and when they will be compensated.

**The Assistant Minister for Roads** (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

- (a) I would like to lay on the Table a list of properties that were affected by the expansion of Thika A2 and their owners.

*(Dr. Machage laid the documents on the Table)*

The land parcels in which structures were demolished include the following:-

- (i) The temporary structures that dotted the GSU Roundabout on the Thika Road Outer Road Junction loop, opposite Barclays Bank on LR.No.7200/1.
- (ii) Nakumatt Thika Road belonging to Fleur Investment Limited LR. No.25535/1.
- (iii) Roy Hauliers Limited on Kasarani Roundabout LR. No.20174 otherwise known as the Thika Road-Mwiki Junction.
- (iv) Roy Properties Limited on Kasarani Roundabout LR No.21639 known as the Thika Road- Kamiti Road.
- (v) An empty plot LR. No.12907 belonging to Oasis Properties.
- (b) The demolition was communicated to the public through gazette notice No.3632 of 6<sup>th</sup> June, 2003 and through announcements in the daily newspapers. I beg to lay on the Table the copies of the gazette notices and the newspaper announcements.

*(Dr. Machage laid the documents on the Table)*

My Ministry, in the interest of decongesting the Nairobi City, has carried out design for the expansion of the Nairobi-Thika Road from the current four lanes up to eight lanes which is being implemented in three separate contracts running concurrently. I beg to lay on the Table copies of the design drawings in three volumes.

*(Dr. Machage laid the documents on the Table)*

The construction of this road otherwise known as “A2” commenced in January 2009.

(c) The total compensation in respect of the Nairobi – Thika Road project is Kshs2,702,720,438.00. Of this amount, Kshs2,129,843,458.00 will be distributed to the land owners and Kshs572, 876, 980, to the Commissioner of Lands. My Ministry has already paid compensation amounting to Kshs458, 841, 942, leaving a balance of Kshs1, 243, 878, 514. The Ministry is in the process of preparing cheques for the affected persons amounting to Kshs1, 279, 229, 067 leaving a balance of Kshs964, 649, 447 to be paid later.

I beg to lay on the Table of the House the documents regarding the amounts to be paid to the remaining individuals.

I would like to notify the House that several land owners have taken the Ministry to court and, therefore, I will not accept very many questions.

*(Dr. Machage laid the documents on the Table)*

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, obviously, the Assistant Minister has come armed to the teeth and he has done a very good job. I do not wish to waste the time of this House. I have no further questions.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Members! It is now 3.00 p.m. and the Prime Minister is here. There are some Questions before us and we will begin with Question No.111. Mr. Prime Minister, please, proceed!

### PRIME MINISTER'S TIME

#### EMERGING FOOD/WATER/ENERGY CHALLENGES

**The Prime Minister:** Mr. Temporary Deputy Speaker, Sir, I will give the Statement first and then deal with the Questions.

I stand here today to present to the nation the situation with regard to food, water and energy in the country. We have a very worrying situation today, and the forecast in all these areas is very grim indeed. The gods are not responsible! I want to say that the gods are not to blame. We are paying the price for decades of wanton destruction of our environment which has seen our forest cover decline from 12 per cent at Independence to just about 1.2 per cent today. We have consistently abused our water towers, slashed and burnt our forest and farmed in our river basins. From Mt. Kenya through the Aberdares, the Mau Forest, Cherangany Hills and Mt. Elgon, our water towers are seriously threatened by human encroachment. We are, therefore, reaping what we have been sowing and it is a very bitter harvest indeed.

Mr. Temporary Deputy Speaker, Sir, most parts of our country received inadequate rainfall this year. For example, Kericho received 435 millimetres of rain and not the expected 681 millimetres. Marsabit received a paltry 35 millimetres while it expected 687 millimetres. Nyeri got 282 millimetres instead of 433 millimetres. Nairobi had 295 millimetres instead of 492 millimetres. I wish at this stage to table a map that will show Members the current water situation in the country.

*(Mr. Raila laid the document on the Table)*



Mr. Temporary Deputy Speaker, Sir, due to global warming, temperatures all over the country are higher than they were in the 1960s and 1970s. Night time and early morning temperatures in Nairobi used to be 11 degree Celsius. It has risen to 13 degrees Celsius today. The severity of the food situation will be felt from August although it is already a reality in many homes.

Through the Ministry of Agriculture, the Government made concerted efforts including provision of farm implements and subsidized fertilizers and seeds. But the inadequacy of rains dampened the morale and expectations of our farmers. Consequently, only 1.2 million hectares of land are under cultivation instead of 1.4 million hectares. In a good year, we usually harvest 28 million bags of maize, which is the national staple food. This year, we expect to get only 20 million bags while our national consumption is 33 million bags.

With regard to wheat, we expect to harvest 360,000 tonnes against the consumption of 900,000 tonnes. We expect to harvest 120,000 metric tonnes against a consumption of 280,000 metric tonnes; red meat - 430,000 metric tonnes against 330,000 metric tonnes and milk – 4 billion litres against 2.8 million litres of consumption.

Mr. Temporary Deputy Speaker, Sir, we have a near total crop failure in the lower eastern region where the expected food production has been downgraded by 40 per cent. Instead of the 1.3 million bags, we expect 0.8 million bags. Rift Valley Province may harvest 13.5 million bags. Normally that region which is the bread basket of our country harvests 20 million bags. In the South Rift, yields are expected to fall by up to 30 per cent. The story is the same in western Province, central highlands and Central Province where the crop is moisture stressed.

This is the fifth straight season in which the country has experienced inadequate rainfall. If the short rains in October and November also fail, which is most likely, we could have a catastrophe. The scenario poses a problem to our country, economy and security. Pastoralists are crossing into neighbouring countries like Ethiopia, Sudan and Uganda in search of pasture and water. The price of grains is too high for this time of the year in some places. The School Feeding Programme which currently caters for 1.2 million pupils is in distress. In some places, schools have the money but there is no food to buy. The Government estimates that the food situation directly affects about 10 million people who require urgent assistance. In the Arid and Semi-Arid Lands (ASALs), livestock are dying and scavenging for pastures in game parks where they are pushing wild animals out. This could develop into a full-scale wildlife/human conflict and a massive environmental degradation. Up to 130 livestock have died mostly in Tana River, Isiolo, Marsabit, Mwingi, Makuani, Mbeere, Kajiado and Garissa. The media has reported cases of famine-related deaths but the relevant Ministries say that none of these deaths have been directly linked to hunger or lack of water. I have asked the Ministry of State for Special Programmes and the Ministry of Medical Services for a full investigation and detailed report presented to my office on this issue.

Mr. Temporary Deputy Speaker, Sir, the shortage of rain has led to acute shortage of water for domestic and industrial uses. It is likely that the cause of inter-clan conflicts would pit pastoralists against grain growers in some areas. The Rift Valley, Athi, Tana and Ewaso Nyiro North are water starved. Greater Baringo, Nakuru, Turkana, West Pokot, Keiyo, Marakwet, Narok and Nyandarua have acute water problems. Nairobi,

Kajiado, Machakos, Makueni, Taita Taveta, Kwale, Mwingi, Kitui, Laikipia, parts of Nyeri, North Eastern Province, Upper Eastern and Kilifi are equally in danger.

Power generation has consequently been compromised. This is because about 70 per cent of our electricity generation is hydro-based. KenGen has closed Masinga Dam due to low water levels. This will negatively impact our manufacturing and worsen unemployment. The Government has taken some steps, but it is clear that more needs and must be done. The Ministry of Water and Irrigation has embarked on drilling boreholes across the country. In Nairobi, 50 boreholes are expected to be complete and running in low income parts of the City by the end of next month. By next week, 15 boreholes will be fully operational. The Ministry has also installed 450 tanks in the slum areas. Over the last 12 months, the Government has drilled 200 boreholes across the country targeting seriously affected areas. Many water kiosks and cattle troughs are also being constructed. The Government has also invited owners of 500 private boreholes, starting with Nairobi, for negotiations on sharing with neighbours. We have stepped up water distribution through water tankers.

In the last financial year and in anticipation of this problem, the Ministry procured an additional 15 water tankers and distributed them to Nairobi, Tana Delta, Kwale, Ijara, Turkana, Garissa, Wajir, Kitui, Mutomo, Nanyuki, Nakuru and Samburu. The Ministry has also contracted 10 private water tankers to improve on water distribution in Nairobi. We are reviving eight rural water schemes near Nairobi. These include, Gatundu, Ndarugu, Kariminu, Ruaka, Kiambu, Githunguri, Kikuyu and Ongata Rongai water supplies. This will offload consumers in these areas from the Nairobi City water system. The Ministry of Agriculture has already secured a duty waiver on maize imports. It has an adequate plan for distribution of seed and fertilizers to ensure that farmers have the right seeds and fertilizers for any rains.

Mr. Temporary Deputy Speaker, Sir, the Ministry is ready to roll out irrigated farming with about 40,000 hectares ready to put into use by the end of next month. The Ministry of Energy is importing 1.25 million energy saving bulbs which will help the country to save 50 megawatts. By mid next month, the Ministry will commission 22.5 megawatts of heavy oil powered plants in Nairobi. It will install a 17 megawatts, medium speed, diesel power plants in Rabai next month; 17 megawatts in September and 49 megawatts in October. This will add up to a total of 88.3 megawatts by October. Between October and November this year, the Ministry will initiate a waste-sheet recovery boiler at Rabai to add some 6.7 megawatts. What I have spelt out are only short-term measures and a temporary solution to what is building up as a permanent rain, water and food problem. We are taking the following additional measures:-

- (i) Sensitization of citizens on effective and sustainable use of water.
- (ii) Desilting of the existing dams, water tanks and construction of additional ones before the onset of rains.
- (iii) Providing emergency food supplies to most vulnerable members.
- (iv) Sensitizing the public against harvesting and selling of green maize.
- (v) Emergency relief and compensation to livestock farmers in affected areas and equipping health facilities to respond to emergencies.

Mr. Temporary Deputy Speaker, Sir, in that regard, we are providing to the Ministry of Livestock Development Kshs750 million to purchase livestock which are in

danger of starvation. In the next few weeks, the Government is going to lay out additional concrete plans in the following areas:-

- (a) The expansion of targeted food subsidy for both rural and urban areas.
- (b) Elaborate water harvesting and recycling storage programmes.
- (c) Implementation of water conservation policies including protection and rehabilitation of catchment areas.
- (d) Urgent revival of livestock rearing and marketing policies, particularly by enhancing veterinary services, construction of abattoirs and meat processing factories.

We will also be spelling out plans on the following:-

- (i) Additional drilling of boreholes to harness the substantial ground water potential in Nairobi.
- (ii) Provision of additional water tanks of between 10,000 to 20,000 litres capacity each.
- (iii) Provision of additional water boozers to improve access particularly to the slum areas.
- (iv) Deployment of law enforcement officers to deal with the problem of illegal connections.

Mr. Temporary Deputy Speaker, Sir, I began by saying that we are paying the price of what we have been doing over the years. It is true that we have global warming and climate change generally, but without water towers, it is impossible for our country to attract rains. What we have been experiencing over the past years is wanton destruction of our forests and water towers. As a Government, we have decided that we must lead from the front and protect, conserve and re-generate forest cover in this country. I want to appeal to hon. Members to be foot soldiers and help us in this war.

Mr. Temporary Deputy Speaker, Sir, we as leaders must lead from the front and teach our people that it is destructive to cut trees. It is impossible for people to live inside a forest and say that they are conserving it because when they live there, they need sources of energy. They will need firewood and charcoal. So, it is important that certain forests are reserved and protected by our people. So, it is populist to come out and say that you are fighting for their rights and that nothing will happen to them until "a", "b", "c", and "d" is done. As we do grandstanding, much more destruction is being done to our environment. We must, as a generation, equip the next generation to be a working country. We do not want to convert this country into a desert.

Mr. Temporary Deputy Speaker, Sir, once upon a time, the Middle East and even the Sahara was forested. The forest was destroyed through human activities. Therefore, it will take a miracle for it to rain in the Sahara.

I want to conclude my remarks today by appealing to the conscience of hon. Members that we should work together as leaders of this country and be able to change. We can change this country from playing in the Third World league to the First World league by 2030. Yes, together, we can.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, I thank the Prime Minister for giving us a very comprehensive Statement. I can see that the Statement was generated by very many Ministries regarding what they have done. I travelled last night from the North Eastern Province and seeing is believing. Why has it taken the Prime Minister and the President a long time not to go and acquaint themselves with the situation in the

countryside? This map gives an indication that 90 per cent of the country is in crisis. When will the Prime Minister and the President get out of the big offices and get into the countryside and visit the local population so that they can appreciate the problems that the country is going through? It is not enough to read Statements generated by Ministries in this House.

**The Temporary Deputy Speaker** (Prof. Kaloki): I will give a few more chances to hon. Members to seek clarification then we will allow the Prime Minister to respond.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, first of all, I also want to join Mr. Affey in saying that the appeal by the Prime Minister is well received and we will support him. I am on foot on that Statement because there are three aspects to it. I am quoting Prof. Namanga Ngongi who is the President of the Alliance for Greener Revolution in Africa which was started by Dr. Kofi Annan. They are saying that the problem in Africa as far as food production is concerned is not lack of technology but national governments have failed to invest enough in basic programmes that will turn small holder farming into viable economic enterprises.

Mr. Temporary Deputy Speaker, Sir, if you look at where the country is in right now, even when you look at the current Budget, the Ministry of Agriculture which controls these basic programmes has been given less than 4 per cent of the national Budget. I am being given the actual figures to be 3.5 per cent. These basic programmes include things like grain storage, building feeder roads, improving extension services, training farmers and other programmes that the Ministry of Agriculture needs in order to increase productivity with our farmers and therefore the food.

The clarification that I seek from the Prime Minister and the Government as a whole, is what it is that he is doing with his Government to ensure that the pledge they made in Abuja in 1987, to increase the budget to the Ministry of Agriculture to 10 per cent of the national Budget. What is he doing? It is good to say the intentions but we must put our statement of intention back to its foot with facts and money. Malawi doubled its allocation to agriculture and within one year, it changed from being a food net importer to a food net exporter. What is the Prime Minister doing to increase our national budget in agriculture?

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, first, I wish to thank the Prime Minister for the well thought out Statement that he has given in this House. We also recognize the very strong appeal that he has put to us, as legislators, in order to assist the Government in the way forward. Secondly, I also note that the Government is committed to sacrificing to making sure that the ecosystem in this nation is restored. Could the Prime Minister give specific measures the Government is taking, particularly in those areas where communities are eating donkeys? The population of donkeys is almost depleted.

The other point is that there are communities which have been relying on fruits and those fruits are also depleted. Also, there is no water and food in those areas. What are the specific precautions the Government is taking to save the lives of those people?

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, the Prime Minister has spoken very well about the problems we have of food, energy, land and the wanton destruction of forests. The main reason why we have famine and food insecurity is that people are invading these forests. That is the reason why we do not have enough water in Nairobi. The reason why we have all these other problems is not really the wanton destruction of

forests, it is because of the increasing population. We had our success in arresting infant mortality in a very fast growing population which is causing all these problems. Does the Government have a population policy?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Prime Minister, are you prepared to answer those four clarifications or do you want to take a little bit more?

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I will answer them.

Mr. Affey asked why the President and the Prime Minister have not travelled the country. I want to tell him that the President and the Prime Minister have travelled the country. We have been around the country so what I am talking about is not just what you have read in the papers or what is written by Ministries. It is something that I can vouch for. That is why I was talking with a lot of conviction because I know that what I am saying is real.

Mr. Mungatana has said something and I want him to know that I share his views that it is a shame that 40 years after Independence we should still be importing food and talking about wanting to be food secure or self sufficient in terms of food production; and that we should still be depending on rainfed agriculture when, in fact, the knowledge has been there all the time. We knew that rainfed agriculture is not sustainable. Egypt has no rains: It never rains in Egypt. Most of Egypt is a desert and yet Egypt depends on just one river, the Nile, whose sources are here; Cherangany, Mt. Elgon and the Mau Forest. They use that water and produce sufficient food. They even export wheat back to us here in Kenya. So, it is a big shame! Mbingu wa Mutharika, in just one term that he was the President of Malawi, was able to turn Malawi from food deficiency to food self sufficiency; that Malawi is able to export its maize to Kenya. There is really no secret about what he has done. Our Minister for Agriculture is very able and can do it.

*(Applause)*

It is basically to empower the small scale-farmer by providing him with farm implements, quality seeds and fertilizers so that the yields are increased three or fourfold. Within a period of three years since he started, he transformed Malawi. That was the selling point in his elections two months ago. That is why his opponents could not beat him because he had fed the people. People were just touching their stomach when we met him in Malawi. So, we can do it! But I want the hon. Member to rest assured that this is exactly what we are trying to do. Next week, we are going to launch with the President the first of the irrigation projects that we intend to roll out over the country in Bura and Tana, in Mr. Mungatana's own door step.

*(Applause)*

We are going to revive them. We are going to launch a 40,000 hectares irrigation project for which funds have been made available in this year's Budget, of Kshs2 billion. We are reviving Perkerra, Ahero, Mwea and all those other irrigation schemes and not only that, we are doing more! We are going to construct new ones as well.

Mr. Temporary Deputy Speaker, Sir, we could do more. We are moving but there were constraints because there were commitments which had been made in the previous

years which needed to be taken care of. However, we recognize that we need to make money available to agriculture. I want to assure the hon. Member that next year's Budget is going to look very different from what we have this year.

*(Applause)*

People are eating donkeys basically because of lack of other choice. That is the reason why I said that we must make food available and accessible to those people. This is what we are trying to do. In Germany during the war, people were eating not just donkeys; they also ate cats and rats. We do not want to get to that stage. What I am doing here is basically to arouse hon. Members' awareness of the situation we are in but I also do not want to create a state of panic and hopelessness. That is why I am also saying that this is the situation but this is what we are trying to do to get out of this situation.

Yes, there is a population policy. Kenya, at one time, registered a very high rate of population growth. In fact, at one time, Kenya's population was one of the highest growing in the world. On the African continent, it was only competing with Cote de Voire. That growth has since stabilized and actually come down. There are programmes and campaigns to control birth. So, we have a very clear policy on population control but we do not want to go to the other extreme like China of one family, one child or punish people who get more children or insist that "one man, one wife" because I know he will protest being a faithful Muslim.

*(Laughter)*

**Mr. Ruteere:** Mr. Temporary Deputy Speaker, Sir, I also join others in thanking the Prime Minister for the issues he has brought forward about the need for conserving our environment and for us being food secure. But we have institutions that are not functioning and they are under his co-ordination.

Mr. Prime Minister, are you aware that the National Environment Council (NEC), that is supposed to formulate policy on environmental issues, and the National Environment Management Authority (NEMA), that is supposed to implement those policies are not working in harmony because the Chief Executive Officer (CEO) of NEMA is also the secretary of NEC? NEMA has only met once in the last three years

**The Temporary Deputy Speaker** (Prof. Kaloki): What is your question, hon. Ruteere?

**Mr. Ruteere:** Mr. Temporary Deputy Speaker, Sir, my question is: Why is it that the NEC has not met? What policy has it formulated? Why is the CEO of NEMA also the Secretary of NEC? Is there no conflict of interest?

**The Temporary Deputy Speaker** (Prof. Kaloki): We are going to take the last question because of time. Hon. ole Lankas!

**Mr. ole Lankas:** Thank you, Mr. Temporary Deputy Speaker, Sir. When we talk about food security in this country, we are talking about the farmers. We are all aware that farmers in this country borrowed money from lending institutions, one of them being the Agricultural Finance Corporation (AFC). But because of the poor weather conditions; the rains have failed, there is a general crop failure in most parts of this country. That has left the farmers in a very awkward position. They are not able to repay the loans because

of the poor weather and the failed rains. What plans does the Government have to help the farmers because the lending institutions are asking for their money back?

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. Hon. Prime Minister, answer those question and then we close.

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, hon. Ruteere talked about NEC, NEMA and whether there is conflict of interest because the CEO of NEMA is also the Secretary of NEC. I do not think so because NEC is like the board that generates policy. Then NEMA implements the policies formulated by the board. The Secretary does not vote in the board, but it is always necessary for those in the management to participate in the board so that they can be able to understand and implement the policies formulated by the board. In some cases, managing directors act as secretaries and in other cases, the companies have got secretaries. The fact that the CEO is a member of the board as a secretary is really not the reason why they have a problem or a disconnect.

Mr. Temporary Deputy Speaker, Sir, I will take a closer interest and if the hon. Member wishes, he can come to my office and we will be able to go over this matter with him so that I can be satisfied that something is being done.

Mr. Temporary Deputy Speaker, Sir, we want these institutions to work more effectively, particularly now that we are facing a very serious situation of global warming and climate change in our country. NEMA has a very important role to play. NEMA should not be an impediment, but it should be a facilitator to development in our country.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, on the AFC loans, several other groups have actually complained and the Government has actually taken those complaints on board. In some cases, the Government has had those loans rescheduled and in other cases, the loans have been written off. So, I want the hon. Member to understand that the Government is fairly aware of this matter and it is dealing with it on a case-by-case basis.

Thank you, Mr. Temporary Deputy Speaker, Sir.

*(Applause)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. Hon. Prime Minister, you have additional two Questions and the first one is from Dr. Khalwale. Dr. Khalwale, we received this particular Question this morning. It was not brought to the Clerk's Office yesterday. It was brought this morning and we were able to approve it this morning. So, I just want to correct some submissions you were alluding to this morning that you brought the Question yesterday and you were not able to get assistance. So, it is approved and it is here now.

Proceed with Question No.011!

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Prime Minister! Let the hon. Member ask his Question!

**Dr. Khalwale:** Thank you, Mr. Temporary Deputy Speaker, Sir. I congratulate you on your efficiency.

*Question No. QPM 011*

PRIME MINISTER'S RESPONSE TO KNCHR REPORT  
ON POST-ELECTION VIOLENCE

**Dr. Khalwale** asked the Prime Minister whether he could address the House on the report by the Kenya National Commission on Human Rights on Post-Election Violence and the deadlock in the Cabinet over the issue of post-election violence.

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The hon. Member has asked the Prime Minister to address the House on the Report by the Kenya National Commission on Human Rights on Post-Election Violence and the deadlock in the Cabinet over the issue of post-election violence.

Mr. Temporary Deputy Speaker, Sir, I want to inform the hon. Member that the Report has not been submitted to the Government formally. All that we have is what was highlighted in the media and, therefore, I am not able, at the moment, to give the Government position on that Report. When we receive that report, we shall deal with it.

Mr. Temporary Deputy Speaker, Sir, I also wish to inform the House that there is no stalemate in the Cabinet on the issue of post-election violence. I want the House to understand that this matter is not new. The House knows that, first, we formed the Waki Commission to investigate the causes of the post-election violence. That Commission produced a report which was presented to the Government. That report was discussed in the Cabinet and it was approved. After that, the report was brought to Parliament, it was debated in the House and it was approved. Thereafter, a Bill to set up a special tribunal to prosecute the perpetrators of post-election violence was prepared. Once again, it was taken to the Cabinet, it was approved and it was brought to the House. It was discussed and a vote was taken and it was defeated. Because of that, we were not in a position to constitute the tribunal. In accordance with the recommendation of the Waki Report, after the House had rejected that Bill, that should have been the end of the matter.

Mr. Temporary Deputy Speaker, Sir, the Hon. Kofi Annan should have then handed over the envelope to the International Criminal Court (ICC), but he exercised discretion. He said he was not going to hand over the envelope to the ICC so as to give the Government a second chance to have the Bill passed in the House. He gave us up to August, which is next month. So, the matter is back to the Cabinet, which discussed a draft Bill.

To come back to the House with the same Bill when it is the way it was when it was rejected, would be an exercise in futility. The debate out there is that Parliament is not interested. Many hon. Members are saying that we have only three options: Number one, The Hague; number two, The Hague, and number three, The Hague. We felt that it would be a waste of Parliament's time to come back to the House with the same Bill that was rejected.



Mr. Temporary Deputy Speaker, Sir, it was, therefore, felt that there may have been some weaknesses in the Bill, which needed to be strengthened before it came to the House. So, the Minister for Justice, National Cohesion and Constitutional Affairs, and his team, prepared amendments, which were then tabled in the Cabinet for discussion. It was discussed last week. No conclusion was reached. It was agreed that it be discussed again. It was discussed again the day before yesterday and, again, further amendments were proposed.

So, I want to inform the House that there is no disagreement. It is a matter of extensive and intensive consultations within the Cabinet. I am sure that the Cabinet will reach an agreement to either bring the Bill, as amended, before the House or say: "As far as the Cabinet is concerned, because Parliament wants The Hague way, let us take the matter to The Hague." That is the situation as it stands at the moment.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Prime Minister. My first point, for which I seek clarification, is on the issue of the Kenya National Commission on Human Rights (KNCHR). The Prime Minister is aware that this body is actually an institution of the Government that was created by this House. That being the case, I would like the Prime Minister to tell this House, and the Kenyan public in general, that he is, today, directing the KNCHR to submit its Report to the Government, so that the Government can take it to the Cabinet, so that Cabinet can bring that Report to this House for debate and subsequent adoption. Unless this is made very clear, we are not too sure whether this Report, which has assumed a very important role, can pass the test of justice. We do not want a situation where, while in a hurry to seek justice, we end up basing it on documents that would compromise some of the rights of the very people we think are to blame.

The second point is that I would like the Prime Minister to clarify whether he is aware that when the Government signed the Rome Statute--- When the Government received the Waki Report, had it approved by the Cabinet and brought it to this House, which adopted *in toto*, that meant that, that was *fait accompli*. It means, therefore, that it is politics that is taking place in State House through very many Cabinet meetings; this is purely political. This is a legal matter that falls under the Rome Statute after the Waki Report was adopted by this House. Therefore, he should clarify that he is merely playing politics, and not moving the situation forward.

Mr. Temporary Deputy Speaker, Sir, lastly, the situation in the country is almost like the situation when the Cabinet is faced with a possibility of war. If this country was faced with a threat of war, the Commander-in-Chief of the Armed Forces would command all the Service Commanders of the various wings of the Armed Forces; he would require them to listen to his command. If they were to fail, the Commander-in-Chief would automatically fire those Service Commanders. In view of the fact that the Prime Minister and the President have been unable to rally Members of their Cabinet on this very crucial issue, could the Prime Minister tell the House why he and the President cannot fire the entire Cabinet and reconstitute it afresh, so that we can have a Cabinet that can serve the people of Kenya?

**The Prime Minister (Mr. Raila):** Mr. Temporary Deputy Speaker, Sir, first, on the question of the KNHRC Report, as I have said, we only read about it in the media, but let us agree that it is a very grave situation that we are dealing with. We are dealing with the rights of people. Our laws say that you are innocent until you are proved guilty

through the due process. That is the reason as to why Justice Waki and his team, in their wisdom, decided not to publish people's names. They said that names had been mentioned to them. People had gone to them and said: "So and so did "A", "B", "C" and "D", but did not have the capacity to carry out investigations to verify the information they were given.

That is why they did not publish the names of the people contained in the envelope. In their wisdom, they decided to put those names in an envelope, seal it and give it to the Hon. Kofi Annan. Hon. Annan was to wait until when an independent tribunal was set up, and a prosecutor appointed to carry out investigations and produce evidence before a judge for that judge to issue a warrant of arrest. It was to be at that point that the names contained in the envelope were to be revealed.

Mr. Temporary Deputy Speaker, Sir, when the Hon. Kofi Annan, after waiting, decided to hand over the envelope to the ICC, Mr. Ocampo opened and sealed it again. He did not disclose the names of the people in the envelope, for a very good reason.

**Dr. Khalwale:** He was shocked!

**The Prime Minister** (Mr. Raila): He was not shocked! Mr. Ocampo is not hon. Khalwale, who would be shocked upon opening the envelope and seeing that that hon. Khalwale's name is top on the list.

*(Laughter)*

The reason was to protect the integrity of those people and give them a fair trial. That is why he said he would not reveal the names of those people. That is why I find it highly irresponsible of an institution like the KNHRC, which had, by the way, also presented a report to the Waki Commission, to go public and begin to mention people's names without producing evidence against those people. I think that is highly unethical. I do not think it was right, because the moment your name is mentioned, there is a general thinking of guilt about a person. So, it was not fair to the individuals whose names were splashed in media all over the world. They were shown as the people who were responsible for the post-election violence. Those people are now being tried by the media. They may not get a fair trial.

Mr. Temporary Deputy Speaker, Sir, on the issue of the discussions that have been going on in the Cabinet, the hon. Member has said that those discussions are academic, and that the fate of those concerned was sealed when Parliament passed the Waki Report. This House passed the Report, which recommended that an independent local tribunal be set up. However, when the Bill came to this House for the purpose of setting up that tribunal, this same House rejected it and said that it did not have faith in the local tribunal. It is precisely because of that, that Waki suggested an independent tribunal which would work outside the control of the local Judiciary. He stated clearly in his report that Kenyans had no faith in the Judiciary as currently constituted. Parliament having rejected the Bill, it would have been an exercise in futility for the Cabinet to bring it back the way it was.

The President and the Prime Minister have been accused of having no control over the Cabinet and that they should read the riot Act to members of the Cabinet and that they should show leadership. There are two types of leadership; dictatorial leadership

and democratic leadership. It has been alleged that during the *Nyayo* time, there was some direction. Yes, *Nyayo* used to wield the big stick; the big man syndrome of Africa. Mzee Kenyatta used to have a *bakora* to hit them. Those times are gone. Kenyans fought so hard to have a democratic space and that is why when it comes to an issue like this, which is so important, Members of the Cabinet must be allowed to vote with their conscience. We have allowed a free debate so that Cabinet Members do not come and say: "I would have said this and that, but I was not allowed to do so." We have allowed every Member of the Cabinet who wants to do so, to speak on this issue. When the decision is made, it will be a collective decision of the Cabinet, not that of the President and the Prime Minister.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Prime Minister in order to mislead the House by saying that he is fighting for an eventual Cabinet decision when he is already on record and on TV footage quoted saying that his people should be calm because they were wronged? Is he the Prime Minister of Kenya or the Prime Minister of ODM?

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Mr. Prime Minister, you do not have to respond to that one.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, we do appreciate the difficulties that the two principals could be facing from their own Cabinet. Could the Prime Minister assure this House that when Mr. Moreno Ocampo recovers from the shock and officially releases the names to the public, that anybody who will be mentioned by Mr. Ocampo will step aside from office?

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, let us hope that Mr. Moreno Ocampo will not recover from his shock. The ICC thresholds are very high. First, the crime that you are involved in must qualify as an international crime. Sufficient investigation must have been carried out to prove that you have got a case to answer. It is only after that has happened that they will issue an indictment or a warrant. At that point, that particular individual will be required to resign from any public position that he is occupying.

Mr. Temporary Deputy Speaker, Sir, the President himself has said that he is ready. I have said that I am ready. Immunities against prosecution of a President while in office are there. Of what protection is that when you are facing ICC? The Sudanese constitution provides for immunity of the President while in office against prosecution. That has not stopped Mr. Ocampo from issuing a warrant of arrest against the President of Sudan. We do not want to engage in an academic exercise.

The ICC can issue an open warrant. They can also issue a secret warrant such that you will not know that your name is there or that you are being looked for. An example is one Jean-Pierre Bemba the former leader of the Congo and a presidential candidate in the last presidential elections. He was living in exile in Spain. He decided to go and see his sick father in Brussels. He did not know that his name was in Ocampo's list. He landed in Brussels, went out to the lobby to help himself. When he came out he was shown the warrant and arrested.

Mr. Temporary Deputy Speaker, Sir, having said that, I want it to be known that I have faith that we can do it here in Kenya.

There are two schools of thought. One school fears that a local tribunal will be undermined and manipulated by vested political interests. They fear that people will

bring demonstrators in town. That is one school of thought led particularly by the media. There are those who fear that their names may be in the list. They think that maybe it is better to go to Ocampo because the ICC is overwhelmed by so many cases, like Bosnia, Liberia, Sierra Leone and so on. These two have conspired to deny us the numbers here in the House.

I want to appeal to hon. Members to lead from the front. I have no fear. I have confidence that we can do it here in Kenya.

Thank you.

**Hon. Members:** On a point of order, Mr. Temporary Deputy Speaker, Sir!

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Members. It is now 4.00 p.m. and the Prime Minister has really taken his time to go through these Questions. So, I will defer Mr. Mungatana's Question which is Question No.012 to Wednesday, next week. We will be able to resume the business of the House.

*Question No.QPM 012*

RATE OF COMPLIANCE WITH FINANCE MINISTER'S  
DIRECTIVE ON OFFICIAL CARS

**(Mr. Mungatana)** to ask the Prime Minister:-

Following the direction by the Deputy Prime Minister and Minister for Finance that Ministers and top Government officials use one official car with an engine capacity of not more than 1800cc:-

- (a) State the rate of compliance with the directive and conform how much savings are expected from the initiative;
- (b) Table the list of the Ministers, top Government and parastatal officials who have complied and those who have not and state whether escort cars will also be affected; and
- (c) State when His Excellency the President, His Excellency the Vice President and the Rt. Hon. Prime Minister will start complying and lead by example.

*(Question deferred)*

**Mr. Mungatana:** What about Question No.013?

**Hon. Members:** It is the last Question on the Order Paper!

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Members. I have already ruled on Question No.012.

*(Mr. Mungatana stood up in his place)*

Order, Mr. Mungatana! I can see it in the Order Paper.

**Hon. Members:** There is also Question No.013.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. Question No.013 is also deferred to Wednesday, next week.

*Question No QPM. 013*STATUS/PERFORMANCE OF DONOR-FUNDED  
GOVERNMENT CONTRACTS

(**Mr. Mungatana**) to ask the Prime Minister:-

- (a) To list down all the on-going Government contracts as at June, 2009 which are donor-supported and are of over Kshs1 billion in value;
- (b) Give the status of the performance of these contracts and indicate if the donor has threatened to recall the funds for non-utilization or under-utilization by the Government; and,
- (c) State the measures to be undertaken to ensure that such funds are utilized in time to avoid demands for refunds.

*(Question deferred)*

Next Order!

**POINT OF ORDER**QUALIFICATION FOR REPORTS TO BE  
TABLED IN THE HOUSE

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This morning, the hon. Assistant Minister of State for Provincial Administration and Internal Security tabled documents pursuant to an order by the Chair. However, I noticed that no one drew the Chair's attention to the fact that the Chair had ruled very firmly that there would be no qualifications of the reports that should be laid on the Table of the House, whether or not they have been made public. They have been made with public money and therefore, I wish to draw to your attention to the fact that the earlier order by the Chair was not complied with this morning. We need the Report on the Artur Brothers, the Cockar Report on Grand Regency and the Sharawe Report on Northern Kenya.

The HANSARD will bear me correct, that the last time before the House went on recess, the Speaker himself said that there would be no qualifications and those Reports must be laid on the Table of the House.

**The Assistant Minister of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I clarified the issue this morning. I spoke to Ms. Karua with regard to the same and asked her to go through the HANSARD before she comes to this House. However, from her own statement, it seems she has not gone through the HANSARD.

Mr. Temporary Deputy Speaker, Sir, I said very clearly that Chapter 102 of the Laws of Kenya bars anyone from compelling the President, who is the appointing authority, to release a report. I told Ms. Karua that the only thing she can do is to amend Chapter 102 of the Laws of Kenya. She, however, has not done that.

Furthermore, you are aware that some of these reports that Ms. Karua wants, she is the one who declined to give them to this House. What has happened? What has

changed her to now ask me to give the reports which she, herself, refused to deliver to this House? Is she born again? If she is, why can she not come up and say so?

*(Laughter)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Ms. Karua, is there a law that can compel the President to release those reports?

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, to begin with, none of these reports originated from the Ministry I previously held. It is, therefore, a blatant untruth for the Assistant Minister to stand here and claim that I failed to release them. All the reports are from the Office of the President where he serves and he should, therefore, not display ignorance.

Mr. Temporary Deputy Speaker, Sir, on whether there is a law compelling the President to release the reports, yes; public interest. When Mr. Speaker orders the Executive, to lay on the Table of the House and the President is the Head of the Executive. Just before we adjourned, the Chair was none other than Mr. Speaker himself, the Chair ordered the Executive which includes the President that those reports must be produced. I urge you to check the HANSARD. Anything that is done in the name of public--- These were public inquires and not secret inquiries. The moment you invite the public, the results must be given and Parliament has so ordered through the Chair.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Members! Let us get this matter to rest. I will look at the HANSARD, study the particulars and what is contained there. I will then make a ruling next Wednesday.

Next Order!

## MOTIONS

### ADOPTION OF 2005/2006 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 2005/2006 laid on the Table of the House on Wednesday 17<sup>th</sup> June, 2009.

*(Dr. Khalwale on 21.7.2009)*

*(Resumption of Debate interrupted on 21.7.2009)*

**Mr. Chachu:** Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion.

I am a Member of the PAC and would like to mention that the findings and recommendations of this Report were agreed upon unanimously by all the Members of that Committee. During that period, we were working on two annual reports, namely; the Report for 2004/2005 and 2005/2006.

This year, we are working on two reports as well. That is the report for the year 2006/2007 as well as the report for the year 2007/2008. By next year, we hope to be current with our audits and reports as we will be working on the report for the year 2008/2009.

Mr. Temporary Deputy Speaker, Sir, while working on those two reports concurrently, we are also working on two special audit reports. The first one is the Report on the Privatisation of Telkom (K) Limited and the Special Audit Report on the sale of Government Shares in Safaricom Limited. We have also just directed the Controller and Auditor-General to undertake special audit on De la Rue. This is the company that the Government gave a contract to print the Kenyan currency.

Out of interest, I will look at the accounts of two Ministries. I would like to look at the Constituencies Development Fund (CDF). The year 2005/2006 is the year when substantial funding was given to the CDF. In the first year of the programme only Kshs6 million was given per constituency. This was the first year of the programme. During this period, the structures of CDF were still being developed, members of staff were being recruited and similarly, due to lack of proper systems, there were delays in disbursement of funds.

Mr. Temporary Deputy Speaker, Sir, it is important to note that in spite of these initial teething problems, which is true for any institution, generally the CDF was well utilized and it served its intended purpose. However, I just want to pinpoint one particular case. This was in Mbooni Constituency. CDF paid Kshs432, 000 to one student who was pursuing a Doctorate degree in Philosophy (PhD) at Maseno University. This was done from the emergency allocation. The disbursement of almost Kshs500,000 to one individual out of emergency funds, surely, showed that something was at stake.

When you talk of an emergency under the CDF structure, it should be something that is unforeseen. It should be sudden like fire, floods or drought. Payment of tuition fees for a university student and for this matter, a PhD student, for sure is not an emergency. This is about prudence. Due to the policy which was not well formulated, that easily passed. For Members of Parliament who are custodians of the funds, this does not augur well.

Mr. Temporary Deputy Speaker, Sir, this is a case of a Member of Parliament favouring a friend, supporter or an individual. I really hope that as leaders, we will be able to use CDF for intended purposes and be prudent in how we manage these funds so that it serves all our constituents.

Secondly, I would like to look at the Ministry of Education in terms of irregular award of tender for a school broadcasting programme. In 2006, the Ministry found that paying Kshs33 million to the Kenya Broadcasting Corporation (KBC) to be very expensive, yet paying Kshs88 million to another firm called World Space (Kenya) Limited, was not found to be too expensive. The Ministry opted to use the services of World Space (Kenya) Limited costing the taxpayer Kshs88 million while they did not take the services being offered by KBC at Kshs33 million. Instead of negotiating with KBC, the Ministry entered into an agreement with World Space (Kenya) Limited. This new package was to provide satellite service for broadcasting of information to schools all over the country. This was done without undertaking any feasibility study to see whether the particular programme would work. At the end of the day, this programme did not work and taxpayers lost a hefty Kshs88 million.

The Government procurement procedures requiring competitive tendering were not followed. When it came to signing these contracts, the PS at that time did not seek any legal service from the Office of the Attorney-General. The agreement was not also countersigned by the Treasury as required by the law.

In 1996, the Government paid Kshs55 million for broadcasting services that were not rendered at all. Therefore, Kshs55 million of the taxpayer was misused because it was paid for services which were not rendered. In totality, for that contract that the Government irregularly awarded to World Space (Kenya) Limited, during that period before the tender was done away with, the Government lost Kshs267 million. There is evidence whereby due to poor oversight and poor leadership by the State in terms of managing Government funds, taxpayers lost almost Kshs267 million in one year which was paid for a service which was not rendered. Those were some of the specific and unique cases that we saw in that Report during that year.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, I stand to support the Public Accounts Committee Report on the Government of Kenya Accounts for the year 2005/2006.

The Report is bulky and maybe, hon. Members have not had time to peruse it because of lack of time. I noted in general terms, and this has happened many times, that there are instances where some Accounting Officers sometimes are not willing to appear to give evidence. I think this is a very serious offence because these Accounting Officers are appointed to be custodians of public funds on behalf of the public. It is not their funds that they deal with. They are accountable to the public through the Committee. I support the view that these Public Accounting Officers should be severely punished.

It is good that we have introduced in our Standing Orders, the Committee on Implementation. I believe that with such kind of cases, the Committee should be given legal mandate so that it can discipline such errant Accounting Officers.

There are also cases of Accounting Officers who fail to provide documents for audit. This is also another omission that has been noted in the Report which I think is serious. Year in, year out, the reports have indicated that those who have embezzled public funds should not hold public office. However, you will find that these same people are transferred from one Ministry to another one and the cases go on. I think it is high time that the Committee on Implementation was given teeth to bite.

The other aspect which I noticed here was to do with the Ministry of Labour and Human Resource Development, Vote 15. The Committee heard evidence given by the Accounting Officer to the Treasury that surrender instructions are being awaited on outstanding imprests. Therefore, the Committee recommended that the Accounting Officers should liaise with the Treasury to clear the outstanding balances. All these recommendations come out very boldly in the Report and it is necessary that while these recommendations have been given, the Implementation Committee also follows up to ensure that the Accounting Officers comply with recommendations that have been made.

With those few remarks, I beg to support.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity to contribute to this very important Report.

First, I would like to thank the Chairman of the Public Accounts Committee for being re-elected. Also, I would like to thank the other Members who served in the



previous Committee but were given another opportunity to serve in the present Public Accounts Committee.

When you look at the Report of the 2005/2006, you will find that the entire Committee came out with very fantastic findings and recommendations. Some of the recommendations that they came up with are really disheartening. You will note that the Accounting Officers in some of the Ministries are not really serious and are not even committed in the way they execute their duties. There are times when they were called upon to appear before the Committee and they did not respond. Those Accounting Officers were appointed and given very important positions by the President and they should perform efficiently. They should give effective leadership in their Ministries. If they cannot perform as per our expectations, they should be disciplined. They should not be allowed to continue delivering ineffective services.

Mr. Temporary Deputy Speaker, Sir, we also noted from the same Report that some Accounting Officers do not surrender the imprests they are given. I propose that such officers should not be moved from their current positions until they clear the imprests. *Wananchi* in this country are concerned with accountability and transparency, particularly when the responsibilities are being carried out by senior officers. It also emerged that about 700 accountants will be recruited. It is important that these accountants be employed to strengthen accounting services in different Ministries. I urge the recruiting agencies not to exhibit ethnicity, tribalism or clanism when recruiting those accountants. Academic qualifications should be the criteria in this regard.

It has also emerged that recently, we approved about Kshs3 billion to be invested in the *Kazi kwa Vijana* Programme. I propose that the youth be appointed to the management committee so that they can participate and monitor the progress of this important and innovative exercise.

Mr. Temporary Deputy Speaker, Sir, we have also noted that the Ministry of Education was allocated a lot of money to the tune of Kshs117 billion. It is, therefore, important that some of the agencies in the Ministry of Education, particularly the Kenya Institute of Education (KIE) be serious in the way they perform their duties. The KIE should overhaul the syllabus so that we can render the required curriculum in our schools. The Kenya National Examination Council (KNEC) should be overhauled and competent officers employed to man it. This will create confidence and trust in the body.

The other issue concerns the newly recruited District Education Officers (DEOs) who have been posted to the new districts. It is important that we have the DEOs in place, but they cannot perform or render services well if they lack vehicles to enable them move from one place to another. Understaffing in our schools has also been noted and should be addressed.

Mr. Temporary Deputy Speaker, Sir, I would also like to touch on the National Cereals and Produce Board (NCPB). It is important that we maintain the National Strategic Grain Reserve by appointing people with integrity and not politicians. This is because politicians will mess up the whole thing.

On security, parents in this country are really worried about their children going to school. They even stop work and escort their children to school. This aspect should be given attention by our Government.

The other observation concerns the census that will be conducted on 24<sup>th</sup> and 25<sup>th</sup> August, 2009. Illegal gangs and groupings should not be allowed to take advantage of

this exercise to attack homes. The Government should play its role of protecting Kenyans during that period.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to thank Mr. Waweru of the Kenya Revenue Authority (KRA) who has done a fantastic job by raising the money that is being used by our Government. The KRA raises Kshs600 billion annually. Mr. Waweru deserves a commendation. It is also prudent for the KRA to strengthen its operations, particularly at the Port of Mombasa, where there is illegal importation of vehicles and other goods into the country. Colossal amounts of money have been lost through such importation.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support the Motion wholeheartedly.

**Mr. Muthama:** Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to congratulate the Chairman of the Public Accounts Committee (PAC) for the wonderful job that he and other Members of the Committee have done.

I would like to start my contribution by calling upon the Ministers and Ministries to work extra-hard to deliver services to Kenyans. I would also like to call upon the Government to consider reducing the number of Ministries, which have turned out to be a big burden for Kenyans. Kenyans are concerned with this aspect. Our country does not have the capacity and strength to manage a Cabinet of 42 Ministers and over 75 Assistant Ministers. The world economic recession has affected many countries, including Kenya.

Mr. Temporary Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance, while reading the Budget, said that Ministers will surrender the big vehicles that they use. It is good for Ministers to start obeying the laws of the land. These Ministers should use smaller vehicles that consume less fuel.

Mr. Temporary Deputy Speaker, Sir, I support the creation of sub provinces and the additional districts although we, politicians, have turned this into a political issue. I will give the example of Eastern Province where I come from. It is unfair for a Kenyan to travel from Kibwezi or Marsabit to Embu to be served by a Provincial Commissioner. If anything, we need not less than three provinces in Eastern Province. So, whoever came with the idea of sub provinces has done a wonderful job. Kenyans should not be divided by the creation of more administrative boundaries. If I want to be admitted at the Nakuru Provincial General Hospital, I would be admitted. Nobody will ask me to provide my Identity Card or where I come from. The creation of sub provinces and new districts is meant to make it easy for Kenyans to access services from the Government. So, this should not be politicised.

Mr. Temporary Deputy Speaker, Sir, I would like to touch on the Constituencies Development Fund (CDF). If put to proper use, it can help Kenyans and their leaders. Kenyans have been able to decide on the projects that they want. At the same time, I want to urge the Government, to increase CDF allocations so that we can have at least have between 5 and 7 per cent of the national Budget allocated to the CDF, so that *wananchi* can benefit.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. With all due respect to my friend, the hon. Member for Kangundo, according to the rules of debate, there is need for relevance. Today, we are debating the Public Accounts Committee (PAC) Report. From his contribution, I am wondering about the relevance of his contribution.

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, my colleague who is a Committee Member of the Public Investments Committee (PIC) is anxious because he wants the PIC Report debated. So, hold on, we are getting to that.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Muthama, CDF is also part of the PAC Report.

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, I hope my colleague has heard that. I want to caution my colleagues like Mr. Mbadi that if he does not use the CDF money well, then he will not make it back to Parliament. That also applies to most of us, if we do not use it properly.

I also want to touch on the issue of overseas trips. The Government, through the Ministries and the National Assembly has been accused of over-spending money on overseas trips. I want to ask the Government, through the Ministries and more so, the National Assembly, to try and screen and identify the trips that are being made so that we can cut down on expenses. Just a few minutes ago, we were talking about water during the Prime Minister's Time. It will take about Kshs600 million to build a dam that will benefit over 3,000 Kenyans where they will be able to grow food.

Mr. Temporary Deputy Speaker, Sir, if that money can be saved through reduction of overseas trips, it can be used to develop our country. Regarding our education system, we need to look at it. By doing that, we shall be providing services to Kenyans.

With those few remarks, I beg to contribute.

**The Temporary Deputy Speaker** (Prof. Kaloki): You beg to support, right?

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, I beg to support.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Member, please say your name for the record.

**Dr. Kones:** Mr. Temporary Deputy Speaker, Sir, my name is Dr. Kones, hon. Member for Konoin.

Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to also support the Report of the PAC. First of all, I want to thank my colleagues, led by the Chairman for the tireless efforts and for sparing their time to prepare the Report. I know most of us took time that we were supposed to spend in the constituencies to go through the issues raised by the Controller and Auditor-General.

Arising from that Report, there are a few issues which seem to appear year in, year out. One of them is an issue where recommendations are made in various reports but what is lacking is the implementation framework. I hope that the Committee on Implementation is going to work very hard to ensure that those recommendations are indeed, adhered to and that pressure is put on Treasury to prepare their annual reports on the status of the implementation of these recommendations.

It is also evident that most of the audit queries would have been avoided if the Accounting Officers had done their homework well and prepared their documents in time. Many times, the queries that the Controller and Auditor-General raised were responded to during the session and the Accounting Officers came with documents at the time of giving evidence. This is a trend where, as we have recommended in the Report, in future, those Accounting Officers who do not present those documents in time be reprimanded.

Mr. Temporary Deputy Speaker, Sir, another issue which is highlighted in our Report is to do with the huge pending bills in our Ministries. I noted that some of the pending bills arise from failure by the donors to disburse the funds in good time. We discussed that issue with the Treasury and we hope that in future, a solution will be found so that no commitment is put in the books before we are actually sure whether the donors are going to release the funds in time. More so, donor funding requires a bit of streamlining so that the documents which the donors retain, are availed to the Controller and Auditor-General at the time of auditing so that such queries are avoided in future.

Mr. Temporary Deputy Speaker, Sir, we also noted that there are many recommendations to the Kenya Anti-Corruption Commission (KACC) for further investigations. We wish that such recommendations to the KACC are responded to in time and Parliament be updated on the progress made. We also noted that there is a problem in public debt. Public debt is growing and although the Government has not superseded the accepted international standards, it is an issue of concern. We hope the Government will ensure that public debt is reduced to manageable level.

Mr. Temporary Deputy Speaker, Sir, there is doubt as to whether we have the right professionals, particularly, accountants and finance officers in the Ministries apart from the fact that there is an acute shortage of these staff who are required to prepare proper accounts. I think there is also a problem with their training and their capacity to manage our accounts. It is recommended that the Government should hire more accountants and finance officers and train them in public finance and public management.

Finally, there are a number of irregularities in the way our finances were utilised by the various Ministries. The first case that I would like to point out is a case of an irregular tender for the schools broadcasting by the Ministry of Education. The Kenya Broadcasting Corporation (KBC) does it at an average amount of about Kshs33 million per year. When the Ministry realised that it was high, they decided to award the tender to another broadcasting company in the name of World Space. What is amazing is that instead of saving on costs, the Government ended paying more, despite the fact that school broadcasting did not continue. The Government later paid up to Kshs70 million per year upwards, from the Kshs33 million. So, this is a clear case of misuse of office. We have recommended to the Kenya Anti-Corruption Commission (KACC) to further investigate the case, particularly with a view to establishing whether there was a relationship between the then chairman of the Kenya Broadcasting Corporation (KBC) and the ownership of the company that was given the tender to broadcast in schools; that is World Space.

With those few remarks, I beg to support.

*[The Temporary Deputy Speaker  
(Mr. Ethuro) left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Muthama) took the Chair]*

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I beg to support this Report. Being aware of the Parliamentary rules, you know this side is reserved for Ministers.

I really wish to commend the Committee, in particular under the able leadership of Dr. Khalwale and the rest of the team, including the two mathematicians he was talking about. My good friend, Dr. Kones, is a statistician and many other able hon. Members in that particular Committee. I also appreciate that Committee by re-electing Dr. Khalwale because one of the greatest strategies in Africa is failure to appreciate certain individuals who have done a good job and ensuring that the memory of the previous Committee can endure in the present and the future. I know it does through the reports but Africans, as the literate survey indicated the other day, especially in Kenya, are only very good at reading the newspapers but to read reports, books or stories is not our fault.

So, assuming that we are dealing with random access memory, memory in terms of the Public Accounts Committee (PAC) communications and recommendations is very essential for this House. You will appreciate that the PAC and the PIC are some of the most important Committees of this House. They are important in the sense that they are here for the sole purpose that we are hon. Members because when we allow the Government to tax the people we represent – we give the Government the authority to incur expenditure. Then after that expenditure has been expended, the Controller and Auditor-General audits the books and then they come back to us through these particular Committees in order to satisfy ourselves that the money was put to proper use.

If you look at this Report of 2005/2006 and even the report you concluded yesterday of 2004/2005, there are two major recurring themes amongst many issues. First, that the Treasury Memorandum for the last, I think, six or so reports are yet to be realised by the Committee. The other recurring statement, you will recall in this report, is that the Committee reiterates its previous recommendations. Those two can summarise what the report is all about. The contribution I really want to make is that the Tenth Parliament must make a difference that all the previous reports and Committees in the previous Parliament were never taken seriously. The Tenth Parliament must make a difference in the sense that it has a Committee on Implementation, the PAC and the PIC that are committed. In the great tradition, we started in the Ninth Parliament where people think hon. Members do not work extra-hard, in fact, I wish to confirm, because when I served in the PAC, we took the trouble of ensuring that we are looking at two years concurrently so that the backlog that we were dealing with; that was deliberately used by the Executive to deny Parliament the authority to interrogate and bring people to account, was being taken advantage of.

Mr. Temporary Deputy Speaker, Sir, when the Chairman moved the Motion, I heard him say that within the life of this Parliament, we will be so current that we will be dealing with the real life people in positions.

*(Applause)*

There is always something about the Government and protecting itself because even after the NARC Government came into power, even when we were dealing with reports that were essentially in the other regime of KANU, the Permanent secretaries who had been hired by reformist Government were still part of the problem. Their job was to protect and deny the mess that had taken place in their respective Ministries. This is why this Committee plays a very critical role for this House. This is why I am pleading with the

hon. Members of this Committee to be united. We do not want this Committee to be divided.

The entire House is relying on this Committee to do a good job so that when they brace up good reports like we have witnessed in the last two days, we can rest assured as a House, that we have a Committee of very strong characters and people who are responsible. They can make the accounting officers to be accountable and Parliament would have discharged its obligations.

Mr. Temporary Deputy Speaker, Sir, if you look at the Report, you will realise that at the end of it all, there is usually the summary of the Big Five; the Permanent Secretary, Treasury; the Permanent Secretary, Provincial Administration; the Attorney-General--- The Office of the Attorney-General in particular, I am yet to find any entity that can continue retaining a lawyer who always makes you lose a case.

*(Applause)*

In the case of the lawyer to the Government, the Attorney-General of the Republic has not won even a single case. If anything, the Government keeps losing money year in, year out. They do not make appearance; they do not involve the accounting officers, they just do their own things. I think it is high time that the PAC needs to institute a very special audit on the performance of the Office of the Attorney-General in terms of being an advisor to the Government and value for money so that the Attorney-General of the Republic can do a good job. Just the other day, before we went on Recess, we gave the Attorney-General a huge pay rise for basically doing a shoddy job. It is that serious because this matter has been in our books year in, year out. The backlog has made the PAC to look at the kind of who has stolen what and who has not; how much you got for a biro, pencil or rubber.

Mr. Temporary Deputy Speaker, Sir, when you are looking at competitive bidding, the procurement process in the Government, the tender process, you would expect the tender process to give you the lowest price for the best commodity. Unfortunately, in Government, the tender process has been used to pay more than the correct value, even at the market place. You can even walk to Nakumatt Supermarket and you look at the price of an item. But when the Government tenders, it will be double. It defeats the whole process why we are tendering! So, I would urge my friends in the Committee to look at this issue more critically.

Finally, Mr. Temporary Deputy Speaker, Sir, as I urge them to complete and be current with their reports, it is important that we start, as a country, doing value for money audits so that we can look at the impact of Government expenditure on the economy. Can we procure a particular service or good at the lowest cost with greater benefit for the majority of Kenyans? That has never been possible because of the backlog. They owe it to us; they owe it to this nation to clear the backlog and become concurrent when dealing with the Public Accounts Committee (PAC) in Kenya!

Mr. Temporary Deputy Speaker, Sir, I am convinced beyond any shade of doubt that in the Tenth Parliament, we will be operating at par with the PACs in the House of Commons in Canada, Sweden, Germany; countries that are already performing value for money audits.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support the Report.

**The Temporary Deputy Speaker** (Mr. Muthama): There being no other contributors now, may I call upon the Mover to respond.

*[The Temporary Deputy Speaker  
(Mr. Muthama) left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Ethuro) took the Chair]*

**Dr. Khalwale:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to use this opportunity, once more, as I conclude this debate on the Report of PAC of 2005/2006, to thank hon. Members of my Committee for the support that they have given me, and the cohesiveness that we have demonstrated over the last one year, leading to the excellent result that the House has unanimously supported.

Mr. Temporary Deputy Speaker, Sir, I would also like to thank hon. Members who have spoken on this particular Motion for the excellent contributions that they have made and the ideas that they have given us. I want to confirm to them that we will implement the suggestions that they have made to us, as PAC.

Mr. Temporary Deputy Speaker, Sir, while responding, I would like to say something on the perennial problem of shortage of accountants. As we recommended in our Report, we are very keen in making sure that the Government has employed enough accountants. Now that the country has got over seven public universities, I believe the issue of having a shortage of professionals should be a problem of the past. Therefore, we would like to urge the Government to move with quick speed to ensure that they hire those young people.

Mr. Temporary Deputy Speaker, Sir, while noting that we had been assured by the Treasury that, this year, they are going to employ 700 new accountants, we want to reiterate that, that figure of 700 seems to have been arrived at arbitrarily and, therefore, it is important that we hire even more accountants so that reports can be more accurate, more professional and more timely.

Mr. Temporary Deputy Speaker, Sir, I noted that when we were receiving evidence from accounting officers, majority of those accounting officers were people who were beyond 50 years. Some of them are all the way up to the age of 65. We would like to deplore that particular phenomenon and urge that the Government should give young Kenyans an opportunity to rise to the level of accounting officers while still young. That is nothing new in this country because we even know that some of the greatest leaders that this country has had, namely hon. Kenneth Matiba, was given an opportunity to be an accounting officer at the young age of 28 years. So, we would like our young professionals in this country to be given an opportunity at that prime age to serve as accounting officers.

Mr. Temporary Deputy Speaker, Sir, I will not finish this response without reminding the House that, whereas the Tenth Parliament has made great, great strides about reforms, there is an area which if we, as Parliament, will not address, then the oversight role of Parliament will never deliver the intended purpose for which it was

created. That is the office of the Controller and Auditor-General. That office is supposed to serve nothing but the Legislative arm of the Government. However, because of the arrangement of the Constitution, the Constitution today obtains that the Controller and Auditor-General is not only appointed by the President, but he also audits the same President who appoints him. Upon auditing that same President, the Controller and Auditor-General then submits his Report to this House through the Executive.

Mr. Temporary Deputy Speaker, Sir, that being the case, that man has to protect his job because the appointing authority can easily change his mind about him. The fact that the same man audits the very appointing authority, one cannot expect an impeccable report to come from the Office of the Controller and Auditor-General. For that reason, I would like to urge hon. Members to support a constitutional amendment which my Committee, through the Kenya National Audit Office, has recommended to the Committee of Experts. We want to bring the Office of the Controller and Auditor-General directly under the Speaker, such that as soon as this man finishes his report, he ends up bringing the report directly to this House.

Secondly in that particular proposal, Mr. Temporary Deputy Speaker, Sir, we have proposed that the Controller and Auditor-General will be appointed by the President, but the appointment should be vetted and approved by this House. That is an area where I would like hon. Members to co-operate and support in the anticipated new Constitution.

Mr. Temporary Deputy Speaker, Sir, the last point that I want to comment on in my response is the new era of proceedings of this House being heard in public. All Committees have now commenced hearings in public. It is very, very important that the Speaker of the National Assembly should make special arrangements for the Chairs of all Committees, accompanied by their Vice-Chairs and, at least, three other Committee Members from the various committees, to go and witness how public hearings are done in the USA, Great Britain and other eastern countries like India, Singapore and Indonesia. That will go a long way in giving those new Chairs a hands-on experience on how to conduct those matters in public.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I want to thank you all and request that, as I move this Motion, we pass it.

*(Question put and agreed to)*

#### ADOPTION OF 16<sup>TH</sup> PIC REPORT

**Mr. Linturi:** Mr. Temporary Deputy Speaker, Sir, I beg to move---

#### QUORUM

**Mr. Were:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you look around the Chamber, you will realise that we have no quorum, despite the fact that this is a very important Report that hon. Members have been talking about all along, even in the Press and at funeral gatherings. They are now not here to even listen to the Report we



have written. Even the members of the Press, who have been talking about this Report, are not here.

**The Temporary Deputy Speaker** (Mr. Ethuro): Indeed, there is no quorum. Could the Division Bell be rung?

*(The Division Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, it is time to interrupt the Business of the House due to lack of quorum. Therefore, the House stands adjourned until tomorrow, Thursday, 23<sup>rd</sup> July, 2009, at 2.30 p.m.

The House rose at 5.15 p.m.