

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

**Tuesday, 10th June, 2008**

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

Sessional Paper No.1 on the Government of Kenya guarantee of Yen 26.7 billion equivalent to Kshs16.18 billion loan from Japan Bank for International Co-operation to the Kenya Ports Authority for the Mombasa Port Development Project.

*(By the Assistant Minister for Finance  
(Dr. Oburu) on behalf of the  
Minister for Finance)*

### NOTICE OF MOTION

ADOPTION OF SESSIONAL PAPER NO.1 ON  
GOVERNMENT LOAN GUARANTEE  
FROM JAPANESE BANK FOR  
INTERNATIONAL CO-OPERATION

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Speaker, Sir, "I beg to move" the following Motion:-

THAT, this House adopts Sessional Paper No.1 on the Government of Kenya guarantee of Yen 26.7 billion equivalent to Kshs16.18 billion loan from Japan Bank for International Co-operation to the Kenya Ports Authority for the Mombasa Port Development Project.

**Mr. Speaker:** Dr. Oburu, I am informed that the HANSARD has recorded you as saying that "you beg to move". Are you giving Notice of the Motion or moving it?

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Speaker, Sir, I am sorry, I am giving Notice of the Motion, but not moving it.

**Mr. Speaker:** Order, hon. Members! Dr. Eseli, you have indicated that you want to give notice of a Motion, but unfortunately, there are certain procedural steps that you have not taken. First, your Motion ought to have been brought to my attention, so that then it goes to the House Business Committee for balloting before you give notice. This is just procedural. Now that you have not complied, I think we have to go through those steps before you can give notice of the Motion.

### QUESTIONS BY PRIVATE NOTICE

## STRIKE NOTICE BY NURSES ASSOCIATION

**Mr. Speaker:** Dr. Khalwale is not here? The Question is dropped!

*(Question dropped)*

Next Question, Dr. Eseli!

CONTENTIOUS PRIVATIZATION OF  
KENYA SEED COMPANY

**Dr. Eseli:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture [**Dr. Eseli**] the following Question by Private Notice.

(a) In view of the recent contentious privatization of the Kenya Seed Company, would the Minister explain the exact circumstances surrounding the privatization and confirm that the same was above board?

(b) Could the Minister state the current shareholders indicating the number of shares held by each one of them?

(c) Could the Minister table a list of all the employees of the company indicating their respective qualifications and home districts?

(d) What measure is the Minister taking to safeguard the public interest in the company?

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

(a) The purported privatization of the Kenya Seed Company took place after the Board of Directors, on 3rd November, 1999, approved, among other things, to float four million shares by private placement. This was done without the Government's approval.

(b) I do hereby table a list stating the current shareholders and the number of shares held by each as requested by the hon. Member.

(c) I also further table a list of all the employees of the company indicating their respective qualifications and home districts.

(d) To safeguard public interest, my Ministry declared the floated shares illegal, hence null and void and directed the company to refund all those who had bought the shares their money. This will ensure that the ownership of the company reverts back to the public as a State Corporation.

*(Mr. Samoei laid the documents  
on the Table)*

**Dr. Eseli:** Mr. Speaker, Sir, I want to thank the Minister for Agriculture for that answer. However, I have not scrutinised that list of employees. In fact, I have just received the written answer now. So, it puts me in a position where probably I might not be able to adequately ask supplementary questions. I think that, that was a very unfair way of answering the Question without giving me the written answer before hand. I have just received it here. I have not received the list of those employees and their qualifications. So, I am unable to really ask supplementary questions effectively.

**Mr. Samoei:** Mr. Speaker, Sir, I did sign the answer myself with the accompaniments and I sent the same to the National Assembly. I apologise to the hon. Member if he did not get a complete copy of the answer. However, the documents are actually ready. Maybe I can give him copies of the same.

**Mr. Speaker:** Dr. Eseli, do I understand you to be saying that because you were not supplied with the written answer and you, therefore, did not have advance information on the facts that the Minister has presented to the House, you are unable to interrogate the Minister's answer or even for that matter, ask supplementary questions? Is that your position?

**Dr. Eseli:** Mr. Speaker, Sir, actually I would like to request that the Question be deferred, so that I can get those documents and be able to interrogate the answer effectively. I can still interrogate it, but it will not be as effective as it should be. That is why I beg your indulgence in that. Moreover, I have not received the second part of the list of the shareholders.

**Mr. Speaker:** Dr. Eseli, you have made your point. Mr. Minister, is that okay with you?

**Mr. Samoei:** Mr. Speaker, Sir, I have really no problem with the request by the hon. Member. We will make all the other documents available to him. I am sure they are either with the Leader of Government Business or his Office in Bunge. We have no problem with that. We can defer the Question to give the hon. Member adequate time to study [Mr. Samoei]

documents, so that he can appropriately address himself to the questions that he wants to ask.

**Mr. Speaker:** Thank you, Mr. Minister. Given that this is a Question by Private Notice, I am inclined to defer it to tomorrow afternoon. Are you happy, Dr. Eseli?

**Mr. Eseli:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Is that okay with you, Mr. Minister?

**Mr. Samoei:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** I will defer the Question to tomorrow afternoon.

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

### *Question No.016*

#### ESTABLISHMENT OF MOTORCYCLE ASSEMBLY PLANTS IN KISUMU

**Mr. Olago** asked the Minister for Industrialization:-

(a) in view of the fact that motorcycle taxis are the single largest employer of the youth in Kisumu and parts of western Kenya, what steps the Ministry is taking to create motorcycle assembly plants in Kisumu City to make and sell affordable motorcycles; and,

(b) whether the Ministry could consider implementing a low interest rate and low instalment loan scheme to the youth through the Youth Enterprise Development Fund so as to make the motorcycles affordable.

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Speaker, Sir, I beg to reply.

(a) As the hon. Member is aware, all the players in the motorcycle assembling sector are private entities and, therefore, as the Government, we cannot be able to direct them to invest in a particular region. However, the Government is facilitating investment in the industrial sector through creating a conducive and enabling environment. This includes the City of Kisumu.

(b) The Ministry, through the Kenya Industrial Estates (KIE), is issuing low interest loans to the youth under the Youth Enterprise Development Fund in order to facilitate them to start new businesses. With regard to the motorcycle *boda bodas*, the KIE has disbursed a total of Kshs2,274,000 to 13 beneficiaries in western Kenya; five are motorcycle *boda boda* operators in Kisumu City, namely, Pauline Akinyi - Kshs165,000; Caroline Awino Oduor - Kshs165,000; Lameck Mayoga Odhiambo - Kshs130,000; Maureen Auma Otieno - Kshs100,000 and George Morara Nyandiko - Kshs150,000.

Mr. Speaker, Sir, these loans, as the House is well aware, are given at an interest rate of 8 per cent and for a maximum of Kshs500,000 per individual enterprise. Those who apply for the loans to start a new business normally get a grace period of three months while those already in business are able to start paying the loans immediately. The young people are expected to develop their business plans and proposals basing them on comparative advantage that they expect their businesses to enjoy in their respective locations.

In Kisumu, there are, indeed, business opportunities for motorcycle transport operators. The Kenya Industrial Estates (KIE) office in Kisumu is aware of these opportunities and is offering loans to young people who wish to venture into this business. Since the introduction of the Youth Enterprise Development Fund, the Kisumu Branch of the KIE has received 243 applications for loans, 20 of which are for starting motorcycle taxi ventures.

**Mr. Olago:** Mr. Speaker, Sir, the second part of the Question has been answered. However, part "a" of the Question remains unanswered satisfactorily. The gist of the first part of the Question was to find out whether the Ministry is encouraging the creation of motorcycle assembly plants, not only in Kisumu City, but in the whole of western Kenya.

Mr. Speaker, Sir, the answer given by the Assistant Minister only refers to encouraging importation of either motorcycles or parts for motorcycles to be assembled here in Kenya. What is the Ministry doing to encourage the creation of assembly plants in western Kenya? That is a very important issue in that part of Kenya.

**Mr. Muriithi:** Mr. Speaker, Sir, the Ministry is, in fact, implementing a private sector development strategy. Part of this strategy is to encourage industries, including the establishment of a motorcycle assembly plant, in this country. There is already a number of formal private companies working in the area of motorcycle assembly. As the hon. Member has noted, it is true that most of these companies import fully assembled motorcycles or parts of motorcycles and assemble them locally. Those companies include Toyota East Africa, the CMC Group, and Car and General. Each of these companies have branches in Kisumu, Nakuru and Eldoret.

Mr. Speaker, Sir, I wish to inform the hon. Member that, in fact, part of the work of the Ministry of Industrialization in the coming financial year will be to assist towns and urban centres, including Kisumu City, to attract investment within their areas of jurisdiction. I would also like to inform the hon. Member that the Ministry is also implementing the Small and Medium Enterprise Competitiveness Programme, which has been funded to the tune of Kshs1.6 billion. This programme is seeking to assist cities and towns, including Kisumu City, to be able to welcome and nurture industries in their jurisdictions.

### POINT OF ORDER

#### DELAY IN ISSUING APPOINTMENT LETTERS TO ASSISTANT MINISTERS

**Mr. Linturi:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to come and answer Questions in this House when it is in the public domain that Assistant Ministers have no appointment letters?

*(Laughter)*

**Mr. Speaker:** That point of order is a bit unusual. Leader of Government Business, are you able to respond to it? Mr. Linturi, could you repeat your point of order?

**Mr. Linturi:** Mr. Speaker, Sir, my point of order is whether it is in order for the Assistant Ministers to come and answer Questions in the House when it is very clear that they have no

appointment letters. I believe that it is an illegality.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I appreciate Mr. Linturi's concern. However, in terms of legality, I do not think a letter of appointment is as fundamental as the Assistant Ministers having been sworn in. Therefore, the matter of appointment letters, if, indeed, they have not been issued, is really a matter on course. The fact that they are sworn in as Assistant Ministers, they are able to answer Questions in this House.

*(Mr. C. Kilonzo stood up in his place)*

**Mr. Speaker:** Before we come to you, Mr. C. Kilonzo, perhaps, you want to hear Mr. Linturi. What is your basis for making that claim, Mr. Linturi?

**Mr. Linturi:** Mr. Speaker, Sir, I partly agree with the Leader of Government Business. It is true that when appointments are made, they are gazetted. I have not seen any Kenya Gazette Notice that has the names of the Assistant Ministers. That is the basis of my point of order.

**Mr. Speaker:** Mr. C. Kilonzo, can we hear you?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, we are seeking your ruling on this issue. From what the Leader of Government Business said, it is very clear that even he himself is not sure of the correct position. This is the highest office in this country. Parliament should not be seen to be flouting all the laws of the land when conducting its business.

So, we would like to know whether Assistant Ministers, without letters of appointment, can answer Questions here. The letters of appointment are very clear; they give the terms of reference. So, we have Assistant Ministers performing their respective roles without terms of reference. So, are they in order to come and answer Questions in the House if they have not been issued with appointment letters?

**Mr. Speaker:** Mr. C. Kilonzo, before I get further information, perhaps, from the Government side, do I understand the position to be that these Assistant Ministers have been gazetted?

**Hon. Members:** They have not!

*(Ms. Karua stood up in her place)*

**Mr. Speaker:** Madam Minister!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Speaker, Sir, I am just seeking clarification from the hon. Member raising the point of order, so that it is responded to sufficiently. I know that gazettelement is a requirement for Members of Parliament. I know of no legal requirement for gazettelement of Ministers. A letter of appointment is normally between an employer and an employee. You can even work for a year and a letter be given later. It is a matter of procedure. Pursuant to what provisions of the law is the point of order being raised?

**Mr. Speaker:** Let us hear the Member for Dujis Constituency.

**The Assistant Minister for Livestock Development** (Mr. Duale): Thank you, Mr. Speaker, Sir. Members of the Front Bench were sworn-in in broad daylight. That stands more legal than a letter of appointment from the Head of the Civil Service and Secretary to the Cabinet. When it comes to the terms of reference, every Minister and Assistant Minister gets his or her own terms of reference from his or her Ministry. Division of labour within a Ministry is within the Ministry's internal domain.

This is not the first time an Assistant Minister is answering a Question. In the last two

months, Assistant Ministers have been answering Questions. So, this House should not be turned into some sort of a chess game, where you stand up and ask a Question and no forthcoming answers. Two months ago, Questions were being answered efficiently and diligently by Members of the Front Bench. Why is it that today, somebody is raising the question of a letter of appointment and ignoring the swearing-in, which was done publicly?

*(Applause)*

**Mr. Speaker:** Hon. Members, let us hear a few more views on this issue!

Mr. C. Kilonzo!

**Mr. C. Kilonzo:** Mr. Speaker, Sir, my good friend, Mr. Duale, should know that two wrongs do not make a right! We want a ruling from the Chair, not from hon. Members. This is a very simple matter.

We are asking: Should Assistant Ministers answer Questions when the Government does not even recognise them? The Government is not paying them salaries; they are being paid through vouchers!

**The Assistant Minister for Livestock Development** (Mr. Duale): On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Mr. Duale, you have had your bite at the cherry! I am not about to give you the chance for a second bite.

Yes, Mr. M. Kilonzo!

**The Minister for Nairobi Metropolitan Development** (Mr. M. Kilonzo): Mr. Speaker, Sir, are the hon. Members raising this issue in order to mislead the House and the country? This country has a Constitution, which, under Section 16, provides for the appointment of Ministers, and Section 19 provides for appointment of Assistant Ministers. The only law that governs the taking of office in this country is the Oaths and Statutory Declarations Act.

Mr. Speaker, Sir, once an hon. Member is elected to the House he or she is required to swear an oath before you. That has been done by the Assistant Ministers. Similarly, when His Excellency the President appoints a Minister or an Assistant Minister under Section 16, it is required by law that before that person takes his or her office, he or she swears the oath of office.

Mr. Speaker, Sir, the letter of appointment is an invention; a practice, in the country that, strictly speaking, has no legal basis. Other than employer and employee--- I share the views of my colleague, the Minister for Justice, National Cohesion and Constitutional Affairs, by asking whether the hon. Members raising this issue are in order, because they are misleading the country by borrowing from the media and merely suggesting that a letter of appointment is a requirement before someone takes the office of Assistant Minister.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it Leader of Government Business?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, further to what the Senior Counsel has said, is it really in order for our colleagues to insist on a matter that is so clearly spelt out in the Constitution itself? The Constitution is the supreme law of the land. I want to refer the House to the provisions of Section 21 of the Constitution. I quote:-

"A Minister or an Assistant Minister shall not enter upon the duties of his office unless he has taken and subscribed to the Oath of Allegiance and such oath for the due execution of his office as may be prescribed by Parliament".

This is very clear. The House will recall that when the Minister for Medical Services came here and attempted to answer a Question before he was sworn-in, the Chair ordered that whatever he

had said be expunged from the proceedings of the House. The predominant position is that once Assistant Ministers are sworn-in, they are then able to execute their duties.

**Mr. Imanyara:** Mr. Speaker, Sir, I appreciate the Constitutional position the Leader of Government Business and the Minister for Justice, National Cohesion and Constitutional Affairs have provided as the basis for the swearing-in of Ministers and Assistant Ministers. But it is also common knowledge that once the appointments are made and the Ministers and Assistant Ministers are sworn-in there follows a Presidential Circular that sets out the functions and duties of the various Ministries. Indeed, there has been a Presidential Circular that defined the functions of Ministers and Assistant Ministers.

Mr. Speaker, Sir, this is important because of the National Accord that brought this Coalition Government into force. There ought to be a portfolio balance. Hon. Members are entitled to know when an Assistant Minister stands to speak, whether there is a basis in terms of the National Accord that sets out a requirement for portfolio balance in allocating Ministries, in order for us to know that the functions of a Minister are set out in a Presidential Circular.

The issue is: Has there been a Presidential Circular setting out functions and duties of Ministers and Assistant Ministers, as has been the practice in the past?

**Mr. Speaker:** Leader of Government business, perhaps in your clarification, you could help the Chair. When were Assistant Ministers appointed? When was this particular Assistant Minister appointed? That will be useful to the Chair.

**Hon. Members:** Which Assistant Minister?

**Mr. Speaker:** The Assistant Minister who was answering the Question, Mr. Muriithi! This issue is about him!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, Mr. Muriithi was duly appointed and sworn-in as an Assistant Minister in the Ministry of Industrialization. In that capacity, he was answering the necessary Question.

Mr. Speaker, Sir, I want to let my learned friend, Mr. Imanyara, know that the information that I have is that the Presidential Circular was taken for printing today.

**Mr. Speaker:** Mr. Musyoka, you have not clarified one important point. When was Mr. Muriithi appointed?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I could seek the indulgence of the Chair. I have no doubt in my mind that the Assistant Minister would know when he was appointed. I happen not to be able to know. I am sure he can give us this information. What I know is that he was duly sworn-in.

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Speaker, Sir, in all honesty, except for the humour that our colleagues are affording us, I was appointed, and the matter put on public record first on 13th April, 2008. On 21st April, 2008, I along with many other Ministers, Assistant Ministers, the Prime Minister and Deputy Prime Ministers were sworn-in on the same day at a public function that was broadcast live to this nation. I am quite certain that the country is well aware of these facts.

**Mr. Speaker:** Mr. Muriithi, let us stick to the issues! On which date were you sworn-in?

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Speaker, Sir, I was sworn-in on 21st April, 2008.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. C. Kilonzo, you have had so many chances to contribute. Allow your colleagues to also contribute on this matter!

**Mr. Namwamba:** Mr. Speaker, Sir, while I agree with the legal position on appointment of Ministers and Assistant Ministers, the Front Bench should also not attempt to bury this House in

legalese by ignoring that we have also established certain practices, customs and procedures, both in the Constitution and statues, that accompany the legal provisions.

Mr. Speaker, Sir, if, indeed, as the Leader of Government and Deputy Leader of Government Business would want this House to believe, that Assistant Ministers have properly been appointed and are duly in office and executing their responsibilities, why are they not earning as they should be? Why are they earning through a process that would give the office of the Controller and

Auditor-General difficulty in tracing their earnings through vouchers? They are not earning through the normal process of salary---

**The Assistant Minister for Livestock Development** (Mr. Duale): On a point of order, Mr. Speaker, Sir.

**Mr. Namwamba:** Mr. Speaker, Sir, protect me; I am on the Floor!

**Mr. Speaker:** Order, Mr. Duale!

**Mr. Namwamba:** Mr. Speaker, Sir, this is coming over one month since that happened. It is in the public domain that a number of Assistant Ministers are complaining about their salaries. We should have reason to fear that their concern for salaries could interfere with their effectiveness in the discharge of their responsibilities!

*(Applause)*

**The Assistant Minister for Foreign Affairs** (Dr. Onyonka): Thank you, Mr. Speaker, Sir. Could the Member of Parliament for Budalang'i substantiate to this House as to who exactly has complained?

**Mr. Linturi:** Mr. Speaker, Sir, this is all intended to cushion this House from being used to legalise illegalities. It is within the labour laws that whenever one is appointed, he or she should have an appointment letter. So, if this does not happen, then we are trying to tell the other employers outside there, not to give appointment letters. The appointment to the office of an Assistant Minister means extra responsibilities that have been given to them. So, to me, we really need a considered ruling from the Chair.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Speaker, Sir, this House is being turned into a rumour mill. The Chair has ruled, once and again, that newspapers are not authority for anything. The Standing Orders also say so. Therefore, if there is an Assistant Minister or a Minister complaining about a letter of appointment, let that person complain directly or through a Member of Parliament who can agitate on their behalf by giving particulars.

Mr. Speaker, Sir, it would be a very sad day if anyone on the Front Bench were to be required to answer rumours, speculation and mere conjecture.

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

**Mr. Speaker:** In the interest of gender, we will hear Ms. Wavinya Ndeti.

**The Assistant Minister for Youth and Sports** (Ms. Ndeti): Thank you, Mr. Speaker, Sir. There is a circular that was issued authorising our payments. So, I do not know who has not been paid. The Permanent Secretary and Head of the Public Service, Mr. Francis Muthaura, has promised to issue us with appointment letters.

### CONSIDERED RULING

THE CONSTITUTION DOES NOT COMPEL  
THE PRESIDENT TO ISSUE LETTERS



OF APPOINTMENT TO MINISTERS  
AND ASSISTANT MINISTERS

**Mr. Speaker:** Order, Ms. Ndeti! This is the ruling of the Chair. The matter in issue is in relation to appointment of Assistant Ministers and, in particular, the appointment of Mr. Muriithi.

*(Laughter)*

Hon. Members, it is right that this country and, therefore, Parliament, which is part and parcel of this country has subscribed to the rule of law. So, everything that we do, must be done within the purview of the law. The law relating to appointment of Ministers who are defined by the interpretation of the Constitution of Kenya, as well as the Standing Orders which govern procedure in Parliament, provide that "Minister" shall include Assistant Ministers.

Hon. Members, the law that relates to appointment of Ministers is found in the Constitution which is the supreme law of this land and, in particular, Section 16 which Members would bear with me to read. Section 16(1) says:-

"There shall be such offices of Minister of the Government of Kenya as may be established by Parliament or, subject to any provisions made by Parliament, by the President."

Section 16(2) says:-

"The President shall, subject to the provisions of any written law, appoint the Ministers from among the Members of the National Assembly."

Hon. Members, bear with me also to read Section 21 which pertains to the taking of office of Ministers.

It says:-

"A Minister or an Assistant Minister shall not enter upon the duties of his office unless he has taken and subscribed to the Oath of Allegiance and such oath for the due execution of his office as may be prescribed by Parliament."

Indeed, Parliament has prescribed the law which hon. Mutula Kilonzo alluded to. That is the law that applies to all Members of Parliament as you witnessed during your swearing-in ceremony. Hon. Members, I would have expected the Member raising the point of order, Mr. Linturi, as ably supported by his colleagues, hon. Charles Kilonzo and one or two other Members, that you would cite a law that provides anything beyond what the Constitution prescribes. The Constitution prescribes that the President shall, subject to any written law, appoint Ministers from among the Members of the National Assembly. The Constitution does not say that the President shall appoint Ministers or Assistant Ministers, for that matter, in writing. I expected that you would cite such a law if it existed. As it is, the prevailing position is that both Ministers and Assistant Ministers were appointed by the President of the Republic of Kenya on the 13th of April, 2008 and a public pronouncement to that effect was made by way of a Presidential release to the Kenyan public both through the print and electronic media.

This is being also sensitive to the fact that you are not supposed to quote newspaper reports in this House. But live coverage is live coverage. I do not think there is any better authority than live coverage. This went live. Among others, Mr. Muriithi was named as appointed by the President on the 13th April, 2008.

Hon. Members, we are also aware that hon. Muriithi did take an oath administered by the Head of the Public Service in the presence of His Excellency the President, the appointing authority, therefore, recognising that Mr. Muriithi was an Assistant Minister, so appointed.

So, it is the ruling of the Chair that it is in order for Mr. Muriithi to act as an Assistant

Minister and answer Questions that are properly put to his Ministry.

*(Applause)*

Mr. Muriithi, you may proceed! Had you finished your answer?

**Mr. Muriithi:** Mr. Speaker, Sir, I had finished it!

**Mr. Bahari:** Mr. Speaker, Sir, I think part "a" of the Question that the Assistant Minister has answered is very important. That is because motorcycles have a huge effect on low income earners in this country. We have, as a country, to take the aspect of industrialisation very seriously. But the Assistant Minister has been very casual. My question is: What specific measures has his Ministry taken, in view of the fact that, that industry is very important, to encourage the assembly of motorcycles in this country?

**Mr. Muriithi:** Mr. Speaker, Sir, I am distressed that the hon. Member believes that we are treating this matter casually. Industrialization of this country is a very serious matter.

Today, we spent many hours launching a road map called Vision 2030, on how this country is going to develop. So, both personally, and as the Government, we take the matter of industrializing Kenya very seriously. On the issue of a motorcycle assembly in Kisumu City, as I already detailed, the Government has put resources together, first, to underlie the private sector development strategy. The resources co-ordinated by various Ministries with a full-time secretariat housed in the Ministry of Industrialization seeks to assist businesses across this country, and not just in Kisumu City. I enumerated that our Ministry has put together an industrialization master plan. I said that in the Small and Medium Enterprise Competitiveness Project, we have put together Kshs1.6 billion to better the business environment in Kisumu and across the country.

**Mr. Bahari:** On a point of order, Mr. Speaker, Sir. My question was very specific! I did not ask for the general environment that has been created for industrialization. If we dwell on those generalities, we may not go far. That sector is very important and is predominant in western Kenya. I want the Assistant Minister to hear me out! What has the Ministry put in place to encourage the setting up of that assembly?

**Mr. Speaker:** Mr. Assistant Minister, could you answer the question and keep to the specifics?

**Mr. Muriithi:** Mr. Speaker, Sir, I must say that Mr. Speaker's ruling has given me an opportunity to give a presentation in very specific terms.

In my earlier reply, I spoke about three specific private sector companies that are operating in Kisumu City, Eldoret and Nakuru. I mentioned them by name. I said that those private sector companies - Toyota East Africa, CMC Motors Group and Car and General Motors - are active in those areas. I also said that my Ministry has established development finance institutions that provide resources to private sector companies that wish to do business. Therefore, we are taking those specific measures. I alluded to very specific issues. I said that since the establishment of the Youth Enterprise Fund, 243 individual entrepreneurs have applied for resources in order to work in that area. I also said that out of 25 who are in that specific sector, five have already been provided with resources. I named them.

As I said, the business environment is critical to enable an individual enterprise to thrive and prosper. So, business licences and local authorities by-laws must be friendly to businesses. Though they might appear general in nature, they have very specific effects on individual enterprises.

Thank you.

**Mr. Olago:** Mr. Speaker, Sir, the answer is still wanting! The question was: "What steps is the Ministry taking to encourage the assembly of motorcycles in Kisumu to serve western Kenya?"

The answer is so generalised in terms that I am not satisfied!

**Mr. Speaker:** What is your last question, Mr. Olago?

**Mr. Olago:** Mr. Speaker, Sir, what steps is the Ministry taking to ensure that Kenya Industrial Estates (KIE) and other micro-finance organisations in Kisumu are given sufficient finances to address the issue of motorcycles in Kisumu and western Kenya generally?

**Mr. Speaker:** Mr. Assistant Minister, that is a very clear question! So, answer it simply.

**Mr. Muriithi:** Mr. Speaker, Sir, KIE has already received in excess of Kshs200 million to support enterprises. In the coming financial year, we expect to inject a further Kshs80 million into that institution for the same purpose.

**Mr. Speaker:** How much of that money is available to Kisumu so that the hon. Member is satisfied? Perhaps, to help you, what can Kisumu do to access that money?

**Mr. Muriithi:** Mr. Speaker, Sir, Kisumu can do many things to access those resources. The resources are not earmarked for a specific region. The resources are availed to development finance institutions, including KIE, and are availed to all Kenyans. However, a specific region that takes initiative to promote business obviously stands a better chance of attracting, not just the financial resources, but investors into that area.

I know that the hon. Member may be aware that, for example, last year, as part of the Millennium City Celebrations, Kisumu City hosted a very elaborate several-days event to attract business into the City.

Mr. Speaker, Sir, I encourage the hon. Member and, indeed, all hon. Members to take initiative to ensure that our towns and centres are working to attract investments into their jurisdictions.

*(Resumption of Oral Answers  
to Questions)*

*Question No.022*

BAN ON SAND HARVESTING  
IN EASTERN PROVINCE

**Mr. Mbai** asked the Minister for Environment and Natural Resources:-

(a) in view of the fact that sand harvesting is causing irreversible environmental degradation in the lower parts of Eastern Province, what urgent measures he is taking in mitigation; and,

(b) why the Ministry has not imposed a ban on sand harvesting.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Mr. Speaker, Sir, I beg to reply.

(a) Common sand is not recognised as a mineral under the current Mining Act, Cap.306 and cannot, therefore, be regulated under that law. However, noting the environmental problems that sand harvesting is causing in many places countrywide, my Ministry has proposed---

**Mr. Mbai:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, Mr. Mbai? The Assistant Minister has hardly answered your Question!

**Mr. Mbai:** Mr. Speaker, Sir, I have a different answer from the one he is reading.

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

**Mr. Speaker:** Mr. Assistant Minister, please resume your seat!

**Hon. Members:** Sit down!

**Mr. Speaker:** Order, Mr. Assistant Minister! You are an old Member of this House. If an hon. Member is allowed to proceed on a point of order, then you take your seat!

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Mbai, what is your point of order?

**Mr. Mbai:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is reading a different answer from the one I have.

**Mr. Speaker:** Mr. Assistant Minister, you have given out a different answer from the one you are reading. That will not be permitted!

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Mr. Speaker, Sir, it is the same one, but it was written in shorthand.

Mr. Speaker, Sir, I beg to reply .

(a) The matter came to the attention of the Ministry and the National Environment Management Authority (NEMA), and we are in the process of finalising regulations and guidelines to be gazetted under the provisions of the Environmental Management and Co-ordination Act, 1999, and will subsequently be enforced by NEMA.

(b) The Ministry had imposed a ban on sand harvesting in April, 2006 but it was lifted in December, 2007, because sand harvesting went underground, thereby causing more damage than it was envisaged. There were some agents who were encouraging people to harvest sand at night. There was corruption and mining of sand at night. The Ministry is going to give guidelines. We will do the gazette of the new guidelines.

**Mr. Mbai:** Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer, although it is very shallow. I want to bring to the attention of the Assistant Minister the fact that sand harvesting in lower Eastern Province, especially in Ukambani, has been devastating. We have no roads where the sand is being scooped. Our river beds have been destroyed. The roads that are being destroyed are repaired using the District Roads Committees (DRCs) money and the councils are giving us nothing. We have no water in our rivers. They have dried up and there is no water for our livestock. Could the Assistant Minister give directives, so that we could have environmental committees in the villages or sub-locations to regulate, or stop this sand scooping?

**Mr. Kajembe:** Mr. Speaker, Sir, as I said in my reply, very soon, the Ministry is going to gazette what the hon. Member is proposing. In fact, we sympathise with what is happening in that area. We are going to do a gazette on how to control the harvesting of sand. The Ministry has already directed District Environmental Officers that they should supervise this activity, and possibly take action against those who are mining sand.

**Mr. Olago:** Mr. Speaker, Sir, I do agree with the hon. Member for Masinga that the answer given by the Assistant Minister is, indeed, shallow. What the Assistant Minister is saying, in effect, is that NEMA is not sufficiently empowered to deal with this issue. It is not just in Masinga only; this problem is all over the country. NEMA is not capable of dealing with this issue. The Ministry must do something, if NEMA is going to become effective or have teeth.

**Mr. Speaker:** So, Mr. Olago, what is your question?

**Mr. Olago:** Mr. Speaker, Sir, the Assistant Minister should tell the House what action the Ministry is taking to empower NEMA.

**Mr. Kajembe:** Mr. Speaker, Sir, the Environmental Management Act, Section 12, is very clear. It says that where environmental norms are being violated, then action could be taken by both the Ministry and NEMA. I would like to go further and say that there are so many Acts----

**Mr. Speaker:** Order, Mr. Assistant Minister! I think it is important that we all learn from both sides to do what we are supposed to do, so that if you are given an opportunity to ask a question, you ask the question. Do not go into a long address. Mr. Assistant Minister, try and answer the question as asked! You have been asked: "What action are you taking to empower NEMA?" Simple! What is your answer?

**Mr. Kajembe:** Mr. Speaker, Sir, my answer is that the Ministry is in the process of appointing district committees, which will work with NEMA to ensure that environmental concerns are not violated.

**Mr. Speaker:** Thank you, Mr. Assistant Minister! That is more like it.

Mr. Bett!

**Mr. Mbai:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Mbai, you will have the last chance.

**Mr. Bett:** Mr. Speaker, Sir, we are talking of an Act that was enacted in 1999. I was privileged to be the Chairman of the Committee on Environment in 2003. At that time, the Minister came to the Committee and said that the rules and regulations to help in the implementation of that Act were going to be gazetted in 2003. Today, the Assistant Minister is telling the House that they are preparing the rules and regulations to be tabled soon. They were supposed to be tabled "soon" in 2003. Could I get an assurance from the Assistant Minister that those rules will, indeed, be gazetted as he is saying today?

**Mr. Kajembe:** Mr. Speaker, Sir, as I said in my reply, they will be gazetted as soon as possible. We are going to gazette those rules and guidelines.

**Mr. Bett:** On a point of order, Mr. Speaker, Sir. That answer is not adequate. "Soon" is not a time line. It is what the Government uses all the time; it also says that things will be done when funds become available. It is the same! They do not serve any purpose!

**Mr. Speaker:** Order! Mr. Assistant Minister, you have heard all that. In 2003, during the Ninth Parliament, a similar undertaking was given, that it would be done "soon". It is now four years down the line and, Mr. Assistant Minister, you are saying "soon". How soon is soon? When will it be?

**Mr. Kajembe:** Mr. Speaker, Sir, I do agree with Mr. Bett, that a Question was asked in this House in 2003. It is sad that no action was taken then but, as one of the current officials of the Ministry of Environment and Mineral Resources, I can say that it will be very soon.

*(Laughter)*

**Mr. Speaker:** Mr. Mbai, last question!

**Mr. Mbai:** Mr. Speaker, Sir, you have heard the Assistant Minister say that they are going to form district environmental committees. I want to bring to the attention of the Assistant Minister that he is in darkness in his Ministry, because those committees are there, but they are doing nothing. Sand is one of the sources of income in Ukambani. You have heard the Assistant Minister say that he is going to make sure that the "mining" of sand is regulated. He is confirming that sand is a mineral.

Mr. Speaker, Sir, could the Assistant Minister look for an investor to invest in the sand industry, so that it can employ thousands of youths in the rural areas? Could he also classify sand as a mineral?

**Mr. Kajembe:** Mr. Speaker, Sir, the hon. Member has a very good proposal which is acceptable to the Ministry. We are going to identify, very soon, some of the minerals which are not in the Act. We are going to put them in the new Act that we will table. However, I would like to

say that the Ministry is in the process of getting investors on this subject.

**Mr. Muriithi:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, Mr. Muriithi?

**Mr. Muriithi:** Mr. Speaker, Sir, the Assistant Minister keeps saying "soon", "very soon". I would like to know if Ministers and Assistant Ministers sign performance contracts so that they stop using these words.

**Mr. Speaker:** Mr. Assistant Minister, do you have anything to say on that?

**Mr. Kajembe:** Mr. Speaker, Sir, when we talk of performance contracting, I would like to say that I was appointed by the Head of State. I am now rendering services in the Ministry to the satisfaction of the Kenyan people!

**Mr. Speaker:** Next Question, Ms. A. Abdalla!

*Question No.027*

RETENTION OF PERMANENT SECRETARIES  
BEYOND MANDATORY RETIREMENT AGE

**Mr. Speaker:** I have information that Ms. A. Abdalla has travelled out of the [Mr. Speaker] country on parliamentary business. So, we will defer this Question to Thursday next week.

*(Question deferred)*

Next Question, Mr. Mbau!

*Question No.042*

REVIVAL OF STALLED CATTLE  
DIPS IN MARAGWA

**Mr. Mbau** asked the Minister for Livestock Development:-

(a) whether he could confirm that most cattle dips in Maragwa are no longer functional; and,

(b) what plans the Ministry has put in place to revive them.

**The Assistant Minister for Livestock Development** (Mr. Duale): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that most of the cattle dips in Maragwa are no longer operational. It should, however, be noted that the task of controlling ticks and management of common dips was handed over to the farmers and the private sector through a Government of Kenya policy decision in 1991.

(b) However, the Ministry has developed the National Livestock Policy which was approved by the Cabinet in December, 2007 and will be presented to this House with a view to reviewing the same policy that is facing Maragwa; that is, the 1991 policy. But I still want to urge Members of Parliament to support the revival of cattle dips through the now improved Constituencies Development Fund and the Local Authorities Transfer Fund.

Thank you.

**Mr. Mbau:** Mr. Speaker, Sir, I thank the Assistant Minister for that answer. My worry is that it has taken more than 15 years since this policy was devised in 1991 for the Government to note that the decision to hand over cattle dips, control of ticks and management of dips to the rural communities have had far reaching negative effects on the production and rearing of livestock.

Mr. Speaker, Sir, last weekend, people from pastoralist areas came together to lobby the Government to come up with a policy that would focus on the development of livestock in the pastoralist areas. I want the Assistant Minister to confirm whether this newly-considered, policy which was approved by the Cabinet in 2007, would consider livestock farmers across the country including Central Province, where rearing of livestock is at its lowest ebb.

**Mr. Duale:** Thank you, Mr. Speaker, Sir. Yes, we agree that since 1985 during the World Bank and the IMF Structural Adjustment Programmes (SAPs) a number of policies that were not good for the breeding and marketing of livestock in this country were formulated.

Mr. Speaker, Sir, under the proposed National Livestock Policy, which will come to this House, we will address major issues such as disease control. This is because, as a country, we cannot export our livestock products to the European markets because of issues of trade-related diseases.

I want to assure the hon. Member that when we talk of improving the livestock sector, we mean the pig industry and dairy farmers in the highland regions. I can assure him that once the new National Livestock Policy comes to this House and is adopted, the issue of privatisation of cattle dips and the control of ticks would fall squarely under the Ministry of Livestock Development and the public sector. Once this is done, all those issues will be addressed.

**Mr. Bahari:** Mr. Speaker, Sir, the livestock sector has received a raw deal in this country. Even where the Government has had the resources, there has been a serious mismatch particularly in the arid and semi-arid areas where more resources are allocated to agriculture; that is, personnel and finances as opposed to the livestock sector which is predominant in that economy. Could the Assistant undertake to ensure that, among other things within that policy, this mismatch of policies and resource allocation to the livestock sector is corrected once and for all?

**Mr. Duale:** Mr. Speaker, Sir, I totally agree with the Member that there was a lot of misallocation of funds. I can give an example where District Agricultural Officers in Mandera, Marsabit and Moyale districts have more allocations than their counterparts; District Veterinary Officers or District Livestock Officers in the same areas. These are areas where there is no crop production. So, that kind of inappropriate misallocations where Government funds were being taken to where there is no crop production will be addressed. As a Ministry, we have developed policies to address that issue.

Secondly, Mr. Speaker, Sir, I want to assure Members from the northern region and pastoralist communities that, in this same policy, we are looking at how we can recruit veterinary officers and increase allocation towards the livestock sector. I want to assure the hon. Member that the National Livestock Policy will be brought to this House. The same has also been sent to the Departmental Committee on Agriculture, Lands and Natural Resources. We can assure you that we are going to address the issue of imbalance in terms of resource allocation from the Treasury.

**Mr. Speaker:** Last question, Mr. Mbau!

**Mr. Mbau:** Mr. Speaker, Sir, it is true that Members will be in a position to help revive cattle dips across the country by using the CDF money. This is something that is possible. I know that we have many requests to put up cattle dips through the CDF money. But I would like the Assistant Minister to confirm to us when this National Livestock Policy will be brought to the House so that we do not put up cattle dips that will become white elephant projects.

**Mr. Duale:** Thank you, Mr. Speaker, Sir. I want to inform the hon. Member that, at this juncture, we are ready to support hon. Members by availing technical officers in our Ministry in terms of building cattle dips, their management and sustainability. We are ready to give you the technical managers to run those projects. At the same time, I can assure you that the National Livestock Policy is already in the pipeline. It is awaiting the House Business Committee to slate it

for debate.

*Question No. 047*

REHABILITATION OF NYAHURURU-  
NYERI HIGHWAY

**Mr. Kioni** asked the Minister for Roads:-

(a) whether he is aware that the Nyahururu-Nyeri Highway is in a pathetic state; and,

(b) when the Government intends to rehabilitate it.

Mr. Speaker, Sir, I have not received a written answer.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Mr. Speaker, Sir, First of all, I would like to apologise to the hon. Member for not having received a written answer. There are copies which have already been sent to him and I will also give him a copy as soon as I have answered the Question. I beg to reply.

My Ministry is aware that sections of the Nyeri-Nyahururu Highway require repair and, indeed, work is already being carried out there. Repair works will continue during the next financial year, including resurfacing of some sections using the Fuel Levy road maintenance funds. There is a provision of Kshs100 million in the Fuel Levy budget for the Financial Year 2008/2009. The section in question has fallen into that state because of the recent rains that fell around the Ndaragwa Forest. The Maintenance Unit in Central Province is attending to the potholes pending resurfacing of the sections during the same financial year.

**Mr. Kioni:** Mr. Speaker, Sir, while thanking the Assistant Minister for the answer that he has given, it is important to note that this is a 100-kilometre stretch of road between Nyahururu and Nyeri. I do not know how much money the Assistant Minister wants to spend per kilometre because we know that it will cost Kshs35 million to do work on one kilometre. Patching it up may not be appropriate. I would also like the Assistant Minister to tell us when the rains damaged the road because the road has been in that state for a long time.

In addition, Mr. Speaker, Sir, I would like the Assistant Minister to inform this House whether the Kshs100 million he has talked about is adequate to cater for the shoulders because it is now within public knowledge that many people have died while cycling or walking along the Nyahururu-Nyeri Highway.

**Mr. Kinyanjui:** Mr. Speaker, Sir, I would like to repeat that my Ministry has allocated Kshs100 million from the Fuel Levy budget, specifically for this section of the road. We do recognise that Kshs100 million may not be sufficient to do the road. However, in view of the many years of under-allocation of funds to the road sector, it may not be possible to do everything. So, the Kshs100 million represents what we will allocate under the Fuel Levy budget for the next financial year. I mentioned that the rains might have contributed significantly to the deterioration of that section of the road. Indeed, that is but one of the factors.

It is also recognised that there are heavy trucks which are currently using that section of the road in order to avoid the weighbridge at Gilgil and Mlolongo sections. So, they have been using that road to Embu and all the way to Kibwezi to avoid that. My Ministry is in the process of installing a weighbridge on that section of the road to discourage heavy trucks using the road.

**Mr. Mbadi:** Mr. Speaker, Sir, while thanking the Assistant Minister for answering the Question, I was just wondering what policy the Ministry has to continuously monitor the state of major roads in this country because it becomes extremely expensive when the roads are allowed to deteriorate after many years of neglect before the Ministry takes action. I have a case in point of



Road C18, Rodi-Kopany-Karungu Road. The road was tarmacked in 1996. Two years later, the road started peeling off. No repairs have been done to date. I wonder what policy the Ministry has in monitoring major roads in this country to ensure that they are continuously maintained and the country does not incur a lot of expenses in repairing them.

**Mr. Kinyanjui:** Mr. Speaker, Sir, indeed, we recognise that our roads need urgent repairs. However, the availability of funds stands out as the biggest obstacle towards achieving this. In order to do the necessary repairs, it is necessary that the Ministry does the repairs before the damage has gone to a high extent.

Mr. Speaker, Sir, The Ministry is currently focusing on roads which require urgent repairs instead of waiting until we have to re-do the roads afresh. We have also come up with several authorities that will specifically deal with specific roads. Category A, B and C roads will be dealt with under the Highways Authority.

**Mr. Kioni:** Mr. Speaker, Sir, could the Assistant Minister inform this House what the Ministry is doing with the Kshs10 million that was allocated to this road this financial year?

Secondly, it is not in the interest of the communities along this road to get the large trucks off the road. What we are asking for is for the road to be in a condition that can handle those large trucks because we need them for economic growth in those areas. Thirdly, what became of the resealing teams that used to be along that highway?

**Mr. Kinyanjui:** Mr. Speaker, Sir, as I indicated, repair works are already going on and the Kshs10 million was specifically for repairing that particular section of the road and that is ongoing as we speak. We have no problem with large trucks on that road. The problem is overloading. Trucks that would not want to go through the Gilgil route would rather use that road and, therefore, do two times the tonnage that is expected.

Mr. Speaker, Sir, as I mentioned, my Ministry is trying to look at the possibility of having a weighbridge on that section not to deter the vehicles but to make sure that the right tonnage is observed. The resealing teams are still there, but we need to do much more. My Ministry is trying to look at ways to maximise inputs from this teams.

*Question No.058*

FACTORING OF RENEWABLE ENERGY INTO  
POWER SYSTEMS MASTER PLAN

**Mr. Gumbo** asked the Minister for Energy:-

(a) whether he could state what proportion of the national electricity grid, apart from KenGen's large hydro and geothermal plants, is currently fed by privately generated renewable energy; and,

(b) if he could confirm whether renewable energy has been factored in the latest power systems master-plan and state the incentives that the Government has given to encourage this sector.

**The Assistant Minister for Energy** (Mr. M.M Mahamud): Mr. Speaker, Sir, I beg to reply.

(a) Currently there are two private power producers supplying energy to the national grid. These are Mumias Sugar Company which supplies two megawatts of electricity generated using bagasse which is sugar-cane waste from the factory. The second company is the Orpower 4, which is an independent power producer and supplies 13 megawatts of electricity to the grid since 2000. These two companies, on average, supply 4GWh and 112GWh of renewable energy respectively.

These figures represent 2 per cent of energy injected to the grid.

(b) The least cost development plan covering the period 2008/2028 factored over 500 megawatts of geothermal and 900 megawatts of imported hydropower mainly from Ethiopia. The current committed projects up to 2012 include 355 megawatts of additional energy. Presently, drilling of geothermal wells in the dams near Ol Karia is ongoing in order to increase geothermal generation.

The Sessional Paper No.4 of 2004 and the attendant Act of 2006 spells out the Government policy and strategies for development and promotion of future energy generation.

As for the incentive, the Government, through Legal Notice No.43 of 2008, established feed in tariffs to encourage small private power developers for renewable sources, including wind, biomass, small hydro-electric power plants to supply the national grid at the pre-established tariff.

**Mr. Gumbo:** Mr. Speaker, Sir, I would like to thank the Assistant Minister, who is also my senior colleague in the engineering profession, for the answer.

Mr. Speaker, Sir, part "a" of the Question has been adequately answered. However, I have a problem with the answer the Assistant Minister gave for part "b". First of all, I think the answer is evasive, and fleetingly peripheral in many ways. In answering the Question, the Minister seems to be implying that renewable energy and alternative energy mean one and the same thing. My view is that renewable energy may not necessarily be alternative energy and vice versa.

**Mr. Speaker:** Eng. Gumbo, could you, please, restrict yourself to asking a question? It is Question Time!

**Mr. Gumbo:** Mr. Speaker, Sir, I want to explain the reason why I think the answer is inadequate.

**Mr. Speaker:** Please, move to your question!

**Mr. Gumbo:** Mr Speaker, Sir, part "b" of the Question is very clear. It talks of the incentives that the Ministry has to encourage investment in the alternative energy sector. Ceding tariffs is just one of the incentives. Could the Assistant Minister tell us the other incentives the Government is giving in this sector?

**Mr. Speaker:** That is doing very well!

Mr. Assistant Minister, could you answer that question?

**Mr. M.M. Mahamud:** Mr. Speaker, Sir, the hon. Member is asking about incentives. I think the feed in tariff that has been gazetted by the Government is one incentive to allow the private sector to develop and generate power to feed the grid. Those tariffs are very conducive. I could not tabulate them here because the table is long. There are power various energy; there are many hydro, geothermal, biogas and many other bio-fuel types, and the tariffs are given. Of course, incentives, in terms of investment in this country, are well known.

Mr. Speaker, Sir, the Government has a policy of encouraging private investors to come to this country. This applies across the board to all investors. So, if you want me to list the incentives that are given for all investments, what we use to promote investment is generally known all over the country.

**Mr. Lekuton:** Mr. Speaker, Sir, I am sure that the Assistant Minister is very aware that northern Kenya has huge resources in wind power. Studies have shown that this could be used to produce almost 30 per cent of Kenya's power requirements. What has slowed the Government down in making sure that we use these resources to help our country cope with the electricity shortages that we experience?

**Mr. M.M. Mahamud:** Mr. Speaker, Sir, I think that for that question is very important. It is true that a big part of this country has the potential the development of wind power.

Currently, there are 20 data-loggers that are capturing wind data in many parts of the country. I think the potential is there in parts of Marsabit, Wajir and the greater part of northern

Kenya. A process of mapping out areas where we can generate wind power is on-going. I am personally convinced that we can generate enough wind power, so as to supplement our energy requirements in this country.

**Mr. Koech:** Mr. Speaker, Sir, thank you for giving me this opportunity. As a country, we are aware of the escalating prices of oil, which is a non-renewable source of energy. If what we are being told is anything to go by, then we are living on a time bomb with respect to the future development of our economy. As a country it is important that we think seriously about the renewable sources of energy. What policy does the Assistant Minister have for the development of the mini grid source of energy and, more importantly, the solar energy? The whole world is now focusing on solar energy. North Eastern Province is a very important and reliable source.

**An hon Member:** Turkana!

**Mr. Lekuton:** Mr. Speaker, Sir, I am being reminded that even Turkana is a wonderful source.

**Mr. M.M. Mahamud:** Mr. Speaker, Sir, the policies that I was talking about earlier in terms of the law and legal notices are all meant to open up the national grid and encourage private investment in renewable sources of energy, such as solar, wind, geothermal and the rest. It is hoped that this policy will mitigate the impact of fossil oil based on generation and power shortages.

Mr. Speaker, Sir, as the hon. Member is aware, solar energy is used in most secondary schools in northern Kenya. In fact, the Ministry has exploited the use of solar energy as much as possible. We have gone out of our way, together with the East Africa member countries, to use renewable energy as opposed to fossil energy to avoid dependence on the expensive power fossil fuels.

**Mr. Speaker:** Last question, Eng. Gumbo!

**Mr. Gumbo:** Mr. Speaker, Sir, I want to maintain that the Minister's answer to part (b) of the Question is inadequate. I would request that he brings a more adequate and better researched answer to this House. When the Assistant Minister talks of power from Ethiopia being factored into the least cost development plan, I think that is an attempt to mislead the House.

Mr. Speaker, Sir, I have seen the studies done by the Ministry of Energy, and know that the nearest point from where power in Ethiopia can be connected to the national grid is 1,200 kilometres away. With the current cost of construction, you are talking of hundreds of billions of shillings to get power from Ethiopia. I think the Assistant Minister should kindly tell this House how power from Ethiopia can be considered a least cost alternative form of energy.

**Mr. M. M. Mahamud:** Mr. Speaker, Sir, I would not like to dwell on the words "least cost". What we need in this country is to increase our power generating capacity. In fact, we have not been investing a lot in power generation. We want to get it from every source. Power is very expensive to invest in. If today we are going to build our own hydro-electric power generating plant, it will initially be expensive. If doing that is comparable to getting power from Ethiopia, let it be so.

We are looking at alternative sources of renewable energy, namely hydro-electric power and other sources of energy, so that we increase the capacity of our energy sources. If the power from Ethiopia is cheaper than building a hydro-electric power generating plant in Tana River, then let it be so. The study has not been finalised. It is being done. Let the hon. Member wait for the outcome of the study. We have not decided on the issue yet. These are plans.

As for the incentives, I still repeat that incentives to investors in this country are well established by the Office of the Deputy Prime Minister and the Ministry of Trade. There is nothing specific to this Ministry alone.

Mr. Speaker, Sir, I beg to rest my case.

**Mr. Speaker:** The next Question has a Ministerial Statement on it. So, we will leave it until after the Ministerial Statement.

*Question No.062*

ISSUANCE OF TWO SETS OF PROSPECTUS  
ON SALE OF SAFARICOM SHARES

*(Question deferred)*

Mr. Lekuton, could you ask Question No.019?

*Question No.091*

MEASURES TO IMPLEMENT THE PERSONS  
WITH DISABILITIES ACT, 2003

**Mr. Lekuton** asked the Vice-President and Minister for Home Affairs that given the number of persons with disabilities in our society and the enactment of the Persons with Disabilities Act 2003, what measures the Government has taken to ensure that proprietors of public and private buildings have, in compliance with the Act, adapted them to suit persons with disabilities.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

Section 22(1) of the Persons with Disabilities Act, 2003, states that a proprietor of a public building shall adapt it to suit persons with disabilities in such manner as may be specified by the Council.

Sub-section 2 further states that all proprietors of public buildings shall comply with Sub-section 1 within five years after this Section comes into operation. Unfortunately, the said Section has not been gazetted and, therefore, cannot be enforced. But I want to assure hon. Lekuton and the House that we will be looking into this matter because this is a very important issue. All the buildings that we have in this City and other major cities are really not user-friendly when it comes to persons with disabilities.

**Mr. Lekuton:** Mr. Speaker, Sir, I think that is a very serious issue. Failure to gazette that Section has led to serious human rights abuses to people with disabilities. In addition, they suffer from discrimination in employment and lack of access to public and private buildings. The transport system in this country does not favour them. The media has not even adapted - because the law has not been gazetted - the sign language that is essential. When the President gives a national speech, they cannot understand what is going on.

Section 35(1) provides that any person with disability can actually apply to the Ministry of Finance for tax exemption. Six years is too long. Why has it taken so long for the Ministry to gazette that Section? It is very essential. It will make our people to live good lives. The disabled people will feel that they are part of this great country.

**Mr. Musyoka:** Mr. Speaker, Sir, I share the concerns of the hon. Member for Laisamis. But considering that the relevant statute was actually enacted just the other day - that is 2003 - I think it may be important for us to--- Because there are cost implications--- You can imagine many of those buildings will literary have to get user-friendly lifts that can actually announce that you are

now on Second Floor, for example, for people who cannot see. I think the cost would be enormous. That is why the period of five years was seen to be reasonable within which to comply.

The moment we give the date of commencement to that Section, a lot of work will need to be done. I think we are going to give a very serious consideration as to when we can operationalise that Section.

**Mr. Ethuro:** Mr. Speaker, Sir, while appreciating the answer by His Excellency the Vice-President and Minister for Home Affairs, the issue at hand is how we treat people with disabilities in this country. It is how the Government has taken its responsibility in terms of ensuring the commencement of that particular Act.

Mr. Speaker, Sir, if the Vice-President and Minister for Home Affairs thinks five years is a short time, then he does not live in this country. Just the other day, we saw what was done in Harambee House to enable disabled people to access it. Likewise, in our own Parliament, we did something to make disabled people access it.

Mr. Vice-President and Minister for Home Affairs, when are you going to operationalise that Act, so that the disabled persons of the great Republic of Kenya can have access to buildings? It is their right!

**Mr. Musyoka:** Mr. Speaker, Sir, I am giving notice to all stakeholders. That is because I agree that we have to deal with this matter precisely. I was hoping that by now, we will be through. I am actually having a persons with disabilities function where I am flagging a walk. I am sure they are going to raise that issue even today. Therefore, it cannot be over-emphasized that we need to move with speed. But because of the sheer cost implications, I thought that every Kenyan and any major international company that owns a building needs to be put on notice. I think through this Question by hon. Lekuton, we are actually putting them on notice. The next thing is to gazette the Act. Once we do it, anyone who will not have complied after five years will have to be held accountable.

**Mr. Lekuton:** Mr. Speaker, Sir, allow me to quote the Persons with Disabilities Act.

The Persons with Disabilities Act is on rights of persons with disabilities. It aims at restoring their citizenship, their humanity as well as dealing with issues of discrimination, equal opportunities and neglect. It provides a framework for the acceptance of people with disabilities into the Kenyan society, as it tries to remove the stigma of disability and drives this point home that persons with disabilities are very normal and able.

Mr. Speaker, Sir, we need the Vice-President and Minister for Home Affairs to give us the time frame within which that Section will be gazetted.

**Mr. Musyoka:** Mr. Speaker, Sir, I said that I am going to convene a meeting of all stakeholders with a view to agree to a date that will mark the commencement of that Section. I hope the hon. Member and, indeed, the whole country will understand that the Ministry is very serious on this matter. He is quite right that we have discriminated against our own citizens whose only mistake is disability. But disability is not inability.

**Mr. Speaker:** We are now well into other business time. But we have one Ministerial Statement by the Assistant Minister.

Mr. Assistant Minister, if you respect the rules of brevity, then, perhaps, you can just steer through it.

## MINISTERIAL STATEMENT

ISSUANCE OF TWO SETS OF  
PROSPECTUSES BY SAFARICOM

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Speaker, Sir, this Ministerial Statement is in respect of Safaricom Limited. It is in respect to a point of order raised by the Member for Gwassi about the impropriety of the prospectus.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The issue that is about to be responded to by the hon. Assistant Minister is very important. It is so important that the Public Accounts Committee (PAC) has ordered for a special investigation into the Initial Public Offer (IPO) of Safaricom Limited and Telkom.

Mr. Deputy Speaker, Sir, I am seeking the indulgence of the Chair - and I have discussed with the Assistant Minister - that we defer this Ministerial Statement until that special audit is concluded. That is because it is raising very important issues; including the fact that, the figures that are being shown to have been realised by Safaricom are, in fact, a net loss to the public. In fact, if we allow what took place to be the way of doing business in this country, it will mean that we have created a loophole through which the Government will - because of vested interests - be denying the watchdog Committees an opportunity to question affairs like that. In this case, as a result of this privatisation, both Safaricom and Telkom are now free from the watchdog role of Parliament.

Mr. Deputy Speaker, Sir, I am requesting for that indulgence because in the special audit, we want to find out the real identity of the so-called foreign investors. We fear that the so-called foreign investors are actually Kenyans who are masquerading as foreign investors when all they did was simply to go out of the country and create offshore companies that they floated around and bought into that IPO.

Mr. Deputy Speaker, Sir, in that special audit, we are raising important matters, including the disregard of the law. That is because this House passed the Privatization Act. In the process of that IPO, the Privatization Act was ignored or subverted because the Commission that was supposed to participate in that IPO--- The operationalisation of the law was done after that exercise had been concluded.

Finally, Mr. Deputy Speaker, Sir, I beg for your indulgence because this is a very important---

**Mr. Deputy Speaker:** Order! Order, Dr. Khalwale!

**Dr. Khalwale:** Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Parliament, within its own business, does not have an Appellate and a Lower Court. The Assistant Minister can proceed and issue his Ministerial Statement and your own Committee can also proceed and do its business. The Ministerial Statement actually enriches your Audit Report!

Proceed, Mr. Assistant Minister!

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, the issues I am responding to are not in respect of the details which the hon. Member is investigating. We are simply responding to the issue of the prospectus and whether they were properly issued or not.

So, Mr. Deputy Speaker, Sir, I do not think that the---

**Mr. Deputy Speaker:** Proceed, Mr. Assistant Minister!

**The Assistant Minister for Finance** (Dr. Oburu): Yes, it is not going to interfere.

Mr. Deputy Speaker, Sir, I wish to respond as follows: On the issue of the statement that the Capital Markets Authority (CMA) allowed Safaricom Limited to issue two sets of

prospectuses, the CMA approved only one prospectus for the Safaricom Initial Public Offering (IPO), being the prospectus dated 14th March, 2008. That prospectus was approved pursuant to Regulation 262 of the CMA Securities Public Offers Listing and Disclosures Regulations, 2002, upon the satisfaction of the Authority that the form and content of the prospectus was in compliance with Part "a" of the Third Schedule of the CMA Securities Public Offers Listing and Disclosures Regulations, 2002.

Mr. Deputy Speaker, Sir, the only other document approved by the Authority was an addendum to the prospectus dated 14th March, 2008. The addendum dated 28th March, 2008, consists of complete notes to the Independent Auditors Interim Review Report for the nine months ended 31st December, 2007, as contained in Appendix Part (b)(1) of the reporting accountants report. That addendum was approved in accordance with Regulation 13 of the CMA Securities Public Offers Listing and Disclosures Regulations, 2002. That addendum was published as a separate document and made available for collection by the public with effect from 1st April, 2008.

The approval and publication of the addendum was notified to the public by a public notice appearing in the *Daily Nation* and the *East African Standard* on 29th March, 2008. Once the addendum was approved, it was deemed to form part of the prospectus dated 14th March, 2008. To avoid issuing a separate prospectus and addendum, a revised prospectus was issued on 28th March, 2008, merely combining the prospectuses and the addendum.

On the statement that there was a material difference between the prospectuses dated 14th March, 2008 and the revised prospectus of 28th March, 2008, there was no distinction between the contents of the prospectuses dated 14th March, 2008 and the revised prospectus dated 28th March, 2008, other than the insertion of the addendum.

Mr. Deputy Speaker, Sir, on the issue that the Authority allowed the prospectus dated 14th March, 2008 which did not have the signature of the external auditor and the directors and did not have notes to the accounts, I wish to respond as follows: Regulation 63(a) of the CMA Securities Public Offers Listing and Disclosures Regulations, 2002, imposes the requirement to include a reporting accountant's report confirming compliance by the issuer with the financial disclosures proscribed by the Authority. The reporting accountant's report covering five years and six months to 30th September, 2007, was prepared by Deloitte and Touche and was duly signed in both the prospectus dated 14th March, 2008, and the revised prospectus dated 28th March, 2008.

Mr. Deputy Speaker, Sir, I would like to assure this House and the investing public that all the investors were granted access to the same information. I also confirm that there was no material change in the information contained in the prospectus dated 14th March, 2008, other than the insertion of the addendum made available to the public separately.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Mbadi:** Thank you very much, Mr. Deputy Speaker, Sir. I wish to thank the Assistant Minister for giving the Ministerial Statement and giving a detailed account as to why there were two sets of prospectuses that were issued on 14th and 28th March, 2008.

Mr. Deputy Speaker, Sir, whereas the Assistant Minister insists that there was no material difference in the two prospectuses issued on the two dates, I wish to state that the first prospectus issued on the 14th of March, 2008 did not have the signature of the Board of Directors and the external auditors who, in my view, are *prioritus corpus*. Also, it did not have the notes to the accounts.

Mr. Deputy Speaker, Sir, the main reason for having the prospectus is to give information to the investing public about the company in question. It is supposed to detail the history of the company, the nature of business it is conducting and the attendant business risks associated with it. That is why it is extremely necessary to have financial statements attached to the accounts. If the

financial statements that are attached to the accounts give misleading information, then the essence of the prospectus is defeated. That is why I do not understand! If there was no difference, then what was the need of issuing another prospectus on 28th March, 2008? Whatever the intention was, can that intention come out clearly? Could we be told that the main reason was "X", "Y" or "Z"!

**Mr. Deputy Speaker:** Mr. Mbadi, we have heard your point very well!  
Proceed, Mr. Assistant Minister!

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, unless the hon. Member can prove that allegation--- I have stated that the signatures and the accounts were attached to the prospectus.

Mr. Deputy Speaker, Sir, on the issue why there was another prospectus, it is because the other one was an addendum. An addendum is--- Just like when we make laws here, there are other regulations which come after. That was an addendum which was supposed to be part of the prospectus which was published on 14th of March, 2008. When it came later, it was published as a separate document. But, later, on the 28th of March, 2008, it was now thought appropriate that there was no need to have those two documents separately. So, they were combined together to form one document and that is the reason why there were these two statements.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, in both the prospectus and what the Assistant Minister is calling the addendum, there was a deliberate effort not to inform the investing public of one risk. That risk was that there was a debt of Kshs68.8 billion that investors were actually buying into. Could the Assistant Minister tell us why they misled the public? The public got into this IPO without having been told that there was this risk.

Secondly, Mr. Deputy Speaker, Sir, when the Government wanted to sell Safaricom, it wanted to sell 40 per cent of its shareholding. The refusal by the Government to sell more than 40 per cent of the shareholding discouraged potential investors, some of them more credible than the people who eventually won the bid, for example, a USA corporation called AT&T which was discouraged from this deal.

Mr. Deputy Speaker, Sir, could the Assistant Minister tell us when the Government eventually changed its mind to sell more than 40 per cent of the shareholding and, therefore, 51 per cent; what informed that decision and what was the legal procedure that was used to make sure that a decision was reached without letting that decision go through Parliament?

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, as I said in the beginning, the clarification which was sought by the hon. Member on this particular issue was in respect of the prospectus; why there were two prospectuses. I have stated clearly that there were actually no two prospectuses.

Mr. Deputy Speaker, Sir, on the issue of the revelations, Safaricom IPO has already taken place. Those issues ought to have been raised at the time this Safaricom rights issue was being sorted out.

*(Several hon. Members stood up  
in their places)*

**Mr. Deputy Speaker:** Order, hon. Members! Dr. Oburu, you have the responsibility to confirm that the financial statement was thorough, complete and nothing, but the truth. When the hon. Member tells you that there were facts that were concealed--- The financial statement of the company must indicate the assets, liabilities, debts and everything else. So, are you confirming that this debt was actually there and yet it did not appear in the financial statement?

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, I am not confirming that because I am not aware of that particular omission. If the hon. Member has any



proof that there was any omission to the extent of Kshs68 billion not being revealed, then he can inform the House. I am not aware of this material omission in the financial statement.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the Public Investment Committee (PIC) of the Ninth Parliament gave out a Report with clear recommendation that this Safaricom IPO should not go ahead. However, because the Assistant Minister wants to be told whether any action was taken to discourage this IPO from going ahead, he should be informed that he has in his office--- His boss is still the same one who was there at that time and he had this information. He should have respected the recommendation by the PIC. A few days before this sale was concluded, a company called Alkazar Capital was launched on 29th October, 2007. The company won the bid and today it controls 11 per cent of the shareholding that was floated. Could the Assistant Minister tell us what interest his office had in this particular share to the extent of ignoring the recommendation by the PIC and went on to give a new company called Alkazar Capital? This company is unknown not only in Kenya, but also elsewhere in the world and yet it was given such a great opportunity to buy the shares.

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, with regard to the PIC Report, I was a Member of Parliament here and I never saw that Report being tabled here in the House. If that was done, I really do not know whether that was a document from Parliament or just an inquiry from the PIC to the then Minister for Finance. They did not act because there were very many objections including court cases in relation to this particular case. However, because there was no conclusion in the courts, the Ministry decided to go ahead with the sale of the shares.

**Mr. Deputy Speaker:** Hon. Assistant Minister, do you confirm or categorically deny that there is no amount of debt to the tune of Kshs68 bill as the hon. Member has put it and that it is not reflected in the financial statement? Is it your position that, that does not exist or you do not have any information on that?

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, I said that I do not have any information on that.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the Assistant Minister has deliberately ignored to respond to the question raised by Dr. Khalwale that, indeed, there is a company which was formed just before this IPO was closed and which has won a bid and now owns 11 per cent of Safaricom. Could the Assistant Minister, please, confirm or deny?

**The Assistant Minister for Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, the winning or losing of bids is just being finalised. We do not as yet have the information which the hon. Member seems to be having that these people have already won that percentage in the shareholding. I cannot really confirm because that thing is just being finalised right now. I do not know what his source is.

**Dr. Kones:** On a point of order, Mr. Deputy Speaker, Sir. It appears that the Assistant Minister does not have enough information surrounding this issue of Safaricom IPO. Maybe you should direct him to go and get further information so that he can specifically answer the question Dr. Khalwale has asked. However, after the floating of shares of Safaricom, at the moment, the Vodafone Company has 35 per cent of the stake. Mobitelea, which is still a mysterious company owns 5 per cent of the shares. All other private and foreign investors own 20 per cent which ultimately comes to 60 per cent.

Indeed, that is the threshold for private companies to hold shares in Safaricom. Now, what is the Assistant Minister going to do to ensure that other foreign investors do not go to the Nairobi Stock Exchange (NSE) and buy the remaining 40 per cent of the shares? At the end of the day, you might find Safaricom being a fully foreign owned company?

**Mr. Deputy Speaker:** That was not a point of order, Dr. Kones. You have asked a supplementary question!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Assistant Minister has admitted that he does not have enough information. This issue is so important and so urgent that only yesterday when Safaricom floated its shares on the NSE, within a period of less than 24 hours, the shares have now dropped. I have just listened to the reports from the NSE and it is now Kshs7.15. Yesterday it was Kshs7.35. This matter is so urgent that the audit that the Public Accounts Committee (PAC) has now ordered for should be given an opportunity with full co-operation from the Minister. We need to stop these people with special interests who now want to create panic amongst the people who had invested in Safaricom to the extent that they are forced to dispose of their shares so that they leave Safaricom in the hands of an exclusive club. For your information, the directors of the so-called Alkazar Capital have never set foot in Kenya. We have checked with the Immigration Department. These people have never come to this country and yet, their company has been registered.

**Mr. Deputy Speaker:** Order! Order!

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, would I be in order to---

**Mr. Deputy Speaker:** Order! Order! Dr. Khalwale, the sale of Safaricom IPO was concluded. Up to now, the information you are talking about is only available to you; it is not in the public domain.

Mr. Deputy Speaker, Sir, the House cannot debate information that is not in the public domain - on who has the shares, who won, who lost and what everybody else has. Mr. Minister, you said that you do not have sufficient information on the Kshs68 billion debt, which Dr. Khalwale has mentioned.

Mr. Deputy Speaker, Sir, I stated categorically that it is the responsibility of the House to protect Kenyan investors and Kenyan taxpayers. The Chair rules that you go and bring back a comprehensive answer that takes into consideration all the sentiments that were expressed by Members of Parliament.

Mr. Deputy Speaker, Sir, the Ministerial Statement should be available on Wednesday afternoon, next week.

*(Applause)*

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. Thank you very much for that ruling. I would wish that, as the Minister thinks about this matter, he makes just two considerations:

Firstly, under what circumstances does the issue an IPO---

**Mr. Deputy Speaker:** Order! Order! Mr. Ethuro, you cannot seek any further point of order or clarification on a matter that the Chair has already made a ruling on.

Yes, Mr. C. Kilonzo!

## POINTS OF ORDER

### MEASURES TO ADDRESS FOOD CRISIS IN KENYA

**Mr. C. Kilonzo:** Thank you, Mr. Deputy Speaker, Sir. First of all, I would like to seek your guidance because my request for Ministerial Statements touches on three Ministries. So, with your permission, I would wish to direct my request to the Office of the Prime Minister.

Mr. Deputy Speaker, Sir, currently, the country is experiencing all signs of a looming drought and famine. Most parts of this country which rely on the School Feeding Programmes

(SFP) are threatened.

Last month, the World Food Programme (WFP), which has been the main financier of the SFP in the country, has said that it will cut down its expenditure by 50 per cent because it does not have sufficient funds. So, I would want to know what plans the Government has to ensure that school-going children do not go without food in school, and that they will not drop out from schools.

#### HIKING OF FEES ON LAND TRANSACTIONS

Mr. Deputy Speaker, Sir, my next Ministerial Statement is directed to the Ministry of Lands. Last month, the Minister for Lands directed that the cost of all searches be increased from Kshs100 to Kshs2,500 for an official search and from Kshs250 to Kshs3,500 for personal searches. That cost is out of the reach of an ordinary Kenyan. A sum of Kshs3,500 is more than the salary earned by people who work in the rural areas.

Mr. Deputy Speaker, Sir, we have Land Dispute Tribunals at the constituency level. We also have the District Land Control Boards all over the country. Those two bodies were created by the Government because most people cannot afford to seek justice from the normal court procedure.

In the proceedings of the District Land Control Boards and the Land Dispute Tribunals, searches are required where the ownership of the land in dispute is registered. So, in essence, we are saying that if a poor fellow in the village does not have Kshs2,500 he will not know the status of his title. Apart from that, this directive is going to, obviously, encourage corruption in the Ministry. So, I would want to know why the Minister found it necessary to increase the cost of searches to such very high and unreasonable rates. Secondly, I would like to know whether the Minister consulted the stakeholders in that particular field.

Originally, it would take an average of two to three days to get an official search. Currently, it will take you not less than two weeks to get a search. I want to know why the Minister has decided that it should take longer to get that information. Why should it take two weeks? Finally, most importantly, could the Government re-consider this decision, consult all the stakeholders and agree on reasonable rates?

**Mr. Deputy Speaker:** Mr. Kosgey, I understand and appreciate the fact that the Prime Minister himself does the co-ordination of the Ministries, but he does not always sit or rise in the House unless he does so, on his own volition - However, on a demand by an hon. Member for him to answer on three Ministries, I think Mr. Kosgey, you will have to give an undertaking for the three Ministries.

**The Minister for Industrialization** (Mr. Kosgey): Mr. Deputy Speaker, Sir, I undertake to inform my colleagues, so that they can issue the relevant Ministerial Statements.

#### STATUS OF AGENDA FOUR

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I rise to seek two Ministerial Statements. The first one is just a reminder. On 14th May, 2008, when we adjourned this House, I sought a Ministerial Statement on the status of Agenda 4. The Press gave it a blackout and, obviously, the Government forgot about it. I am just asking for your indulgence. I want to quote paragraphs one and three of the National Reconciliation Accord. Paragraph one of the Preamble states:-

"That, the crisis triggered by the 2007 disputed presidential elections has brought to the surface deep-seated and long-standing divisions within the Kenyan society. If

left unaddressed, these divisions threaten the very existence of Kenya as a unified country. The Kenyan people are now looking to their leaders to ensure that their country will not be lost."

Under the third paragraph of the Preamble of the Accord - a law which this House passed - we have an obligation and responsibility. Paragraph three reads:-

"This agreement is designed to create an environment conducive to such a partnership and to build mutual trust and confidence. It is not about creating positions that reward individuals."

Mr. Deputy Speaker, Sir, if we do not do Agenda 4, that statement will be true on its own merit. It further says:-

"It seeks to enable Kenya's political leaders to look beyond partisan considerations with a view to promoting the greater interest of the nation as a whole. It provides the means to implement a coherent and far-reaching reform agenda; to address the fundamental root cause of recurrent conflicts and to create a better, more secure and more prosperous Kenya for all."

**Mr. Deputy Speaker:** Order! Order, Mr. Ethuro! You did request for a Ministerial Statement before we adjourned, I remember, on the status of Agenda 4.

**Mr. Ethuro:** That is correct, Mr. Deputy Speaker, Sir, but given that there seems to be reluctance, I just wanted to make reference to the matter again. This is not my own agenda. This is an agreement by the two principals.

**Mr. Deputy Speaker:** It is self explanatory!

**Mr. Ethuro:** Given that since the negotiators assumed the positions of Cabinet Ministers, they have not found time to go and meet with the mediators to the extent that there is lack of quorum, is self evident.

**Mr. Deputy Speaker:** Order! Order!

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, when will I get that Ministerial Statement?

**Mr. Deputy Speaker:** Mr. Ethuro, you made your point before. All that you need now is guidance on when that Ministerial Statement will be brought to the House.

Mr. Kosgey, in line with the principle of collective responsibility, could you make an undertaking? Before we adjourned last time, there was an undertaking for issuance of a Ministerial Statement on the status of Agenda 4. When are you going to issue the Ministerial Statement?

**The Minister for Industrialization** (Mr. Kosgey): Mr. Deputy Speaker, Sir, I do apologise on behalf of my colleague, who is not present. Maybe, she has prepared the Ministerial Statement. I will remind her.

**Mr. Deputy Speaker:** Order, Mr. Minister! In view of the seriousness of the business in the House, and the fact that, that is a very sensitive issue, and since there was also an undertaking by the Government side that there was going to be a Ministerial Statement on the status of Agenda Four of Mediation Talks, the Chair rules that, that Ministerial Statement be delivered on Thursday next week in the afternoon. Mr. Kosgey, could you proceed and give that information to your colleague in the Ministry of Justice, National Cohesion and Constitutional Affairs?

**The Minister for Industrialization** (Mr. Kosgey): Mr. Deputy Speaker, Sir, I will do that!

**Mr. Deputy Speaker:** Let us move on to the next Order!

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I still want to request for another Ministerial Statement!

**Mr. Deputy Speaker:** Sorry, Mr. Ethuro!

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, bear with me. The hon. Minister is paid to take note of these points of order!

**Mr. Deputy Speaker:** Just proceed, Mr. Ethuro!

STATE OF AFFAIRS AT LODWAR  
MUNICIPAL COUNCIL

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the state of affairs at the Lodwar Municipal Council. For the last two weeks, nothing has been happening at the Council; it is completely dysfunctional. General revenue is not accounted for, including the LATF money, which was released towards the end of last May. That money has not been accounted for.

Mr. Deputy Speaker, Sir, the Council minutes and resolutions are not available to the councillors, who are not in a position to follow proceedings. Council money is being withdrawn at will by the Council Clerk. Bank signatories have also been changed without a full Council resolution.

**Mr. Deputy Speaker:** Order, Mr. Ethuro! If my memory serves me right, you registered a Question that was approved by the Chair on the same matter. You cannot have a Question and at the same time seek a Ministerial Statement! You are out of order!

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I would be out of order if the two were on the same issue. I am asking about general governance. The Question is asking about illegal withdrawal of specific amounts of money on a particular date using forged minutes. This is not on the same matter!

**Mr. Deputy Speaker:** Order, Mr. Ethuro! When you have time you can come to the Chair and share with it the same concerns. My memory is fresh. The Question was approved this morning. It talks about Lodwar County Council, the forging of signatures and other matters that the Chair should not discuss at this stage, because there is a Question to the relevant Minister.

So, you cannot seek a Ministerial Statement and at the same time have a Question filed and approved!

**Mr. Ethuro:** Thank you, Mr. Deputy Speaker, Sir, for your ruling which I abide by, but I do not agree with!

**Mr. Deputy Speaker:** You are out of order!

Next Order!

## BILLS

### *First Readings*

THE SACCO SOCIETIES BILL

THE NATIONAL ETHNIC AND RACE  
RELATIONS COMMISSION BILL

THE TRUTH, JUSTICE AND RECONCILIATION  
COMMISSION BILL

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

**MOTIONS****ADOPTION OF REPORT OF 118TH  
IPU ASSEMBLY**

**Mr. Wambugu:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-  
THAT, this House adopts the Report of the 118th Inter-Parliamentary Union Assembly and Related meetings held in Cape Town, South Africa, between 13th and 18th April, 2008 and laid on the Table of the House on Wednesday, May 14, 2008.

Mr. Deputy Speaker, Sir, I wish to give a brief summary of the proceedings and the resolutions of the 118th Inter-Parliamentary Union (IPU) meeting. In accordance with Article 11(1) of the Statutes and Rules of the IPU, you, on behalf of the Executive Committee of the Kenya National Assembly Group, nominated five hon. Members to represent our Parliament during the 118th IPU Assembly held in Cape Town. The delegation comprised the following hon. Members:-

The hon. Kenneth Marende, MP, Speaker of the National Assembly and the leader of the delegation,  
The hon. Esther Mathenge, MP,  
The hon. Washington Midiwo, MP,  
The hon. Abdi Nassir Nuh, MP,  
The hon. Clement Muchiri Wambugu, MP,  
The hon. Peris Chepchumba, MP,  
Mr. Michael Sialai, the Principal Clerk Assistant and the Personal Assistant to the Speaker,  
Ms. Anita Thurair, the Principal Clerk Assistant and Secretary to the delegation.

Mr. Deputy Speaker, Sir, on behalf of the members of the delegation, I wish to thank you for giving us the opportunity to attend the international forum. During the conference, we were able to interact and exchange views with Parliamentarians from all over the world, most of whom sent

messages of congratulations and goodwill to the people of Kenya for the newly formed Grand Coalition Government. The delegation had occasion to meet and hold bi-lateral talks with the Deputy Secretary of the United Nations, the Secretary-General of the IPU, the United Kingdom as well as the South African delegations, among others.

The delegation wishes to express its gratitude to the Clerk of the National Assembly for the financial, logistical and technical support provided. Our thanks also go to the High Commissioner and staff of our High Commission in South Africa for their invaluable support and presence during the entire conference. I, therefore, submit the Report to the National Assembly, together with the attached resolutions in accordance with Article 8 of the IPU Statutes, which states:-

"It is the duty of the National Group to submit the resolution of the Union to its respective Parliaments in the most appropriate form to communicate them to the Government, to stipulate the implementation and to inform the Secretariat of the Union as often and as fully as possible, particularly in the annual reports, as to the steps taken and the results obtained."

Mr. Deputy Speaker, Sir, the IPU is the sole international organisation that represents the legislative branch of the government on a global scale. The IPU membership currently stands at 146 national parliaments, and its main mission is to strive for peace and co-operation among peoples, and for the firm establishment of representative institutions.

Mr. Deputy Speaker, Sir, the 118th Parliamentary Assembly of the Inter-Parliamentary Union (IPU) and its related meetings was held in Cape Town, South Africa between the 13th and 19th of April, 2008. The conference was attended by over 1,500 delegates, associate members,

observers, representatives of various organs of the United Nations, including United Nations Children's Fund (UNICEF), United Nations High Commission for Refugees (UNHCR), International Labour Organisation (ILO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), World Health Organisation (WHO), World Trade Organisation (WTO), International Monetary Fund (IMF), Food Agricultural Organisation (FAO), International Fund for Agricultural Development (IFAD), the European Parliament, the African Parliamentary Union, East African Legislative Assembly (EALA), Southern Africa Development Corporation (SADC), among others.

The main objective of the Union is to promote the globalisation of democracy and assist parliamentarians to exercise their shared responsibilities as global custodians of democracy and human rights. This forum enables parliamentarians to get better grasp of international issues, establish personal contacts and strengthen mutual trust through dialogue and exchange of ideas.

Over the years, the IPU Assembly has served to provide the backdrop for parliamentary diplomacy. On numerous occasions, when relations between the executive branches of Government have reached a stalemate, parliamentarians have managed to negotiate a way out of this impasse.

Mr. Deputy Speaker, Sir, the IPU has also become an organisation of parliaments who wish to foster through permanent dialogue, not only the universal establishment of human rights and democracy, but also the joint global elimination of undesirable developments such as organised crime and international terrorism which national governments can no longer counter on their own.

Mr. Deputy Speaker, Sir, the policy making body of the IPU is the Governing Council. At least three members from every delegation can be members of the Governing Council during the Assembly. The Executive Council is the administrative arm of the organisation and it prepares recommendations for action by the Governing Council.

Mr. Deputy Speaker, Sir, during the Assembly, Women parliamentarians hold their separate meetings for at least two days. During which, they deliberate on topical global issues affecting women. They also participate in committee and plenary proceedings.

Mr. Deputy Speaker, Sir, the bulk of the work of the Assembly is usually done in three Standing Committees and delegates can join any Committee of their choice. Committee resolutions are later presented to the full Assembly for adoption and implementation by IPU Member countries. All the Members of the Kenyan delegation actively participated in plenary, committees, meeting of Women Parliamentarians as well as panel discussions.

Mr. Deputy Speaker, Sir, the 118th IPU Assembly was held at the Cape Town International Convention Centre. The inaugural address was delivered by the President of South Africa, Mr. Thabo Mbeki, the Vice-President of IPU, Ms. Komi who was representing the IPU President, Mr. Fernando Cassini, the Speaker of the South African Parliament, Ms. Baleka Mbete, Deputy Secretary-General of the UN, Ms. Asha-Rose Migiro and a video recorded welcome message by the former South African President, Mr. Nelson Mandela.

Mr. Deputy Speaker, Sir, in his address, President Mbeki asked parliamentarians to do everything in their power to intensify the struggle against poverty and underdevelopment, particularly in Africa. He said that it is not right that as half of the world lives in incredible affluence, the other half lives in poor, dehumanising, hopeless and desperate conditions. Parliamentarians, therefore, have an obligation to put in place measures that will restore people's dignity and empower them with resources that will free them from the fear of watching their children die of hunger. He also emphasised the need for nations to make efforts in fulfilling the Millennium Development Goals (MDGs) to ensure global food security, nurture gender equality and enhance the tenets of democracy and good governance.

Mr. Deputy Speaker, Sir, the Speaker of the South African Parliament urged

parliamentarians to continue, not only holding their governments accountable for domestic policies, but also for their actions at international level. She said that it is the view of parliamentarians, all over the world, that they have relegated foreign policy to the executive and failed to ensure that the voices of the people they represent are articulated so as to help their countries foreign policies.

Mr. Deputy Speaker, Sir, in her address, the Deputy Secretary-General of the UN, Ms. Migiro said that to achieve the MDGs, there was need for political will to manifest in legislation and budget allocations. She urged parliaments in developed countries to contribute to government's efforts to honour their commitments to allocate 0.7 per cent of their Gross Domestic Product (GDP) to official development assistance.

Mr. Deputy Speaker, Sir, the Acting IPU President, Ms. Komi emphasised the need for parliamentarians to put in place policies geared towards alleviation of poverty. She also described poverty as the single most acute handicap affecting the world because for the poor the daily struggle for bare survival overshadows all other human aspirations and fulfilment.

Mr. Deputy Speaker, Sir, during the conference, our delegation attended two panel discussions on maternal, newborn and child health; and reconciliation and peace building. As 2008 is the International Year of Sanitation, His Royal Highness (HRH), Prince Willem Alexander, Chair of the UN Secretary-Generals' Advisory Board on Water and Sanitation delivered an address to the Assembly. He reminded parliamentarians about the resolution adopted unanimously ten years ago at the 100th IPU Assembly on water and the means required to preserve, manage and make the best use of this resource for sustainable development. He said that water continues to demand undivided global attention and more effort is, therefore, required to tackle this worldwide crisis.

Mr. Deputy Speaker, Sir, according to UN statistics, 750,000 people are still dying daily for lack of safe drinking water and basic sanitation. Rivers are polluted. There is very high competition between industrial, agricultural, domestic and various other water uses.

Mr. Deputy Speaker, Sir, at the conference there were five major items for discussion; namely:

(i) The general debate on political, economic and social situation in the world with the overall theme of "Pushing back the Frontiers of Poverty";

(ii) The role of parliaments in striking a balance between national security, human security and individual freedoms and in averting the threat to democracy;

(iii) Parliamentary oversight of state policies on foreign aid;

(iv) migrant workers, people trafficking, xenophobia and human rights and emergency item was included. The role of Parliaments and IPU in ensuring an immediate halt to the rapidly deteriorating humanitarian situation in conflict areas and its environmental dimension in facilitating the Palestinians rights to self-determination, particularly by ending the blockade in Gaza and in accelerating the creation of a Palestinian State through viable peace processes.

Mr. Deputy Speaker, Sir, on the issue of pushing back the frontiers of poverty and, particularly, in the Third World countries, Africa has the highest rate of poverty in the world. That is compounded by the prevalence of HIV/AIDS and internal conflicts. They noted that despite many global initiatives geared towards eradication of poverty and encouraging signs, progress has been slow and uneven. The Millennium Development Goals (MDGs) had resolved to reduce poverty and halve the number of people earning less than a dollar per day by the year 2015.

## QUORUM

**Mr. Linturi:** On a point of order, Mr. Deputy Speaker, Sir. I want to bring to the notice of



the Chair that the House has no quorum.

**Mr. Deputy Speaker:** Can you confirm that to us? No, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**Mr. Deputy Speaker:** We have a quorum now. You may proceed, Mr. Muchiri!

**Mr. Wambugu:** Mr. Deputy Speaker, Sir, at the Conference, it was further noted that bad leadership had resulted in unnecessary political conflicts which in turn led to diversion of meagre resources meant to improve the lives of citizens and creating a better world for them. Despite the perennial problems, bad governance, corruption and political instability, Africa has also got vast natural resources and human potential necessary to attain sustainable economic growth if the above, which have been mentioned, have been implemented and are overcome.

In the Steering Committee on Peace and International Security where we were represented by Mr. Abdi Nassir Nuh, hon. Members acknowledged the sanctity of life and freedom as enshrined in the universal declaration of human rights and the obligation of all nations to adhere to them. In recent times, however, the threat of terrorism has pervaded all societies and countries in respect of their social-political systems. The international community was urged to ensure that no country finances or provides shelter to terrorists. The states should, therefore, deal with terrorists in a strong and determined manner using all the force that is necessary.

In the Committee on Sustainable Development, Finance and Trade where we were represented by Mr. Muchiri--- That was a parliamentary oversight of state policies on foreign aid. In most developing countries, the majority of the poor live in the rural areas and are basically engaged in agricultural related activities. In the last decade, there has been massive exodus into urban areas in pursuit of better earning opportunities. That has resulted in rapid development of informal settlements within the cities which has subsequently created a class of urban poor who live in unsanitary conditions with most of their needs often neglected. Parliamentarians noted with concern that although there has been a regular flood of donor funds to developing countries from donor partners, the effects have not had real impact in reducing poverty. Not all the money counted in aid translates in a transfer of resources.

According to statistics, one quarter of aid from donor countries goes to consultants or specialists from the same countries who earn exorbitant fees and whose reports contribute nothing to the real poverty reduction on the ground.

Mr. Deputy Speaker, Sir, on the Committee on Human Rights and Democracy, Parliamentarians noted with concern that humanity is facing a global crisis produced by deep-seated structural conditions of poverty and inequality. It is estimated that the world's population is currently over six billion people, more than half of who live in poverty, disease, unfair global trade regimes, global warming, slow of transfer of ICT and depletion of water resources. That has taken a huge toll on a third of the world's countries.

In the meeting of women parliamentarians, they hailed the great strides women have taken in the last decade and attributed that to gender sensitisation campaigns and democratisation around the world. It was noted that women world-wide are now making their presence felt and are beginning to re-define and set political priorities and agendas.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move and request Dr. Nuh to second.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, I rise to second. First, I want to ask my sisters, the ladies, that they should not tear into us because of having the Mover and the Seconder of the Motion from the same gender. That could be another contentious issue. I want to assure them that

in the selection of the Committee that went to the conference, the Speaker was so fair in his selection regarding gender. We were represented equally, that is we were six to six persons from both sides of gender. Even the Speaker was accompanied by the other legal half. The only thing we could look at is body size and age.

Mr. Deputy Speaker, Sir, the conference enlightened us, as Members of the Kenyan delegation, on what roles Parliamentarians can play to bring this world into one unit that is harmonious, and one unit which can really work together and is aware of every other country. Problems that are within a country have some major global implications on other countries and neighbours. That was a forum where Parliamentarians exchanged and compared notes, and, maybe, revised what their countries were doing in the fields of development and pushing the frontiers of poverty further. One thing that I noted was the phobia that some of the major countries, or the big players in the world, had about institutions that can make some countries act like big brothers and disregard the law totally. I noted that some countries that are called the superpowers are not among 146 members of the International Parliamentary Union (IPU). That raises some concerns. That shows that if institutions were strengthened, the commitment of various member countries regarding human issues, security issues, poverty and development issues from the level of Parliamentarians, or the level of individual parliaments will be enhanced.

Mr. Deputy Speaker, Sir, I heard an hon. Member raise an issue on Persons with Disability Act, 2003. One thing really impressed me. In almost three to four buildings I visited, when I went to the lift, it clearly showed that a lift was for people with disabilities. Do we really have such kindness and concerns for people with disabilities, who are treated in the society like outcasts?

Mr. Deputy Speaker, Sir, the Kenyan Government then was not wholly constituted, and all the problems of post-election violence were not settled. The first day we were ashamed even to mention that we were from Kenya, although we knew that things back in our country were being sorted out. We received bashing from other countries on numerous occasions. When it came to reconciliation, we were compared with South Africa. Everybody knew that Kenya needed some healing. So, we were mentioned alongside the Democratic Republic of Congo (DRC), Zimbabwe and South Africa. People said that Kenya would benefit from the lessons of South Africa and know that the best way to live in a nation was through reconciliation and regarding one another as brothers.

Mr. Deputy Speaker, Sir, I was in a committee that was deliberating on the role of Parliamentarians in striking a balance between national security, human security and individual freedoms in averting threats to democracy. I would want to bring to the attention of hon. Members the fact that this is a critical issue. It is a very critical issue that in fighting terrorism and trying to promote security, we should not endanger the individual freedoms of the citizens of this country. That came out in that international conference. There is so much phobia and fear of terrorism. There are some people who might disregard rights, and when enforcing the law, go overboard and infringe individual freedoms and rights of citizens who are otherwise law abiding.

Issues of maternal and neo-natal healthcare were also discussed in the conference. It was astonishing that the Sub-Saharan Africa was said to have contributed 49 per cent of the world mortality rate, while it had contributed only 22 per cent to the birth rate. I was unable to understand the figures because if we were contributing 49 per cent to the deaths and only 22 to the birth rate, our population should not have grown. It should have gown down. That is food for thought for the people who are better placed to explain statistics.

Mr. Deputy Speaker, Sir, regarding maternal and post-natal health, some countries were rated as having improved. Those countries included Ethiopia, Eritrea, Malawi and Mozambique. Some countries were rated as having increased in neo-natal mortality. I was so concerned that we were not mentioned among countries that were improving. When I came back, there was the zeal

by the Ministry of Medical Services to distribute insecticide-treated nets all over the country. That was one of the aspects that was said would reduce the neo-natal mortalities. I was impressed and thought that in the next IPU conference, Kenya should feature as one of the countries that will have improved in tackling maternal and neo-natal health.

Mr. Deputy Speaker, Sir, the delegation also met a former director of the Research Institute of the South African Truth and Reconciliation Commission to get an insight on how the South Africans coped with Apartheid and how they were able to settle down at the end. Some of the Commission members came up with write-ups on how the Commission performed. There has been debate in this country in the last two or three weeks about whether there should be amnesty, or whether youths should be prosecuted or continue to be held in jail. I would like to urge the hon. Members to look for a copy of a document that explains how the South Africans overcame the race issue, and were able to deal with the issue through the Justice, Truth and Reconciliation Commission, and may be the debate will all of a sudden come to an end.

With those few remarks, I beg to support.

*(Question proposed)*

*(No hon. Member rose up to contribute)*

**Mr. Deputy Speaker:** Silence shows that nobody is interested in contributing to this Motion. So, I will put the question.

*(Question put and agreed to)*

ADOPTION OF SESSIONAL PAPER NO.1 ON  
GOVERNMENT LOAN GUARANTEE  
FROM JAPANESE BANK FOR  
INTERNATIONAL CO-OPERATION

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House approves Sessional Paper No. 1 on Kenya Government Guarantee of AY26.7 billion equivalent to Kshs16.18 billion loan from the Japanese Bank for International Co-operation (JBIC) to the Kenya Ports Authority (KPA) for Mombasa Port Development project laid on the Table of the House on Tuesday 10th June, 2008.

Mr. Deputy Speaker, Sir, the loan is being sought in accordance with the provisions of the Guarantee of Loans Act, Cap.461, Laws of Kenya. The following information is laid before the National Assembly for consideration and approval. The Kenya Ports Authority is a State Corporation established under the KPA Act, Cap.391, Laws of Kenya, and falls under the Ministry of Transport. The Port of Mombasa, which is the gateway to East and Central Africa, is also the principal seaport for the region.

As gazetted under Schedule 2 of the KPA Act, the primary function of the KPA is management of seaports in Kenya, which includes Mombasa, Vanga, Shimoni, Mtwapa, Kilifi, Funzi, Malindi, Kiunga and Lamu. In addition, cargo handling as specified in the KPA tariff constitutes a core activity of the Authority. With the full support of the Government, the KPA has successfully negotiated for a loan of AY26.7 billion or equivalent of Kshs16.18 billion from the Japanese Bank for International Co-operation (JBIC) to finance the Mombasa Port Development

Project. The JBIC is a Government of Japan overseas development assistance bank. The project aims at enhancing the Port of Mombasa container handling capacity to enable accommodation of the project container traffic growth from the current 0.6 million to 2.2 million containers by 2025, consistent with the Kenya's Vision 2030, which was launched today.

The expansion entails established of three new deep water berths to allow much bigger ships, panama size to dock at the Port of Mombasa. The scope of work will include the reclamation of the sea to create 100 hectares of space, civil works for the berths, containers stacking yards, rail terminals and six lane access roads, buildings, purchase of equipment and consultancy services. The first phase of the project is expected to be ready by 2013 and the final phase by 2015. The loan bears an interest rate of 0.2 per cent per annum and carries a ten year moratorium. It has a repayment period of 30 years.

*[Mr. Deputy Speaker left the Chair]*

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

Based on the performance of the KPA, the Authority will be able to meet its debt service obligations. The National Assembly is requested to consider and approve the issuance of Government of Kenya Guarantee for the loan of AY26.7 billion equivalent to Kshs16.18 billion from JBIC to KPA. The current total contingent liabilities of the Government of Kenya in respect to the guarantees given under Section 3 of the Guarantee Loans Act, Cap.461, Laws of Kenya, other than those specified in the Schedule to the Act, amount to Kshs24.7 billion. This request for guarantee of a sum equivalent to Kshs16.18 billion will increase the aggregate amount to Kshs40.9 billion, which is within the ceiling of the guaranteed debts of Kshs80 billion set under subsection 33 of the Act.

With those few words, I beg to move and invite hon. J. Nyagah to second.

**The Minister for Co-operative Development and Marketing** (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, I stand to second this very important request for a guarantee to be issued to the Japanese Bank for International Co-operation. As we all know, very often the Port of Mombasa is almost an embarrassment to Kenya. The Port of Mombasa has been of great disservice to the region. We have heard complaints from our neighbouring countries such as the Democratic Republic of Congo, Rwanda, Burundi, Uganda and Southern Sudan. This shows how serious the port is a constraint to the development of these countries.

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

*[Mr. Deputy Speaker resumed the Chair]*

It is also a disappointment on many occasions to the Kenyan economy because of the delay it takes to clear ships and goods at the Port of Mombasa. If you compare the Port of Mombasa with other ports in the world such as Singapore and Dubai, you will see that it takes two weeks to clear goods through the Port of Mombasa. In those other countries, which I have just mentioned, it takes only two days to clear the goods. I do not want to say that it is only equipment that is a problem. There are other problems facing the Port of Mombasa other than old equipment and lack of facilities to enable it handle modern ships that come through.

Mr. Deputy Speaker, Sir, this loan, therefore, would go a long way in dealing with the

aspects of port management which is faced by lack of equipment. The KPA, and indeed, our country and other countries within the region will benefit greatly. Of course, we want to see the development of a major port in Mombasa. We would like to see duty free facilities developed at the Port of Mombasa so that it becomes like other modern ports of the world where duty free is a major foreign exchange earner and major attraction to businesses.

Mr. Deputy Speaker, Sir, in the Ninth Parliament, Mr. Balala brought a Motion to this House seeking to make the port of Mombasa a free port. This loan should go a long way to improve the facilities as we prepare, as a nation, to convert the Port of Mombasa into a duty free port.

I, therefore, second and ask this House to approve this very important guarantee. Japan has been a friend to Kenya. This loan will help us to modernise the port and handle more containers. As my colleague, the Assistant Minister for Finance, has just stated, this fits very well within the Vision 2030, which was launched today. Without improving the Port of Mombasa, it is difficult for us, as a nation, to develop.

**Mr. Wambugu:** On a point of order, Mr. Deputy Speaker, Sir. This is a very important Motion and because of its importance, it requires a big number of Members to be present, especially when we are dealing with finances of this country.

Mr. Deputy Speaker, Sir, I would propose that this Motion be adjourned until we have a good number of Members in this House to discuss it.

**Deputy Speaker:** Order! Are you moving that debate on this Motion be adjourned?

**Mr. Wambugu:** Mr. Deputy Speaker, Sir, I move that this Motion be adjourned.

**Mr. Deputy Speaker:** Fair enough!

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, I am seeking your indulgence whether this is in accordance with our Standing Orders. Our Standing Orders state that any debate, unless it is a constitutional amendment, only requires a quorum. If there is a quorum - this is a guarantee - then I do not see any reason why there should be an adjournment.

**Mr. Baiya:** Mr. Deputy Speaker, Sir, I also wish to support that Motion of Adjournment. Much as I would agree with the Minister that the Bill is simply a guarantee, it is also a matter of fact that the amount of money involved is quite colossal. It is only fair that it is discussed when majority of hon. Members are present.

I am supporting the Motion to adjourn this debate to another day when all hon. Members are in the House.

**The Minister for Regional Development Authorities** (Mr. Gumo): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member is out of order. There is no way we can adjourn when the Motion is going on. As long as there is quorum, we have to continue discussing it. However, if there is no quorum, there could be a genuine reason. Otherwise, he is out of order.

## QUORUM

**Mr. Murgor:** On a point of order, Mr. Deputy Speaker, Sir. I do not think that the House has enough quorum. Therefore, we should adjourn the Motion.

**Mr. Deputy Speaker:** Fair enough! Considering the weight that has been put in seeking for the adjournment of the Motion, Clerks-at-the-Table, could you count the hon. Members in the Chamber and see if we have a quorum?

Please ring the Division Bell. We have no quorum!

*(The Division Bell was rung)*

**ADJOURNMENT**

**Mr. Deputy Speaker:** Order, hon. Members! In view of the fact that the House does not have a quorum, this House is, therefore, adjourned until tomorrow, Wednesday, 11th June, 2008 at 9.00 a.m.

The House rose at 5.30 p.m.