Paper tabled on 19/9/2012 at 2-30PM by Hon. Sambu on behalf of the Chair Budget Committee

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT-FOURTH SESSION

JOINT COMMITTEE OF THE BUDGET COMMITTEE AND DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

REPORT ON INACCURANCIES/INCONSISTENCIES IN TREASURY TAX/REVENUE ACCOUNTS FOR 2007/2008

SEPTEMBER, 2012

VOLUME 1

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PREFACE

Mr. Speaker,

The joint Committee of Budget, Public Accounts Committee (PAC) and Finance, Planning & Trade on inaccuracies/inconsistencies in Treasury Tax/Revenue Accounts was constituted on *15th May 2012* following unsatisfactory Ministerial Statement issued by the Hon. Minister for Finance in relation to the receipts of revenue for the financial years 2007/2008 and 2008/2009. The Joint Committee was mandated to among other things: *understand exactly what revenue accounts are; analyse all forms of revenue collected by the government; determine whether proper books of accounts were kept and reconciled regarding the revenues collected within the period in question (2007/2008); find out if any, whether the taxpayers money was lost in the period in question (2007/2008); and understand how the revenue accounts are audited.*

The Members of the Joint Committee were:-

1. Hon. Elias P. Mbau, M.P — Co- Chairman
2. Hon. Chrysanthus Okemo, M.P — Co- Chairman
3. Hon. Martin Ogindo, M.P
4. Hon. John Mbadi, MP
5. Hon. Emilio Kathuri, M.P.
6. Hon. Mosses Lessonet, M.P

7. Hon. Danson Mungatana, M.P
8. Hon. Nelson Gaichuhie, M.P.
9. Hon. Sheikh Dor Yakub, M.P.
10. Hon. Omari Zonga, M.P.
11. Hon. Alfred Sambu, M.P.
12. Hon. Johnstone Muthama, M.P.
13. Hon. Abdul Bahari, M.P.
14. Hon. Nemesyus Warugongo, M.P.
15. Hon. (Dr.) Robert Monda, M.P.
16. Hon. Fred Kapondi, M.P.
17. Hon. Hussein Abdikadir, M.P.
18. Hon. David Koech, M.P.
19. Hon. James Rege, M.P.
20. Hon. Adan Keynan, M.P.
21. Hon. Mutava Musyimi, M.P.
22. Hon. David Were, M.P.
23. Hon. John Mututho, M.P
24. Hon. Jakoyo Midiwo, M.P
25. Hon. Sophia Noor, M.P
26. Hon. David Ngugi, M.P
27. Hon. Thomas Mwadeghu, M.P.
28. Hon. Ekwe Ethuro, M.P.
29. Hon. Njoroge Baiya, M.P.
30. Hon. Mithika Linturi, M.P.
31. Hon. Dr. Julius Kones, M.P
32. Hon. Jackson Kiptanui, M.P
33. Hon. Lucas Chepkitony, M.P

34. Hon. (Prof.) Philip Kaloki, M.P.
35. Hon. Jakoyo Midiwo, M.P.
36. Hon. Lucas Chepkitony, M.P.
37. Hon. Lankas ole Nkoidila, M.P.
38. Hon. Ahmed Shakeel, Shabbir, M.P.
39. Hon. Sammy Mwaita, M.P.
40. Hon. Musikari Kombo, M.P.
41. Hon. Lenny Kivuti, M.P.
42. Hon. Ntoitha M'ithiaru, M.P.

However, Mr. Speaker Sir, the position of PAC with regards to inclusion as part of the joint committee was that, having met with various stakeholders concerned with the issue before the committee and having made a report on the same which was submitted to parliament and approved, they will not participate in the joint exercise as a committee. This was to give room to the other committees in the joint committee to also make an independent view on the matter.

Mr. Speaker,

The Constitution of Kenya, 2010 Section 206 provides for a Consolidated Fund into which all money received or raised on behalf of the national government shall be paid into. Revenue received by the government forms part of the fund and is paid into the Exchequer Account held at the Central Bank of Kenya. The law provides that the Minister for Finance is responsible for the management of the consolidated fund while the Treasury is responsible for preparation and submission of accounts for each financial year under the Public Audit Act, 2003 for audit by the Auditor-General.

Mr. Speaker,

Collection and accounting for government revenue has not received much attention and oversight by Parliament. The oversight focus of the August House has been more on expenditures by the government and less on revenue. The Constitution of Kenya, 2010, however places revenue raised by the national government at the heart of devolution. It provides that equitable share of revenue raised by the national government shall be shared between national and county governments based on most recent audited accounts of revenue as approved by the National Assembly. This requires that the figures of revenue presented to Parliament by the Auditor- General and Minister for Finance should be the same and accurate.

Mr. Speaker,

Summarized in this report are excerpts of evidence adduced by various senior government officials involved in revenue collection and accounting and individuals from civil society organizations, synthesis of their submissions, and recommendations of the committee.

Key among the matters that the Committee sought to investigate and establish were:-

(i) Whether revenue collected by the government from various sources were properly received and banked as required by law.

(ii) To determine whether proper books of accounts were kept and reconciled regarding the revenues collected within the period in question (2007/2008); and

(iii) To find out if any, whether the taxpayers money was lost in the period in question (2007/2008);

Mr. Speaker,

This report also contains committee findings. In summary the committee found out that the Kenya Revenue Authority, Auditor- General and Treasury could not agree on the amount of money that the country collected as ordinary revenue in the financial year 2007/2008. While Kenya Revenue Authority which is the official collector of revenue in the country stated that it collected **Ksh.433 Billion** as ordinary revenue, Auditor- General and Treasury in their submission stated that the country collected **Ksh.419 Billion** as ordinary revenue. The committee also found out that revenue accounts were marred by incidences of un-captured receipts and posting errors in the revenue ledger accounts and unavailability of reconciliation statements at the time of audit conclusion. There was generally lack of commitments by the receiver of revenues to properly keep up to date books of accounts that reflects the true revenue position of the country.

Mr. Speaker,

In summary the joint committee confirmed that there were indeed inconsistencies/variances in the actual figures of revenues collected by the country as contained in the audit report of the auditor-general submitted to this House in May 2009 and the actual figures of revenue collected as contained in the 2009/2010 Estimates of Revenue Report submitted to this House in June 2009. Volume 1 of this report contains the main report of the committee while volume 2 contains the minutes of the proceedings, papers laid and other annexure.

Mr. Speaker, It is now our pleasure to present and commend this report for adoption by the House.

HON. ELIAS P. MBAU, M.P

CHAIRMAN, BUDGET COMMITTEE

DATE.......13/09/2012..........

SIGNED...........................

HON. CHRYSANTHUS OKEMO, M.P

CHAIRMAN, FINANCE, PLANNING AND TRADE COMMITTEE

DATE...........................

SIGNED.......13/9/2012..........

ACKNOWLEDGEMENT

Mr. Speaker, on behalf of the committee, we wish to sincerely thank you and the Presidium of the House for the enormous support accorded to the Committee during the period of this inquiry.

We also wish to thank the Office of the Clerk of National Assembly for facilitating the Committee to undertake this important assignment. The Committee extends it gratitude to the staff of Parliament, particularly the Parliamentary Budget Office (PBO) which provided the Committee with Secretariat services and assisted the Committee in compilation of this report.

The Committee is also grateful to various senior government officials and senior officers of Mars Group Kenya who appeared before the committee and made useful submissions which formed the basis of this report.

Lastly, we are thankful to our colleagues in the Committee for their commitment and dedication during the inquiry. Together, their input made the completion of this process a worthwhile venture.

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1.0 INTRODUCTION

1.1 Background

1. The Member of Parliament for Gwasi Constituency, the Hon. John Mbadi, sought a Ministerial Statement on the Tax Account at the Treasury on Thursday 21st April 2011. In particular, he wanted explanation made to the House on the following:-

   (i.) Whether our Tax Account, and especially the revenue rates are properly kept;

   (ii.) The number of revenue statements that were certified by the Controller and Auditor-General for the financial years 2007/2008 and 2008/2009;

   (iii.) The actual receipts of revenue for the financial years 2007/2008 and 2008/2009 in respect to various Budgetary Heads, including Mining, Profits and Dividends, Fines and Penalties, Other Charges, Taxes on Income, Profits and Capital Gains; Taxes on Goods and Services, Taxes on International Trade and Transactions, Other Taxes Not Classified; Property Income Interest Receivable, Property Income, Rents on Land, Sale of Goods and Services, Other Records not Classified; Repayment from Domestic Lending and On-lending, Tourism and Wildlife, and Trading Licences; and,

   (iv.) Whether the receipts of the revenue for the financial years 2007/2008 and 2008/2009, as declared to Parliament in the Estimates of Revenue, reflected the actual receipts into the Exchequer Account for the respective Revenue Heads for the same period.

2. On 15th March, 2012, the Speaker directed the Minister for Finance to issue a Ministerial Statement in relation to the receipts of revenue for the financial years 2007/2008 and 2008/2009 only as the accounts for the financial years 2008 and 2009 were already receiving attention by the Public Accounts Committee (PAC). This Ministerial statement was issued by the Hon. Minister for Finance on 15th May 2012.

3. In his response to the August House, the Hon. Minister noted the following:-

(i.) That revenue collection and accounting is a process, and that it involves various stakeholders. He observed that the process starts with the taxpayer who pays his or her taxes due directly to the tax collector or indirectly into the Kenya Revenue Authority (KRA) collection accounts in the banks appointed by the KRA. On receiving the tax revenue payments, the revenue collector remits the same to the appointed receiver of that revenue, who subsequently remits the same to the Exchequer Account.

(ii.) That KRA is the legally appointed collector of Income Tax, Customs Duty, Excise Duty and Value Added Tax (VAT). Collectors of other revenues, who largely include Ministry Departments, are appointed by respective receivers of revenue, who are in turn appointed by the Treasury.

(iii.) That the process of collecting and accounting for revenue involves parties who are independent hence maintaining their own separate sets of books of accounts. The revenue records maintained by these parties often show different revenue positions and, therefore, require reconciliation – in some cases, on monthly basis and in other cases even on a daily basis.

(iv.) That variances are usually explained by the timing differences when revenues are received and then ultimately remitted to the Exchequer. For instance, when a taxpayer pays his or her taxes through the KRA collection account in a bank, the KRA immediately recognises the receipts in their books but such receipts take time to be reflected in the receiver's account at the Central Bank of Kenya (CBK) and subsequently to the Exchequer Account.

(v.) That for all revenues due to the Government – tax, non-tax and proceeds from borrowing – are paid into the Exchequer Account, which is properly kept and indeed audited on a daily basis by officers from the Office of the Controller and Auditor-General. As part of his or her legal mandate, the Auditor-General also keeps a mirror account of the Exchequer Account.

(vi.) With regard to the question of the number of revenue statements for the financial year 2007/2008 that were certified by the Controller and Auditor-General, the confirmed that only three statements out of sixteen (16) revenue statements were certified. These were the Property Income Interest Received Account, the Dividends and Fines,Penalties and Forfeitures Account. For the financial year 2008/2009, all the 14 statements were qualified.

(vii.) Noted that the Report of the Controller and Auditor-General for the financial year 2007/2008 provided specific reasons as to why each revenue statement was excluded from his certificate, and this was basically for accounting reasons.

(viii.) Reminded the house that the Report of the Controller and Auditor-General for the financial year 2007/2008 has already been discussed by the PAC, and the Committee had given specific recommendations on actions to be taken by the respective receivers of revenue.

(ix.) Regarding the question as to whether the receipts for the financial year 2007/2008, as declared to Parliament in the Estimates of Revenue, reflect the actual receipts into the Exchequer Account for the respective Heads and for the same period, He clarified that the actual receipts for that year, as reflected in the Printed Estimates of Revenue, were based on unaudited revenue returns because at the time of reporting to Parliament the accounts were in the process of being audited.

(x.) Reassured the House and the public at large that the Treasury remains fully committed to ensuring full accountability and optimal utilisation of all revenues collected and received by the Government of Kenya.

4. The Speaker, after lengthy debate by members noted that he finds reason or cause to give a direction because the amounts and the figures and the disparity is mind boggling while at the same time the response by the Hon. Minister for Finance was not satisfactory.

5. He directed that a joint Committee of the Budget, the PAC and the Departmental Committee on Finance, Trade and Planning led by the Budget Committee be formed to interrogate the matter with speed and and report back to the House in a maximum of two weeks.

6. The Members, however requested the Chair to give the Joint Committee one month to complete its work since the Budget Committte was still engaged in the Budget Process for 2012/2013 financial year.

7. The chair agreed with request of the members and directed that the joint committee interrogate the matter and report to the House in one month's time.

1.2 Status of the National Revenue Accounts

8. The Public Audit Act, 2003 provides that for each financial year, each receiver of revenue shall prepare accounts in respect of the revenue which the receiver of revenue is appointed to handle and submit the accounts to the Controller and Auditor-General for audit. The accounts shall include the following:-

   (a) a statement of receipts into and issues from the exchequer account;

   (b) a summary of the following-

      (i) The appropriation accounts prepared by accounting officers.

      (ii) The statements, prepared by accounting officers, of the outstanding amounts in respect of loans issued by the government; and

      (iii) The statements of receipts and disbursements prepared by the receivers of revenue

   (c) A statement of payments made out of issues from the exchequer account that are authorised under the Constitution or an Act other than an Act appropriating amounts for a financial year.

   (d) A statement of the amounts outstanding at the end of the year in respect of public debt; and

   (e) Such other statements as the National Assembly may require.

9. The Act further provides that for each financial year, each receiver of revenue shall prepare accounts in respect of the revenue of which the receiver of revenue is appointed to handle and submit the accounts to the Controller and Auditor-General. The accounts shall include the following:-

   (a) A statement of receipts and disbursements in such form as the Treasury may direct; and

   (b) A statement of arrears of revenue.

10. The Controller and Auditor General in his report on the Appropriation Accounts, other Public Accounts and the Accounts of the Funds of the Republic of Kenya for the year 2007/ 2008 stated that:-

" 55. I am concerned by the lack of attention in the preparation of Statements of Revenue as indicated in the reports under each Revenue Head. Many Statements of Revenue reflect differences between figures reflected in the Statements and those reflected in the supporting documents. For example, most of the revenue is collected by Kenya Revenue Authority (KRA) but the Receiver of Revenue is the Financial Secretary. However, the Statements of Revenue received reflect receipts which materially differ from those reflected in KRA records. They also reflect payments to the Exchequer which differ with amounts reflected in the Exchequer records. Even amounts carried forward differ with those reflected in the relevant Statement of Assets and Liabilities. Such differences are not explained or reconciled and therefore cast doubts on the accuracy of the Statements of Revenue. As a result, many Statements of Revenue have been excluded from the general certificate. No explanation has been given for this".

2.0. MATTERS BEFORE THE COMMITTEE

11. The Committee after wide deliberations and consultations on the matter resolved that the joint committee's investigation will work towards achieving the following objectives;
    (i) To understand exactly what revenue accounts are;
    (ii) To analyse all forms of revenues collected by the government;
    (iii) To determine whether proper books of accounts were/are kept and reconciled regarding the revenues collected within the period in question (2007/2008);

(iv) To find out if any, whether the taxpayers money was lost in the period in question (2007/2008); and

(v) To understand how the revenue accounts are audited.

2.1 List of Witnesses

12. On diverse dates the committee held a total of...meetings with different witnesses including:-

(i) Hon. John Mbadi, M.P

(ii) The Public Accounts Committee (PAC)

(iii) Kenya National Audit Office (Auditor –General)

(iv) Kenya Revenue Authority (KRA)

(v) Minister of Finance (Treasury)

(vi) Mars Group Kenya

3.0 SUMMARY OF WITNESSES EVIDENCE

3.1 Evidence of Hon. John Mbadi, M.P

13. Appearing before the Committee on 7th **June 2012** Hon. John Mbadi, M.P a friend of the Committee, made his submission.

14. In his submission, he started by thanking the Co-Chairmen for ensuring the Joint Committee meeting materializes and thanked the Committee for giving him an opportunity to make his submission to the Committee.

15. He took Members through the background of the matter where he reminded Members that on **21st April 2011** he sought a Ministerial statement from the Minister of Finance with regard to differences in revenues accounts in 2007/08 and 2008/09 Financial Year. This took twelve months for the Minister of Finance to respond to the issue and the answer from the Minister of Finance was unsatisfactory.

16. He informed members that since the 2008/09 revenue accounts were still under the scrutiny of PAC, the speaker ruled that the Joint Committee can only look at the 2007/08 revenue accounts. Therefore his submission only focused on the 2007/08 revenue accounts in line with the Speaker's ruling on the matter when constituting the committee.

17. In his submission he thanked Mars Group Kenya, a Civil Society Organization which did a detailed analysis of the 2007/08 and 2008/09 revenues accounts. The analysis report of Mars Group Kenya formed the basis for his asking for a Ministerial statement over the matter. He requested the Chairman to invite Mars Group Kenya to shade more light on this discrepancies since they are ready to appear before the Joint Committee.

18. He cited article 206 of the Constitution of Kenya, 2010 which requires that all money raised or received by or on behalf of the national government should be paid into the Consolidated Fund before being appropriated. Therefore all revenue collected by the government should be paid into the fund before any appropriation.

19. He informed the committee that the official receiver of the revenue collected is the Finance Secretary at Treasury while Kenya Revenue Authority (KRA) has the responsibility to collect revenue. Thus, all revenues are collected by KRA, banked in the exchequer account at CBK and records of the banking are kept by Central Bank of Kenya (CBK) and Finance secretary at Treasury. Afterwards, the Finance Secretary prepares a statement of revenue three months before the end of financial year to the Controller and Auditor General who in turns submits a report to Parliament. Parliament therefore has the responsibility to oversee the use of revenue collected.

20. It is expected that the amounts of revenue collected and reported to parliament should tally with the information captured in the audit report of the Controller and Auditor General, in the exchequer account from the Finance Secretary. The committee was however, informed that in 2007/08 Financial Year, the Controller and Auditor General was told, in a report confirmed by PS Treasury that Kshs.496 billion of ordinary revenue was collected but the estimates submitted to Parliament shows that the amount of revenue collected in 2007/08 Financial Year was Ksh. 397 billion.

21. The committee was told that the difference between the total revenue as contained in the auditor's report to Parliament and the Estimates of Revenue figures presented to Parliament by the Minister for Finance is Ksh. 98 billion and the questions raised is whether the Government operates two sets of accounts and what is the exact figure of revenue collected in 2007/08 Financial Year.

22. Members were also informed that with regard to Grants and Loans, the exchequer account shows that Ksh. 26.7 billion was realized whereas the report by the Controller and Auditor general to Parliament indicates that only Ksh. 20 Billion was realized hence an under reporting to Parliament of Ksh. 6.7 Billion.

23. The committee was also told that the figures of revenue collected ought to be the same in KRA records, Exchequer account records, ledger accounts records held by Finance secretary, revenue statement given to Controller and Auditor General and the report submitted to Parliament but that was not the case in 2007/08 Financial Year.

24. The committee was given an example of **Vote Head 11100000 (Taxes on Income, Profits and Capital Gains)** where Kenya Revenue Authority gave a figure of Ksh. 166 Billion, the Exchequer Account showed Ksh. 168 Billion, the report to Controller and Auditor general from Finance secretary recorded Ksh. 172 Billion and what was declared to Parliament was Ksh. 165 Billion.

25. The committee was informed that out of the 14 revenue account statements only three were certified and eleven qualified, meaning they did not meet the audit standard hence had audit queries that Treasury was expected to answer.

26. The committee wanted to know whether the discrepancies could be due timing difference and unaudited accounts as stated by the Minister of Finance. However, they were informed that the matter of timing do not arise since Government accounting system is a cash system meaning that what is got is what is reported. Members were also informed that Parliament is supposed to be given actual figures and not estimated figures.

27. He informed the committee that revenue estimates as contained in the Estimates of Revenue of Government of Kenya report presented to Parliament by the Minister for Finance in June every year cannot be revised by Kenya Revenue Authority or Treasury without approval of Parliament since it is only Parliament which can allow such revisions. However, the original revenue estimates as contained in the Exchequer Account submitted to Auditor-General for audit is not the same as the original revenue estimates as was passed by parliament. This means that KRA and Treasury revise these targets without parliamentary approval.

28. In his final submission to the committee, he expressed his fears that such discrepancies/ inconsistencies in figures could point at either poor book keeping by Treasury officials who are not taking their work seriously. The worst is that such discrepancies could lead to loss of money which in this case is running into Billions of Kenya Shillings. He urged the committee to thoroughly investigate the issue since revenue collected by the National Government and audited by the Auditor-General forms the basis of revenue division between national government and county governments as stipulated in section 203 (3) of the Constitution of Kenya, 2010.

3.2. Evidence of Mars Group

29. Appearing before the Committee on **Thursday 19th July 2012**, Mwalimu Mati, Chief Executive Officer, Mars Group and Jayne Mati, Managing Director Mars Group, on behalf of Mars Group Kenya, made a submission on the subject matter before the committee.

30. Their submission addressed three issues namely; *Revenue accounts failing audit; Reporting actual revenue receipts to the National Assembly*; and *Parliamentary Authority on Approved Estimates*.

31. **Revenue Accounts Failing Audits**
32. This is the first issue that the submission from Mars Group Kenya intended to address.
33. In their submission, the group noted that out of the revenue of Ksh. 516 Billion collected in the financial year 2007/08 on 16 revenue accounts, only a paltry Ksh. 3.4 Billion in 3 revenue accounts were certified by the Auditor General. The 3 certified accounts are:

Revenue Head	Revenue Account Name	Amount (Ksh.)
1410000	Property income – profits and Dividends	3,133,350,633.5
1430000	Fines, penalties and forfeitures	158,521,084
1140000	Taxes on goods and services – royalties	187,799,398
	Total	**3,479,671,115.5**

34. Analysis done by the group shows that almost all revenue accounts continue to fail audit tests annually. The amount of money involved in the various revenue statements that were not certified from the years 2007- 2010 is as follows:

(i.) For the financial year 2007/08 a total of **Ksh. 498.9 Billion** comprising of Taxes on income, profits and capital gains – Ksh. 164.4 billion, Taxes on goods and services – Ksh. 220.5 billion, taxes on international trade and transactions – Ksh. 7 billion, other taxes not elsewhere classified – Ksh. 1.4 Billion, sale of goods and services – Ksh. 38.6 billion, rent of land – Ksh. 0.12 billion, property income – Ksh. 0.27 billion, statement of loan interest receipts – Ksh. 2.8 billion, other receipts not elsewhere classified – Ksh. 9.2 billion, repayments from domestic lending and on-lending – Ksh. 19.8 Billion and development revenue – Ksh. 34.8 billion were excluded by the Controller & Auditor General from audit certificate.

(ii.) In the financial year 2008/09, a total of **Ksh. 215.1 Billion** was excluded from certification and it comprised of: taxes on income, profits and capital gains – Ksh. 88.6 billion, Taxes on goods and services – Ksh. 8.6

billion, taxes on international trade and transactions – Ksh. 1.7 billion, other taxes not elsewhere classified – Ksh. 0.16 billion, sale of goods and services – Ksh. 21.9 billion, rent of land – Ksh. 0.6 billion, property income – Ksh.7.3 billion, statement of loan interest receipts – Ksh. 28.6 billion, other receipts not elsewhere classified – Ksh. 9.9 billion, repayments from domestic lending and on-lending – Ksh. 24.8 billion and development revenue – Ksh. 23 billion and

(iii.) In the financial year 2009/10, **Ksh. 239.3 Billion** was again not certified by the Auditor General. It was composed of taxes on income, profits and capital gains – Ksh. 105 billion, Taxes on goods and services – Ksh. 6.7 billion, taxes on international trade and transactions – Ksh. 1 billion, other taxes not elsewhere classified – Ksh. 0.5 billion, sale of goods and services – Ksh. 9.6 billion, property income – Ksh. 0.4 billion, social security contributions – Ksh. 1 billion, statement of loan interest receipts – Ksh. 31.7 billion, other receipts not elsewhere classified – Ksh. 3.2 billion, repayments from domestic lending and on-lending – Ksh. 13 billion and development revenue – Ksh. 67.6 billion

35. The group noted in their submission that in the Fiscal Year under investigation, a cumulative of 57 audit queries were raised by the Controller & Auditor General with respect to revenue accounts. However, Ministry of Finance (Treasury) in their submission to the committee on 12th July 2012 only addressed 18 audit queries leaving out 39 of the audit queries unanswered.

36. To emphasize their concern, the group quoted an extract from paragraph 55 of the audit report for the Public Accounts and the accounts of the funds of the Republic of Kenya for the year ended June, 2007 which state that *"....am concerned by lack of attention in the preparation of Statements of*

Revenue as indicated in the reports under each Revenue Head. Many Statements of Revenue reflect differences between figures reflected in the Statements and those reflected in the supporting documents. For example, most of the revenue is collected by KRA but the Receiver of revenue is the Financial Secretary. However the statements of revenue received reflect receipts which materially differ from those reflected in KRA records. They also reflect payments to the Exchequer which differ with amounts reflected in the Exchequer records. Even amounts carried forward differ with those reflected in the relevant statements of assets and liabilities. Such differences are not explained or reconciled and therefore cast doubts on the accuracy of the Statements of Revenue. As a result, many statements of revenue have been excluded from the general certificate...."

37. The group used 5 examples to demonstrate why the Minister for Finance should account to Parliament for Revenue accounts failing the audit test. The following examples illustrate the groups concerns with reference to 2007/2008 Controller and Auditor General report on Government revenue accounts:

(i) Records maintained at Kenya Revenue Authority differ from Statement of Revenue – specifically paragraph 72 of the report, on income, profits and capital gains, presents a difference of Ksh. 11 Billion, on taxes on goods and services, paragraph 79 show a difference of about Ksh. 3 Billion and paragraph 84, 0.887 Billion. Other taxes not elsewhere classified, paragraph 88 presents a difference of 51.6 Million. On rent of land, 11.4 Million and paragraph 115 on sale of goods and services has a difference of about 2 billion, all of which were not explained nor reconciled.

(ii) Payments to the Exchequer differ with accounts reflected in the Exchequer records. In paragraph 92 of the Audit report, the difference of Ksh. 200.8 Billion under the revenue Head property income, loan interest receipts from domestic and on-lending was not reconciled nor explained. The same recurs in paragraphs 35, 81, 86, 90, 97, and 105 of the FY 2007/2008 audit report.

(iii) Actual receipts differ with amounts reflected in the Ledger – it was brought to the attention of the Joint Committee that differences of about Ksh. 4.3 billion and Ksh. 2.1 billion in paragraphs 75 and 101 were also not reconciled nor explained and that the same is depicted in paragraphs 80, 85 and 93 of the FY 2007 audit report.

(iv) Amounts carried forward differ with those reflected in the relevant Statement of assets and liabilities – that a difference of about Ksh. 4.5 billion was not reconciled nor explained and the Mars Group Managing Director indicated to the Committee that the same trend is depicted in paragraphs 36, 81, 86, 90, 94, 98, 102 and 106 of the audit report.

(v) Arrears of revenue due unaccounted for – here, statements were not showing details of arrears of revenue due as at 30th April 2008 and as a result the Auditor General, in paragraph 78 of the report, was unable to confirm whether revenue totalling to about Ksh. 125.2 Billion under taxes on income, profits and capital gains was recovered.

38. The Managing Director of Mars Group pointed out to the Joint Committee that as the Members investigate the revenue inconsistencies, it would be prudent to bear in mind that the role of the Ministry of Finance according to the Government Financial Act, 2004 is such that the Minister is required by

law to manage the Consolidated Fund and be responsible for all matters relating to public financial affairs that are not assigned to any other Minister.

39. On the role of the Treasury, she highlighted that the Treasury is mandated by law to establish procedures and systems for proper and effective management of Government money and property; establish accounting procedures and systems from the Government to properly account for Government money and property; prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Auditor General and also ensure that the accounts so prepared comply with the provisions of the law.

40. Additionally, the Committee was reminded that according to the Public Audit Act, 2003 the Treasury is required to prepare accounts showing fully, the financial position of the government at the end of the year and submit the accounts for auditing within three (3) months after the end of the financial year. The accounts have to include among other things, the statement of receipts and issue from the Exchequer. Also, that the Receiver of Revenue is required to prepare accounts In respect of revenue for which s/he is appointed, and submit the accounts for auditing and the accounts to be submitted are to include statement of receipts and disbursements and statement of arrears of revenue; all that within three (3) months after the end of the financial year. Ultimately, the Auditor General is required to examine the documents so submitted and audit the accounts and gives an opinion stating whether all information and explanations necessary for audit are received; proper records are maintained; the accounts are in agreement with the records and whether the accounts reflect the fair financial position of the government.

41. Reporting Actual Revenue Receipts to the National Assembly

42. This is the second issue that the submission from Mars Group Kenya intended to address.

43. On the issue of reporting of actual revenue receipts, the Group indicated to the Committee that it appears the Ministry of Finance has been keeping different sets of books for revenue collected and that it appears to be an intricate web of a possible cover up and deception as it continues to present different revenue figures to both the Auditor General and Parliament.

44. The group was shocked by the fact that in June, 2009; a month after receiving the Controller and Auditor General's signature on the Exchequer Account for the FY 2007/08, the Minister for Finance went ahead and presented a totally different actual revenue figures to Parliament.

45. For instance, that Ordinary Revenue was Ksh. 397.6 Billion while the Exchequer account records showed Ksh. 496 billion, a difference of Ksh. 98.5 billion of revenue under declaration to Parliament; total loans was Ksh. 26.7 Billion while the Exchequer records had Ksh. 20.1 Billion, a difference of Ksh. 6.6 Billion of revenue receipts overstated to Parliament; miscellaneous revenue was Ksh. 7.6 billion while the Exchequer account records had about Ksh. 16 billion, an understatement of Ksh. 8.6 Billion; net domestic borrowing by the Central Bank was presented as Ksh. -13.9 Billion while the Exchequer recorded **Ksh. 0.00.** This possibly indicates a net domestic borrowing that does not exist. Income tax from corporations was presented as Ksh. 79.1 Billion whereas the Exchequer record was showing Ksh. 86.7 billion, a difference of about Ksh. 7.6 Billion.

46. The group raised concern and wondered why this was the state of affairs and whether the under-declaring of revenue to Parliament was likely to create a gap where such revenue goes missing. This situation also create an avenue for revenue loss/ leakage since there are no agreed figures of revenue by different stakeholders involved in collection and accounting for revenue raised by the government.

47. **Approved Revenue Estimates- Parliamentary Authority**

48. This was the third issue that the submission from the group intended o address.

49. The group pointed out that the estimates of revenue as tabled in Parliament by the Minister for Finance which reflect the final revised estimates of revenue differs at every revenue line item from the estimates of revenue as captured by the then Controller and Auditor General at that time.

50. The group pointed out to the Committee that the Minister cannot alter the approved revised estimates of revenue as he did at that time, a situation they termed very serious and grave. For instance, using the final revenue figures of Ksh. 558 billion as approved by Parliament against original estimates of Ksh. 522.4 Billion as captured in the audit report for the FY 2007/08 gives an under-collection of about Ksh. 36 Billion. Using actual revenue of Ksh. 494.4 Billion as captured in the FY 2008/09 budget estimates on June 2009, it shows an under-collection of Ksh. 28 Billion and finally, using actual revenue of Ksh. 516 Billion in the Exchequer account as captured by the Auditor General, depicts an under-collection of about only Ksh. 6.3 billion.

51. The group expressed its concern on the fact that there appear to be many possible revenue positions in the same financial year and also that even the

Auditor General might as well not be able to reflect the actual revenue position of the government.

52. The group reminded the Committee that Kenyans expect answers from the Minister on how many revenue accounts failed the audit test and reasons for that; whether the actual revenue receipts as reported to Parliament faithfully reflect the actual receipts as captured by the then Controller and Auditor General in the Exchequer account and also, whether the revised estimates of revenue tabled in Parliament reflect the actual approval given by Parliament.

53. In addition, a detailed response need to be given from the Ministry of Finance on each of the 57 audit queries and a supporting memorandum as well as a certificate from the Auditor General clearing each of the issues according to the international accounting standards.

54. The group ended their submissions by presenting to the committee the following recommendations:

(i.) That an independent forensic audit into the revenue accounts of the Government of Kenya for the FY's 2007/08, 2008/09, 2009/10, 2010/11 and 2011/12 be commissioned and conducted so as to determine the true revenue position of the Government.

(ii.) The immediate withdrawal of all falsified documents tabled in Parliament and a special resolution to re-submit for adoption of accurate ones.

(iii.) That the Committee recommend immediate retirement of the accounting officer in the ministry who are responsible for collection and accounting for failing in their work and misleading Parliament

(iv.) That the Committee recommends the implementation of the National Assembly resolution of the year 2009 that independent forensic audit be done by an independent body to look into past three years of the

National Budget including the Consolidated Fund Services to determine whether there might have been other inaccuracies or inconsistencies.

(v.) The Committee recommends the involvement of the Controller of Budget as per the constitutional mandate.

3.3 Evidence of Kenya National Audit Office (Auditor-General)

55. Appearing before the Committee on **11th July 2012**, Auditor-General, Kenya National Audit Office (KENAO) informed the committee that:-

(i.) Most of revenue statements prepared by the Ministry of Finance were not accepted due to one or more of the following anomalies:-

- Variation between the Ministry of Finance and KRA revenue figures.
- Variation between the revenue statements and Ministry's ledgers figures.
- Statement of revenue balance not in agreement with exchequer record figures.

(ii.) Out of the sixteen statements of revenue for 2007/08 audited by the Auditor's office only three were certified. The certified revenue statements were;

Revenue Head	Sub head	Description
1410000	1410200	Property income-profits and dividends
1430100		Fines and Forfeitures
160210		Forest and mining

(iii.) Ten revenue statements prepared by the Ministry of Finance were not accepted due to various unexplained variations. This revenue statements are:-

Revenue Head	Sub Head	Description	Qualification Issue
1110000		Taxes of income, profits and capital gains	Unexplained difference of Ksh. 11,093,780,541.40 between the statements of actual receipts figure of Ksh. 177,246,750,110.40 and KRA figure of Ksh. 166,152,969,569.00
1140000		Taxes on Goods and services	Un-reconciled difference of Ksh. 3,725,958,227.30 between the statements actual receipts figure of Ksh. 177,251,211,178.30 and KRA figure of Ksh 173,525,253,051.00
1150000		Taxes on International trade and transactions	Un-reconciled difference of Ksh. 887,684,300.60 between the statements actual receipt of Ksh. 45,857,772,816.00 and KRA figure of Ksh. 44,970,088,516.00
1160000		Other taxes not elsewhere classified	Unexplained difference of Ksh. 51,679,317.30 between the Ministry actual receipts of Ksh. 4,584,430,435.30 and KRA figure of Ksh. 4,532,751,118.00
1140000	1410100	Loan interest receipts	Unexplained difference of Ksh. 200,762,900.85 between the statement of revenue payments to the Exchequer figure of Ksh. 371,254,013.70 and Treasury Exchequer figure of Ksh. 572,016,914.55
1410000	1410401	Property income-rent on land	Unexplained difference of Ksh. 118,363,222.40 between the statement actual receipts of Ksh. 1,375,378,571.00 and KRA figure of Ksh. 1,257,015,349.00
1450000		Other receipts not classified elsewhere	Unexplained difference of Ksh. 2,502,166,934.85 between the statement actual receipts of Ksh. 15,956,423,389.60 and Ksh. 13,904,256,454.75 reflected in the Ministry's ledger.
4510000		Repayments from domestic	Unexplained difference of Ksh. 236,131,179.90 between the

		lending and on lending	statement payments to the Exchequer figure of Ksh. 472,433,521.55 and the Exchequer records figure of Ksh. 708,564,701.45 Unexplained difference of Ksh. 61,740,522.10 between the statement actual receipts figure of Ksh. 472,433,521.55 and the Ministry's Ledger figure of Ksh. 410,692,999.45
1420000		Sales of goods and services	Unexplained difference of Ksh. 67,690,060.91 between the statement actual receipts of Ksh. 1,880,336,872.75 in respect of fees under traffic act and motor drivers licenses and the KRA figure of Ksh. 1,948,026,933.66 Unexplained difference of Ksh. 30,869,263.95 between the statement of actual receipts of Ksh. 1,880,336,872.75 and the figure of Ksh. 1,911,206,136.70 reflected in the Ministry Ledger.
Head DR 1		Statement of development revenue	Unexplained difference of Ksh. 73,908,047.75 between the statement payments to the Exchequer figure of Ksh. 20,003,323,148.00 and Treasury Exchequer records figure of Ksh. 20,077,231,195.75

56. Three statements of revenue prepared by other Ministries also had audit queries. This statements are;

Head	Description	Agency
170010	Tourist and Wildlife	Office of the President
210010	Trading licences	Office of the President
150360	Lands Revenue	Ministry of Lands

57. Reconciliations for these accounts were carried out and observed variations were explained as follows;

58. Taxes on Income, Profits and Capital Gains -Revenue Head 1110000

The difference of Ksh. 11,093,780,541.40 was made up of the following:-

Revenue Item	Amount as per Revenue Statement (Ksh.)	Amount as per KRA records (Ksh.)	Variance (Ksh.)
PAYE	81,680,929,230.20	86,140,240,109.00	(4,459,310,878.85)
OIT	86,695,983,472.40	80,012,729,460.00	6,683,254,012.40
LATF	8,869,837,407.80		8,869,837,407.80
TOTAL	177,246,750,110.40	166,152,969,569.00	**11,093,780,541.40**

(i.) Pay As You Earn (PAYE)

Reconciliation for the difference of Ksh. 4,459,310,878.85 is as follows;

	Amount (Ksh.)
Balance of per KRA records as at 30 June 2008	86,140,240
Add 2006/2007 collections transferred in July 2007	634,683,602.86
Less Cash in transit from other banks as at 30/06/08	(58,223,070.95)
Add Amount in Treasury not in CBK .	652,776,568.15
Less amount in CBK not in treasury	1,352,712,947.00
Less LATF 5%	4,335,835,031.95
Balance as per revenue statement	**81,630,929,230.00**

(ii.) Other Income Tax (OIT)

The reconciliation difference of Ksh. 6,683,254,012.40 was reconciled as follows;

	Amount (Ksh.)
Balance as per KRA records	80,012,729,460.57
Add previous year provision	11,518,961,560.00
Less Cash in transit	(88,978,337.57)
Total Banking for 2007/2008	91,442,712,683.00
Add cash in transit 30.6.07	812,706,833.26
Add receipts in Treasury not in CBK	1,060,590,364.80

Less receipts in CBK not in Treasury	(1,581,256,199.72)
Cash in transit	(491,194,289.25)
5% LAFT	(4,547,575,919.69)
Amount as per revenue statement	**86,695,983.472.40)**

59. **Taxes on Good and Services- Revenue Statement Head 1140000**

The variation of Ksh. 3,725,958,227.30 according to the Auditor General Office was made up of the following items;

Revenue item	Amount as per revenue statement(Ksh.)	Amount as per KRA records(Ksh.)	Variance (Ksh.)
VAT local	61,586,108,468.70	57,373,875,358.00	4,212,233,110.70
VAT imports	53,807,634,460.85	53,634,410,526.00	173,223,934.85
Excise taxes	61,857,468,348.75	62,516,967,167.00	(659,498,818.25)
TOTAL	**177,251,211,278.30**	**173,525,253,051.00**	**3,725,958,227.30**

(i.) Value Added Tax (VAT) Local

This revenue item was reconciled as below;

	Amount (Ksh.)
Amount of as per KRA records	57,373,875,358.00
Add money provided by treasury for VAT refunds	12,169,000,000.00
Add collections reported separately-Telkom	4,446,648,474.15
Less cash in transit from collecting banks	(66,968,448.20)
Less receipts in CBK not in treasury	(13,563,422,245.64)
Add receipts in Treasury not in CBK	1,226,975,330.39
Amount as per revenue statement	**61,586,108,468.70**

(ii.) **Value Added Tax (VAT) Imports:-** VAT imports reconciliation was as below;

	Amount (Ksh.)
Amount as per KRA records	53,634,410,526.00
Add casting error	2,256,420.00
Less receipts in KRA cashbook not in bank	(332,990,555.15)
Add receipts in Bank not in KRA	351,987,072.00
CBK balance	53,655,663,462.85
Less receipts in CBK not in treasury	(1,408,866,831.00)
Add receipts in treasury not in CBK	1,560,837,829.00
Amount as per revenue statement	**53,807,634,460.85**

(iii.) **Excise Taxes:-** The reconciliation was done as follows

	Amount (Ksh.)
Amount as per KRA records	62,517,067,168.00
Add provisions for refund	2,400,000,000.00
Less receipts in Cashbook not in Bank	(951,976,935.96)
Add receipts in Bank not in cashbook	646,265,340.90
Less receipts in CBK not in treasury	(3,775,165,810.15)
Add receipts in treasury not in CBK	1,021,278,585.95
Amount as per revenue statement	**61,857,468,348.75**

60. **Taxes on International Trade & Transactions -Revenue Head 1150000**

The un-reconciled variation of Ksh. 887,684,300.60 was made up of the following variances;

Revenue Item	Amt as per Revenue Statement (Ksh.)	Amount as per KRA records (Ksh.)	Variance(Ksh.)
Customs Duty	32,944,348,580.05	32,539,472,977.00	404,875,603.05
Other Taxes	12,913,424,236.55	12,430,615,539.00	482,808,697.53
TOTAL	**45,857,772,816.60**	**44,970,088,516.00**	**887,684,300.60**

Reconciliation with respect to the above revenue items was prepared as below;

i) **Custom Duty**

	Amount (Ksh.)
Amount as per KRA records	32,539,472,977.00
Add money from treasury for refunds and exemptions	470,000,000,00
Less receipts in KRA not in bank	(314,637,097.00)
Add receipts in Bank not in KRA	507,028,495.45
Balance as per CBK	33,201,864,374.45
Less receipts in CBK not in treasury	(1,047,455,582.95)
Add receipts in Treasury not in CBK	789,939,787.55
Amount as per revenue statement	**32,944,348,580.05**

ii) **Other Taxes**

	Amount(Ksh.)
Balance as per KRA records	12,430,613,539.00
Less receipts in cashbook not in bank	(44,847,284.00)
Add receipts in bank not in cashbook	155,944,195.40
Bank balance	12,541,710,450.40
Less receipts in CBK not in treasury	(346,801,114.00)

Add receipts in treasury not in CBK	718,514,900.15
Amount as per revenue statement	12,913,424,236.55

61. Other Taxes (Not Elsewhere Classified)-Revenue Head 1160000

The reconciliation for the variation of Ksh. 51,676,317.30 was availed as follows;

iii) Stamp Duty

	Amount (Ksh.)
Amount as per KRA records	4,532,571,118.00
Add receipts in CBK not in treasury	119,376,816.00
Less receipts in treasury not in CBK	(67,697,498.70)
Balance as per Treasury	4,584,430,435.30

62. Property Income Interest Received -Revenue Statement Head 1410000-Sub Head 1410100

The difference of Ksh. 200,762,900.85 was attributed to receipts relating to 06/07 FY but posted to the exchequer records in 2007/08 FY as follows;

Date of receipts	Amount (Ksh.)
30/06/2007	4,628,514.20
30/06/2007	196,134,395
Total	200,762,909.85

63. Rent of Land - Revenue Statement Head 1410000-Sub Head1410401

The variation of Ksh. 118,363,222.40 was as a result to credits paid directly to the Exchequer by the Ministry of Lands.

64. Other Receipts Not Classified Elsewhere- Revenue Statement Head 1450000

The difference of Ksh. 2,502,166,934.85 was attributed to un-captured receipts in the ledger and was prepared to accept as follows:-

	Amount (Ksh.)
Actual receipts as per general ledger	13,904,256,454.75
Add receipts not captured in the ledger	2,052,166,934.25
Amount as per statement	15,956,423,389.00

The 2007/2008 FY was amended and the correct receipt figures reflected.

65. **Repayments from Domestic Lending and On-Lending Revenue Statement Head 4510000**

a) The difference of Ksh. 236,131,179.90 represents receipts received on 30th June 2008 but captured in the Exchequer records in 2008/2009 Financial Year.

b) The receipts of Ksh. 61,740,522.10 variation were captured in the amended 2007/2008 ledger.

66. **Sales of Goods and Service - Revenue Statement head 1420000**

a) The unexplained difference of Ksh. 67,690,060.91 between the statement of actual receipts of Ksh. 1,880,336,872.75 in respect of fees under traffic act and the KRA figure of Ksh. 1,948,026,933.66 were captured in the amended 2007/2008 ledger.

b) The unexplained difference of Ksh. 30,869,263.95 between the statement of actual receipts of Ksh. 1,880,336,872.75 and the figure of Ksh. 1,911,206,136.70 reflected in the Ministry's ledger was also captured in the amended 2007/2008 Ledger.

67. Statement of Development Revenue-Head DR 1

The difference of Ksh. 73,908,047.75 between the statement payments to Exchequer figure of Ksh. 20,003,323,148.00 and Treasury Exchequer records figure of Ksh. 20,077,231,195.75 represents receipts received on 30th June 2008 but captured in the Exchequer records in 2008/2009 Financial Year.

3.4 Evidence of Public Accounts Committee (PAC)

68. Appearing before the Committee on 12th July 2012, the Vice Chairman, Public Accounts Committee (PAC), informed the committee that:-

(i.) The committee had sat down with Treasury and Auditor General and they raised the same issues that members of the joint committee were investigating.

(ii.) The Vice Chairman confirmed that the Auditor General and the Ministry of Finance (Treasury) re-appeared before PAC after having been sent away to go and reconcile and report back PAC which they did and reported back a reconciled audited accounts which was approved by PAC after being satisfied by explanation of both the Auditor-General and Treasury.

(iii.) He clarified that PAC concentrated mostly on expenditure. However, he informed the meeting that the current audit report still has the same persistent audit queries.

3.5 Evidence by Ministry of Finance (Treasury)

69. Appearing before the Committee on 12th July 2012, Ministry of Finance (Treasury) represented by Financial Secretary and his team informed the committee that:-

70. After auditing the Revenue Accounts for the financial year 2007/2008 the Controller & Auditor General certified three accounts as correct while the remaining 13 revenue statements were not certified during the year under review.

71. The accounts that were accepted and certified includes the following

    i) **Revenue Head 1410000-** property income , sub-head 1410200- profits and dividends

    ii) **Revenue Head 1430000-** Fines, Penalties and Forfeitures, Sub-Head 1430100 -Fines, Penalties and Forfeitures and Other charges

    iii) **Revenue Head 1140000-** Taxes on Goods and Services , Sub-Head 1140600- Royalties (including Mining Revenue)

72. The remaining thirteen (13) revenue accounts were qualified by the Auditor General due to the following reasons:-

    i) Timing differences between revenue received by KRA, the revenue holding account at Treasury and the Exchequer account.

    ii) Un-captured receipts and posting errors in the revenue ledger accounts and

    iii) Unavailability of reconciliation statements by the time the audit is being concluded

73. Treasury confirmed that these anomalies were addressed through reconciliations which were later availed to the Auditor-General for audit review and confirmed to be correct. This confirms that revenue statements were not qualified because of pending reconciliations not fraud or loss of money.

74. Treasury confirmed that the amount received into the exchequer account for the financial year 2007/2008 was Ksh. 516, 108, 407, 205.15. This was the revenue position reported to Parliament by the Controller and Auditor General.

75. The Minister for Finance presented to the House Estimates of Revenue for financial year 2009/2010 which incorporated the interim position of actual receipts for 2007/2008, amounting to Ksh. 446,098,740,912.00, compared to the final audited receipts of the Ksh. 516, 108,407,205.15 representing a shortfall of Ksh. 70,009,666,283.15.

76. Treasury regretted that actual receipts as reflected in the printed revenue estimates tabled in parliament in June, 2009 did not capture the final audited revenue position.

77. The following measures have been put in measures to prevent this from happening in the future:-

   i) Treasury, KRA and other receivers of revenue have embarked on the monthly revenue reconciliations aimed at clarifying variations in a timely manner.
   ii) The Auditor General has been enabled to track exchequer inflows and data on a continuous basis, up to and including the final collection date of the year.
   iii) The Ministry through its audit committee/task force closely liaises with the Auditor General to ensure timely provision of required documents data and explanations to avoid audit observations
   iv) The Ministry is computerizing its financial management systems and soon a revenue management module will be developed and integrated

with the re-engineered IFMIS (Integrated Financial Management and Information System).

3.5 Evidence by Kenya Revenue Authority (KRA)

78. Appearing before the Committee on **12th July 2012**, Commissioner- General, Kenya Revenue Authority (KRA) informed the committee that:-

79. **Revenue collected in the 2007/2008 Financial Year**

During the Financial Year 2007/08, Kenya Revenue Authority (KRA) collected a total of Ksh. 433, 920 Million against a target of Ksh. 424,671 Million which represents a performance rate of 102.2%.

80. A summary of total revenue collected during the year under review is as follows:

Revenue Type	Ksh. (Million)
Exchequer	407,819
Agency	26, 101
TOTAL	**433,920**

81. **Collection and accounting for Government Revenue**

Revenue collection is done through the cash office and commercial banks. The revenue collected is accounted on daily basis by verifying bank statements and relevant record collection sheet. A daily revenue report is generated for management decision making.

82. **Modes of Government Revenue Payments**

Revenue collection is made at various paying points using various methods which includes:-

i) **Cheque/cash:** - All payments of amounts less than Ksh. 1 million can be paid using either cash or cheque through KRA cash office or commercial banks. Collections through the cash office are subsequently banked on the following working day at the Central Bank of Kenya.

ii) **Payments made through RTGS:** - All payments can be made through Real Time Gross Settlement System (RTGS). However; it is mandatory for all payments above 1 million to be made via RTGS. Taxpayers are required to initiate RTGS's transactions through their commercial banks to accounts at Central Bank of Kenya and KRA appointed commercial banks for onward transmission to CBK.

iii) **Payments through electronic funds transfer:-** For payments of less than Ksh. 1 million a taxpayer can instruct on transmission of funds from his domicile account to either the Central Bank main collections accounts or to the Commercial Banks accounts in case of online payment.

83. **Banking of Government Revenue**

The entire Kenya Revenue Authority (KRA) revenue department operates separate collection accounts for all the revenue items, being either exchequer or agency taxes. These accounts have been opened both at the Commercial Banks and Central Bank of Kenya (CBK). All collections at the commercial banks are transferred to corresponding tax heads accounts maintained at the Central Bank on the second working day. All collections made at KRA cash offices are either banked directly to central bank or commercial banks where there are no CBK branches for transmission to CBK.

84. Reconciliation of Revenue Accounts

85. Reconciliation of all revenue tax head accounts is done on monthly basis; however there is daily tracking of revenue from commercial bank to Central Bank of Kenya. This is done in three levels

i) **Level 1: Reconciliation of accounts held at Commercial Banks: -** The Reconciliation of the collections made at the commercial banks is done on daily and monthly basis, where payments slips/returns are matched with bank statements. Revenue monitoring is also done daily to ensure the correct amounts are reflected and transferred to the CBK Bank statements are collected on daily basis from the banks. KRA compares collection data from the commercial banks against payments slips and returns. Any variance or omissions discovered are corrected immediately with the respective bank.

ii) **Level 2: Reconciliation of accounts held at Central Bank of Kenya (CBK):-** Reconciliation of collections on various collection accounts at CBK is done on daily and monthly basis. The bank statements are reconciled against the cashbook, systems reports and other documents such as debit/credit slips. Any variances or omission discovered are immediately corrected with the bank. Finally, a bank reconciliation statement is prepared and maintained

iii) **Level 3: Reconciliation of KRA, CBK and Treasury Figures: -** A team comprising of KRA, Treasury and CBK officers meets fortnightly to reconcile all revenue collected and reported to Treasury by KRA against the transfer to the exchequer.

86. However, differences between these three sets of figures are inevitable mainly due to: Timing difference; Adjustments for LATF; Transposition errors ; Miss-posting; Omissions; and under/over casts.

4.0 SYNTHESIS OF SUBMISSIONS BY THE WITNESSES

87. The Committee synthesized the evidence adduced, papers laid, and written submission from various witnesses and made the following findings:-

4.1. Sources of Revenue Collected by Government.

88. The Committee found out from the submissions by the Auditor- General that the government raises domestic revenue from various sources. These revenues are accounted for in the form of sixteen (16) broad revenue statements. The revenue statements are prepared by different receivers of revenues.

89. The following table provides a description of each of the revenue statements and the responsible government agency.

Revenue Head	Description	Responsible Agency
1410000	Property Income	Ministry of Finance & Ministry of Lands
1430100	Fines and Forfeitures	Judiciary
160-210	Forest and Mining	Ministry of Environment
1110000	Taxes on Income , Profits and Capital Gains	Ministry of Finance
1140000	Taxes on Goods and Services	Ministry of Finance
1150000	Taxes on International Trade and Transactions	Ministry of Finance
1160000	Other Taxes Not	Ministry of Finance

	Elsewhere Classified	
1140000	Sub Head 1410100 Loan Interest Receipts	Ministry of Finance
1410000	Sub-Head 1410401-Property Income – Rent of land	Ministry of Finance
1450000	Other Receipts Not Classified Elsewhere	Ministry of Finance
4510000	Repayments from Domestic Lending and On-lending	Ministry of Finance
1420000	Sale of Goods and Services	Ministry of Finance
Head DR 1	Statement of Development Revenue	Ministry of Finance
170-010	Tourism and Wildlife	Office of the President
210-010	Trading Licences	Office of the President
150-360	Lands Revenue	Ministry of Lands

90. Out of the sixteen (16) audited Statements of Revenue for the Year 2007/2008 only three (3) were accepted and certified by the Auditor-General. The remaining thirteen (13) Statements of Revenue were qualified by the Auditor- General.

91. The committee noted that all the ten (10) Statements of Revenue prepared by Ministry of Finance were all not certified by the Auditor-General.

4.2 Proper Keeping of Revenue Accounts

92. The Committee observed that there appear to be lack of proper keeping of revenue accounts as evidenced from submissions from the Auditor- General in the audit report submitted to Parliament, for the Financial Year 2007/08. According to the Auditor General, the revenue statements were qualified due to various reasons. This can be illustrated by the following examples

(i.) The statement on income taxes, profits and capital gains were qualified because of unexplained difference of Ksh. 11.09 Billion between the statements of actual receipts and figures emanating from the Kenya Revenue Authority

(ii.) On taxes on goods and services, there was un-reconciled difference of Ksh. 3.7 Billion between the statement of actual receipts and KRA figures

(iii.) Revenue statement on taxes on international trade and transactions, there was exhibited an un-reconciled difference of Ksh. 887.7 Million between statement of actual receipts and KRA figures;

(iv.) The statement of other taxes not elsewhere classified had an unexplained difference of Ksh. 51 Million between the Ministry of Finance actual receipts and KRA figures;

(v.) The Statement of Revenue loan interest receipts had an unexplained variation of Ksh. 200.8 Million between the statements of revenue payments the Exchequer and the Ministry of Finance Exchequer figures

(vi.) Statement of revenue on property income – rent on had an unexplained difference of Ksh. 118.4 Million between the statement of actual receipts and KRA figures.

(vii.) On the statement on other receipts not classified elsewhere, there was unexplained disparity of Ksh. 2.5 Billion between the statement of actual receipts and the figures reflected in the Ledger at Ministry of Finance ledger.

(viii.) Repayments from domestic lending and on-lending had unexplained differences of Ksh. 236 Million and Ksh. 61 Million between statements of payments to the Exchequer and Exchequer records figures and statement of actual receipts and the Ministry of Finance Ledger figures respectively.

(ix.) Regarding sales of goods and services, there was unexplained discrepancy of Ksh. 67.7 Million between statement actual receipts under Traffic Act and Motor Vehicles Drivers Licenses and KRA figures.

(x.) In addition the statement of development revenue exhibited unexplained variation of Ksh. 73.9 million.

93. The Committee noted that revenue accounts continue to fail audit tests annually. For example, in the FY 2007/08, a total of Ksh. 498.9 was excluded from the audit certification. The following year, FY 2008/09, a total of Ksh. 215.1 billion was qualified and in the FY 2009/10 Ksh. 239.3 billion was also not certified by the Auditor General.

94. The submission by the Ministry of Finance addressed only 18 out of a total of 57 audit queries raised by the Auditor General for the FY 2007/08. This means that even after reconciliation 39 audit queries that were raised by the Auditor- General were not conclusively addressed.

95. The Committee concluded that indeed the revenue accounts are not properly kept. This is supported by presentation of different figures on the same revenue head from different institutions, i.e. Kenya Revenue Authority which is the officially mandated revenue collector, the Central Bank of Kenya where the Exchequer account is maintained and the Ministry of Finance. This may be attributed to lack of keenness and professionalism in dealing with figures or accounts/collections.

4.3 Number of Certified Statements of Revenue in the FY 2007/08

96. The Committee found out that only three (3) revenue statements were certified out of a total of sixteen (16). The statement of revenue accounts that were certified are: property income – profits and dividends; fines, penalties and forfeitures and forests & mining (taxes on goods and services – royalties). This, as per the submissions by the Mars Group Kenya, amount to a paltry Ksh. 3.4 billion out of a total revenue of Ksh. 516 Billion recorded.

97. The Auditor General attributed the qualification of all the thirteen (13) revenue statements to the fact that the revenue statements prepared by the Ministry of Finance were either, showing variations between the Ministry of Finance and Kenya Revenue Authority figures or/and differences between revenue statements and the Ministry of Finance Ledger figures or/and statements of revenue balance at variance with the Exchequer records figures, all these exhibited on the same revenue head.

98. The Ministry of Finance agreed with the fact that all the thirteen revenue statements were qualified and proceeded to point out that the accounts were not accepted by the Auditor General due to one or more of the reasons they listed as being, according to the Ministry of Finance, Timing differences between revenues received KRA, revenue holding account at the Ministry of Finance and the Exchequer Account; un-captured receipts and posting errors in the revenue ledger accounts and unavailability of reconciliation statements by the time the audit was being conducted.

99. The Committee rejected the reasons given by Treasury for qualification of the 13 revenue account statements, given that audit of government book takes at least nine months before final report is submitted to Parliament. All the reasons advanced for qualification should be addressed within this period. However, the committee found that some of the reconciliation issues

remained until late June 2012 when the committee summoned the Treasury and Auditor-General to appear before it.

100. The Committee found out that there seems to be lack of commitment and professionalism on the part of government officers (accountants) concerned with the accounting for revenue as was evidenced by persistent qualification of the statement of revenue by the Auditor General perpetually on the account of un-captured receipts, posting errors and unavailability of reconciliation statements during the audit period

101. The Committee found out that the reasons given for the qualification of Statement of Revenue accounts for the financial year 2007/08 are still the same and has persisted in subsequent years as pointed out by the Mars Group Kenya during the submissions

4.4 Reporting on actual receipts of revenue in the Exchequer account for the Financial Year 2007/08 and Declaration to Parliament.

102. The Ministry of Finance in its submission acknowledged that indeed the Minister, while presenting the FY 2008/09 budget estimates, submitted to Parliament unaudited revenue figures of Ksh. 446 Billion as total actual revenue collected in the Country as opposed to audited revenue figures of Ksh. 516 Billion. This was an under-declaration to Parliament of Ksh. 70 Billion. This was reflected in the following difference noted in various statements of revenue

(i.) The FY 2007/08 the Ministry of Finance reported to Parliament that Ordinary Revenue was Ksh. 397.6 billion while the Exchequer account records accessed by the Auditor General exhibited a figure of Ksh. 496 Billion which is an under-declaration of about Ksh. 98.5 billion;

(ii.) Total loans were Ksh. 26.7 billion but the Exchequer records had Ksh. 20.1 billion a discrepancy of Ksh. 6.6 billion an overstatement to Parliament.

(iii.) Under miscellaneous revenue, Parliament was informed that only Ksh. 7.6 billion was realized but the Exchequer records were showing Ksh. 16 billion, again an understatement of Ksh. 8.6 billion. R

(iv.) The tax from corporations, Ksh. 79.1 billion was reported to Parliament but the Exchequer records had 86.6 billion an understatement of 7.5 billion.

(v.) The Minister for Finance submitted to Parliament the net domestic borrowing by the Central Bank as Ksh. -13.9 billion but the Exchequer records was showing Ksh. 0.00, perhaps a net domestic borrowing that does not exist.

5.0 RECOMMENDATIONS

92. The Committee recommends:-

Actual Revenue Collected in the Year 2007/2008

(i.) THAT, an independent forensic audit into the revenue accounts of the Government of Kenya be conducted for the financial year 2007/2008 be commissioned and conducted to determine the true revenue position of the Government. This audit should identify the loopholes and weaknesses in the government revenue collection and accounting systems and provide recommendations on most effective and efficient revenue accounting systems to seal the loopholes if any.

(ii.) THAT, the actual revenue data to be published in the Estimates of Revenue presented to Parliament should be based on audited final revenue position to ensure consistency of data being availed to both Parliament and the Public.

Government Accounting Systems

(iii.) THAT, the government should review its revenue accounting systems to make it more efficient. The development of revenue management module should be fast-tracked to avoid inconsistencies and inaccuracies in revenue data and reports.

(iv.) THAT, government accountants should be fully qualified as per the definition of Accountants contained in Accountants Act, 2008 and that they should be registered as members of Institute of Certified Public Accountants of Kenya (ICPAK) or any other recognized professional accounting body for professional accountability.

(v.) THAT, to attract and retain professional accountants in the public service, government should review the current entry level of accountants to Job Group "L" and introduce with immediate effect a competitive non-practising allowance to government accountants as it is the practise with other professionals such as lawyers and doctors working with the government.

(vi.) THAT, the government should fast-track the adoption of International Public Sector Accounting Standards (IPSAS) as basis for preparation of annually audited financial statements. This will provide for alignment of government accounting with the best accounting practices through application of credible, independent accounting standards and improve internal control and transparency.

Audit Committee/ Task Force and Audit Report

(vii.) THAT, the Audit Committee/ Task Force should work closely with the Auditor-General, Kenya Revenue Authority and Controller of Budget to ensure timely provision of required documents, data and explanations to avoid audit queries escalating into major issues.

(viii.) THAT, Audit committee should ensure that all accounting books are presented to the Auditor- General for audit within the legally stipulated time and that all audit queries are satisfactorily answered before the final audit report is submitted to Parliament.

(ix.) THAT, the Auditor- General should in his report identify individual culpable officers for any audit query that relates to mismanagement/ embezzlement of public funds and that a special division of the Courts should be created by the Judiciary in liaison with the Auditor- General to fast track all cases that touches on embezzlement of public funds by public officials.

6.0 DISSENTING VIEW

7.0 APPENDIX

MINUTES OF THE 1ST SITTING OF THE JOINT COMMITTEE OF, BUDGET, PUBLIC ACCOUNTS & FINANCE, PLANNING AND TRADE ON THE *"INACCURACIES/INCONSISTENCIES IN TREASURY TAX/REVENUE ACCOUNTS"* HELD ON TUESDAY 23RD MAY, 2012 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL BUILDING AT 11.00AM

PRESENT

1. Hon. Chrysanthus Okemo, EGH, M.P. (Co-Chairman)
2. Hon. Elias Mbau, M.P. (Co-Chairman)
3. Hon. Alfred Sambu, M.P.
4. Hon. Njoroge Baiya, M.P.
5. Hon. Ekwee Ethuro, M.P.
6. Hon. John Mbadi, M.P.
7. Hon. Danson Mungatana, M.P.
8. Hon. Dr. Robert Monda, M.P.
9. Hon. Lucas Chepkitony, M.P.
10. Hon. Jackson Kiptanui, M.P.
11. Hon. Mosses Lessonet, M.P.
12. Hon. Dr. Julius Kones, M.P.
13. Hon. Luka Kigen, M.P.
14. Hon. Martin Ogindo, M.P.
15. Hon. Abdikadir Mohamed, M.P.
16. Hon. Dr. Abdi Nuh, M.P.

KENYA NATIONAL ASSEMBLY

1. Mr. Nicodemus Odongo - Fiscal Analyst
2. Mr. Fredrick Muthengi - Fiscal Analyst
3. Mr. Evans Oanda - Third Clerk assistant
4. Mr. Josephat Motonu - Fiscal Analyst
5. Mr. Joash Kosiba - Fiscal Analyst

Agenda

1. Preliminaries/ Confirmation of Agenda
2. Work Planning Session
3. Any Other Business

MIN.NO.1/2012 PRELIMINARY

The meeting commenced with a word of prayer at 11:20 am. The co- Chair, the Chair, Budget Committee invited the all Members present to the meeting. He reminded the members that the joint meeting was as a result of unsatisfactory ministerial Statement Issued by the Minister for Finance with regard to *Inaccuracies/Inconsistencies in Treasury Tax/Revenue Accounts for the Financial Years 2007/08 and 2008/09*

This matter arose from the Ministerial Statement sought by the Hon. John Mbadi, M.P. to the Minister for Finance on 15th May 2012 after the Minister could not satisfactorily address the matter. The Deputy Speaker, therefore directed that the joint Committees on the Budget; Finance, Planning & Trade and Public Accounts Committee to prosecute and investigate the matter and report within a month.

MIN.NO.2/2012 WORK PLANNING SESSION

Given that the joint Committee had a tight schedule and time line within which to table its report on the Inaccuracies/*Inconsistencies in Treasury Tax/Revenue Accounts for the Financial Years 2007/08* in time Members agreed that in order to comply there was essence to work simultaneously alongside other parliamentary duties of Committees. This would imply that in beside current engagement in the Budget Report writing the Committee had to work extra hours and Members unanimously resolved to work with speed to execute the matter.

a) Identification of Tasks Required

After wide deliberations and consultations on the matter, the Committee resolved that the joint Committee's investigation will work towards achieving the following objectives;

i. Understanding exactly what revenue accounts are;
ii. How all forms of revenue is collected by the government;
iii. Whether proper books of accounts were/are kept and reconciled regarding the revenues collected within the period in question (2007/2008);
iv. Whether the taxpayers money was lost in the period in question (2007/2008); and
v. How the revenue accounts are audited.

There was suggestion that the Joint Committee should seize the opportunity to look at other revenue accounts and if possible look at three Fiscal Years trend of 2006/07, 2007/08 and 2008/09. This will give the Committee a better picture in order to prosecute the matter conclusively.

b) **Identification Of Stakeholders**

As a result the Committee identified the following stakeholders to be invited to shed more light on the matter in this order;

i. **Hon. John Mbadi, M.P.** will appear before the Joint Committee on 31st May, 2012. Being the questioner, he will be required to update the Committee on the background information that made him ask the question in the House besides tabling the requisite documents which will assist the Committee to interrogate and prosecute the matter.

ii. **The Public Accounts Committee** will appear before the Committee on 31st May, 2012. Since the Public Accounts Committee dealt with the audited accounts of the financial year 2007/2008, it will be required to update the joint Committee on how they went about the matter and its conclusions.

  Note: the Committee agreed that after getting information from hon. J. Mbadi and the PAC, they shall decide on whether to invite Mars Group to shed more light on the subject matter. The Mars Group being whistle blower organization may be required to update the Committee on the background information of the matter and the material differences that exist between the audited accounts and the revenue accounts.

iii. **Auditor General**: To explain the joint Committee on the reason(s) as to why he quarried eleven out of fourteen accounts under question for the 2007/2008 financial year.

iv. **Kenya Revenue Authority (KRA).** To inform the Committee on the processes of collecting, banking and reconciliation o the revenues they collect and to give the exact amount of revenue collected in the 2007/2008 financial year.

v. **Central Bank of Kenya**: To confirm to the joint Committee whether all the revenue collected by the KRA in the 2007/2008 financial year was indeed credited to the exchequer account.

vi. Minister for Finance: To explain to the joint Committee the cause(s) of any material difference that might have been queried by the Controller and Auditor General in the 2007/2008 financial year.

c) Other Activities
   a. Report Writing
   b. Adoption of the Report
   c. Tabling of the Report

<u>MIN. NO. 3/2012: ANY OTHER BUSINESS</u>

In the meantime, the Budget Office was requested to furnish Members with the following documents for information before the next meeting:

i. The Public Accounts Report for the audited accounts of 2007/2008

ii. The Mars Group Report regarding Revenue Accounts inconsistencies for the year 2007/2008

iii. The Controller and Auditor General report for the financial years 2007/2008

There being no other business for the day, the Co-Chairmen adjourned the meeting at 12.34 pm. till 31st May, 2012.

Signed..

(Hon. Elias Mbau, M.P)

Date: 13/09/2012

Signed..

(Hon. Chrysanthus Okemo, M.P)

Date.. 13/9/2012

MINUTES OF THE 2ND SITTING OF THE JOINT COMMITTEE OF BUDGET; PUBLIC ACCOUNTS AND FINANCE,PLANNING AND TRADE ON THE *"INACCURACIES/INCONSISTENCIES IN TREASURY REVENUE ACCOUNTS"* HELD ON THURSDAY 7TH JUNE 2012 IN THE COMMITTEE ROOM 4TH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.30 AM

MEMBERS PRESENT

1. Hon. Elias P Mbau, M.P - Co-Chairman
2. Hon. Alfred Sambu, M.P
3. Hon. Jackson Kiptanui, M.P
4. Hon. Nelson Gaichuhie, M.P
5. Hon. Omar Zonga, M.P
6. Hon. Emilio Kathuri, M.P
7. Hon. Mosses Lessonet, M.P
8. Hon. Martin Ogindo, M.P
9. Hon. Abdikadir Mohamed, M.P
10. Hon. Prof. Philip Kaloki, M.P
11. Hon. John Mututho, M.P
12. Hon. Njoroge Baiya, M.P
13. Hon. David Koech, M.P.
14. Hon. Danson Mungatana, M.P

IN ATTENDANCE

1. Hon. John Mbadi – A friend of the Committee

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Fredrick Muthengi - Fiscal Analyst, PBO
2. Mr. Martin Masinde - Fiscal Analyst, PBO
3. Mr. Joash Kosiba - Fiscal Analyst, PBO
4. Mr. Josephat Motonu - Fiscal Analyst, PBO
5. Mr. Eric Kanyi - Junior Legislative Fellow, PBO

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising

4. The Processing of the Matter to the Joint Committees on Investigation into the Tax Revenue Accounts Inconsistencies
    a) Friend of the Committee; Hon John Mbadi, M.P
    b) The Public Accounts Committee
5. Any other Business

MIN. NO. 4/2012: PRELIMINARIES

The meeting started with a word of prayer at 12.45 pm. The co-chairman of the joint Committee, Hon. Elias Mbau, invited all the members present to the meeting and thanked them for finding time to attend. Introductions were done thereafter.

Members were informed that the joint sitting between the three Committees was a result of a Ministerial Statement sought by the Hon John Mbadi, M.P to the Minister of Finance on 15th May 2012 after the Minister failed to satisfactorily address the discrepancies between revenue figures presented to Parliament by the Minister for Finance and those contained in the Controller and Auditor General's report in 2007/08 and 2008/09 Financial Year.

The co-chairman reiterated that key stakeholders will be invited amongst them KRA, PAC, the Auditor General, Treasury and any other who would be having crucial information that can be of help to the Committee in unearth the truth as regard the matter at hand. Members were also reminded of the one month timeline as the Speaker directed.

MIN.NO.5/2012: SUBMISSION BY THE HON.JOHN MBADI, M.P

The Hon John Mbadi, M.P, thanked the co-chairman for ensuring the Joint Committee meeting materializes and thanked the Committee for giving him an opportunity to make his submission to the Committee.

Members were first taken through the background of the matter by Hon. Mbadi, where he recapped to Members that on 11th May 2011 he sought a Ministerial Statement from the Minister for Finance with regard to differences in revenues figures as presented to Parliament by the Minister for Finance as well as those presented in the Auditor General's report on revenue accounts in Financial Years 2007/08 and 2008/09

Members were also informed that since the 2008/09 revenue accounts were still under the scrutiny of PAC, the Speaker ruled that the Joint Committee can only look at the 2007/08 revenue accounts. Members were therefore informed that his submission will only look at the 2007/08 revenue accounts in line with the Speaker ruling.

The Hon John Mbadi, M.P acknowledged that the Mars Group Kenya, a Civil Society Organization did a detailed analysis of the 2007/08 and 2008/09 revenues accounts. He requested the Chairman to invite them to appear before the Joint Committee to shade more light on this discrepancies since they are believed to have analyzed the said revenue and therefore may have valuable information.

Further, Hon. John Mbadi cited article 206 of the Constitution which requires that all revenues collected by the Government are banked in a Consolidated Fund in the Exchequer Account.

He informed Members that the official receiver of the revenue collected is the Finance Secretary at Treasury who delegates that responsibility to Kenya Revenue Authority (KRA). Thus, all revenues are collected by KRA, banked in the Exchequer Account at the Central Bank of Kenya (CBK) and records of the banking are kept by CBK and Finance Secretary at Treasury. Afterwards, the Finance Secretary prepares a statement and then Auditor General in turns audits all the accounts and submits a report to Parliament. In this regard therefore, Parliament has the responsibility to oversee the use of revenue collected. Ordinarily the amounts of revenue received and reported to parliament by the Minister should tally with what is captured in the report of the Controller and Auditor General.

It was brought to the attention of Members that in 2007/08 Financial Year, the Controller and Auditor General reported to Parliament that about Ksh. 496 billion of ordinary revenue was collected but the Minister indicated to Parliament that only about Ksh. 397 billion was collected, giving a variance of about Kshs. 98 billion. This therefore raises the questions whether the Government operates two sets of accounts and what is the exact figure of revenue collected in FY 2007/08. In addition, Members were also informed that with regard to grants and loans, the exchequer account shows that about Ksh. 26.7 billion was received whereas the report by the Controller and Auditor general to parliament indicates that only about Ksh. 20 billion was received hence an under reporting to Parliament of about Kshs. 6.7 billion.

Hon. Mbadi alluded to the fact it is imperative that the figures of revenue collected ought to be the same in KRA records, Exchequer Account records, the Ledger Accounts records held at the Treasury, Revenue Statement given to controller and Auditor General and the report submitted to Parliament. All these records as presented by the Finance Minister vary for the FY 2007/08.

An example was cited of the Gross Income Tax where KRA gave a figure of Kshs. 166 billion, the Exchequer Account showed Kshs. 168 billion according to the Report of the Controller And Auditor General, whereas the figure in the original estimates was Kshs. 161 billion and what was declared to Parliament by the Minister as having been received was Kshs. 165 billion.

Again, Members were informed that out of the 14 Revenue Accounts only two were Certified and eleven qualified, meaning the Controller and Auditor General found them inaccurate. There is also a concern whether the balance brought forward is indeed transferred to the Exchequer Account or what exactly happens to it!

However, Members wanted to know whether the discrepancies could be due to timing difference and unaudited accounts as stated by the Minister of Finance. But then, they were informed that the matter of timing do not arise since Government accounting system is a cash basis meaning that what is received is what is reported.

Also, **Members raised the issue of the right procedure to be followed when revenue estimates are revised by KRA** and were informed that it is only Parliament which can approve such revisions since the Integrated Finance Management Information System (IFMIS) operate on the principle of Parliamentary approval. In addition, it is highly possible that the Treasury and KRA revise down the revenue targets once they realize that it may not be achieved, supposedly for KRA to access apparent bonus that may be associated with meeting the revenue target!

Further, **Members wanted to know whether the matter in question is a rare or a recurrent phenomenon.** It was noted that even though there has been repeated recurrence of the issues under consideration, the year in question, the FY 2007/08 was extraordinary and fundamentally different.

Additionally, some Members also wanted to know if there could be money lost in such discrepancies and were informed that chances are that there is room for vulnerability if the figures differ.

Finally, the co-chairman thanked Hon. John Mbadi, for finding time to come and brief the Committee on such an important matter of national importance. The Chair added that the issues he raised concerning the discrepancies will be taken as allegations and that more parties with crucial and relevant information would be invited to shed more light on the matter under the committee's investigation. The co-chairman also informed members that in the past, Parliament may have only concentrated so much on expenditure side of accounts hence leaving room for possible malpractices in the revenue side of the accounts.

MIN.6/2012: Any Other Business

The Chairman thanked members for finding time to attend the committee sitting. He also thanked the media and the secretariat staff who facilitated the meeting.

MIN. 7/2012: ADJOURNMENT

There being no other business to be transacted the meeting was adjourned at 1.30 pm.

Signed..

(Hon. Elias Mbau, M.P)

Date.......13/09/2012.......

Signed..

(Hon. Chrysanthus Okemo, M.P)

Date.......13/9/2012.......

MINUTES OF THE 3RD SITTING OF THE JOINT COMMITTEE OF BUDGET, PUBLIC ACCOUNTS AND FINANCE, PLANNING AND TRADE ON THE *"INACCURACIES/INCONSISTENCIES IN TREASURY TAX/REVENUE ACCOUNTS"* HELD ON WEDNESDAY 19th JUNE 2012 IN THE COMMITTEE ROOM 5TH FLOOR CONTINENTAL BUILDING AT 11.00 AM

PRESENT

1. Hon. Danson Mungatana, M.P (Acting Chairperson)
2. Hon. Jackson Kiptanui,M.P
3. Hon. Nelson Gaichuhie, M.P
4. Hon. Mithika Linturi, M.P
5. Hon. Omari Zonga,M.P
6. Hon. John Mbadi,M.P
7. Hon. Emilio Kathuri,M.P
8. Hon. Njoroge Baiya,M.P
9. Hon. Shakeel Shabbir, M.P
10. Hon. Sammy Maita, M.P
11. Hon. Jakoyo Midiwo, M.P.
12. Hon. Musikari Kombo, M.P
13. Hon. Dr. Nuh Nassir, M.P.
14. Hon. Sophia Noor, M.P

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Fredrick Muthengi-Fiscal Analyst
2. Ms. Florence Abomyo, Clerk Assistant
3. Mr. Joash Kosiba-Fiscal Analyst
4. Mr. Lewis Mungai -Junior Fellow

IN-ATTENDANCE

KENYA NATIONAL AUDIT OFFICE

1. Mr. Shem Mangure
2. Mr. Daniel Ndungu
3. Mr. Anthony Waiganjo.

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising

4. The Processing of the Matter to the Joint Committees on Investigation into the Tax Revenue Accounts Inconsistencies
   a) Friend of the Committee; The Public Accounts Committee
   b) The Auditor General
5. Any other Business

MIN.NO. 8/2012: PRELIMINARIES

The meeting started with a word of prayer at 11.26am. Given that the substantive Chairs were away on Parliamentary duties and the Committee designated the Hon. Danson Mugatana, to Chair the meeting. The Acting Chairman invited all the members present to the meeting and thanked them for finding time to attend the meeting. The Acting Chairman gave apologies for absence of the Joint co-chairs. He informed the members that the Public Accounts Committee Vice Chairman the Hon. Dr. Julius Kones was expected to appear and brief the Joint Committee since PAC had already dealt with the audited accounts of the financial year 2007/2008, thus the PAC is required to update the joint Committee on how they went about the matter and its conclusions. Also expected during the meeting was the Auditor General. The Auditor General's Office was expected to make a presentation on the matter before the Joint Committee to explain the reason(s) as to why the Auditor General quarried eleven out of fourteen accounts under question for the 2007/2008 financial year.

MIN.NO.9/2012: CONFIRMATION OF MINUTES

Members of the committee confirmed the minutes of the previous meetings as a true reflection of the committee deliberations. Members present Confirmed two set of previous minutes.

i.) Minutes of the 1st sitting of the Joint Committee held on 23rd May 2012 were proposed by Hon. Nelson Gaichuhie and Seconded by Hon. Jackson Kiptanui.

ii.) The second set of Minutes of the 2nd sitting held on 7th June 2012 of the committee were proposed by Hon. Dr. Nuh and seconded by Hon. Jackson Kiptanui.

MIN.NO.10/2012: MATTERS ARISING

Given that the Committee was already behind schedule (Honorable Members were very busy with Budget Process and the PAC was also engaged in the report writing on a matter they were pursuing - the Del Rue Report) there was need to seek extension from the Speaker so that the Committee could tackle the matter exhaustively and table its Report. From the programme approved by the Committee it was agreed that it would be necessary to line up all the identified stakeholders and call them in sequence so that the Committee will be in position to interrogate the matter to the full. The identified activities were as follows;

Activity	Remark / Status
a) Hon. John Mbadi, M.P. to appear before the Joint Committee, being the questioner, and required to; i.) Update the Committee on the background information that made him seek ministerial Statement ii.) Table requisite documents which will assist the Committee to interrogate and prosecute the matter.	Has already appeared and briefed the Committee accordingly.
b) The Public Accounts Committee to l appear before the Joint Committee to render an account of how it dealt with the audited accounts of the financial year 2007/2008, and update the joint Committee on how they went about the matter and its conclusions.	Are yet to make a presentation as *"Friends of The Committee"*. The Vice Chairperson was scheduled to join the meeting and give their verdict of the Audited Revenue Accounts for FY 2007/08.
Note: the Committee resolved that after getting submission from hon. J. Mbadi and the PAC, they shall make a decision on whether to invite Mars Group to shed more light on the subject matter. The Mars Group may be required to update the Committee on the background information of the matter and the material differences that exist between the audited accounts and the revenue accounts.	Not yet
c) Auditor General: To explain the joint Committee on the reason(s) as to why he quarried eleven out of fourteen accounts under question for the	The Auditor general Office expected to make their presentation that morning

2007/2008 financial year.	
d) Kenya Revenue Authority (KRA). To inform the Committee on the processes of collecting, banking and reconciliation o the revenues they collect and to give the exact amount of revenue collected in the 2007/2008 financial year.	Yet to appear
e) Central Bank of Kenya: To confirm to the joint Committee whether all the revenue collected by the KRA in the 2007/2008 financial year was indeed credited to the exchequer account.	Not yet
f) Minister for Finance: To explain to the joint Committee the cause(s) of any material difference that might have been queried by the Controller and Auditor General in the 2007/2008 financial year.	Not yet

g) Other Activities
   - i.) Report Writing
   - ii.) Adoption of the Report
   - iii.) Tabling of the Report

MIN.NO.11/2012: SUBMISSION BY THE AUDITOR GENERAL

The team from the Auditor General Office made a Submission to the Committee. In their presentation, they highlighted some of the causes of inconsistencies/ inaccuracies in the 2007/2008 Fiscal Year Revenues Accounts. The reasons advanced for the inconsistencies included; timing differences, posting errors, un-reconciled ledgers, and un-captured receipts. The Auditor-General team in their conclusion reported that most of revenue statements prepared by the Ministry of Finance were not accepted due to one or more of the following anomalies:-

- i.) Variation between the Ministry of Finance and KRA revenue figures.
- ii.) Variation between the revenue statements and Ministry's ledgers figures.
- iii.) Statement of revenue balance not in agreement with exchequer record figures.

After further interrogation by the Committee, the Auditor General's Office failed to satisfactorily answer the supplementary inquiry raised by members with regard to inconsistencies. The Auditor general's Office requested for additional time to probe the matter to greater details and furnish the Committee in two week's time. The Committee however, noted that the Auditor General Team was not adequately prepared since their presentation did not meet their expectations. The committee therefore after consultation with the team from Auditor- General's office unanimously granted the Auditor General's two weeks to adequately prepare and make a better presentation to the committee. The committee further advised the Auditor General team to prepare briefs to the committee in a manner that can be easily understood by members who don't have a background in accounting.

I. **MIN.12 /2012: Any Other Business (A.O.B)**

The Acting Chairman thanked members for finding time to attend the committee sitting.

MIN. 13/2012: ADJOURNMENT

There being no other business to be transacted, the meeting was adjourned at 12.30 pm. In the meantime, the secretariat will get in touch with the the Auditor general and inform them the next meeting and also invite other identified stakeholders.

Signed...

(Hon. Elias Mbau, M.P)

Date.............13/09/2012.............................

Signed...

(Hon. Chrysanthus Okemo, M.P)

Date.....................13/9/2012.....................

MINUTES OF THE 4th SITTING OF THE JOINT COMMITTEE OF BUDGET; PUBLIC ACCOUNTS AND FINANCE,PLANNING AND TRADE ON THE *"INACCURACIES/INCONSISTENCIES IN TREASURY REVENUE ACCOUNTS"* HELD ON WEDNESDAY 11TH JULY 2012 IN THE COMMITTEE ROOM 5TH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

MEMBERS PRESENT

1. Hon. Elias P Mbau, M.P - Co-Chairman
2. Hon. Alfred Sambu, M.P
3. Hon. John Mbadi, MP
4. Hon. Nelson Gaichuhie, M.P
5. Hon. Omar Zonga, M.P
6. Hon. Emilio Kathuri, M.P
7. Hon. Mosses Lessonet, M.P
8. Hon. Martin Ogindo, M.P
9. Hon Danson Mungatana, M.P
10. Hon. Sophia Noor, M.P
11. Hon. David Ngugi, M.P
12. Hon. Thomas Mwadeghu, M.P
13. Hon. Ekwe Ethuro, M.P
14. Hon. Njoroge Baiya, M.P
15. Hon. Lucas Chepkitony, M.P

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Fredrick Muthengi - Fiscal Analyst, PBO
2. Mr. Joash Kosiba - Fiscal Analyst, PBO
3. Mr. Josephat Motonu - Fiscal Analyst, PBO
4. Mr. Evans Oanda- Clerk Assistant
5. Mr. Eric Kanyi - Junior Legislative Fellow, PBO

IN ATTENDANCE

1. Mr. Edward Ouko - Auditor General
2. Mr. Rogera Alex – Deputy Auditor General

3. Mr. Daniel Ndung'u- Assistant Director of Audit

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising
4. The Processing of the Matter to the Joint Committees on Investigation into the Tax Revenue Accounts Inconsistencies
   a) Friend of the Committee- The Public Accounts Committee
   b) The Auditor General
5. Any other Business

MIN.NO. 14/2012: PRELIMINARIES

The meeting started with a word of prayer at 11.05 am. The co-chairman of the Joint Committee, Hon. Elias Mbau, invited all the members present to the meeting and thanked them for finding time to attend.

MIN.NO.15/2012: CONFIRMATION OF THE PREVIOUS MEETING MINUTES

The minutes of the previous meeting were confirmed as a true record of the Committee's deliberations. The minutes of the 3rd sitting of the Joint Committee held on 19th June 2012 were proposed by Hon. Sophia Noor and seconded by Hon. John Mbadi.

MIN.16/2012: MATTERS ARISING

Members were of the opinion that Mars group, a Civil Society Organization and Central Bank of Kenya need to be invited to appear before the Joint Committee to shade more light on the issue under the Joint Committee's investigation.

The Chairman informed Members that the Committee is at liberty to invite any person(s) and institution(s). It was then agreed that the Central Bank of Kenya and Mars Group be invited on the same day after Treasury and Kenya Revenue Authority have made their submissions and on the same note, Members resolved that any person(s) or institution(s) may be called to re-appear before the Committee again if need arises.

Further, Members were of the opinion that if the person(s) and institution(s) invited have to submit a document it ought to be done well in advance to give members ample time to go through it for better acquaintance.

Finally, it was noted that Public Accounts Committee Members have not been keen on their participation in the Joint Committee sittings and a concern rose that perhaps they may absent themselves and come at a later stage to disagree with the ultimate Committee findings.

MIN. 17/2012: SUBMISSION FROM THE AUDITOR GENERAL OFFICE

It began with a round of introductions after which, the co-chairman recapped that the Joint Committees sittings were as a result of a Ministerial Statement sought by the Hon. John Mbadi, M.P to the Minister of Finance on 15th May 2012. After the Minister failed, in his ministerial statement to the House, to satisfactorily address the discrepancies between revenue figures presented to Parliament from Treasury and those contained in the Controller and Auditor General's report in 2007/08 and 2008/09 Financial Year, the Speaker directed the matter to be investigated thoroughly and be reported back to the House.

The Chair reminded the Auditor General that his officers had previously appeared before the Committee but were unable to answer the Committee satisfactorily since they did not have sufficient information due to what appeared to be lack of adequate preparation.

The co-chairman reiterated that the Committee is doing its work in a sequential manner and that key stakeholders will be invited amongst them Kenya Revenue Authority, Public Accounts Committee, Treasury and any other group(s) who would be having crucial information that can be of help to the Committee in unearthing the truth regarding the matter under consideration.

In his opening remarks, the Auditor General acknowledged the importance of the matter being investigated since it touches on revenue realized through taxation of the Kenyan people and he emphasized that as much as the revenue is being handled and monitored by different Government institutions, there need not to be different set of figures on the same from these institutions.

Members were informed that the Auditor General audited a total of 16 accounts. Out of these, a staggering 13 of them were qualified meaning this accounts had audit queries due to lack of adequate information. Members were informed that Treasury later on came up with more information that was not presented at the onset in a detailed statement and reconciliation done. It was noted that this perhaps showed lack of seriousness in the manner in which Treasury handles critical matters of public finance.

The Audit office circulated a document to members present showing how the queried accounts were reconciled and the Auditor General informed members that nothing was amiss with regards to revenue collected in the 2007/08 Financial Year.

Members wanted to know where the figures to reconcile the accounts came from since the revenue statement is produced from the ledger after the receipts are captured. Members were worried that there could be a possibility that somebody in Treasury did not get the figures presented to the Auditor General from the general ledger book hence presenting strange figures. However, the Auditor Gener informed members that in the course of their work they don't only rely on the fig in the ledger book but also cross-check with the actual receipts.

Members wondered why it took so long for the reconciliations to be done until matter came to the attention of Parliament and members were informed that it is t Government departments tendency to do things last minute coupled by dealing with incomplete records. The Auditor General informed members that there are still some Governments accounts records being done manually and he hopes that with the Integrated Financial Management and Information System (IFMIS) such incomplete records will be eliminated.

Members challenged the Auditor General to name those Government departments and Ministries that have not adopted the IFMIS approach and those that delay or relay incomplete information. It was then pointed out that beginning with the FY 2011/12 his Office has named such Departments and Ministries and that will be the trend henceforth.

There was a concern that that the Auditor General had submitted an unsigned document and was quipped that the Auditor own up the document by appending his signature. However, Members were informed that the document submitted was meant to guide the discussions and that a comprehensive fully signed report will be submitted later.

Members also wanted to know how the Audit office discipline offending Ministries and Government departments who seem bent on engaging in a probable malpractice regarding matters of public finance and the Auditor General pointed out that the proposed Public Audit Act (a draft is at an advanced stage) intends to sufficiently deal with such cases.

In his concluding remarks the Auditor General undertook to furnish to the Committee a report showing among other things, the actual revenue collected in FY 2007/08, by Wednesday 18th July 2012.

MIN 18/2012: ANY OTHER BUSINESS

The Chair thanked the Auditor General and his office for finding time to make their submission to the Committee and asked him to be standby incase he is needed to appear before the Committee once again.

MIN 19/2012: ADJOURNMENT

There being no other business to be transacted, the meeting was adjourned at 2.00 pm.

Signed..

(Hon. Elias Mbau, M.P)

Date............13/09/2012............

Signed..

(Hon. Chrysanthus Okemo, M.P)

Date............13/9/2012............

MINUTES OF THE 5th SITTING OF THE JOINT COMMITTEE OF BUDGET; PUBLIC ACCOUNTS AND FINANCE, PLANNING AND TRADE ON THE "*INACCURACIES/INCONSISTENCIES IN TREASURY REVENUE ACCOUNTS* HELD ON THURSDAY 12TH JULY 2012 IN THE COMMITTEE ROOM 5TH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30 AM.

MEMBERS PRESENT

1. Hon. Elias P Mbau, M.P - Co-Chairman
2. Hon. Alfred Sambu, M.P
3. Hon. John Mbadi, MP
4. Hon. Omar Zonga, M.P
5. Hon. Emilio Kathuri, M.P
6. Hon. Mosses Lessonet, M.P
7. Hon. Nelson Gaichuhie, M.P
8. Hon. John Mututho, M.P
9. Hon. Danson Mungatana, M.P
10. Hon. Sophia Noor, M.P
11. Hon. Ekwe Ethuro, M.P
12. Hon. (Dr) Julius Kones, M.P
13. Hon. Lucas Chepkitony, M.P

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Fredrick Muthengi - Fiscal Analyst, PBO
2. Mr. Joash Kosiba - Fiscal Analyst, PBO
3. Mr. Josephat Motonu - Fiscal Analyst, PBO
4. Ms. Florence Abonyo - Clerk Assistant
5. Mr. Evans Oanda - Clerk Assistant
6. Ms. Emma Okok - Intern, Legal Department
7. Mr. Eric Kanyi - Junior Legislative Fellow, PBO

IN ATTENDANCE

KENYA REVENUE AUTHORITY

1. Mr. J.K Njiraini - Commissioner General, Kenya Revenue Authority
2. Ms. Alice Owuor - Kenya Revenue Authority
3. Ms. Beatrice Memo - Kenya Revenue Authority
4. Ms. E.N King'ori - Kenya Revenue Authority
5. Ms. Margaret Ogega - Kenya Revenue Authority

MINISTRY OF FINANCE

6. Mr. Mutua Kilaka - Finance Secretary, Ministry of Finance
7. Mr. Naboth Otao - Ministry of Finance
8. Mr. F. Mithamo - Ministry of Finance
9. Mr. John Njera - Ministry of Finance
10. Mr. James Aloyo - Ministry of Finance
11. Mr. Alfred Khaoya - Ministry of Finance
12. Mr. Michael Gatimu - Ministry of Finance

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising
4. The Processing of the Matter to the Joint Committees on Investigation into the Tax Revenue Accounts Inconsistencies
    a) **Kenya Revenue Authority**
    b) **Ministry of Finance**
5. Any other Business

MIN.NO. 20/2012: PRELIMINARIES

The meeting started with a word of prayer at 10.53 am. The co-chairman of the Joint Committee welcomed all present to the meeting and thanked them for finding time to attend. Thereafter, introductions were done. The co-chairman gave the background information on the matter under the committee's investigation and invited the Commissioner General, Kenya Revenue Authority, to go ahead and give his brief as stipulated in the invitation letter.

MIN.NO.21/2012: SUBMISSION FROM THE KENYA REVENUE AUTHORITY

The Commissioner General commenced his presentation by informing the Joint Committee that during the Fiscal Year **2007/08**, Kenya Revenue Authority collected a total of **Ksh. 433.92 billion** which comprised of Exchequer of Ksh. 407.82 billion and Agency Fees of Ksh. 26.10 billion.

On the **revenue collection and accounting**, the Commissioner General told the Committee that about 90% of revenue is collected through commercial banks and the rest like revenue from licenses and others, collected through KRA cash office. He proceeded to state that all KRA revenue departments do operate separate Collection Accounts, opened at both the commercial banks and the Central Bank of Kenya, for all the revenue items being either Exchequer or Agency fees/taxes and that KRA has made arrangements such that all collections at the commercial banks are transferred/swept to corresponding tax heads accounts which are maintained At the Central Bank of Kenya (CBK), by the second working day. In addition, all revenue collections done at KRA cash offices are either banked directly to Central Bank or commercial banks for onward transmission to CBK in places where there are no CBK branches. The Commissioner General further explained to the Committee that revenue collection at various paying points is done by any of the three methods:

- Cash or Cheque which is for all amounts below Ksh. 1 million and can be paid through KRA cash office or commercial banks.

- Real Time Gross Settlement System (RTGS) and this is mandatory for all payments above Ksh. 1 million. Here, taxpayers are required to initiate the RTGS transactions through their commercial banks to the accounts at CBK and KRA appointed commercial banks for express transmission to CBK

- Electronic Funds Transfer (ETF) where a taxpayer, when making payment of less than Ksh. 1 million, can give instructions for the transmission of funds from his/her domicile bank to either the CBK main Collection Accounts or in case of online payment, to the commercial banks collection accounts.

With regard to reconciliation of revenue figures, the Commissioner General said that it is done on a monthly basis and also annually but there is a system of daily tracking from commercial banks to the Central Bank. Additionally, KRA hold meetings twice a week to review the performance of various revenue heads. He further told the Committee that accounts reconciliation is done in three levels, namely:

1. **Reconciliation for accounts held at Commercial Banks** – this, he said, is done on a daily and monthly basis where payment returns or slips are matched to bank statements and that revenue monitoring is also done using daily system generated reports. This movement of revenue collected at various commercial bank accounts are so monitored daily to ensure that the correct amounts are reflected and also transferred to the CBK and any variance or omission discovered between the commercial banks and the amount transferred to CBK is addressed immediately with the respective banks.

2. **Reconciliation for accounts held at the Central Bank** – this reconciliation is done daily by 9.00 am and also on a monthly basis as confirmed by the Commissioner General and that for each tax head, the bank statements are reconciled against the cash book, system reports and other bank documents like debit or credit slips. Here again, any variances discovered are immediately cleared with the Bank and at the end, a bank reconciliation statement is prepared and maintained.

3. **Reconciliation of KRA, CBK and Treasury figures** – on this, the Joint Committee was informed that a team of officers from these three (3) institutions do meet fortnightly to

reconcile revenue collected and reported to Treasury by KRA against the transfers to the Exchequer in the Central Bank. Members were also shown an extract of this kind of reconciliation statement on stamp duty that was done in the year under question (FY 2007/08). It was shown that the balance as per the cashbook in **KRA report was Ksh. 4.53 billion** but then on 3/7/2007, there were receipts in CBK not in Treasury which were attributable to misposting and cash in transit amounting to about Ksh. 113.4 million and provision for refund of Ksh. 6 million both of which were added. On 2/7/2007, there were receipts in Treasury not in CBK totaling to Ksh.50.6 million and also cash in transit by 30/6/2008 of Ksh. 17.1 million which were subtracted and therefore the balance as per **Treasury was Ksh. 4.58 billion**

However, the Committee was informed that there are perhaps permanent differences which may be mainly characterized by: timing difference, adjustment to LATF transposition errors, misposting, omissions and under casting or overcastting. But then, that any discrepancies are adjusted accordingly. In a rejoinder, Members nevertheless wondered why an issue like time difference be a factor of the difference, even almost after 5 years, given close period of revenue tracking and reconciliation!

At the end of the presentation, Members wanted to know the exact figures for various tax heads like tax on income, profits and capital gain; other income tax and total income tax; Ordinary Revenue (or Exchequer Revenue according to KRA); total cash in transit as at 30th June 2008 on PAYE; amount received from treasury on behalf of Telkom Kenya; what is the provision for a refund and finally what was the reason for KRA not meeting the revenue target a lot of times?

In his response, the Commissioner General said that according to records in KRA, the Exchequer Revenue/Ordinary Revenue was Ksh. 433.92 billion; PAYE was Ksh. 86.14; other income tax was Ksh. 80 billion. With regard to the amount received on behalf of Telkom Kenya, the Commissioner General informed the Committee that an amount totaling to Ksh. 15 billion was received from Treasury on behalf of Telkom as part of the privatization process and that the amounts were paid in three installments. He promised to provide later, the exact dates and amounts paid in each installment as well as reconciliation of all accounts and exact amount of PAYE in transit at the end of the fiscal year in question.

On the issue of provisions for refund, the Commissioner General informed the Committee that the amounts are provided for on monthly basis with respect to various tax heads as follows:

- Excise duty on oils – Ksh. 200 million
- Import duty ordinary – Ksh. 20 million
- Stamp duty - Ksh. 0.5 million

- Excise duty domestic – Ksh.1 million
- VAT - Ksh. 1,076 million
- Other income taxes - Ksh. 50 million (quarterly)

He also added that 5% on income tax, PAYE and Turn over Tax (TOT) is transferred to Local Authority Transfer Fund (LATF) and in the fiscal year 2007/08, LATF transfer was Ksh. 8.88 billion comprising of Ksh. 4.34 billion on PAYE and Ksh. 4.54 on other taxes.

The Commissioner General said (despite Committee Members raising concern on where the balance of unutilized refunds go) that the amount is allocated at the beginning of the accounting period and then netted out on a monthly basis and that the remaining amount is adjusted accordingly. Again, in the event that there is any outstanding amount for VAT, the backlog is excluded from the system and features as a liability item.

Finally, on the reasons for KRA missing the revenue targets, the Commissioner General responded by saying that several factors usually come into play. Some of them he gave were:

i. Change of assumptions – he said that when estimates of economic assumptions such as inflation, economic growth, interest and exchange rates shift, they have implications on the performance of business in the country and ultimately revenue.

ii. Removal of duties for instance kerosene and other items means that he level of revenue target would not be met as anticipated and also

iii. When some things expected to be done fails for instance not passing the VAT bill in time usually has implications to the revenue to be collected.

MIN.NO.22/2012: SUBMISSION FROM THE MINISTRY OF FINANCE

The Ministry of Finance team of officers was led by the Financial Secretary and Accounting Officer Mr. Mutua Kilaka. They were ushered into the committee room and the co-chairman of the Joint Committee welcomed them and gave the background of the nature of the meeting. The Financial Secretary was given an opportunity to introduce the accompanying officers and proceed to brief the Committee as per the stipulations of the purpose of the invitation.

After the introduction, he begun by pointing out that he had come to provide explanation on the causes of material differences in the accounts that were qualified by the then Controller and Auditor General, in a report to the House for the Financial Year 2007/08.

The Finance Secretary commenced his brief by confirming that indeed, it is true that the then Controller and Auditor General qualified the thirteen (13) revenue statements and that he only certified three (3) in the fiscal year 2007/08. The accounts that were accepted and certified (unqualified) were:

No.	Revenue Head	Description	Sub-head	Description
1	1410000	Property Income	1410200	Profits and Dividends
2	1430000	Fines, penalties and forfeitures	1430100	Fines, penalties, forfeitures and other charges
3	1140000	Taxes on goods and services	1140600	Royalties (including mining revenue)

He informed the Committee that the 13 revenue statements were qualified due to one or more of the reasons below:

- Timing differences between revenues received KRA, the revenue holding account at the Treasury and the Exchequer account.
- Uncaptured receipts and posting errors in the revenue ledger accounts and
- Unavailability of reconciliation statements by the time the audit was being conducted.

After that, the Financial Secretary went ahead to assure the Committee that the anomalies were addressed through reconciliations and were later presented to the Auditor General for audit reviews and were confirmed as correct. He said that this demonstrates that the revenue statements were not qualified because of fraud or loss of money but due to pending reconciliation statements which were later satisfactorily finalized. He added that the same issues were presented before the Public Accounts Committee together with the reconciliations and that they were fully interrogated and investigated.

Regarding the actual revenue receipts for the Financial Year 2007/08, the Committee was informed that the amount received in the Exchequer against all revenue accounts were Ksh. 516,108,407,205.15 as reported to Parliament by the Auditor General (audited figure). However, the figure of Ksh. 446,098,740,921 that the Minister presented to Parliament during the Financial Year 2009/10 Revenue Estimates, on June 2009, was the interim position of actual receipts for the FY 2007/08 presenting a shortfall of Ksh. 70,009,666,284.15 which, he said, was regrettable and that the Ministry has hitherto ensured that revenue estimates only reflect the actual audited final revenue position and not the raw data as was the case at this time.

The Financial Secretary assured the Committee that the procedures adopted for revenue collection do not allow for withdrawal of cash for expenditure while in transit; hence all revenue collected progressively move from the collection accounts with the receivers of revenue to the Exchequer account without leakages in between. He added that based on this therefore, no revenue was lost during the 2007/08 Financial Year.

He proceeded to enumerate the various interventions that the Ministry of Finance had put in place to ensure that revenue collections are accurately captured and reported to both Parliament and the public. The measures he listed are:

- That, Treasury, KRA and other receivers of revenue had embarked on monthly revenue reconciliations aimed at clarifying any variations in a timely manner.
- That, the Auditor General has been enabled to track exchequer inflows and data on a continuous basis up to and including the final collection date of the year.
- That, the Ministry through its Audit Committee/Task Force closely liaises with the Auditor General's office to ensure timely provision of required documents, data and explanations to avoid audit observations escalating into major audit issues.
- That, the actual revenue data to be published in the Estimates of Revenue will be based on the final audited revenue position to ensure consistency of data being availed to both Parliament and the public and finally
- That, the Ministry is computerizing its financial management system and that soon a revenue management module will be developed and integrated with the reengineered Integrated Financial Management information System (IFMIS) and it is anticipated that online revenue management will avoid inconsistencies and inaccuracies in revenue, data and reports hence enabling online interrogation on the status of revenue by the public.

He concluded by again assuring the Committee and the public that public revenue is being managed properly by the various receivers of revenue under the supervision of the Treasury.

At the end of his presentation, the Finance Secretary in the Ministry of Finance had to field a number of very pertinent questions from the Joint Committee Members. Members wanted to be told:

i. Where the figures were obtained from that the Minister was given to present to Parliament and why they remained unreconciled yet after a whole twelve months? Also, whether the anomaly is as a result of incompetence of involved officers and if there can be a confirmation that the Minister misled Parliament by presenting wrong figure of revenue.

The response given was that the raw data was picked from the last Quarterly Economic and Budget Review (QEBR) which contains monthly budget outturn instead of using the actual audited figures. Further, the Committee was informed that reconciliations were completed and that the Auditor General as well as the Public Accounts Committee (PAC) was presented with the same and agreed. The Committee was also told that at that time of the anomaly, there was a problem with capacity in the Ministry in relation to the workload. There was a Member of PAC in the meeting who after being asked by the co-chairman to confirm whether what the Ministry of Finance was alleging was true and he appeared to point out that when the Auditor General and the Ministry of Finance appeared before PAC, were sent away to go and reconcile and reported back later that they had reconciled. However, the Member clarified that PAC concentrates mostly on expenditure. Further, that the current audit report still has the same persistent queries! On whether Parliament was misled by being given incorrect figures, the Finance Secretary admitted that raw data was used as opposed to audited ones but proceeded to point out that the Minister did not table the incorrect figures deliberately and therefore proceeded to offer an apology.

ii. How much was the Ordinary Revenue in the year under focus (FY 2007/08)? How many audit queries have been addressed and where was the memorandum?

The Committee was told that Ordinary Revenue in the FY 2007/08 was Ksh. 419.3 billion, according to what one officer accompanying the Financial Secretary had just calculated but that it was subject to confirmation. The Financial Secretary gave an undertaking that he be allowed when he goes back to the office to confirm and supply to the Committee the right figures. On the issue of memorandum on reconciliation to address audit queries, the Committee was informed that it has been done and submitted to Parliament.

iii. A question was asked on why is the Ministry still talking about IFMIS as if it is a new thing and a Member raised a concern that revenue is a very critical component which in the new constitution, is going to be divided in the two tiers of government and it is sad if the figure would not be accurate! Again, a question was asked on how the Minister is prepared to finance the highest budget ever in the country?

In response, the Finance Secretary said that with regard to IFMIS which is now re-engineered, the Ministry has undertaken to ensure that by September 2012, all ministries comply and by December, IFMIS is complied with at the Counties level such that when the County Governors come on board, they will find it fully operational. He reiterated that the Ministry has made a commitment and that services have been procured and training of officers is underway. He also appeared to emphasize that the anomalies in revenue reported have hitherto been discovered and that since the fiscal year 2009/10, the

Ministry is using audited revenue figures as received in the Exchequer. With regard to financing the current budget, the Committee was informed that the Minister consulted widely and that he will make all efforts to finance it fully.

iv. As a rejoinder from the previous stakeholders notably from the office of the Auditor, General, it was noted that the Committee was informed that some information on some queries in the FY 2007/08 may have been shared between the Ministry and the Auditor General as late as the previous month (June 2012) and therefore Members wondered how come PAC is alleged to have been satisfied with the information that was given when it was dealing with the matter! But then, this observation was not responded to.

v. In what appeared to the Committee as perhaps lack of cooperation between the Ministry of Finance and KRA, Members wanted to know if there is a structured mode of engagement between the two crucial institutions in charge of public finances.

The Financial Secretary responded in the affirmative and said that at the top level, they meet every Tuesday and that at the technical level, there is also a structured way of engagement. He concludes by saying that the Ministry stand advised and anything needed or even an invitation to re-appear before the Committee, he will do it immediately.

However, the Commissioner General (he was asked to stay on as the Ministry of Finance was making the presentation) when he was asked to respond to the issue of cooperation, he seemed to quip that they are meeting but still working on improving the working relationship to make it more seamless.

MIN.NO.23/2012: ANY OTHER BUSINESS

Hon. Alfred Sambu stressed on the importance of the task that is bestowed upon the Committee and told the Ministry of Finance and KRA that if need be they would be called upon to provide further clarification or information.

Hon. Sophia Noor reiterated that the two institutions which had just appeared before the Committee, (KRA and the Ministry of Finance) are very important and that the officers serving there have a duty to instill confidence in the Kenyan public as well as the investors.

The co-chairman of the Joint Committee Hon. Elias Mbau directed both KRA and the Ministry of Finance that they include all issues that were not addressed in their communication to the Committee. He added that certainty in revenue is critical and it is imperative that Kenyans are told the truth regarding the same. Finally, he concluded by saying that a post budget workshop would be organized in August 2012 and that KRA and the Ministry of Finance and other stakeholders would be invited. The co-chairman once again thanked everyone for attending and participating.

MIN.NO.24/2012: ADJOURNMENT

There being no any other business, the meeting ended at 1.40 pm.

Signed.................................... Date 13/09/2012
(Hon. Elias Mbau, M.P)

Signed.................................... Date 13/9/2012
(Hon. Chris Okemo, M.P)

MINUTES OF THE 6th SITTING OF THE JOINT COMMITTEE OF BUDGET; PUBLIC ACCOUNTS AND FINANCE, PLANNING AND TRADE ON THE *"INACCURACIES/INCONSISTENCIES IN TREASURY REVENUE ACCOUNTS* HELD ON THURSDAY 19TH JULY 2012 IN THE COMMITTEE ROOM 5TH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30 AM.

MEMBERS PRESENT

1. Hon. Martin Ogindo, M.P - Chairing
2. Hon. Chris Okemo, M.P
3. Hon. John Mbadi, MP
4. Hon. Emilio Kathuri, M.P
5. Hon. Mosses Lessonet, M.P
6. Hon. Danson Mungatana, M.P
7. Hon. John Mututho, M.P
8. Hon. Jakoyo Midiwo, M.P
9. Hon. Sophia Noor, M.P
10. Hon. David Ngugi, M.P
11. Hon. Jackson Kiptanui, M.P
12. Hon. Lucas Chepkitony, M.P

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Fredrick Muthengi - Fiscal Analyst, PBO
2. Mr. Joash Kosiba - Fiscal Analyst, PBO
3. Mr. Josephat Motonu - Fiscal Analyst, PBO
4. Mr. Lewis Mungai - Junior Legislative Fellow, PBO
5. Ms. Rahab Chepkilim - Hansard Department
6. Ms. Emma Okok - Intern, Legal Department

IN ATTENDANCE

MARS GROUP KENYA

1. Mr. Mwalimu Mati - CEO, Mars Group Kenya
2. Ms. Jayne Mati - Managing Director, Mars Group Kenya
3. Mr. Danson W. Munyoki - Mars Group
4. Mr. Michael Otieno - Mars Group
5. Mr. Kevin Cheruiyot - Mars Group
6. Mr. Stephen Githika - Mars Group
7. Mr. Micheal Sila - Mars group
8. Ms. Jayne Wariko - Mars Group

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising
4. The Processing of the Matter to the Joint Committees on Investigation into the Tax Revenue Accounts Inconsistencies
   a) Mars Group
5. Any other Business

MIN.NO. 25/2012: PRELIMINARIES

The meeting started with a word of prayer at 12.00 pm. The acting chairman of the Joint Committee welcomed all present to the meeting and thanked them for finding time to attend. Thereafter, introductions were done. The acting chairman gave the background information on the matter under the committee's investigation and invited the Chief Executive of Mars group, to make a presentation as stipulated in the invitation letter. The CEO Mwalimu Mati indicated to the Committee that the Managing Director, Ms. Jayne Mati was the one to make the brief.

MIN.NO.26/2012: SUBMISSION FROM THE MARS GROUP

The Managing Director of Mars Group Kenya Ms. Jayne Mati then began her presentation by stating that out of the revenue of Ksh. 516 billion collected in the FY 2007/08 on 16 accounts, only a paltry Ksh.3.4 billion in 3 accounts were certified by the Auditor General. She gave them as follows:

NO	REVENUE HEAD	AMOUNT (KSH)
1	Property income – profits and dividends	3,133,350,633.5
2	Fines, penalties and forfeitures	158,521,084
3	Taxes on goods and services – royalties	187,799,398
Total		**3,479,671,115.5**

She proceeded to state that the analysis done show that almost all revenue accounts continue to fail audit tests annually for instance, the amount of money that that was excludes from certification as per the audit report were as shown here below:

- For the FY 2007/08 a total of Ksh. 498.9 billion approximately comprising of taxes on income, profits and capital gains – Ksh. 164.4 billion, Taxes on goods and services – Ksh. 220.5 billion, taxes on international trade and transactions – Ksh. 7

billion, other taxes not elsewhere classified – Ksh. 1.4 billion, sale of goods and services – Ksh. 38.6 billion, rent of land – Ksh. 0.12 billion, property income – Ksh. 0.27 billion, statement of loan interest receipts – Ksh. 2.8 billion, other receipts not elsewhere classified – Ksh. 9.2 billion, repayments from domestic lending and on-lending – Ksh. 19.8 billion and development revenue – Ksh. 34.8 billion.

- In the FY 2008/09, a total of Ksh. 215.1 billon was excluded from certification and it comprised of: taxes on income, profits and capital gains – Ksh. 88.6 billion, Taxes on goods and services – Ksh. 8.6 billion, taxes on international trade and transactions – Ksh. 1.7 billion, other taxes not elsewhere classified – Ksh. 0.16 billion, sale of goods and services – Ksh. 21.9 billion, rent of land – Ksh. 0.6 billion, property income – Ksh.7.3 billion, statement of loan interest receipts – Ksh. 28.6 billion, other receipts not elsewhere classified – Ksh. 9.9 billion, repayments from domestic lending and on-lending – Ksh. 24.8 billion and development revenue – Ksh. 23 billion and
- In the Fiscal Year 2009/10, Ksh. 239.3 was again not certified by the Auditor General. It was composed of taxes on income, profits and capital gains – Ksh. 105 billion, Taxes on goods and services – Ksh. 6.7 billion, taxes on international trade and transactions – Ksh. 1 billion, other taxes not elsewhere classified – Ksh. 0.5 billion, sale of goods and services – Ksh. 9.6 billion, property income – Ksh, 0.4 billion, social security contributions – Ksh. 1 billion, statement of loan interest receipts – Ksh. 31.7 billion, other receipts not elsewhere classified – Ksh. 3.2 billion, repayments from domestic lending and on-lending – Ksh. 13 billion and development revenue – Ksh. 67.6 billion

The Mars Group Kenya Managing Director also informed the Joint Committee that in the Fiscal Year under investigation, a cumulative of 57 audit queries were raised with respect to revenue accounts and added that she is aware of the Ministry of Finance having appeared before the Joint Committee but only addressed 18 audit queries leaving out a 39 of the audit queries unanswered. To emphasize their concern she quoted an extract from paragraph 55 of the audit report for the public accounts and the accounts of the funds of the Republic of Kenya for the year ended June, 2007 which state that *"….am concerned by lack of attention in the preparation of Statements of Revenue as indicated in the reports under each Revenue Head. Many Statements of Revenue reflect differences between figures reflected in the Statements and those reflected in the supporting documents. For example, most of the revenue is collected by KRA but the Receiver of revenue is the Financial Secretary. However the statements of revenue received reflect receipts which materially differ from those reflected in KRA records. They also reflect payments to the Exchequer which differ with amounts reflected in the Exchequer records.*

Even amounts carried forward differ with those reflected in the relevant statements of assets and liabilities. Such differences are not explained or reconciled and therefore cast doubts on the accuracy of the Statements of Revenue. As a result, many statements of revenue have been excluded from the general certificate…."

She gave five examples of what the audit report contained as the reasons for qualification of the revenue accounts in the Financial Year 2007/08. They are as follows:

i. Records maintained at KRA differ from Statement of Revenue – specifically paragraph 72 of the report, on income, profits and capital gains, presents a difference of Ksh. 11 billion, on taxes on goods and services, paragraph 79 show a difference of about Ksh. 3 billion and paragraph 84, 0.887 billion. When it comes to other taxes not elsewhere classified, paragraph 88 presents a difference of 51.6 million. On rent of land, 11.4 million and paragraph 115 on sale of goods and services has a difference of about 2 billion, all of which were not explained nor reconciled.

ii. Payments to the Exchequer differ with accounts reflected in the Exchequer records – she told the Joint Committee that in paragraph 92 of the Audit report, the difference of Ksh. 200.8 billion under the revenue head property income, loan interest receipts from domestic and on-lending was not reconciled nor explained. The same, she said recurs in paragraphs 35, 81, 86, 90, 97, and 105 of the FY 2007 audit report.

iii. Actual receipts differ with amounts reflected in the Ledger – it was brought to the attention of the Joint Committee that differences of about Ksh. 4.3 billion and Ksh. 2.1 billion in paragraphs 75 and 101 were also not reconciled nor explained and that the same is depicted in paragraphs 80, 85 and 93 of the FY 2007 audit report.

iv. Amounts carried forward differ with those reflected in the relevant Statement of assets and liabilities – that a difference of about Ksh. 4.5 billion was not reconciled nor explained and the Mars Group Managing Director indicated to the Committee that the same trend is depicted in paragraphs 36, 81, 86, 90, 94, 98, 102 and 106 of the audit report.

v. Arrears of revenue due unaccounted for – here, statements were not showing details of arrears of revenue due as at 30th April 2008 and as a result the Auditor General, in paragraph 78 of the report, was unable to confirm whether revenue totaling to about Ksh. 125.2 billion under taxes on income, profits and capital gains was recovered.

The Managing Director of Mars Group pointed out to the Joint Committee that as the Members investigate the revenue inconsistencies, it would be prudent to bear in mind that the role of the Ministry of Finance according to the Government Financial Act, 2004 is such that the Minister is required by law to manage the Consolidated Fund and be responsible for all matters relating to public financial affairs that are not assigned to any other Minister.

Again on the role of the Treasury, she highlighted that the Treasury is mandated by law to establish procedures and systems for proper and effective management of Government money and property; establish accounting procedures and systems from the Government to properly account for Government money and property; prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Auditor General and also ensure that the accounts so prepared comply with the provisions of the law.

Additionally, she reminded the Committee that according to the Public Audit Act, the Treasury is required to prepare accounts showing fully, the financial position of the government at the end of the year and submit the accounts for auditing within three (3) months after the end of the financial year. The accounts have to include among other things, the statement of receipts and issue from the Exchequer. Also, that the Receiver of Revenue is required to prepare accounts In respect of revenue for which s/he is appointed, and submit the accounts for auditing and the accounts to be submitted are to include statement of receipts and disbursements and statement of arrears of revenue; all that within three (3) months after the end of the financial year. Ultimately, the Auditor General is required to examine the documents so submitted and audit the accounts and gives an opinion stating whether all information and explanations necessary for audit are received; proper records are maintained; the accounts are in agreement with the records and whether the accounts reflect the fair financial position of the government.

On the issue of reporting of actual revenue receipts, the Managing Director of Mars Group indicated to the Committee that it appears the Ministry of Finance has been keeping different sets of books for revenue collected and that it appears to be in what she termed as an intricate web of a possible cover up and deception as it continues to present different revenue figures to both the Auditor General and Parliament. She termed shocking the fact that in June, 2009; a month after receiving the then Controller and Auditor General's signature on the Exchequer Account for the FY 2007/08, the Minister for Finance presented a totally different revenue figures to Parliament. For instance, that

Ordinary Revenue was Ksh. 397.6 billion while the Exchequer account records showed Ksh. 496 billion, a difference of Ksh. 98.5 billion of revenue under declaration to Parliament; total loans was Ksh. 26.7 billion while the Exchequer records had Ksh. 20.1 billion, a difference of Ksh. 6.6 billion of revenue receipts overstated to Parliament; miscellaneous revenue was Ksh. 7.6 billion while the Exchequer account records had about Ksh. 16 billion, an understatement of Ksh. 8.6 billion; net domestic borrowing by the Central Bank was presented as Ksh. -13.9 billion while the Exchequer recorded Ksh. 0.00. This possibly indicates a net domestic borrowing that does not exist! Also, income tax from corporations was presented as Ksh. 79.1 billion whereas the Exchequer record was showing Ksh. 86.7 billion, a difference of about Ksh. 7.6 billion. Therefore, the presenter wondered why this was the state of affairs and whether the under-declaring of revenue to Parliament was likely to create a gap where such revenue goes missing.

The presenter, Managing Director of the Mars Group, went ahead to point out that the estimates of revenue as tabled in Parliament by the Minister for Finance which reflect the final revised estimates of revenue differs at every revenue line item from the estimates of revenue as captured by the then Controller and Auditor General at that time. Therefore, she pointed out to the Committee that the Minister cannot alter the approved revised estimates of revenue as he did at that time, a situation she termed very serious and grave. She gave a rundown of differences in revenue estimate figures. For instance, using the final revenue figures of Ksh. 558 billion as approved by Parliament against original estimates of Ksh. 522.4 billion as captured in the audit report for the FY 2007/08 gives an under-collection of about Ksh. 36 billion. Using actual revenue of Ksh. 494.4 billion as captured in the FY 2008/09 budget estimates on June 2009, it shows an under-collection of Ksh. 28 billion and finally, using actual revenue of Ksh. 516 billion in the Exchequer account as captured by the Auditor General, depicts an under-collection of about only Ksh. 6.3 billion.

She expressed her concern on the fact that there appear to be many possible revenue positions in the same financial year and also that even the Auditor General might as well not be able to reflect the actual revenue position of the government. Therefore, she told the Committee that Kenyans expect answers from the Minister on how many revenue accounts failed the audit test and reasons for that; whether the actual revenue receipts as reported to Parliament faithfully reflect the actual receipts as captured b the then Controller and Auditor General in the Exchequer account and also, whether the revised estimates of revenue tabled in Parliament reflect the actual approval given by Parliament. In addition, a detailed response need to be given from the Ministry of Finance on each of the 57 audit queries and a supporting memorandum as well as a certificate from the

Auditor General clearing each of the issues according to the international accounting standards.

To end her presentation, she presented a number of recommendations to the Committee as follows:

- That an independent forensic audit into the revenue accounts of the Government of Kenya for the FY's 2007/08, 2008/09, 2009/10, 2010/11 and 2011/12 be commissioned and conducted so as to determine the true revenue position of the Government.
- The immediate withdrawal of all falsified documents tabled in Parliament and a special resolution to re-submit for adoption of accurate ones.
- That the Committee recommend immediate retirement of the accounting officer in the ministry who are responsible for collection and accounting for failing in their work and misleading Parliament
- That the Committee recommends the implementation of the National Assembly resolution of the year 2009 that independent forensic audit be done by an independent body to look into past three years of the National Budget including the Consolidated Fund Services to determine whether there might have been other inaccuracies or inconsistencies.
- The Committee recommends the involvement of the Controller of Budget as per the constitutional mandate.

She concluded her presentation by stating that Mars Group Kenya had appeared before the Committee in good faith and that it was because they believe in Parliament democracy and accountability, also that they do and shall continue doing that when required. She thanked the Committee for the opportunity granted to make the presentation.

Members Reactions

Members present thank Mars Group for making such an enlightening presentation. The Members were concerned that the issues raised by the witness are weight and may require further clarification from Treasury and Auditor- General. They were worried that despite the assurance by the Treasury, the variances/inconsistencies in revenue have continued even in successive years. They promised to look into the new issues and recommendations raised by Mars Group and take necessary action

Finally, Hon. Martin Ogindo, who was chairing the meeting thanked all for attending and making contribution.

MIN.NO.27/2012: ADJOURNMENT

There being no any other business. the meeting ended at 1.40 pm.

Signed...

(Hon. Elias Mbau, M.P)

Date......................13/09/2012...

Signed...

(Hon. Chrysanthus Okemo, M.P)

Date.....................................13/9/2012.......................................

MINUTES OF THE 7th JOINT SITTING OF THE BUDGET, FINANCE AND PUBLIC ACCOUNTS COMMITTEES HELD ON THURSDAY, 6TH SEPTEMBER 2012, IN THE COMMITTEE ROOM, 1ST FLOOR COUNTY HALL PARLIAMENT AT 11.00AM

PRESENT

1) Hon. Elias Mbau, M.P. – Co - Chairperson
2) Hon. Chris Okemo, M.P. – Co-Chairperson
3) Hon. Jackson K. Kiptanui, M.P.
4) Hon. Martin Ogindo, M.P.
5) Hon, Abdul Bahari, M.P.
6) Hon. Danson Mungatana, M.P.
7) Hon. Adan Keynan, M.P.
8) Hon. Moses Lessonet, M.P.
9) Hon. John Mbadi, M.P.
10) Hon. Sophia Noor, M.P.
11) Hon. Emilio Kathuri, M.P.

In Attendance

1) Mr. Fredrick Muthengi - Parliamentary Budget Office
2) Mr. Gilbert Kipkirui - Parliamentary Budget Office
3) Mr. Benjamin Ngimor - Parliamentary Budget Office
4) Mr. Erick Kanyi - Parliamentary Budget Office

AGENDA

1) Preliminaries/Confirmation of Agenda
2) Adoption of Report on Inconsistencies
3) Any Other Business

MIN. NO. 28/2012: PRELIMINARIES

The meeting started with a word of prayer at 11.20 am. The Chairman of the Budget Committee welcomed all present to the meeting.

MIN.NO. 29/2012: ADOPTION OF THE REPORT ON INCONSISTENCIES

The meeting was informed that report had been circulated to all members of the Joint Committee. It was observed that it had been difficult to raise a majority of members to adopt the report given the members' busy schedules. Members observed tabling of the report was long overdue and should have been tabled latest early August 2012. It was noted that the Joint Committee should complete its task within the provided time period and that no further extension would be sought.

After lengthy deliberations, members agreed to table a minority report. The committee went clause by clause of the report and unanimously adopted the report. The secretariat was urged to prepare the report for tabling the next week.

MIN. NO. 30/2012: Any Other Business

The Chair of Defense and Foreign Relations Committee informed the meeting that the recommendations of the Departmental Committee were not considered in the final 2012/13 budget even after the House has approved the recommendations. It was noted that the Treasury ought to implement all resolutions of the House without exceptions.

The Secretariat was urged to prepare a summary of budget allocations for each agency as resolved the House for discussion in the next meeting.

MIN.NO. 31/2012: ADJOURNMENT

Members of the Budget Committee were informed that the next meeting was scheduled for 13th September 2012. There being no any other business, the meeting ended at 12.00 pm.

Signed.............................. **Date**...13/09/2012...
(Hon. Elias Mbau, M.P)

Signed.............................. **Date**...13/9/2012...
(Hon. Chris Okemo, M.P)