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THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT- FOURTH SESSION

DELEGATION REPORT

STUDY VISIT BY THE PUBLIC ACCOUNTS
COMMITTEE

TO THE NATIONAL PEOPLE'S CONGRESS, BEIJING,
CHINA

18TH – 22ND APRIL, 2016

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Paper laid on
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on Wednesday,
8th June 2016
at 9.30am by
Hon. Nicolas
Gumbo, MP, &
PAC Chairperson.

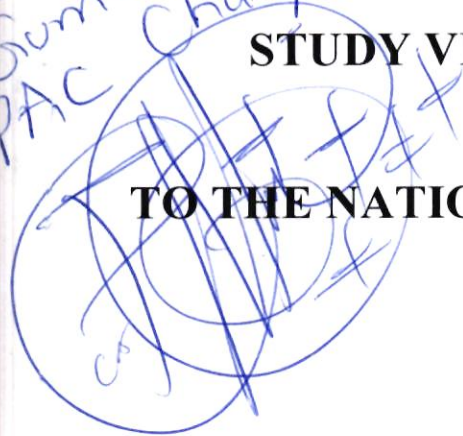


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ABBREVIATIONS

BAC – Budgetary Affairs Commission

CNAO- China National Audit Office

CNY- Chinese Yuan

CPC – Communist Party of China

CPPCC – Chinese People’s Political Consultative Conference

GDP- Gross Domestic Product

FOCAC - Forum on China- Africa Cooperation

LDC- Least Developed Country

MDA’s- Ministries, Departments and Agencies

NAO - National Audit Office

NPC- National People’s Congress

PAC - Public Accounts Committee

PRC – People’s Republic of China

SASAC – State-owned Assets Supervision and Administration Commission

USD- United States Dollar

1.0 INTRODUCTION

The Public Accounts Committee (PAC) is a select Committee of the House deriving its mandate from Standing Order 205(2) which states;

“The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.”

1.1 Committee Membership

The Committee comprises the following members:-

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Andrew Mwadime, M.P.
4. Hon. Sakwa Bunyasi, M.P.
5. Hon. (Dr.) David Eseli Simiyu, M.P.
6. Hon. Kyengo Katatha Maweu, M.P.
7. Hon. Timothy Bosire, M.P.
8. Hon. Fathia Mahbub, M.P.
9. Hon. Joseph Manje, M.P.
10. Hon. (Capt.) Clement Muchiri Wambugu, M.P.
11. Hon. Abdikadir Aden, M.P.
12. Hon. Alice Nyanchoka Chae, M.P.
13. Hon. Arthur Odera, M.P.
14. Hon. Junet Sheikh Nuh, M.P.
15. Hon. Kanini Kega, M.P.
16. Hon. Manson Nyamweya, M.P.
17. Hon. Stephen Manoti, M.P.
18. Hon. Joel Onyancha, M.P.
19. Hon. Julius Melly, M.P.
20. Hon. Kareke Mbiuki, M.P.
21. Hon. Gonzi Rai, M.P.

22. Hon. Jessica Mbalu, M.P
23. Hon. Kangogo Bowen, M.P.
24. Hon. Charles Mong'are Geni, M.P.
25. Hon. John Mbadi, M.P.
26. Hon. Mathias Robi, M.P.
27. Hon. Silvance Onyango Osele, M.P.

1.2 Committee Mandate

The primary mandate of PAC is to oversight the expenditure of public funds by Ministries, Departments and Agencies, to ensure value for money and adherence to Government financial regulations and procedures.

On this note, PAC sought to understand how China's National People's Congress coordinated the various agencies that were responsible with audit of Government expenditure in ensuring implementation of its annual reports. PAC appreciates that ex-post accountability is key in the budget cycle as a whole.

Further, PAC sought to gain technical insight on how its Members could improve on their interrogative capacity on matters finance.

1.3 Delegation

The delegation comprised the following Members;

1. Hon. Gonzi Rai, MP –Leader of Delegation
2. Hon. Alice Chae, MP
3. Hon. Arthur Odera, MP
4. Hon. Mathias Robi, MP
5. Hon. Jessica Mbalu, MP
6. Hon. Stephen Manoti, MP
7. Hon. (Dr.) David Eseli Simiyu, M.P.
8. Ms. Jane Njogu- National Treasury
9. Mr. Raphael Ikame- Office of the Auditor General
10. Mr. Victor Weke- PAC Clerk Assistant and Delegation Secretary

1.4 Objectives of the Visit

PAC endeavours to enhance its capacity in carrying out its mandate and meet the requirements of the new Constitution. China has emerged to become the 2nd largest economy in the world and this would not have been achieved save for stringent accountability measures. It is this desired direction that Kenya would benefit from borrowing best practice and domestication of the same.

Therefore, PAC sought to understand how the National People's Congress of China coordinates the various agencies that are responsible with audit of Government expenditure in ensuring accountability. Further, PAC sought to gain technical insight on how its members could improve on their interrogative capacity on matters finance.

This visit would also act to cement the relations between the two countries.

1.5 Appreciation

In conclusion, the Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for facilitating the trip. The delegation views such trips as important in learning of best practice in legislative oversight, especially in a fluid global environment, and furtherance of Kenya's relations with other countries. Recommendations herein if adopted and domesticated, will go a long way in improving how PAC carries out its mandate in improving accountability. The delegation finally thanks the Ministry of Foreign Affairs and staff of the Kenya Embassy in Beijing for their logistical support that made the tour a success.

Mr. Speaker, Sir,

On behalf of the Members of the Committee, and pursuant to Standing Order no. 199(6), it is now my pleasant duty to table the Report of the Public Accounts Committee on its benchmarking visit to the National People's Congress in Beijing, China, for consideration and adoption by the House.

Signed.....

Hon. (Eng.) Nicolas Gumbo, MP

Chairperson

2.0 BACKGROUND ON CHINA

The People's Republic of China (PRC) is the most populous country in the world with approximately 1.37 billion people. It is also the third largest country after Russia and Canada with a total geographical area of about 9.7 million square kilometers.

The PRC exercises jurisdiction over 22 provinces, five autonomous regions, four directly-controlled municipalities (Beijing, Tianjin, Shanghai, and Chongqing), and two highly autonomous Special Administrative Regions (SARs) – Hong Kong and Macau.

Since 2010, China's economic growth rate has averaged between 6.9 % and 10% indicating a slowdown in the over 10% growth rate witnessed over the last 3 decades. China had an economic growth rate of 6.9% and a GDP of over USD 10.3 trillion (2015) making it the second largest economy in the world after the United States of America. The economy is projected to grow by 6.5% in 2016.

China is the largest exporter and second largest importer of goods in the world and remains the largest manufacturing economy in the world. It is a top destination for investment attracting US\$ 119.6 billion of Foreign Direct Investment in 2014.

On 14th March, 2013, the National People's Congress (NPC) elected a new administration to lead China for the next five years. H.E Xi Jinping replaced H.E Hu Jintao as President. The NPC also ratified the appointment of Mr. Li Keqiang as Premier and Mr. Yu Zhengsheng as the Chairman of the Chinese People's Political Consultative Conference, (CPPCC). The new leadership pledged to continue with the process of reforms and opening up of the political and economic system in line with the country's strategy of building a prosperous society by 2021 and forging a strong, democratic, culturally advanced, harmonious and modernized socialist country by 2049.

2.1 Kenya-China Relations

Kenya has enjoyed cordial bilateral relations with China since independence. Kenya supports the "One China Policy" and the reunification of Taiwan to the Mainland and has consistently worked closely with the sole and legitimate Government in Beijing at the United Nations and other international fora. The past decade has seen bilateral relations between Kenya and China flourish

with many cooperation projects in various fields including: infrastructure development, energy generation and distribution, manpower development, scientific research, sports and culture.

2.2 High Level Visits

Kenya and China enjoy frequent high level exchanges between leaders of the two countries. The most recent high level visit was a six (6) day State visit in August 2013 by H.E. Hon. Uhuru Kenyatta, C.G.H., President of the Republic of Kenya, accompanied by Her Excellency Margaret Kenyatta, First Lady of the Republic of Kenya, Eight (8) Cabinet Secretaries, two (2) Principal Secretaries, six (6) Governors, four (4) Senators, Eleven (11) Members of Parliament and nearly 100 business people.

During the visit, H.E. The President held bilateral talks with his host H.E. President Xi Jinping of China which culminated in the signing of eight (8) bilateral Economic and Technical Cooperation Agreements and MOU's between Kenya and China in various field including infrastructure, energy, environment, finance and immigration.

In May 2014, the Chinese Premier H.E Li Keqiang visited four African countries, including Kenya. This significant event underscored the friendship and rapidly expanding cooperation between China and Africa generally, and Kenya in particular. The highlight of Premier Li Keqiang's visit to Kenya was the signing of several technical and economic cooperation agreements between the two countries in the areas of infrastructure development, energy, environmental conservation, agriculture and livestock production, sports and youth development, and wildlife protection, among others. The agreements form an important foundation for enhancing our bilateral cooperation.

In January 2015, the Chinese Foreign Minister H.E Mr. Wang Yi visited four African Countries with Kenya as his first overseas destination for the year. During the visit, the Kenya-China Memorandum of Understanding on Establishing a Bilateral Steering Committee (BSC) to consolidate the Comprehensive Partnership Agreement of August 2013 was signed. The BSC is expected to meet in Beijing in June 2016 and be co-chaired by the Cabinet Secretary/Foreign Ministers of Kenya and China.

2.3 Development Assistance

As a leading trade, investment and strategic development partner, China continues to play a significant role in Kenya's economic transformation as envisaged in the Kenya Vision 2030. China is playing a crucial role in financing the implementation of several flagship projects especially in infrastructure construction (Roads, Standard Gauge Railway, Airport construction and expansion), energy generation and transmission, and real estate development among others. The Standard Gauge Railway (SGR) is China's single largest investment in Kenya and the East and Central African Region's economy in the last five (5) decades.

2.4 Trade

Trade between Kenya and China stood at USD 5.007 billion in 2014. The balance of trade is greatly in favour of China with Kenya's contribution being US\$ 77.04 million.

About 90 % of Kenya's exports are primary products which include iron, manganese, chromium, copper ore, leather, sisal fiber, tea, coffee and fish products.

Coffee and black tea are consumed in very low quantity in China but there is a growing coffee/tea consumption culture within the rapidly growing Chinese middle class in urban areas. There is therefore huge potential to increase the export of Kenyan Coffee and Tea.

Kenyan exports to China continue to attract commensurate taxes because the country does not qualify for exemption by virtue of not being a least developed country (LDC), while exports from other countries in the EAC qualify for Most Favored Nation (MFN) treatment.

Through the existing Kenya-China Joint Committee on Trade, Investment, Economic and Technical Cooperation (JCET), the two countries are exploring ways in which trade and investment can be enhanced especially through value addition and capacity building to address the trade imbalance. The JCET is due to meet at the end of April 2016 in Beijing.

2.5 Tourism

Trade imbalance with China can be ameliorated by attracting maximum number of Chinese tourists to visit the country. In the last ten (10) years Chinese tourists have increased from 4,797 in 2003 to over 40,000 tourists from 2012. The estimates of the number of Chinese tourists who travelled to Kenya in 2013 and 2014 are 37,000 and 31,486 respectively. In September 2014 the

Kenya-China Memorandum of Understanding on Cooperation in the Field of Tourism was signed, while additional efforts are being exerted to grow the number.

According to the UN World Tourism Organization (UNWTO) China was the largest outbound tourism market for the second year in a row in 2013, surpassing the 100million mark in 2014. The UNTWO estimates that this is bound to double in six years to 200 million by 2020.

2.6 Kenya Airways

Kenya Airways has been a major actor and link in Kenya/China economic interaction and continues to be a catalyst for promoting trade and tourism with China. The Government of Kenya and Kenya Airways with the cooperation of the Government of the People's Republic of China are working together to make air travel easier by increasing flight frequencies and entry points to China. Kenya Airways is operating ten (10) flights per week from China: Seven (7) flights per week from Guangzhou to Nairobi, of which four are via Bangkok, three via Hanoi, and three flights from Hong Kong. Preparations to commence direct flights between Nairobi and Beijing are almost complete. Arrangements are also underway for Kenya Airways to commence flights to Shanghai thereafter. This will enhance the movement of people and goods between the two countries.

China Southern, the largest Airline in Asia commenced three (3) weekly direct flights from Guangzhou to Nairobi in August, 2015.

2.7 Human Resource/ Capacity Building

Currently there are nearly 500 university students undertaking studies in various academic disciplines such as medicine, engineering, language and culture as well as social sciences on full sponsorship of the China Scholarship Council. The scholarships have been increased from 10 in 2005 to over 60 Scholarships per year since 2012.

In December 2015, H.E Uhuru Kenyatta and H.E Xi Jinping met in Johannesburg, South Africa at the Forum for China-Africa Cooperation Summit during which H.E. President Xi Jinping announced a Chinese offer for 1000 university scholarships for Kenyan students to study in China for the next three years. The China Road and Bridge Corporation (the company constructing the Standard Gauge Railway in Kenya) has initiated a "Railway Talents Cultivation Scholarship Program" whereby it will sponsor sixty (60) Kenyan students to study undergraduate

degree course in Railway Engineering in China as part of the efforts to develop human capacity for the sustainability of the SGR. The first 25 Kenyan students to benefit from this agreement arrived in Beijing in March 2016 and have commenced their studies at the Beijing Jiaotong University.

Training Opportunities: During the 5th Ministerial conference on FOCAC held in July 2012, in Beijing, the Chinese Government pledged to support Africa enhance capacity by implementing the “African Talents Programme” designed to train 30,000 personnel and provide 18,000 scholarships over a period of three years. In 2012, a total of 150 Kenyan senior Government officials attended training in China. A similar number was trained in 2013 and 2014. Over 100 Kenyan officials from both the Public and Private sector attended training in China in 2015.

During the 2nd Summit of FOCAC held in December, 2015 in Johannesburg South Africa, the Chinese Government further pledged to train 200,000 technicians, and 1,000 media professionals, provide 40,000 other trainings and 30,000 Government scholarships for African countries in the next three years. A bigger number of Kenyan public and private sector officials are therefore expected to train in China this year.

Hanban/Confucius Institutes: Under the language and culture programme, the University of Nairobi, Kenyatta University and Egerton University have partnered with the Hanban (Confucius Institute) to teach Chinese language and culture in Kenya.

2.8 Forum on China Africa Cooperation (FOCAC)

The Forum on China - Africa Cooperation (FOCAC) was established in year 2000 to forge closer ties between China and African Countries. Over the last fifteen years, African countries have benefited from better terms on concessionary loans, training opportunities and scholarships. During the Fifth FOCAC Ministerial Conference in July 2012, China pledged to provide a US\$ 20 billion credit line to African countries to fund infrastructure development, agriculture, manufacturing and Small & Medium Sized Enterprises, (SMEs).

The Sixth FOCAC Ministerial Conference which was elevated to a Summit, the second one after the Beijing Summit in 2006 and the first to be held in Africa took place in Johannesburg, South Africa, from 4th -5th December of 2015. The two-day Summit culminated in the adoption of the Declaration of the Johannesburg FOCAC Summit and the 2016-2018 FOCAC Johannesburg Action Plan. The package covers ten cooperative projects in various sectors such as industrialization, agricultural modernization, infra-structure, financial services, green development, trade and investment facilitation and poverty reduction. H.E. Xi Jinping, President of the People's Republic of China, announced that the financial assistance package from China to support implementation of the projects will be USD 60 billion of which, USD 35 billion would be preferential loans and export credit lines, USD 5 billion in grants, USD 15 billion for Capital for the China-Africa Development Fund (CAD-fund) and USD 5 billion for loans to develop African Small and Medium enterprises.

3.0 SCHEDULED MEETINGS

3.1 TOUR OF THE GREAT HALL OF THE PEOPLE AND BRIEF ON NATIONAL PEOPLE'S CONGRESS (NPC)

The delegation was taken round the Great Hall of People, the House of the NPC, which has a capacity of 10,000 people. The delegation also visited a sample of regional committee rooms and was impressed by the unique interior décor of each room representing each region's cultural orientation.

The National People's Congress (NPC) is the National Legislature of the People's Republic of China and is the highest organ of state power. It currently has 2,987 members, making it the largest parliamentary body in the world. Members of the National People's Congress are elected for five-year terms through a multi-tiered representative electoral system. The NPC is structured as a unicameral legislature, with the power to legislate, to oversee the operations of the Government, and to elect the key officials of state. The NPC and the Chinese People's Political Consultative Conference (CPPCC), a consultative body whose members represent various social groups, are the main deliberative bodies of China, and are often referred to as the Lianghui (Two Assemblies).

The NPC holds annual sessions every spring, usually lasting from 10 to 14 days in the Great Hall of the People. The NPC's sessions are usually timed to coincide with the meetings of the CPPCC. These annual meetings provide an opportunity for the officers of state to review past policies and present future plans to the nation. The 2016 NPC annual session was held from 5th -16th March, 2016. The Standing Committee of the NPC is the permanent organ of the NPC which performs its functions when the NPC is not in session.

The composition and term of office of the NPC

The NPC is composed of members elected from the provinces, autonomous regions and municipalities directly under the Central Government and serve for a five year term. They are elected by the provincial people's assemblies, who in turn are elected by lower level assemblies, and so on through a series of tiers to the local people's assemblies which are directly elected by the electorate. Members of the NPC are organized into delegations according to the units they are elected from. Each delegation is headed by a chairman and vice chairman. All the ethnic minorities are entitled to appropriate representation. The current Chairman of the NPC Standing Committee is H.E Mr. Zhang Dejiang. Mr. Zhang Dejiang made an Official Visit to Kenya from 23rd to 26th March, 2016 when he met among others H.E the President and the Speakers of the National Assembly and Senate of Kenya.

The functions and powers of the NPC

The NPC exercises the following functions and powers:-

- i) Amending the Constitution ;
- ii) Supervising the enforcement of the Constitution;
- iii) Enacting and amending basic laws governing criminal offences, civil affairs, the state organs and other matters;
- iv) Electing the President and the Vice President of the People's Republic of China; Appointing the Premier of the State Council (upon nomination by the President), the Vice Premiers, State Councilors, Ministers in charge of ministries or commissions, the Auditor-General and the Secretary-general of the State Council (upon nomination by the Premier);

- v) Electing the Chairman of the Central Military commission and, upon nomination by the Chairman, to decide on the choice of all other members of the Central Military Commission;
- vi) Electing the President of the Supreme People's Court ;
- vii) Electing the Procurator-General of the Supreme People's Procuratorate;
- viii) Examining and approving the plan for national economic and social development and the report on its implementation;
- ix) Examining and approving the state budget and the report on its implementation;
- x) Altering or annulling inappropriate decisions of the Standing Committee of the NPC;
- xi) Approving the establishment of provinces, autonomous regions, and municipalities directly under the Central Government ;
- xii) Deciding on the establishment of special administrative regions and the systems to be instituted there and deciding on questions of war and peace.

Special Committees of NPC

The NPC has the following nine (9) Special Committees that examine, discuss and draw up relevant bills and draft solutions of specific issues under the direction of the NPC and its Standing Committee:

1. The Legislative Work Committee,
2. The Committee for Ethnic Affairs,
3. The Financial and Economic Affairs Committee,
4. The Committee for Education, Science, Culture and Health,
5. The Committee of Foreign Affairs,
6. The Overseas Chinese Affairs Committee,
7. The Committee of Internal and Judicial Affairs,
8. The Committee of Environmental and Resources Protection,
9. The Committee for Agriculture and Rural Affairs.

The Financial and Economic Affairs Committee's main function is to examine, discuss and draw up relevant bills and draft solutions on economic issues of the People's Republic of China. The Chairman of the Committee is Mr. Li Shenglin.

The Budgetary Affairs Commission is the administrative body of NPC that assists the Financial and Economic Affairs Committee with the specific work of examining the budget, final accounts and budget readjustment plans as well as implementation of the budget. It is also responsible for assisting the Financial and Economic Affairs Committee with drafting relevant law related to the budget. It was created in order to strengthen the examination and supervision of national budget, enhance the legal administration of financial issues and safeguard the sound development of national economic and social undertakings. The Chairman of the Commission is Mr. Liao Xiaojun.

3.2 MEETING WITH THE BUDGETARY AFFAIRS COMMISSION (BAC) OF THE STANDING COMMITTEE OF THE NPC

The delegation was received by the Chairperson of BAC, Mr. Liao Xiaojun, accompanied by the Commission's three vice-presidents, Mr. Liu Xiuwen, Mr. Liu Wei and Mr. Zhu Mingchun.

The delegation was informed that BAC was established in December 1998 during the Sixth Plenary Session of the Standing Committee of the 9th NPC as a ministerial department. This was in order to strengthen the examination and supervision of financial issues and safeguard the sound development of the national economy and social undertakings.

BAC has four major functions. First, it assists the Financial and Economic Affairs Committee with the specific work of examining the budget, final accounts and budget readjustment plans, as well as supervising implementation of the budget on behalf of the NPC and its Standing Committee. Secondly, upon the entrustment of Council of Chairpersons of the Standing Committee, BAC is responsible for drafting relevant laws and assisting the Financial and Economic Committee with the specific work of reviewing relevant law drafts, as well as performing other specific tasks related to budget.

Thirdly, BAC can seek special permission from the Council of Chairpersons to request relevant departments and units to provide information on budget and acquire relevant data and explanation. Finally, upon special approval by the Council of Chairpersons, BAC is entitled to

conduct investigations on the use of budgetary funds and special funds allocated to departments, budgetary units and major construction projects.

In achieving the above functions, BAC is organized into four departments: The General office which oversees general operations, the Department of Budget and Final Account Examination, the Department of Legislative Affairs and the Department of Research.

Mr. Liao Xiaojun informed the delegation that the Chinese have stuck to their strategic plan, now implementing the 13th 5-year plan. This has seen a GDP growth from USD.56B in 1978 (the 1st year of liberalization) to USD.10.4 Trillion in 2015. This is twice that of Japan and 60% that of the United States. During the same period, the per capita has improved from USD.227 to almost USD. 8000. It is imperative to note that in 1949 when China embarked on the path to development, their per capita income was USD.35.

Mr.Xiaojun however noted that the task was still heavy with a still relatively low per capita due to the high population, and an unbalanced development in the east, mid and west of the country. The Chinese economy still faced pressure, risks and challenges. He added that misuse of funds still does happen. The difference however lay in detection, investigation and stiff penalties to those involved at whatever level of authority and power. Detailed regulations and self-discipline go a long way to minimize these malpractices.

Projects in China are implemented according to capability, arising from a rich and consultative budget process. NPC recommendations are legally binding.

3.3 MEETING WITH THE NATIONAL AUDIT OFFICE (NAO)

The delegation was received by the Deputy Auditor General, Ms. Qin Boyong, accompanied by Mr. Hao Suchen, Director General Public Finance Audit department, Mr. He Jie, Deputy Director General, Mr. Xing Jianfeng, Director General, International Cooperation department and his deputy Ms. Zhou Wenhua.

The China National Audit Office was established in 1983 and is anchored in the Constitution and is headed by the Prime Minister. NAO is the administrative head of CNAO and is organized in a two-tier system, the national level and the provincial level. NAO presents to the Standing Committee of the NPC and to the local levels, an annual report on budget implementation. A

corrective action report on the status of implementation of corrective action on previous issues is also issued yearly. NAO has made strides to increase frequency of audit.

Mr. Hao Suchen informed the delegation that public finance audit examines the authenticity, legality and benefits of all public revenue and expenditure. This covers the full spectrum of livelihoods including health, education, environment, security, major infrastructure projects etc. It also includes implementation of policy to reveal situational problems in taxation, finance and budgetary management structures. It also plays an active role in enactment of relevant laws. To enhance efficiency, the unit performs real time audits and use data analysis techniques for precision in examination of electronic data.

CNAO is supervised internally and externally. The internal office comprises representatives of political parties while externally, the NPC is the lead oversight body. The budget for CNAO is included in the auditees respective budgets at all levels while their employees are civil servants. The Auditor General is appointed by the President.

The hosts clarified that even though they cannot question policy, CNAO can suggest whether the budget system is responsible. On security and confidential matters, day to day audit is left to internal auditors. When the need arises, they audit these sectors under strict confidentiality. CNAO however does not audit the Ministry of Defense since their budget comes straight from the Central Management Committee.

It emerged that some auditees do not cooperate with auditors in a timely manner in provision of documents. CNAO has however received strong support from the Government; in 2014 the Central Government issued a stern circular towards this end while the state council echoed the same in 2015 for their level of authority.

CNAO has powers to punish in accordance with the law, the acts of auditees in violation of state regulations on Government and financial revenues and expenditures. At the conclusion of audit, CNAO can make an audit decision or put forward to department in charge its recommendations as to how to deal with or punish the violations.