

*Paper laid by the Chairman of the
Departmental Committee on Health,
Housing & Labour*

Alvaro

26/11/08



KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT- SECOND SESSION



The Departmental Committee on Health, Housing Labour and
Social Welfare

REPORT ON ALCOHOL CONTENT OF "ALVARO"

NOVEMBER, 2008

CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

November 2008

PREFACE

Mr. Speaker,

The Departmental Committee on Health, Housing, Labour and Social Welfare of the National Assembly was constituted on 30th April, 2008. Pursuant to provisions of Standing Order 151(4) the Committee is mandated to among other things, Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments. The Members of the Committee are:-

- (i) The Hon. (Dr.) Robert Monda, M.P.- Chairman
- (ii) The Hon. Sophia Abdi Noor, MP
- (iii) The Hon. Nuh Nassir, MP
- (iv) The Hon. Abdirahman A Hassan, M.P
- (v) The Hon. Mbai Itwiku Benson, M.P.
- (vi) The Hon. (Dr.) Boni Khalwale, M.P
- (vii) The Hon. Munyaka Kioko, M.P.
- (viii) The Hon. Elijah Lagat, MP
- (ix) The Hon. Joseph Oyugi Magwanga, M.P
- (x) The Hon. Fredrick Outa, M.P
- (xi) The Hon. Stanley M. Githunguri, MP

On August 5, 2008, a Member asked a Question listed on the Order Paper: The Question was whether "Alvaro" contains Alcohol, for which the Minister replied that "Alvaro" has no alcohol. The House was not satisfied with the Minister's reply on consequential supplementary questions. Subsequently, the Chair referred the matter to the Departmental Committee on Health, Housing, Labour and Social Welfare to investigate.

The Committee was directed to report back to the House in exactly two weeks. However, due to the processes involved in sourcing the firms to carry out the tests and the nature testing as set out in the Terms of Reference, it was inevitable to ask the House for extension of time. Subsequently, the Committee sought and was granted more time to investigate the matter and table its report on or before November 25, 2008.

The Committee held its first meeting on the matter on August 7, 2008. The Questioner appeared before the Committee in one of its meetings and gave evidence. The Committee also took evidence from the management of East African Breweries (EABL) and visited the "Alvaro" processing plant at Ruaraka, Nairobi.

Mr. Speaker,

Whilst investigating this matter, other allegations were received related or unrelated to the question before the Committee. In this regard, the Committee was guided by the relevant statutes and the Standing Orders, particularly Standing Order No. 160(5), which provides that:

160(5). "The deliberation of a select committee shall be confined to the matter referred to it by the House and any extension or limitation thereof directed by the House and, in case of a select committee on a Bill, to the Bill referred to it and relevant amendments"

In this regard and having examined the substance of the Question No.049, supplementary questions in the House and the subsequent

ruling by the Chair, it was the Committee's considered opinion that the matter referred to them was to investigate and report whether "Alvaro" contains or does not contain alcohol, and if so, whether it is indeed alcoholic or a non-alcoholic drink.

The Committee held a total of fourteen meetings on this matter. In its third meeting it was resolved that tests be carried out by the Kenya Bureau of Standards, the Government Chemist, at least three public and three private universities, international firms with local representation in Kenya; and one international firm, operating outside Kenya. All these were to follow the TOR set out by the Committee.

In the end, the following institutions carried out the Tests: University of Nairobi; Kenya Bureau of Standards; the Government Chemist; Jomo Kenyatta University of Agriculture and Technology; Moi University; Catholic University of East Africa; University of Eastern Africa, Baraton; Kenya Methodist University; and M/s. SGS (Societe Generale de Surveillance), Geneva, Switzerland.

It is also worth noting that each of these firms was approached separately and was asked to maintain confidentiality.

Mr. Speaker Sir,

In digression, debate on the alcohol content in soft drinks is not new. It has encouraged continuous research to be carried out on the alcohol contents found in soft drinks. Indeed trace amounts of ethanol have been detected in soft drinks and other flavoured beverages.

Available literature reveals that at a drug and alcohol treatment centre in Norway, it had appeared that residents were gaining access to ethanol. Because residents were routinely seen with cans of Sprite, suspicious staff tested a resident's can by enzyme assay and found it to contain ethanol. An unopened can was tested, and it also contained ethanol. Following the initial observation of ethanol in Sprite, a preliminary study revealed concentrations in commercial flavoured sparkling water as high as 0.221% w/v.

Although researchers were initially surprised that many beverages contain ethanol, a review of the scientific literature revealed that ethanol is commonly used in the formulation of beverages as a carrier for volatile and natural flavouring materials. Artificial flavouring may also contain ethanol. *In-situ* fermentation is an unlikely source of ethanol because beverages and their ingredients are highly purified and sterilized.

A variety of breads and soft drinks have been tested and found to contain low concentrations of alcohol according to a research carried out in 1998 at the Washington State Toxicology Laboratory, University of Washington. The potential for these products to generate false readings on an evidential breath-alcohol instrument has also been evaluated.

Mr. Speaker,

The test methods used in secondary schools are not specific and similar reactions could be obtained if any simple or natural sugar is mixed with potassium dichromate to give Chromium 3 ions (greenish in colour). From this reaction, all non-alcoholic drinks containing reducing sugar will give a colour change of dichromate from orange-red to green. This does not mean that the non-alcoholic drink alcohol in it. Separation of reactions is studied at higher levels of learning.

Mr. Speaker,

The internationally accepted methods for confirming presence and quantities of Alcohol are distillation and gas-chromatography. These methods showed that Alvaro is non-Alcoholic in conformity with the Food, Drugs and Chemical Substances act, CAP 254.

In conclusion therefore, and from the results submitted by the Institution I have mentioned, the Committee wishes to report that “Alvaro” is a non-Alcoholic drink.

Mr. Speaker,

It is now my pleasant duty, on behalf of the Committee to present and commend this report to the House.

A handwritten signature in black ink, appearing to read 'R. Monda', with a long horizontal flourish extending to the right.

HON. (DR.) ROBERT MONDA, MP

Chairman, Departmental Committee on Health, Housing, Labour and Social Welfare

November 25, 2008

ACKNOWLEDGEMENT

The Committee wishes to record its appreciation to all the Chancellors, Vice-Chancellors and staff of the private and public universities that carried out the tests. To mention, we are grateful to the staff of the Department of Food Science and Technology of Jomo Kenyatta University of Science and Technology, members of staff, College of Biological and Physical Sciences of the University of Nairobi, the Lecturers, John Muchiri and Julius Ratumo and other staff of the Department of Pure and Applied Sciences of the Kenya Methodist University, staff of the Catholic University of East Africa, members of staff, Department of Chemistry, University of East Africa, Baraton, Moi University. We are also thankful to the staff of the Kenya Bureau of Standards and the Government Chemist for their contribution.

A plethora of thanks goes to the staff of the Kenya Mission in Geneva, Switzerland for facilitating the testing at SGS, Geneva. We are also thankful to the various witnesses who appeared and adduced evidence before the Committee.

Further, the Committee is indebted to the staff of the National Assembly, for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

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REPORT OF THE DEPARTMENTAL COMMITTEE D-ON: HEALTH,
HOUSING, LABOUR AND SOCIAL WELFARE:

INQUIRY INTO THE MATTER OF ALCOHOL CONTENT OF
"ALVARO"

Background

1. On August 5, 2008, the Hon. Rachel Shebesh, MP asked the following Question to the Minister for Industrialization:

Question No. 049:

- (i) Could the Minister confirm whether there is any alcohol content in the "Alvaro", a drink sold as non-alcoholic drink by East African Breweries?
- (ii) Could the Minister table evidence from the Kenya Bureau of Standards on the contents of the drink?
- (iii) Could the Minister stop the sale of this drink pending the establishment of its actual contents?

Reply:

2. The Minister replied as follows:

- (i) According to the results of the independent samples of the Alvaro tested at the laboratories of the Kenya Bureau of Standards (Ref...- Minister cited the references), of July 2008, Alvaro has no alcoholic content. According to the results of

tests by the Government Chemist, no ethanol content was detected on Alvaro. It is a carbonated non-alcoholic drink which does not involve any fermentation process or fortification with spirits during its manufacture;

- (ii) The Minister *Tabled* copies of certificates from KEBS on Alvaro;
- (iii) The results reveal that Alvaro conforms to the Kenya Standards KS-05-358-1999 specification for carbonated and non-alcoholic beverages. Therefore the issue of stopping the sale of the drink does not arise since no Alcohol has been detected.

Considered ruling.

3. Supplementary Questions arose, a Member proposed that the matter be referred to a Committee and the Chair made a considered ruling that:

“In view of the fact that this matter is generating a lot of questions and interest, I believe both inside and outside the House, it is the Chair’s considered opinion that this matter, as Hon. Dr. Kones said, be referred to the Departmental Committee on Health, Housing, Labour and Social Welfare to do conclusive job. This House is there to transact business and handle matters as weighty as this; in order to leave no doubt in the minds of Kenyans and what is being said here or what will be tabled before this House, it is essential that we be told the truth and nothing but the truth. Under the circumstances, the Chair directs that the said Departmental Committee proceeds and carries out an exhaustive test on these allegations with the assistance of the relevant

Government Departments. It should come back to the House and inform it exactly what is the position”

4. The Committee was directed to report back to the House in exactly two weeks. However, due to the processes involved in sourcing the firms to carry out the tests and the nature of testing as set out in the Terms of Reference (TOR) adopted by the Committee thereafter, it was found prudent to ask the House for extension of time. Subsequently, the Committee sought and was granted more time to investigate the matter and table its report on or before November 25, 2008.

Evidence by the Hon. Rachel Shebesh, MP

5. The Committee invited Hon. Rachel Shebesh, MP, to its meeting of August 12, 2008. The Member informed the Committee:-
 - (i) That, She was not contented by the Minister’s reply to her parliamentary question No. 049 and the consequential supplementary questions;
 - (ii) That, the allegations that “Alvaro” could be alcoholic arose when students in certain secondary schools in Nairobi reported to parents that they had “tested” the product and found it to contain alcohol;
 - (iii) That, she would not be able to disclose the identity of the said schools to avoid any negative implications that may arise as a result;

- (iv) That, the formula used by the students of the said schools was qualitative determination of contents of Alcohol, that is, Oxidation, which involved adding potassium dichromate to the drink. This made the reagent to turn green from orange. Further, the students may have used Esterification, which involves adding a few drops of concentrated Sulphuric (VI) Acid to a sample form of a substance with a pleasant smell;
- (v) That, the said schools do not have advanced equipment to carry out such tests and were therefore not in a position to give the percentage of the alleged alcohol content in the product;
- (vi) That, the management of EABL would appear to be unwilling to disclose the ingredients contained in the drink;
- (vii) That, she had no malice in bringing the Alvaro question in the House nor was she being influenced to follow up the matter by any soft drink manufacturers as alluded by a Member outside the House. Her only concern was that a product sold as a non-alcoholic could be containing alcohol;
- (viii) That, she had approached the Kenya Bureau of Standards (KEBS) to carry out the tests without success. Further, it is not clear to her what amount of Alcohol warrants a drink to be labelled "Alcoholic" ;
- (ix) That there has been allegations that when exposed to natural air, Alvaro becomes alcoholic;

6. The Member also laid the following Papers before the Committee:-

- (i) a brief to the Committee titled “The Genesis of the Alvaro Matter”;
- (ii) Excerpts of the formula used by a Secondary School to test “Alvaro”, ostensibly from the Secondary Chemistry Form Four Kenya Literature Bureau text book;
- (iii) Letter written by the Hon. Rachel Shebesh, MP to the Minister for Health and Copied to the Permanent Secretary and the Director of Health dated July 28, 2008 Re: Presence of Alcohol Content in the Alvaro Drink: and
- (iv) Information from AllAfrica.com entitled “Battle for Soft Drinks Market Hots Up”

7. During the Meeting,

- (i) The Committee observed that, the tests carried out by the various secondary schools may be simplistic and basic in that the said schools lack advanced equipment. However, the allegations warrant further investigations;
- (ii) The Committee agreed that the TOR for testing includes investigations on the behaviour of the product when exposed to air; and,

- (iii) The Committee's reiterated that its responsibility was to ascertain whether or not alvaro is an alcoholic drink.

Meeting with the Management of East African Breweries

- 8. The Committee also summoned the Management of the East African Breweries (EABL) before them. The Following persons appeared on August 14, 2008 and gave evidence:

Mr. James Musyoki	-	Managing Director, Group Supply
Mrs. Agnes Acom Okuuny	-	Head of Group Quality Assurance
Mr. Ken Kariuki	-	Director, Corporate Affairs

- 9. The Managing Director informed the Committee:-

- (i) That, EABL strictly observes KEBS and other International Standards in the production of all its products;
- (ii) That, the Company observes highest hygienic standards particularly in cleaning and sanitizing production lines after changing from production of an alcoholic product to Alvaro. The same case applies when changing from one brand to another. These are practices used in other companies through out the world and also in production of medicines;
- (iii) That, Alvaro was developed by EABL in collaboration with Diageo, a UK based company with shares in EABL and that Kenya was the first country to launch it. However, plans are that if the drink is successful in Kenya, it would then be

introduced elsewhere in Africa and this could have major implications to the soft drinks market;

- (iv) That, Alvaro is a non-alcoholic drink. He clarified that the test methods used in secondary schools are not specific and that similar reactions could be obtained if any simple or natural sugar is mixed with potassium dichromate to give Chromium 3 ions (greenish in colour). From this reaction, all non-alcoholic drinks containing reducing sugar will give a colour change of dichromate from orange-red to green. This does not mean that the non-alcoholic drink alcohol in it. Separation of reactions is studied at higher levels of learning.
- (v) That, from EABL's experience and tests done elsewhere, Alvaro does not ferment because it does not contain yeast. Nevertheless, if any sugary product is exposed and gets contaminated by yeast, it may ferment. Fermenting is not therefore specific to Alvaro;
- (vi) That, Alvaro ingredients are: Carbonated water with dissolved carbon dioxide; sugar (cane extract concentrate); Malt extracts; citric acid; pear flavour (or pineapples flavour); phosphoric acid; coloured malt extracts; Trisodium citric; potassium sorbate; sodium benzoate; and Quillaja extracts which is a natural foam stabilizer grown in Chile and which has no alcohol;
- (vii) That, Alvaro has nine-month shelf-life with expiry dates machine-marked on the bottle; and,

(viii) That, Alvaro meets the KEBS stipulated standards for soft drinks.

10. The Managing Director, Group Supply laid the following Papers before the Committee:-

- (i) Letter by Site Director, Seychelles Breweries Limited to the MD, Group Supply dated August 13, 2008 Re: Communication – CSD and Beer Production;*
- (ii) Letter by Supply Director, Guinness Nigeria to the MD, Group Supply dated August 12, 2008;*
- (iii) Letter by Supply Chain Director, Guinness Ghana to the MD, Group Supply dated August 13, 2008 Re: Packaging of Alcoholic and Non-Alcoholic Beverages on the same Packaging;*
- (iv) Alvaro Ingredients List;*
- (v) A brief on Non-Alcoholic Drinks Reaction with Potassium Dichromate;*
- (vi) Permit to Use KEBS Standardization Mark;*
- (vii) Certificate of Analysis from Government Chemists Department (Alvaro-Pineapple and Pear Tastes);and,*
- (viii) KEBS Laboratory Test Report (Alvaro-Pineapple and Pear Tastes) and (Malta-Guinness).*

11. In the afternoon of August 14, 2008, the Committee visited the EABL Alvaro production unit and toured the bottling plant

Testing Institutions

12. The Committee resolved that tests be carried out by:

- (i) The Kenya Bureau of Standards
- (ii) The Government Chemist
- (iii) At least three public universities
- (iv) At least three private universities,
- (v) International firms with local representation in Kenya; and,
- (vi) One international firm, operating outside Kenya.

13. It was also resolved that each firm be approached separately and be asked to maintain confidentiality. In this regard, the following institutions were contacted on diverse dates and asked to carry out the tests:

- (i) University of Nairobi
- (ii) Kenya Bureau of Standards
- (iii) Government Chemist
- (iv) Jomo Kenyatta University of Agriculture and Technology
- (v) Moi University
- (vi) Catholic University
- (vii) Baraton University
- (viii) Kenya Methodist University
- (ix) A firm in Switzerland (Kenya Embassy to be asked to nominate)

- (x) International Standards Organization (ISO) in Geneva, Switzerland,

Two international firms with local representation in Kenya, M/s. SGS (K) and M/s. Bureau Veritas were asked to express interest (EOI) and submit quotation; the latter did not submit its Expression of Interest.

14. The requests for testing to firms in Switzerland were sent through the Kenya Mission in Geneva. On receipt of request, the Mission conveyed the same to the International Standards Organization in Geneva who advised that as a regulatory body, ISO does not carry out any tests. They however recommended SGS . Consequently, M/s. SGS, Geneva were asked to carry out the tests.

Terms of Reference:

15. The Committee, in its meeting of August 21, 2008 adopted the following as terms of reference to be used by Testing Institutions in testing Alvaro:

- (i) in addition to the two samples provided (Members to randomly purchase samples and avail then to the Clerk), each institution/firm makes random purchases of sufficient samples of the product. The samples should be collected and tested from each province in the country. Sufficient samples should be provided for firms outside Kenya;
- (ii) the institution should maintain a record and proof of exact outlet where the sample was purchased, indicating the time and date;

- (iii) Alcohol Tests to be carried out on the samples obtained by way of Gas Chromatography, Distillation or any other internationally acceptable method of *Confirmation Test for Alcohol*;
- (iv) Tests to be carried in each sample as follows:-
 - (a) immediately after opening,
 - (b) at intervals of thirty minutes for up to two hours after opening and on exposure to natural air, and
 - (c) after twelve and after twenty four hours after opening and on exposure to natural air;
- (v) the institution to submit its written Report to the Committee through Clerk of the National Assembly within seven days from the date of the request. The Report to include (and not limited to) sampling methodology, source of each sample (with proof), testing method(s) and results and analysis for each case.

Results of Tests carried out

16. Members of the Committee purchased samples of Alvaro (Pear and Pineapple) and submitted them to the Clerk. These samples were forwarded to each of the testing (at least two per institution). They formed part of the larger sample size.
17. Each Institution also randomly purchased sufficient samples of Alvaro (Pear and Pineapple) in each of the eight provinces of Kenya. Receipts were provided to the Committee in confirmation;

18. Tests were carried out in three phases: immediately after opening: at intervals of thirty minutes for up to two hours after opening and on exposure to natural air; and after twelve and after twenty four hours after opening and on exposure to natural air.
19. Although the Committee requested all testing institutions to submit their results within seven days of receipt, most of them requested for more time citing the detailed nature of the TOR and the sample frame.
20. Most of the results submitted by each institution were detailed and technical. It is therefore not possible to reproduce all information in this report. They are however tabled together with this Report for reference. This is a summary of the findings of the Institution.

(i) **Jomo Kenyatta University of Science and Technology.**

Method of testing:

The Samples were first distilled and then analysed for ethyl alcohol content (% v/v) by Specific Gravity and Gas Chromatography.

Summarised results:

“From the results, it appears that the Alvaro Samples do not contain ethyl alcohol as determined by the Specific Gravity Method. However, the Gas Chromatography Method shows trace amounts of up to (0.01%) of ethyl alcohol in some of the samples tested. It is to be noted that this level is extremely low. It also appears that Alvaro Pear and Alvaro Pineapple are quite similar in terms of ethyl alcohol

occurrences. The Length of time of storage and exposure to natural air does not seem to confer any changes regarding the alcohol levels”.

(ii) **Kenya Methodist University**

Methodology of testing:

The samples were subjected to the Chromic Acid test after Distillation.

Summarised results:

“We wish to submit our findings that the consumer product “Alvaro” does not contain detectable levels of alcohol. However, this finding does not mean that this product does not completely have traces of alcohol but that its presence may only be in use as a binding or stabilizing agent for other ingredients used in its preparation”

(iii) **Moi University**

Methodology of testing:

Using the Density Meter Model DMA 4500/500: OIML % v/v, measurement of alcohol concentration in % by volume at 20 degrees Centigrade to the OIML table ITS-90, density with viscosity correction.

Summarised results:

No Alcohol detected in all samples and at all intervals of testing.

(iv) **University of East Africa, Baraton**

Methodology of testing:

The qualitative method of measurement using the Breathalyzer method (adding samples of Alvaro to potassium dichromate)

Summarised results:

Orange potassium dichromate turned Green from Orange- therefore Alvaro contains alcohol. Further quantitative tests should be performed to ascertain the correct amounts of ethanol in Alvaro. A comparison test for presence and amounts of alcohol should also be carried out with other soft drinks.

(v) **University of Nairobi**

Methodology of testing:

Gas Chromatography using a Varian CP 3800 Gas Chromatograph Equipment.

Summarised results:

"No ethanol was detected in the samples submitted for analysis. Our detection limit was 0.005%.

(vi) **Catholic University of East Africa**

Methodology of testing:

Gas Chromatography

Summarised results:

"No ethanol was detected"

(vii) **Government Chemist**

Methodology of testing:

Gas Chromatography

Summarised results:

“No ethanol was detected in all the samples tested”

Methodology of testing:

Distillation and measurement of amounts of alcohol (%v/v)
by Specific Gravity Tables

Summarised results:

Results of NIL to 0.027% by Volume.

(viii) **Kenya Bureau of Standards**

Methodology of testing:

Distillation using a Pycknometer (TES/06/TM/10)

Summarised results:

No ethanol was detected in all samples tested. “in view of the results obtained during this survey, it is evident that the Alvaro drinks do not contain alcohol.

(ix) **M/s. Societe Generale de Surveillance (SGS), Geneva**

Method of testing

Distillation using kit enzymatique

Summarized results

The level of ethanol detected in g/100ml in the various samples and in different levels of testing ranged from 0.001 to 0.017.

This is within the allowable limit for non-alcoholic drinks

21. By the time of preparing this report, M/s. SGS, Nairobi had not submitted their results.

Committee observations

22. Soft drink beverages are commonly marketed as non-alcoholic. According to internationally accepted standards, a beverage marketed as non-alcoholic must have less than 0.5%v/v alcohol content (San Diego DUI Law Centre, 2005). And even then, all beverages with alcohol content close to this are required to contain a warning message.
23. Available literature reveals that the Schweppes International which produces "Pepsi-Cola contains only a small amount of alcohol, which is present in order to dissolve the flavour"
24. Researches in Norway reported having found or detected some trace amounts of ethanol in soft drinks and other flavoured beverages. Ethanol in Sprite and other flavoured beverages were determined by Gas Chromatography and found that the mean ethanol concentration in such drinks ranged from 0.000 to 0.096% w/v.
25. According to the U.S. Food and Drug Administration, beverages containing less than 0.5% ethanol are considered non-alcoholic. If the ethanol content of a beverage is greater than 0.5%, it is considered an alcoholic beverage and must bear the government warning

statement. In addition, if ethanol is added as an ingredient, it must be listed in the ingredient declaration.

26. The confirmatory test and internationally accepted standard method for determining of Alcohol content in a drink is the **distillation** or **gas chromatography** methods.
27. Literature reviewed showed that, the methods are used globally for determination of ethyl alcohol content in Fruit Juices, carbonated beverages, wines, beers, ciders and Perry. The principal of distillation of a sample is to separate the volatile from non-volatile components. The alcohol content of the resulting distillate can be readily measured using other equipments, like the Pycnometer at controlled temperature.
28. The Oxidation method as contained in the Secondary Chemistry Form Four (S/B) text book which was tabled before the Committee is a basic **qualitative** method which is a test of presence of ethanoic acid or alkanols. Generally, Ethanol is oxidised by oxidising agents such as potassium manganate (VII) and potassium dichromate to form ethanoic acid. Ethanol turns potassium manganate (VII) to colourless from purple. Also, potassium dichromate turns green from orange on presence of Ethanol. This is due to reduction of chromate ions to chromium ions which is green. This is also referred to as the Breathalyzer method.
29. In deed, other soft drinks when subjected to the Oxidation test turned the orange potassium dichromate to green. These included, Sprite soda, Coca Cola light, Mango and Apple juices produced by Delmonte (K) Ltd.

30. In the case of "Alvaro" the Committee noted that the methodology used by the Schools that allegedly found the said product to contain alcohol was a qualitative basic test that is mostly used in breathalyzers (often referred to as the Breathalyzer Method). It involves adding samples of a drink to, potassium dichromate which turns green from orange on presence of Ethanol. This is due to reduction of chromate ions to chromium ions which is green. This test even when carried out on soft drinks like fruit juices and some sodas showed presence of ethanol in those drinks. This is therefore not a confirmatory test for presence of alcohol. Moreover it does not provide the alcohol levels in volume present in a drink.
31. Even though the Committee's TOR were clear on the Testing Method, the Methodology used by the University of East Africa, Baraton was the Breathalyzer method. The results were therefore similar to those alluded by the said Schools and the Member, which were qualitative and basic.
32. As mentioned before in this Report, the internationally accepted methods for confirming presence and quantities of Alcohol are distillation and gas-chromatography. When used, these methods showed that Alvaro is non-Alcoholic. It is however important to note that this does not indicate that there are no traces of alcohol in the drink, but shows that, if they are present, they are below the 0.5%.
33. In Kenya and according to the Food, Drugs and Chemical Substances Act, CAP 254, soft drinks can have up to 0.5% alcohol by volume.

Conclusion.

34. From the test results from local public and private universities, the Government Chemist, Kenya Bureau of Standards and M/s. Societe Generale de Surveillance (SGS) Geneva, Alvaro is a non-Alcoholic drink.

APPENDIX I:

**MINUTES OF THE COMMITTEE
ON CONSIDERATION OF THE
MATTER OF ALCOHOL CONTENT
OF 'ALVARO'"**

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM, FIFTH FLOOR CONTINENTAL BUILDING ON
TUESDAY, 12TH AUGUST 2008 AT 10:45 A.M.

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, MP - Chairman
The Hon. Joseph Oyugi Magwanga, MP
The Hon. Elijah Lagat, MP
The Hon. Munyaka Kioko, MP
The Hon. Nuh Nassir, MP

ABSENT WITH APOLOGY:

The Hon. Abdirahman A. Hassan, MP
The Hon. (Dr.) Boni Khalwale, MP
The Hon. Mbari Itwiku Benson, MP
The Hon. Sophia Abdi Noor, MP
The Hon. Fredrick Outa, MP
The Hon. Githunguri Stanley, MP

IN ATTENDANCE:

The Hon. Rachel Shebesh, MP

NATIONAL ASSEMBLY

Mr. Samuel Njoroge - Clerk Assistant
Mr. Rachel Kairu - Clerk Assistant
Mr. Derick Epae Koli - Parliamentary Intern

MIN.NO.46/2008-2012: MEETING WITH THE HON. RACHEL
SHEBESH, MP

Papers Laid: the Hon. Rachel Shebesh laid the following Papers before the Committee:-

- (i) *The Genesis of the Alvaro Matter*
- (ii) *The formula from the Secondary Chemistry Form Four S/B text book used by the schools to test for alcohol in the product 'Alvaro'.*
- (ii) *Letter written by the Hon. Rachel Shebesh, MP to the Minister for Health and Copied to the Permanent Secretary and the*

Director of Health dated July 28, 2008 Re: Presence of Alcohol Content in the Alvaro Drink.

(iii) Information from allAfrica.com entitled "Battle for Soft Drinks Market Hots Up"

The Member also reported that:

- (i) The allegations that Alvaro drink has alcohol content arose in a meeting of schools and that four secondary schools claim to have tested the product positive for alcohol. However, she sought the indulgence of the Committee not to name the schools to avoid any negative implications that may arise as a result;
- (ii) The said schools did not have advanced equipments and were therefore not in a position to give the percentage of the alleged alcohol content in the product;
- (iii) She was not contented by the Minister's reply to her parliamentary question No. 049 and the consequential supplementary questions;
- (iv) She had made attempts to have the product tested for alcohol content in other institutions save for the Kenya Bureau of Standards and the Government Chemist but had not succeeded so far; and
- (v) EABL was unwilling to give the ingredients in the production of the drink.

In conclusion, the Hon. Member clarified that she had no malice in bringing the Alvaro question in the House nor was she being influenced to follow up the matter by any soft drink manufacturers. Her only concern was that a product sold as a non-alcoholic could be containing alcohol.

MIN.NO.47/2008-2012: COMMITTEE'S OBSERVATIONS/CONCERNS

The Committee observed that:

- (i) The tests carried out by the various secondary schools are elementary and with no ownership, their authenticity could not be verified and are therefore not credible. The Committee could only consider results from legally recognised institutions;
- (ii) Involving the said schools in the inquiry would be detrimental to their operations;

(iii) The Committee's responsibility was to ascertain whether or not the product contains alcohol; and

(iv) There was need to ascertain the product's behaviour when left in the open for a period of time.

MIN.NO.48/2008-2012:

COMMITTEE'S RESOLUTIONS

The Committee resolved:

- (i) That it would only involve the said schools only if the circumstances seriously demand so in order to protect them from unnecessary publicity;
- (ii) To ask the following institutions to carry out tests immediately after the product is opened and thereafter at intervals of 30 minutes for up to three hours:- The University of Nairobi, Jomo Kenyatta University of Science and Technology. The Secretariat was directed to research on SGS and Bureau Veritas to enable the Committee determine whether the two could also be asked to carry out tests on the product;
- (iii) To visit meet the Managing Director and the Alvaro production team of EABL on Thursday, 14th August 2008 and thereafter visit the production unit;
- (iv) To know from EABL management the ingredients of the product; and
- (v) To invite the Hon. Danson Mungatana, MP as a witness given that he toured the Alvaro production unit and thereafter addressed a press conference confirming that there is no alcohol content in the drink.

MIN. NO. 49/2008-2012: ANY OTHER BUSINESS

- (i) The Committee resolved that during the recess period, its sittings scheduled for any particular week would be held in consecutive days to enable Members attend to Constituency matters.
- (ii) Members were informed of the Committee's invitation to the Inter-Parliamentary Relations Seminar (Nanyuki IV) scheduled to take place in Mille De Collins Hotel, Kigali, Rwanda from 2nd - 5th October 2008 and that the Committee was required to nominate five Members to attend. Other Committees invited are the Committees on Finance and Trade, and Defence and Foreign Relations: The Hon. (Dr.) Robert Monda, MP; the Hon. Joseph O. Magwanga, MP; the Munyaka Kioko, MP. and Hon. Elijah Lagat, MP. expressed interest to represent the Committee in the Seminar.

- (iii) Members wanted to know whether it was possible to undertake a foreign study visit before the House resumes on 7th October 2008. The Secretariat pointed out that Kenya's foreign missions abroad require at least 60 days notice to enable them facilitate such visits. Nevertheless, foreign visits can still be undertaken even when the Parliament is on session.
- (iv) The need for the Committee to be represented in the ongoing Olympic games in Beijing was discussed and the Hon. Elijah Lagat, MP. was nominated to represent the Committee in Beijing.

MIN. NO. 50/2008-2012: ADJOURNMENT

There being no other business, the Chairman adjourned the sitting at two past one until the next sitting on Thursday, 14th August 2008 at 10:15 am.

Signed: The Hon. (Dr.) Robert Monda, MP
 (CHAIRMAN)

Date 19/08/2008

**MINUTES OF THE 13TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM, FIFTH FLOOR CONTINENTAL BUILDING ON
THURSDAY, 14TH AUGUST 2008 AT 11:00 A.M.**

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, MP - Chairman
The Hon. Sophia Abdi Noor, MP
The Hon. Joseph Oyugi Magwanga, MP
The Hon. Elijah Lagat, MP
The Hon. Nuh Nassir, MP

ABSENT WITH APOLOGY:

The Hon. Munyaka Kioko, MP
The Hon. Fredrick Outa, MP
The Hon. Githunguri Stanley, MP

ABSENT:

The Hon. Abdirahman A. Hassan, MP
The Hon. (Dr.) Boni Khalwale, MP
The Hon. Mbai Itwiku Benson, MP

IN ATTENDANCE:

EAST AFRICAN BREWERIES LIMITED

Mr. James Musyoki - Managing Director, Group Supply
Mrs. Agnes Acom Okuuny - Head of Group Quality
Mr. Ken Kariuki - Director of Corporate Affairs

NATIONAL ASSEMBLY

Mr. Samuel Njoroge - Clerk Assistant
Mr. Rachel Kairu - Clerk Assistant
Mr. Derick Epae Koli - Parliamentary Intern

MIN.NO.51/2008-2012:

**MEETING WITH THE EAST AFRICAN
BREWERIES TEAM**

Papers Laid: the Managing Director, Group Supply laid the following Papers before the Committee:-

- (i) *East African Breweries Limited.*

- (ii) *Letter by Site Director, Seychelles Breweries Limited to the MD, Group Supply dated August 13, 2008 Re: Communication – CSD and Beer Production.*
- (iii) *Letter by Supply Director, Guinness Nigeria to the MD, Group Supply dated August 12, 2008.*
- (iv) *Letter by Supply Chain Director, Guinness Ghana to the MD, Group Supply dated August 13, 2008 Re: Packaging of Alcoholic and Non-Alcoholic Beverages on the same Packaging.*
- (vi) *Alvaro Ingredients List.*
- (vii) *Non-Alcoholic Drinks Reaction with Potassium Dichromate.*
- (viii) *Statement about Ethanol.*
- (ix) *Permit to Use KEBS Standardization Mark.*
- (x) *Certificate of Analysis from Government Chemists Department (Alvaro-Pineapple and Pear Tastes).*
- (xi) *KEBS Laboratory Test Report (Alvaro-Pineapple and Pear Tastes) and (Malta-Guinness).*

The Managing Director assured Members that:

- (i) EABL strictly observes set standards in the production of all its products;
- (ii) Alvaro meets the stipulated standards for soft drinks; and
- (iii) The Company observes highest hygienic standards particularly in cleaning and sanitizing production lines after changing from beer to Alvaro. The same case applies when changing from one brand to another.

MIN.NO.52/2008-2012:

**MEMBERS CONCERNS/
OBSERVATIONS**

Members sought to know:

- i) Whether beer and Alvaro drinks were being produced in the same lines and if so, what measures are in place to ensure non-contamination? The MD informed Members that the same line was being used. The practice is internationally accepted and recognised just like the same lines are used in other fields such as the production of various medicines. He also mentioned several companies producing both beer and soft drinks in the same lines. (Papers laid). He emphasized that of key importance is the cleaning and sanitizing processes in place and assured Members that EABL observes very high standards.
- ii) Whether there were plans to acquire a production line specifically for Alvaro as had been reported in sections of the media? The MD reported that EABL was in the process of putting up an additional line for production of all its products.

- iii) Whether there is alcohol content in Alvaro drink as alleged by some secondary schools? The MD assured Members that Alvaro has no alcohol content. He clarified that the test methods used in secondary schools are not specific and that similar reactions could be obtained if any simple or natural sugar is mixed with potassium dichromate to give chromium³ ions (greenish in colour).

From this reaction, all non-alcoholic drinks containing reducing sugar will give a colour change of dichromate from orange-red to green. This does not mean that the non-alcoholic drink has presence of alcohol in it. Separation of reactions is studied at higher levels of learning. He mentioned that the Standard method for determining of Alcohol in a beverage is the distillation or gas chromatography method. All other methods are referenced to the standard methods.

- iv) Whether Alvaro ferments when exposed? The MD reported that from EABL's experience and tests done elsewhere, it does not ferment because it does not contain yeast. Nevertheless, if any sugary product is exposed and gets contaminated by yeast, it ferments after about a week. Fermenting is not therefore specific to Alvaro.
- v) The difference and similarities between Alvaro and Tusker Malt?
The EABL team reported that;
- a) While Alvaro has no alcohol, Tusker Malt has 5% alcohol content;
 - b) While Alvaro is a soft drink, Tusker Malt is a beer;
 - c) Both are packaged in green bottles but so is the case with some other soft drinks;
 - d) Both have malt compound;
- vi) What is Quillaja, an ingredient in Alvaro? The MD informed Members that Quillaja extracts are a natural foam stabilizer grown in Chile. Foaming is an inherent character of the drink and Quillaja extracts are therefore being used to stabilize it.

vii) Why EABL was targeting 24-35 age bracket? Members were assured that it was just a marketing strategy to positioning the drink in the market and that in marketing, any product has to have a primary target. From research done by EABL, the shape of Alvaro bottle is aspirational, superior and upmarket. Persons in this age bracket can pay for it considering its price is relatively higher than other sodas, are aspirational and want to be identified with products that seem upmarket. However, it does not exclude the other age groups;

- ix) How frequently KEBS tests EABL's products for quality control and assurance? The MD assured the Committee that KEBS has authority to take samples of any of its products from the factory. However, he could

only establish the frequency from company records. KEBS also takes samples from trade.

- (x) Whether Alvaro could be containing an ingredient that mimics alcohol? The Committee was informed that the drink contains malt compound and if yeast is introduced into malt extracts it produces alcohol.
- (xi) Who developed Alvaro and whether apart from Kenya, it is being sold elsewhere? Members were informed that the drink was developed by EABL in collaboration with Diageo, a UK based company with shares in EABL and that Kenya was the first country to launch it. However, plans are that if the drink is successful in Kenya, it would then be introduced elsewhere in Africa and this could have major implications to the soft drinks market.
- (xii) The drink's shelf-life: The Committee was informed that it has a 9-month shelf-life with expiry dates machine marked on the bottle. An unmarked bottle could be as a result of the marking rubbing off.
- (xiii) Whether the Hon. Danson Mungatana, MP attended celebrations to mark production of the 7th million bottle of Alvaro drinks at EABL on 23rd July 2008 in his capacity as the Assistant Minister for Medical Services or his personal capacity? EABL clarified it was in his personal capacity.

MIN.NO.53/2008-2012: COMMITTEE'S RESOLUTIONS

The Committee observed that the recent media publicity of the matter either in paid up advertisements by the company or otherwise appeared more as a defensive rather than a marketing strategy and hence should be discouraged. They urged EABL to restrain from such publicity until the matter is exhaustively dealt with.

MIN. NO. 54/2008-2012: ANY OTHER BUSINESS

- i) The Committee expressed concern that the KMTC was yet to avail the information requested for during its meeting with the Committee on 18th July 2008. It was resolved that a follow up letter be sent to KMTC to avail the same by Monday 18, 2008 at 10.00 am.
- ii) Members were reminded of the Committee's resolution during its 12th sitting of 12th August 2008 that it would visit EABL's production unit after meeting with EABL team.

MIN. NO. 55/2008-2012: ADJOURNMENT

There being no other business, the Chairman adjourned the sitting at half past one until the next sitting on Monday, 18th August 2008 at 2.30 pm.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 19/08/2008

MINUTES OF THE 14TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM, FIFTH FLOOR CONTINENTAL BUILDING ON
MONDAY, 19TH AUGUST 2008 AT 3:00 P.M.

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, MP - Chairman
The Hon. Sophia Abdi Noor, MP
The Hon. Elijah Lagat, MP
The Hon. Nuh Nassir, MP
The Hon. Fredrick Outa, MP
The Hon. (Dr.) Boni Khalwale, MP
The Hon. Mbai Itwiku Benson, MP

ABSENT WITH APOLOGY:

The Hon. Joseph Oyugi Magwanga, MP
The Hon. Munyaka Kioko, MP

ABSENT:

The Hon. Abdirahman A. Hassan, MP
The Hon. Githunguri Stanley, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY:

Ms. Rachel Kairu - Clerk Assistant
Mr. Derick Epae Koli - Parliamentary Intern

MIN. NO. 56/2008-2012: CONFIRMATION OF MINUTES OF
PREVIOUS SITTINGS

Minutes of the following sittings were read, confirmed by the Members present as true record of the sittings' proceedings and signed by the Chairman;

i) Minutes of the 10th sitting held on 29th July 2008;

- ii) Minutes of the 12th sitting held on 12th August 2008; and
- ii) Minutes of the 13th sitting held on 14th August 2008.

MIN. NO. 57/2008-2012: MATTERS ARISING

The following matters arose and were dealt with as herein below;

- i) Under Min. 49/2008-2012 (iv) of 12th August 2008: Committee's Representation in Beijing, China, the Chairman informed Members that the Clerk had approved the visit by the Hon. Elijah Lagat, MP to Beijing and preparations for the same were underway.
- ii) Under Min. 52/2008-2012 (xii) of 14th August 2008: Members Concerns/Observations, it was observed that Members concerns included the fact that out of the 3 Alvaro sample bottles the Committee had during the meeting, 2 of them were not marked their expiry dates.

MIN. NO. 58/2008-2012: ALVARO INQUIRY–THE WAY FORWARD

The Committee deliberated on the way forward in the inquiry into the matter of Alvaro. Members resolved to:

- i) Have independent tests conducted both locally and abroad. Two institutions in different continents would be identified while locally, Members resolved to request the following institutions to carry out tests on the product and present their finds to the Committee.
 - a) University of Nairobi.
 - b) Jomo Kenyatta Collage of Agriculture and Technology.
 - c) Moi University.
 - d) Catholic University.
 - e) Baraton University.
 - f) Methodist University.
 - g) Societe Generale de Surveillance, Kenya (SGS).

Research would also be conducted on Bureau Veritas to enable the Committee determine whether to include it in the above list.

- ii) Have a sample of about thirty bottles of Alvaro drink purchased in various parts of the Country for purposes of testing.
- iii) Have KEBS and Government Chemist appear before the Committee after the Committee receives the test reports from the above institutions to enable Members make comparisons of the findings.

MIN. NO. 59/2008-2012: CONSIDERATION OF INFORMATION FROM KMTC

The Chairman informed Members that KMTC was yet to avail the information requested by the Committee. However, a reminder letter had been written and was awaiting the Clerk's signature. Members resolved to meet the Director, KMTC at a date to be agreed upon.

MIN. NO. 60/2008-2012: CONSIDERATION OF COMMITTEE WORK PROGRAMME FOR THE PERIOD AUGUST TO DECEMBER 2008

The Committee considered the draft programme of business for the period August to December, 2008 and adopted it with the following amendments;

- i) To have both the National Aids Control Council (NACC) and Sensitization on Tuberculosis Workshops held between September 30 and October 01, 2008. The Secretariat was requested to liaise with NACC and the Ministry of Public Health and Sanitation on the same.
- ii) Foreign Visit to Sweden and Finland be arranged for the 1st week of November 2008.

MIN. NO. 61/2008-2012: ANY OTHER BUSINESS

- i) The Chairman informed Members that he had received additional information from EABL i.e. clarification on Alvaro Microbiological results from tests done by KEBS. Members observed that the information did not address the Committees' concerns with regard to a statement by the MD, EABL Group Supply during the meeting with the Committee that Alvaro did not contain yeast yet results for yeasts and moulds from KEBS showed <1.0.
- ii) Members were informed that a delegation of Members of the Budgetary Committee from German Parliament who would be visiting the Country from 27th August to 1st September 2008 to among other things assess the health situation and health needs as well as visit various health projects supported by the German Government were requesting to meet the Committee on either Thursday, 28th August or Friday 29th August 2008. The Committee resolve to meet them on Thursday, 28th August 2008 at 10.30 a.m.
- i ii) With regard to the Inter-Parliamentary Relations Seminar (Nanyuki IV) scheduled to take place in Kigali, Rwanda from 2nd – 5th October 2008, the following Members also expressed interest to represent the Committee in the Seminar; the Hon. Fredrick Outa, MP., the Nuh Nassir, MP and the Hon. Sophia Abdi Noor, MP.

Others who had expressed interest during the previous Committee sitting are; the Hon. (Dr.) Robert Monda, MP; the Hon. Joseph O. Magwanga, MP; the Munyaka Kioko, MP. and Hon. Elijah Lagat, MP.

MIN. NO. 62/2008-2012: ADJOURNMENT

There being no other business the Chairman adjourned the sitting at fifteen minutes past noon until Thursday, August 28, 2008 at 10:15 am.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 08/08/2008

**MINUTES OF THE JOINT SITTING OF THE DEPARTMENTAL COMMITTEE D
– ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE AND FISCAL
ANALYSIS AND APPROPRIATION (BUDGET) COMMITTEE HELD IN
COMMITTEE ROOM, FIFTH FLOOR CONTINENTAL BUILDING ON
THURSDAY, 28TH AUGUST, 2008 AT 10:30 A.M.**

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr) Robert Monda, M.P – Chairman (Health Committee)

The Hon. Martin Otieno Ogindo, M.P. – Chairman (FAAC)

The Hon. Elijah Lagat, M.P.

The Hon. Joseph Oyugi Magwanga, M.P.

The Hon. Fredrick Outa, M.P

The Hon. Dr. Julius Kones, M.P.

The Hon. Moses Lessonet, M.P.

The Hon. Ngugi David, M.P.

The Hon. Elias Mbau, M.P.

The Hon. Alfred Wekesa Sambu, M.P.

The Hon. Maison Leshoomo, M.P.

The Hon. (Prof.) Margaret Kamar, M.P

ABSENT WITH APOLOGY:

The Hon. Mbai Itwiku Benson, MP

The Hon. Sophia Abdi Noor, MP

The Hon. (Dr.) Nuh Nassir, MP

The Hon. (Dr.) Boni Khalwale, MP

ABSENT:

The Hon. Abdirahman A. Hassan, MP

The Hon. (Dr.) Munyaka Kioko, MP

The Hon. Githunguri Stanley, MP

The Hon. Ekwee Ethuro, M.P.

The Hon. Peter Kiilu, M.P.

The Hon. Omari M. Zonga, M.P.

The Hon. Julius R. Murgor, M.P.
The Hon. Muoki Isaak, M.P.
The Hon. Mureithi Erastus, M.P.
The Hon. Sheik Dor, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mrs. Phyllis Makau -	Principal Budget Officer
Mr. John Wanyoike -	Clerk Assistant
Ms. Rachel N. Kairu -	Clerk Assistant
Mr. Fredrick Muthengi -	Budget Officer
Mr. Derick Epae Koli -	Parliamentary Intern.
Mr. Gichohi Mwaniki -	Parliamentary Intern

MIN.NO.63/2008-2012: MEETING WITH THE GERMAN DELEGATION

The German delegation comprised Members of Parliament from Budget Committee that controls health expenditure of the Federal Government and consults on annual federal budget and was in the Country from 27th August to 1st September 2008 to evaluate the health situation and health needs of the country as well as visit various health projects supported by German Government. The Committee is responsible for Health and HIV/AIDS.

The delegation was scheduled to jointly meet the Departmental Committee on Health, Housing, Labour and Social Welfare and the Fiscal Analysis and Appropriations (Budget) Committee.

Unfortunately, the delegation got held up in their previous appointments and due to time constrains was therefore unable to meet the Committees.

MIN.NO.64/2008-2012: ANY OTHER BUSINESS

The Chairman, Budget Committee informed Members of Health Committee of the Post-budget 2007/08 Workshop hosted by the Fiscal Analysis and Appropriations (Budget) and the Finance and Trade Committees scheduled to take place from 4th to 6th September 2008 at Sopa Lodge, Naivasha and that each Committee was being requested to be represented by the Chairman or Vice Chair and two other Members.

The Chairman of Health Committee expressed his concern over the short notice given and asked the Budget Committee to ensure that in future adequate notice for such workshops is given to enable Members to attend.

MIN. NO. 65/2008-2012: ADJOURNMENT

There being no other business the Chairman adjourned the sitting at fifteen minutes past noon until Monday, 8th September 2008 at 2.30 pm.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 15/09/2008

**MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM 9, MAIN BUILDING, PARLIAMENT BUILDINGS, ON
MONDAY, SEPTEMBER 15, 2008 AT 2:45 P.M.**

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, M.P. -Chairman
The Hon. Sophia Abdi Noor, MP
The Hon. (Dr.) Nuh Nassir, MP
The Hon. Mbai Itwiku Benson, M.P.

ABSENT WITH APOLOGY:

The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Abdirahman A Hassan, M.P
The Hon. (Dr.) Boni Khalwale, M.P
The Hon. Fredrick Outa, M.P

ABSENT

The Hon Githunguri Stanley, MP
The Hon. (Dr.) Munyaka Kioko, M.P.
The Hon. Elijah Lagat, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Samuel J. Njoroge - Clerk Assistant
Mr. Finlay Muriuki - Parliamentary Intern

MIN. NO. 72/2008-2012: PRELIMINARIES

The Chairman called the Meeting to order at 3:00 pm and welcomed Members to the meeting.

**MIN. NO. 73/2008-2012: CONFIRMATION OF THE MINUTES OF
THE PREVIOUS SITTING**

Minutes of the 16th Sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Hon. Dr. Nuh Nassir, M.P., seconded by the Hon. Sophia Abdi Noor, MP and signed by the Chairman.

MIN.NO. 74/2008-2012: MEETING WITH THE MINISTER FOR

EDUCATION: TESTING OF ALCOHOLIC
CONTENT OF ALVARO

The Committee expressed concern over the absence of the Minister for Education in the meeting despite being asked to attend in good time. Further, in absence of a clear explanation on the reason for failure to attend the meeting, the Committee resolved that:-

- (i) the samples be sent the three public universities, the Government Chemist and the Kenya Bureau for testing;
- (ii) the Secretariat expedite the process of forwarding the samples to M/s. SGS and M/s. Bureau of *Veritas*, for testing; and,
- (iii) the Terms of Reference be as follows:-
 - (a) in addition to the samples provided (by Members), each institution makes random purchases of sufficient samples of the product. The samples should be collected and tested from each province in the country;
 - (b) each institution should maintain a record and proof of exact outlet where the sample was purchased, indicating the time and date;
 - (c) Alcohol Tests to be carried out on the samples obtained by way of Gas Chromatography, Distillation or any other internationally acceptable method of *Confirmation Test for Alcohol*;
 - (d) Tests to be carried in each sample as follows:-
 - Immediately after opening,
 - At intervals of thirty minutes for up to two hours after opening and exposure to natural air, and
 - After twelve and after twenty four hours after opening and exposure to natural air;
 - (e) Each institution to submit its written Report to the Committee thorough the Clerk of the National Assembly within seven days from the date of this request. The Report to include (and not limited to) sampling methodology, source of each sample (with proof), testing method(s), results and analysis for each case; and,
 - (f) the Committee may, on receipt of the report, invite the institutions to its meeting of October 1st, 2008 to elucidate on the

contents of the report. The institutions to treat the tasks as urgent and maintain and strict confidentiality

MIN. NO. 75/2008-2012: ANY OTHER BUSINESS

- (i) The Committee resolved to request the Minister for Youths and Sports for to attend its meeting of Friday, September 26, 2008, to discuss the mandate of the Ministry and disbursement of Youth Funds particularly at constituency level.
- (ii) An NGO team composed of the Shelter Forum and three other groups have proposed to host the Committee for a luncheon or dinner to discuss the housing policy and related issues. The Committee resolved that the group makes the preparation through the Clerk of the National Assembly.
- (iii) UNICEF has proposed to invite the Committee for luncheon on the theme '*Countdown to 2015 on Child and Maternity Survival*'. The Committee set October 6, 2008 as the tentative date for the meeting.
- (iv) The Committee to examine the estimates of its assigned Ministries for the Financial Year 2008/2009 during the week commencing September 22, 2008.

MIN. NO. 76/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 4:30 pm until September 23, 2008.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 09/10/2008

MINUTES OF THE 18TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS, ON TUESDAY, SEPTEMBER 23, 2008 AT 10:40
A.M.

PRESENT

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, M.P. – Chairman
The Hon. Sophia Abdi Noor, M.P.
The Hon. Joseph Oyugi Magwanga, M.P.
The Hon. Abdirahman A Hassan, M.P.
The Hon. Elijah Lagat, M.P.

ABSENT WITH APOLOGY

The Hon. (Dr.) Nuh Nassir, MP
The Hon. Fredrick Outa, M.P.
The Hon. (Dr.) Munyaka Kioko, M.P.
The Hon. Mbai Itwiku Benson, M.P.

ABSENT

The Hon. Githunguri Stanley, M.P.
The Hon. (Dr.) Boni Khalwale, M.P.

IN ATTENDANCE

MINISTRY OF MEDICAL SERVICES

The Hon. (Prof) P. A. Nyongo, M.P. – Minister
Prof. James Ole Kiyapi – Permanent Secretary
Dr. Francis Kimani – Director of Medical Services
Mr. David Nyambok – Chief Finance Officer

KENYA MEDICAL SUPPLIES AGENCY (KEMSA)

Dr. John Munyu – Ag. Chief Executive Officer

NATIONAL ASSEMBLY

Ms. Rachel N. Kairu – Clerk Assistant
Mr. Cleophas Angwenyi – Parliamentary Intern

MIN. NO. 77/2008-2012: MEETING WITH THE MINISTER FOR
MEDICAL SERVICES

The Chair welcomed Members present and led the session in raising the various concerns with the Minister.

MIN. NO. 78/2008-2012

REINSTATEMENT OF DR. K. C. KOSKEI AS
CHIEF PHARMACIST

Members sought to know:

- i) Why Dr. K. C. Koskei was reinstated as Chief Pharmacist and Registrar of Pharmacy and Poisons Board despite numerous concerns raised over his past performance.

The Minister clarified that Dr. Koskei is an appointee of the Public Service Commission and not the Ministry of Medical Services. He further clarified that the two positions held by Dr. Koskei i.e. Chief Pharmacist and Registrar of Pharmacy and Poisons Board are statutorily provided under the Pharmacy and Poisons Board Act.

The Minister acknowledged that Dr. Koskei had in 2003 been transferred to another department without proper procedure being followed and acting Chief Pharmacist and Registrar of Pharmacy and Poisons Board appointed. The Ministry had no choice but to reinstate him to office, as his transfer was irregular.

- ii) Whether the concerns raised over the past performance of Dr. Koskei as Chief Pharmacist and Registrar of Pharmacy and Poisons Board had been taken into consideration before his reinstatement in 2008. Some of them include:

- a) Registration of unqualified pharmacists;
- b) Increase in the number of unregulated illegal pharmaceutical outlets;
- c) Poor pharmaceutical service delivery systems;
- d) Mushrooming of illegal education and training institutional providers;
- e) Illegal importation of expired, substandard and unregistered drugs into the country; and
- f) Mismanagement of the Pharmacy and Poisons Board.

The Minister stated that he was equally concerned over the allegations raised but observed that proper procedure should be followed to investigate the allegations and only then can the Ministry take appropriate action.

- iii) Whether the Minister has/is taking any steps to ensure that the allegations against the Chief Pharmacist are investigated.

The Minister clarified that in as much as the allegations have not been

followed up in the past; he was aware of them and is working to have them expressly investigated in accordance with the law. He assured Members that he would deal with the matter. He also assured Members that if the position does fall vacant, it would be filled with a suitable candidate.

MIN. NO. 79/2008-2012

KEMSA'S SERVICE DELIVERY

Members sought to know the reasons for;

- i) The disbandment of KEMSA's board of management and the CEO and appointment of a taskforce to investigate service delivery at KEMSA?

The Minister informed Members the board and the CEO were suspended in public interest due to poor leadership and mismanagement at KEMSA. On advice from an internal Committee chaired by the Permanent Secretary, the Minister established a taskforce to investigate KEMSA's service delivery and present its report in three months time. Part of its mandate is to look at the possibility of the establishment of a proper supply chain incorporating information systems based management, decentralisation of KEMSA and address the perennial lack of essential drugs.

The taskforce is scheduled to complete its report by end of September 2008. He assured Members that once the report was complete, he would share its findings and discuss the way forward with the Committee.

Members also sought an assurance that once the KEMSA board is reconstituted, it would be with suitable candidates. The Minister concurred with the Committee but pointed out that some of the stakeholders who appoint representatives to the board in accordance with the constitution were beyond his mandate.

- ii) Lack/shortage of drugs, including essential ones like TB and polio vaccines in health facilities.
- iii) Lack of satisfaction on drawing rights of health facilities by KEMSA. For example none of the health facilities visited by the Committee from 9th – 12th September 2008 had more than 60% of their drawing rights satisfied by KEMSA.

The Minister acknowledged the existence of drug procurement and distribution problems brought about by various factors such as financial constraints, poor leadership and mismanagement at KEMSA, too many procurement centres i.e. the Ministry, donors and KEMSA. However, with a proper supply chain system and full adoption of ICT management system software at KEMSA, shortage/lack of drugs and failure by KEMSA to satisfy the drawing rights of health facilities would be addressed.

- iv) KEMSA procuring only 30% of drugs and medical equipments with the Ministry procuring 70% yet as per the Act constituting KEMSA, it is supposed to procure all medical supplies for the Government

The Minister acknowledged that 100% of procurement should be undertaken by KEMSA and that he was working to ensure that this is the case.

MIN. NO. 80/2008-2012

COMMITTEE'S OBSERVATIONS DURING
ITS VISIT TO HEALTH FACILITIES AND
KEMSA IN NAIROBI, RIFT VALLEY AND
NYANZA

Members briefed the Minister of the Committee's observations during their visit to health facilities and KEMSA in Nairobi, Rift Valley and Nyanza between 9th and 12th September 2008.

Some of the Committee's general observations included the;

- i) Lack /shortage and expiry of drugs;
- ii) Substandard drugs;
- iii) Shortage of staff;
- iv) Disparities in staff available with some facilities being seriously understaffed while others are overstaffed;
- v) Poor infrastructure;
- vi) Lack/shortage of medical facilities such as bed space, ambulances;
- vii) Lack/shortage of medical equipments;
- viii) Inactiveness of regional KEMSA stores and centralization of KEMSA services;
- ix) Pending bills; and
- x) Misappropriation of funds meant to construct health facilities.

In response, the Minister acknowledged the existence of major problems in public health facilities. He assured Members that;

- i) Rehabilitation of health facilities would begin later in the year;
- ii) The shortfall of doctors and nurses in the public sector due to poor terms of service would be addressed in collaboration with the

Treasury;

- iii) The process to recruit 1600 health personnel including doctors and nurses had commenced;
- iv) An evaluation of staff workload had been undertaken in all health facilities and this would ensure even distribution of staff;
- v) Problems in the pull system in the distribution of drugs were brought about by poor management in the supply chain and this would be addressed once investigations by the taskforce commissioned to investigate service delivery at KEMSA are complete;
- vi) A position paper on counterfeit drugs was being prepared for the Ministry and once complete would give a position on counterfeits; and
- vii) Pending bills in health facilities were as a result of financial constraints in the Ministry. However, the Ministry was trying to address it in collaboration with Treasury.

MIN. NO. 81/2008-2012

COMMITTEE'S CONCERNS ARISING
FROM THE VISIT TO HEALTH FACILITIES
AND KEMSA IN NAIROBI, RIFT VALLEY
AND NYANZA

The Committee also sought to know;

- i) Why the Government had not paid its pledged contribution towards the establishment of the Millennium Development Goals (MDGs) prototype villages. The Minister explained MDGs prototype villages fall under the Ministry of Planning, National Development and Vision 2030. He added that the problem could be solved if each aspect within the MDGs prototype villages is funded by the relevant Ministry.
- ii) The Government's policy on supplying Faith Based Organisations (FBOs) with drugs, medical equipments and medical personnel. The Director of Medical Services informed Members that following a request by FBOs, the Government had agreed to assist them in provision of critical staff and supply of drugs as from January 2008, 687 facilities were recommended by the FBOs to benefit in the supply.
- iii) Why cost sharing funds were being used on recurrent expenditure as opposed to capital development in line with government policy. The Director, Medical Services said that while the policy on how cost sharing funds should be used has not changed, some health facilities had no choice as they had to deal with emergencies. The Ministry had therefore given the go ahead for up to a certain percentage to be used for recurrent expenditure while the rest is used for development. The

Minister concurred with the Committee on the need to have a clear policy on the use of these funds.

- iv) Why some nonexistent health facilities were registered to receive drugs and other medical supplies. The Director of Medical Services clarified that the situation arose because of registration of incomplete facilities or those without medical personnel as result of pressure from politicians to have the facilities constructed through CDF registered. However, the Ministry is working to ensure thorough verification of such facilities prior to registration.
- v) What the Ministry had done about the Uashin Gishu District Hospital's land that was grabbed by a private developer. The Minister assured Members that he had informed the Ministry of Lands to take necessary action. This is addition to Kisii District Hospital's land that was also grabbed.
- vi) How the Ministry would reconcile health facilities' drawing rights and the balances by KEMSA currently running into millions. The Minister stated that it would be difficult to supply the remainders unless it is pending bills as it is not provided for in the Ministry's policy. He assured Members that the taskforce appointed to investigate service delivery at KEMSA would look into the issue of supply in totality.

In conclusion, the Committee informed the Minister that the Committee's report would be available once it was tabled in the House.

MIN. NO. 82/2008-2012: ANY OTHER BUSINESS

- i) The Chairman expressed his concern over lateness to meetings and urged Members to always keep time and to give an indication to the Secretariat if attending or not.
- ii) The Committee confirmed the names of Committee Members scheduled to attend the Inter-Parliamentary Relations Seminar (Nanyuki iv) scheduled to take place in Kigali from 2nd to 5th October 2008. These are;

The Hon. Sophia Abdi Noor, M.P. – Leader of the delegation

The Hon. Fredrick Outa, M.P.

The Hon. Joseph O. Magwanga, M.P.

The Hon. Elijah Lagat, M.P.

The Hon. Mbai I. Mbai, M.P.

- iii) Members were informed that the meeting to examine estimates for assigned Ministries for the Financial Year 2008/2009 was scheduled for Thursday, 25th September 2008 at 10.00 a.m. The Committee invited the PS, Ministry of Medical Supplies or his representative to attend the examination of estimates of the Ministry of Medical Services.

MINUTES OF THE 19TH SITTING OF THE DEPARTMENTAL COMMITTEE D –
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS, ON THURSDAY, SEPTEMBER 25, 2008 AT 10:45
A.M.

PRESENT:

The following Members of the Committee were present: -

The Hon. (Dr.) Robert Monda, M.P. -Chairman
The Hon. Sophia Abdi Noor, M.P.
The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Elijah Lagat, M.P.
The Hon. (Dr.) Nuh Nassir, M.P.
The Hon. (Dr.) Munyaka Kioko, M.P.

ABSENT WITH APOLOGY:

The Hon. Fredrick Outa, M.P
The Hon. Mbai Itwiku Benson, M.P.

ABSENT:

The Hon. Abdirahman A Hassan, M.P
The Hon Githunguri Stanley, MP
The Hon. (Dr.) Boni Khalwale, M.P

IN ATTENDANCE:

MINISTRY OF MEDICAL SERVICES

Mr. David Nyambok	–	Chief Finance Officer
Mrs. Martha Ndegwa	–	Deputy Director, HRM.
Mr. G. Kimani	–	Principal Economist
Mr. E. G. Nduru	–	Senior Finance Officer
Mr. Mosiria Martin	–	Finance Officer

NATIONAL ASSEMBLY

Mrs. Phyllis Makau	–	Principal Budget Officer
Ms. Rachel N. Kairu	–	Clerk Assistant
Mr. Fredrick Muthengi	–	Budget Officer
Mr. Cleophas Angwenyi	–	Parliamentary Intern
Mr. Gichohi Mwaniki	–	Parliamentary Intern

MIN. NO. 84/2008-2012: BUDGET ANALYSIS FOR THE ASSIGNED MINISTRIES

Papers laid: The Principal Budget Officer, National Assembly laid the following paper before the Committee.

- (i) *Budget brief for the Departmental Committee on Health, Housing, Labour and Social Welfare, Fiscal Year 2008/09.*

She thereafter took the Committee through the contents of the paper which included an analysis of allocations for the Financial Year 2008/2009 for the for assigned Ministries namely; Ministries of Medical Services, Public Health and Sanitation, Labour and Human Resource Development, Gender and Children Development, Special Programmes, National Heritage and Culture, and the Youth Affairs and Sports.

MIN. NO. 85/2008-2012: BUDGET ANALYSIS FOR THE MINISTRY OF MEDICAL SERVICES BY MINISTRY'S CHIEF FINANCE OFFICER

Papers laid: The Chief Finance Officer, Ministry of Medical Services laid the following paper before the Committee.

- (i) *Printed Estimates 2008/2009 Financial Year Summary.*

He thereafter took the Committee through the content of the document.

MIN. NO. 86/2008-2012: MEMBERS OBSERVATIONS/CONCERNS

The Committee raised the following issues/concerns;

- i) Members felt that in the allocations for the Ministry of Medical Services, there was a focus on curative health services rather than the preventive. The Ministry should therefore allocate more funds to preventive services in proportion to the total health budget.
- ii) Members pointed out that while the allocation for the Ministry of Medical Services had increased from the previous Financial Year, the total government spending on Health which is about 5.95% of the total government spending which is way below the commitment by African Governments to allocate 15% of their total budgets to the health sector under the Abuja Declaration;
- iii) The Committee raised concern over the allocation of Kshs. 150 million for the rehabilitation of the Embu District Hospital, which had been provided for in the National Budget but only Kshs. 5 million was reflected in the

Ministry's budget. The Ministry of Medical Services said the money was available and that the delay in the absorption of funds for the rehabilitation of the Embu District hospital had been occasioned by lack of Bill of Quantities from the Ministry of Public works. However, they assured the Committee that Project Manager was following up the matter with the Ministry of Public Works to get the revised BQs.

- iv) The Members sought to know the total amount of money collected by various parastatals within the health sector and why the government continues to give them grants. That various parastatals within the ministry of medical services collect an average of 1.8 billion shillings every year. He however clarified that owing to the huge cost of running health facilities, these institutions cannot sustain themselves and therefore the government has to step in.
- v) For the Women Development Fund and Youth Development Fund, the major challenge is how effective these funds will be in addressing the youth and women problems of poverty and unemployment.

MIN. NO. 87/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 1:30 pm until September 25, 2008 at 10:00 am.

Signed: The Hon. (Dr.) Robert Monda, MP
 (CHAIRMAN)

Date 23/10/2008

**MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE D-
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM , CONTINENTAL HOUSE, 5TH FLOOR, PARLIAMENT
BUILDINGS, ON FRIDAY, SEPTEMBER 26TH , 2008 AT 10:00 A.M.**

PRESENT:

The following Members of the Committee were present: -

The Hon. Dr. Robert Monda, M.P. - Chairman
The Hon. Sophia Abdi Noor, MP
The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Abdirahman A Hassan, M.P
The Hon. Elijah Lagat, MP
The Hon. Dr. Nuh Nassir, MP
The Hon. (Dr.) Boni Khalwale, M.P
The Hon. (Dr.) Munyaka Kioko, M.P.

ABSENT WITH APOLOGY:

The Hon. Fredrick Outa, M.P

ABSENT

The Hon Githunguri Stanley, MP
The Hon. Mbai Itwiku Benson, M.P.

IN ATTENDANCE:

MINISTRY OF YOUTH AFFAIRS AND SPORTS.

Hon. Prof. Hellen Sambili	-	Minister.
Hon. Kabando wa Kabando.	-	Assistant Minister.
Dr. Daniel Maanzo.	-	Sports Secretary.
Dr. Dinah Mwinzi.	-	Director, Youth Training.
Mr. S.O. Mayanga.	-	Senior Deputy Director, NYS.
Ms. Susan .T. Njau.	-	Deputy Director, Youth Development.
Ms. Alice Kinyiya.	-	Deputy Director, Youth Training.
Mr. Umuro Wario.	-	C.E.O, Youth Enterprise Development Fund.
Mr. Benson Muthendi.	-	PRO, Youth Enterprise Development Fund.
Mr. Maina Kamau.	-	Deputy Commissioner for Sports.
Mr. Gabriel Komora.	-	Deputy Director, Sports Stadia Management Board

NATIONAL ASSEMBLY

Ms. Rachel Kairu. - Clerk Assistant
Mr. Cleophas Angwenyi. - Parliamentary Intern

MIN. NO.88/2008-2012: MEETING WITH THE MINISTER FOR YOUTH AFFAIRS AND SPORTS.

Papers Laid: The Minister laid the following papers before the Committee:

- (i) Youth Enterprise Development Fund, status report as at 30th June 2008.
- (ii) Performance Report: Institution, Silver Ray Limited.
- (iii) Youth Enterprise Development Fund: C-YES status report as at 24th September 2008.

The Minister outlined the mission and vision of the Ministry as well as highlighting the key areas the ministry is focusing on to foster development and create employment for the youth. The Minister especially emphasized that the contents and merits of the Sports Bill, 2008 and the Youth Polytechnics Bill, 2008 and asked for Committees support.

MIN. NO. 89/2008-2012: MEMBERS CONCERNS/OBSERVATIONS.

The Members sought to know:

- (i) Why Athletics Kenya is still using a constitution formulated in 1956 that does not allow athletes to vie for posts within the organisation. The Minister assured the Committee that the issue was being addressed and that the Sports Bill, 2008 addresses the matter;
- (ii) Why Kenya does not have a local coach in athletics despite the fact that there were technical mistakes in some instances during the 2008 Olympics that could be attributed to poor coaching. The Minister clarified that issues with coaching were being handled by the Ministry as a matter of urgency;
- (iii) How the Constituency Sports Fund was being administered. The Minister brought to the attention of the Committee that there is an intra-Ministerial Committee working on the modalities but it had taken too long to present its proposal; the proposal will be presented before the Committee within the shortest time possible. The Minister also assured the Members that the money should be

for sports in the constituency and not for administration on any other level. The Minister further assured Members that the money would be released in the current quarter of the financial year;

- (iv) On the number of youth benefiting from the Youth Fund and measures put in place to ensure benefit by all including pastoralist/nomad and Muslim youth, the Minister clarified that there were 28 financial intermediaries given the money for onward lending to the youth and they were not evenly distributed throughout the country. She also said that teachers SACCOs had been allowed to be intermediaries as they have a bigger presence in the regions. She also pointed out that Muslim banking rules apply with some banking intermediaries so Muslim youth were not being locked out of the fund;
- (v) What were the criteria used in the distribution of the resources: The Minister clarified that applicants for banking intermediary were vetted only when they had shown interest; so far, there were 31 intermediaries; there is also the constituency portion of the fund that is allocated to all the constituencies; the intention is to reach low-end youth. Further funding to the constituencies is subject to application and the rate of repayment; the Minister assured the Committee that the 95% repayment rate was the actual figure according to documents in the possession of the Ministry;
- (vi) On what level is the Ministry involved in youth getting jobs abroad? The Minister clarified several companies were involved in this exercise, and that one of them, M/s. Silver Ray Limited, was showing commendable progress as they file returns with the Ministry. However, a proper regulatory framework is missing and there is already a Cabinet Paper and an inter-Ministerial Committee on this matter;
- (vii) What criteria were used in recruiting NYS recruits? Can the CDF contract the NYS for some projects?; The Minister gave the admission requirements for one to join the NYS. She also noted that that had begun by the NYS being given the contract to rehabilitate a major road. She also confirmed that plans were underway to ensure that the military and the regular police absorb the graduates as is required under the constitution;
- (viii) Why the Ministry intends to increase the number of youth polytechnics from 750 to 2000 while the existing ones face a number of problems including staffing, facilities and payment of staff: The Minister clarified that the expansion of youth polytechnics would be gradual (5 years) and that the government only tops up the emoluments for employees paid by the community. The Public Service Commission was in the process of

recruiting instructors for the polytechnics; The criteria for building youth empowerment centres were land with a title, availability of the existing facilities and regional balance.

MIN.NO. 90/2008-2012: COMMITTEES RESOLUTIONS.

The Meeting resolved:

- (i) That, the Minister should incorporate the recommendations of the Committee on administration of the Constituency Sports Fund and that a proposal should be presented to the Committee or the House;
- (ii) That, the Ministry should entrench sports in the schools curriculum;
- (iii) That, the Ministry move with speed to implement the strategic plan on youth; and ,
- (iv) That, the Stadia Management Board would appear before the Committee at a later date.

MIN. NO. 91/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 1:30 pm until October 7th, 2008, at 10:00 am.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 23/10/2008

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE D – ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM , CONTINENTAL HOUSE, 5TH FLOOR, PARLIAMENT BUILDINGS, ON TUESDAY, OCTOBER 7TH, 2008 AT 10:00 A.M.

PRESENT:

The following Members of the Committee were present: -

The Hon. Dr. Robert Monda, M.P. –Chairman

The Hon. Mbai Itwiku Benson, M.P.

The Hon. Fredrick Outa, M.P.

The Hon. Joseph Oyugi Magwanga, M.P.

The Hon. Elijah Lagat, MP

ABSENT WITH APOLOGY.

The Hon. Sophia Abdi Noor, MP

ABSENT

The Hon. Abdirahman A Hassan, M.P.

The Hon Githunguri Stanley, MP

The Hon. (Dr.) Boni Khalwale, M.P.

The Hon. Dr. Nuh Nassir, MP

The Hon. (Dr.) Munyaka Kioko, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Samuel Njoroge. - Clerk Assistant.

Mr. Joash Atandi. –Parliamentary Intern.

Ms. Mary Munyoki. –Parliamentary Intern.

MIN. NO. 93/2008-2012: CONFIRMATION OF MINUTES OF PREVIOUS MEETING.

The confirmation of the minutes of the previous meeting was deferred until the next meeting.

MIN. NO. 94/2008-2012: CONSIDERATION OF THE RESULTS OF THE RESULTS OF ALCOHOL TESTING OF CONSUMER PRODUCT “ALVARO”.

The Members raised the issue that there need to be more credible international agencies to carry out tests on “alvaro” alongside their local counterparts. The Members also noted that The Kenya Bureau of Standards had given an analysis of the test results on “alvaro” without indicating what formula they used for the analysis.

The secretariat informed the Committee that the foreign testing companies had

given quotations to The National Assembly but Parliament was not ready to pay as the figures were double and in some cases triple what other companies were asking for.

The Committee resolved that further testing of “alvaro” for alcoholic content be done by a foreign laboratory and local private universities in order to give the submitted results by other company’s credibility. In line with this, three private universities agreed on in the 14th sitting are to be contacted.

- (i) Catholic University.
- (ii) Baraton University.
- (iii) Kenya Methodist University.

The Committee further agreed to contact the foreign universities and furnish them with the terms of reference and request them to get in touch with the clerks office. The universities are to provide a quotation and an indication of how long they will take to submit the results.

Finally the Committee resolved that the tests that are already in will be considered the rest when they are submitted.

Budget brief for the departmental Committee on health, housing, labour and social welfare, fiscal year 2008/09.

The principal budget officer took the Committee through the allocations for the Ministries of Medical Services, Public Health and Sanitation, Labour and Human Resource Development, Gender and Children Development, Special Programmes, National Heritage and Culture and the Ministry of State for Youth Affairs and Sports.

MIN.NO. 21/2008-2012: MEMBERS OBSERVATIONS/CONCERNS.

The Members raised various concerns about the various Ministerial allocations.

- (i) There is a focus on curative health services rather than the preventive. The Members sought to know the allocation for preventive services within the various ministries.
- (ii) The Members also raised issue with the perennial under performance of the Kenya Medical Supplies Agency, which falls under the Ministry of Medical Services.
- (iii) The Members pointed out that while the allocation for the ministry of medical services had increased from the previous financial year, the total government spending on health (5.95% of the total budget) was below the commitment by African Governments to allocate 15% to the health sector under the Abuja declaration;

- (iv) The Members also questioned the allocation of 145 million for the rehabilitation of the Embu District Hospital, which had been provided for in the national budget but not reflected in the ministry budget.
- (v) The Members sought to know the amount of money collected by various parastatals within the health sector and why the government continues to give them grants yet they do not declare the income they make.
- (vi) There was a concern about the reducing allocation within the medical services ministry for rural health centres (from Kshs. 2.5 billion to Kshs. 1.75 billion.)

MIN.NO. 22/2008-2012: RESPONSE BY MINISTRY OF MEDICAL SERVICES. .

The Chief Financial Officer of the Ministry of Medical Services clarified that:

- (i) The delay in the absorption of funds for the rehabilitation of the Embu District hospital had been occasioned by lack of Bill of Quantities from the Ministry of Public works. He however promised to conduct more research and present a concrete answer for the Committee as soon as possible;and,
- (ii) That various parastatals within the ministry of medical services collect a total of 1.8 billion Shillings every year. He however clarified that owing to the huge cost of running health facilities, the government gives grants to these institutions

MIN. NO. 17/2008-2012: ANY OTHER BUSINESS

- (i) The Committee confirmed the names of the Members travelling to Rwanda for the East African Legislative Assembly meeting;
- (ii) The Chairman urged the Members to keep time and that all meetings scheduled by the Committee within the week start at 10:00 AM.

MIN. NO. 18/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 1:30 pm until September 25, 2008, at 10:00 am.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 23/10/2008

MINUTES OF THE 23TH SITTING OF THE DEPARTMENTAL COMMITTEE D-
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM 9 , MAIN PARLIAMENT BUILDING, ON THURSDAY,
OCTOBER 16TH , 2008 AT 10:00 A.M.

PRESENT:

The following Members of the Committee were present: -

The Hon. Dr. Robert Monda, M.P. - Chairman
The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Abdirahman A Hassan, M.P
The Hon. Elijah Lagat, MP
The Hon. Fredrick Outa, M.P
The Hon. Mbai Itwiku Benson, M.P.

ABSENT

The Hon. Sophia Abdi Noor, MP
The Hon. Dr. Nuh Nassir, MP
The Hon. (Dr.) Boni Khalwale, M.P
The Hon. (Dr.) Munyaka Kioko, M.P.
The Hon Githunguri Stanley, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Samuel Njoroge. - Clerk Assistant.
Ms. Mary Munyoki. - Parliamentary Intern.

MIN. NO. 104/2008-2012: CONFIRMATION OF THE MINUTES OF THE
PREVIOUS SITTING.

- (i) The minutes of the 18th sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Hon. Abdirahman Hassan, M.P., seconded by the Hon. Joseph Magwanga, M.P., and signed by the chairman.
- (ii) The minutes of the 19th sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Joseph Magwanga M.P., seconded by the Hon. Elijah Lagat, M.P., and signed by the chairman.
- (iii) The minutes of the 20th sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Hon. Abdirahman Hassan M.P., seconded by the Hon. Joseph Magwanga, M.P., and signed by the chairman.

- (iv) The minutes of the 21st sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Hon. Elijah Lagat, M.P., seconded by the Hon. Fredrick Outa, M.P., and signed by the chairman.
- (v) The minutes of the 22nd sitting were read and confirmed as an accurate record of the proceedings. The proposal to confirm was made by the Hon. Fredrick Outa, M.P., seconded by the Hon., M.P. Joseph Magwanga, and signed by the chairman.

MIN.NO. 105/2008-2012: MEETING WITH THE MINISTER FOR YOUTH AFFAIRS AND SPORTS.

The Minister was unable to attend as she was away. The Committee resolved that the Minister appear on October 23rd 2008.

The Hon. Lagat informed the Committee that:

- (I) In relation to the Athletics Kenya elections, the Minister had been requested to stop the elections due to irregularities but she did not do so. Further, the Athletics Kenya constitution requires that a different body, not the current office, hold elections. There was also alleged voter buying with some delegates, who are not athletes, being given Ksh. 50,000 to vote. Athletes had further proposed to the Minister the formation of an interim Committee to run the Athletics Kenya affairs but the Minister did not act.

In this regard, the Committee decided to put the pertinent following issues to the Minister: who conducts the A.K. elections? Who should participate in the election and what is the position of the current office holder with regards to the election. In relation to this, the Committee is to avail a copy of the Current A.K. constitution and in-depth research into how A.K. has conducted past elections.

- (II) In relation to the refurbishment of the Kipchoge Keino Stadium in Eldoret, the Committee was informed that the stadium was initially to be reconstructed on land near the airport which unfortunately had no title issued due to an outstanding loan. Additionally, the athlete got injured and the government of Qatar may not be interested in the project anymore. There are however issues pertaining the Ksh.100 million allocated by the government for the same project and clarification was sought;
- (III) There was also concern that up to date, the money allocated for the constituency sports fund had not yet left the ministry.

MIN. NO. 106/2008/2012: ALCOHOL TESTING OF CONSUMER PRODUCT "ALVARO".

The Committee was informed that samples had been sent to three local private universities (13th October) and that in regard to international testing, the following would be done;

- (I) Letters be written to the Kenyan ambassadors in Egypt, Switzerland, and the United States of America. The Embassy would identify the firms to carry out the tests and a Member of the Committee would accompany the sample to ensure it got there. With the U.S.A however, the sample would be taken to the Embassy and a request put for them to facilitate testing;
- (II) In regard to testing by M/s. Bureau Veritas, the Secretariat was asked to proceed with M/s SGS and leave out Veritas in order to be within the Public Procurement And Disposal act.

MIN. NO. 107/2008/2012:MATTERS ARISING.

- (i) Under the Minutes of the 19th meeting, the Chairman advised the Members to acquaint themselves with the budget allocations of the ministries under their mandate;
- (ii) Under min. No. 93/2008-2012, KEBS and SGS were chosen to conduct alcohol testing on "Alvaro" and Bureau Veritas was left out due to its high bid which is against the public procurement and disposal act;
- (iii) Under min No. 93/2008-2012, the Hon. Outa will travel to Egypt while the Hon. Noor will go to Switzerland;
- (iv) Under min. No.95/2008-2012, Members said they had not been reimbursed the money they spent in their trip to Rwanda as the organisers did not pay for the 5th and 6th. This was as a result of a mix-up from the clerk's office. The secretariat informed the Members that the accounts department would be able to refund them and that the cheques would be ready by the 16th October;
- (v) Under min No. 102/2008-2012, the Committee was informed that the position of the position of the clerk of the national assembly in regard to changes in the secretariat was that there was a staff shortage in parliament and therefore Committee clerks were facing constraints. The Committee recommended that parliament doubles the number of staff to ensure that each Committee has 2 clerks to ensure that the Committee is serviced in the absence of one clerk;
- (vi) Also under min No. 102/2008/2012, the Members who attended

the luncheon with UNICEF requested to meet with the Committee in order to come up with a bill to address child and maternal survival. UNICEF the Committee a lot of facts about the millennium development goals and about child and maternal mortality and the Committee needs to have active engagement with it in order to gain sufficient funding to achieve the goals.

MIN. NO. 108/2008/2012: ADOPTION OF THE COMMITTEES PROGRAM.

The Committee adopted its programme with the following amendments:

- (I) The meeting with the Minister for Youth Affairs and Sports was slotted for 23rd October;
- (II) October 17th is an open day since the Committee has discussed the report on Alvaro;
- (III) The Chairman to request the NACC to change their programme so that the meeting would last half a day to allow the Committee meet other stakeholders on the same day;
- (IV) November 23rd -30th- international visits. Since the legal affairs Committee was in Sweden and the liaison Committee is going to the same country, the clerk proposes change of country to either Finland, Denmark or the republic of Ireland. The Committee shall confirm the issue of international visits on 23rd of October.

MIN. NO. 9109/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 1:30 pm until October 21st, 2008, at 10:00 am.

Signed: The Hon. (Dr.) Robert Monda, MP
(CHAIRMAN)

Date 23/10/2008

**MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE D-
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON 23RD OCTOBER
2008 AT 11: 00AM**

PRESENT:

The following Members of the Committee were present: -

The Hon. Dr. Robert Monda, M.P. - Chairman
The Hon. Abdirahman A Hassan, M.P
The Hon. Elijah Lagat, MP
The Hon. (Dr.) Munyaka Kioko, M.P.
The Hon. Fredrick Outa, M.P

ABSENT

The Hon. Sophia Abdi Noor, MP
The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Dr. Nuh Nassir, MP
The Hon. (Dr.) Boni Khalwale, M.P
The Hon Githunguri Stanley, MP
The Hon. Mbai Itwiku Benson, M.P.

IN ATTENDANCE:

MINISTRY OF YOUTH AFFAIRS AND SPORTS.

Hon. Prof. Hellen Sambili	- Minister.
Mr. Kinuthia Murugu.	- Permanent secretary.
Mr. Gordon Oluoch.	- Commissioner of sports.

NATIONAL ASSEMBLY

Mr. Samuel Njoroge.	- Clerk Assistant
Mr. Cleophas Angwenyi.	- Parliamentary Intern

**MIN. NO.110/2008-2012: MEETING WITH THE MINISTER FOR
YOUTH AFFAIRS AND SPORTS.**

Papers Laid: The Minister laid the following papers before the Committee:

- (iv) Athletics Kenya Constitution;
- (v) A copy of (Part Development Plan) PPD for proposed Public Eldoret Stadium;
- (vi) A copy of the minutes of the Special District Plots Allocation Committee held on the 29th January 2008;
- (vii) A draft Protocol (MOU) in the fields of Youth And Sports between the Governments of the State of Qatar and the Government of the Republic of Kenya; and,

- (viii) Guidelines of the community soccer activities for the year 2008/2009, in connection with the constituency sports funds.

**MIN. NO. 111/2008-2012: MINISTERS CLARIFICATION OF ISSUES
RAISED.**

The Minister proceeded to explain various issues that had been raised by the Members in the agenda; as follows:-

- (i) That, the Athletics Kenya elections had been marred with irregularities which included but were not limited to: provincial administration being involved in the elections, more than one list of delegates being used for the election and delegates from the armed forces, prisons and other directly affiliated branches of athletics Kenya wanted to participate in the Nairobi Branch elections; The Minister however clarified that Athletics Kenya is exempted from registration and as such is not under the scrutiny that other societies are under. The Sports Bill however intends to streamline all issues to do with the governance of sports in the country and the Members should thus support it;
- (ii) On the matter of the construction of the Kipchoge Keino stadium, the Minister informed the Committee that there was a draft protocol signed between Kenya and Qatar. However, the land earmarked for the construction of the stadium had already been allotted. In as much as the allotment was nullified, one of the allottees had already used the plot to secure a loan from a local bank and the bank insisted on auctioning; This will take some time and a different plot will therefore have to be identified in order to expedite the building of the stadium;
- (iii) The Minister clarified that in the 2007/2008 financial year, no money had been allocated for the constituency sports fund. The funds for the year 2008/2009 however would be used to organise a football tournament from the constituency level to the national level. The Minister outlined the theme and the proposed organisation of the tournament, including the dates the competition was to kick off, the budget for various levels and the guidelines for participants.

MIN.NO. 112/2008-2012: MEMBERS CONCERNS.

The Members sought to know:-

- (i) Why is the age limit in the soccer tournament is 30 and below: the Minister clarified that the national Youth Policy passed by Parliament stipulates that a youth is between 15 and 30 years old. That is the reason the Ministry has 30 as the upper age limit in the soccer tournament;

(ii) Why some of the funds were being utilised at the district, provincial and national levels while the money for sports should be solely for the constituency: the Minister clarified that the bulk of the money for the constituency sports fund allocation will be spent in the constituency. The other levels are to give the tournament a more national outlook and aid in talent nurturing and since there will not be supplementary funding until April 2009, the tournament will exclusively depend on the Ksh. 210 million allocation. It is therefore necessary to spend some of the money in the various levels of organisation;

(iii) Since the Athletics Kenya constitution has various anomalies, and before the passing of the sports bill, what measures were in place by the Ministry to protect the interests of the athletes. Was the ministry in a position to order a re election: The Minister explained that the Ministry had no constitutional powers to intervene in the elections and only the Registrar of Societies or a Court of Law could nullify the results. The fact that many Sports federations are also affiliated to international federations also reduces the powers of the government in how they run their affairs. She urged the Members to support the Sports Bill, which would address many of the issues facing the sports sector;and,

(iv) Was the agreement with the government of Qatar being followed up or had the government given up: the Minister assured the Committee that In the matter of the Kipchoge Keino stadium, the Government has allocated Ksh. 100 million for its rehabilitation. The Minister also assured the Committee that the protocol signed with ye Qatar government was being followed up.

MIN.NO. 115/2008-2012: COMMITTEES RESOLUTIONS.

The Committee resolved that:-

- (i) The budget at the national and provincial levels for the tournament should remain the same as shown on the proposal by the Ministry; and,
- (ii) The Ministry considers incorporating talent scouts with a view to identifying and nurturing talent in the duration of the soccer tournament;

MIN.NO. 115/2008-2012: ANY OTHER BUSINESS.

On the issue of alcohol testing of consumer product "Alvaro", the Chairman briefed the Members as follows:-



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MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE D-
ON: HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN
COMMITTEE ROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS ON 25TH NOVEMBER, 2008 AT 11: 00AM

PRESENT:

The following Members of the Committee were present: -

The Hon. Dr. Robert Monda, M.P. - Chairman
The Hon. Fredrick Outa, M.P
The Hon. Joseph Oyugi Magwanga, M.P
The Hon. Mbai Itwiku Benson, M.P.

ABSENT

The Hon. Sophia Abdi Noor, MP
The Hon. Dr. Nuh Nassir, MP
The Hon. (Dr.) Boni Khalwale, M.P
The Hon Githunguri Stanley, MP
The Hon. Abdirahman A Hassan, M.P
The Hon. Elijah Lagat, MP
The Hon. (Dr.) Munyaka Kioko, M.P.

NATIONAL ASSEMBLY

Mr. Emejen. - Clerk Assistant
Mr. Cleophas Angwenyi. - Parliamentary Intern

MIN. NO.125/2008-2012: ADOPTION OF REPORT ON ALCOHOL
TESTING OF CONSUMER PRODUCT
"ALVARO". .

The Committee adopted the draft Report on alcohol content of "Alvaro" as presented by the Secretariat, with amendments.

The Committee further resolved that the Chairman lays the report on the Table of the House on the 25th of November 2008.

MIN. NO. 126/2008/2012: ADJOURNMENT

There being no other business, the Chairman adjourned the Sitting at 1.35 p.m pm until November 27th, 2008, at 11:00 am.

Signed:
(CHAIRMAN)

Date: