

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd April, 2014

The House met at 9.00 a.m.

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

PRAYERS

QUORUM

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

(The Division Bell was rung)

Order! Hon. Members, we are now ready to transact business. You may start.

PETITION

DELAYED PAYMENT OF BENEFITS TO
FORMER EMPLOYEES OF DEFUNCT EAC

Hon. (Ms.) Nyasuna: Thank you, hon. Deputy Speaker. I would like to read this Petition on behalf of the former employees of the defunct East African Community (EAC) on delayed salary payment and other benefits due to them.

We, the undersigned, who are residents of the Republic of Kenya draw the attention of the House to the following: On 29th May 2013, we presented a Petition to the Chairperson of the Budget and Appropriations Committee on the above matter. Whereas regrettably we have not received any communication from the said Committee; whereas the sudden collapse of the EAC on 30th June 1977 left over 4000 former employees of Kenyan origin jobless and with no payment made to them; whereas following an agreement by the three partner states of Kenya, Uganda and Tanzania to share assets and liabilities of the collapsed Community a mediator was appointed to spearhead the equitable division of these assets and liabilities - the mediator completed and submitted his report on 28th October 1981; whereas on 29th September 2010, the then Deputy Prime Minister and Minister for Finance, constituted a taskforce to inquire into the claims by the staff - the task force came up with many findings, key among them was the settlement by payment of other benefits due to staff; whereas the pension and benefits have been paid to the entitled, the other benefits due to them by virtue of their employment with the defunct Community have remained unpaid since its break up on 30th June 1997 to date.

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Therefore, your humble petitioners pray that; one, the National Assembly appropriates and approves the settlement of an amount of Kshs.14 billion to settle claims of unpaid payment and other benefits to the employees of the defunct East African Community; two, the payments to the employees be effected within the 2014/2015 Financial Year; and three, the payments be made within the first half of 2014/2015 Financial Year.

The petitioners are:- Blasio Ondiek - EAPTC; Paul O.L. Orango Nyoturu – EAPTC; Joseph N. Gathu - GFS; Isaac D. Amuma - EARC; John W. O. Owili – EACC; Paul Mukuria - GFS; and John M. Nganga – GFS.

Hon. Deputy Speaker, I beg to table this Petition alongside the East African Community Mediation Agreement of 1984 and the East African Community Mediation Agreement Act, Chapter 4, the revised edition of 1988 for ease of reference by the Committee.

I beg to table.

(Ms. Nyasuna laid the documents on the Table)

Hon. Deputy Speaker: Okay, the Petition shall then be forwarded to the relevant committee, the Committee on Regional Integration which shall then process it in the way we understand following our Standing Orders.

Yes, what is your point of order? Who is that, is it hon. Mbadi?

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. I just wanted to make a small contribution to this Petition. I think as a country we need to protect the interests of our citizens, if they worked under some arrangement but where Kenya Government was involved. It is a pity that you can get our citizens crying after so many years after leaving the service of East African Community. They did not get what they were entitled to, yet in our books every year you find Kenya Government providing money for pension for some staff who worked during the colonial period, and who are not even citizens of this country, which we cannot even audit. It is really a pity that as a country we are not taking interest in the welfare of some of our citizens.

Thank you.

Hon. Deputy Speaker: Okay, that is a matter that has been pending for very many years; the question of the East African Community workers, and we hope that we will get a good response to this Petition. It is a prayer by those former workers to our Committee Members.

Next Order. Is that point of information hon. (Dr.) Eseli?

Hon. (Dr.) Simiyu: Hon. Deputy Speaker, as hon. Mbadi has said and as you have reiterated yourself, this is a very important matter which involves Kenyan citizens who did not receive any benefits. I was just wondering, given that you have ordered this to be under the Committee on Regional Integration, might this not delay the matter further? I am not sure whether that Committee has been constituted yet, and in case it has been constituted, is it the right Committee considering that this actually involves the people who worked with the East African Community (EAC) then? When it goes to the Committee on Regional Integration when it is constituted, will they be able to adequately tackle it? Now it is not an East African matter because various other probes and inquiries have already been done. It is actually a Kenyan matter and it is good to find out whether

there is money in the Exchequer to compensate them. So, I was wondering whether the Committee on Regional Integration is the only committee relevant to this or should we involve also the finance committee?

Hon. Deputy Speaker: Okay; this point of order, does it relate to the same question by hon. Bosire? Standing Order No.227 does allow us to make comments but we should not exceed half an hour on a petition. Hon. Bosire, is it on the same?

Hon. Bosire: On a point of order, hon. Deputy Speaker. Just to put the record straight, the Committee on Regional Integration is in place and operational. When the matter comes to our Committee, we will handle it formally and properly.

Hon. Deputy Speaker: Okay, I see you are an enthusiastic member of the Committee; your Chair is also here; maybe she can also make a comment.

Hon. (Ms.) Kajuju: Thank you, hon. Deputy Speaker. I am surprised that our senior hon. Member is not aware of this Committee, yet it has tabled various reports before this House. We have been in existence in the 11thParliament; we have been carrying out our mandate under Standing Order No. 221. Although I understand that this problem is historical, this Committee deals with East African issues. It will be best placed to deal with the matter and I promise the hon. Member and hon. Wanga that we will give our best to this Petition to ensure that the matter is settled once and for all. Rest assured.

Hon. Deputy Speaker: Should you, of course, require the assistance of the Committee on Finance, Planning and Trade, you should always know that there is nothing stopping that Committee from prosecuting the issue.

Hon. Members, are these points of order related to this matter because we need to move on? I see one by hon. Amina Abdalla; is it on the same? I see another by hon. Sambili. Okay, hon. Amina.

Hon. Abdalla: Hon. Deputy Speaker I also urge the Departmental Committee on Regional Integration to consider financial assistance in terms of medical assistance to some of these retirees. I grew up in an estate where staffers who worked for the East African Airways lived. I am continuously being called for *Harambees* to cater for their medical bills. If you give them that assistance, it will be helpful.

Hon. (Prof.) Sambili: Hon. Deputy Speaker, I rise to support this Petition. It has been 37 years during which these people have suffered this loss. I was a Minister for East Africa Community in the last Parliament and this issue came up. I think there was a Question asked here but I do not think we had time to answer it before the dissolution of that Parliament. In the EAC, Kenya is a country that is well ahead. It is an embarrassment for those people to suffer. The Committee should look at this issue expeditiously. I support the inclusion of the Departmental Committee on Finance, Planning and Trade, so that they can get their money and live like other people. They contributed very well to the development of the region at that time. So, I support this matter as somebody who interacted with some of those people in the last Parliament.

Hon. Njagagua: Hon. Deputy Speaker, I will say what Prof. Sambili was saying to avoid wastage of time. Will it be in order if I sought your guidance that you refer this Petition to both the Departmental Committee on Finance, Planning and Trade and the one on Regional Integration, so that they thrash out any outstanding issues once and for all? This is because if the matter is just referred to the Departmental Committee on Regional Integration, they may do their work and will have to send it to the Committee in charge of

finance to seek finances, or seek guidance from the National Treasury. This is my proposal; if my request finds favour with you, I am certain you will grant it wise directions; let that Petition be referred to both committees. As other people have said, these are Kenyans who worked for Kenyans. They gave all their best to the Kenyan community. Up to date, many of them have not been paid their dues. Some have died. We will be talking about grandchildren getting their payments. Others are being afflicted by diseases as they think of how to get their money from the Government. So, it is high time that this matter was settled once and for all.

(Hon. Gichigi stood up in his place)

Hon. Deputy Speaker: Hon. Gichigi, remember we want to dispense with this.

Hon. Gichigi: Hon. Deputy Speaker, we have a new dispensation and it is high time this House realized the powers that are vested in it when it comes to budget-making. It is well when we represent our people and complain on their behalf, but the power to make the budget is here. The Treasury will make proposals but this is the House that is going to say where the money is going. Just the other day we dealt with the Budget Policy Statement (BPS) and we are in the process of getting the Budget Estimates. If we want to pay this money to those poor people who have suffered for a long time, let the Committee that is dealing with this issue hurry up, make proposals, bring them and my colleagues will make the decision and it is going to be final. Let us not leave things that are within our power to other people and keep on lamenting in this House. Let us do it; we have the power.

Hon. Deputy Speaker: Thank you, hon. Gichigi for reminding us what is properly before us. Hon. Members, in the interest of time, I will make the decision that we have a joint committee and remember to be guided by Standing Order No.227, which gives you 60 calendar days. No more than 60 calendar days to deal with the matter and come up with a report. Let us have a joint committee, so that we fast track it because we want to be talking about finances as well as other issues that will be raised with our Departmental Committee on Regional Integration.

I see the Chairman of the Budget and Appropriations Committee; it is only fair that he gives some words of wisdom on this matter.

Hon. Musyimi: Hon. Deputy Speaker, thank you. I am just wondering as I support the Petition before us whether it is the Departmental Committee on Finance, Planning and Trade we are talking about or the Budget and Appropriations Committee. I just find myself wondering; I will stand guided.

Hon. Deputy Speaker: I will put it to the Departmental Committee on Finance, Planning and Trade, which will then bring a budget to the Budget and Appropriations Committee after the two have thrashed out the issues. Unless you see it otherwise, I thought the two committees can bring their budgets to you after they have agreed on exactly what they want to present. That is my understanding of it. So the committee that will work on this matter will be the joint committee of Regional Integration and the one in charge of finance; they will present a budget after they have agreed on it.

NOTICE OF MOTION

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UNDERTAKING OF COMPREHENSIVE SOIL SURVEY

Hon. (Dr.) Ottichilo: Hon. Deputy Speaker, I beg to give notice of the following Motion:-

THAT, aware that soil productivity is dependent on its type and fertility levels among other factors; further aware that soil fertility in most of our country's high potential areas has been significantly eroded due to long term and continuous use of chemical fertilizers which have led to the general acidification of the soils and consequently drastic decline in food production per unit area; concerned that the current Government food security strategy is focused mainly on increasing food production through intensified use of traditional chemical fertilizers regardless of their type and long-term impact on the soils; aware that the Government plans to establish a fertilizer factory in order to fast track the achievement of the said strategy; further aware that there is increasing use of organic rather than chemical fertilizers in food production, this House resolves that the Government should urgently undertake a comprehensive national soil survey to determine its current status which will then inform the types of remedial measures to be taken to improve its fertility and what types of appropriate fertilizers will be used to sustainably improve the production of diversified food crops in different areas.

STATEMENTS

IRREGULAR EXPORT OF GOLD

Hon. Deputy Speaker: Hon. Members, we have six responses to Statements as you can see on your Order Paper. We want to see how to manage this well. This is your morning. Remember this is Private Members' Bills and Motions morning and if we spend all the time on responses, we will not have enough time. We have hon. members complaining all the time that we have not seen any Private Members' Bills being completed. Part of it is that we spend more time on Government Bills and responses. So, can we try to manage the number of clarifications that we will be seeking on the various Statements that are being responded to?

Let us start with the Chairperson of the Departmental Committee on Environment and Natural resources regarding irregularities in gold exports.

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), hon. Shill sought a Statement from the Chairperson of the Departmental Committees on Environment and Natural Resources and that of Finance, Planning and Trade regarding the mining of gold in Kenya. The Member stated that there are only two gold mining companies, namely Karelion Gold Mine Limited and Kilimapesa Gold Limited. He added that the amount of gold produced by those two companies is a mere 50 kilogrammes per year. However, two companies, namely Skyhawk International Limited and Ushindi Export Limited were allegedly exporting 1,200 kilogrammes of gold per month out of the country.

He expounded that those two companies purported to be exporting gold to the United Arab Emirates (UAE). In his request, the hon. Member had asked the two Committees to respond to the following:-

(i) the total amount of gold exported by Ushindi Exports Limited and Skyhawk International Limited since 2005 and the receipts showing where it was bought and sold;

(ii) the companies in UAE that Skyhawk International and Ushindi Exports Limited were trading with;

(iii) the amount of duty and tax paid by Ushindi Export Limited and Skyhawk International to KRA from 2005 to date, indicating date of returns made by the two companies as required by the law;

(iv) the reasons for those companies exporting gold and transacting in cash instead of transferring funds through banks as is the norm for any export proceeds;

(v) why the two companies do not use official monetary declaration forms at the Jomo Kenyatta International Airport but are using counterfeit forms that are not quadrupled as required by the law;

(vi) whether, as shown by those counterfeit forms, the agents of those two companies are Menephis Stores of airlines EK721 and 722, which they claim to have used frequently to enter the country;

(vii) an explanation for cash amounting to US\$40,000,000 per month transiting through Jomo Kenyatta International Airport without security or those sums of cash being banked;

(viii) an explanation for the possibility of those large amounts of dollars being used to fund terrorism, purchase of smuggled arms or money laundering.

In its enquiry into the goldmine business by the two companies, the Committee received submissions from the Cabinet Secretary for the National Treasury and the Cabinet Secretary for Mining. The Committee also received oral evidence from the Commissioner of Mines and Geology, the Director of Criminal Investigation, the Directors of Ushindi Limited and Skyhawk International Limited and the Executive Director of Concern Citizens NGO and the MP for Fafi Constituency. At the time of this Statement request, the Committee on Finance, Planning and Trade had three major Bills to review and we made a decision that they would let the Committee on Environment and Natural Resources do the investigations considering that, as many Kenyans know, we were curious about what was happening in the mining sector, because we could not understand why the Jubilee Government formed a Ministry of Mining. We had five sittings and the evidence we received was as follows:

The hon. Member has the minutes. We received written submissions from the Treasury that gave us the figures on the tax that was paid. The letter from the Ministry of Mining was not convincing, and so we had to call the Director of Mines and Geology to give us an oral presentation on the information that they had. But of more substantive value was the input from the Criminal Investigation Directorate (CID) on the investigations that they had carried out on the matter. We were informed by the Director of CID that the investigation on the conduct of those two companies started on 22nd May, 2013. That was when the Director of Flying Squad started investigating the activities of those two companies. An Inquiry File No. 8 of 2013 was opened and an investigator started gathering information.

Both those two companies are duly registered and have special dealers licences issued by the Commissioner of Mines and Geology. The two are sister companies operating under the chairmanship of Mr. Nagin Chandra Pattni, and carry on their business from their offices located on the 5th Parklands Avenue, House No. 19. In their recorded statement, the companies allege that they buy gold from artisans or miners and collect it from all over the country. They also buy some of their gold from Congolese, Tanzanians and Ugandan merchants. Mr. Nagin also informed the investigators that they had received a letter waiving the requirement that they comply with Section 11 of the Trading in Wrought Metals and Precious Metals Act, Cap 307, which requires that traders maintain a register of all suppliers of gold. They claim some miners did not want their names to be disclosed since they were not licensed. The Director of CID also said that he had established that the two companies had exported a total of 13.08 tonnes of gold worth Kshs.37 billion since 2005. The Director brought us copies of the letters of waiver given by the three previous Commissioners and the current Commissioner of Mines, allowing those companies not to register the persons they were buying gold from. The investigations also revealed that KRA had given a tax demand note of Kshs.2.8 billion to the said companies, but this only happened after the commencement of investigations.

The CID looked at the export entries for the whole of 2013 between February and May 23rd, and showed that those companies had exported 537,742 grammes, equivalent to 536 kilogrammes, during that period. The directors of the two companies as I stated before are:- for Skyhawk International - Mr. Dhanek Vishal Rasikhlalal and Mr. Frank Ng'ang'a Gikonyo. The ones for Ushindi are Hamid Kumar Pattni, Arvindkumar and Rameshkumar Vidhaldal Ghaghada and they are all registered.

Finally, the investigations were still ongoing. That is the evidence we received from the two. On the issue of the directors for Ushindi, we had a lengthy discussion with them. They told us what we had already heard about their registration and where they are based. We were more interested in why they were using cash transactions and not banks. The Committee was unconvinced about their justification that they were avoiding paying commissions in the bank, and that was why they were not using the banks. Their justification for not using banks was not convincing.

On the other issue about tax compliance, they said that they had been receiving certificates of tax compliance and KRA only gave them this claim for Kshs.2.8 billion after the beginning of the investigations.

The other person we received evidence from was a Mr. Badley Oyuna, who had claimed that Parliament had refused him giving evidence on this matter. There is an issue that Parliament needs to address because some members of the public want oral representation. They do not know that we need to receive written submissions before they do so.

The evidence from Mr. Oyuna was basically similar to what we had received and, in the end, he refused to sign a letter that we had, and which had not been signed by him. At the end, we did not receive any new evidence that could help the investigations.

Finally we received evidence from hon. Shill in which he wanted us to conclude the investigation immediately and highlighted that, that gold was definitely not from Kenya, and that photocopies were not the right documents to use. He also showed the

magnitude--- In fact, he gave some interesting information that those companies were transporting a pick-up load of gold. Something should sound suspicious.

Finally, our findings are as follows:-

(i) Regarding the total amount of gold exported since 2005, the two companies exported a total of 13.8 tonnes of gold and the transactions were allegedly recorded by the Commissioner of Mines and Geology.

(ii) The Committee was also furnished with the names of companies in the UAE which have been trading with the two companies.

(iii) The total amount of duty paid by the two companies since 2005 was Ushindi Exports Ltd. – Kshs15,824,557 and Skyhawk International Ltd. - Kshs6,807,192. Both of these amounts are self-assessed.

(iv) Regarding the use of cash transaction, the companies had alleged that they opted not use banks in order to cushion their monies against bank charges and commissions and that most banks do not have enough supply of dollars as may be demanded at the time of transaction.

(v) On the reason why the companies are not using official monetary declaration instrument, the Committee found that the current declaration forms at the port of entry and exit is done using the currency declaration form, CBK/CD/1. However, the forms are allegedly out of production. The Kenya Revenue Authority (KRA) has been using photocopied forms of the same pending issuance of new forms by the competent authority, which is the Financial Reporting Centre as provided for in the Proceeds of Crime and Anti-money Laundering Act.

(vi) Regarding their agents in the UAE, as shown in the counterfoil forms, the Committee could not confirm whether their only agents were Manephis Stores as the evidence was that most gold in Dubai is sold in an open market.

(vii) On the claims that US\$40 million is transited through the Jomo Kenyatta International Airport (JKIA) on a monthly basis and the possibility that these large amounts could be used to fund terrorism, purchase or smuggling of arms or money laundering, the Committee found that the activities of the two companies are under investigation by the Criminal Investigation Department (CID) and the Central Bank of Kenya (CBK).

Our observations are that:-

(i) The Ministry of Mining has no official geological survey data on occurrence of gold in Kenya. In the absence of this data, it is difficult to ascertain the fact about the quality and economic viability of gold in Kenya.

(ii) The Trading in Unwrought Precious Metals Act of 1933 and the Mining Act are inadequate to regulate and promote mining activities in the country. The two laws do not address the current opportunities and challenges in the sector.

(iii) There are neither royalty levies paid at that point for gold mining nor export levies on the gold produced in the country. The gold transactions by the two companies did not yield significant value to the Exchequer.

(iv) The Commissioner of Mines and Geology, as a matter of fact, could not ascertain the amount of gold produced in the county and more specifically the origin and quality of gold exported by the two companies since he had no official data artisanal miners in Kenya.

(v) The two companies self-assessed their sums and hardly did the KRA conduct monitoring and audit to ascertain the tax due to the Government. It was only after the Committee started its investigation that the KRA sent a demand note of Kshs.2.8 billion.

The Statement is long---

Hon. Deputy Speaker: Hon. Amina, we do not have a copy of your Statement. So, I have no clue how long it is.

Hon. (Ms.) Abdalla: There are one-and-a-half more pages, hon. Deputy Speaker.

Hon. Deputy Speaker: Please try to summarise. I think you have done a good job.

Hon. (Ms.) Abdalla: It is okay, hon. Deputy Speaker.

Let me then move on to the recommendations. The recommendations of the Committee are:-

(i) The overhaul of the Mining Act and the Trading in Unwrought Precious Metal Act to fully explore and regulate the mining sector for the economic benefit of the country.

(ii) The Office of the Director of Public Prosecutions should consider charging the Commissioners of Mines and Geology for the violation of Section 3(d)(3) and Section 11 of the Trading in Unwrought Precious Metals Act and abuse of office contrary to Section 101(1) of the Penal Code. The Directors of the two companies should also be charged for failing to keep registers consistent with Section 11 of the Trade in Unwrought Precious Metals Act.

(iii) Investigations conducted by the CID and the CBK regarding the possibility of money laundering by the two companies be expedited and concluded in order to lift the moratorium placed on gold exports in Kenya.

(iv) The Ministry should recognize, legalize and formalize artisanal mining in Kenya. I should also provide incentives to the miners and also guarantee their safety and security during their operations.

(v) A levy on export of gold and all other minerals should be formalized and create a water-tight framework in order to prevent document manipulation, tax evasion and fraud in the sector.

(vi) The Ministry of Mining should put in place strict guidelines for the exploration of gold and other unwrought precious metals. The officers in the Mines and Geology Department should be equipped with appropriate training to be able to isolate gold from other materials.

(vii) The KRA should re-assess the conduct and value of gold export transactions by the two companies to recover any taxes due to the Government.

(viii) Although the provisions of the CBK require that a person with foreign currency declares it at the point of entry, the Committee recommends payment transactions involving gold exports be channeled through commercial banks.

Thank you.

Hon. Deputy Speaker: I will give the first opportunity to the owner of the question to seek clarification.

Hon. Shill: Hon. Deputy Speaker, first, I take this opportunity to thank the Chairlady, Departmental Committee on Environment and Natural Resources.

This is a very serious issue. This is Goldenberg II. The architect of Goldenberg I is the same architect of Goldenberg II. There is no way that 13.8 tonnes of gold can pass through the JKIA--- There is no way US\$40 billion can pass through the JKIA without the knowledge of the Governor of the CBK and the Commissioner of Customs. This is a syndicate where banks and forex bureaus are colluding so that they pass through dirty money. This is the money that is being used for drugs, money laundering and terrorism. If the Commissioner of Mines and Geology can say that 13.8 tonnes of gold is produced in Kenya, he can as well say that 13.8 tonnes of uranium is produced in Kenya.

The Kenya Government only got a paltry Kshs.23 million---

Hon. Nooru: On a point of order, hon. Deputy Speaker. Hon. Shill is a very senior Member of this House. Of late Members have been making allegations in this House and they get away with it. Could he substantiate that the same money has been used to finance terrorism?

Hon. Shill: It is simple, hon. Deputy Speaker. Terrorists love where they can get money very easily. If---

Hon. Deputy Speaker: But the hon. Member's assertion is that if you cannot provide evidence, do not make assertions that cannot be supported by evidence.

Hon. Shill: Hon. Deputy Speaker, this country is governed by rules. Parliament has passed what we call "Anti-Money Laundering Bill". How can we allow Kshs.38 billion in cash to pass through the JKIA without anybody in authority knowing? My clarification is that we are told that the CID is investigating. They took evidence in June last year. How long does it take for the Director of the CID to investigate simple things? The second clarification is: Why did the Committee not call the Governor of the Central Bank of Kenya and the Commissioner of Customs? They issued a Kshs.2.8 billion demand note after my question.

Hon. Deputy Speaker: Can we get three requests for clarifications and then the Chair answers at once? That will be the end of it? Is there any other clarification on this matter and not on a different one? Members, we will have to share the time. I will give hon. Eseli a chance.

Hon. (Dr.) Simiyu: Hon. Deputy Speaker, I would like the Chair to also clarify something. There is something interesting here. These people have exported 27 tonnes of gold out of this country. Their tax payment is very minimal; certainly, they get a tax bill of over Kshs.2 billion. Could the Chair clarify whether they called the Commissioner-General of the Kenya Revenue Authority to clarify how they arrived at Kshs.2.4 billion on 27 tonnes of gold? There is some fraud and money laundering going on. We should not just scratch the surface.

Hon. Gichigi: Hon. Deputy Speaker, my clarification is whether the Committee investigated the imports of gold into this country to confirm whether, indeed, what was imported might have a bearing on what was purportedly exported by these two companies. Two, I can see that this is like a joint effort of two committees. Did the Committee investigate the impact of money that comes into this country as cash and is not accounted for? Finally, did the Committee on Environmental and Natural Resources find it wise to find out whether fraudulent activities are being carried out by other purported exporters of minerals in this country?

Hon. Kombe: Hon. Deputy Speaker, I am somehow disappointed because when we expect the KRA to make sure that there is no corruption, they are the first people to use photocopies of some revenue collecting firms. It is quite disappointing. Could the Chair clarify what led to the KRA using photocopies? How sure are we that they are not producing more photocopies for their own use?

Hon. Deputy Speaker: Hon. Kamama, and finally hon. Nyikal, so that we can move on.

Hon. Abongotum: Hon. Deputy Speaker, this is a very serious corruption case. We are talking of Goldenberg II; 1993 we had Goldenberg I; that was when the problem started. This economy started deteriorating in 1993; the value of the shilling went down and from that time, we have had the highest cost of living since Independence. This is a serious matter. I want the Chair to clarify whether it is possible to convert this into a report that can be tabled in this House, so that Parliament can debate it. When you are talking of Goldenberg II, we need to know whether the Commissioner of Customs and the two directors will be charged. We want to know all the details pertaining to this case.

Lastly, I want the Chair to confirm whether it is illegal to do this business. It is not illegal to do gold business. We have small quantities of gold in West Pokot, some parts of Kakamega and Nyatike in Nyanza. So, is it really a problem for Kenyans to do this business? Is it illegal? I do not even see the illegality even of getting gold from Congo and Tanzania if these people pay the correct taxes. Is it illegal to do gold business?

Hon. (Prof.) Nyikal: Hon. Deputy Speaker, this amount of money is being transacted as cash within the mining system and is linked to the banking system. Are there laws and legal frameworks that forbid that amount of money being transacted in cash? If those laws were broken as far as the Committee is concerned, why are we recommending very mild measures as part of the investigations instead of reporting a crime that should lead to prosecution?

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, let me begin with the end because it will build up the case.

On the issue of transaction, the problem we are having is that the requirement at the port--- There is a loophole that you just need to fill in that form and declare the money has arrived. We then found out from the investigations that the money is then transported by Wells Fargo to their premises. It then disappears there and no banking takes place. They do not have a transaction after that. That is the loophole that as a Committee of the House--- Even if you gave us more time, we would not have been able to do that kind of investigation. We cannot and we have to pass it over to the competent authority that is already dealing with the matter.

Secondly, we come to hon. Kamama's question, which is: Is transacting in gold illegal? The answer is no. The problem with that transaction is that after Goldenberg, there was an amendment that zero rated gold exports. So, these people export gold but they are not paying levies. It is only the other day that the Minister gazetted some crazy levies. Before that, there was no levy. It is not illegal and there is no levy. We reached the stage where the person has sent money and the money has come back from the other side. The form that is used is a photocopy; that is not the right document. We passed the Anti-Money Laundering law. That is not the right form and this has been going on for a long

time; but since the Government has not given another form, that is the legal form that is being used. How do you prosecute? We are passing laws that we are not monitoring, and so they are not being implemented. That answers hon. Kombe's question on why they are using photocopies.

On the issue of why we did not call the Governor of the Central Bank, even the evidence we received from the CID was in camera because it was evidence of an investigation that is still pending. They showed us the issues that have been raised and we felt that raising it directly with the Governor when he is being investigated, would just be meddling in something that the Executive is already dealing with.

On the issue of why we have not concluded the investigation, it is for them to conclude and report to us. Maybe we could have this, as suggested by hon. Kamama, as a report and then we can give them a timeline for the report and then we can be in a better position.

Of importance is this declaration by KRA to charge them Kshs.2.8 billion. It means that either KRA are not doing their job in reviewing, what people self-assess. This is because you cannot have somebody doing a business and earning Kshs.37 billion and paying Kshs.17 billion and they do no countercheck. The issue to look into is the subject of the investigations by the CID. That kind of investigation cannot be conclusively and accurately done by 29 members who do not have the resources. I would, maybe, change this into a report that is passed by the House because it is signed.

(Applause)

I can table it, but to require a committee to investigate is to give them a job that is not theirs.

Hon. Deputy Speaker: Hon. Bare Shill.

Hon. Shill: Hon. Deputy Speaker, I would like to conclude by this, I know when we say police are going to investigate, it will not work because I know the inquiry file is with the Director of Public Prosecutions. He has been looking for the Governor of Central Bank who has refused to give any statements. The best thing is that we give this to the Auditor-General to look into that money which has been going in and out. This is because there was no gold that was bought from Kenya; if there was, it was from Congo. Let the Chair table the report we debate it; at the same time, let the Auditor-General be given the job to investigate this money.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you; that is exactly what I will be ordering. Order Members! I would like to order that this matter be referred to the Auditor-General. His report will come to Parliament and it will be forwarded to PAC, which is an investigatory committee in this House. They can work together with the committee which has done a very good job, even given that they are not experts on this. We want to congratulate them for doing a good job.

I now ask the Clerk to forward this matter to the Auditor-General to carry out a special audit that will then be processed the way we have been processing reports here through the PAC.

Hon. Members: Time frame!

Hon. Deputy Speaker: Three months should be sufficient.

Hon. Members: Two months!

Hon. Deputy Speaker: Two months should be sufficient to do the full report.

Hon. Kathuri, what is your point of order?

Hon. Murungi: On a point of order, hon. Deputy Speaker. You realize the sensitivity of this issue. When this Statement was sought by hon. Bare Shill, it was committed to two committees of the House by the Speaker. I need your guidance, whether it is in order for the committees to again make some kangaroo decisions, and one committee removes itself from the duty, which was assigned to it. We have heard that most of these issues touch on trade and finance. Why is this committee dilly dallying on this issue and saying they are busy when all committees are busy? Is it corruption fighting back? Is it that some people are not interested to investigate this issue, so that Kenyans can really know what is happening in this gold trade?

Let this committee also be committed, as we do the report. I am a Member of the Committee on Environment and Natural Resources. Let this committee also be part of us, so that we can tell Kenyans what is happening.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Are you talking about the Committee on Environment and Natural Resources?

Hon. Members: Committee on Finance, Planning and Trade.

Hon. Deputy Speaker: The Committee on Finance, Planning and Trade has not been part of you in this process? Let us not come and wash our dirty linen here in the House, Members. It was committed to both of them; so, we presume that this is a report from the two committees.

Members, as we have said, we are referring it to the people with the mandate of carrying out this work, that is the Auditor-General; we can only do so much as a House. The real technical people who can carry out this audit are in the Auditor-General's office. So, can we allow the process to go on and then we can process the report when it comes here in the usual way?

Members, let us move; we have spent quite a lot of time on this one and I hope we will spend less time on the next one, which is by the Chair of the Committee on Transport, Public Works and Housing. The request for it was made by hon. Joyce Emanikor. I would request hon. Kamanda to really summarize, because I can see it is very long.

STATE OF KITALE-LODWAR-LOKICHOGGIO ROAD

Hon. Kamanda: Thank you, hon. Deputy Speaker. On 18th February, 2014, pursuant to Standing Order No.44(2)(c), the Member of Parliament for Turkana Country, hon. Joyce Emanikor, requested a Statement from my committee regarding the Kitale-Lodwar-Lokichoggio Road. In her statement request she stated that the Kitale-Lodwar-Lokichoggio Road was initially designed as part of the great Trans-Africa road that links the northern corridor to enhance regional integration and ease trade between Kenya, Uganda, Rwanda, Burundi, South Sudan and the Democratic Republic of Congo.

She requested to know the amount of money allocated for the repair of this road in the Financial Year 2011/2012 and preceding years.

She also wanted to know the steps the Government is taking to construct the road and the timelines. Lastly, the role UN will play, given the fact that the road was destroyed by their trucks during the “Operation Lifeline Sudan”, then dubbed the biggest relief operation in Africa.

I beg to answer. The Ministry submitted the schedule for money allocated for this particular road. We invited the hon. Member to our Committee. I do not want to go into all the details because she was taken through the schedule and the sections of the road which are more than 20 and I cannot name them.

In the Financial Year 2011/2012, maintenance of the road was Kshs.143,485,000. For maintenance in the Financial Year 2012/2013 the amount was reduced to Kshs.113,944,000. In the Financial Year 2013/2014 the money allocated for maintenance is Kshs.186, 449,000.

With regard to steps taken to construct the road and the timeline, the Government has already initiated the process of rehabilitating works on the South Sudan link from Lesseru-Kitale-Lodwar-Nakodok at the South Sudan/Kenya border. The project is divided into three design packages. Each is assigned to three different consultants as follows:- The Lesseru-Marich Pass section has been awarded to Kocks Inguere of Germany. The Marich Pass-Lodwar section has been awarded to Egis BCEOM of France. The Lodwar-Nakodok section has been awarded to Sheladia and Associates Inc. of USA.

The status of the designs is as follows: Lesseru-Marich section is in the design stage and is to be completed at the end of this month; for the Marach-Lodwar section, a detailed design is completed and it is under final review.

With regard to the third question on the role of the United Nations (UN), the UN does not support infrastructure projects; as such their financial support for reconstruction of this road is nil. The Ministry has, however, approached various development partners, including the World Bank, the African Development Bank, the European Union and JICA for financial support in the construction of the above-mentioned road. Up to now the Ministry has not received any confirmation from the donors to reconstruct Kitale-Lodwar-Lokichoggio Road. The other alternative that the Ministry is pursuing is to budget for the reconstruction of this road in the next Financial Year, 2014/2015.

Hon. (Ms.) Emanikor: Hon. Deputy Speaker, I would like to thank the Chairman of the Departmental Committee on Transport, Public Works and Housing for the response. I was able to interact adequately with the Committee, although some of the issues I raised in the Committee, particularly in terms of timelines are still not well addressed. I also challenge the Committee to travel to that road and see exactly what we are talking about. We all agree that this road is key to the economic development of this country, given the level of investments in Turkana County. The maintenance that is reported by the Ministry is very invisible. The amount of money used is very low---

Hon. Deputy Speaker: Please, state your clarification, hon. Emanikor. What do you want further clarified?

Hon. (Ms.) Emanikor: Hon. Deputy Speaker, what I want further clarified is the timelines that the Government has for the construction of the road; secondly, the fact is that I participated in negotiating with JICA to get support for the reconstruction of that

road. I am surprised the Ministry is saying that none of the donors has confirmed support for the construction of the road. This means that we are forgetting the Kitale-Lodwar Road.

Hon. Shidiye: Hon. Deputy Speaker, if you travel on that road you will appreciate that it is in a pathetic condition. Vehicles carrying relief food to Kakuma and other areas ply that road. I want to know from the Chairman what is being done because vehicles with heavy axles are plying that road, yet we do not have a weigh bridge. Even if you repair the road now, with the heavy vehicles plying that road--- What is he doing to stop those heavy vehicles from using the road, or put up a weigh bridge there?

Hon. Deputy Speaker: Hon. Shidiye, hon. Kamama is just a Member of Parliament like yourself! When you keep asking what he is doing, please, remember that it is not him who is going to be doing that.

Hon. Shidiye: Hon. Deputy Speaker, what is he planning to do with regard to that matter?

Hon. Chumel: Hon. Deputy Speaker, I want the Chairman to clarify this. I did not hear him mention exactly when the construction of the road will begin. I would like to know from the Chairman what interest the Government has in the Lamu-Lokichar pipeline. What I hear is that the pipeline will be laid very soon, but the road from Kitale to Lodwar has been in a pathetic condition for the last ten years and nobody has ever prioritized it.

Hon. Nakuleu: Hon. Deputy Speaker, I have two clarifications to seek. One, Kenya knows very well that Southern Sudan is a strategic partner and the Lodwar-Lokichoggio Road links Kenya to Southern Sudan. Kenya has lost a lot of revenue through trade diversion, in the sense that a lot of the commodities pass through Uganda to reach Juba. What steps is Kenya taking to ensure that it formalises the trade between Kenya and South Sudan?

Secondly, why does the Kenya Government keep on shifting timelines for constructing the Kitale-Lokichoggio Road. When I was a Member of the East African Legislative Assembly (EALA) my colleagues and I visited the President to request him to fix that road. This was in 2010. The President brought on board the Minister for Transport, the Minister for Finance and other stakeholders. They promised us that the construction of the road would start in 2011.

(Hon. K.K. Kinyanjui consulted with hon. Kamanda)

Hon. Deputy Speaker: Hon. K.K. you are distracting the Chairman from listening to the questions being addressed to him.

Hon. Nakuleu: Hon. Deputy Speaker, I am trying to get this point to him so that he seeks the response from the relevant people.

Hon. Kamanda: Hon. Deputy Speaker, first of all I want to thank the MP for Kipipiri who said that this Parliament has the authority to decide on the budget of this country. All the matters that have been raised in this House are about funding and budget of the Ministry. If we get a budgetary allocation that is adequate--- The Ministry, as of now, is just dealing with maintenance. The money for maintenance comes from the fuel levy.

Hon. Deputy Speaker, I am urging this House that in the 2014/2015 Budget, if we can increase the ceiling of infrastructure from the current 55 to 184, I would assure hon. Members that we will be able to budget the money. We will even give this road Kshs.20 billion because it is a very important road. I also want to support the hon. Member here. Within the course of another one month we will visit that area, but the core problem of all the areas that hon. Members have raised is budgeting.

Hon. Deputy Speaker: Hon. Kamanda, you are getting distracted by hon. KK. I do not know whether you have answered all the questions that were put forward to you.

Hon. Kamanda: Hon. Deputy Speaker, I have put them together. It is only the request from hon. Shidiye I can refer to the Ministry to see whether they can put a weighbridge. We can recommend that as I have not been there.

Hon. Deputy Speaker: Hon. Serut, is your question any different from what other hon. Members have asked? As the Chair of the Committee has said, if it is something that has to be referred back the Cabinet Secretary (CS), then that is all right.

Hon. Serut: Hon. Deputy Speaker, mine is a bit different, but on the same line. If you look at the Order Paper, it talks about the state of major roads in the country. The Chair has only addressed a specific road; Kitale-Lodwar Road. Therefore, I do not know whether this is misleading. Can we get clarification whether the issue the hon. Member raised had anything to do with the major roads in the country?

Hon. Deputy Speaker: I believe it must be a typing error. It was supposed to be “county” not “country”. It is not stated on the Order Paper. What is on our Order Paper is “country”, not “county”. So, that is a printing error. Consider that to be an error. Hon. Chairperson of CDF, the Floor is yours.

Hon. Lessonet: Thank you, hon. Deputy Speaker. The Chair for Transport, Public Works and Housing Committee mentioned something about road maintenance as a national problem. In fact, in Eldama Ravine, we shall be planting maize on some roads because they are completely dilapidated and can be used as farms.

I want the Chairperson for the Departmental Committee on Transport, Public Works, and Housing to tell this House whether his Committee is considering increasing fuel levy from the current Kshs.9 per litre to Kshs.18 per litre so that we can get more of these roads maintained.

Hon. Deputy Speaker: Let us hear from the accountant first before we can come back to you, Chair of the Committee. I think you want to answer your fellow accountant. Hon. Ng’ongo, the Floor is yours.

Hon. Ng’ongo: On a point of order, hon. Deputy Speaker. Is it in order for hon. Lessonet, who was my senior at the university, the same faculty, to agitate for grabbing of public road and inciting his people to go and plant maize on our public road, contrary to the laws of this country?

Hon. Deputy Speaker: I am sure it is not in order. Hon. Amina Abdalla, before the Chair comes to respond.

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, in the answer from the Cabinet Secretary; mine is basically a recommendation. I hope he will take information to the Ministry. In his answer, he said that the United Nations (UN) is not involved in funding the construction of roads. As a person who has done consultancies in our neighbouring countries about recommendations on UN’s involvement on rehabilitating roads, they are

the ones who are causing damage to the roads. We have a problem and the Ministry needs to negotiate with them so that they are able to contribute to the repair of the Garissa-Dadaab Road and Kitale-Lokichoggio Road.

Hon. Deputy Speaker: Okay. Let us have the Chairman responding.

Hon. Kamanda: Hon. Deputy Speaker, I will recommend that to the Ministry. On what hon. Lessonet has raised, if we go that route of increasing fuel levy, we will hurt the common *mwananchi* because he is already crying because of VAT and other taxes. We had better go to the development fund and get money from the Exchequer.

Hon. Deputy Speaker: Hon. Lentoimaga, I can see you have a very pressing one.

Hon. Lentoimaga: Thank you, hon. Deputy Speaker. I am not trying to ask the Chairman a question, but I am actually trying to do some recommendation. The Kitale-Lokichoggio, Rumuruti-Loiyangalani and Garissa-Mandera roads are very critical and for 50 years now, we have been neglected. That entire area, which is almost half of Kenya, has not developed because of poor infrastructure. I would like to request the Chairman of the relevant committee to talk to the Budget Committee and the Ministry also about these roads. We appeal to other Kenyans; in Central Kenya and other regions to vote funds for infrastructure in northern Kenya so that we can open that area. There is serious insecurity that has led to lack of investment. We want to request that a lot of money be given to that area to develop infrastructure. We need to feel that we are part of Kenya. We have serious unemployment and lack of investment---

Hon. Deputy Speaker: I think your point has been made, the hon. Member.

Hon. Lentoimaga: Therefore, I would like him to do that for us and all Kenyans in that region.

Hon. Deputy Speaker: Hon. Chairman, do you agree that you will pass that message?

Hon. Kamanda: I sympathize with the area hon. Members of Parliament. Surely, we need money and we need to make roads in that part of the country. We are going to recommend that come the 2014/2015 Budget, the Budget Committee looks into that matter. After we get money, we can allocate it to those needy areas.

Thank you.

Hon. Deputy Speaker: The next Statement is by the hon. Chair of Committee on Agriculture, Livestock and Co-operatives. Yours is also very long. Please, give a summary. It was a question raised by Chris Wamalwa.

DISTRIBUTION OF FERTILIZER IN THE COUNTRY

Hon. Nooru: Thank you, hon. Deputy Speaker. I will be very brief and, of course, the hon. Member has already received a written answer on this. I do not want to go into details.

Hon. Deputy Speaker, the total fertilizer requirement for the long rains in 2014 is estimated to be 354,502 metric tonnes, out of which 267,214 metric tonnes is for food crops; 60 per cent of this requirement will be supplied by the private sector and the Government subsidy will cover 40 per cent of the fertilizer.

On the measures taken by the Government to ensure that farmers receive the right fertilizer and the soil testing, the Government has conducted soil testing for 164 sub-

counties so as to be informed of the right fertilizer and the information has been disseminated. The results were officially launched by His Excellency the President on 18th February, 2014 at Njoro, Nakuru and fertilizer distribution takes into account soil testing results that have been already disseminated to various counties.

On lime, it is not part of the subsidized programme of fertilizer. This is left to the individual farmers as part of their contribution towards these subsidized programmes.

Thank you.

Hon. Wakhungu: Thank you, hon. Deputy Speaker. I want to seek clarification from the Chair as per his Statement, though unfortunately, the Statement came two months late. He promised to do it within two weeks, but now it has come after two months. Therefore, some measures should be put in place so that whatever the Chairman commits himself to deliver is delivered.

Hon. Deputy Speaker, on food production in this country, farmers are continually using fertilizers, but productivity is going down. The Chairman of the Committee has mentioned that the Government has done some soil analysis. Looking at the distribution of fertilizers, you realize that the distribution was not informed as per the soil analysis.

I am saying this because for instance, in Trans-Nzoia County, research has shown that the continuous use of DAP has increased the acidity of that soil and therefore, DAP is no longer recommended for the production of maize. When you look at its distribution, you realize that DAP in North Rift is 360,000 metric tonnes as compared to other compounds. Therefore, the issue of lime which has been recommended in terms of lowering the issue of acidity is not provided for.

Could the Chairman clarify whether this lime distribution was in line with the soil analysis that was done? So, can you clarify whether this distribution was in line with the soil analysis that was done? If the supply is incomplete, the DAP becomes useless. It will not add any value as far as the food security of this country is concerned. So, can you clarify, Chair?

Hon. Deputy Speaker: Let us take a few clarifications before the Chair responds. Yes, hon. Pukose!

Hon. (Dr.) Pukose: Thank you, hon. Deputy Speaker. I want to seek clarification from the Chair on who is distributing the fertilizers. I am specifically talking about Trans Nzoia. At what price is it being provided? We have a variety called “Mavuno”, which has been distributed by the Governor of Trans Nzoia. He has been selling it to farmers at Kshs.2,100 per bag. Is that the recommended price or is he doing business for the country?

Hon. Deputy Speaker: Hon. Jerald Opiyo, are you seeking clarification on this one?

Hon. Opiyo: Yes, hon. Deputy Speaker.

Hon. Deputy Speaker: Okay, proceed.

Hon. Opiyo: Hon. Deputy Speaker, I wanted to find out why the subsidised fertilizer has not been made available to cash crop farmers. I was in my constituency where I was informed that the available fertilizers cannot be used by sugarcane farmers in my constituency.

Hon. Deputy Speaker: Hon. Rose Nyamunga, are you seeking a clarification?

Hon. (Ms.) Nyamunga: No, hon. Deputy Speaker.

Hon. Deputy Speaker: What about Ferdinand Wanyonyi?

Hon. F.K. Wanyonyi: Hon. Deputy Speaker, I am a Member of this Committee and I am surprised. I was at home last weekend. Despite the explanation by hon. Wamalwa that the DAP fertilizer has been adding acidity to the soil in Trans Nzoia, we were assured by the Ministry that there was enough DAP fertilizer in the country. I want the Chairman to explain. Maybe, he has had some direct link with the Ministry. Back at home, we have a shortage of fertilizers. Farmers are running up and down. It is the same old story. Most hon. Members must have read newspapers yesterday. It was even speculated that there is going to be shortage of food in this country yet the Ministry assured us that there was going to be enough fertilizer in good time.

Hon. Deputy Speaker: Hon. Wanyonyi, can we get the clarification?

Hon. F.K. Wanyonyi: Hon. Deputy Speaker, could the Chair confirm whether the Ministry---

Hon. Members: On a point of order!

Hon. F.k. Wanyonyi: Hon. Deputy Speaker, I declared my interest. I said that I am a Member of this Committee. There is nothing wrong in me asking for clarification.

Hon. Deputy Speaker: Hon. Wanyonyi, you know, once you bring a Report to this House, you want other hon. Members to seek clarifications because the Report belongs to your Committee.

Yes, hon. Wambugu.

Hon. Wambugu: Hon. Deputy Speaker, initially, I was rising on a point of order because a Member of the same Committee cannot be asking himself the same questions.

On the issue of the fertilizers whose prices are supposed to be subsidised, I would like to get clarification from the Committee Chair. Within the Central region, especially in the areas bordering the Aberdares Forest, the distribution point is down at some place called "Sagana". The price of the fertilizers picked from that place becomes very expensive – three or four times more than the price of the same fertilizer if it is bought at Kiriaini. When is the Ministry going to put up distribution stores in Kiriaini in Mathioya, so as to serve Kangema, Othaya, Mukurweini and other parts of Nyeri that are close to Kiriaini?

Hon. Deputy Speaker: Hon. Jimmy Angwenyi will be the last one.

Hon. Angwenyi: Hon. Deputy Speaker, I would like to know whether the fertilizers were distributed to farmers. It has not appeared in Kisii National Cereals and Produce Board (NCPB) stores. Therefore, the entire Kisii region, which has been feeding itself over the years, may face famine in this year. When are they going to distribute the fertilizers from Kisii storage depots?

Hon. Deputy Speaker: Hon. Angwenyi, are you suggesting that the fertilizers have been taken elsewhere?

Hon. Angwenyi: Hon. Deputy Speaker, I am saying in Kisii region.

Hon. Deputy Speaker: Thank you for the clarification.

Committee Chair, please, respond.

Hon. Nooru: Hon. Deputy Speaker, hon. Wamalwa should appreciate that despite the delay, we have given a very detailed reply on this issue.

On the issue of distribution of fertilizers in that region, the North Rift as a whole has been given different varieties of those fertilizers. Talking of DAP, the North Rift got

57,145 metric tonnes of urea, 22,418 metric tonnes of CAN and 17,558 metric tonnes of NPK. In total, the region got 155,341 bags. So, we have given that region varieties of fertilizer and not just one type of fertilizer.

On the issue of the cash crops not receiving---

Hon. Deputy Speaker: Committee Chair, there is an intervention from hon. Pukose.

Hon. (Dr.) Pukose: Thank you, hon. Deputy Speaker. Is the Committee Chair in order to tell us about the various varieties of fertilizers when we know that the variety for planting is supposed to be different? What he is giving us is a list for both planting and top dressing fertilizers. He needs to clarify.

Hon. Deputy Speaker: Hon. Pukose, that is a point of argument. Allow the Committee Chair to continue with his response.

Hon. Nooru: Hon. Deputy Speaker, on the clarification sought by hon. Opiyo about sugarcane and other cash crop areas not receiving subsidised fertilizers, those are commercial crops. At the moment, we are not able to cover the entire range of crops. We are only dealing with the food crops that are necessary for feeding this country. For commercial crops, farmers are supposed to buy fertilizers from the private sector at market rates.

On the issue of stores in Kiriaini, at the moment we are using the NCPB stores. That is our method of distribution.

Hon. Deputy Speaker, on the issue of Kisii region not getting the fertilizers, I do not think there is a single region that has been left out. I have a detailed Report here for hon. Members to go through. The distribution has been made on sub-county by sub-county basis. We have gone up to the villages, where there are Government stores.

On the issue of pricing, the subsidised price for NPK is Kshs.2,000 per bag; for DAP, Kshs.2,000 per bag; for CAN, Kshs.1,500 per bag; for Urea, Kshs.1,500 and for Sulphate Ammonia, Kshs.1,300 per bag. Anything more than that is not to our knowledge.

Hon. Deputy Speaker: Hon. Angwenyi, come and look at the response to the answer. In all of them, Kisii has been given CAN fertiliser and all the different varieties. You can get the clarification and the answers that have been written there.

(Loud consultations)

Order, Members! This is a Government document. So, you can always make a follow up and find out what is there. The hon. owner of the Statement, have the Floor.

Hon. Wakhungu: Thank you, hon. Deputy Speaker. *Mheshimiwa* Pukose had asked a question because in Trans Nzoia County the Governor has been selling fertiliser at Kshs.2,100 instead of Kshs.2,000 per bag. Can he clarify whether the Governor is in business? Why is he adding that extra Kshs.100 on that bag? That is what is happening on the ground. He is using the county money pretending that he is subsidizing the fertilizer yet he is charging Kshs.100 extra per bag. Is he in business? Thank you.

Hon. Deputy Speaker: Hon. Nooru, before you respond, hon. Dawood.

Hon. Dawood: Thank you, hon. Deputy Speaker. Could the Chair probably clarify because when he says a bag of fertiliser in Meru is less by ten or 15 kilos then

does it mean it is more expensive for Meru or is it the standard practice to remove some kilos from the bags so that they become cheaper?

Hon. Deputy Speaker: Okay. Please those will be your last responses to this question. Go ahead Chair.

Hon. Nooru: Thank you. Hon. Deputy Speaker, on the issue that was raised by hon. Chris, I think I was once answerable to the local government. The county government is a government on its own and they have got their own assembly to take their governor to account for the Kshs.2,100 that he has fixed. However, nationwide the price is the same. Wherever we are, we subsidise and we sell at the same price. There is no transport cost. It is only from the National Cereals and Produce Board (NCPB) to the farmers' farm.

On the issue of kilos, that is fraud and you should report that to the police. I have no case to answer there.

Hon. Deputy Speaker: Okay, next Statement. That is by the Chair of the Departmental Committee on Administration and National Security and the question was asked by Harrison Kombe. Please, summarise since you can see that we have already done two hours on this question. I am sorry it is still on agriculture because it was a repeat by the hon. Malulu.

SAFEGUARD MECHANISMS TO REGULATE SUGAR IMPORTS/PRODUCTION

Hon. Nooru: Thank you, hon. Deputy Speaker. I will speak on the issue of safeguard by hon. Injendi of the Common Market for Eastern and Southern Africa (COMESA).

The safeguard was initiated and implemented for the first time on 20th March 2002. For the last 12 years this extension of COMESA has been with us until last month when the Council of Ministers met in the Democratic Republic of Congo (DRC), Kinshasa in February and Kenya was granted the final extension of 12 months with the following conditions:-

(i) Extension should start from 1st March, 2014 to 28th February, 2015 to enable the country and the secretariat to undertake a comprehensive study on the competitiveness of the sector *vis-a-vis* other COMESA producers.

(ii) The quota of the COMESA countries has been increased from 340,000 metric tonnes to 350,000 metric tonnes. At the same time, the import tariff has been lowered from 10 per cent to 5 per cent for that duration of extension. The safeguard measures applied are of a non-discriminatory nature.

(iii) The terms and conditions of the safeguard be retained as contained in the Directive Number One of 2007.

Finally, the Council of Ministers also directed Kenya and Egypt to agree on the mutual acceptance date for the other verification mission to ascertain the original status of the white sugar by October 2014 but the programme is a bit long, as to who is to do what within that period of one year. I will table what has been achieved here.

(Hon. Nooru laid the document on the Table)

Hon. Deputy Speaker: Hon. Malulu, you get the first chance.

Hon. Injendi: Thank you, hon. Deputy Speaker. First of all, in my Statement the Chair was to talk about COMESA and then the Agriculture, Fisheries and Food Act (AFFA). I do not know whether he will talk about AFFA after this.

Well, the Report talks of safeguards and of course the Government has extended time. There are a few issues that I need clarification. One has to do with extension of COMESA safeguards by one year. When you look at the Report, one of the comments is: "The timelines for privatization of public owned sugar mills will be two years." So, the question is this: If this will be two years, will we be ready now to open up our markets?

Secondly, when talking of importation of illegal sugar in the country, currently our factories are suffering. Cane prices have gone very low and we are seeing there are so many sugar imports, as reported in the media. Even one of your Committee members in one of the interviews with the media houses said that some of the members who belong to the Departmental on Agriculture, Livestock and Cooperatives actually are involved in this. I am not seeing something being talked about the illegal importation of sugar into the country. Thank you.

Hon. Deputy Speaker: Do we have any other Member who is interested in any further clarification? David Gikaria, are you getting clarification on this? No, David Wafula.

Hon. Wekesa: Thank you, hon. Deputy Speaker. Recently, members of this Committee raided a Mombasa warehouse where sugar from Mumias Sugar Company (MSC) was found. Could we hear the official position of this Committee in as far as that discovery in Mombasa is concerned?

Hon. Deputy Speaker: Okay. Gerald Opiyo.

Hon. Opiyo: Thank you, hon. Deputy Speaker. About six weeks ago, I raised a question with regard to importation of sugar into this country. This Committee made a commitment that they will provide an answer in two weeks and this is now the sixth week. I really want that answer. Probably you could give direction because this is a serious matter and farmers are suffering.

Hon. Deputy Speaker, actually if nothing is done urgently, the sugar industry and its seven million direct dependants are going to suffer. So, could the Chairman actually tell us when he is going to give us a comprehensive answer so that we can see how to move forward?

Hon. Deputy Speaker: Chanzu.

Hon. Chanzu: Thank you, hon. Deputy Speaker. As a follow up to what the Member has asked about the discovery in Mombasa, there is news that the Managing Director (MD) and some other officers of MSC have been either suspended or interdicted by the board. Is the Committee aware of that and if so, does this have anything to do with the ongoing illegal importation of sugar by MSC?

Hon. Deputy Speaker: Hon. Daniel Sitati, is it on clarification?

Hon. Sitati: Thank you, hon. Deputy Speaker. I would like the Chair to clarify something. COMESA is here with us. It has only been given 12 months but the production of sugar in this country is very high. After the stop gap measure is over, what is the Government doing to make sure that also the production of sugar in this country

goes down so that our factories can compete favourably with the other sugar companies that will be coming into this country?

Hon. Angatia: Hon. Deputy Speaker, it has been mentioned that some hon. Members of the Departmental Committee on Agriculture, Livestock and Cooperatives are sugar importers. Could we have the Chairman investigate and report to this House who are the hon. Members importing sugar because under the Standing Orders, it is a conflict of interest to be presiding over agriculture matters and at the same time you are the one messing up the sugar industry? Could we know the Members who are importing sugar into this country and distorting the market?

Hon. Koyi: Hon. Deputy Speaker, this issue of sugar imports is letting down the farmers of this country. The importers of this sugar are politicians. The Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives can investigate this issue properly. As we speak, 142 containers are in Mombasa; they are in this country. Let the Chairman with his team do proper investigations and bring the names of the importers of cheap sugar into this country. Let him bring the names to the Floor of this House. We want to know those politicians who are failing this country and who are messing up farmers.

(Hon. Gikaria stood up in his place)

Hon. Deputy Speaker: Hon. Gikaria, I asked you whether you wanted to seek a clarification and you did not respond. That time went.

Hon. Dawood: Hon. Deputy Speaker, protect me from hon. Gikaria; he is disturbing me. Could the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives tell us why the cost of production of sugar is so high in this country? Is it a ploy that we get imported sugar in the country and the consumers pay higher prices? He should clarify that.

Hon. Deputy Speaker: We will now have the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives. We will not have more on this matter.

Hon. Nooru: Hon. Deputy Speaker, on the issue of whether I am answering the question on Agriculture, Fisheries and Food Authority (AFFA) Act by hon. Injendi, that is a different question. There is no way that can mix with this one. So, I have the answer for the AFFA issue and I will answer it when it gets to the Order Paper.

On the issue of a Member of this Committee being an importer of sugar and the importation of illegal sugar, we have been handling the issue of petitions. It is true hon. Members have visited Mombasa and we are going to table the report on sugar importation and the cost of sugar production. It will not be through a Statement. We will report within the next two weeks.

Hon. Washiali: On a point of information, hon. Deputy Speaker. On the question of Mumias having imported sugar, I wanted to inform the Chairman that it is him who sent six Members of the Departmental Committee on Agriculture, Livestock and Cooperatives and I was among them. I wanted to inform that on the importation by Mumias, when they were declaring their losses last year, they said that they made losses because of cheap imported sugar. They did not tell us that they were the ones who

actually imported sugar and that they imported it through a third party. We have raised that matter in the media and we are happy that the board has taken steps to suspend the management of Mumias Sugar Company which as a Committee we are in support. The licence that Mumias was given, they gave it to some other company; Dantes Peak Limited that imported sugar on behalf of Mumias.

Hon. Deputy Speaker: Hon. Washiali, has the report come to this House?

Hon. Washiali: Hon. Deputy Speaker, it is a supplementary question.

Hon. Deputy Speaker: Then let us wait for that information when the report is here.

Hon. Nooru: Hon. Deputy Speaker, I did not want to go into such details in anticipation of the report. I did not want to dwell on that because it is true we have some information on that aspect and within the next one week or so, we will table that report for hon. Members to debate it.

On hon. Opiyo's question, I have the answer. He was requesting the Committee to look into the excess illegal sugar importation in the country. It is one and the same thing but as soon as it is on the Order Paper, I will answer it.

Hon. Deputy Speaker: So he will receive his answer when it is put on the Order Paper.

(Hon. Injendi stood up in his place)

Hon. Injendi, you still have one more question as the owner of the Statement?

Hon. Injendi: Hon. Deputy Speaker, just to put the record straight, on 18th February, 2014, I requested a Statement that required two answers. It was just one Statement. He is saying that they were different Statements, they were not! I had requested the Committee to report on the status of operationalisation of the AFFA Act. Secondly, I sought to know whether they were in the process of developing safeguard measures. He is saying that these were two different Statements, but it was just one.

Hon. Nooru: Hon. Deputy Speaker, I have both Statements here by hon. Injendi. One is requesting for a Statement from the Departmental Committee on Agriculture, Livestock and Cooperatives on the status of operationalisation of the AFFA Act, 2013. That is one question and I have the answer here. The other Statement is on whether the process of developing safeguard mechanisms to regulate sugar imports in the country as well as sugar production with regard to COMESA is still on course. They are two different questions and I have them here. So, I do not know what he is talking about.

Hon. Deputy Speaker: Do not give another answer that is not on the Order Paper. The next Statement is on national security! Please summarize it!

BARRING OF PRISON OFFICERS FROM PROVIDING VIP PROTECTION SERVICES

Hon. Abongotum: Hon. Deputy Speaker, this question is fairly short. I will give this Statement to my able deputy to read to the House.

Hon. Lentoimaga: Hon. Deputy Speaker, this Statement was requested by hon. Kombe on 5th March, 2014. The Member requested for a Statement on the failure of the

Commissioner General of Prisons to deploy prison warders to serve as Members of Parliament security detail. The hon. Member specifically sought to be informed on whether there is a policy barring prison officers from serving as security personnel and if none, when the department will release the officers for the Members who had requested for their services.

[Hon. Deputy Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, I wish to state as follows: It is true that over the years, the Prisons Department has been seconding officers to provide protective security to VIPs and State officers though this has not been the core mandate of the department. However, following the formulation of the Government's policy on provisions of protective security to VIPs and other State officers which came into effect on 1st July, 2013, the Prisons Department is not among the departments from which officers providing VIP protection are to be drawn from. The provision of VIP security is the core mandate of the National Police Service. Consequently, the department has been gradually withdrawing its officers from VIP protection services. In this regard, therefore, the Ministry does not intend to reverse the decision.

This is a Statement from Mr. ole Lenku, the Cabinet Secretary, Ministry for Interior and Coordination of National Government.

Hon. Kombe: Thank you, hon. Temporary Deputy Speaker. What qualification should one have to be taken as a security detail of VIPs? I would also want to know whether those who are being withdrawn after serving--- One had served the Vice President for 15 good years and we never heard of any incident. What is causing the withdrawal? Have they been found incompetent as at now? Have those Members of Parliament who have been attacked been issued with bodyguards from the Prisons Department or from the other arm that is vested with the powers of protecting VIPs?

The Temporary Deputy Speaker (Hon. Kajwang'): Can we take one or two more clarifications so that he can respond to them together? Yes, hon. F. K Wanyonyi, Member for Kwanza.

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Speaker. Given the runaway insecurity in the country--- Currently, I think we have just one security bodyguard. I do not know whether Members have more, but I have only got one. Is it possible, given the current situation where Members of Parliament are being targeted--- We are not safe. There is insecurity in this country. Is it possible for Parliament to take up this issue as a matter of urgency and bring in more policemen at the end of next month? Is it possible for us to get extra bodyguards from the current Police Force given the runaway insecurity in the country?

The Temporary Deputy Speaker (Hon. Kajwang'): Well! Your clarification is in two parts. The question which is at hand is failure by the Inspector-General (IG) to release prison officers. But whether other security people will be released is really not the issue here. The issue we are dealing with is why the IG has failed to release prison

officers to take up security detail. Any other clarifications on the same subject? Who is this Member who is pointing a finger at me? That is Member for Galole.

Hon. Dukicha: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I wish to seek clarification from the Chair as to whether the Prisons Department was involved in the formulation of the Government policy that led to prison officers not being involved in security detail. If not, why then are those prison officers being discriminated? Is that Government policy not in contradiction or in contravention of the Kenyan Constitution?

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. We will have those responses. Hon. Dawood, do you have something on the same subject? All right, Member for North Imenti.

Hon. Dawood: Hon. Temporary Deputy Speaker, I would like to get clarification from the Chairman of the Committee. Is it a policy that any security agent--- I think a prison officer is not a security agent. He is a specialized cadre of an officer. When will the Government form a VIP protection unit which does not necessarily have to have prison officers, GSU or normal police?

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Chair, how do you want to get this done? Do you want to do it yourself or do you want your able Vice-Chair to respond? Please, take all those concerns and be very brief because we have urgent business to transact.

Hon. Lentoimaga: Hon. Temporary Deputy Speaker, I want to appreciate the concerns of Members on the issue of insecurity and also of their own protection. I know that even from this House, we have had incidents. A colleague was attacked last week and we are sorry about what happened. Hon. Letimalo was attacked and because of God’s grace, I think he is recovering. We wish him quick recovery. I have already reiterated that in the Statement from the Cabinet Secretary, he had clearly said that there was a policy formulation by the Government which actually did not indicate that prison warders can be VIP protectors. I think this particular Statement goes along to say that prison warders, maybe, have another critical job to do in the Prisons Department. So, the core mandate of VIP protection will be clearly from the National Police Service. However, we can revisit the issue later.

The Member for Magarini sought to know what the qualifications for the VIP protector are from the Police Department. I think that can be answered by the Cabinet Secretary himself. But if the Chairman has any additional information, he can add.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. I think that has been taken care of. Members, we have business to transact. We come here to make laws and today, we have Private Members’ day. So, we do not want to waste it all on Statements. But I understand the Chair of the Departmental Committee on Administration and National Security has a Statement regarding alleged deterioration of security situation in Wajir and it was requested by hon. Mohamed Diriye. Can you, in a very short while, get this done so that we get into business? We have done the whole morning on this and we only have one hour to go. It is very unfair.

MEASURES TO CURB INSECURITY IN WAJIR

Hon. Abongotum: Hon. Temporary Deputy Speaker, we had very weighty issues and lengthy reports in the morning but ours is going to be very brief.

On 13th February, 2014, hon. Diriye Mohamed, the Member of Parliament for Wajir South requested for a Statement regarding the alleged deterioration of security situation and loss of lives in the areas bordering Wajir South and Dadaab Refugee Camp including the death of one, Yusuf Mohamed Bule who was killed on 9th February, 2014. More specifically, the hon. Member wanted to be informed on the following:-

(i) measures being taken to improve the deteriorating security situation in Wajir South;

(ii) reasons for failure to recognize the areas as a security hotspot;

(iii) why additional security patrol vehicles and other logistical support have not been provided;

(iv) why an Administration Police post has not been opened at Shimbir Bul and Nambarah locations; and

(v) measures being taken to bring the killers to book including the killers of Mr. Yusuf Mohamed Bule.

There have been isolated cases of banditry along the cutlines leading into and from Somalia. Normally the perpetrators target smugglers of contraband goods, public service vehicles and other motorists operating along the porous Kenya/Somalia border with the intention of robbing valuables including money.

Hon. Temporary Deputy Speaker, various factors have contributed to the insecurity incidents which include the desertion of TFG soldiers who cross the porous borders with their arms and the vastness of the area coupled with poor roads and communication network present serious challenges to security agencies while policing this area.

The following measures have been put in place to ensure maximum security in Wajir South:-

(i) Provision of armed escort of all buses operating in the bandit prone areas including Dadajabula, Rambaraha Junction, Shimbir Bul, Biyamadhow, Sariff, Daghaley and Dadaab.

(ii) Regular mobile patrols along the main roads to ensure safety for travellers and their goods. This includes joint operations comprising of officers drawn from the National Police Service, Kenya Wildlife Service and General Service Unit.

(iii) Community policing committees and *Nyumba Kumi* initiatives have been revitalised.

(iv) Officers from co-ordination of national government have been holding public *barazas* to educate members of the public on the importance of reporting incidents of crime to the police. Members of the public have also been given specific telephone numbers to call when reporting incidents of crime.

(v) Criminal intelligence unit officers have been posted to the area to boost collection of crime intelligence which help in tracking, recovery and arresting of criminals. Victims of such robberies have been encouraged to immediately report the incidents to the police to enable prompt response.

(vi) Anti-Terrorism Police Unit have also been profiling suspected terrorists to help combat terrorism.

Members of the Habaswein District Security Intelligence Committee (DSIC) have recommended the following be done:-

(i) Due to the vastness of the area, Dadajabula and Dagahaley Patrol Bases be upgraded to fully-fledged police stations and be fully equipped to ensure quick response to incidents of crime.

(ii) The Rural Border Patrols (RBPs) be stationed along the stretch between Dalajabula and Liboi which is notorious for smuggling of contraband goods from Somalia.

Hon. Temporary Deputy Speaker, these measures are being implemented after taking cognizance of the security challenge in the area. However, there are no plans to declare the area a security hotspot since the situation is under control.

Wajir South Division is served by five police vehicles. The Kenya Police have two vehicles, Registration No. GKB 185D which is a Grand Tiger and GKB 596L which is a Land Cruiser and GKA 435G Land Cruiser which is unserviceable at the moment. The Administration Police have two vehicles; a Land Rover Registration No. GKB 405E and a Land Rover GKA 427P. The last one is unserviceable.

Efforts are being made to avail more vehicles to replace the two which are currently unserviceable.

Further, it has not been possible for the Ministry to establish police posts both in Shimbir Bul and Nambarah locations due to limitation of resources, including human resource. Plans are at an advanced stage to open an Administration Police Camp at Nambarah Junction of Shimbir Bul Division. This is intended to boost the operations of Shimbir Bul Administration Police Camp which is situated about ten kilometres away from the said junction.

Finally, the Government is not aware of the alleged death of Mr. Mohamed Bule on 9th February, 2014 as records held by the police in the area do not have such report and, therefore, I am urging anyone who has information on the alleged death to provide the same to the nearest police station and investigations will commence immediately.

Thank you, hon. Temporary Deputy Speaker.

Hon. Mohamed Diriye: Thank you, hon. Temporary Deputy Speaker. There are some inconsistencies in the Chair's answer. First, there is no division called "Wajir South". He has said that there are some vehicles in Wajir South Division. I do not have such a division in my constituency. Are we speaking about the same thing?

Secondly, the death of Yusuf Mohamed Bule has been reported to the police at Darful. I wonder why the police are not revealing this.

Thirdly, the Chairman has also indicated that the police do not have any plan to open a police station in Nambarah. However, in the second paragraph he says that plans are at an advanced stage to open a police camp at Nambarah. Could he clarify those three issues?

Hon. (Ms.) Gathogo: Ahsante, Mheshimiwa Naibu Spika wa Muda. Nimesikia Mwenyekiti akisema kwamba amejibu maswali mengi. Wakati huu amefurahisha hata kama mimi sitoki katika eneo la Bunge lake. Shida ambayo iko huko ndio iko kila mahali. Akisikia kwamba kuna magari, Mheshimiwa wa Wajir South anafurahi lakini

unapata hayo magari yana kaa katika kituo cha polisi. Ukienda huko ili usaidiwe, unaambiwa kwamba hayana mafuta. Haya ni magari ya kurembesha kituo cha polisi au ni magari ya kufanya kazi?

Hon. Aden: Thank you, hon. Temporary Deputy Speaker. My clarification to the Chair is with regard to equipping the police force not only in Wajir but elsewhere. I want to say that knowing that particular constituency and comparing it with mine which is equally vast, five vehicles, especially the Tiger type which is being deployed in that area-- Has this vehicle been tested for use in that area? We have serious problems with this vehicle which has been allocated to departments of the police force. Unfortunately, it does not work in that particular region. Is that vehicle approved for use in that area because most of our people are complaining that it is not working?

With regard to the deteriorating state of security, this is not only being experienced in Wajir. The whole country, as we speak here today, is facing serious security challenges.

The country as a whole is facing a serious security situation especially with what happened in Mombasa yesterday - the killing of Sheikh Makaburi. This is something that must be condemned in totality. Our security forces must answer who is doing that. The person who is doing those killings is fueling more insecurity in our country.

As I end, I condemn the killing of Sheikh Makaburi yesterday. It is regrettable and unfortunate. I would like to know whether that is extrajudicial killing. Is our police involved in this? If it is, what exactly should we do? The failure of the Police Force in countering terrorism should not be taken as an excuse for extrajudicial killings. When you look at the Constitution, and you will allow me, Article 26 grants the right of life to every Kenyan. Even if a person is guilty, the Constitution says that even if that person is to be killed, it must be done under the guidance of the Constitution. That person must be taken to court, proven guilty and if so directed by the court that, that person must be hanged, then he will be hanged. That has to be according to the law and not extrajudicial killing like what we saw yesterday. We would like to hear the Chair's view of what exactly happened yesterday and the way forward on this issue.

The Temporary Deputy Speaker (Hon. Kajwang'): Fair enough. I direct that the issue from Mombasa is not directly relevant to the issue we are discussing right now. So, do not take us there. But take all those concerns that have been raised and respond to them in a very short period of time.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I have sat with the Member for Wajir South and just confirmed to him that there is a typographical error.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Lungalunga, you are on intervention. Can we hear what is out of order?

Hon. Mwashetani: Asante sana, Bw. Naibu Spika wa Muda. Ningependa kupata mwelekezo wa kisawasawa kuhusu lile swala ambalo lilifanyika jana ambalo mhe. Abdulkarim alisema ni swala muhimu sana. Wananchi wote wanatarajia kupata majibu kulingana na swala hili. Kwa hivyo, ningependelea Mwenyekiti wa Kamati ya Usalama atupe mwelekeo na sababu iliyosababisha tokeo hilo. Tungependa kujua kama waliohusika katika swala hili walikuwa ni polisi ama wale wanaohusika katika usalama.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Hon. Chair, resume your seat so that I can give sufficient direction. First, hon. Member, you were on

a point of order. Next time someone is on a point of order, please, just say what you think is out of order on the Standing Orders, the Constitution and the laws that govern the land. Do not use that opportunity to raise something else which is not a point of order. Two, you are very right that the issue that you are discussing, probably, would be an issue of national importance. But you, therefore, need to move within the Standing Orders, that we can adjourn the House and discuss that issue as an issue of national importance or such other procedures under the Standing Orders. That is when we can entertain you. But you do not rise to seek a clarification on an issue concerning Wajir South and then make it a debate on an issue arising from Shanzu or something like that. So, please, you know what to do. You may be affected but you know what to do. Chair, please, rise, but confine yourself to the Wajir South issue in a very short space of time.

Hon. Abongotum: Hon. Temporary Deputy Speaker, because of the gravity of the issue that was raised by the two Members, you have given the proper guidance on what they need to do. Of course, as a Government, we do not support extrajudicial killings. It is illegal and against the Constitution.

With regard to Wajir, there is a typographical error. It is indicated “Wajir South Division” when it is supposed to be “Wajir South District”. The Member is saying that the report was reported at Darful, but the records that we have - according to the Minister - is that no report has been made so far. If he has any evidence to the contrary - and because he can still photocopy the Occurrence Book (OB), he can forward that statement so that, as a Committee, we can follow up. However, normally, there is a difference between a police patrol base, police post and an Administration Police (AP) camp. We intend to open an AP Camp in that area.

I want to confirm to the House that we want to develop an implementation matrix, so that any promise made by the Ministry must be followed up to ensure that it is done and it is not a public relations exercise. We are in the process of doing that, so that we do not make empty promises here. We will follow up to ensure that, that AP camp is opened.

On the issue raised by the Member from Ruiru, I know that many police vehicles have broken down and many of them are at the yards. We are not happy with that, but the Government has a programme of making sure that each and every police station gets a vehicle. You have all seen that and quite a number of Members have reported to me that some of them have even got three and others two. We will make sure that each and every police station, up to and including Ruiru, gets one vehicle. I will ensure that, that happens. I know that Ruiru is along the Thika Superhighway and there is a lot of highway banditry and crime.

On the issue raised by the Member for Balambala on the issue of Tiger, we have got those reports that, that vehicle is not efficient and is not fit for those terrains. But you all know that it went through the normal process of procurement up to this stage. So, we will get that report from the ground and if this vehicle is not efficient and becomes another Mahindra---

Hon. Waititu: On a point of order, hon. Temporary Deputy Speaker. Is the Chair in order to say that some Members have got two police vehicles while we know that most police stations in Kenya do not have vehicles? If there are, I concur with my colleague that they do not have fuel. He is not in order. I have lost about eight people in my

constituency within a month. We have held eight funerals in a month due to insecurity in Juja. Is he in order to say that there are police vehicles?

The Temporary Deputy Speaker (Hon. Kajwang’): Order! The Chair, the gist of the issue is whether you are not misleading the House in terms of the facts that you have given.

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

The Temporary Deputy Speaker (Hon. Kajwang’): You cannot have two points of order before one order is answered.

Hon. Abongotum: Hon. Temporary Deputy Speaker, what I am saying is nothing but absolute truth. One constituency can have more than one police station. I know one Member from Nyanza, another one from Kisii, the Member for Kimilili and many others have received those vehicles. For those who have not got the vehicles, we will make sure that they get those vehicles. So, what I am saying has a lot of substance and I am not misleading anybody.

I will stop there for now because for the rest of the issues, you have provided the requisite guidance.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Diriye, Member for Wajir South, what you may need to do is to interact with this Committee, just in case there are specific issues that have not been settled. You see many times we will investigate these issues and talk about them in *Bunge*, but unless they are practically worked on, on the ground, you may not get your solutions. I am trying to persuade you to interact with the Chair so that we can save time and discuss other issues. What are you saying?

Hon. Mohamed Diriye: Thank you very much for giving a ruling because, honestly, this answer is so superficial and the subject matter is so critical. It is on security issues and most of it is lies. We do not agree with it. As he said, the answer has typing errors and we do not know what to believe. Paragraph after paragraph, there is contradiction, honestly speaking.

The Temporary Deputy Speaker (Hon. Kajwang’): The Chair has observed the inconsistencies, the typo issues, sentences which would have been made better and a few facts which could have been placed better. You probably will get the totality of that information if you can interact directly with the Committee.

Next Order!

BILLS

Second Reading

THE VALUE ADDED TAX (AMENDMENT) BILL

(Hon. Ng’ongo on 12.3.2014)

(Resumption of Debate interrupted on 26.3.2014)

The Temporary Deputy Speaker (Hon. Kajwang’): The Mover, can you rise to reply.

Hon. Ng’ongo: Thank you, hon. Temporary Deputy Speaker. Before I make my very short reply to this Bill, I would like to donate some five minutes of my time to one of my best friends in this Parliament, the MP representing a great constituency in Meru called hon. Dawood.

The Temporary Deputy Speaker (Hon. Kajwang’): Where is your very good friend and why are others not your friends? I thought the whole membership should be your friends.

Hon. Dawood: Thank you, hon. Temporary Deputy Speaker; he said “one of my good friends”. I appreciate hon. Mbadi’s gesture today. I have wanted to contribute to this Bill but I have not had a chance for the last three sessions because you were not in the Chair. First of all, I would like to support the Bill with a few amendments.

I am in the Committee on Finance, Planning and Trade and I believe this Bill has come at the right time. That is because some of the things which we passed in the VAT Bill last year were not the right things, but this is the right way to go. Not that the VAT Bill which we passed last year was all bad, most of it was very good. We have probably cured the system of refunds which was a very big detriment to the finances of our country. The other thing is that we have removed a lot of ambiguity. We had 300 items which were zero-rated or exempted while now we only have about 30 or 40 items in this Bill. Hon. Mbadi wants to improve on a few areas which we agree with as the Committee on Finance, Planning and Trade. We will be bringing some more amendments at the Committee Stage.

Basically, we need to push down the cost of items which ordinary consumers use and with that, we will be doing a favour to them. We should still be thinking of what other items we need to reduce prices on because many manufacturers and retailers took advantage of the VAT Bill saying that everything went up, while others were exempted or zero-rated. We need KRA to come out clean and say which items were zero-rated or exempted so that the retailers do not charge VAT on those things at all.

With those few remarks, I thank hon. Mbadi for giving me that little time and I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Suba, before you rise, I must observe that I am not seeing the Leader of Majority Party in the Chamber and I do not know whether anybody has a brief to talk on his behalf. I am directing the leadership of Minority, Majority and the Whips to consult very closely with hon. Mbadi for the reason which he is aware, so that we can push the legislative agenda of the House right away. Hon. Mbadi, can we hear you?

Hon. Ng’ongo: The leadership should mobilize so that we can take a vote on this Bill. I intended to take 15 minutes. I donated five minutes to hon. Dawood and I want to donate to two of my friends, two minutes each. One is the hon. Member at the last end of the Majority side and the other one---

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Mbadi, are you creating a new jurisprudence that time will now be donated on the basis of friendship?

Hon. Members: Yes

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, you can only donate to your friends anything in this world. I will also donate to hon. Wesley.

The Temporary Deputy Speaker (Hon. Kajwang'): Alright hon. Waititu, you have two minutes.

Hon. Ng'ongo: No, it is not hon. Waititu! It is the *Mhe*. on the extreme end.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Waititu, unfortunately, you are not hon. Mbadi's friend.

Hon. Ng'ongo: Hon. Wesley has two minutes. I cannot give everyone a chance. Finally, two minutes to hon. Elmi, because we have come from far with him and then I will take the balance.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): I wonder how many minutes you have so that you can generously donate but, anyway, Member for Sigowet/Soin, Member for Cherangany and Member for Tarbaj, two minutes each. I do not know whether you have all those minutes?

Hon. Kemei: Thank you, hon. Temporary Deputy Speaker for granting me this opportunity to also give my views on this Bill. I wish to thank hon. Mbadi for giving me a chance to also make my contribution. The Constitution that we have at the moment is modern and it takes legislation for us to be fair to our people, and to have justice in this country. The idea of bringing into the bracket essential commodities in this Bill is very noble. We want to reduce the cost of living in this country and make sure that those of us in society who are not able to meet their basic requirements of life are given a chance to live in dignity. I really thank hon. Mbadi for that.

Secondly, I call upon KRA to observe the following: We lose so much tax revenue because of the loopholes in the Constitution and because some people want to play the corruption game that has bedeviled this country. KRA should use all means to close loopholes so that everything that is put under the VAT bracket is taxed accordingly and this nation does not lose revenue.

Thank you, hon. Temporary Deputy Speaker, and my friend, hon. Mbadi, for giving me this chance.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Cherangany.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker and my friend, hon. Mbadi for the opportunity to add my voice on this issue of VAT. On the outset, when we passed this VAT Bill in the beginning, we should have consulted more on the issues that would help our people. Life has become so expensive in this country and I thank hon. Mbadi for bringing this VAT Bill, so that the necessities in this country and the few things that we have added here can be reduced so that people can live in peace. People need to continue doing agriculture so that food in this country is available cheaply. The most important thing I want to say, however, is that for us to achieve the idea of reducing the cost of those things, we need to look deeply at the issue of reducing the cost of electricity in this country. In this country, electricity has become so expensive. If power is expensive, there is a domino effect because everything else depends on electricity. If

only the Government can reduce the cost of electricity in this country, we will be in a position to reduce the cost of living in this country. I want to thank hon. Mbadi for the quick thinking that is meant to save Kenyans from the high cost of living which has been rising every day.

Hon. Elmi: Thank you, hon. Temporary Deputy Speaker. First and foremost, I want to thank hon. Mbadi for giving me this chance. I also want to thank him for redeeming us. With all those views people are giving that traders did this and that, we slipped in adding VAT to items that affect the most poor in this country. We have been given a chance by hon. Mbadi to bring back this issue. This time round, we should not slip. We should make sure that we do what is right.

I want to support the hon. Member who has said that by arresting corruption, it will save us more than what VAT is going to give us. Instead of targeting the poor people, let us have a programme for corruption. At the moment, corruption is treated as if it is the preserve of one institution. We do not have a campaign by the leadership in and outside this House. With one single corrupt deal in KRA, the Government does not collect enough. A single corrupt deal makes us lose a lot of money. Hon. Members, we need to be thinking about corruption and we will take this country forward.

I believe that when we stand by the poor by correcting what we had not done so well in this House, we will redeem ourselves. I support.

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, I really intended to take very short time to make my final contribution to this Bill, but because we are anticipating that more Members will come in, maybe, I will drag it a little bit.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang'): The leadership of this House knows what to do.

Hon. Ng'ongo: Hon. Speaker, I will just use my time anyway. I am not taking anybody's time; I will just use my time and drag it. That is within my Standing Orders. I will use my time as I anticipate.

Hon. Temporary Deputy Speaker, allow me to, first of all, thank the Members of this House sincerely. I have been here all through since I moved my Bill. I have listened to all contributions from both sides of the House. I am encouraged by the bipartisan approach that this House has taken with regard to supporting this Bill. From both sides of the House, we have got valuable contributions which will go a long way to enrich this Bill.

I can see that Members of Parliament are concerned about the plight of Kenyans when it comes to the cost of living. We must admit and accept that, as a House, while passing the VAT Act that is in place today, we had very good intentions. For instance, we had the intention of streamlining the administration and management of tax regime in this country, especially Value Added Tax. However, in the process, we also committed what I would call an offence to the people of Kenya because we made life very expensive to our voters.

I want to urge this House that, as we go to the Committee of the whole House, we need to be alive to the fact that we can still propose amendments. As we propose those

amendments, we should also think seriously about bringing only amendments that will affect the items that were affecting the poor directly so that we also do not deny the Republic of Kenya taxes that it needs in order for it to run.

When I was moving this Bill, I said that there is no shop for Jubilee and no shop for CORD. So, if the cost of living is high, then it is high for all of us. So, as we go to the Committee of the whole House, I would urge those Members who still feel that the items that I have included in my Bill are not sufficient enough, to bring in amendments. I have been interacting a lot with the Departmental Committee on Finance, Planning and Trade. I thank my junior, hon. Langat, for inviting me to a number of meetings with his Committee and also the Budget and Appropriations Committee. I see a way forward because when we get to the Committee of the whole House, it will be amazing that we will be in agreement with almost all the amendments proposed. We have a few issues to sort out, but I am sure that this House will rise to the occasion.

I just wanted to mention two things. Something has been talked about here, the pharmaceutical products. This is a matter that I did not include in my Bill, but we must, at the Committee of the whole House, bring out that issue. Why do I say this? As we speak, the pharmaceutical products are exempt, but that is in so far as the output is concerned. This makes the importation of pharmaceutical products cheaper than locally manufactured pharmaceutical products. Therefore, we need to broaden it and exempt the inputs in production of pharmaceutical products. I know many Members have proposed amendments to this effect.

The other thing is levies to cane farmers. The transportation of cane is attracting tax at the moment and it is making cane production not to be lucrative. We also need to include the unprocessed tea leaves.

Finally, I would only urge this House to consider seriously the issue of water draining services. I heard an argument here that if we exempt water draining services from VAT, then we will only be enriching the contractors. Far from the truth because any increase in VAT or any VAT charge on a product goes directly to the consumer. It does not go to the contractor, supplier or any trader. It hurts the consumer directly. This country which is seriously under-provided with water needs to seriously think of reducing the cost of drilling water draining services.

Hon. Temporary Deputy Speaker, I am gaining a bit of confidence that, at this juncture, if I beg to move, then this Bill will receive justice from the Members. I suspect that we have the required numbers now.

I want to urge this House that the spirit we have shown in this Bill, the spirit we had shown when we debated the Statute Law (Miscellaneous Amendments) Bill which was going to hurt many of us in terms of affecting the NGOs, is the same spirit we should show whenever we are legislating on a matter that touches on the lives of Kenyans. That way, the Eleventh Parliament will be judged favourably. One day, we must leave this House either after you have been voted out, you have decided not to come back to Parliament or you are dead. So, leaving this House is a must. What we do not know is the time. Some of us will leave together while others will leave individually when they decide to go to meet their maker.

Hon. Temporary Deputy Speaker, with those very many remarks, I beg to move.

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Order, hon. Members! I will allow hon. Members who are getting into the Chamber to get to their seats.

All right, hon. Members, this is the consideration of the VAT (Amendment) Bill (National Assembly Bill, No. 37, 2013). It has been moved, seconded, discussed and the Mover has been called upon to reply. Now we are putting it to vote. Let me allow hon. Members to resume their seats before we put it to vote.

(Question put and agreed to)

*(The Bill was read a Second Time
and committed to a Committee of the
whole House tomorrow)*

Second Reading

THE FERTILIZERS AND ANIMAL
FOODSTUFFS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, for the benefit of those hon. Members who are proposing amendments to the Order which we have just discussed; the VAT (Amendment) Bill, you should be able to finalize your amendments. As you know, we will be applying Article 114 of the Constitution. Article 114 states that the Cabinet Secretary responsible needs to be consulted. We will also be listening to the recommendation from the Chair of the relevant Committee. So, all that needs to be handled because we need them on the Order Paper. We will not entertain flawed amendments. So, you better put in everything so that when we are on the Floor, we have them on the Order Paper.

Hon. Chris Wamalwa, you are on your feet. Give him the microphone.

Hon. Wakhungu: Thank you, hon. Temporary Deputy Speaker. I beg to move that the Fertilizers and Animal Foodstuffs (Amendment) Bill, 2013, be read a Second Time.

Hon. Temporary Deputy Speaker, fertilizer is something very important in this country and the principal object of this Bill is to establish a fertilizer board which will be charged with the responsibility of establishing and managing fertilizer plants in Kenya. The board will also manage the purchase, sale and distribution of fertilizer in a timely manner. The Bill proposes to insert new sections 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K, 2L, 2M, 2N, 2O and 2P, in order to provide for the establishment, composition, functions, powers and financial management of the fertilizer board.

Hon. Temporary Deputy Speaker, the Bill is informed of the fact that the National Cereals and Produce Board (NCPB) currently handles the distribution of fertilizers in this country, although its mandate has nothing to do with that. The mandate of NCPB is basically to buy, procure and to store cereals. In that connection, it brings about the stabilization of the prices in the market. Therefore, we have been using NCPB for purposes of distribution. Unfortunately, the distribution is not fully covered as far as this

country is concerned. We have several counties like Tharaka Nithi County which does not have NCPB depot.

As the situation prevails, we have been having a series of delays. When it comes to the planting season, we cannot predict when the rains will come. It is important that fertilizer should be there on time so that farmers can use it in planting.

Hon. Temporary Deputy Speaker, when you look at the Millennium Development Goals (MDGs), goal number one is to alleviate total poverty and hunger. Those two things can only happen when the country is food secured. In this country, we are not yet food secured. We can only be food secure if we can encourage our farmers to produce high yields. Fertilizer adds value in terms of high productivity especially when it comes to maize farming. We know very well that His Excellency the President has been very much committed as far as food security in this country is concerned. We have heard him mentioning the one million acres of land that need to be put under irrigation so that this country can be food sufficient.

Hon. Temporary Deputy Speaker, food stability can only come in if we are planting and putting the required farm inputs. Fertilizer contributes about 60 per cent of the total cost of farm inputs. Fertilizer will help the farmer gain higher yields and get returns of the investment. Therefore, it is a very critical component that a country must look at because we do not have a proper framework in the law that can help in terms of distribution and putting up factories to manufacture fertilizer. That is why this Bill establishes the fertilizer board. The board will help in terms of regulation and putting up of factories to manufacture fertilizer in this country. It will contribute towards food stability in this country.

Hon. Temporary Deputy Speaker, in the year 2003, African countries met in Maputo and came up with the Maputo Declaration. It said that governments must spend, at least, 10 per cent of their income towards agriculture and food security. When you look at the amount of money that is spent on agriculture in this country, it is not even a quarter of that 10 per cent that was envisaged by the Maputo Declaration – and Kenya is a signatory.

In this country, we have different regions. Different regions need different fertilizers. For instance, the latest research on soil sampling shows that when you do soil sampling and analysis in this country, you will realize that the fertilizer required in the Coast region is totally different from the kind of fertilizer, maybe, required in Central Kenya, North Rift or in Western region. Therefore, when this board is put in place, it will ensure that we are going to have soil sampling. Once soil sampling is done, we will be able to know what kind of fertilizer is best suited or is appropriate for a given region. Once this is in place and we have this information, the factories that are going to be there are going to manufacture fertilizers depending on regions and nutrient gaps.

Hon. Temporary Deputy Speaker, the board will also control imports. I know we import a lot of fertilizer, but with unscrupulous business people in the market, some fertilizer is in the market but it does not have that quality that is required to add nutrients to the soil. A farmer goes to buy fertilizer and finds that it is fake or it is chalk. Therefore, farmers are being conned.

Article 46 of the Constitution stipulates that a consumer has a right to quality goods and services. It is the responsibility of this Government to help. With that board in

place, it will ensure that all the fertilizer going to the market is of good quality. When farmers buy those fertilizers, they will be assured of high yields.

Hon. Temporary Deputy Speaker, I mentioned the research which was done recently and it found out that in this country, we use a lot of DAP when it comes to planting. The latest research has shown that because of over-use of DAP, our soils have become acidic. When the soil is acidic, it is not favourable for the production of cereals and, more importantly, maize. That is because maize is very critical as far as the food security of this country is concerned. Fertilizer that is to be supplied now should be geared towards reducing the acidity of that soil. Because of the absence of the board, you will realize that farmers have no one to inform them about the disadvantages of DAP and currently, they are still over-using DAP which has been discouraged.

We appreciate the Government's efforts in terms of producing subsidized fertilizer. Unfortunately, lime is not being given. You will realize that in many regions, we need lime to neutralize the acidity of the soil before we bring DAP. Therefore, farmers have continued using DAP and that has affected productivity.

Hon. Temporary Deputy Speaker, when I was born – and I remember very well that time - an acre of land---

An hon. Member: How could you remember what was there at your birth?

Hon. Wakhungu: Through reading! An acre of land, if you put in the required inputs; the required amount of fertilizer, you were likely to get about 45 to 50 bags of maize. But currently, even if you use the same DAP; the productivity has been reducing drastically. It came to 30 bags, 20 bags, and even now, you are not assured of getting 10 bags of maize in that particular one acre and yet, you have continued to use the required amount of DAP.

It is because the chemical composition of the soil has changed. As you continue farming, nutrients in the soil get depleted. The requirements of fertilizers keep on changing. Unfortunately, the fertilizers have not been changing. With this body in place, it will contribute towards food security in the country.

Hon. Temporary Deputy Speaker, at Independence, our forefathers were fighting three things; namely, ignorance, disease and hunger. Fifty years down the line, we are still fighting hunger. Why are we still fighting hunger? We are fighting hunger because we are not producing the required amount of food for this nation. With the issue of fertilizers being taken good care of, Kenya will be food-secure. The Government imports about 270 metric tonnes of fertilizers.

Research has shown that this country requires fertilizers in the range of 600-7,000 metric tonnes in order for us to be food-secure. Unfortunately, all this fertilizer is coming from outside the country. Once we have a local factory to produce fertilizers, we will have that input on time. We will have fertilizers for various regions, as per the sampling of the soils of each region. Consequently, food security in this country will be enhanced.

Hon. Temporary Deputy Speaker, the Vision 2030 has three pillars: The economic pillar, the social pillar and the political pillar. Under the economic pillar, agriculture is the main issue. We know that agriculture contributes about 24 per cent of the GDP of this country. Agriculture provides 75 per cent of the industrial raw materials of all the factories that we have in this country. Again, research has shown that this

country gets 60 per cent of her export earnings through agriculture. Sixty five per cent of this country's total exports are agricultural in nature.

This is to emphasise the importance of fertilizers. In the agricultural sector, fertilizer is critical. This country's Medium-Term Plan of 2013-2017 shows that one of the flagship projects under agriculture is provision of subsidised fertilizers. I want to thank the Jubilee Government and His Excellency the President for the commitment that he has shown as far as food security of this country is concerned. Right now, we are having subsidised fertilizers. If in future we have a rogue president who is not concerned about food security, it will be a big issue. Once we have a legal framework in place, anybody in power will be obliged to allocate funds for the manufacture of fertilizers.

Hon. Temporary Deputy Speaker, I want to recognise the efforts of one hon. Member, who was actually part and parcel of this initiative. Unfortunately, she is not in this House. It is hon. Mary Wambui, the former Member for Othaya. We worked very closely with her as far as this Bill is concerned. In fact, she was meant to second it but because of what happened, she is not in this House. I want the people of Othaya to know that, that lady should come back because she contributed heavily as far as the issue of fertilizer is concerned.

(Applause)

It is my humble request that by the time we will be going into the Committee of the whole House of this Bill, she will be in this House. She was very passionate about where she comes from and the issue of fertilizers.

Hon. Temporary Deputy Speaker, regulation is very critical as far as fertilizer production is concerned. We want to borrow from the model of the Pharmacy and Poisons Board, where we will have regulation. Currently, in my county, we have cases of people selling seeds which are not certified. Such unscrupulous business people con farmers. When it comes to productivity, you find that there is a problem. We are also having fertilizers which have expired. Some are not the right fertilizers. Some unscrupulous business people re-package fertilisers. So, once this board is in place, it will help in terms of regulations.

The Bill of Rights provides that everybody should access food. It is the responsibility of the Government to try and feed its people. By trying to help in increasing the accessibility of fertilizers, the Government will be contributing heavily as far as food stability in this country is concerned. We have very many farmers who cannot even break even. Farming in this country is no longer profitable. We have established the Uwezo Fund, which is supposed to help the young. For those who can go into agriculture, it can be a very good venture.

We have had monies being provided through the Youth Enterprise Development Fund (YEDF) to encourage more youth to venture in agriculture, because land is available. Unfortunately, we are not making good use of the YEDF because the prices of fertilizers in this country are very high. Fertilizers cannot be reached. By us doing this, it will add a lot of value as far as production of fertilizers is concerned.

Hon. Temporary Deputy Speaker, at this juncture, I want to request my colleague to second this Bill. I would like to request hon. Members to contribute to this debate

objectively as this Bill is aimed at contributing towards the enhancement of food security in this country.

With those remarks, I beg to move and request hon. Kigo Njenga, the Member for Gatundu, to second the Bill.

The Temporary Deputy Speaker (Hon. Kajwang’): Proceed, Member for Gatundu.

Hon. Njenga: Hon. Temporary Deputy Speaker, I rise to second this very important Bill.

This country has suffered a lot of shame in the past. We get exposed to the whole world every time the people of Turkana County and other parts of this country die of hunger. This country has spent immense resources to import food commodities to keep our people alive. Once the proposed board is put in place, production of food commodities within our country will be enhanced. The situation today is very serious.

I come from a region where coffee and tea farmers, sometimes, do not even know the quantities of fertilizers to apply to their crops. If we have a board that will regulate what we apply to our crops in the various regions, I am very sure that we will be able to improve our productivity. I am well informed that land is a major factor of production. Land will never grow. Nobody can increase land unless we start reclaiming it, which is an expensive exercise. Another factor of production is labour. We have plenty of labour in this country that is adequate for the production of foodstuffs.

The other one is capital. It is in this bracket that inputs such as fertilizers, herbicides and pesticides fall. If we could have a board to regulate the amount and the quality of fertilizer that we put, we will be able to put the other factors of production into use. That is because, as you can see, most of our country is semi-arid or arid and to reclaim that land will be expensive. So, the only best window left for us is to grow on productivity and this board will be able to take us to that level.

Hon. Temporary Deputy Speaker, another very important thing that this House must also consider is that our population is growing arithmetically. Two are producing four; four are producing 16; 16 are producing 232 and this arithmetic goes on and on. Our resources in this country are growing genetically. They cannot grow at the same rate as the population. If we are not sure on the route to follow, we shall get lost.

I was in the National Commission for Science, Technology and Innovation (NACOSTI) conference last Friday in Mombasa. I was sent there by the Budget and Appropriations Committee. I found out that all other continents and sub-continents of the world have taken on a strategy on how to feed their populations within the next two decades, but African countries have not. In their strategy, the market to feed will be Africa and especially sub-saharan Africa. So, if we can take the fact that our population is growing and that other countries are ahead in strategising on food reserves and what they export, it is high time we have a board that is going to ensure that we have appropriate fertilizers getting to our people in order to produce more to feed the nation and to edge out that risk of eroding our resources to the West come 2030 and beyond.

Hon. Temporary Deputy Speaker, I am also happy with this particular Bill because it will bring the rogue businessmen in control. Just a few years ago, we had a problem. People were given chalk and money was paid. With a board like this, we are not going to plant with chalk or plant with other things that we do not know. In one of the

amendments to Section 4, I can see that the board will require certification of any input that we put to fertilizer. The board will have to say and certify to us that what we are getting is good and proper for use. So, that is why I say that, with that kind of board in place, we are not likely to be deceived by rogue businessmen. We shall put what is supposed to be put into our activities in agriculture.

Division of labour in this country must be liked by everybody. Not everything should be decided by the Cabinet Secretary. It is high time we appreciated such boards that will make the Cabinet Secretaries deliver and, by so doing, our Government will also deliver. That is because a board like that is likely to do better research. It is likely to involve itself more and give the Cabinet Secretary more information to make decisions. I am in the know that some Cabinet Secretaries will not be able to actually go and do proper research and, as a result, this Government will continue wasting resources as you have seen.

This board is also having quite some laws stipulated in those amendments which are contained in this proposal. One of them is that they are entitled to build a fertilizer factory in this country. If a fertilizer factory is going to be built in this country and research is done and it is found to be appropriate, then we are going to create employment for our people. We are going to create employment for our youth. Once those youth are employed and they are earning, we are going to raise a lot of revenue, in that we will be able to consume and pay Value Added Tax (VAT). That way, they will be able to pay “Pay as you Earn” (PAYE). That fertilizer company will pay taxes. Our country is going to be better if that board is created.

The other thing that I like about this board is that it is going to control imports. Our country is wasting a lot of resources on imports. We are at a Balance-of-Payment (BoP) deficit with most countries; one of them being China and even European Union (EU) countries. We are in very serious BoP deficits with such countries. If we can be able to have a board that will implement and actualise the fertilizer plant that we will need in our country, then we are sure that we are going to save on the imports and improve our BoP position.

Hon. Temporary Deputy Speaker, I believe that this board should involve itself in looking for more than fertilizer in this country. Just the other day, we heard of bio-fertilizer. It is a fertilizer that is liquid and which is sprayed on the plants. You do not even have to look for store houses. It is fertilizer that you can control handling. With such a board, if we can have that level, we are likely to be like Israel where you can grow food anywhere. They can grow food in the desert and even in the air. So, that board is necessary to take us there.

I also want to say that we have many problems in our region. We are using fertilizer that we do not know and our soils are acidic. We cannot get coffee as we used to. So, if we could have such a board, I am sure it can take us to what the President said - to the level of actualization. There are other advantages. We need retail outlets at constituencies so that everybody can access fertilizer at the right quantity and time. Timeliness will be another advantage. The board will also be well composed. It should have people who are learned. It is high time we gave learned people to do what they know. It will have people with degrees and it is inclusive.

With those many remarks, I support and urge the people who eat food and practise agriculture to continue supporting this because it is what we need. We needed this like yesterday.

With those remarks, I beg to second.

(Question proposed)

Hon. S.S. Ahmed: Hon. Temporary Deputy Speaker, at the outset, I would like to say that the issue of the board is not the problem. If the board is going to be another organization that is going to concentrate on a specific issue then, perhaps, we would like to see it. In the Ministry of Agriculture alone, there are so many boards and commissions that are now being amalgamated. We want to see if there is that board. Let it be reconstituted from another one or else, let it be what we call a part time board. That is because the secretariat is going to be the same as the Ministry of Agriculture. When we are talking about agriculture and fertilizer, it is very important. I know that it has been in our Vision 2030. We also know that it is the issue of food security. Let us remember that there was a big con project; the KenRen Fertilizer Factory, that also had some sort of board that went ahead to con Kenyans a lot of money. So, if the idea is of a committee or a management board which looks at and deals particularly with the issue of fertilizer only, management and seeks investors, it is fine. But to concentrate and make a fully composed board at this time we are looking at our expenses, it is not something that I support. However, I would not mind if it was part time.

The idea is very good and I do not want to tell you too much about fertilizer. We need somebody who can manage the whole issue of fertilizers and distribute them. In the last regime, we got fertilizer and the Minister then, now the Deputy President, brought a lot of it which was subsidized. However, people on the ground did not get any fertilizer. Even right now, we have a small farm in Chwele and they do not get fertilizer. They want to buy it at subsidized rates but they do not get it. So, you will find that in western Kenya, most of the people are looking for fertilizer. They are not getting the subsidized one. If they get it, it is the wrong type as the Deputy Chief Whip has said. To resolve the problem, it is very important we go backwards and find out exactly what happened and where it happened. Whether that is a board's responsibility or whether you feel that the board will solve those problems, it is up to you. But I do not think so.

We should establish that board to operate on a part time basis. It should have a secretariat that is small to deal with those issues. At the same time, we must ensure that fertilizer meets the standards. It should be imported by a particular board or a management committee.

Hon. Temporary Deputy Speaker, with those remarks, as I said, I support a board but not in the manner that it is proposed here; that it should be a full time board with full time commissioners. They will get allowances and there will be a secretariat. I think that board should operate on a part time basis.

With those few remarks, I support.

Hon. Kemei: Thank you, hon. Temporary Deputy Speaker for giving me this chance to air my views on this Bill. First and foremost, I am on record as saying that I support a free market economy. The Government should only be there to provide the

necessary environment in which people from the private sector can be able to do business. That is the only way we can expand growth in this country; that is the only way we can guarantee our people employment and that is the only way we can attract investment from the private sector.

However, on this accord, I am at a loss because I would like a situation where we realize our agricultural development initiatives. We cannot do that unless we have sufficient, suitable and timely supply of fertilizers to our farmers. That is why I say that I am at a loss.

I would like to support this Bill probably if we discussed it more with hon. Dr. Chris Wamalwa and the Departmental Committee on Agriculture, Livestock and Cooperatives. At the moment, we are in the process of putting into operation the AFFA Act. That Act will enable this country to have a single institution being responsible for a schedule of crops. That way, we are reducing the number of parastatals that have been in the Ministry of Agriculture, Livestock and Fisheries. At the moment, they are close to 40. The number of parastatals we had in this country in the 1980s were close to 200. There is a lot of Government everywhere and yet, if we were to grow crops, we cannot rely entirely on the Government. We have to rely on the Government to give us the necessary environment in which the private sector can be able to do business.

Hon. Temporary Deputy Speaker, if you look at it critically, you will find that the fertilizer that has been coming into this country is not suitable. There is DAP here and DAP there. The level of acidity in our soils across the country at the moment is very high such that production has come down. If it was for the sake of making sure that the research work that we have in this country and the policy papers that we have in this country relating to fertilizer will be implemented by that board, I will gladly support its establishment.

One last aspect that I would like to say is that we have the kind of rocks in this country that contain minerals that we require for making fertilizer. The rocks that we have in Kenya are the same ones that are in Morocco, Ukraine and Russia where we import the bulk of fertilizer that comes into this country.

If you go to Kerio Valley and to my constituency, Sigowet/Soin, the same rocks are there. It is only that the Government of this country has not put in place the necessary measures, framework, policies and environment for the establishment of a fertilizer plant. As we debate this Bill, I support it reluctantly because I do not want more enterprises to be created. We have a monolith now called the National Cereals and Produce Board and there is so much bureaucracy. If you want two bags of fertilizer, you go there and make a requisition. You are asked to go and pay in the bank and you go back to the same institution. That kind of bureaucracy is not necessary. We cannot grow as a nation if we were to spend two or three days requisitioning for two bags of fertilizer and yet, it would only take you about five to ten minutes to get your fertilizer and to go and plant.

Finally, I want to thank the Jubilee Government. For the first time in this country, we are seeing timely supply of fertilizer. To the South Rift region where I come from, fertilizer is now available during the planting season. In the past, there has been lack of fertilizer during the planting season and we are talking of agriculture. We are talking of the Maputo Declaration when we are not even close to reaching there. The Maputo

Declaration requires that when we budget, we give 10 per cent of the national Budget for agriculture. We are not doing that.

For example, the livestock industry contributes 10 per cent of the GDP and yet, what we give in terms of budgetary allocation towards livestock development is peanuts. It is high time that we sat as a National Assembly and dedicated more resources to agriculture, so that we can enhance both economic and industrial growth in this country.

I support and as we debate, we need to look at it critically and harmonize the operationalization of the Agriculture, Fisheries and Food Authority Act.

The Temporary Deputy Speaker (Hon. Kajwang’): Well spoken. Member for Wajir North. You have four minutes to open your debate.

Hon. Saney: Thank you, hon. Temporary Deputy Speaker. In as much as the object of the Amendment Bill is good and well intentioned, I rise to oppose. The Amendment Bill espouses the formation of a board that is a separate corporate entity with a seal and the mandate to recruit employees. In the light of the ballooning wage bill, which is a matter of national interest currently, I feel that this will further diminish the money that would have been available for our development purposes, if we allow the establishment of that entity. It will start recruiting and that will put more expenditure on our economy.

In 2010, we passed a Constitution that is so expensive to implement. With the attendant legislations, we are trying to come up with so many structures that will be expensive to the taxpayers. I feel that any Bill that proposes the creation of a new structure will further be a burden to the taxpayer. It is not welcomed at this point in time. As stated by other Members, we had the hon. Abdikadir-led Committee that was appointed by the Head of State and tasked to harmonize parastatals. We should wait a little bit until that is done. We will lump most of those functions to one entity than doing it independently.

Right now, we have the structures to do this work. We do not need new legislation and an independent institution that will solely be doing the work of fertilizer distribution. I believe that we will have a directorate under the many boards within the Ministry of Agriculture, Livestock and Fisheries that is related to crop husbandry to do the work of fertilizer. That will be sufficient without necessarily having new structures and legislations that will be a burden to our economy.

With those few remarks, I oppose.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, the time being half past noon, this House stands adjourned to this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.