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REPUBLIC OF KENYA



TWELFTH PARLIAMENT

THE NATIONAL ASSEMBLY – THIRD SESSION

REPORT

OF THE PUBLIC INVESTMENTS COMMITTEE ON

THE INQUIRY INTO THE SAFETY OF FERRIES AS OBSERVED IN THE AUDITED
ACCOUNTS OF KENYA FERRY SERVICES FOR FINANCIAL YEAR 2016/17

NOVEMBER, 2019

Directorate of Committee Services

The National Assembly,

Parliament Buildings,

NAIROBI

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 DEC 2019	DAY: TUESDAY
TABLED BY:	HON. ABDULSWAMUIS SHARAF CHAIRPERSON PUBLIC INVESTMENTS COMMITTEE
CLERICAL PREPARED:	

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LIST OF ABBREVIATIONS /ACRONYMS

FY	-	Financial Year
KMA	-	Kenya Maritime Authority
KFS	-	Kenya Ferry Services
MOTIHUD	-	Ministry of Transport, Infrastructure, Housing and Urban Development
OAG	-	Office of the Auditor General

CHAIRPERSON'S FOREWORD

The Public Investments Committee is a financial audit oversight committee of the National Assembly that examines reports of the Auditor-General laid before the House to ensure probity, efficiency and effectiveness in the use of public funds.

The Committee is established pursuant to Standing Order 206 to examine the working of public investments on the basis of their audited reports and accounts. This ensures implementation of Article 229(8) of the Constitution of Kenya, 2010 on reports laid before the House by the Auditor-General which provides that "Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action".

The Public Investment Committee's inquiry into the safety of ferries operated by the Kenya Ferry Service was triggered by an audit query raised by the Auditor General on the audited accounts of the State Corporation for financial year 2016/17. In his report, the Auditor General had observed that pulleys on most ferries were defective causing prows are to be submerged in water. This exposes vehicles and passengers on the ferry to slipping off the deck and into the Likoni channel. The Auditor further observed that dry-docking for ferries was not being done as scheduled and that some ferry engines had operated for more than 30,000 hours without undergoing engine overhaul.

In considering the matter, the Committee got representations from the Management of Kenya Ferry Services, the Cabinet Secretary for the Ministry of Transport, Infrastructure, Housing and Urban Development, and the Management of Kenya Maritime Authority.

The safety of ferries operated by Kenya Ferry Services has been put under the national spotlight following an incident on MV Harambee on 29th September, 2019 that claimed the lives of two Kenyans. In its inquiry, the Committee sought to establish the state of the ferries as observed by the Auditor General. The Committee sought to establish whether there was any omission or commission by the Management of Kenya Ferry Services that might have led to poor maintenance of ferries and exposed ferry passengers to danger. Finally, the Committee sought to establish whether the maritime industry regulator, Kenya Maritime Authority played its role in ensuring the safety of ferries operated by Kenya Ferry Services.

The Committee records its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to enable it undertake its mandate successfully. The

Committee further extends its appreciation to the Office of the Auditor- General for the services they offered during the entire inquiry.

May I also extend my appreciation to my fellow Members of the Committee whose immense contributions and dedication to duty has enabled the Committee produce this report.

On behalf of the Public Investments Committee, and pursuant to Standing Order 199(6), it is my pleasant duty and honour to present this report on the inquiry into the safety of ferries operated by Kenya Ferry Services for debate and adoption.

HON. ABDULLSWAMAD SHARRIF NASSIR, MP

CHAIRPERSON, PUBLIC INVESTMENTS COMMITTEE.

1.1 COMMITTEE MANDATE

1. The Public Investments Committee is established under the National Assembly Standing Order (S.O.) 206 and is responsible for the examination of the working of public investments on the basis of their audited reports and accounts.
2. The Committee is mandated to:
 - (i) examine the reports and accounts of the public investments;
 - (ii) examine the reports, if any, of the Auditor General on the public investments; and
 - (iii) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices;

1.2 COMMITTEE MEMBERSHIP

3. The Committee on Public Investments constituted by the House in December 2017 comprises of the following Members:

Name of Member	Constituency	Party
Hon. Abdullswamad Sharrif Nassir, MP Chairperson	Mvita	ODM
Hon. Ahmed Abdisalan Ibrahim, MP Vice- Chairperson	Wajir North	ODM
Hon. (Dr.) Chrisantus Wamalwa Wakhungu C.B.S, MP	Kimini	Ford Kenya
Hon. Raphael Bitta Sauti Wanjala, MP	Budalangi	ODM
Hon. Justus Kizito Mugali, MP	Shinyalu	ODM
Hon. Gladys Nyasuna Wanga, MP	Homa-Bay County	ODM

Hon. John Muchiri Nyaga, MP	Manyatta	JP
Hon. (Prof.) Mohamud Sheikh Mohammed, MP	Wajir South	JP
Hon. Babu Owino Paul Ongili, MP	Embakasi East	ODM
Hon. James Githua Kamau Wamacukuru, MP	Kabete	JP
Hon. Joash Nyamache Nyamoko, HSC, MP	North Mugirango	JP
Hon. Mary Wamaua Waithira Njoroge, MP	Maragwa	JP
Hon. Mohamed Hire Garane, MP	Lagdera	KANU
Hon. Omar Mohamed Maalim Hassan, MP	Mandera East	EFP
Hon. Paul Kahindi Katana, MP	Kaloleni	ODM
Hon. Purity Wangui Ngirici, MP	Kirinyaga County	JP
Hon. Rashid Kassim Amin, MP	Wajir East	WDM-K
Hon. Zachary Kwenya Thuku, MP	Kinangop	JP

1.3 COMMITTEE SECRETARIAT

4. The Secretariat facilitating the Committee comprises of -

Evans Oanda	-	Senior Clerk Assistant
Mohamed Boru	-	Clerk Assistant II
Marlene Ayiro	-	Senior Legal Counsel
Thomas Ogwel	-	Fiscal Analyst II
Sharon Rotino	-	Research Officer II
Noelle Chelagat	-	Media Relations Officer III
Winnie Atieno	-	Audio Recording Officer
Alex Mutuku	-	Senior Sergeant-at-Arms

2.0 INRODUCTION

2.1 Audit Query on Safety of Ferries as Observed by the Auditor General

5. In the audited financial statements of Kenya Ferry Services for financial 2016/17, the Auditor General raised a query on the safety status of ferries operated by KFS. In particular, the Auditor raised the following issues regarding the safety of the vessels:
 - a. Dry-docking for MV Kwale and MV Likoni not done as scheduled;
 - b. MV Kwale engine had operated for more than 30,000 hours without undergoing engine overhaul;
 - c. Pulleys on most ferries were defective causing prows to be submerged in water; and
 - d. The ferry users are not insured therefore it may be difficult to settle liabilities in case of accident.

2.2 Committee Proceedings

6. In considering the matter, the Committee held six sittings in which it got representations from the Management of Kenya Ferry Services, the Cabinet Secretary for the Ministry of Transport, Infrastructure, Housing and Urban Development, and the Management of Kenya Maritime Authority.
7. The Committee was unable to meet with the Board of Directors at Kenya Ferry Services during its inquiry. The Board was disbanded following an accident at the Likoni channel on 29th September, 2019.

2.3 Establishment and Mandate of Kenya Ferry Services

8. Kenya Ferry Services is a State Corporation, established under the Companies Act (CAP 486) of the Laws of Kenya and operating under the Ministry of Transport, Infrastructure, Housing and Urban Development, mandated with the operation of ferries in the Country.
9. KFS currently ferries over 300,000 pedestrians and up to 6,000 vehicles daily across the channel. The firm projects the passenger number to hit 500,000 in the next three years if the current trend continues. There are six operating ferries. MV Nyayo, MV Harambee and MV Kilindini, MV Likoni, MV Kwale and the newest vessel, MV Jambo. Currently the company is in the process of acquiring one new ferry.

2.4 Role of Kenya Maritime Authority

- 10.** The functions of the Kenya Maritime Authority are spelt out in Section 5 (1) of the Kenya Maritime Act, 2006. With regards to safety of maritime vessels, the Act provides that the Authority shall have the duty to—
- i. enforce safety of shipping, including compliance with construction regulations, maintenance of safety standards and safety navigation rules;
 - ii. conduct regular inspection of ships to ensure maritime safety and prevention of marine pollution;
 - iii. oversee matters pertaining to the training, recruitment and welfare of seafarers;
 - iv. plan, monitor and evaluate training programmes to ensure conformity with standards laid down in international maritime conventions;
 - v. conduct investigations into maritime casualties including wreck;
 - vi. regulate activities with regard to shipping in the inland waterways including the safety of navigation;

3.0 SUBMISSIONS ON THE SAFETY OF FERRIES OPERATED BY KENYA FERRY SERVICES

3.1 SUBMISSIONS BY THE MANAGEMENT OF KENYA FERRY SERVICES

- 11.** The Managing Director of Kenya Ferry Services, Mr. Bakari Gowa appeared before the Committee on 13th August, 29th October and 2nd November, 2019, and submitted the following with regard to the audit query on safety of ferries as observed by the Auditor General in the audited accounts of Kenya Ferry Services for FY 2016/17 :
- 12.** Kenya Ferry Services operates a fleet of 5 vessels. To operate optimally it requires 4 vessels for Likoni and one for Mtongwe channel (Mtongwe channel was re-opened in March, 2017 after closure for 5 years).
- 13.** While these vessels were scheduled for dry dock in March 2017, it was impractical to take them to dry dock because this would have meant complete withdrawal of service for a period of not less than 3 months; The Likoni channel would have operated with 3 ferries (deficit of one) and Mtongwe channel be closed down.
- 14.** After taking into account demand for the ferry service and assessing the safety condition of the vessels, the company undertook minimal maintenance works on the said ferries and

reviewed the major maintenance schedule to have the dry docking of the two vessels after delivery of M.V Jambo in July, 2017. Consequently the two ferries were dry docked for major repair works in November, 2017 for MV Kwale and MV Likoni was dry docked during the same period.

15. The ferries are fitted with CAT C12 Engines, which according to its manufacturer's (CATERPILLAR PLC) the engines are to undergo major overhaul at a minimum of 8,000hours. Indeed, total running hours as at the time of the audit was 3,000 hours operating at an average of 8 knots/ maximum speed since the previous maintenance. The engines had already undergone the major overhaul way back and were due for replacement. These have since been replaced with new engines.
16. The company has a program to repair the lifting systems of the ferry prows, which entails the pulleys and associated parts. These have been repaired for MV Kilindini in January 2019, MV Likoni June 2019 and MV Nyayo is scheduled for dry docking in September, 2019.
17. MV Kwale engine had operated for more than 30,000 hours without undergoing engine overhaul and this was attributed to non-availability of the vessel for repairs. The Company managed to undertake reasonable repair works on the engine to mitigate on hour overrun safety exposure. However, the engine was overhauled in the year under review and services were offered without any disruption.
18. All vessels have sea worthiness certificates issued by KMA (certificate no. 35) and since the vessels are non-deep sea going (international waters), the issuance of an international certificate is of no use. Further, KMA is the local representative of the International Marine Classification bodies. **Annex 2**
19. All the ferry vessels are insured against Protection and third part indemnity liability as well as hull and all machinery. **Annex 3**
20. As at October 29th, 2019, KFS operates 6 vessels as itemized below.

S/No	Name of vessel	Year of Manufacture	Ferry capacity		Year of services
			Passenger	Vehicle	
1	Mv Nyayo	1990	1,200	60	30 Years
2	Mv Kilindini	1990	1,440	60	30 Years

3	Mv Harambee	1990	1,440	60	30 Years
4	Mv Likoni	2010	1,550	60	10 Years
5	Mv Kwale	2010	1,550	60	10 Years
6	Mv Jambo	2017	1,650	64	2 Years

21. KFS policy provides that ferries should be replaced after 20 years. The basis of the twenty- year replacement policy was premised on the high cost of maintaining old ferries and not whether or not they were seaworthy once they clock 20 years. As at the time of appearance before the Committee, three ferries (MV. Harambee, MV Nyayo and MV. Kilindini had operated way beyond this policy due to budgetary constraints.
22. MV Harambee, MV Nyayo and MV Kilindini were removed from the Lloyds Register of maritime vessels in 2007 due to their poor state. Lloyd (which is a private Non-Governmental Organization) inspects and maintains a register of all vessels that meet its standard of maritime safety.
23. Prior to the enactment of the KMA Act in 2006, Kenya vessels were being registered by Lloyd but from 2007, the KFS began registering its vessels through the KMA.
24. There had been several requests for maintenance of ferries in the last ten years. However, what had been provided was not sufficient to conclusively address the major works required of the ferries. **Annex 4** The table below summaries the request, allocations and what was utilized for maintenance in the last 5 years.

Financial year	2015/16	2016/17	2017/18	2018/19	2019/2020	Total Kshs.
Amount requested (Ksh)	199M	466M	350M	320M	310M	1.645bn
Amount allocated (Kshs)	76.805M	294M	191M	177M	126M	864.805M

Amounted utilized (Kshs.)	76.805M	254M	191M	130M	126M	777.805M
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25. The limited financial allocation for maintenance of ferries had an impact on Kenya Ferry Service's ferry maintenance schedule. The following scheduled repair and maintenance of ferries were particularly affected:
- a. fabrication of prows for MV Nyayo and MV Harambee that had badly deteriorated could not be done in the 2015/16 financial year.
 - b. In the year 2015/16, MV Kilindini that was due for dry dock could not be fully done and was limited to under water steal works.
 - c. MV Nyayo that was to be dry docked in the FY 2016/17 was only limited to underwater works. However, its engine was replaced.
 - d. The funds earmarked for ferry maintenance for FY 2017/18 was not absorbed due to late exchequer releases. The money came in July, 2018 hence the reason of no absorption.
26. The coxswains operating the ferries did not have requisite certificates to operate the ships. The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. Two years down the line, there was no compliance. The KMA letter to KFS dated 30th September, 2019 confirmed this. KFS indicated that the reason why there has been no upgrade of the existing coxswain was that there was no institution in Kenya to do that.
27. There is a monopoly in the repair and maintenance of ferries as only one company, African Marine and Engineering Company, provides dry docking and ferry maintenance services
28. On disposal of steel from drydock, KFS confirmed to the Committee that the contract is cut and replace which implies that the ship yard gets to keep the scrap metal left behind after repair of ferries. However, in major replacements such as prows, KFS cuts them off before taking them for drydock.
29. MV Harambee last dry-docked in 2016 and was due for dry-docking in early 2019 which entailed significant repair including the non-functional prows.

30. The inspection certificate issued by Kenya Maritime Authority had raised a total of 12 defects on MV Harambee following an inspection that was carried out on 6th February, 2019. The non-functional prows which were glaring and submerged in water were not observed as being defective by the KMA's Port State Control Officer, Mr. Shaaban Tayari. **Annex 5**
31. The class certificate for MV Harambee expired on 21st October, 2018 yet the ferry was still in operation without a valid class certificate.
32. Kenya Maritime Authority counter-signed against the initial inspection certificate on 21st March, 2019 indicating that all the defects raised during the inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga.
33. Kenya Ferry Services resolved to seek local certification from the regulator, Kenya Maritime Authority once the Authority was established by an Act of Parliament in 2006. The Ferry Management decided not to pursue certification from an international body like the Lloyds Register since the ferries do not operate in international waters and are restricted to the Likoni channel crossing.
34. Kenya Ferry Services collected an average revenue of Kshs. 562,000,000 per year which is utilized at source.
35. Since inception, Kenya Ferry Services has only had a surplus in three financial years due to high operating costs.

3.2 INSPECTION VISIT TO THE LIKONI FERRY CROSSING

36. On 2nd November, 2019 The Committee visited the site of the Likoni Ferry crossing to assess the state of the ferries. In particular, the Committee sought to establish the status of the pulleys on ferries that had been declared defective in the audit report and had caused prows to be submerged in water.
37. The Committee observed the ferries crossing the channel then took a ferry crossing from Mombasa island to Likoni aboard MV Kilindini. The return crossing was aboard MV Harambee. The later had been involved in an incident where a vehicle slipped from the ferry and led to the lives of two people.
38. The Committee observed that the prows on MV Harambee were badly damaged and were submerged in the water. This exposed the vehicles parked on the ferry deck to the danger

of slipping off the ferry and was raised in the audit report. The non-functional prow partly played a part in the aforementioned accident.

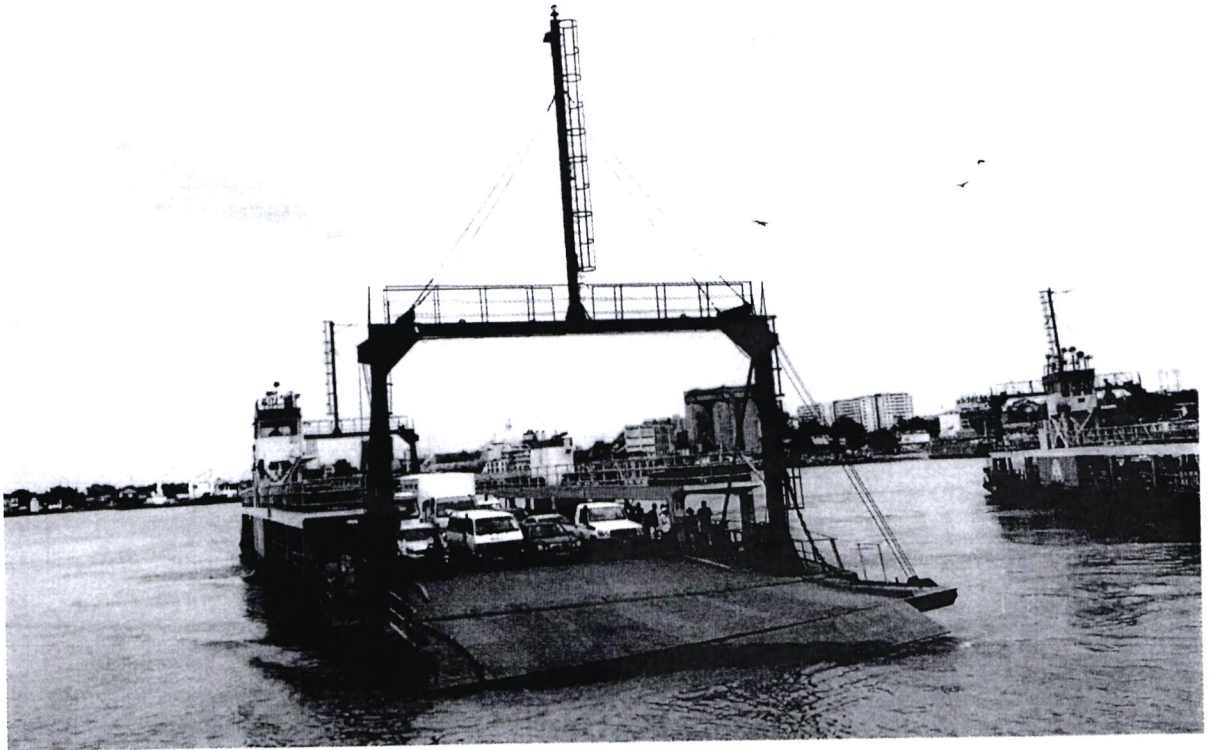


Image 1: Submerged prows of MV Harambee as seen during the PIC inspection visit to Likoni ferry crossing on 2nd November, 2019.

39. The submerged prows also caused a drag as the ferry made its way across the Likoni channel which leads to lower efficiency and higher fuel costs. The submerged prows were also susceptible to hydraulic oil leakages which leads to wastage of resources and pollution of the Likoni channel.
40. In addition to the submerged prows, the chain that runs across the deck to prevent vehicles from slipping off the ferry were non-functional.
41. The prows on MV Kilindini were functional on only one side with the second side not shutting.

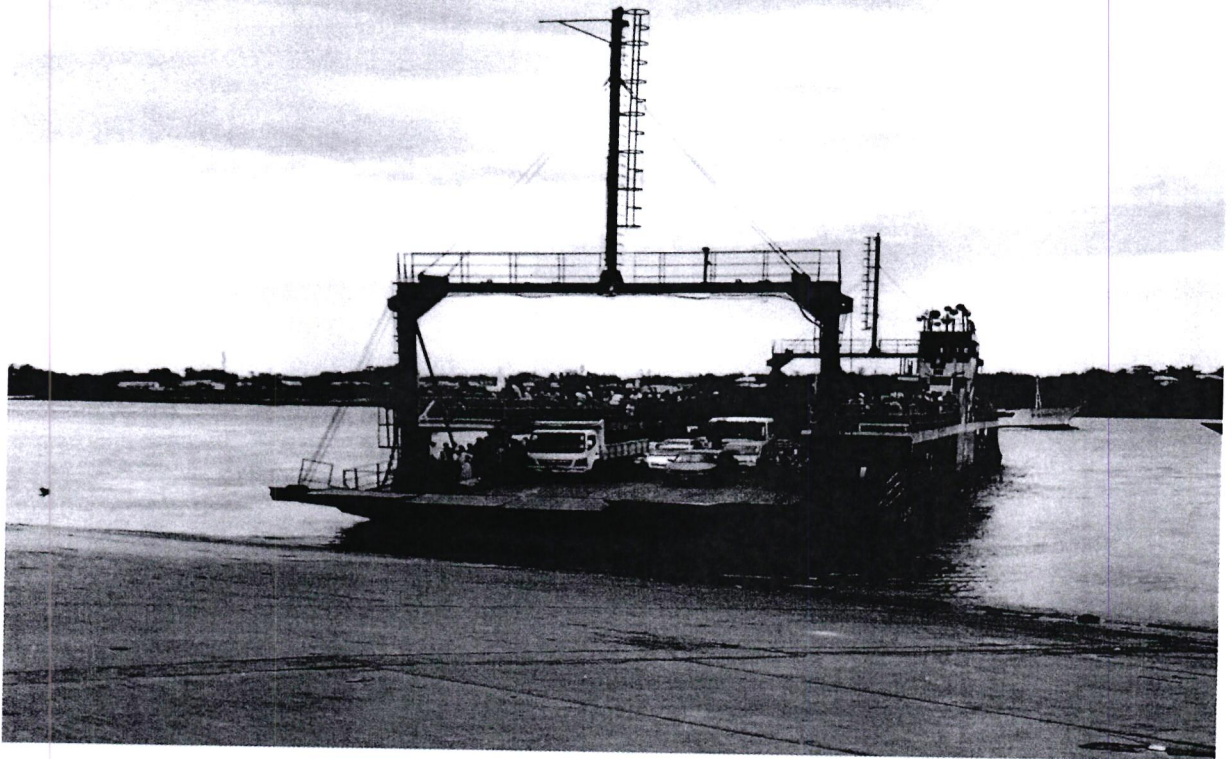


Image 2: Partly functional prows of MV Kilindini during the PIC inspection visit to the Likoni ferry crossing on 2nd November, 2019.

42. Passengers who boarded the ferry with their vehicles stayed inside the cars as the ferry made the crossing. This was against safety procedures that required passengers to disembark from their vehicles.
43. The prows on MV Jambo which was acquired two years ago were fully functional and uplifted during the ferry crossing. This secured the vehicles and passengers on deck from the danger of slipping off from the ferry.



Image 3: Fully functional bows of MV Jambo during the PIC inspection visit to the Likoni ferry crossing on 2nd November, 2019.

44. The Committee also visited the CCTV room at the Likoni Ferry crossing and observed recording of the accident that claimed the lives of two people following the slipping of a car off MV Harambee on 29th September, 2019.
45. The Committee observed that the ferry was overloaded during that particular crossing. The car that slipped off MV Harambee was dangerously parked at the edge of the deck with no chain across the deck to prevent vehicles from slipping off the ferry. Additionally, the prows were submerged which further exposed vehicles to slipping off the ferry.

3.4 SUBMISSIONS BY THE MANAGEMENT OF KENYA MARITIME AUTHORITY

- 46. On 2nd November, 2019, the Director General of the Kenya Maritime Authority, Maj (Rtd.) George Okongo appeared before the Committee and submitted the following with regard to the role of Kenya Maritime Authority on safety of ferries operated by Kenya Ferry Services:**
- 47.** Lloyds Register - The Lloyds Register is a maritime classification society that classifies maritime vessels and is one of many such organizations in the world. Classification from such entities is not necessarily superior to local classification.
- 48.** Lloyds Register had withdrawn class certification for MV Nyayo, MV Harambee and MV Kilindini in 2006 but later issued class certificates to the three vessels following inspection on their safety conducted on 28th – 29th March, 2019.
- 49.** Inspection of MV Harambee - The inspection certificate issued by Kenya Maritime Authority following an inspection that was carried out on 6th February, 2019 had raised a total of 12 defects on MV Harambee.
- 50.** The non-functional prows which were submerged in water were not observed as being defective by the KMA Port State Control Officer who carried out the inspection.
- 51.** Kenya Maritime Authority counter-signed against the initial inspection certificate indicating that all the defects raised during the inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga.
- 52.** The KMA Port State Control Officer, Mr. Shaaban Tayari was employed on contract and was past retirement age at 69 years. The officer was still in service as he was one of only two people with the requisite competence to inspect ships and ferries and issue safety certificates.
- 53.** Capt. Mbarak Zaunga, the Head of Maritime Safety and the only other person qualified to inspect maritime vessels, issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 without physically inspecting the vessel. He relied on the inspection report by the Port State Control Officer who had failed to raise the defect of the ferry prows. Capt. Zaunga was also operating beyond retirement age.
- 54.** Kenya Maritime Authority is working on a transition plan that seeks to have younger staff undertake inspection of maritime vessels.
- 55.** Safety of MV Harambee - The Kenya Maritime Authority wrote to Kenya Ferry Services on 1st October, 2019 as per procedure whenever a maritime safety incident occurs. KMA

inspected MV Harambee on 15th October, 2019 following the slipping off of a vehicle from its deck on 29th September, 2019 that cost the lives of two.

56. The inspection conducted on 15th October, 2019 raised a number of defects on MV Harambee including the damaged prows. **Annex 4**
57. The class certificate for MV Harambee expired on 21st October 2018 yet the ferry was still in operation without a valid class certificate. Kenya Maritime Authority issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 despite the vessel lacking a class certificate.
58. Safety procedures for ferries require the chain that runs across the deck to prevent vehicles from slipping off the ferry to be in place whenever a ferry crossing is made. This was absent from MV Harambee when the accident occurred.
59. Drydocking of Ferries - Drydocking of ferries should be conducted every 36 months as per the provisions of the Merchant Shipping Regulations. MV Harambee was due for drydocking in 2019.
60. Competency of Coxswains - The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. The transitional clause in the new regulations provided for updating of competency certificates of coxswains issued under the Merchant Shipping Regulations of 1970.
61. Of the 25 active coxswains, eight (8) are certified under the old regulations and Kenya Ferry Services had sent their documents to KMA for certification. The 17 remaining coxswains lack certification under both the old and new regulations. KMA was due to meet Kenya Ferry Services management to address matters relating to training of coxswains. Training of coxswains is currently being undertaken at Bandari Maritime Academy with a class of 150 trainees.

3.3 SUBMISSIONS BY THE CABINET SECRETARY FOR TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

62. **On 5th November, 2019, the Cabinet Secretary for Transport, Infrastructure, Housing And Urban Development, Mr. James Macharia, EGH appeared before the Committee and submitted the following with regard to the safety of ferries operated by Kenya Ferry Services as observed by the Auditor General in the FY 2016/17:**
63. Number of Ferries – Kenya Ferry Services operates 6 vessels as itemized below:

S/No	Name of vessel	Year of Manufacture	Ferry capacity		Year of services
			Passenger	Vehicle	
1	Mv Nyayo	1990	1,200	60	30 Years
2	Mv Kilindini	1990	1,440	60	30 Years
3	Mv Harambee	1990	1,440	60	30 Years
4	Mv Likoni	2010	1,550	60	10 Years
5	Mv Kwale	2010	1,550	60	10 Years
6	Mv Jambo	2017	1,650	64	2 Years

64. Ferry operating certificates - All the ferries operated by the KFS had been issued with a passenger safety Certificate by the Kenya Maritime Authority (KMA). Section 5 (j) of the KMA Act of 2006 mandates KMA to regularly inspect marine vessels to ensure passenger safety.

65. Maintenance cost of ferries - The table below summaries the request, allocations and what was utilized for maintenance in the last 5 years.

Financial year	2015/16	2016/17	2017/18	2018/19	2019/2020	Total Kshs.
Amount requested (Kshs)	199M	466M	350M	320M	310M	1.645B
Amount allocated (Kshs)	76.805M	294M	191M	177M	126M	864.805M
Amounted utilized (Kshs)	76.805M	254M	191M	130M	126M	777.805M

66. Strategic Policy of the Ministry on access to South Coast - The strategic policy of the Ministry of Transport with regards to accessing South Coast and Kwale County is to do away with the ferries that ply the Likoni channel.

The Ministry is putting in place physical infrastructure to provide a long term solution to the matter. The Dongo-Kundu bypass is being constructed to provide a link between Mombasa and Kwale counties.

67. There are plans to build a cable-stayed bridge (the 'Mombasa Gate Bridge') across the Likoni channel to provide road connectivity between Mombasa island and Likoni
68. There were lapses in inspection of vessels conducted by the Kenya Maritime Authority. This led to the issuance of safety certificates to ferries without undergoing the requisite inspection.
69. The Ministry of Transport was undertaking an investigation on the incident involving MV Harambee that occurred on 29th September, 2019. Action would be taken should any negligence be observed on the part of the relevant agencies.
70. The twenty-year policy on use of ferries is for purposes of depreciation and not an indicator of the vessel's safety. Ferries are utilized after the period so long as they are well maintained.
71. The Ministry had sent a request to the National Treasury to review its budgetary allocation to the KFS for FY 2019/10 following the accident in September 2019, with a view to securing funds for ferry maintenance.

4.0 COMMITTEE OBSERVATIONS AND FINDINGS

The Committee made the following observations following its inspection visit and meetings with various state agencies, THAT:

4.1 State of Ferries

- 1. The prows on most ferries were non-functional and some prows were submerged in water. This exposed the vehicles parked on the ferry deck to the danger of slipping off the ferry and was raised in the audit report of Kenya Ferry Services for financial year 2016/17. The non-functional prow partly played a part in the accident that claimed the lives of two when a vehicle slipped off MV Harambee in September, 2019.**
- 2. At the time of the Committee's inspection visit in November 2019, the prows on MV Harambee were badly damaged and were submerged in water. The prows on MV Kilindini were functional on only one side.**
- 3. The submerged prows also caused a drag as the ferry made its way across the Likoni channel which leads to lower efficiency and higher fuel costs. The submerged prows were also susceptible to hydraulic oil leakage which leads to wastage of resources and pollution of the Likoni channel.**
- 4. Safety procedures for ferries require the chain that runs across the deck to prevent vehicles from slipping off the ferry to be in place whenever a ferry crossing is made. The chains were either non-functional or not being fastened whenever a ferry is making the crossing.**
- 5. Passengers who boarded the ferry with their vehicles stayed inside the cars as the ferry made the crossing. This was against safety procedures that required passengers to disembark from their vehicles when aboard the ferry.**
- 6. The ferries at Likoni and Mtongwe carry over 300,000 people and over 5,000 cars per day. With only 6 ferries operating across the channel, the ferries are usually overloaded especially during the peak commute hours in the morning and evening.**
- 7. All the ferry vessels are insured against Protection and third part indemnity liability as well as hull and all machinery.**
- 8. MV Harambee was overloaded when the accident that claimed the lives of a mother and daughter happened. The car that slipped off MV Harambee was dangerously parked at the edge of the deck with no chain across the deck to prevent vehicles**

from slipping off the ferry. Additionally, the prows were submerged which further exposed vehicles to slipping off the ferry.

4.2 Maintenance of Ferries

9. Scheduled dry docking for repair works is usually delayed due to budgetary constraints at Kenya Ferry Service. The ferries end up operating for long hours without maintenance as was the case with MV Kwale which had operated for more than 30,000 hours without undergoing engine overhaul. MV Harambee was also due for drydocking in 2019 but this did not take place due to lack of funds.
10. Drydocking of ferries should be conducted every 36 months as per the provisions of the Merchant Shipping Regulations. Major repair works such as engine, prow and hull overhaul can only be undertaken during dry docking.
11. M.V Kwale and MV Likoni were dry docked for major repair works in November 2017.
12. The lifting systems of the ferry prows, which entails the pulleys and associated parts were repaired for M.V Kilindini in January 2019, MV Likoni in June 2019 and M.V Nyayo in September 2019.
13. KFS policy requires ferries to be replaced after 20 years of operation. The basis of the twenty- year replacement policy was premised on the high cost of maintaining old ferries. As at the time of the inquiry before the Committee, three ferries (MV. Harambee, MV Nyayo and MV Kilindini had operated way beyond this policy due to budgetary constraints. The Cabinet Secretary in the Ministry of Transport confirmed that the twenty-year policy on use of ferries is for purposes of depreciation and not an indicator of the vessel's safety. Ferries are utilized after the period so long as they are well maintained.
14. There is a monopoly in the repair and maintenance of ferries as only one company, African Marine and Engineering Company provides dry docking services.

4.3 Certification of Ferries

15. All the ferries operated by the KFS had been issued with a passenger safety Certificate by the Kenya Maritime Authority (KMA). Section 5 (j) of the KMA Act of 2006 mandates KMA to regularly inspect marries vessels to ensure passenger safety. Safety Certificates can only be issued once a vessel has been surveyed by KMA and satisfied itself that it is safe to continue operating.

16. There was a lack of succession planning by KMA to ensure continuity of service in inspection of maritime vessels and issuance of safety certificates. There are only two officers with the requisite competence to undertake inspection of vessels; the KMA Head of Maritime Safety, Capt. Mbarak Zaunga and KMA Port State Control Officer, Mr. Shaaban Tayari. The two are employed on contract and are in service despite being past retirement age.
17. There were lapses in inspection of vessels conducted by the Kenya Maritime Authority. This led to the issuance of safety certificates to ferries without undergoing the requisite inspection as was the case with MV Harambee during its inspection in February and March, 2019.
18. The inspection certificate issued by Kenya Maritime Authority following an inspection that was carried out on 6th February, 2019 had raised a total of 12 defects on MV Harambee. The non-functional prows which were visibly defective and submerged in water were not observed as being defective by the KMA Inspector.
19. Kenya Maritime Authority counter-signed against the initial inspection certificate on 21st March, 2019, indicating that all the defects raised during the earlier inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga on 22nd March, 2019.
20. Capt. Mbarak Zaunga, the Head of Maritime Safety and the only other person qualified to inspect maritime vessels, issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 without physically inspecting the vessel. He relied on the inspection report by the Port State Control Officer who had failed to raise the defect of the ferry prows.
21. The class certificate for MV Harambee expired on 21st October, 2018 yet the ferry was still in operation without a valid class certificate. Kenya Maritime Authority issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 despite the vessel lacking a class certificate.
22. Lloyds Register, an international maritime classification body, had withdrawn class certification for MV Nyayo, MV Harambee and MV Kilindini in 2006 but later issued class certificates to the three vessels following inspection on their safety conducted on 28th and 29th March, 2019.

23. On 15th October, 2019, KMA conducted an inspection following the accident involving MV Harambee and raised a number of defects on the vessel including the damaged prows.
24. The Ministry of Transport, Infrastructure, Housing and Urban Development was undertaking an investigation on the incident involving MV Harambee that occurred on 29th September, 2019. Action would be taken should any negligence be observed on the part of the relevant agencies.
25. The Kenya Ferry Services has an acting Head of Engineering who is holding the position following the retirement of the previous office holder. The Corporation is in the process of recruiting a new Head of Engineering to fill the position.

4.4 Budgetary Allocations for Ferry Maintenance

26. The Ministry of Transport, Infrastructure, Housing and Urban Development had sent a request to the National Treasury to review its budgetary allocation to Kenya Ferry Services for FY 2019/10 with a view to securing funds for ferry maintenance. The request was sent following the accident aboard MV Harambee in September, 2019 that exposed the poor state of the ferries operated by Kenya Ferry Services. As at the time of concluding the inquiry, Kenya Ferry Services had not received the funding to undertake repair of the vessels.
27. Kenya Ferry Services collected an average revenue of Kshs. 562,000,000 per year which is utilized at source. Since inception, Kenya Ferry Services has only had a surplus in three financial years due to high operating costs.
28. Kenya Ferry Service has an annual expenditure of Kshs. 102,000,000 on fuel of which 25% is accounted for by machine inefficiency that increases consumption of fuel.
29. In the last five years, the Kenya Ferry Services has been making budgetary requests for maintenance of ferries but the amounts allocated have been significantly lower than the amounts required to ensure the ferries are maintained as scheduled. The table below shows a summary of the budgetary requests against the amounts allocated:

Financial year	2015/16	2016/17	2017/18	2018/19	2019/2020	Total Kshs.

Amount requested (Ksh)	199M	466M	350M	320M	310M	1.645bn
Amount allocated (Kshs)	76.805M	294M	191M	177M	126M	864.805M
Amounted utilized (Kshs.)	76.805M	254M	191M	130M	126M	777.805M

4.5 Competency of Coxswains Operating the Ferries

30. The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. The transitional clause in the new regulations provided for updating of competency certificates of coxswains issued under the Merchant Shipping Regulations of 1970.

31. Kenya Ferry Service has a total of 25 active coxswains. Eight (8) of these Coxswains are certified under the 1970 Regulations and Kenya Ferry Services had sent their documents to KMA for regularization. The 17 remaining coxswains lack certification under both the old and new Regulations.

5.0 COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations having received written and oral submissions from various witnesses:

- 1. The Kenya Ferry Services should ground MV Harambee until the vessel undergoes dry docking and significant repair followed by inspection before the ferry can resume operation.**
- 2. The industry regulator, Kenya Maritime Authority should enforce the grounding of ferries that do not meet safety standards by canceling the safety certificates issued to these vessels. The Authority should undertake fresh inspection of all ferries to determine which of the vessels meet safety standards and have undergone scheduled maintenance to ensure safety of the vessels.**
- 3. The National Treasury should urgently release funds to the Kenya Ferry Services to ensure ferries operated by the agency undergo urgent repair and maintenance. Funds for ferry repair and maintenance should be ring-fenced in future budgets for Kenya Ferry Services to ensure availability of funds for scheduled maintenance of the vessels.**
- 4. The Office of the Auditor General should conduct a value-for-money audit on the contract between African Marine and General Engineering and Kenya Ferry Services for repair and maintenance of ferries to establish whether there was probity, efficiency and effectiveness in the use of public funds. The company has been the sole provider of dry docking services for Kenya Ferry Services.**
- 5. The Kenya Ports Authority should consider establishing a dry dock facility for the repair and maintenance of maritime vessels including ferries. The facility would ensure competitiveness of the Mombasa port facility, generate income for the Authority and provide cost-effective service for maritime operators.**
- 6. The Kenya Maritime Authority should re-evaluate the ferry inspection procedure in place to check for lapses and weaknesses in the process. Measures should be put in place to ensure the inspection procedure has no loopholes and that vessels are comprehensively inspected before being issued with safety certificates.**

7. Kenya Maritime Authority should ensure there is succession planning in hiring and staffing of maritime vessel inspectors. The Authority should put in place measures to ensure younger inspectors are recruited and trained to provide for continuity in inspection of ferries and issuance of safety certificates.
8. The Kenya Maritime Authority should recruit divers and provide the requisite training on search and rescue in the event of accidents. The divers should be stationed in every ferry that makes a crossing at Likoni channel who will provide rescue options in the event of an accident as well as acquire valuable sea time for their competency.
9. All ferries operated by Kenya Ferry Services should be fitted with necessary safety equipment to be used in case of emergency. The ferries should also be fitted with a public address system for communication on safety matters while aboard the vessels.
10. Board appointees to the Kenya Ferry Services should be competent and qualified individuals to provide effective leadership and strategic direction for the organization. The Board should ensure that Board members are inducted and that their skills and knowledge are regularly enhanced given the specialized nature of the maritime industry.
11. Kenya Ferry Services should ensure that key positions such as the Head of Engineering are filled substantively. Succession planning should be done to ensure that recruitment of a replacement is done to coincide with the departure of the incumbent office holder.
12. The Ministry of Transport, Infrastructure, Housing and Urban Development should fast track the implementation of infrastructure projects that provide access to South Coast so as to reduce the over-reliance on the ferries operating at the Likoni and Mtongwe channels.
13. Kenya Maritime Authority and Kenya Ferry Services should conduct a public education and safety campaign at the ferry crossings to sensitize the public on maintaining safety while using the ferries.

14. Kenya Ferry Services should replace the security company that provides security services aboard the ferries due to negligence in performing their duties.

15. The Kenya Ferry Services should provide stiff penalties for ferry passengers who fail to adhere to safety regulations while using the ferries. The penalties should be enforced strictly to ensure compliance by ferry users.

Signed


(HON. ABDULLSWAMAD SHARIFF NASSIR, MP)

CHAIRPERSON,

PUBLIC INVESTMENTS COMMITTEE

Date:


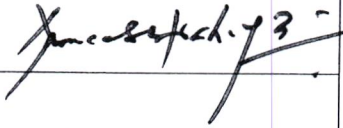
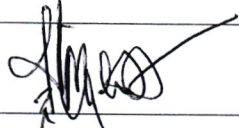
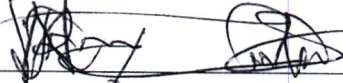






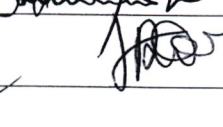
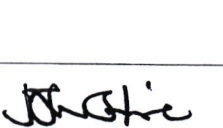
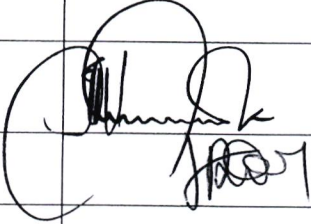
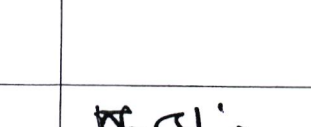

28/11/2019.

6.0 LIST OF ANNEXES

- Annex 1 - Report Adoption List**
- Annex 2 - Committee Minutes**
- Annex 3 - Ferry Safety Certificates**
- Annex 4 - MV Harambee Inspection Certificate**
- Annex 5 - Kenya Ferry Services Budgetary Requests for Ferry Maintenance**

ANNEX 1

**ADOPTION LIST OF THE REPORT OF THE PUBLIC INVESTMENTS
COMMITTEE ON ITS INQUIRY INTO THE SAFETY OF FERRIES
OPERATED BY KENYA FERRY SERVICES**

	NAME	SIGN
1.	The Hon. Abdullswamad Shariff Nassir, MP (<i>Chairman</i>)	
2.	The Hon. Ahmed Abdisalan Ibrahim, MP (<i>Vice-Chairman</i>)	
3.	The Hon. Chrisantus Wamalwa Wakhungu, MP	
4.	The Hon. John Muchiri Nyaga, M.P	
5.	The Hon. Raphael Bitta Sauti Wanjala, MP	
6.	The Hon. Gladys Wanga, MP	
7.	The Hon. (Prof.) Mohamud Sheikh Mohammed, MP	
8.	The Hon. Mary Wamaua Njoroge, MP	
9.	The Hon. Purity Wangui Ngirici, MP	
10.	The Hon. Rashid Kassim Amin, MP	
11.	The Hon. Thuku Zachary Kwenya, M.P	
12.	The Hon. Omar Mohamed Maalim Hassan, MP	
13.	The Hon. Justus Kizito, MP	
14.	The Hon. James Kamau Githua Wamacukuru, M.P	
15.	The Hon. Joash Nyamache Nyamoko, MP	
16.	The Hon. Babu Owino Paul Ongili, MP	
17.	The Hon. Paul Kahindi Katana, MP	
18.	The Hon. Mohamed Hire Garane, M.P.	

ANNEX 2

MINUTES OF THE 49TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 13TH AUGUST, 2019 IN THE CONFERENCE ROOM, ENGLISH POINT MARINA AT 9.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Joash Nyamache Nyamoko, MP
3. The Hon. Raphael Bitta Sauti Wanjala, MP
4. The Hon. Justus Kizito Mugali, MP
5. The Hon. Gladys Wanga, MP
6. The Hon. Omar Mohamed Maalim Hassan, MP.
7. The Hon. Paul Kahindi Katana, MP
8. The Hon. Purity Wangui Ngirici, MP
9. The Hon. Thuku Zachary Kwenya, M.P
10. The Hon. Babu Owino Paul Ongili, MP
11. The Hon. Mary Wamaua Njoroge, MP
12. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
13. The Hon. James Kamau Githua Wamacukuru, M.P

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
3. The Hon. John Muchiri Nyaga, M.P
4. The Hon. Mohamed Hire Garane, M.P.
5. The Hon. Rashid Kassim Amin, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Third Clerk Assistant |
| 3. Ms. Sharon Rotino | - | Research Officer |
| 4. Ms. Noelle Chelagat | - | Media Relations Officer |
| 5. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Matheka Fouris | - | Manager, Audit |
| 4. Mr. Peter Ruteere | - | Inspectorate of State Corporations |

MIN/PIC/403/2019: PRELIMINARIES

The Chairperson called the meeting to order at thirty four minutes past nine O'clock followed by a word of prayer.

MIN/PIC/404/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services accompanied by Mr. Kombo Rajab (Finance Manager), Ms. Jeniffer Cirindi (Procurement Manager), Mr. Paul Kotut (Operations Manager), Mr. Henry Katana (Principal Internal Audit) and Mr. Athmani Washenga (Head of Engineering) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18.

MIN/PIC/405/2019: FINANCIAL PERFORMANCE FY 2015/16

The Company recorded a net loss of Kshs 108,273,000 in 2015/2016 financial year resulting to accumulated deficit of Kshs 913,494,000 as 30th June 2016. The financial performance of the Company is precarious and if strategies are not put in place to reverse the trend, the Company will experience financial challenges in future.

Management Response

The Company made a loss of Kshs 108,273,000 in 2015/2016 financial year thereby bringing accumulated deficits to Kshs 913,494,000 over time. One of the Company's long term objectives is to strengthen her financial base and posting surpluses in the near future. To this end, the Company is pursuing strategies to ensure long-term financial sustainability of her operations. Key among these is a continuous and timely revision of its vehicular toll charges. The Company has a policy to review its toll charges after every two years to ensure that charges levied can help meet operational costs. The last reviews were done in 2010/2011 and 2013/2014 financial years and this resulted in improvement in revenue. The Company submitted a proposal to review its charges in the financial year 2015/2016 to its parent ministry for consideration and at the time of audit, Company was awaiting gazettelement of the same by Ministry of Transport & Infrastructure.

The toll tariffs were gazzeted and subsequently implemented with effect from 15th February 2018 and the resultant impact is an increase of toll revenue from Kshs 401 million in 2015/2016 to Kshs 552 million in 2018/2019; since then the company's financial position has improved; from a deficit making to a surplus making. For example in the year, 2017/2018 the company posted a surplus of 43 Million and is expecting to post similar results in 2018/2019. Overall accumulated deficit has been reduced from Kshs 913, 494,000 to Kshs 638 Million in the year 2017/2018.

The Company is also pursuing other projects as strategies to improve her revenue generation capacity such as the Multilevel Ferry Terminus, Integrated Marine Transport System and Likoni Cable Express. The Likoni Cable Express has been approved by Cabinet and Project Commercial Agreement between KFSL and Likoni Cable Express Ltd on 18th October 2018. Management is in the process of clearing Conditions Precedent to the contract and the ground breaking of the project is expected to be done in the November 2019. The Cable Car Project is expected to generate an average of Kshs 50 million per annum for KFSL.

(Annex 1 - Financial Statements 2017/2018)

Contract agreement for Likkoni Cable Car system (Extract)

Approval of concept for the Integrated Marine Transport system project by the PPP committee at the National Treasury

Committee Observations

The Committee made the following observations:

1. The toll tariffs for ferry operations were gazzeted and implemented with effect from 15th February 2018 and the resultant impact is an increase of toll revenue from Kshs. 401 million in 2015/2016 to Kshs. 552 million in 2018/2019.
2. The company's financial position has improved. In the financial year 2017/2018, the company posted a surplus of Kshs. 43 Million.
3. The overall accumulated deficit has been reduced from Kshs 913,494,000 to Kshs. 638,000,000 in the financial year 2017/2018.
4. Keny Ferry Services has an M.o.U with the Ministry of Transport on charging citizens using the ferry.

Committee Resolution

Management should provide a copy of the M.o.U with the Ministry of Transport on charging citizens using the ferry.

MIN/PIC/406/2019: PROPERTY, PLANT & EQUIPMENT FY 2015/16

2.1 Understated Works in Progress

The Company capitalized a security project during the previous year of Kshs 82,100,150 instead of Kshs 104,535,330 which was the actual cost of the project. No adjustment was made in the books of account to correct the anomaly during the year under review hence property plant and equipment is understated by Kshs 22,435,100.

Management Response

While the contract sum was Kshs Kshs104, 535,330, as stated and observed by the auditor, this is the gross amount, which included VAT of 16%. Kshs 82,100,150 of the cost of project was capitalized in the year 2015/2016. The balance of Kshs 7,616,513.71 in the financial year 2016/2017 and the balance of the amount was VAT (Ksh 14,818,666.30) which cannot be capitalized. Hence, property plant and equipment was not understated.

Extract of general ledger for easy of reference. (Annex 2).

Committee Observations

The Committee made the following observations:

1. The contract sum was Kshs Kshs104, 535,330 but this is the gross amount, which included VAT of 16%.

2. Kshs 7,616,513.71 was capitalized in the financial year 2016/2017 and the balance of the amount was VAT (Ksh 14,818,666.30) which cannot be capitalized.

Committee Resolution

The Committee made the following resolutions:

The property plant and equipment value was not understated.

2.2 Idle Assets

During the year under view, the management procured and installed weigh bridges on both sides of the Likoni channel at a cost of Kshs. 26,779,893 as indicated in the assets register. Although the weigh bridges were integrated with the revenue system, they are practically, idle assets since KFS do not use them to charge for use of its ferries by motor vehicles. Furthermore, management indicated that the bridges were a control measure to enhance safety by estimating the weight of motor vehicles boarding ferries at the channel. However, there was no evidence showing that weights of motor vehicles measured through the weigh-bridges are used to control the number of motor vehicles that board the ferries.

Consequently, it has not been possible to confirm the propriety of the expenditure totaling Kshs. 25,779,893 incurred on installation of weigh-bridges at Likoni Ferry during the year under view.

Management Response

The weighbridges were installed in 2013/2014 financial year. The purpose of the weighbridge as an integral part of the revenue billing system was to bring equity in terms of ensuring that vehicles are billed according to among others the load they carry. The billing system in place charged motorist as either loaded or empty, with the component of load appearing as a surcharge to the empty component. To cure this anomaly the proposed system wanted to introduce a rate per tonnage and length of the vehicle.

During construction time and before completion of the project, KFS was directed to stop the construction of the facility by its parent Ministry. This was due to challenges experienced at the time in queue management as a result of weighing of one vehicle at a time. In its part, the Company pleaded with the Government to be allowed to complete the project since an earlier termination could have attracted unnecessary claims from the contractor. The facility as it is now has these capabilities, to bill even on the weight of the vehicles and would still push for its utilization.

The Company has engaged the State Department of Public Works in developing a Part Development Plan (PDP) with the aim of reorganizing the ferry approach area to provide for expanded infrastructure and smooth flow, which shall include full utilization of the weighbridge.

(Annex 3 - Correspondence with the Ministry of Transport Infrastructure Housing and Urban Development Part Development Plan)

Committee Observations

The Committee made the following observations:

1. The project was implemented without a feasibility study being carried out.
2. Traffic flow at the Ferry was affected by the construction of the project and the Company was instructed to halt the project by the parent Ministry.

Committee Resolutions

1. Management should provide a copy of the Minutes where the decision was made to carry out the project;
2. Management should also provide all correspondence it had with the parent Ministry regarding the project.

2.3 Irregular Award of Tender for Two New Ferries Kshs1,863,000,000

During the year view, Kenya Ferry Services Limited Company awarded a contract for supply and delivery of two new passenger ferries at the cost of Kshs. 1,863,000,000 (US\$ 18,630,000). Information availed for audit review indicated that the tender award process had the following anomalies:

2.3.1 Technical Evaluation

The contract was awarded to the bidder who was ranked No 4 at the technical evaluation stage. The technical evaluation report indicated that the type of ferry to be supplied by the winning bidder was Roll on/Roll off and that the dead weight at designed draft was approximately 490 tons. However, review of the winning bidder's tender revealed that the bidder did not provide this information.

2.3.2 Irregular Down Payment

The company made a down payment of Kshs. 598,023,000 (US\$ 5,920,726.7) to the local appointed agent in August 2015. Section 17.1 of the contract document required that such payments be made upon production of an unconditional bank guarantee issued by an established and reputable bank located in Kenya. The winning bidder submitted a performance bank guarantee of Kshs. 93,150,000 (USD 931,500) issued by a foreign bank, located in Istanbul, Turkey. However there was no evidence showing that due diligence was carried out to establish the validity of the guarantee. It was further noted that the performance bond dated 13 July 2017 was submitted sixteen days after the signing of the contract contrary to Paragraph 10 on General Conditions of the contract which required the contractor to furnish the employer with performance security before the signing of the contract.

2.3.3 Failure to Deduct and Remit Taxes

During the year under audit, the company made an advance payment of Kshs. 598,023,000 (US\$5,920,726.70) to the Kenyan agent but failed to withhold 6% of the value-added-tax totaling to Kshs 35,881,380 and withholding tax at 20% for the non-resident company totaling to Kshs. 119,604,600 despite professional advice from Kenya Revenue Authority to subject the payments to the taxes.

2.3.4 Delay in Executing the Contract

The contract was signed on 27 June 2015 and the new ferries were to be delivered after seventeen (17) months, by November 2016. However as the time of this audit in January 2017, there was no evidence of the level of progress-of-work since photographs of work-in-progress stipulated in the contract, and progress reports by the project Manager, were not availed for audit review.

In the light of the foregoing, it has not been possible to confirm the validity and accuracy of the building and supply of two new ferries at cost of Kshs 1,863,000,000 (USD 18,630,000) and the propriety of the expenditure totaling Kshs. 598,023,000 paid to the contractor during the year under review.

Management Response

Technical Evaluation

Evaluation of tender for design, build, supply and commissioning of two new passenger/vehicle ferries was carried out based on the criteria set out in the tender document obtained by all bidders who participated in the tender as per section 66 (2) of the Act which provides that “The evaluation and comparison shall be done using the procedures and criteria set out in the tender document and no other criteria shall be used” and consequently each member of the technical evaluation committee evaluated independently from the other member as per Regulation 16 (6) of the Public Procurement and disposal Regulations 2006.

Four bidders were evaluated at technical evaluation stage and their scores were; 83.25%,80.43% and two bidders scored 80.25% (Including the lowest evaluated) . All the four qualified for financial bid evaluation. The successful bidder having scored a combined score of 80.25% was above the required pass mark of 80% for qualification for financial bid evaluation. Award of contract was based on evaluation of the technical bids and financial bids. The successful candidate was the lowest evaluated bidder.

The bidder quoted for Roll on/Roll off type of ferry as evidenced from the drawings attached to his bid document . Roll on/Roll type off vessels are designed to carry wheeled cargo such as cars, trucks, semi-trailer trucks, trailers, and railroad cars, that are driven on and off the vessel on their own wheels or using a platform vehicle such as a self-propelled modular transport. Indeed one of the ferries supplied (MV Jambo) is Roll on/Roll off type and is currently operating at the Likoni channel.

From the parameters given derived from the technical drawings the proposed vessel met the minimum requirement of dead weight. The 490/500 tones was just indicative as per the tender document i.e. “approximately”. Since this was a design and build contract, the actual dead weight could only be established upon final design made and approved. Particulars of the ferry as built (attached as annex) indicate the ferry’s dead weight as 526 tones and type of ferry as Roll on - Roll off (Ro-Ro)

Annex 4: Extract of the technical evaluation Report, Extract of the tender document -Technical drawing, Extract of final approved drawings - Ship particulars as built)

Committee Observations

The Committee made the following observations:

1. Four bidders were evaluated at technical evaluation and qualified for financial bid evaluation stage and their scores were;
 - Southern Engineering Co. Ltd & BV Scheepswerf Domen Gorinchem Joint Venture - 83.25%, (Financial bid - USD 18,999,960)
 - JGH-WMS Joint Venture - 80.43%; (Financial bid - USD 19,132,892.19)
 - Xin Yue Feng Shipyard Ltd. - 80.25%; (Financial Bid USD 19,600,000)
 - Ozata Tersanecilik San Vertic. Ltd. & Moto Nguvu EA - 80.25%. (USD 18,630,000)
2. The successful bidder having scored a combined score of 80.25% was above the required pass mark of 80% for qualification for financial bid evaluation. Award of contract was based on evaluation of the technical bids and financial bids.
3. The successful candidate was the lowest evaluated bidder.
4. Southern Engineering with the highest technical evaluation score of 83.25% raised a complaint at the Public Procurement Regulatory Board and the Board ruled in favour of Kenya Ferry Services.
5. A member of the public had also challenged the procurement process in court and the case was ruled in favour of the Kenya Ferry Services.
6. Additional information regarding the technical evaluation was provided to the Auditors outside of the audit period.
7. The audit query on technical evaluation was resolved in the subsequent financial year.

Irregular Down Payment

Due diligence was conducted through the company’s bankers M/s National Bank of Kenya Ltd who are a local bank on 21st August 2015 and the bank issued a confirmation of authenticity dated 25th August 2015.

Annex 5: Correspondence with National bank of Kenya

Committee Observations

The Committee made the following observations:

1. The performance bank guarantee was issued by a foreign bank contrary to section 17.1 of the contract document that provides for a guarantee issued by a Kenyan bank.
2. The Kenya Ferry Service carried out due diligence on the performance bond issued by the foreign bank. The due diligence was conducted by National Bank of Kenya on behalf of KFS.
3. The award of the contract was done in December 2014 but signing of the contract was done in June, 2015. The six-month delay was occasioned by an injunction of the Public Procurement Regulatory Authority. Additionally, the Attorney General reviewed the contract which further delayed the signing.
4. The winning bidder agreed to wait for the resolution of these matters before signing the contract.
5. The Public Procurement and Disposal Act (2005) under which the contract was administered did not provide for a limit of 25% down payment for the project.
6. The Public Procurement Regulatory Authority and the Office of the Attorney General both gave their approval for the contract to be signed.
7. The winning bidder, Ozata Tersanecilik San Vertic. Ltd. Gave agency to Moto Nguvu EA to act as their local agent for the implementation of the contract.

Committee Resolution

The Committee made the following resolution:

The Management should provide copies of correspondence with the winning bidder on the agreement to wait for resolution of arising disputes before signing the contract.

Failure to Deduct and Remit Taxes

KFS consulted with Kenya Revenue Authority (KRA) for guidance on treatment of taxes in regard to the project vide letter reference MD/FIN/2 dated 4th December 2016 and response on the same was given which indicates among others that advance payment was not subject to withholding taxes. The withholding of 6% VAT does not apply in this case since this is an importation of a goods and not services (6% withholding only relates to local goods and services. The company thereby implemented the advice from KRA and did not fail to recover taxes since the Kshs 598,023,000 was an advance payment for foreign goods to facilitate implementation of the project.). Upon importation of the complete ferry, the shipyard paid all the duties and taxes

Annex 6: Advice from Kenya Revenue Authority dated

Receipts of payment of taxes issued by KRA

Committee Observations

The Committee made the following observations:

1. The advance payment was not subject to withholding taxes. The withholding of 6% VAT as per Section 10 of the VAT Act does not apply in this case since this is an importation of goods and not services.
2. Upon importation of the complete ferry, the shipyard paid all the duties and taxes.

Delay in executing the contract

The signing of the contract was to assist parties move to effective date which was delayed by availability of funds. Although the contract was signed on 27/06/2015 the effective date of the contract was August 2016 after revolving Letters of Credit were put in place. Construction period as per the contract was 18 months with a further 3 months for delivery (voyage) and therefore ferries were to be delivered in April 2018. The first ferry was delivered in July 2017 therefore there was no delay in terms of delivery.

The second ferry is expected to be delivered on 15th January 2020

Annex 7: Addendum to contract attached and production plan

Committee Observations

The Committee made the following observations:

1. The effective date of the contract was August 2016 after revolving Letters of Credit were put in place. Delay in provision of the letters of credit by KFS occasioned the delay of the effective start of the contract.
2. The consultant for the project took Kenya Ferry Services to court following cancellation of their contract in June 2017. KFS won the case whose judgement was given in April 2018.
3. KFS is pursuing damages against the consultant and Management has forwarded details of the consultants to PPRA for blacklisting.

Committee Resolution

The Committee made the following resolution:

Management should provide a chronology of the circumstances that occasioned the delay in executing the contract including details on the procurement process for the services of the consultant, the cancellation of the consultant's contract and the court case.

MIN/PIC/407/2019: REVENUE FY 2015/16

3.1 Income from operations

The statement of comprehensive income reflects an amount of Kshs 410,742,000 as income from operations. However records availed for audit review indicated that the company toll collections amounted to Kshs 410,845,000 resulting in an unexplained variance of Kshs 103,000.

Management Response

The Company's income from operations amounted to Kshs 410,742,086 as per the attached trial balance and general ledger accounts. The said amount of Kshs 103,000 reconciled with the same amount of Kshs 103,000 in the bank balance as indicated under item 4 on bank balances below where a corresponding difference of equal amount was observed. This was reconciled as Ksh 410,742,086.

Annex 8: Trial Balance as at 30th June 2016 and Ledger

Committee Observations

The Committee made the following observations:

1. The relevant ledgers were belatedly provided for audit verification and reconciled.
2. The delay in provision of the documents was contrary to Section 62 of the Public Audit Act.

3.2 Variance between receipt books and control records

During the year under review one thousand, two hundred and ninety (1,290) manual receipt books were issued by the revenue section to collect as shown in the control receipt book register(CRBR).However the number of receipt books issue to the revenue section by the procurement department was shown in bin cards five hundred and seventy (570) resulting in an excess of seven hundred and twenty (720) receipt books that did not originate from the procurement department. Although the management has explained that the extra 720 receipt books were received directly from the suppliers, the receipt books had not been accounted for as at 30 June 2016.

Furthermore stores records reviewed at the close of financial year under review manual receipt books balance was one hundred and fifty (150).Whereas stock taking records revealed a nil balance thus resulting to an unaccounted surplus of one hundred and fifty receipt books.

Management Response

The Company makes orders from suppliers for receipt books and the same are taken on charge in the stores upon receipt. However, on three occasions, there were stock-outs of the receipt books and due to the emergencies that existed at the time (prolonged power outage), these were delivered by the supplier to Finance Department at the revenue section (user) and received by Senior Officer Revenue. Revenue collected from these receipt books was accounted for and verified by the Office of the Auditor General for the period and no revenue was lost. KFS has since acquired personal digital assistants (PDAs) which are integrated to the mainstream billing system and connected to main server as a long-term solution to be used in times of power outage. Revenue billed from these gadgets is captured in a real time basis to the main server.

The records at Procurement and Finance Departments were also reconciled. Below is a summary/table of manual receipt books received at site the financial year 2015/2016.

Manual Receipt books received from procurement department	Manual receipt books received directly from printer(supplier) Per attached d/notes	Total receipt books with revenue section	Manual receipt books issued to collectors (SGA) Ltd.
570 books	720 books	1,290 books	1,290 books

Annex 9 : Delivery Notes and certificate duly signed

Documents on the Personal Digital Assistants (LPO

Committee Observations

The Committee made the following observations:

1. Revenue collected from these receipt books was accounted for and verified by the Office of the Auditor General for the period and no revenue was lost.
2. KFS has since acquired personal digital assistants (PDAs) which are integrated to the mainstream billing system and connected to main server as a long-term solution to be used in times of power outage.
3. Revenue billed from these gadgets is captured in a real time basis to the main server.

3.3 Irregular motor vehicle toll fees

Auditor's Observation

Kenya Ferry Services does not have any equipment's or means of measuring of motor vehicle length to establish the appropriate charges to be levied on to its customers. This contravenes vehicle toll charges amendment rules, 2013 which provides that the company's levies should be based on the length of the vehicles carried in its ferries.

In the light of the foregoing circumstances it has not been possible to confirm the income from operations amounting to Kshs 410,742,000 for the year ending 30 June 2016 is fairly stated.

Management Response

The basis for charging vehicular toll charges is length in metres as per Legal Notice no. 71 "The Ferries (Vehicle Toll Charges) Amendment Rules 2013" gazzeted on 22nd March 2013 and came into force on 1st May 2013. In the gazzeted notice length of the

vehicle is given as a range. The gazette notice had already established the rates and KFSL was not expected to establish further rates. The length of all categories of vehicles such as sedan cars, trucks and trailers are already identified and their relative toll tariffs indicated in the same legal notice. The ferry charges as already established under the said regulation are publicly displayed for ferry users who are conversant with this form of toll tariff and because of the simple nature of the tariff structure both KFS and its customers can easily understand and apply.

Annex 10: Legal Notice 71

Public Notice to ferry users on toll charges

Evidence of charges per vehicle complying as per the legal notice (Report from the system)

Committee Observations

The Committee made the following observations:

1. The basis for charging vehicular toll charges is length in metres as per Legal Notice no. 71 "The Ferries (Vehicle Toll Charges) Amendment Rules 2013" gazzeted on 22nd March 2013.
2. The length of the vehicle is given as a range. The gazette notice had already established the rates and KFSL was not expected to establish further rates.

MIN/PIC/408/2019: BANK AND CASH BALANCES FY 2015/16

The statement of the financial position as at 30 June 2016 reflects a balance of Kshs 1,020,620,000 in respect of Cash and Bank balance. However, the balances as per the Bank reconciliations availed for audit totaled to Kshs1,020,724,000 resulting to neither unexplained nor reconciled difference of 103,000.

Consequently the accuracy and completeness of the Cash and Bank balance of Kshs 1,020,620,000 as at 30 June 2016 cannot be confirmed.

Management Response

The cash and bank balances amount to Kshs1,020,620,449 as at 30th June 2018 and the same is duly supported by the bank reconciliations attached. This was reconciled.

Annex 11: Audited Financial statements 2016/2017 (Evidence of reconciliation)

Committee Observations

The Committee made the following observation:

The cash and bank balances amount was supported by relevant bank reconciliations.

MIN/PIC/409/2019: LONG OUTSTANDING DEBTS FY 2015/16

Note 17 to the financial statement reflect trade receivables balance of Kshs 88,981,000 which includes two debtors: one of Kshs 12,300,496 and the other Kshs 50,652,633 which, as previously reported have been outstanding since the year

2008/2009. Although the management has indicated that the debts are subject to court case, no documentary evidence has been provided to confirm the management assertion.

Consequently it has not been possible to confirm the authenticity and accuracy of trade receivables balances of Kshs 88,981,000 as at 30 June 2016.

Management Response

The long outstanding debts are owed by M/s Lustman & Co. (1990) Ltd was contracted on 24th September 2010 to manage the infrastructure facility and Nova Media Ltd who was contracted on 1st January 2011 in respect advertisement at ferry sites. These debtors defaulted in remitting revenue collected to Kenya Ferry Services Ltd resulting in outstanding amounts referred to above. The Company initiated a litigation process in a bid to recover these debts.

The case against Lustman & Co. (1990) Ltd has been fixed for a number of occasions but is yet to be heard due to adjournments sought by the defendant. An application to take the case to fast track mode of handling civil claims was made and lawyers are yet to communicate new dates Septemebr 2019.

M/s Nova Media disputed certain amounts billed leading to the case. The dispute resolution mechanism was filed by the Company with an arbitrator, in Mombasa in early 2017.

Annexure 12: A copy of the plaint and correspondence with the lawyers (Court documents)

Arbitration correspondence

Committee Observations

The Committee made the following observations:

1. The Kenya Ferry Services had sued the long term debtors and provided evidence of court documents on the status of the two cases.
2. An arbitration was filed by M/S Nova disputing the amounts to be paid by the company. KFS lost the arbitration and moved to court to appeal the arbitration outcome.

MIN/PIC/410/2019: TRADE AND OTHER PAYABLES FY 2015/16

Included in the other payables and balance of Kshs 208,620,000 as shown in Note 24 to the financial statements are creditors amounting to Kshs. 177,371,000 out of which creditors of Kshs 58,973,323 are long outstanding, an indication that the management could be having difficulties in meeting credit obligations when they fall due which may lead to legal cases being instituted against the company. Further, records availed for audit indicated that the unpaid invoices for goods received amounting to Kshs 1,116,958 were not posted in the ledger and were hence excluded from these financial statements.

Under the circumstance, it has not been possible to confirm the validity and accuracy of trade and other payables balance of Kshs. 208,620,000 as at 30 June 2016.

Management Response

The company policy states that all payables are settled within 45 days. However, where there are short term liquidity problems and to avoid legal cases with suppliers and or losing critical suppliers the Company enters into a settlement plan with suppliers and because of existing good working relations amount owed is paid as per payment plan agreed up on by the two parties. This would ensure that short term liquidity challenges do not constrain KFS' deliver its mandate. As such, Management has not experienced any legal cases with these suppliers in cases of delays. The long outstanding invoices have since been settled.

All the referred invoices amounting to Kshs 1,116,958 were correctly captured and formed part of the financial statements. The company confirms the validity of the amount of kshs 208,620,000.

All long outstanding debts have since been paid for invoices of up to 45 days and currently the company has outstanding payables of 62M as at 30th June 2019.

Annexe 13: The age analysis of the creditors as at 30th June 2019

Committee Observations

The Committee made the following observations:

1. The long outstanding invoices have since been settled.
2. All the referred invoices amounting to Kshs 1,116,958 were correctly captured and formed part of the financial statements.
3. When experiencing short term liquidity problems and to avoid legal cases with suppliers and/or losing critical suppliers, Management enters into a settlement plan with suppliers and the amount owed is paid as per payment plan agreed up on by the two parties.

MIN/PIC/411/2019: ADMINISTRATION EXPENSES FY 2015/16

The statement of comprehensive income for the year ended 30 June 2016 reflects Kshs 89,817,000 in respect of administration expenses out of which Kshs. 12,605,000 relates to domestic and foreign travel as detailed in Note 6 to the financial statements. Examination of records availed for audit revealed that the company bought ticketing services amounting to Kshs 6,862,280 through direct procurement contrary to section 103(1) of the public procurement and Asset Disposal Act, 2015 which prohibits avoidance of competition of procurement. Further, the management did not provide for audit review analyses for domestic and foreign travel expenditure amounting to Kshs 12,605,000 included in the accommodation expenses for the year under review.

Consequently, the propriety and completeness of the expenditure of Kshs 12,605,000 incurred on the domestic and foreign travel expenses during the year under review cannot be confirmed.

Management Response

The air ticketing services were procured in compliance with the Public Procurement and Asset Disposal Act 2015 under open tender and a framework agreement entered. Only one bidder submitted a responsive bid as at the deadline for submission. The evaluation and award was undertaken in accordance with the Act.

Analysis for domestic and foreign travel expenditure was provided as below;

Description	Amount Ksh
Duty Travel	6,557,546
Air ticket	6,047,068
TOTAL	12,604,614

Annex 14: Tender advertisement, award of tender (Professional opinion), letter of award and acceptance.

Committee Observations

The Committee made the following observations:

1. The company bought ticketing services amounting to Kshs 6,862,280 through direct procurement contrary to section 103(1) of the public procurement and Asset Disposal Act, 2015 which prohibits avoidance of competition of procurement.
2. The advert attracted three bidders of which only one bidder submitted a responsive bid as at the deadline for submission.
3. Management provided an analysis of domestic and foreign travel expenditure for the financial year under review.

MIN/PIC/412/2019: FERRY OPERATION COSTS FY 2015/16

The statement of comprehensive income for the year ended 30 June 2016 reflects ferry operations cost amounting to Kshs 176,577,000 out of which expenditure of Kshs 59,152,000 relates to security services. Records availed for audit review indicates that the Kenya Ferry Services awarded the contract for provision of security, and crowd control to a local security firm. However review of the procurement process revealed the following anomalies:

8.1 Preliminary evaluation

The confidential business questionnaire filled by the bidder indicted that the company was a controlling shareholder contrary to the requirement that the shareholders were

to be directors. This guarded disclosure did not provide transparency as to who actually owned the company. The business questionnaire was to be signed in every page. However the winning bidder's signatures were not appended on the page requiring information about the registration of the company.

Management Response

A review of the bid document submitted by the successful bidder for this tender indicates information that is contrary to the audit observations as follows:

The requirement for directors who have control as introduced by the auditor is an additional criteria not provided in the tender document. The requirement was for disclosure of directors.

The confidential business questionnaire was dully filled and stamped by a representative of contracted firm at the bottom of each page and at the end of the form where the declaration was made as per tender requirements..

Annex 15: Extracts of the successful bidder's tender document - confidential business questionnaire (copy)

Extract of the tender document - Evaluation criteria

Committee Observations

The Committee made the following observation:

The confidential business questionnaire presented before the Committee was filled and stamped by a representative of contracted firm at the bottom of each page and at the end of the form where the declaration was made as per tender requirements.

Committee Resolution

The Committee made the following resolutions:

1. Management should provide a copy of the business questionnaire presented before the Committee to the Auditors for audit verification.
2. The Auditors should confirm whether the requirement for directors who have controlling stake was a criteria provided in the tender document.

8.2 Technical evaluation

The management did not carry out actual vetting of bidders but instead only requested for documents on personnel and did not verify these for authenticity. Further, the personnel were not interviewed to confirm whether the information they provided was true. Further, certificate of good conduct provided by personnel working for the bidder had similar reference numbers and were hand written in contrast to standard certificates which are printed. In addition, validity of secondary school certificates attached could not be confirmed since some indicated male personnel having attached girls schools for ordinary -level education. In view of these

anomalies the validity of qualification of personnel employed by the winning bidder could not be confirmed.

Consequently, the appropriating of the security services expense amounting to Kshs 59,152,000 for the period ended 30 June 2016 cannot be confirmed.

Management Response

The criteria to conduct actual vetting of the bidders during evaluation was not part of the criteria provided in the tender document as it would have been impractical for the company to recruit guards before being awarded a tender.

The tender evaluation and award was fair and in accordance with the Public Procurement law.

Annex 16: Extract of the tender document - Evaluation criteria

Committee Observations

The Committee made the following observation:

The Management of Kenya Ferry Service indicated that this particular audit query was not dealt with in the audit cycle.

Committee Resolution

The Committee made the following resolutions:

1. Kenya Ferry Services and the Auditors should each provide copies of the Management Letter that was issued during the audit process to ascertain whether the audit query was considered during the audit cycle.

MIN/PIC/413/2019: ADVANCES - KENYA PORTS AUTHORITY FY 2015/16

Kenya Ferry Services Ltd owes KPA Kshs336 million in form of advances and it is not clear how the debt shall be paid.

Management Response

The advances amounting to Kshs 336 million have been written off by Kenya Ports Authority vide letter FA/3/2/02 dated 12th July 2017.

Annex 17: Letter from KPA dated 12th July 2017.

Committee Observations

The Committee made the following observations:

1. The Kenya Ports Authority had sought Treasury's approval for write off of the advances amounting to Kshs 336 million vide letter FA/3/2/02 dated 12th July 2017.
2. The copy of the letter referenced above was not sufficient evidence to indicate write off approval had been granted by the National Treasury.

Committee Resolution

The Committee made the following resolution:

Management should provide evidence confirming the advance payments totaling to Kshs 336 Million had been written off by Kenya Ports Authority.

MIN/PIC/413/2019: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/414/2019: ADJOURNMENT

The meeting was adjourned at forty five minutes past one O'clock.

Signed

Date.....09/10/2019

The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

MINUTES OF THE 50TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 13TH AUGUST, 2019 IN THE CONFERENCE ROOM, ENGLISH POINT MARINA AT 3.00 P.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Joash Nyamache Nyamoko, MP
3. The Hon. Raphael Bitta Sauti Wanjala, MP
4. The Hon. Justus Kizito Mugali, MP
5. The Hon. Gladys Wanga, MP
6. The Hon. Omar Mohamed Maalim Hassan, MP.
7. The Hon. Paul Kahindi Katana, MP
8. The Hon. Purity Wangui Ngirici, MP
9. The Hon. Thuku Zachary Kwenya, M.P
10. The Hon. Babu Owino Paul Ongili, MP
11. The Hon. Mary Wamaua Njoroge, MP
12. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
13. The Hon. James Kamau Githua Wamacukuru, M.P

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
3. The Hon. John Muchiri Nyaga, M.P
4. The Hon. Mohamed Hire Garane, M.P.
5. The Hon. Rashid Kassim Amin, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Mr. Thomas Ogwel | - | Fiscal Analyst |
| 5. Ms. Sharon Rotino | - | Research Officer |
| 6. Ms. Noelle Chelagat | - | Media Relations Officer |
| 7. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Matheka Fouris | - | Manager, Audit |
| 4. Mr. Peter Ruteere | - | Inspectorate of State Corporations |

MIN/PIC/415/2019: PRELIMINARIES

The Chairperson called the meeting to order at three O'clock followed by a word of

prayer.

MIN/PIC/416/2019: EXAMINATION OF AUDITED ACCOUNTS OF TECHNICAL UNIVERSITY OF MOMBASA

Prof. Laila Abubakar, the Vice Chancellor of the Technical University of Mombasa accompanied by Prof. Joseph Rasowo (Deputy Vice Chancellor, Administration and Finance), Mr. Justin Ombul (Chief Accountant), Mr. James Odhiambo (Procurement Manager), Ms. Serah Okumu (Legal Officer) and Mr. Dalton Mwaghughu (Finance Officer) appeared before the Committee to adduce evidence on the audited accounts of the Technical University of Mombasa for financial year 2013/14 to financial year 2017/18.

The Committee observed that the documents submitted by the University Management were not well organized and poorly annexed.

The Committee resolved to postpone the sitting with the Technical University of Mombasa to allow Management to prepare a well prepared submission.

MIN/PIC/417/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services accompanied by Mr. Kombo Rajab (Finance Manager), Ms. Jeniffer Cirindi (Procurement Manager), Mr. Paul Kotut (Operations Manager), Mr. Henry Katana (Principal Internal Audit) and Mr. Athmani Washenga (Head of Engineering) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2016/17 to financial year 2017/18.

MIN/PIC/415/2019: PROPERTY PLANT & EQUIPMENT FY 2016/17

1.1 Fully depreciated assets

The statement of financial position as at 30th June 2017 reflects a balance of Kshs. 2,181,924,000 in respect of property, plant and equipment which includes fully depreciated assets with a total cost of Kshs 473,885,000 (2015/2016 Kshs 69,784,000) as per disclosure under note 16 to the financial statements. Although some of the assets are in use, the economic value of these assets has not been accounted for in these financial statements as they are carried at zero value contrary to international accounting standards No. 16 which states that revaluations should be carried out regularly, so that the current amount of an asset does not differ materially from its fair value at the balance sheet date.

As a result, it has not been possible to ascertain that the property, plant and equipment balance of Kshs 2,181,924,000 as at 30th June 2017 is fairly stated.

Management Response

The Company engaged the State Department of Public Works to value items identified for disposal in the year 2017/2018 and a report for the same is hereby attached. The

items had been earmarked for disposal and include; guard rails, LED screens, computers, engines, and other equipment. Management advertised to dispose the same in May 2019. The disposal process has since started and all the items shall be removed from the books.

Annex 1: Valuation report from state department of public works and copy of the newspaper advert

Committee Observations

The Committee made the following observation:

Management had engaged the State Department of Public Works to value items identified for disposal in the financial year 2017/2018 and an advertisement to dispose the same was done in May 2019. The disposal process is ongoing.

MIN/PIC/416/2019: LONG OUTSTANDING DEBTS FY 2016/17

Included in trade and other receivables balance of Kshs 716,622,000 as at 30th June 2017 are staff receivables of Kshs 10,157,000. Audit verifications revealed that staff advances amounting to Kshs 4,178,131 was owing from former staff. The management has not clearly explained how the staff were cleared before settling the debts.

Consequently, it has not been possible to confirm the validity and recoverability of trade and other receivables balance of Kshs 716,622,000 as at 30th June 2017.

Management Response

The advances owing by former staff amounting to Kshs 3,691,229 is being pursued for recoverability through court processes whereas some have/are paid/paying their outstanding balances. No staff has been cleared to leave the organization before settling their account balances.

The following is the summary of status of each ex-staff member account

No.	Staff No.	Name	Original amount Kshs	Paid	Current Balance Kshs	Remarks
1	FER300	Ambrose Riasi Getenge	20,000	-	20,000	Dismissed
2	FER347	Mwangi Kahora Gitonga	356,315	145,677	210,638	Resigned, partly repaid
3	FER391	Mong'are Edwin Momanyi	116,065	116,065	-	Cleared
4	GMA002	Joel John Ria	798,735	-	798,735	Dismissed
5	KOO001	Kenedy Oyugi Onkoba	858,801	-	858,801	Dismissed

6	SNR003	Sajad S Janoowalla	13,750	13,750	-	Written off
7	SNR005	Deche Nelson Kachero	748,586	-	748,586	Dismissed
8	SNR009	George Chiwai Barua	295,937	-	295,937	Deceased
9	T020	Edwin Osano Onkoba Motuka	82,515	-	82,515	Dismissed
10	T023	Martin Mwenda Mbaka	244,244	-	244,244	Dismissed
11	T022	Joseph Kariuki	22,500	-	22,500	Dismissed
12	FER313	Kurgat Kiprop	180,140	-	180,140	Retired, not cleared
13	FER242	Victor Chite	45,100	-	45,100	Dismissed
14	FER178	Fredrick Baraza Dodi	259,920	129,960	129,960	Dismissed
15	FS325	Douglas Kitonyi Ndeto	161,738	161,738	-	Cleared
16	FS185	Salim Mwabaka	54,073	-	54,073	Dismissed
		Total	4,258,419	567,190	3,691,229	

Committee Observations

The Committee made the following observation:

The advances owing by former staff amounting to Kshs 3,691,229 is being pursued for recoverability through court processes.

MIN/PIC/417/2019: ADMINISTRATION EXPENSES FY 2016/17

The statement of comprehensive income for the year ended 30th June 2017 reflects Kshs 111,392,000 in respect of administration costs. Included in administration costs figure of Kshs 111,392,000 is Kshs 8,572,000 in respect of legal dues. Records availed for audit indicate that Kshs 6,020,000 was paid to a law firm as a deposit based on a proposal presented by the firm to finalize outstanding cases arising from Mtongwe Ferry disaster of 1994. However, as at the time of audit, there was no documentary evidence of any progress made towards achieving objectives if the proposal including court application and settlement of claims by affected persons. It was therefore not clear which service was rendered by the law firm. The public have not realized the value for money.

Consequently, the propriety and validity of expenditure amounting to Kshs 8,572,000 incurred on the administration expenses for the year ended could not be confirmed.

Management Response

In April 2017, the Company developed a plan to close all cases that were still outstanding arising out of the Mtongwe ferry disaster of 1994.

To implement that plan, the Company together with its external Advocates handling the cases arising out of the Mtongwe disaster of 1994 jointly published a notice on the 22nd June 2017 in the Nation Newspapers informing affected persons that the Company was committed to bring all outstanding cases to a closure by the 31st December 2017, and to this end required such affected persons with outstanding claims against the Company to report to the external Advocates within 60 days of the notice.

At the end of the advertisement period, although more than 70 persons had visited the offices of the external advocates, only 13 had requisite documents.

The external advocates then proposed that the 13 persons be compensated through an out of court settlement in the following terms:

- a. Liability be apportioned at 70:the 30 in favour of deceased or injured persons.
- b. Damages to be a total of Kshs 750,000/= per person all inclusive, that is including quantum, filing charges and advocates fees.
- c. The total amount payable to the 13 persons in the proposed settlement would be Kshs 9,750,000/=.

The Committee recommended to the Board to approve the payment of out of court settlement.

Due to cash flow challenges, the Company will settle the amount through its external advocate in instalments. The first instalment of Kshs 3M was made to the external advocate in early October 2018. Progress report on this item will be given in subsequent periods

Appendix: Copy of the advert inviting the victims and a vetting report

Committee Observations

The Committee made the following observation:

1. KFS had published a notice on the 22nd June 2017 in the Nation Newspapers informing affected persons that the Company was committed to bring all outstanding cases to a closure by the 31st December 2017, and to this end required such affected persons with outstanding claims against the Company to report to the external Advocates within 60 days of the notice.
2. A total of 13 persons who were found to have relevant documentations were to be compensated through an out of court settlement.

3. Due to cash flow challenges, the Company will settle the amount through its external advocate in instalments. The advocate handling the matter on behalf of KFS is Maina Njanga & Co. Advocates.

Committee Resolution

Management should provide a breakdown of all the expenditure under the Mtongwe Ferry disaster compensation.

MIN/PIC/418/2019: OTHER MATTER FY 2016/17

1.0 Budgetary Controls and performance

The Company had an over expenditure on various vote items Kshs 87,369,000 in the financial year under consideration with no approval of the budget by line Ministry.

Management Response

The Company did not overspend on the listed budgetary items. The correct position was clarified by the Company. However, the auditors did not use the final revised budget. Overall, the Company spent within the budgetary allocation levels for various main classes of expenditure as detailed in the statement of comparison between actual and budgeted amounts save for dry-docking expenses which are an accounting allocation/ book entries and does not involve cash movement/application.

	Component	Budget	Actual	Difference	% Variance
1	Printing, Advertising and Information-Supplies	5,648,000	5,103,000	545,000	10%
2	Sports & Recreation	7,475,000	7,492,000	17,000	0%
3	Training Expenses	15,500,000	15,542,000	42,000	0%
4	IT Implementation	6,124,000	6,197,000	73,000	-1%
5	Legal Dues/Fees	9,000,000	8,572,000	428,000	5%
6	Contracted Professional Services	10,500,000	10,753,000	253,000	-2%
7	Fuel Oil & Lubricants	71,524,250	71,379,000	145,250	0%
8	Board Expenses	22,197,208	22,521,000	323,792	-1%

9	Dry Docking	30,000,000	63,041,000	- 33,041,000	-110%
10	Safety Equipment Repairs	8,500,000	8,676,000	- 176,000	-2%
	Total	186,468,458	219,276,000	- 32,807,542	

Committee Observation

Management contested the auditor's observation on over expenditure and provided a breakdown of the amounts spent under the queried votes.

Committee Resolution

The Auditors were asked to verify the actual expenditure and report back to the Committee.

2.0 Safety of ferry vessels

Auditor's observation

- i. Dry-docking for MV Kwale and MV Likoni not done as scheduled
- ii. MV Kwale engine had operated for more than 30,000 hours without undergoing engine overhaul.
- iii. Pulleys on most ferries are defective causing prows are to be submerged in water
- iv. The ferry users are not insured therefore it may difficult to settle liabilities in case of accident.

Management Response

KFSL had a fleet of 5 vessels. To operate optimally it requires 4 vessels for Likoni and one for Mtongwe channel (Mtungwe channel was re-opened in March 2017 after closure for 5 years). While these vessels were scheduled for dry dock in March 2017, it was impractical to take them to dry dock because this would have meant complete withdrawal of service for a period of not less than 3 months; The Likoni channel would have operated with 3 ferries (deficit of one) and Mtongwe channel be closed down.

After taking in to account demand for the ferry service and assessing the safety condition of the vessels, the company undertook minimal maintenance works on the said ferries and reviewed the major maintenance schedule to have the dry docking of the two vessels after delivery of M.V Jambo in July 2017. Consequently the two ferries were dry docked for major repair works in November 2017 for M.V Kwale and MV Likoni was dry docked during the same period.

The ferries are fitted with CAT C12 Engines, which according to its manufacturer's (CATERPILLAR PLC) the engines are to undergo major overhaul at a minimum of

8,000hours. Indeed, total running hours at as the time of the audit was 3,000 hours operating at an average of 8 knots/ maximum speed since the previous maintenance. The engines had already undergone the major overhaul way back and were due for replacement. These have since been replaced with new engines.

The company has a program to repair the lifting systems of the ferry prows, which entails the pulleys and associated parts. These have been repaired M.V Kilindini in January 2019, M.V Likoni June 2019 Plans are underway to repair M.V Nyayo (Scheduled for Dry Docking in September 2019).

As explained above, the main cause of this is due to non-availability of the vessel for repairs. The Company managed to undertake reasonable repair works on the engine to mitigate on hour overrun safety exposure. However, the engine was overhauled in the year under review and services were offered without any disruption.

All vessels have sea worthiness certificates issued by KMA (certificate no. 35) and since the vessels are non-deep sea going (international waters), the issuance of an international certificate is of no use. Further, KMA is the local representative of the International Marine Classification bodies. Please find relevant certificates attached.

All the ferry vessels are insured against Protection and third part indemnity liability as well as hull and all machinery.

Committee Observations

The Committee made the following observations:

1. M.V Kwale and MV Likoni was dry docked for major repair works in November 2017.
2. The lifting systems of the ferry prows, which entails the pulleys and associated parts have been repaired for M.V Kilindini in January 2019, M.V Likoni in June 2019 with plans to repair M.V Nyayo in September 2019.
3. Scheduled dry docking for repair works is delayed due to budgetary constraints at Kenya Ferry Service.
4. Kenya Ferry Service has an annual expenditure of Kshs. 102,000,000 on fuel of which 25% is accounted for by machine inefficiency that increases consumption.
5. The ferries at Likoni and Mtongwe carry an average of 340,000 people and 5800 cars per day.
6. All the ferry vessels are insured against Protection and third part indemnity liability as well as hull and all machinery.

Committee Resolution

The Committee made the following resolutions:

1. Management should provide a breakdown of its annual budgetary allocation and its annual expenditure to provide a clearer picture of the financial challenges experienced that prevent scheduled maintenance of ferries.

2. The Committee would recommend for ring-fencing of budgetary allocation for maintenance of ferries to ensure the repairs are done after the requisite number of hours in operation.

MIN/PIC/419/2019: PROPERTY, PLANT & EQUIPMENT FY 2017/18

1.3 Construction of two new ferries

As previously reported, Kenya Ferry Services Limited awarded contract for supply and delivery of two new passage ferries at a cost of kshs.1,863,000,000 (US \$18,630,000) . The company made a down payment of kshs.598,023,000 (US \$5,920,726.70) to the local appointed Agent in August 2015, but failed to withhold 6% of VAT totaling to kshs.35,881,380 and withholding tax at 20% for non -residents company totaling Kshs 119,604,600 despite professional advice from Kenya Revenue Authority to subject payment ton both taxes.

In addition, according to the contract signed on 27 June 2015, the new ferries were to be delivered after seventeen (17) months, but as at this audit in November 2018, the second ferry had not been delivered. Also, an email to the supplier dated 9 January 2019 requesting for direct confirming of the amount received from Kenya Ferry Services Limited for the second ferry, the outstanding balance and the date of delivery of the ferry has not been responded to.

In light of the foregoing it has not been possible to confirm the validity, accuracy and completeness of the building and supply of two ferries at a cost of the propriety of expenditure totaling kshs.1,519,379,614 paid to the contactor as at 30 June 2018.

Management Response

Downpayment of Kes doesn't attract Withholding Tax and Withholding VAT according to Sec10 of VAT Act.

Upon delivery of MV Jambo, all requisite taxes amounting to Kshs 170,821,184 were paid at the port of entry.

The second ferry had not been delivered at the time of Audit in November 2018 due to a court order halting its construction following a constitutional petition at the High Court of Mombasa. The Company appealed successfully and construction of the same is ongoing with delivery expected as per the revised production plan in January 2020.

Annex 3 : Copy of KRA Professional Advise

Committee Observations

The Committee made the following observations:

1. The requisite taxes amounting to Kshs 170,821,184 were paid at the port of entry upon delivery of MV Jambo.
2. The second ferry had not been delivered at the time of Audit in November 2018 due to a court order halting its construction following a constitutional petition

at the High Court of Mombasa. The Company appealed successfully and construction of the same is ongoing with delivery expected as per the revised production plan in January 2020.

Committee Resolution

The Committee made the following resolution:

Management should provide evidence to confirm the expected delivery date of the second ferry.

MIN/PIC/420/2019: TRADE & OTHER PAYABLES FY 2017/18

The trade and other payable balance of Kshs.228, 905,000 excluded an amount kshs.162, 497,579 (USD 1,577,646.4) in respect to taxes charged on purchase of one ferry vessel (MV Jambo) completed and delivered in July 2017. The management did not avail evidence of payment of the above Tax to Kenya Revenue Authority as demanded through a letter reference H.O 1035 dated December 2016.

Under the circumstances, it has not been possible to confirm the validity and accuracy of trade and other payable balance of Kshs. 228,905,000 as at 30 June 2018.

Management Response

The exclusion of Kshs 162,497,579 in respect to taxes relating to MV Jambo does not affect the fairness of the payables; this was not the liability of KFS. Such taxes were payable by the shipyard at the port of entry when the vessel was being cleared by KRA. In fact, KFS did not have any the capacity nor the mandate to enforce payment of taxes at the port of entry since it is the responsibility of other Government agencies. However, from documents provided the contractor indicated that taxes were paid to KRA, the relevant Government agency that deals with this matter.

Annex 6: Receipts of taxes and duties payment by contractor to KRA

The Committee made the following observation:

The applicable taxes were paid by the contractor upon delivery of the ferry.

MIN/PIC/421/2019: INCOME FROM OPERATIONS FY 2017/18

The loaded motor vehicles are charged at different rates from unloaded ones. However the toll collectors rely on information provided by the drivers regarding the state of load in the motor vehicles. It was not evident that all cargo-carrying motor vehicles are inspected to confirm the state of load carriage before payment is made.

In the circumstances, the accuracy and completeness of income from operations amounting to Kshs 493,972,000 for the year ended 30th June 2018 could not be confirmed.

Management Response

For loaded vehicles, they are charged the same rate as unloaded plus a surcharge. It quite in order for the toll cashiers to engage the clients (motorists in discussion and ascertainment of the status of the load in a particular vehicle. This type of engagement provides a feedback mechanism on two parties. Ultimately the person responsible to bill the customer (vehicle) is the cashier taking into account of the requisite information before him/her. Once the customer is billed, the customer is subjected to an inspection process where the validity of the ticket is confirmed. The ticket is further subjected to spot checks on a random basis.

Committee Observations

The Committee made the following observation:

Loaded vehicles are charged the same rate as unloaded plus a surcharge.

MIN/PIC/422/2019: BANK & AND BANK BALANCE FY 2017/18

The statement of financial position as at 30th June 2018 reflects bank and cash balances amounting to Kshs 325,953,000 out of which Kshs 5,604,000 was held at National bank collection account as detailed in note 23 in the financial statements. However, the bank reconciliation availed for audit supported an amount of Kshs 4,879,258 resulting to un-reconciled variance of Kshs 724,742 as at 30th June 2018.

In the circumstances, the accuracy and completeness of the bank and cash balances of Kshs 325,953,000 as at 30th June 2018 could not be confirmed.

Management Response

The bank and cash reconciliation balanced and supporting evidence have been provided as Annex 8 (Statement)

Committee Observation

The bank reconciliation availed for audit supported an amount of Kshs 4,879,258 resulting to un-reconciled variance of Kshs 724,742.

MIN/PIC/423/2019: OTHER MATTER FY 2017/18

1.0 Budgetary Controls and performance

Auditor's observation

The statement of comparison of budget and actual amounts for the year ended 30th June 2018 reflects budget of Kshs 1,294,662,000 and actual expenditure of Kshs1,237,662,000 resulting to a net under absorption of Kshs 57,002,000 as summarized below;

	ITEM	Budget (Kshs '000')	Actual (Kshs '000')	Under absorption (Kshs '000')	Over absorption (Kshs '000')	%
1	Staff costs	536,472	519,259	17,213	-	3.2
2	Administration costs	107,458	108,372	-	914	0.8
3	Operation costs	340,936	243,180	97,756	-	28.6
4	Board costs	16,700	16,572	128	-	0.76
5	Repairs and maintenance	140,673	135,946	4,727	-	3.3
6	Depreciation	152,090	213,998	-	61,908	40.7
7	amortization	333	333	-	-	0
	TOTAL	1,294,662	1,237,660	119,824	62,822	44.0

The Kenya Ferry Services limited under spent to a tune of Kshs 119,824,000 or 9% of the total budget allocation. The funds could have been allocated to other deserving areas that could improve the ferry services to the public. This may also be an indication of improper planning and the management needs to rethink on its budget making process in view of focusing on more priority areas. Further, Kenya Ferry Services limited overspent the budget by Kshs 62,822,000. However, there was no evidence of authority to overspend or reallocate funds in line with section 48 (5) of the public finance management (National Government) Regulations, 2015 which states that 'reallocations under this regulation shall be by the respective Accounting officer of the entity'.

Consequently, Kenya Ferry Services Limited is in breach of the law.

Management Response

The company ensured prudent financial management of financial resources throughout the year. Part of the operational cost included a provision for salary reviews expected to be implemented within the year. As at the close of the year, the CBA for union staff had been referred to the court and was still outstanding. Once the matter is determined at the courts the same will be implemented and adjustments made accordingly.

Further to the aforesaid, the company did not receive full disbursements for funds allocated and posted a deficit in government subvention.

Annex 9: Extracts of Financial Statements

Committee Observations

The Committee made the following observations:

The Kenya Ferry Service did not receive full disbursements for funds allocated and posted a deficit in government subvention.

2.0 Legal fees

Note 7 to financial statement for year ended 30 June 2018 reflects legal dues/fees, arbitration and services to the company in different cases. However, the management did not avail authority from the Attorney General approving the hiring and payment of legal fees to private law firms contrary to Attorney General circular AG/CONF/6/E/247 VOL II which states that legal fee payable to any private advocate or law firm under such an arrangement must be approved and authorized by the Attorney General. It further states that any procurement of legal services secured without the authority of the Attorney General constitutes a breach of law and may condemn the concerned officer to a liability of surcharge is provided by the article 226 (5) of the constitution.

The management is therefore in breach of the law.

Management Response

The company procures legal services from the office of the Attorney General. In all cases, the company has always written to the AG for resources. Where the AG is not in a position to provide, the company engages external lawyers and the office of the AG is enjoined and involved. External advocates, where required are acquired as per the Public Procurement and Asset Disposal act 2015, and other laws governing such procurements. It is further noted that, the requirement under Government circular number AG/Circular/2018 dated 1st March 2018 and entitled, "Guidelines on provision of legal services by the office of the Attorney General & Department of justice" was quashed by the High Court of Kenya under application no. 364 of 2018 where the guideline was found to be in breach of section 134 and other sections of the Procurement and Asset Disposal Act 2015 as well as article 227 of the Constitution of Kenya.

Annex 9: Letter to AG for legal assistance, Advertisement for Provision legal services Full judgment on case no. 364 of 2018.

Committee Observations:

The Committee made the following observations:

The Circular (AG/Circular/2018) dated 1st March 2018 and entitled, "Guidelines on provision of legal services by the office of the Attorney General & Department of justice" was quashed by the High Court of Kenya under application no. 364 of 2018 where the guideline was found to be in breach of section 134 and other sections of

the Procurement and Asset Disposal Act 2015 as well as article 227 of the Constitution of Kenya.

MIN/PIC/424/2019: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/425/2019: ADJOURNMENT

The meeting was adjourned at twelve minutes past six O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date..... 09/07/2019

MINUTES OF THE 74TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 29TH OCTOBER, 2019 IN THE COMMITTEE ROOM, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Joash Nyamache Nyamoko, MP
4. The Hon. Gladys Wanga, MP
5. The Hon. Omar Mohamed Maalim Hassan, MP.
6. The Hon. Paul Kahindi Katana, MP
7. The Hon. Purity Wangui Ngirici, MP
8. The Hon. Thuku Zachary Kwenya, M.P
9. The Hon. Babu Owino Paul Ongili, MP
10. The Hon. Mary Wamaua Njoroge, MP
11. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
12. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
13. The Hon. John Muchiri Nyaga, M.P
14. The Hon. Mohamed Hire Garane, M.P.
15. The Hon. Rashid Kassim Amin, MP

ABSENT WITH APOLOGY

1. The Hon. James Kamau Githua Wamacukuru, M.P
2. The Hon. Raphael Bitta Sauti Wanjala, MP
3. The Hon. Justus Kizito Mugali, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Evans Oanda - Senior Clerk Assistant
2. Mr. Mohamed Boru - Third Clerk Assistant
3. Ms. Sharon Rotino - Research Officer
4. Ms. Noelle Chelagat - Media Relations Officer
5. Ms. Winfred Atieno - Audio Recording Officer

IN ATTENDANCE

1. Mr. Justus Okumu - Ag. Director, Audit
2. Mr. Joshiah Oyuko - Manager, Audit
3. Mr. Victor Momanyi - Inspectorate of State Corporations

MIN/PIC/569/2019: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten O'clock and prayed.

MIN/PIC/570/2019: CONFIRMATION OF MINUTES

The minutes of the 73rd Sitting held on 17th October 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Gladys Wanga, MP and Seconded by the Hon. Dr. Chrisantus Wamalwa, MP.

MIN/PIC/571/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services accompanied by Mr. Kombo Rajab (Finance Manager), Ms. Jeniffer Cirindi (Procurement Manager), Mr. Paul Koech (Operations Manager), Mr. Elijah Kitur (CS and head of legal), Tuva Kanga (Human Resource Manager), and Eng. Peter Mathenge (Principal Engineer) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18

MIN/PIC/572/2019: AUDIT RESERVATIONS WITH REGARD TO SAFETY OF FERRIES.

In his audit report on the Financial Statements of the Kenya Ferry Services for the financial year 2015/16, the Auditor General was concerned about the safety of the ferries managed by the Kenya Ferry Services. He observed that most of the ferries had operated long after the scheduled services thereby risking the life of Kenyans using them as a means of transport. The Auditor General characterized his audit reservations as follows:

- i. Dry-docking for MV Kwale and MV Likoni not done as scheduled
- ii. MV Kwale engine had operated for more than 30,000 hours without undergoing engine overhaul.
- iii. Pulleys on most ferries were defective causing prows are to be submerged in water
- iv. The ferry users are not insured therefore it may difficult to settle liabilities in case of accident.

Further, in the 2016/2017 financial year, the Auditor General observed that the KFS engaged the services of a law firm to help in identification and settlement of claims of Mtongwe ferry disaster but little progress had been achieved as at 30th June 2017. It is against this background that the Committee invited the Kenya Ferry services for a briefing meeting.

Mr. Bakari Gowa and Mr. Peter Mathenge gave their evidence under oath.

In his response to the Committee, the Managing Director for the KFS submitted the following:

FLEET OF FERRIES OPERATED BY THE KFS

KFS operates 6 vessels as itemized below.

S/No	Name of vessel	Year of Manufacture	Ferry capacity		Year of services
			Passenger	Vehicle	
1	Mv Nyayo	1990	1,200	60	30 Years
2	Mv Kilindini	1990	1,440	60	30 Years
3	Mv Harambee	1990	1,440	60	30 Years
4	Mv Likoni	2010	1,550	60	10 Years
5	Mv Kwale	2010	1,550	60	10 Years
6	Mv Jambo	2017	1,650	64	2 Years

Committee Observations

(i) Replacement of ferries

The KFS MD confirmed that it was KFS's policy that ferries should be replaced after 20 years. The basis of the twenty- year replacement policy was premised on the high cost of maintaining old ferries and not whether or not they were seaworthy once they clock 20 years. As at the time of appearance before the Committee, three ferries (MV. Harambe, MV Nyayo and MV Kilindini had operated way beyond this policy due to budgetary constraints.

The KFS MD confirmed that since the year 2010, the KFS management had been requesting for allocations from the parent Ministry to replace the ferries without success.

(ii) Issuance of ferry operating certificates.

The Committee noted that all the ferries operated by the KFS had been issued with a passenger safety Certificate by the Kenya Maritime Authority (KMA). Section 5 (j) of the KMA Act of 2006 mandates KMA to regularly inspect marries vessels to ensure passenger safety. Safety Certificates can only be issued once a vessel has been surveyed by KMA and satisfied itself that it is safe to continue operating.

Besides KMA, Lloyd (which is a private Non-Governmental Organization) inspects and maintains a register of al vessels that meet its standard. Prior to the enactment of the KMA Act in 2006, Kenya vessels were being registered by Lloyd but from 2007, the KFS began registering its vessels through the KMA. All the survey fees is born by the Company that calls for Lloyd's services. The KFS Eng. Peter Mathenge confirmed that MV. Harambee, Nyayo and Kilindini were removed from the Lloyds register in 2007 due to their poor state.

Lloyd is the international standard that regulates vessels. Despite KMA having this knowledge, it proceeded to issue KFS with the seaworthiness certificate. All the rest of the ferries have been struck out of the Lloyd register but instead issued by KMA.

(iii) Maintenance cost of ferries

There had been several requests for maintenance of ferries in the last ten years. However, what had been provided was not sufficient to conclusively address the major works required of the ferries. The table below summaries the request, allocations and what was utilized for maintenance in the last 5 years.

Financial year	2015/16	2016/17	2017/18	2018/19	2019/2020	Total Kshs.
Amount requested (Kshs.)	199M	466M	350M	320M	310M	1.645bn
Amount allocated (Kshs)	76.805M	294M	191M	177M	126M	864.805M
Amounted utilized (Kshs.)	76.805M	254M	191M	130M	126M	777.805M

From the table, it is clear that budgetary request for the ferry maintenance has not been adequately provided leading to poorly maintained ferries. For instance, the following comes out clearly:

- The fabrication of prows for MV Nyayo and Mv Harambee that had badly deteriorated could not be done in the 2015/16 financial year.
- In the year 215/16, MV Kilindini that was due for dry dock could not be fully done and was limited to under water steal works.
- Mv Nyayo that was to be dry docked in the FY 2016/17 was only limited to underwater works. However, its engine was replaced.
- The funds earmarked ferry maintenance for 2017/18 was not absorbed due to late exchequer releases. The money came in July 2018 hence the reason of no absorption.

(iv) Competence of coxswains

It was observed that the coxswain operating the ferries did not have requisite certificates to operate the ships. The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. Two years down the line, there was no compliance. The KMA letter to KFS dated 30th September 2019 confirmed this. KFS indicated that the reason why there has been no upgrade of the existing coxswain was that there was no institution in Kenya to do that.

(v) Disposal of scrap metal from ferries

On disposal of steel from drydock, KFS confirmed to the Committee that the contract is cut and replace which entails the ship yard keeping all the scrap metal left behind after repair of ferries.. However, in major replacements such as prows, KFS cuts them off before taking them for drydock.

Committee Resolutions

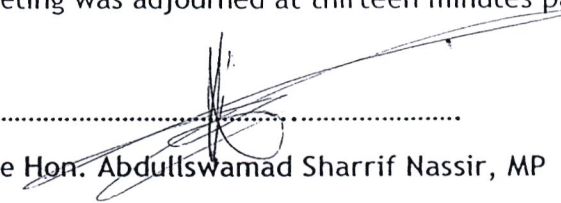
The Committee made the following resolutions:

1. KFS to provide the policy document on the 20 years replacement
2. KFS to provide communication between KFS and parent Ministry regarding dilapidated state of the vessels
3. KFS to provide communications from Lloyd deregistering the vessels
4. KFS to provide the survey reports from KMA after inspecting the vessels; the issues that were raised and the feedback from KFS on the same. A letter from KMA to KFS and dated 1st October 2019
5. KFS to provide minutes of the negotiations KFS had with regard to competence of coxswains.

MIN/PIC/573/2019: ADJOURNMENT

The meeting was adjourned at thirteen minutes past one O'clock.

Signed


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....

19/11/2019

MINUTES OF THE 75TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON SATURDAY 2ND NOVEMBER, 2019 IN THE CONFERENCE ROOM, KENYA FERRY HEADQUARTERS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
4. The Hon. John Muchiri Nyaga, M.P
5. The Hon. Mohamed Hire Garane, M.P
6. The Hon. Rashid Kassim Amin, MP
7. The Hon. Justus Kizito Mugali, MP
8. The Hon. Gladys Wanga, MP
9. The Hon. Paul Kahindi Katana, MP
10. The Hon. Purity Wangui Ngirici, MP
11. The Hon. Thuku Zachary Kwenya, M.P
12. The Hon. Babu Owino Paul Ongili, MP
13. The Hon. Mary Wamaua Njoroge, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
3. The Hon. Joash Nyamache Nyamoko, MP
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Alex Mutuku | - | Senior Sergeant-at-Arms |
| 4. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Herrie Njoroge | - | Manager, Audit |
| 4. Mr. Victor Momanyi | - | Inspectorate of State Corporations |

MIN/PIC/574/2019: PRELIMINARIES

The Chairperson called the meeting to order at twenty minutes past ten O'clock followed by a word of prayer.

MIN/PIC/575/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services accompanied by Mr. Kombo Rajab (Finance Manager), Ms. Jeniffer Cirindi (Procurement Manager) and Mr. Paul Kotut (Operations Manager) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18.

MIN/PIC/576/2019: AUDIT RESERVATIONS WITH REGARD TO SAFETY OF FERRIES FY 2015/16

In the audited Financial Statements of the Kenya Ferry Services for the financial year 2015/16, the Auditor General was concerned about the safety of the ferries managed by the Kenya Ferry Services. The Committee met with the Management of Kenya Ferry Services regarding this particular audit query with a view to establishing the state of the ferries following an accident that claimed the lives of two Kenyans.

The Management of Kenya Ferry Services requested the Committee to proceed with the site visit at the Likoni Ferry crossing before resuming the meeting.

MIN/PIC/577/2019: SITE VISIT TO THE LIKONI FERRY CROSSING

The Committee visited the site of the Likoni Ferry crossing to assess the state of the ferries. In particular, the Committee sought to establish the status of the pulleys on ferries that had been declared defective in the audit report and had caused prows to be submerged in water.

The Committee observed the ferries crossing the channel then took a ferry crossing from Mombasa island to Likoni via MV Kilindini. The return crossing was via MV Harambee. The later had been involved in an incident where a vehicle slipped from the ferry and led to the lives of two people.

Committee Observations

The Committee made the following observations:

1. The prows on MV Harambee were badly damaged and were submerged in the water. This exposed the vehicles parked on the ferry deck to the danger of slipping off the ferry and was raised in the audit report. The non-functional prow partly played a part in the aforementioned accident.
2. The submerged prows also caused a drag as the ferry made its way across the Likoni channel which leads to lower fuel efficiency and higher fuel costs.
3. In addition to the submerged prows, the chain that runs across the deck to prevent vehicles from slipping off the ferry were non-functional.
4. The prows on MV Kilindini were functional on only one side with the second side not shutting.
5. Passengers who boarded the ferry with their vehicles stayed inside the cars as the ferry made the crossing. This was against safety procedures that required passengers to disembark from their vehicles.

6. The prows on MV Jambo which was acquired two years ago were fully functional and uplifted during the ferry crossing. This secured the vehicles and passengers on deck from the danger of slipping off from the ferry.

The Committee resumed the meeting with the Management at Kenya Ferry Services Headquarters. The Management provided the following documentation requested by the Committee during the previous meeting:

1. Letters indicating the suspension and reinstatement of the Procurement Manager. The Committee observed that that two letters were not on official Kenya Ferry Services letterhead and used the same reference number.
2. A copy of the letter from Lloyds Register indicating the deregistration of MV Harambee, MV Nyayo and MV Kilindini from the register held by the company.
3. The inspection certificate of MV Harambee issued by the regulator, Kenya Maritime Authority.

Committee Observations

The Committee made the following observations:

1. MV Harambee last dry-docked in 2016 and was due for dry-docking in early 2019 which entailed significant repair including the non-functional prows.
2. The inspection certificate issued by Kenya Maritime Authority had raised a total of 12 defects on MV Harambee following an inspection that was carried out on 6th February, 2019. The non-functional prows which were glaring and submerged in water were not observed as being defective by the KMA's Port State Control Officer, Mr. Shaaban Tayari.
3. The class certificate for MV Harambee expired on 21st October 2018 yet the ferry was still in operation without a valid class certificate.
4. Kenya Maritime Authority counter-signed against the initial inspection certificate on 21st March, 2019 indicating that all the defects raised during the inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga.
5. Kenya Ferry Services resolved to seek local certification from the regulator, Kenya Maritime Authority once the Authority was established by an Act of Parliament in 2006. The Ferry Management decided not to pursue certification from an international body like the Lloyds Register since the ferries do not operate in international waters and are restricted to the Likoni channel crossing.

Committee Resolution

The Committee made the following resolution:

1. Management should provide minutes of the meeting where the Procurement Manager was interdicted as well as minutes of the meeting reinstating her into the position.
2. Management should provide a copy of the letter to the Ministry of Transport indicating that the prows on MV Harambee were not functional.

MIN/PIC/578/2019: ANY OTHER BUSINESS

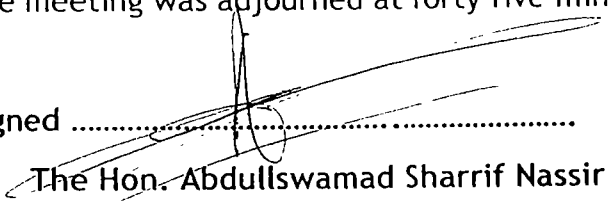
No other business arose.

MIN/PIC/579/2019: ADJOURNMENT

The meeting was adjourned at forty five minutes past one O'clock.

Signed

Date..... 19/11/2019


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

MINUTES OF THE 76TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON SATURDAY 2ND NOVEMBER, 2019 IN THE CONFERENCE ROOM, SERENA BEACH RESORT AT 4.00 P.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
4. The Hon. John Muchiri Nyaga, M.P
5. The Hon. Mohamed Hire Garane, M.P
6. The Hon. Rashid Kassim Amin, MP
7. The Hon. Justus Kizito Mugali, MP
8. The Hon. Gladys Wanga, MP
9. The Hon. Paul Kahindi Katana, MP
10. The Hon. Purity Wangui Ngirici, MP
11. The Hon. Thuku Zachary Kwenya, M.P
12. The Hon. Babu Owino Paul Ongili, MP
13. The Hon. Mary Wamaua Njoroge, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
3. The Hon. Joash Nyamache Nyamoko, MP
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Alex Mutuku | - | Senior Sergeant-at-Arms |
| 4. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Fouris Matheka | - | Manager, Audit |
| 4. Mr. Victor Momanyi | - | Inspectorate of State Corporations |

MIN/PIC/580/2019: PRELIMINARIES

The Chairperson called the meeting to order at four O'clock followed by a word of prayer.

MIN/PIC/581/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Maj. (Rtd.) George Okongo, the Director General of the Kenya Maritime Authority accompanied by Capt. Mbarak Zaunga (Ag. Head of Maritime Safety) Mr. Seth Oluoch (Procurement Manager), Mr. John Omingo (Head of Commercial Shipping), Mr. Shaaban Tayari (Port State Control Officer), Mr. Cosmas Cherop (Head, Corporate Services), Mr. Bakari Mwakuyu (Internal Audit Officer) and Ms. Jane Otieno (Legal Officer) appeared before the Committee to adduce evidence on the safety of ferries as observed by the Auditor General in the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18.

**MIN/PIC/583/2019: AUDIT RESERVATIONS WITH REGARD TO SAFETY OF
FERRIES FY 2015/16**

In the audited Financial Statements of the Kenya Ferry Services for the financial year 2015/16, the Auditor General was concerned about the safety of the ferries managed by the Kenya Ferry Services. The Committee met with the Management of Kenya Maritime Authority, the regulator for the marine industry regarding this particular audit query with a view to establishing the state of the ferries following an accident that claimed the lives of two Kenyans.

The Committee was briefed as follows during the engagement with KMA Management:

1. Lloyds Register

- a. The Lloyds Register is a maritime classification society that classifies maritime vessels and is one of many such organizations in the world. Classification from such entities is not necessarily superior to local classification.
- b. Lloyds Register had withdrawn class certification for MV Nyayo, MV Harambee and MV Kilindini in 2006 but later issued class certificates to the three vessels following inspection on their safety conducted on 28th - 29th March, 2019.

2. Inspection of MV Harambee

- a. The inspection certificate issued by Kenya Maritime Authority following an inspection that was carried out on 6th February, 2019 had raised a total of 12 defects on MV Harambee.
- b. The non-functional prows which were submerged in water were not observed as being defective by the KMA Port State Control Officer who carried out the inspection.
- c. Kenya Maritime Authority counter-signed against the initial inspection certificate indicating that all the defects raised during the inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga.
- d. The KMA Port State Control Officer, Mr. Shaaban Tayari was employed on contract and was past retirement age. The officer was still in service as

he was one of only two people with the requisite competence to inspect ships and ferries and issue safety certificate.

- e. Capt. Mbarak Zaunga, the Head of Maritime Safety and the only other person qualified to inspect maritime vessels, issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 without physically inspecting the vessel. He relied on the inspection report by the Port State Control Officer who had failed to raise the defect of the ferry prows.
- f. Kenya Maritime Authority is working on a transition plan that seeks to have younger staff undertake inspection of maritime vessels.

3. Safety of MV Harambee

- a. The Kenya Maritime Authority wrote to Kenya Ferry Services on 1st October, 2019 as per procedure whenever a maritime safety incident occurs. KMA inspected MV Harambee on 15th October, 2019 following the slipping off of a vehicle from its deck on 29th September, 2019 that cost the lives of two.
- b. The inspection conducted on 15th October, 2019 raised a number of defects on MV Harambee including the damaged prows.
- c. The class certificate for MV Harambee expired on 21st October 2018 yet the ferry was still in operation without a valid class certificate. Kenya Maritime Authority issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 despite the vessel lacking a class certificate.
- d. Safety procedures for ferries require the chain that runs across the deck to prevent vehicles from slipping off the ferry to be in place whenever a ferry crossing is made. This was absent from MV Harambee when the accident occurred.

4. Drydocking of Ferries

- a. Drydocking of ferries should be conducted every 36 months as per the provisions of the Merchant Shipping Regulations.
- b. MV Harambee was due for drydocking in 2019.

5. Competency of Coxswains

- a. The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. The transitional clause in the new regulations provided for updating of competency certificates of coxswains issued under the Merchant Shipping Regulations of 1970.
- b. Of the 25 active coxswains, eight (8) are certified under the old regulations and Kenya Ferry Services had sent their documents to KMA for certification. The 17 remaining coxswains lack certification under both the old and new regulations. KMA was due to meet Kenya Ferry

Services management to address matters relating to training of coxswains.

- c. Training of coxswains is currently being undertaken at Bandari Maritime Academy with a class of 150 trainees.

Committee Observations

The Committee made the following observations:

1. Lloyds Register had withdrawn class certification for MV Nyayo, MV Harambee and MV Kilindini in 2006 but later issued class certificates to the three vessels following inspection on their safety conducted on 28th - 29th March, 2019.
2. The inspection certificate issued by Kenya Maritime Authority following an inspection that was carried out on 6th February, 2019 had raised a total of 12 defects on MV Harambee. The non-functional prows which were submerged in water were not observed as being defective by the KMA Inspector.
3. Kenya Maritime Authority counter-signed against the initial inspection certificate indicating that all the defects raised during the inspection had been rectified. The inspection was carried out by KMA's Port State Control Officer, Mr. Shaaban Tayari and was later countersigned by the Head of Maritime Safety at KMA, Capt. Mbarak Zaunga.
4. The KMA Port State Control Officer, Mr. Shaaban Tayari was employed on contract and was past retirement age. The officer was still in service as he was one of only two people with the requisite competence to inspect ships and ferries and issue safety certificate.
5. Capt. Mbarak Zaunga, the Head of Maritime Safety and the only other person qualified to inspect maritime vessels, issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 without physically inspecting the vessel. He relied on the inspection report by the Port State Control Officer who had failed to raise the defect of the ferry prows.
6. On 15th October, 2019, KMA conducted an inspection following the accident involving MV Harambee and raised a number of defects on the vessel including the damaged prows.
7. The class certificate for MV Harambee expired on 21st October 2018 yet the ferry was still in operation without a valid class certificate. Kenya Maritime Authority issued a Kenya Passenger Ship Safety Certificate for MV Harambee on 22nd March, 2019 despite the vessel lacking a class certificate.
8. Safety procedures for ferries require the chain that runs across the deck to prevent vehicles from slipping off the ferry to be in place whenever a ferry crossing is made. This was absent from MV Harambee when the accident occurred.
9. Drydocking of ferries should be conducted every 36 months as per the provisions of the Merchant Shipping Regulations. MV Harambee was due for drydocking in 2019.

10. The Merchant Shipping (Training and Certification) Regulations, 2016 (Legal Notice No. 41 of 2016) required that from 1st January 2017, coxswains should have their certificates regularized by the KMA. The transitional clause in the new regulations provided for updating of competency certificates of coxswains issued under the Merchant Shipping Regulations of 1970.
11. Of the 25 active coxswains, eight (8) are certified under the old regulations and Kenya Ferry Services had sent their documents to KMA for certification. The 17 remaining coxswains lack certification under both the old and new regulations.

Committee Resolution

The Committee made the following resolution:

1. MV Harambee should be dry docked as soon as possible since dry-docking of ferries should be conducted every 36 months as per the provisions of the Merchant Shipping Regulations. MV Harambee was last dry-docked in 2016.

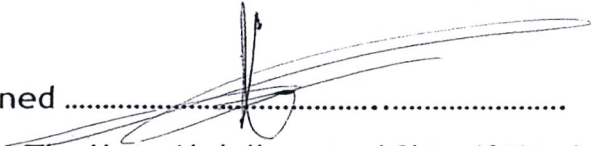
MIN/PIC/584/2019: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/585/2019: ADJOURNMENT

The meeting was adjourned at thirty eight minutes past six O'clock.

Signed



The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date..... 19/11/2019

MINUTES OF THE 77TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON SATURDAY 2ND NOVEMBER, 2019 IN THE CONFERENCE ROOM, SERENA BEACH RESORT AT 7.00 P.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
4. The Hon. John Muchiri Nyaga, M.P
5. The Hon. Mohamed Hire Garane, M.P
6. The Hon. Rashid Kassim Amin, MP
7. The Hon. Justus Kizito Mugali, MP
8. The Hon. Gladys Wanga, MP
9. The Hon. Paul Kahindi Katana, MP
10. The Hon. Purity Wangui Ngirici, MP
11. The Hon. Thuku Zachary Kwenya, M.P
12. The Hon. Babu Owino Paul Ongili, MP
13. The Hon. Mary Wamaua Njoroge, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
3. The Hon. Joash Nyamache Nyamoko, MP
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Alex Mutuku | - | Senior Sergeant-at-Arms |
| 4. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Herrie Njoroge | - | Manager, Audit |
| 4. Mr. Victor Momanyi | - | Inspectorate of State Corporations |

MIN/PIC/586/2019: PRELIMINARIES

The Chairperson called the meeting to order at five minutes past seven O'clock.

MIN/PIC/587/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYA FERRY SERVICES

Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services accompanied by Mr. Kombo Rajab (Finance Manager), Ms. Jeniffer Cirindi (Procurement Manager) and Mr. Paul Kotut (Operations Manager) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18.

MIN/PIC/588/2019: AUDIT RESERVATIONS WITH REGARD TO SAFETY OF FERRIES FY 2015/16

The Management of Kenya Ferry Services provided the following documents requested by the Committee:

- a. A copy of minutes of a meeting held between Kenya Ferry Services and Kenya Maritime Authority on 2nd September, 2019 where the matter of training course for the certification of coxswains was discussed;
- b. Copies of three letters dated 3rd February 2016, 13th July, 2017 and 8th October, 2019 where Kenya Ferry Services requested the parent Ministry for budgetary allocation to repair ferries.

The Committee made the following observations:

1. Kenya Ferry Services collected revenue worth Kshs. 562,000,000 which is utilized at source;
2. Since inception, Kenya Ferry Services has only had a surplus in three financial years due to high operating costs.

MIN/PIC/589/2019: COMPENSATION FOR THE MTONGWE FERRY DISASTER

The Committee was briefed on the compensation for Mtongwe Ferry disaster and made the following observations:

1. Two hundred and twelve (212) victims had been compensated so far for the loss from the disaster out of a total of two hundred and twenty five victims. A total of Kshs. 50,619,051.00 had been spent so far in compensation.
2. Kenya Ferry Services had reached an agreement to pay the remaining 13 victims an amount of Kshs. 750,000 each for a total of Kshs. 9,750,000.
3. Payment of compensation was done by both Kenya Ports Authority and Kenya Ferry Services since the Authority used to operate ferries before the establishment of KFS in 1996;
4. There was a similarity in the payment details of victim file no. 154 and 155. Kenya Ferry Service was asked to examine the file and provide explanation on the similarities;
5. The law firm Maina Njenga & Advocates had been contracted to handle the matter of compensation of victims from the Mtongwe disaster on behalf of Kenya Ferry Services;

6. The law firm had received payments amounting to Kshs. 25,000,000 for its services which was approximately half of the amount paid out as compensation to victims and their families;
7. The ferry involved in the Mtongwe Ferry disaster had been insured but the insurance company failed to pay compensation by claiming that the vessel was overloaded at the time of the accident.

Committee Resolution

The Committee made the following resolutions:

1. Management should enforce safety regulations aboard ferries such as restricting the number of people accessing the vessels per crossing, getting passengers out of vehicles and placing safety notices visibly.
2. Management should fine persons not adhering to safety rules when aboard a ferry.

MIN/PIC/590/2019: ANY OTHER BUSINESS

1. Insurance for MV Harambee Accident on 29th September 2019 - Kenya Ferry Services had reported the incident to the company insuring the vessel with a view to addressing insurance claims that may arise.
2. Chief Engineer at Kenya Ferry Services - The State Corporation was in the process of recruiting a Chief Engineer following the retirement of the immediate former holder of the position.

MIN/PIC/591/2019: ADJOURNMENT

The meeting was adjourned at sixteen minutes past eight O'clock.

Signed


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....19/11/2019

MINUTES OF THE 78TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 5TH NOVEMBER, 2019 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
4. The Hon. John Muchiri Nyaga, M.P
5. The Hon. James Kamau Githua Wamacukuru, M.P
6. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
7. The Hon. Joash Nyamache Nyamoko, MP
8. The Hon. Mohamed Hire Garane, M.P
9. The Hon. Gladys Wanga, MP
10. The Hon. Paul Kahindi Katana, MP
11. The Hon. Purity Wangui Ngirici, MP
12. The Hon. Thuku Zachary Kwenya, M.P
13. The Hon. Babu Owino Paul Ongili, MP
14. The Hon. Mary Wamaua Njoroge, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. Raphael Bitta Sauti Wanjala, MP
3. The Hon. Justus Kizito Mugali, MP
4. The Hon. Rashid Kassim Amin, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Mr. Alex Mutuku | - | Senior Sergeant-at-Arms |
| 5. Ms. Winfred Atieno | - | Audio Recording Officer |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Justus Okumu | - | Ag. Director, Audit |
| 2. Mr. Joshiah Oyuko | - | Manager, Audit |
| 3. Mr. Herrie Njoroge | - | Manager, Audit |
| 4. Mr. Victor Momanyi | - | Inspectorate of State Corporations |

MIN/PIC/592/2019: PRELIMINARIES

The Chairperson called the meeting to order at five minutes past seven O'clock.

MIN/PIC/593/2019: BRIEFING BY THE CABINET SECRETARY FOR TRANSPORT ON AUDIT RESERVATIONS WITH REGARD TO SAFETY OF FERRIES OPERATED BY KENYA FERRY SERVICES

Mr. James Macharia, EGH, the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works accompanied by Mrs. Esther Koimett, CBS (Principal Secretary, State Department of Transport), Mr. Johnson Wambugu (Chief Finance Officer, State Department of Transport), Mr. Bakari Gowa, the Managing Director of the Kenya Ferry Services and Mr. Allan Mases (Finance Officer, State Department of Transport) appeared before the Committee to adduce evidence on the audited accounts of the Kenya Ferry Services for financial year 2015/16 to financial year 2017/18.

He briefed the Committee as follows:

1. Number of Ferries - Kenya Ferry Services operates 6 vessels as itemized below:

S/No	Name of vessel	Year of Manufacture	Ferry capacity		Year of services
			Passenger	Vehicle	
1	Mv Nyayo	1990	1,200	60	30 Years
2	Mv Kilindini	1990	1,440	60	30 Years
3	Mv Harambee	1990	1,440	60	30 Years
4	Mv Likoni	2010	1,550	60	10 Years
5	Mv Kwale	2010	1,550	60	10 Years
6	Mv Jambo	2017	1,650	64	2 Years

2. Ferry operating certificates

The Committee noted that all the ferries operated by the KFS had been issued with a passenger safety Certificate by the Kenya Maritime Authority (KMA). Section 5 (j) of the KMA Act of 2006 mandates KMA to regularly inspect marries vessels to ensure passenger safety.

3. Maintenance cost of ferries

The table below summaries the request, allocations and what was utilized for maintenance in the last 5 years.

Financial year	2015/16	2016/17	2017/18	2018/19	2019/2020	Total Kshs.
Amount requested (Kshs)	199M	466M	350M	320M	310M	1.645B
Amount allocated (Kshs)	76.805M	294M	191M	177M	126M	864.805M
Amounted utilized (Kshs)	76.805M	254M	191M	130M	126M	777.805M

4. Strategic Policy of the Ministry on access to South Coast

- a. The strategic policy of the Ministry of Transport with regards to accessing South Coast and Kwale County is to do away with the ferries that ply the Likoni channel.
- b. The Ministry is putting in place physical infrastructure to provide a long term solution to the matter. The Dongo-Kundy bypass is being constructed that will provide a link between Mombasa and Kwale counties.
- c. There are plans to build a cable-stayed bridge (the 'Mombasa Gate Bridge') across the Likoni channel to provide road connectivity between Mombasa island and Likoni

Committee Observations

The Committee made the following observations:

1. There were lapses in inspection of vessels conducted by the Kenya Maritime Authority. This led to the issuance of safety certificates to ferries without undergoing the requisite inspection.
2. The Ministry of Transport was undertaking an investigation on the incident involving MV Harambee that occurred on 29th September, 2019. Action would be taken should any negligence be observed on the part of the relevant agencies.
3. The Ministry had sent a request to the National Treasury to review its budgetary allocation for FY 2019/10 with a view to securing funds for ferry maintenance.
4. The twenty-year policy on use of ferries is for purposes of depreciation and not an indicator of the vessel's safety. Ferries are utilized after the period so long as they are well maintained.
5. Most ferry users access the vessels by foot and would not benefit from the infrastructure being implemented by the Ministry.

Committee Resolutions

The Committee made the following resolutions:

1. The Ministry should provide a copy of its strategic plan on the infrastructure projects for access to South Coast and Kwale county.
2. The Ministry should further provide a copy of its correspondence with the National Treasury on the request for review of programmes in its budgetary allocation for FY 2019/20.

MIN/PIC/594/2019: MTONGWE FERRY DISASTER COMPENSATION

The Cabinet Secretary informed the Committee that two hundred and twelve (212) victims had been compensated so far for the loss from the Mtongwe disaster. A total of Kshs. 50,619,051.00 had been spent so far in compensation.

The Cabinet Secretary further expressed concern that the Law firm handling the compensation had been paid legal fees that was almost half of the amount paid to victims as compensation for their loss.

MIN/PIC/595/2019: EXAMINATION OF AUDITED ACCOUNTS OF TANA AND ATHI RIVER DEVELOPMENT AUTHORITY

Mr. Stephen Githaiga, the Managing Director of Tana and Athi Rivers Development Authority, accompanied by Mr. David Kimaiyo (Chief Manager, Finance) appeared before the Committee to adduce evidence on the audited accounts of the Authority for the financial year 2016/17.

MIN/PIC/596/2019: CASH AND CASH EQUIVALENTS FY 2016/17

The cash and cash equivalents balance of Kshs.88,259,459 as at 30 June 2017 had outstanding items in the reconciliation as follows:

- (i) Consolidated bank account had unpresented cheques totalling Kshs. 2,483,865.10. Cheques totalling Kshs. 2,062,684.10 were claimed to have been reversed on 31 January 2018 but the cashbook was not produced to confirm the reversals.
- (ii) Unpresented cheques as at 30 June 2017 for Masinga dam totalling Kshs. 254,000 were stale but had not been reversed in the cash book.
- (iii) Emali Livestock Multiplication Unit had unpresented cheques totalling Kshs.412,300 which were indicated to have cleared on 3rd July 2017 but no bank statement showing the clearance was provided for verification.
- (iv) The ledger for Emali (KCB-Machakos) Savings had a balance of Kshs. 205,953 while the cash book indicates Kshs.181,852 resulting to unexplained variance of Kshs. 24,101.

Consequently, the completeness and accuracy of cash and cash equivalents balance of Kshs. 88,259,459 as at 30 June 2017 cannot be confirmed.

Management Response

- i) Consolidated bank cashbook was availed for audit verification.
Appendix 2016/17-13a (Consolidated Cashbook Extract)
- ii) Unpresented cheque of Kshs. 254,000 for MDR was reversed back in the cashbook and availed for audit verification.
Appendix 2016/17-13b (MDR Cashbook Extract)
- iii) Emali livestock cashbook and bank statements were availed for audit verification.

Appendix 2016/17-13c (Emali Cashbook Extract)

- iv) The differences in Emali and Narok ledgers were as a result of typing error which was corrected and availed for audit verification.

Appendix 2016/17-13d (Emali Savings Ledger)

Committee Observations

The Committee made the following observations:

1. The Management of TARDA had failed to provide requisite documentation to the Office of the Auditor General during the audit period.
2. The missing documentation had since been provided to the OAG for audit verification.

MIN/PIC/597/2019: REVENUE FROM EXCHANGE TRANSACTIONS FY 2016/17

14.1 External AIA - KenGen

Revenue from exchange transactions of Kshs.168,049,484 as disclosed in Note 5 to the financial statements includes external AIA from KenGen of Kshs.67,166,640. However, no agreement between the Authority and KenGen has been provided for audit examination in support of the amount which TARDA should be receiving from KenGen and other terms pertaining to this transaction. Further, although KenGen Staff are housed in the Authority's houses and pay rent for occupation, information in form of lease agreements detailing the number of houses and the charges per month has not been provided for audit verification.

Management Response

i) External AIA - KENGEN

The dispute between the Power sector organizations, KenGen/KPLC and TARDA are based on the compensation for the loss of generating and transmitting assets at Masinga and Kiambere Dams, which were transferred to KenGen in the year 2000, and non-remittance of sales of energy to KPLC as aligned to commercial Agreement between KPLC and TARDA between 1988 -2000.

TARDA and the above-mentioned organizations always appear at the PIC on the above dispute.

One of the disputes related to this is why it was instructed by the Ministry of Energy to KenGen to pay TARDA Kshs.55million every year up to 2005 financial year when TARDA insisted to be paid Kshs.420 million but instead they have been paying Kshs.62million per year.

This is a known fact to all stakeholders. It is available in the printed estimates and written instructions.

The Kshs.420million in favour of TARDA, was advised by Price Water House Coopers in 1999/2000 financial year to the Ministry of Energy as per the latter's request. All these historical information are there more so specifically from 1988 - 2017.

a. House Rent:

KenGen have been occupying TARDA estates at Masinga, Kamburu and Kiambere without paying rent and the dispute between the two organizations have been ongoing until two years back when it was resolved by Management and the Chairman of the Board.

The Minutes indicate very clearly that before valuation is complete. KenGen will make payments based on the committees' resolution. After valuation, the subsequent monthly disbursements will be based on the valuation report and this has been the case all along. All the relevant documents related to this are available.

Valuation report is finalized and TARDA is awaiting KenGen to sign Lease agreement, which has already been signed by the Management.

Appendix 2016/17-14a (KenGen Agreement)

Committee Observations

The Committee made the following observations:

1. The audit query had been considered in the 19th and 21st Report of the Public Investments Committee on audited accounts of State Corporations.
2. TARDA have scheduled a Special Board meeting regarding this matter on 12th November, 2019 with a view to suing KENGEN.

Committee Resolutions

1. The Committee resolved that TARDA would appear before it after the Special Board meeting to provide an update on the matter.
2. The Committee further resolved to invite KENGEN to explain the non-compliance with resolutions adopted by the National Assembly.

14.2 Other Incomes

The revenue from exchange transactions of Kshs.168,049,484 also include an amount of Kshs.61,036,682 in respect of sale of produce, sale of tree seedlings, sale of sand and honey and rendering services which was not fully supported by documentary evidence. Consequently, the validity and accuracy of the recorded amounts totalling Kshs. 61,036,682 for other incomes cannot be confirmed.

Management Response

The voluminous documents for these transactions were physically brought to Auditors at our head office and availed for audit verification. However, the documents are still available for verification.

Committee Observations

The Committee made the following observations:

1. TARDA had entered into an agreement with Embu County government and loaders and splitting of proceeds from sale of sand harvested in the county.
2. A lorry of soil was selling at a price of Kshs. 8000 in Embu county. This was split among the parties with TARDA getting Kshs. 2000 per sale while the County government and loaders were getting Kshs. 3000 each per lorry.

Committee Resolution

The Committee resolved that TARDA should provide minutes of the meeting with Embu County government and sand loaders where the respective share of income from sale of soil was agreed.

MIN/PIC/598/2019: ANY OTHER BUSINESS

No other business arose

MIN/PIC/599/2019: ADJOURNMENT

The meeting was adjourned at eighteen minutes past one O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....

14/11/2019.

ANNEX 3

ii. SEAWORTHINESS CERTIFICATES ISSUED TO EACH FERRY FOR THE LAST FIVE YEARS

Seaworthiness certificates issued to each ferry for the last five years as per schedule below;

No	VESSEL (MV)	YEAR ONE		YEAR TWO		YEAR THREE		YEAR FOUR		YEAR FIVE	
		Issue	Expiry	Issue	expiry	issue	expiry	issue	expiry	issue	expiry
1	Nyayo	22.12.14	21.12.15	01.07.16	07.01.17	13.04.17	12.04.18	30.07.18	29.07.19	Surveyed in August 2019	Surveyed in August 2019
2	Kilindini	-	-	08.01.16	07.01.17	09.02.17	08.02.18	07.02.18	06.02.19	06.02.19	05.02.20
3	Harambee	-	-	N/A	N/A	07.02.17	06.02.18	07.02.18	06.02.19	06.02.19	05.02.20
4	Likoni	22.12.14	21.12.15	07.01.16	06.01.17	09.02.17	08.02.18	07.02.18	06.02.19	06.02.19	05.02.20
5	Kwale	22.12.14	21.12.15	08.01.16	07.01.17	07.02.17	06.02.18	07.02.18	06.02.19	06.02.19	05.02.20
6	Jambo	N/A	N/A	N/A	N/A	04.08.17	03.08.18	30.07.18	29.07.19	Surveyed in August 2019	Surveyed in August 2019

NB

- Mv Kilindini left dry dock in December 2015 and was later surveyed and issued with a safety certificate in January 2016
- Mv Harambee was out of service from December 2015 to December 2016. Within this period, she was dry docked, surveyed and issued with a safety certificate in February 2017

Annex 1 – Sea Worthiness Certificates Issued to all ferries for the last five years attached



20th March 2019

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2003 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. KWALE	10194	MOMBASA	60 M	PASSENGER FERRY

IMO Number (if applicable) **9522398**

Number of passengers authorized **1550**

Gross Tonnage **637**

Power of main propulsion engine (HP) **385 x 2**

Deadweight (metric tons)

Areas of operations **PORT OPERATIONS**

Name of the owner **KENYA FERRY SERVICES**


Address of the owner **P.O BOX 96242 - 80100 MOMBASA**

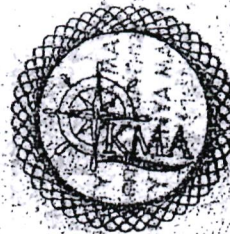
Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced **2010.**

MV. KWALE was surveyed and inspected on the **06TH FEBRUARY 2019.**

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until **05TH FEBRUARY 2020** subject to maintenance of her standards.


Captain Mbarak Zaunga
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



Serial No. 0636



16th February, 2018

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of equipment issued under the provisions of the Merchant Shipping Act, 2009. (section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. KWALE	10194	MOMBASA	60M	PASSENGER FERRY

IMO Number (if applicable)

Number of passengers authorized

1550

Gross Tonnage

637

Power of main propulsion engine (HP)

385 X 2

Dead weight (metric tons)

Areas of operations

PORT OPERATIONS

Name of the owner

KENYA FERRY SERVICES

Address of the owner

P.O BOX 96242 - 80110, MOMBASA

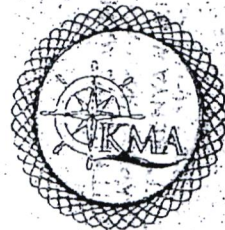
Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced 2010.

MV. KWALE was surveyed and inspected on the 07TH FEBRUARY 2018.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 06TH FEBRUARY 2019 subject to maintenance of her standards.

Captain Dave Muli
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



ff

Serial No. 1105



22nd March 2019

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MY. LIKONI	10195	MOMBASA	60 M	PASSENGER FERRY

IMO Number (if applicable)

9522386

Number of passengers authorized

1550

Gross Tonnage

637

Power of main propulsion engine (HP)

385 x 2

Deadweight (metric tons)

Areas of operations

PORT OPERATIONS

Name of the owner

KENYA FERRY SERVICES

Address of the owner

P.O BOX 96242 – 80110 MOMBASA

Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced: 2010.

MY. LIKONI was surveyed and inspected on the 06TH FEBRUARY 2019.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 05TH FEBRUARY 2020 subject to maintenance of her standards.

Captain Mbarak Zaunga
REGISTRAR OF KENYAN SHIPS AND SEAFARERS





"For safe and efficient water transport"

White House, Moi Avenue, P. O. Box 95076 - 80104, Mombasa, Kenya.

Phones: : +254 (0) 41 231 8398 / 9, + 254 (0) 20 238 1203 +
Mobile: : +254 (0) 724 319 344 / +254 (0) 733 221 322
Fax : +254 (0) 41 231 8397 / -254 (0) 20 238 1202

E-mail : info@kma.go.ke
Website : www.kma.go.ke

SAFETY CERTIFICATE FOR NON-CONVENTIONAL PASSENGER SHIPS

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Safety Regulations for Passenger Ships of less than 24m or operating in sheltered waters not covered by the provisions of the International Safety of Life at Sea (SOLAS) Convention, 74.

Name of Ship	Registration Number	Port of registry	Length	Type
MV. NYAYO	10110	MOMBASA	58.58	PASSENGER FERRY

IMO number (If applicable)8917285.....

Number of passengers authorized1200.....

Gross tonnage565.06.....

Power of main propulsion engine (HP)2x705.....

Deadweight (metric tonnes)

Areas in which the ship is certified to operatePORT OPERATIONS.....

Name and address of the ownerKENYA FERRY SERVICES.....

.....P.O. BOX 96242-80100 MOMBASA.....

Date on which keel was laid or ship was at a similar stage of construction or, where applicable, date on which work for an alteration or modification of a major character was commenced..... 1990.....

MV. NYAYO was surveyed and inspected on 22ND DECEMBER, 2014.

The survey/inspection indicated that her hull structure, machinery, and lifesaving appliances are all fit for their intended use.

This certificate is valid until 21ST DECEMBER, 2015 subject to maintenance of her standards.

Wilfred J. Kagimbi

REGISTRAR OF KENYAN SHIPS AND SEAFARERS.

Serial No. 1106



22nd March 2019

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. HARAMBEE	10109	MOMBASA	58.58 M	PASSENGER FERRY

IMO Number (if applicable)

Number of passengers authorized

Gross Tonnage

Power of main propulsion engine (HP)

Deadweight (metric tons)

Areas of operations

Name of the owner

Address of the owner

.....

1440

565.06

345 x 2

.....

PORT OPERATIONS

KENYA FERRY SERVICES

P.O BOX 96242 – 80100 MOMBASA

Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced 1990.

MV. HARAMBEE was surveyed and inspected on the 06TH FEBRUARY 2019.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 05TH FEBRUARY 2020 subject to maintenance of her standards.

Captain Mbarak Zaunga
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



2 Details of radio facilities

1.1 VHF -DSC radiotelephone.....	
1.1.1 VHF radio	1
1.1.2 DSC watch receiver	
1.1.3 VHF handheld	2
1.2 SART.....	
1.2.1 NAVTEX receiver	
1.2.2 AIS.....	
1.2.3 SSB radio	
1.3 EPIRB.....	

3 Details of life-saving appliances

1 Total number of persons for which life-saving appliances are provided....	1440.....	
2 Total number of lifeboats		Port side Starboard side
2.1 Total number of persons accommodated by them	.....	.....
2.2 Number of partially enclosed self-righting lifeboats	.....	.....
2.3 Number of totally enclosed lifeboats	.....	.....
2.4 Number of lifeboats with a self-contained air support system	.....	.....
2.5 Number of fire-protected lifeboats	.....	.....
2.6 Other lifeboats	.....	.....
2.6.1 Number	.....	.....
2.6.2 Type	.....	.....
2.7 Number of freefall lifeboats	.....	.....
2.7.1 Totally enclosed	.....	.....
2.7.2 self-contained	.....	.....
2.7.3 fire-protected	.....	.....
3 Number of motor lifeboats included in the total lifeboats shown above	.....	.....
3.1 Number of lifeboats fitted with searchlights.....	.....	.....
4 Number of rescue boats.....	.....	.....
4.1 Number of rescue boats which are included in the total lifeboats shown above	.....	.....
5 Liferafts .....	.....	.....
5.1 Liferafts for which approved launching appliances are required :		
5.1.1 Number of liferafts.....	.....	.....
5.1.2 Number of persons accommodated by them.....	.....	.....
5.2 Liferafts for which approved launching appliances are not required:		
5.2.1 Number of liferafts..... BUOYANT APPARATUS.....	140 X 10 PERSONS.....	
5.2.2 Number of persons accommodated by them.....	1400.....	
6 Number of lifebuoys.....	38.....	
7 Number of life jackets.....	125.....	

Serial No. 1095



20th March 2019

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. KILINDINI	10112	MOMBASA	58.58 M	PASSENGER FERRY

IMO Number (if applicable)

Number of passengers authorized 1440

Gross Tonnage 565.06

Power of main propulsion engine (HP) 341 x 2

Deadweight (metric tons)

Areas of operations

PORT OPERATIONS

Name of the owner

KENYA FERRY SERVICES

Address of the owner

P.O BOX 96242 - 80110 MOMBASA

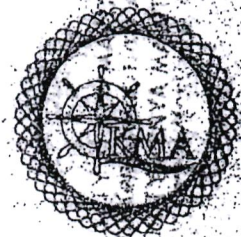
Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced 1990.

MV. KILINDINI was surveyed and inspected on the 06TH FEBRUARY 2019.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 05TH FEBRUARY 2020 subject to maintenance of her standards.

Captain Mbarak Zaunga
REGISTRAR OF KENYAN SHIPS AND SEAFARERS





SAFETY CERTIFICATE FOR NON-CONVENTION PASSENGER SHIPS

This Certificate shall be supplemented by a Record of Equipment.
Issued under the provisions of the Safety Regulations for Passenger Ships of less than 24 m length not covered by the provisions of International Maritime Conventions.

By the authority of Kenya Government

Name of ship	Distinctive number or letters	Port of registry	Length	Type
KILINDINI	10112	MOMBASA	58.58	PASSENGER FERRY

IMO number (if applicable)

Number of Passengers authorized **1440**

Gross tonnage

National..... **565.06**OF
International Convention on Tonnage Measurement of Ships, 1969.....

Power of main propulsion engine kW)..... **2 x 335**

Deadweight of ship (metric tonnes).....

areas in which the ship is certified to operate (under GMDSS rules) **PORT PERATIONS**

Name and address of company / owner / operator.....

KENYA FERRY SERVICES LIMITED.

P.O. BOX 96242- 80100 MOMBASA.....

Date on which keel was laid or ship was at a similar stage of construction or, where applicable, date on which work for an alteration or modification of a major character was commenced..... **1990**

Name of ship..... **KILINDINI**..... Registration number..... **10112**.....

Serial No. 0848



28th August 2018

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. JAMBO	101209	MOMBASA	84.60 M	PASSENGER FERRY

IMO Number (if applicable) 9810886

Number of passengers authorized 1500

Gross Tonnage 1004

Power of main propulsion engine (KW) 478 x 2

Deadweight (metric tons)

Areas of operations PORT OPERATIONS

Name of the owner KENYA FERRY SERVICES

Address of the owner P.O BOX 96242 – 80110 MOMBASA

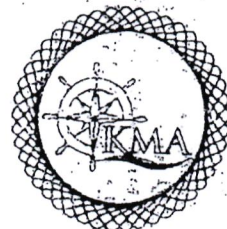
Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced 2016.

MV. JAMBO was surveyed and inspected on the 30TH JULY 2018.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 29TH JULY 2019 subject to maintenance of her standards.

PP Captain Dave Muli
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



Serial No. 0563



08th December 2017

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. JAMBO	101209	MOMBASA	34.60 M	PASSENGER FERRY

IMO Number (if applicable) **9810886**
 Number of passengers authorized **1500**
 Gross Tonnage **1004**
 Power of main propulsion engine (KW) **478 x 2**
 Deadweight (metric tons)

Areas of operations **PORT OPERATIONS**
 Name of the owner **KENYA FERRY SERVICES**
 Address of the owner **P.O BOX 96242 – 80110 MOMBASA**

Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced **2016.**

M.V. JAMBO was surveyed and inspected on the **04TH AUGUST 2017.**

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until **03RD AUGUST 2018** subject to maintenance of her standards.

Captain Dave Muli
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



ANNEX 4

Serial No: 1106



22nd March 2019

REPUBLIC OF KENYA
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

KENYAN PASSENGER SHIP SAFETY CERTIFICATE

This certificate shall be supplemented by a record of Equipment.

Issued under the provisions of the Merchant Shipping Act, 2009 (Section 242 (a))

Name of Ship	Registration Number	Port of Registry	Length	Type
MV. HARAMBEE	10109	MOMBASA	58.58 M	PASSENGER FERRY

IMO Number (if applicable)

Number of passengers authorized 1440

Gross Tonnage 565.06

Power of main propulsion engine (HP) 345 x 2

Deadweight (metric tons)

Areas of operations PORT OPERATIONS

Name of the owner KENYA FERRY SERVICES

Address of the owner P.O BOX 96242 – 80100 MOMBASA

Date on which keel was laid or ship was at a similar stage of construction, or where applicable, date on which work for alteration or modification of a major character was commenced 1990.

MV. HARAMBEE was surveyed and inspected on the 06TH FEBRUARY 2019.

The survey/inspection indicated that her hull structure, machinery and lifesaving appliances are all fit for their intended use.

This certificate is valid until 05TH FEBRUARY 2020 subject to maintenance of her standards.

Captain Mbarak Zaunga
REGISTRAR OF KENYAN SHIPS AND SEAFARERS



Batteries	5 BANKS	EXIDE /OK	MAIN & AUX E/ROOMS
Signal light switches	1 PC	TOGGLE TYPE /OK	WHEEL HOUSE

Accomodation/Safety	Condition	Comment
Escape routes	OK	3 EMERGENCY ESCAPE MATCHES
Washrooms	NOT INSTALLED	-
Toilets	WELL MAINTAINED	-
Galley	N/A	-
Messroom	N/A	-
Water tanks	OK	1X1000 LIT - FRESH WATER
Heating/Cooling/Ventilation	OK	BLOWERS IN EIR + FANS ON BRIDGE
Berth/Locker	N/A	-
Access to accomodation	N/A	-
Lighting	GOOD	SUFFICIENT LIGHTING
Machinery guards	OK	ALL ROTATING COMPONENTS GUARDED
Guard rails	OK	CLEAN AND DRY
Non-slip surfaces	OK	CHECKERED PLATES
Ladders/Companionways	OK	CLEAN AND TIDY
Noise insulation/Protection/Notices	OK	EFFICIENT SOUND PROOFING
Lifeboat flotation materials: Density	OK	HD FOAM

REMARKS

THE VESSEL WAS INSPECTED BY THE UNDERSIGNED FOR THE PURPOSE OF SAFETY CERTIFICATE RENEWAL. DURING THE INSPECTION SOME TWELVE (12) DEFICIENCIES WERE REALISED AND LISTED ON THE DEFICIENCY FORMS WHICH ARE ATTACHED HEREWITH. THESE DEFICIENCIES MUST BE RECTIFIED BEFORE THE DEFECTS WORSEEN AND BECOME UNCONTROLLABLE.

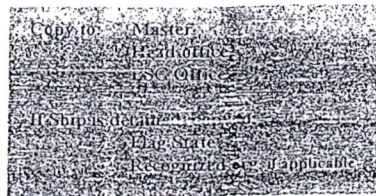
SURVEYOR'S NAME	SURVEYOR'S SIGNATURE
SHABAN OMAR TAYARI	<i>[Signature]</i> - 06.02.2019.
OWNER'S OR REPRESENTATIVE NAME	SIGNATURE
M. Kusli	<i>[Signature]</i>



KENYA MARITIME AUTHORITY

DEFICIENCY FORM

Moi Avenue
 P.O. Box 95076 - 80104
 MOMBASA, KENYA
 Telephone: +254412318398/9
 Fax: +254412318397
 Email: info@kma.go.ke



FLAG STATE VESSEL INSPECTION

1. Name of Ship: HA RAMBEE
 3. Date of inspection: 06.02.2019

2. Reg. No.: 10109/5ZXC
 4. Place of inspection: ASTREAM LIKONI
CHANNEL, MOMBASA

Serial No.	Nature of Deficiency ¹	Action taken ²
01	TWO LIFEBOY AND LIFEBOY CARRIER BRACKET ARE MISSING	17
02	STBD SIDE PROW WINCH HYDRAULIC PUMP LEAKING OIL IN WAY OF DAMAGED SEAL	17
03	FLOOR PLATE UNDER FORWARD PROW WINCH FULL OF OIL AND DIRT	17
04	SEWRING NUT AND SPLIT PIN FOR FORWARD FLAP IS MISSING	17
05	STERN PROW HOLDING DOWN CHAIN IS BADLY CORRODED	17
06	ONE SET AND TWO SETS OF NORMAL/EMERGENCY LIGHTS ON PORT AND STBD UPPER DECK RESPECTIVELY ARE MISSING	17

M. Kitaru
 New



Name: S. O. TAYARI
 (Authorized PSCO, Kenya Maritime Authority)

Signature:

1. This inspection was not a full survey and deficiencies listed may not be exhaustive. In the event of a detention, it is recommended that a full survey be carried out and all deficiencies rectified before an application for re-inspection is made.
 2. Applicable Deficiency Action Codes (see reverse of copy) to be entered

KENYA MARITIME AUTHORITY

DEFICIENCY FORM

Moi Avenue
 P.O. Box 95076 - 80104
 MOMBASA, KENYA
 Telephone: +254412318398/9
 Fax: +254412318397
 Email: info@kma.go.ke



Copy to: Master
 Head office
 PSC Office
 If Ship is de...
 Flag State
 Recognized org. if applicable

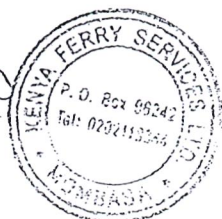
FLAG STATE VESSEL INSPECTION

1. Name of Ship: MARAMBEE
 3. Date of inspection: 06.02.2019

2. Reg. No.: 10109/52XC
 4. Place of inspection: ASTREAM LIKONI CHANNEL, MOMBASA.

Serial No.	Nature of Deficiency ¹	Action taken ²
07	W EIR NO 1 FLOOR PLATES HOLDING DOWN SCREWS MISSING	17
08	ENGINE ROOM NO 1 MISSING THREE FLOURESCENT TUBES, NOT WELL ILLUMINATED	17.
09	ONE ELECTRIC DRIVEN AND ONE DIESEL ENGINE DRIVEN FIRE PUMP INOPERABLE	17
10	FIRE HOSES AND FIRE NOZZLES WERE NOT IN PLACE	17.
11	NO FLOOR INSULATION RUBBER MAT AROUND MAIN SWITCHBOARD	17.
12	CLASS CERTIFICATE EXPIRES ON 31.10.2018	17.

M. K...
 New



Name: S. O. TAYARI
 (Authorized PSCO, Kenya Maritime Authority).

Signature: [Handwritten Signature]

1. This inspection was not a full survey and deficiencies listed may not be exhaustive. In the event of a detention, it is recommended that a full survey be carried out and all deficiencies rectified before an application for re-inspection is made.
 2. Applicable Deficiency Action Codes (see reverse of copy) to be entered

ANNEX 5

ANNEX 2;

1. BREAKDOWN OF BUDGETARY REQUESTS BY KFS MADE TO THE PARENT MINISTRY FOR FERRY MAINTENANCE IN THE LAST FIVE YEARS

	Amount Kes '000 2015/2016	Amount Kes '000 2016/2017	Amount Kes '000 2017/2018	Amount Kes '000 2018/2019	Amount Kes '000 2019/2020	Total Kes Kes '000
PROPOSED BUDGET FOR FERRY MAINTENANCE						
Ferry Maintenance	199,000	466,000	350,000	320,000	310,000	1,745,000
	199,000	466,000	350,000	320,000	310,000	1,745,000
ALLOCATION						
Ferry Rehabilitation - Maintenance of ferries & Jetties	76,805	294,000	191,000	177,000	126,000	864,805
	76,805	294,000	191,000	177,000	126,000	864,805
EXCESS/(DEFICIT)	(122,195)	(172,000)	(159,000)	(143,000)	(184,000)	(880,195)

ANNEX 2;

1. BREAKDOWN OF BUDGETARY REQUESTS BY KFS MADE TO THE PARENT MINISTRY FOR FERRY MAINTENANCE IN THE LAST FIVE YEARS

	Amount Kes '000 2015/2016	Amount Kes '000 2016/2017	Amount Kes '000 2017/2018	Amount Kes '000 2018/2019	Amount Kes '000 2019/2020	Total Kes Kes '000
PROPOSED BUDGET FOR FERRY MAINTENANCE						
Ferry Maintenance	199,000	466,000	350,000	320,000	310,000	1,745,000
	199,000	466,000	350,000	320,000	310,000	1,745,000
ALLOCATION						
Ferry Rehabilitation - Maintenance of ferries & Jetties	76,805	294,000	191,000	177,000	126,000	864,805
	76,805	294,000	191,000	177,000	126,000	864,805
EXCESS/(DEFICIT)	(122,195)	(172,000)	(159,000)	(143,000)	(184,000)	(880,195)

