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REPUBLIC OF KENYA

NATIONAL ASSEMBLY

TWELFTH REPORT

OF THE

PUBLIC INVESTMENTS COMMITTEE

ON THE ACCOUNTS OF

STATE CORPORATIONS

VOLUME I

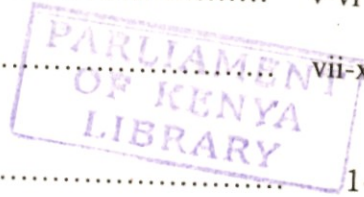
2004



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P R E F A C E

Mr. Speaker Sir,

On behalf of the Members of the Public Investments Committee, I beg to move the adoption of the Twelfth Report of the Committee on the Annual Reports and Accounts of State Corporations.

MANDATE

The Public Investments Committee is a Select Committee established under Standing Order No. 148 as follows:

148 (1) There shall be a Select Committee to be designated the Public Investments Committee for the examination of the working of the public investments. The Public Investments Committee shall consist of a Chairman who shall be a Member who does not belong to the parliamentary party which is the ruling party and not more than ten Members who shall be nominated by the House Business Committee to reflect the relative majorities of the seats held by each of the parliamentary parties in the National Assembly.

Provided that the ruling party shall have a majority of not more than two.

- (2) The Public Investments Committee shall elect its own Chairman.
- (3) The Chairman and four other Members of the Public Investments Committee shall constitute a quorum.
- (4) In the absence of the Chairman, a Member designated by him shall take the Chair and in their absence the Members present shall elect one of them to act in his stead.
- (5) The functions of the Public Investments Committee shall be:
 - (a) **to examine the reports and accounts of the public investments;**
 - (b) **to examine the reports, if any, of the Controller and Auditor General on the public investments; and**
 - (b) **to examine, in the context of the autonomy and efficiency**

of the public investments, whether the affairs of the public investments are being managed in accordance with sound business principles and prudent commercial practices:

Provided that the Public Investments Committee shall not examine or investigate any of the following, namely:

- (i) matters of major Government policy as distinct from business or commercial functions of the public investments;**
- (ii) matters of day-to-day administration; and**
- (iii) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.**

The procedure of a Select Committee and other related matters thereto is covered under Standing Orders Nos.151-162. The Committee has power, under the provisions of the National Assembly (Powers and Privileges) Act (Cap.6), the State Corporations Act (Cap.446) and the Exchequer and Audit Act (Cap 412), to summon witnesses and receive evidence.

The Committee consisted of the following Members:

The Hon. J.B.N. Muturi, M.P. **(Chairman)**

*The Hon. Henry Obwocha, M.P.

The Hon. Wafula Wamunyinyi, M.P.

The Hon. Gor Sungu, M.P.

The Hon. Sammy Weya, M.P.

The Hon. K.M. Sang, M.P.

The Hon. Wycliffe A. Oparanya, M.P.

The Hon. Ali Bahari, M.P.

The Hon. Otieno Kajwang, M.P.

*The Hon. Maina Kamanda, M.P.

*The Hon. Muhamud Abdi Mohamed, M.P.

*The Hon. Muhamud Abdi Mohamed, MP, the Hon. Henry Obwocha, MP and the Hon. Maina Kamanda, MP ceased being members of the Committee on 30th June, 2004 upon being appointed a Minister and Assistant Ministers respectively.

PROCEEDINGS

The Committee which was constituted at the commencement of the Second Session of the Ninth Parliament, held sixty sittings in which it closely examined the audited accounts of State Corporations and the Reports thereon by the Controller and Auditor-General. The Committee also undertook a tour of the Kenya Ports Authority to appraise itself on the alleged refurbishment and extension of the Kipevu Headquarters as raised in the report of the Controller and Auditor General.

In its endeavour to improve its effectiveness in exercising its oversight function, the Committee visited the Parliament of the Federal Republic of Germany with the objective of appraising itself on the operations of committees, mainly its equivalent Committee and implementation mechanisms of reports of such a committee, further familiarise itself with privatization mechanisms of public investments and public investments promotion techniques in the Federal Republic of Germany. Of paramount importance to the Committee was to gather information on the process of implementation of Committee reports and what avenues of follow-up were available.

The minutes of the Committee are hereto annexed as *appendix A* and copies of the HANSARD REPORT have been placed in the Parliament Library.

The Implementation Status of the Eleventh Report has been published separately as volume II and titled Treasury Memorandum which will be discussed together with this Report.

In conducting retrospective inquiry into whether or not the affairs of the public investments were managed in accordance with sound business principles and commercial practices, the Committee heard and received both oral and written evidence from Chief Executives of various State Corporations and other relevant witnesses. The recommendations on the issues raised by the Controller and Auditor General will be found under appropriate paragraphs of the Report. The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee observations and recommendations as outlined in the report and can be obtained in the HANSARD Reports of the Committee available in the Parliament Library.

These observations and recommendations if taken into account and implemented without fear or favour will enhance accountability, effectiveness, transparency, efficiency, prudent management and

profitability in state corporations and the public investments sector as a whole.

OBSERVATIONS

In examining the audited accounts of State Corporations, the Committee's primary approach was to elicit background information as to why particular course or courses of action were not taken, keeping in view the relevant financial management principles and regulations. This is the foundation of the Committee's observations and recommendations.

As a watchdog of the public on the management of State Corporations, the role of this Committee is to ensure that integrity; high ethical standards and productive efficiency are maintained in public investment.

Of great concern to the Committee was the abdication of duties and obligations by the Boards of Directors of State Corporations. The majority of incidents of mismanagement and imprudent investments were presided over by the Board Members who may have been oblivious of some of the goings-on in the Corporations.

Unless these Corporations are run in the interest of the public, they would have no reason to exist and continue drawing exchequer issues. It is therefore, the duty of the Committee and the Kenyan public at large to safeguard and uphold the public interest in State Corporations. This can only be done with due regard to sound business principles in the management of public institutions and assets.

Below is a Summary of the Committee's observations on the operations and management of various State Corporations.

1. **CONSULTANCY FEES**

The Committee noted with concern that some Corporations continued to incur huge sums of money on consultancy fees on projects that were started without proper planning and feasibility studies and which have since been abandoned. The Committee further noted that the drawing specifications for such consultancies are obsolete and new ones would have to be done were such projects to be revived.

For example, in the Accounts for the financial year 1998/99, the Kenya Ports Authority incurred Kshs.504,000,000 in respect of consultancy services for the extension and refurbishment of its headquarters at Kipevu in Mombasa. The project was initiated in 1994 but abandoned in 1995. In 1998/99 financial year, the National Social Security Fund

(NSSF) spent a total of Kshs.670, 047,094 on consultation fees for projects conceived on parcels of land bought at various locations in the country and which were later abandoned between 1996 and 1999. The Committee observed that had proper feasibility studies been carried out sources of funding identified, the stated public funds would not have gone to waste.

The Committee recommends that proper feasibility studies must be carried out and sources of funding identified before any project is initiated, designed and Consultants commissioned.

2. PROCUREMENT OF GOODS AND SERVICES AND AWARD OF TENDERS

The Committee observed with concern that despite Government Regulations meant to streamline procurement and tendering procedures certain Corporations have continued to flout laid down financial regulations in procurement of goods and services and award of tenders with impunity.

For example, in the Accounts of 1998/99 financial year Kenyatta National Hospital awarded, on a selective basis a contract to M/s. Nelliwa Builders and Construction Company to rehabilitate and extend Registrars, Sisters' flats, sisters' Mess and Histopathology Laboratory for a sum of Kshs.383,800,000 and further made irregular payments to the contractor amounting to Kshs.57,570,000 before the contractor moved to site. To date the project has not been completed.

On the other hand, the management of the Kenya Airports Authority irregularly awarded six tenders to contractors other than the lowest bidders in the 1996/97 financial year thereby occasioning a loss of Kshs.36,607,507.

The Committee observed that the Public Procurement Complaints Review and Appeals Board should mete out punitive measures as provided for in the Regulations to serve as deterrents to officers who have flagrantly continued to breach the said regulations.

The Committee noted that notwithstanding that the office of the Inspector General (State Corporations), has representation in the Boards of State Corporations, they appear not to proactively notice and report the irregularities committed by various Parastatals especially in Procurement of Goods and Services.

The Committee recommends that the Inspector General (State Corporations) must carry out his duties as specified in the State

Corporations Act (Cap 446) to curb abuse of office and flouting of financial regulations with regard to procurement procedures and award of tenders.

3. **IMPLEMENTATION OF TREASURY MEMORANDUM**

The Committee was concerned that in the past the Government did not seem to take Committee's recommendations seriously and that responses contained in most Treasury memoranda were vague.

The Committee recommends that the Permanent Secretary, Treasury should ensure that Committee's recommendations are implemented as adopted by Parliament.

4. **NON-ADHERENCE TO TREASURY CIRCULARS**

The Committee expressed concern that many State Corporations had in the past flouted Treasury and other Government circulars with impunity. The Committee noted in particular that few Corporations, if any were aware of the Treasury's circular No. 3/2003 of January 2003 requiring State Corporations to submit quarterly Performance Reports to their parent ministries and the Treasury.

The Committee further noted that sanctions have been provided for in the Anti-Corruption and Economic Crimes Act and the Public Officer Ethics Act for officers who breach circulars.

The Committee recommends that the Treasury Circulars issued from time to time be published as Financial Orders and/or Subsidiary Legislation to enhance their enforceability.

The Committee further recommends that the Treasury and other government agencies should ensure that Chief Executives of State Corporations comply with the Law and the Treasury Circulars and that those who flout them should be dealt with in accordance with the Law.

5. **DIVIDENDS BY STATE CORPORATIONS**

The Committee noted with concern that some financially healthy Parastatals had not been declaring dividends to shareholders including to the Government as required by the State Corporations Act (Cap 446) and that instead the Corporations engage in unplanned and unbudgeted grandiose projects which end up being white elephants.

The Committee recommends that State Corporations should declare dividends and that the Minister for Finance should ensure that Surplus moneys from State Corporations is paid into the Consolidated Fund without failure pursuant to provisions of the State Corporations Act, Cap 446.

6. DILUTION OF GOVERNMENT SHAREHOLDING

The Committee observed with concern that the Government had divested from certain Corporations in unsatisfactory manner. Of great concern is the alleged dilution of Government Shareholding in the Kenya Seed Company, a strategic Corporation.

The Committee further observed that Government intention to divest from the Kenya Wine Agency and the Ken-Gen is unclear and vague, and risk sacrificing public interest.

The Committee recommends that the Treasury comes up with a clear-cut policy for divesting from State Corporations.

7. WRONG ACCOUNTING PROCEDURES/CASH-IN-TRANSIT

The Committee noted with concern that accounts of various State Corporations were not up to internationally acceptable Standards. Taking for instance Accounts and Report for National Hospital Insurance Fund for the year 1997/98 which were disclaimed by the Controller and Auditor General due to wrong accounting procedures, it was evident that some State Corporations did not recognize the importance of employing international accounting procedures as an accounting tool.

Further, the Committee was gravely concerned by frequent occurrence of unexplained Cash-in-Transit in the accounts of various State Corporations. It was noted that this was due to lack of proper bank reconciliations by various State Corporations.

The Committee recommends that the Chief Executives should ensure that international accounting standards are employed and maintained in State Corporations.

The Committee further recommends that the Chief Executives of State Corporations should ensure that bank reconciliations are carried out by end of financial year and that statements are availed to auditors for verification on time.

8. **IMPRESTS**

The Committee noted with concern that Imprests facility was frequently abused by Chief Executives and employees of State Corporations. This was clearly evident as most imprests remain un-surrendered to date and officers continued to be given imprests before surrendering the previous ones.

This resulted in huge losses that would have been avoided had stringent measures been employed.

The Committee recommends that the Chief Executives should put in place measures to ensure that imprest facility is not abused and that rules governing issuance and surrender of imprests are adhered to.

9. **CONCLUSION**

The Committee wished to record its appreciation for the services rendered by the staff of the National Assembly, National Audit office, the Inspector General (State Corporations) and the Department of Government Investments and Public Enterprises of the Treasury.

Their commitment and dedication to duty made the work of the Committee and production of this Report possible.

**(HON. J. B. N. MUTURI, MP)
CHAIRMAN**

SIGNED.....



DATE.....

24TH SEPT, 2004.....

KENYA AIRPORTS AUTHORITY

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA AIRPORTS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

1. ACCURACY OF THE ACCOUNTS

In my report for the previous year, I indicated that the Accounts for that year contained numerous adjustments which were not supported and which affected the accuracy of those Accounts. The Accounts now under audit similarly contain opening balances, which have been materially adjusted without supporting documents. There were also other material adjustments made during the year which could not be vouched due to lack of similar supporting documents. In particular, the reconciled Cash and Bank balance, which had been adjusted without supporting documents from Kshs.417,076,957 to Kshs.49,980,301 as at 30 June, 1996 was brought forward as opening balance for the year 1996/97 as Kshs.36,335,000. Apart from the fact that the difference of Ksh.13,645,301 previously reported was not adequately explained, the latter difference of Ksh.165,945 has also not been explained. The Cash Book as at 30 June, 1997 reflected net overdrawn balance of Ksh.101,337,759 while the amount reflected in the Balance Sheet was only Kshs.7,200,000, thereby resulting in another difference of Ksh.108,537,759. The Bank reconciliation for the Head Office cash book reflected an overdraft of Ksh.10,460,914 which was subsequently revised to an overdraft of Ksh.5,742,311 which was, however, not reflected in the Balance Sheet as at 30 June 1997. The Accounts also reflect a Suspense Account of Kshs.12,103,980 which was charged to debtors but which apparently represents a balancing figure. Numerous adjustments were made in the Accounts without supporting documents with others being made without double entry. As in the previous year and in the absence of supporting documents, it is not possible to determine to what extent these unsupported adjustments have affected the accuracy of the Authority's Accounts for the year ended 30 June, 1997.

The Committee heard the evidence given by the Chief Executive that the accounts for the year under review contained numerous adjustments which were not supported and which affected the accuracy of the accounts and that opening balances were materially adjusted without supporting documents.

The Committee was concerned about the numerous adjustments which could not be supported due to lack of supporting documents.

The Committee recommends that the Chief Executive should ensure that the Accounts are properly maintained and reconciled and that all supporting documents are availed to the Controller and Auditor General. The Committee further recommends that the Suspense Account is analyzed.

2. SURVEY OF AIRPORTS

During the year 1996/97, the Authority carried out further surveys of its land on four of its Airports that had not been surveyed in the previous year. Records show that some 972.36 ha. of the original land previously handed over to the Authority by Government at the Authority's inception was subsequently carved out and allocated to individuals during the survey exercise as follows:-

| Airport | Original Size of Land (Hectares) | Size of Land after Survey as per Title Deed | Land carved out (Hectares) |
|----------------|-------------------------------------------------|----------------------------------------------------------------|---------------------------------------|
| Malindi | 382.00 | 100.60 | 281.40 |
| Eldoret | 525.99 | 137.29 | 388.70 |
| Kisumu | 500.00 | 207.93 | 292.07 |
| Ukunda | <u>50.00</u> | <u>39.81</u> | <u>20.19</u> |
| | <u>1457.99</u> | <u>485.63</u> | <u>972.36</u> |

While the land carved out represents about 67% of the total land originally taken over by the Authority from the Government, the Authority has not, however, given adequate explanation as to whom and with what entitlement the missing land measuring 972.36 hectares was disposed off. Without such explanation it is not possible to confirm that the value of land of Kshs.5,313,200,000 shown on the Balance Sheet as at 30 June, 1997 presents the correct value of land allocated to the Authority by Government at its inception. Further the Balance Sheet fixed assets figure of Ksh.18,351,420,000 as at 30 June 1997 includes Ksh.622,463,366 being the value of the original land measuring 674.57 ha. which, as previously reported, was carved out in the previous year. The Authority's fixed assets are therefore, overstated to the extent of the value of the total land no longer owned by the Authority measuring 1,646.93 hectares. In addition, the value of furniture for the Head Office and Jomo Kenyatta International Airport were itemised and valued during the valuation exercise while furniture and equipment at all other Airports were lumped together and given a value of Ksh.23,466,080 but without a breakdown being provided by the Valuers. The assets were, therefore, not valued in accordance with the contractual agreement, which required all assets to be valued on an individual basis.

The Committee heard the evidence given by the Chief Executive and was informed that some 972.36 hectares of the original land previously handed over to the Authority was subsequently carved out and allocated to private developers as follows:

| <u>Airport</u> | <u>Land Carved Out (Hectares)</u> |
|----------------|-----------------------------------|
| Malindi | 281.40 |
| Eldoret | 388.70 |
| Kisumu | 292.07 |
| Ukunda | <u>10.19</u> |
| | <u><u>Total 972.36</u></u> |

The Committee further heard that:

- (i) due to these illegal allocations it has not been possible to confirm that the value of land of Kshs.5,333,200,000 shown on the balance sheet as at 30th June 1997 represents the correct value of land owned by the Authority.
- (ii) the Authority carried out survey on its land in 1997 and it was found out that it was much less than originally estimated in the Part Development Plan (PDP).
- (iii) the Commissioner of Lands purported to retain control; administration and power to allocate the Airport land before the Authority surveyed it. Consequently the Commissioner of Lands purported to allocate the reserved and vested airport land without consulting the Authority.
- (iv) the valuation of the land before survey of the actual land by the Authority resulted in valuation of excess land leading to payment of excess valuation fees of Kshs.1,428,358 to Gimco Valuers Limited.
- (v) the Commissioner of Lands allocated the following parcels of lands, some of which are on the flight path, and reserved for Airports development to private developers: -

| <u>LR No.</u> | <u>Name of Allottee</u> |
|-------------------|-------------------------|
| 9042/310 | A.K.Magugu & Partner |
| 9042/308 | Nandier Farms Limited |
| 9042/228 | B.W.Macharia |
| 9042/603 | Kojpa Motors |
| 9042/313,9042/315 | Homegrown (K) Limited |

| | |
|------------------------------------------------------|-----------------------------------------------------------------------------------|
| & 9042/170 | |
| 9042/281 | Makindu Growers & Parkers Limited |
| 9042/292 | Quadrant Limited |
| 9042/295 | Agro Anglo |
| 9042/305 | Mark First (K) Limited |
| Un surveyed plot | 3Kays Beauty Clinique |
| LR 15142 | Sky bird Executive Safaris |
| 9042/45 & 9042/46 | NAS Airport Services |
| 9042/231 | Siginon Cargo Centre |
| 9042/583 | African Airlines |
| LR.21690/2 LR.21690/3 LR.21690/4 LR.21690/5 | Amarjit Singh Viridi |
| 24927 | Dahase Investment |
| 24389 | Kanea Falls Ltd |
| 9042/47 | Isaac Mutuma Ann Nyakari Rachel Muthoni Nyaga Mary Ann Kung'u |
| LR.24092 | Manchester Outfitters Limited |
| 9042/633 | Isaac Mutuma Anne Nyokabi Rachel Muthoni Nyaga Mary Ann Kung'u |
| 9042/228 | Justin Gachuru Njuguna Oscar Macharia Njuguna |
| 9042/304 | Mechanized Cargo System |
| 9042/222 | Kenya Re. |
| 9042/303 | Property Priority Limited |
| 9042/101 | Canarian Holdings Limited Caltex |
| 9042/308 | Namdhari Farms Limited |
| 15129 | Mumbu Holdings Limited |
| 9042/7 | Kenya Airways |
| 9042/20 | Kenya Airways |
| 9042/21 | Kenya Airways |
| 9041/22 | Kenya Airways |

EMBAKASI VILLAGE

| | |
|------------------------------------------------|--------------------------|
| 9042/231 IR. 57827 9042/232 IR. 57829 | Julius Monzi Muia |
|------------------------------------------------|--------------------------|

| | |
|-----------------------|-----------------------|
| 9042/233 IR. 57830 | John Muriithi Gachugo |
| 9042/234 IR. 57828 | Julius Monzi Muia |
| 9042/678 IR. 80230 | Charles Ayako Nyachae |
| 9042/53 | Church |
| 9042/230 9042/229 | Kenya Airways |

WILSON AIRPORT

| <u>NAME</u> | <u>LR. OR IR. NUMBER</u> |
|---------------------------------------------------------------------------------------------|--------------------------|
| East African Safari Air (<i>this parcel of land was alienated from the Airport Apron</i>) | LR 209/11595 |
| Cleodhusrt Limited/Ballon Safaris Ltd. | LR. 13405 |
| Uchumi Supermarkets | 209/12593 |

JOMO KENYATTA INTERNATIONAL AIRPORT

| <u>OWNERS</u> | <u>LR. NO.</u> |
|--------------------------------------------------------------------------|----------------|
| Chanzu Enterprises Limited Box 47089, Nairobi | 9042/96 |
| Bancroft Properties Box 11880, Nairobi | 9042/285 |
| Monzi Muia Box 39738, Nairobi | 9042/231 |
| Kobil, Total & Agip Petroleum Dealers Box 30061, Nairobi | 9042/54 |
| Pinnacle Development Limited & Ranco Investment Box 75200, Nairobi | 9042/300 |
| Woni Veg/Fruit Importers & Exporters Ltd, Box 52115, Nairobi | 9042/307 |
| Oserian Development Company Ltd, Box 433340, Nairobi | 9042/291 |
| Oserian Development Company Ltd, Box 433340, Nairobi | 9042/280 |

| | |
|-----------------------------------------------------------------------------------------|----------|
| Fisher Vegpro (three floors) Box 44286, Nairobi | 9042/284 |
| Shalimar Flowers (K) Ltd. Box 49125, Nairobi | 9042/177 |
| Makindu Growers & Packers Ltd. Box 45308, Nairobi | 9042/282 |
| Surreshchedra Raichand Shah & Minarshri Sresh Minarshri, Box 10199, Nairobi | 9042/283 |

JOMO KENYATTA INTERNATIONAL AIRPORT

| LR. NO. | <u>PROPRIETOR</u> | <u>RECOMMENDATION BY THE KAA</u> |
|----------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| L.R. 209/9091 | Shutter Development Box 27794, Nairobi | Should be repossessed for future Airport development. |
| L.R. 209/9097 | E. Kiplagat & Others | Plot in the flight path. No construction allowed. Plot not developed and should be repossessed |
| L.R. 209/9098 | Kazirun Enterprises, Box 56151, Nairobi | Plot in the flight path. No construction allowed. Plot not developed and should be repossessed |
| L.R. 209/9186 | N. C. Barti Ltd. | Plot in the flight path. No construction allowed. Plot not developed and should be repossessed |
| L.R. 209/9187 | Caroline Tipis, Box 309, Narok | Plot in the flight path. No construction allowed. |

| | | |
|----------------|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | Plot not developed and should be repossessed |
| L.R. 209/9199 | E. Ngeyo, Box 19882, Nairobi | Plot in the flight path. No construction allowed. Plot not developed and should be repossessed |
| L.R. 209/24088 | Ministry of Lands & Settlement | The Ministry to report. Already constructed. Plot in the flight path. Recommended that the plot be repossessed and the existing structure be demolished. |
| L.R. 209/24092 | Manchester Outfitters | Plot in the flight path. No construction allowed. Plot not developed and should be repossessed. The fence should be demolished |

WILSON AIRPORT

| L.R NO. | PROPRIETOR | RECOMMENDATION |
|----------------|--------------------------------------------------------------------------------------|----------------|
| L.R. 209/12908 | PAMSO Enterprises Ltd. Box 72622, Nairobi Acreage 4.8 Ha. (Mitumba Village) | Repossess |

The following plots were also hived out of the Airport land:

| L.R NO. | PROPRIETOR |
|-----------|--------------------|
| 209/25469 | Mungas Villas Ltd. |
| 209/25470 | Winer Services |
| 209/25471 | Kenchora Bros Ltd. |
| 209/25472 | Lelabi Ventures |

| | |
|-----------|---------------------------------------------------------|
| 209/25473 | Henry Muesermate (Shalfa Holdings Ltd) |
| 209/25474 | Stephen Odinga, Box 66925, Nairobi (Shalfa Holdings) |
| 209/25475 | Kolimo Ltd. |
| 209/25476 | Ministry of Lands & Settlement (to report) |
| 209/25477 | Rexton Enterprises |

MOI INTERNATIONAL AIRPORT

| L.R NO. | AREA | REGISTERED OWNER | DATE OF REGISTRATION |
|---------------------------------------------|-------------|-------------------------------------------------------|-----------------------------------------|
| MN/V/3745 (DP NO.20355) | 2.502 Ha | Not available | Not available |
| MN/V/3745 (DP NO.164272) | 1.61 Ha | Zakhem Const. (K) | 30 th July 1992 |
| MN/VI/3746 (CR 23456) | 0.6993 Ha | ALI BURROW KORANE | 26 th Nov, 1992 |
| MN/VI/3747 (CR 23465) | 0.6993 Ha | JAMES GICHOHI NGARI | 30 th NOV.1992 |
| MN/VI/3748 (CR 23466) | 0.6993 Ha | ALI MAHMOUD SALIM | 30 th NOV.1992 |
| PLOT NO. 3665 (CR 19314/1- 420/87) | 3.692 Ha | PAURAFCON AGENCIES LTD. BOX 82017 MSA | Not available |
| MN/VI/3448 | 0.19 Ha | ALI BIN ABDURAHMAN bin Mohammed Baisheikh | 13 th JAN.1991 |
| Portion No. Malindi | Malindi 126 | 37149/3534 | Owner Margaret Wanjiru Seed Fekih |
| No. 139 CR. 1997/3553 | | | |
| No. 5186 LT 37/400/6323 | | | Carla Albertazz and Marcello Piathi |

UKUNDA

LR - NOS.

OWNERS

| | |
|------|-----------------------|
| 1377 | Records not available |
| 1376 | Records not available |
| 1375 | " |
| 1374 | " |
| 1373 | " |
| 1372 | " |
| 1371 | " |
| 1370 | " |
| 1369 | " |
| 1368 | " |
| 1367 | " |
| 1366 | " |

KISUMU AIRPORT LAND PARCEL C = 206.09

| NAME | LR. or IR NUMBER |
|----------------------|------------------|
| Individual People | 38.67 Ha. |
| Individual People | 18.19 Ha. |
| Not Allocated Vacant | 98.32 Ha. |
| Individual families | 5.96 Ha. |
| Coca-Cola | 13.6 Ha. |
| Total | 174.74 HA |

The Committee was informed that the breakdown in respect of furniture and other equipment at Moi International Airport, Mombasa, Malindi and Kisumu which had earlier been lumped together and given a value of Kshs.23,466,080 has since been provided.

The Committee deplored the unsatisfactory manner in which the Commissioner of Lands carved out 972.36 hectares of land that had been vested to the Authority vide Legal Notice No. 201 dated 7th June, 1994 and allocated to private developers without consulting the Authority and that some of the plots are on flight path.

The Committee recommends that:

- (i) the Chief Executive should use all means possible including litigation to have the irregular allocation of the following parcels of land belonging to the Authority nullified:

| LR No. | Name of Allottee |
|------------------------------------------------------|--------------------------------------------------------------------------|
| 9042/310 | A.K.Magugu & Partner |
| 9042/308 | Nandier Farms Limited |
| 9042/228 | B.W.Macharia |
| 9042/603 | Kojpa Motors |
| 9042/313,9042/315 & 9042/170 | Homegrown (K) Limited |
| 9042/281 | Makindu Growers & Parkers Limited |
| 9042/292 | Quadrant Limited |
| 9042/295 | Agro Anglo |
| 9042/305 | Mark First (K) Limited |
| Un surveyed plot | 3Kays Beauty Clinique |
| LR 15142 | Sky bird Executive Safaris |
| 9042/45 & 9042/46 | NAS Airport Services |
| 9042/231 | Siginon Cargo Centre |
| 9042/583 | African Airlines |
| LR.21690/2 LR.21690/3 LR.21690/4 LR.21690/5 | Amarjit Singh Viridi |
| 24927 | Dahase Investment |
| 24389 | Kanea Falls Ltd |
| 9042/47 | Isaac Mutuma Ann Nyakari Rachel Muthority Nyaga Mary Ann Kung'u |
| LR.24092 | Manchester Outfitters Limited |
| 9042/633 | Isaac Mutuma Anne Nyokabi Rachel Muthoni Nyaga Mary Ann Kung'u |
| 9042/228 | Justin Gachuru Njuguna Oscar Macharia Njuguna |
| 9042/304 | Mechanized Cargo System |
| 9042/222 | Kenya Re. |
| 9042/303 | Property Priority Limited |
| 9042/101 | Canarian Holdings Limited Caltex |
| 9042/308 | Namdhari Farms Limited |
| 15129 | Mumbu Holdings Limited |
| 9042/7 | Kenya Airways |
| 9042/20 | Kenya Airways |
| 9042/21 | Kenya Airways |
| 9041/22 | Kenya Airways |

EMBAKASI VILLAGE

| | |
|--------------------|-----------------------|
| 9042/231 IR. 57827 | Julius Monzi Muia |
| 9042/232 IR. 57829 | |
| 9042/233 IR. 57830 | John Muriithi Gachugo |
| 9042/234 IR. 57828 | Julius Monzi Muia |
| 9042/678 IR. 80230 | Charles Ayako Nyachae |
| 9042/53 | Church |
| 9042/230 | Kenya Airways |
| 9042/229 | |

WILSON AIRPORT

| <u>NAME</u> | <u>LR. OR IR. NUMBER</u> |
|---------------------------------------------------------------------------------------------|--------------------------|
| East African Safari Air (<i>this parcel of land was alienated from the Airport Apron</i>) | LR 209/11595 |
| Cleodhusrt Limited/Ballon Safaris Ltd. | LR. 13405 |
| Uchumi Supermarkets | 209/12593 |

JOMO KENYATTA INTERNATIONAL AIRPORT

| <u>OWNERS</u> | <u>LR. NO.</u> |
|-----------------------------------------------------------------------|----------------|
| Chanzu Enterprises Limited Box 47089, Nairobi | 9042/96 |
| Bancroft Properties Box 11880, Nairobi | 9042/285 |
| Monzi Muia Box 39738, Nairobi | 9042/231 |
| Kobil, Total & Agip Petroleum Dealers Box 30061, Nairobi | 9042/54 |
| Pinnacle Development Limited & Ranco Investment Box 75200, Nairobi | 9042/300 |
| Woni Veg/Fruit Importers & Exporters Ltd, Box 52115, Nairobi | 9042/307 |
| Oserian Development Company Ltd, Box 433340, Nairobi | 9042/291 |
| Oserian Development Company Ltd, Box 433340, Nairobi | 9042/280 |
| Fisher Vegpro (three floors) Box 44286, Nairobi | 9042/284 |
| Shalimar Flowers (K) Ltd. Box 49125, Nairobi | 9042/177 |
| Makindu Growers & Packers Ltd. Box 45308, Nairobi | 9042/282 |
| Sureshchedra Raichand Shah & Minarshri Sresh Minarshri, | 9042/283 |

Box 10199,
Nairobi

JOMO KENYATTA INTERNATIONAL AIRPORT

| LR. NO. | PROPRIETOR |
|----------------|-----------------------------------------|
| L.R. 209/9091 | Shutter Development Box 27794, Nairobi |
| L.R. 209/9097 | E. Kiplagat & Others |
| L.R. 209/9098 | Kazirun Enterprises, Box 56151, Nairobi |
| L.R. 209/9186 | N.C.Barti Ltd. |
| L.R. 209/9187 | Caroline Tipis, Box 309, Narok |
| L.R. 209/9199 | E. Ngeyo, Box 19882, Nairobi |
| L.R. 209/24088 | Ministry of Lands & Settlement |
| L.R. 209/24092 | Manchester Outfitters |

WILSON AIRPORT

| L.R NO. | PROPRIETOR |
|----------------|-------------------------------------------------------------------------------|
| L.R. 209/12908 | PAMSO Enterprises Ltd Box 72622, Nairobi Acreage 4.8 Ha. (Mitumba Village) |

| L.R NO. | PROPRIETOR |
|----------------|---------------------------------------------------------|
| 209/25469 | Mungas Villas Ltd. |
| 209/25470 | Winer Services |
| 209/25471 | Kenchora Bros Ltd. |
| 209/25472 | Lelabi Ventures |
| 209/25473 | Henry Muesermate (Shalfa Holdings Ltd) |
| 209/25474 | Stephen Odinga, Box 66925, Nairobi (Shalfa Holdings) |
| 209/25475 | Kolimo Ltd. |
| 209/25476 | Unknown |
| 209/25477 | Rexton Enterprises |

MOI INTERNATIONAL AIRPORT, MOMBASA

| L.R NO. | AREA | REGISTERED OWNER | DATE OF REGISTRATION |
|-----------------------------|-------------|-------------------------|-----------------------------|
| MN/V/3745 (DP NO.20355) | 2.502 Ha | Not available | Not available |
| MN/V/3745 (DP NO.164272) | 1.61 Ha | Zakhem Const. (K) | 30 th July 1992 |
| MN/VI/3746 (CR 23456) | 0.6993 Ha | ALI BURROW KORANE | 26 th Nov, 1992 |

| | | | |
|---------------------------------------------|-------------|----------------------------------------------------|----------------------------------------|
| MN/VI/3747 (CR 23465) | 0.6993 Ha | JAMES GICHOHI NGARI | 30 TH NOV.1992 |
| MN/VI/3748 (CR 23466) | 0.6993 Ha | ALI MAHMOUD SALIM | 30 TH NOV.1992 |
| PLOT NO. 3665 (CR 19314/1- 420/87) | 3.692 Ha | PAURAFCON AGENCIES LTD. BOX 82017 MSA | Not available |
| MN/VI/3448 | 0.19 Ha | ALI BIN ABDURAHMAN bin Mohammed Baisheikh | 13 TH JAN.1991 |
| Portion No. Malindi | Malindi 126 | 37149/3534 | Owner Margaret Wanjiru |
| No. 139 CR. 1997/3553 | | | Seed Fekih |
| No. 5186 LT 37/400/6323 | | | Carla Albertazz and Marcello Piathi |

UKUNDA

LR - NOS.

OWNERS

1378
1377
1376
1375
1374
1372
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1368
1366

Records not available
Records not available
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KISUMU AIRPORT LAND PARCEL C = 206.09

| NAME | LR. OR IR NUMBER |
|----------------------|------------------|
| Individual People | 38.67 Ha. |
| Individual People | 18.19 Ha. |
| Not Allocated Vacant | 98.32 Ha. |
| Individual families | 5.96 Ha. |
| Coca-Cola | 13.6 Ha. |
| Total | 174.74 HA |

- (ii) **the Chief Executive should recover the excess fees paid amounting to Kshs.1,428,358.00 from Gimco Valuers Limited.**
- (iii) **the Commissioner of Lands should provide the list of the names of the allottees of the parcels of land whose owners are alleged to be unknown.**

3. CONTRACTS

During the year 1996/97, the Authority awarded six contracts to contractors other than the lowest bidders as follows:

| Contract Reference | Project Description | Lowest Bid Amount Kshs. | Awarded at Kshs. | Possible Saving if awarded to lowest bidder Kshs. |
|----------------------------|-----------------------------------------------|--------------------------------|-------------------------|----------------------------------------------------------|
| (i) KAA/ES/142/B | Water Proofing | 7,006,360 | 12,900,000 | 5,893,640 |
| (ii) KAA/MIA/344/H | Supply and Installation of Stand by generator | 16,974,970 | 22,800,000 | 5,825,030 |
| (iii) KAA/ES/MLI/G | Consultancy Services Malindi Airport | 9,845,500 | 14,709,190 | 4,854,109 |
| (iv) KAA/ES/ KBIC/322/L | Rehabilitation Kabarak Air Strip | 15,899,164 | 26,274,106 | 10,374,942 |
| (v) KAA/HQ/ 304/B/F | Modification & Furnishing of Offices | 4,788,360 | 13,134,625 | 8,346,265 |
| (vi) KAA/ES/ 346/B | Rehabilitation Toilet facilities JKIA | 12,295,269 | 13,608,709 | 1,313,440 |
| TOTAL | | | | <u>36,607,507</u> |

Although at times justification exists for acceptance of bids other than the lowest, no such information was availed with regard to all the above contract awards. Accordingly, and in the absence of such justification and had the Authority awarded the contracts to the lowest bidders a total of Ksh.36,607,507 would possibly have been saved. Some of the above contracts were also apparently awarded by top management without specific Board approval while in four of the above six cases, the contracts were awarded to contractors other than those approved by the Board. In addition out of the

above six contracts, two of them were awarded to firms which according to records, had not bid for the contracts. A contract for the Modification and Furnishing of offices which was priced at Ksh.10,407,500 was subsequently varied by the Authority's Tender Committee to include the furnishing of the Managing Director's office but by another firm and at an additional cost of Ksh.2,727,125. It is not clear, however, why the variation was effected particularly in view of the fact that the furnishing work for the Managing Director's office clearly formed part of the original contract for modification and furnishing of the Authority's offices.

The Committee heard the evidence given by the Chief Executive that the Authority irregularly awarded six tenders to the following contractors other than the lowest bidders without justification resulting in a loss of Kshs.36,607,507.

| Contract | Lowest Bidder | Irregularly awarded to |
|----------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------|
| (i) Water Proofing leaking Terminal | M/S. Jugika Building and General Constructors Ksh.7,006,360 | Om Shri Construction Company Kshs.12,990,000 |
| (ii) Supply and installation of Standby Generator at MIA | Electro Watts Ltd Kshs.16,974,970 | M/s. Maati Engineers Ltd Kshs.22,800,000 |
| (iii) Consulting Services at Malindi Airport | Trunda Engineering Consultants Kshs.9,845,500 | M/s. Aviation Projects Engineering Company, (APEC) Kshs.14,709,190 |
| (iv) Rehabilitation of Kabarak Air Strip | Coastal Kenya Enterprises Kshs.15,899,164 | M/s. S.S. Mehta & Sons Ltd Kshs.26,274,106 |
| (v) Modification and Furnishing of offices | M/s. Kophers Joinery and Building Contractors Kshs.4,788,360 | M/s. Wood design Kshs.13,134,629 |
| (vi) Rehabilitation of Toilet facilities at JKIA | M/s. T.W.T. Kshs.12,295,269 | OM Shri Construction Company Kshs.13,608,709 |

The Committee was also informed that:

- (i) the contractor in respect of contract No. KAA/ES/42/B - Water Proofing Works to the Cargo Terminal and the VIP stand at the State Pavilion, M/s. OM Shri Construction Ltd, was irregularly allowed to quote by the management despite the fact that it had not been pre-

qualified for the contract and that it was subsequently awarded the tender although it ended up being the highest bidder.

- (ii) in other two cases M/s. OM Shri Construction Company and M/s. Wood design were allowed to submit late quotations and awarded tenders, even though they were not the lowest bidders.

The Committee observed with concern that:

- (i) had due diligence been applied by the Authority in the award of the above contracts about Kshs.36,607,507 would have been saved.
- (ii) the award of Tenders to the highest bidder defeated the very principle of competitive bidding.
- (iii) the Management and in particular Technical Officers serving the Board's Finance and Tender Committee and Officers who prepared Technical Evaluations connived to defraud the Authority of huge sums of money by manipulating the Tender documents and concealing irregularities from the Board.

The Committee recommends that:

- (i) the Board and the Chief Executive should ensure that proper Tendering procedures are strictly adhered to.
- (ii) the then Chief Executive Mr. Peter Lagat, the General Manager, Engineering Services Eng. Mohamed Mukhwana, the then Senior Architect Mr. T. Chireah, the Quantity Surveyor Mr. H.M. Nyagoe should be investigated by the Kenya Anti-Corruption Commission for flouting the tender and procurement procedures with a view to being prosecuted.
- (iii) the said persons in (ii)(above) should be held liable for abuse of procurement procedures and be surcharged for losses amounting to Kshs.36,607,507 which would have been saved had proper Tendering Procedures been followed.
- (iv) M/s Om Shri Construction Company and M/s. Wood Design, whose Directors to date remain unknown, knowingly and wilfully participated in the flouting of Tendering Procedures be black listed and precluded from participating in State Corporations' and government tenders.

4. MISUSE OF TEMPORARY IMPREST FACILITY

The former Managing Director drew temporary imprest without first surrendering previous ones. As a result, temporary imprests amounting to Ksh.13,336,479 were issued to the officer between April 1996 and June 1998 for reasons which were at times not stated and if stated were either not always clear or appeared not official. Out of the total imprests of Ksh.13,336,479 only Ksh.949,310 appears to have been used for official duties while the rest of the imprests were eventually surrendered mainly in cash after the money had been kept for between 8 and 12 months. The surrender in cash of these imprests indicates that Authority's funds were irregularly borrowed as interest free loans for private use by the officer.

The Committee heard the evidence given by the Chief Executive that the former Managing Director Mr. Peter Lagat irregularly drew imprests on the Accounts of the Authority without first surrendering previous ones totalling Kshs.13,336,479 as at 30th June 1998.

The Committee further heard that out of the total imprests taken, only Ksh.949, 310 appeared to have been used for official duties while the rest of the imprests were surrendered mainly in cash after a period of between 8 and 12 months.

The Committee was informed that imprest totalling Kshs.246,744 is still outstanding from the following persons:

| | | |
|----------------------------------|---|----------------|
| • Major General (Rtd) E.S. Mbilu | - | Kshs.81,015.80 |
| • Mr. J.B. Okara | - | Kshs.16,184.45 |
| • Mr. A.K. Ketter | - | Kshs.40,000.00 |
| • Mr. R. Kemoli | - | Kshs.40,000.00 |
| • Mr. S.B. Rotich | - | Kshs.69,543.75 |

The Committee was further informed that the Authority had instituted measures to control use of imprests which included fixing rates for each town visited and use of Local Purchase Orders (PLOs) instead of cash for purchases.

The Committee expressed concern that the then Managing Director Mr. Peter Lagat took an amount of Kshs.12,387,169 as imprest for eight to twelve months and surrendered it in cash, therefore making it interest free loans.

The Committee recommends that the Chief Executive should recover outstanding imprests of Kshs.246,744 from the following people.

| | | |
|----------------------------------|---|----------------|
| • Major General (Rtd) E.S. Mbilu | - | Kshs.81,015.80 |
| • Mr. J.B. Okara | - | Kshs.16,184.45 |
| • Mr. A.K. Ketter | - | Kshs.40,000.00 |
| • Mr. R. Kemoli | - | Kshs.40,000.00 |
| • Mr. S.B. Rotich | - | Kshs.69,543.75 |

The Committee further recommends that the Chief Executive ensures that all imprest is surrendered before drawing of new one as per regulations and that it is used for official purposes only.

5. INVESTMENTS

During the year 1996/97, the Authority invested its surplus funds totaling Ksh.325 million in short term deposits in a commercial bank, which offered interest, rates ranging between 18% and 22% per annum. Between May, 1996 and 24 December, 1997 the Authority earned interest on these deposits totalling Ksh.15,067,642. This interest earning was, however, neither re-invested nor was it accounted for in the books of the Authority and as a result, it is not known what happened to the money. In addition and out of the total deposits of Ksh.140,000,000 held in that bank between 3 November 1995 and March, 1996, instructions in respect of re-investment of one deposit of Ksh.30 million on 7 February 1996 and another of Ksh.30 million on 19 March 1996 were given on telephone. It was, therefore, not possible to determine the rate of interest on each of the two cases. It was also noted that in a number of cases, the Authority wrote and recalled their deposits on maturity but the holding bank apparently ignored the instructions and rolled over such deposits. In particular, fixed deposit receipt number 1690 for Ksh.35,000,000 and number 1833 for Ksh.35,000,000 were rolled over in August, 1997 and December 1997 respectively, apparently without the approval of the Authority. Further, while the Authority invested a colossal amount of money at interest rates that were comparatively low, the Authority was also at the same time operating a bank overdraft account which attracted interest at the rate of between 28% to 32% which cost the Authority a total of Ksh.4,909,361 as at 30 June 1997. The Authority has also to-date not been able to recover total deposits of Ksh.90,000,000 locked up in the same bank at the time that bank was put under Central Bank management. Recovery of these deposits appears highly doubtful.

The Committee heard the evidence given by the Chief Executive and was informed that:

- (i) during the year under review the management irregularly and without the approval of the Board invested its surplus funds totalling Kshs.329 million in short term deposits in Prudential Building Society (now under receivership) which offered interest rates ranging between 18% and 22% per year.**

- (ii) the interest accrued amounting to Kshs.15,067,642 has since been accounted for.
- (iii) there is no evidence showing how interest rate was negotiated with the bank in respect of Kshs.30 million and 35 million invested in February 1996 and March 1996 respectively, and that the interests were not comparatively lower to the Treasury Bills rate obtaining at that time.
- (iv) the deposit of Kshs. 90 million including accrued interest remain locked up in the Society and that to date only Kshs.6,139,000.02 has been paid by the Bank's liquidator.

The Committee observed that interest obtaining then were not comparatively low.

The Committee was concerned that the Treasury circulars regarding the investments of Surplus Funds were ignored by the then Management of the Authority and that at some point it imprudently went into overdraft which attracted interest of Kshs.4,909,361 when it was holding money in fixed deposits and Treasury Bills.

The Committee was further concerned that despite its recommendation in the Tenth Report on the flagrant abuse of circulars no action has been taken against the then Managing Director.

The Committee reiterates its earlier recommendation made in the Tenth Report that the then Managing Director Mr. Peter Lagat should be held responsible for depositing Surplus Funds of the Authority without following the Treasury's circulars and be prosecuted for abuse of office.

6. STOCKS

The Balance Sheet figure of Kshs.102,673,455 as at 30 June, 1997 was not supported by any stock valuation certificate and as a result it was not possible to confirm the correctness of the Stock balance of Ksh.102,673,455 shown on the Balance Sheet as at 30 June, 1997. Further the stocks figure also includes spares and stores in transit totaling Ksh.26,145,329 which had been paid for but had not been received from suppliers. The Authority has not justified payment for stores in advance of their delivery.

The Committee heard the evidence given by the Chief Executive and was informed that during the year under review the Balance Sheet stock figure of Kshs.102,673,455 was not supported by stock valuation certificate as

required and further that this figure included unjustified advance payments for spares and stores in transit worth Kshs.26,145,329

The Committee further heard that:

- (i) the stocks contained in the accounts were as per annual physical count and was supported by stock sheets and that this figure was subsequently reviewed on request by the Auditors.
- (ii) the stocks in transit which included Foam Compound and cleaning chemicals were purchased and paid for in advance through Sight Letter of Credit and that the goods had already been received.

The Committee observed with concern that the Authority had taken such a long time to correct the anomaly, which was open to abuse and further that such accounting is irregular and encouraged delays of audit of the accounts of the Authority.

The Committee recommends that all supporting documents in respect of stock of the Authority should be availed to the auditors for verification.

7. WORK-IN-PROGRESS

The Work-In-Progress figure of Ksh.132,467,490 excludes expenditure incurred on construction contracts totaling Kshs.89,687,546 which was irregularly expensed during the year under review instead of being capitalised. Consequently, it has not been possible to confirm the correctness of the Capital Work-In-Progress balance of Ksh.132,467,490 reflected on the Balance Sheet as at 30 June, 1997 as the same appears to be understated to the extent of the value of capital expenditure not capitalised during the year 1996/97.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Authority irregularly expensed a total of Kshs.89,687,546 as expenditure incurred on contracts from the work-in-progress figure of Kshs.132,467,490.

The Committee was informed that the Management had executed adjustments to the expensed items, which were of capital nature and subsequently included in the Authority's 2000/2001 Accounts and submitted for audit.

The Committee observed with concern that the Authority had taken such a long time to correct the anomaly, which was open to abuse and further that such expensing is irregular and encouraged delays of audit of the accounts of the Authority.

The Committee recommends that in future the Authority should use proper accounting procedures to avoid delay of auditing of accounts.

8. CASH AND BANK BALANCES

The Balance Sheet reflects Cash and Bank balance of Ksh.7,200,000 while the Cash Book shows an overdraft of Kshs.101,337,759, thus resulting in a difference of Ksh.108,537,759 whose nature has not been explained. There were also receipts in the Bank Statement not entered in the Cash Book totaling Ksh.29,960,571 whose supporting documents were not produced for audit review while payments in the Bank Statement (Direct debits) not entered in the Cash Book totalled Kshs.35,922,919 and were not supported by letters of authority or debit advice notes to indicate the nature of payments. Arising from the foregoing and in view of the materiality of these balances, the correctness of the Balance Sheet and Bank figure of Ksh.7,200,000 as at 30 June 1997 can not be confirmed.

The Committee heard the evidence given by the Chief Executive and was informed that:

- (i) the Balance Sheet shows Cash and Bank Balance figure of Kshs.7,200,000 which is different from the Cash Book figure of Overdraft amounting to Kshs.101,337,759 which was not reconciled.**
- (ii) some receipts in the Bank Statement totalling Kshs.29,960,571 were not entered in the cash Book and their supporting documents were not availed for audit.**
- (iii) direct debit totalling Kshs.35,922,919 in the Bank Statement were not supported by debit advice notes or letters of authority.**

The Committee heard that the Management had instituted adjustments dating back from 1992 and that the figures have been reconciled and incorporated in the 2000/2001 accounts of the Authority and subsequently submitted for audit thereby resolving the audit query.

The Committee was concerned that the Authority did not prepares reconciliation statements at the close of the financial year.

The Committee therefore recommends that the Authority prepares reconciliation statements on monthly basis.

NATIONAL HOUSING CORPORATION

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOUSING CORPORATION FOR THE YEAR ENDED 30 JUNE 1999

1. OUTSTANDING LOAN ARREARS

The Balance Sheet Loan Arrears Due figure of Ksh.1,756,408,625 comprises of Local Authorities and Rural Housing Loans balances of Ksh.1,671,311,748 and Ksh.84,809,377 respectively. The Local Authorities Loan Arrears include Ksh.23,567,692 due from Eldoret Municipal Council in respect of the Kapsoya Site and Service Scheme which was disposed off but without the loan arrears due being cleared. Further, and as previously reported, the net Rural Housing Loan Arrears of Ksh.84,809,377 are mainly composed of unsecured loans which the Corporation had advanced in early 1970s. The Corporation has to date not yet indicated what strategies it has put in place to address the problem and to ensure that an effective loan recovery programme is operationalized to avoid substantial losses on these loans.

The Committee heard the evidence given by the Chief Executive that the Local Authorities Loan Arrears of Kshs.1,671,311,748 includes Kshs.23,567,692 due from Eldoret Municipal Council in respect of the Kapsoya Site and Service Scheme, and that the Corporation obtained a court ruling in April 26th, 2000 in its favour for recovery of the outstanding arrears.

The Committee further heard that;

- (i) the Council is pursuing Minister's approval for sale of two housing Estates i.e. Pioneer and Bondeni with a view to settling the entire debt which now stands at Kshs.78,589,391.40 and that the Council is paying Kshs.1 million per month towards servicing of the Kapsoya debt.
- (ii) the Corporation has been pursuing Rural Housing Loan Arrears amounting to Kshs.84,809,377, through their Field Offices, Provincial Administration and Lawyers.
- (iii) eighty Seven (87) Local Authorities are the main debtors of the Corporation as they owed Kshs.3,169,524,661.70 as at 30th June, 2003. *(The list of the debtors is attached as appendix B)*

The Committee noted that the Corporation has adopted various strategies aimed at intensifying collection of arrears including personal visits to various local authorities, negotiating on the payment programmes with

individual defaulters, pursuing the Councils through Courts and taking over direct management of NHC's developed schemes in the following local authorities:

**Nairobi City Council (Madaraka and Kariokor Estates)
Kisumu Municipal Council
Nakuru Municipal Council
Kakamega Municipal Council
Vihiga Municipal Council
Busia Municipal Council
Webuye Town Council
Naivasha Municipal Council
Meru Municipal Council
Nyahururu Municipal Council
Kitale Municipal Council
Athi River Municipal Council**

The Committee recommends that the Corporation should use all means possible to recover all outstanding arrears without further delay.

The Committee further recommends that the Chief Executive should ensure that the houses that have been repossessed are disposed of in a transparent manner with due consideration of the interests given to the current occupiers.

2. IRREGULAR AWARD OF CONTRACTS

On 27 May, 1999 the then Corporation's Managing Director, and without Board's authority, signed a contract with a computer firm to upgrade and make its application programs "Year 2000 Compliant". The contract was to be performed within six (6) months of the date of the Agreement and upon receipt of an advance payment of 50% of the contract price. On the same day the contract was signed and in accordance with the agreement the Computer firm was paid 50% advance of Kshs.2,448,468.75. Available information, however, shows that the Corporation's Board later declined to ratify the contract award and instructed that the contract be terminated. Records, however, show that the management thereafter entered into negotiations with the computer firm and the consultants and finally agreed to scale down the initial Agreement instead of effecting complete termination. The consultants were also to be retained while the Corporation was to hire an IBM RS/6000 computer from the Firm at a monthly charge of Ksh.90,000 plus VAT and US\$.2,300. Although the Board expressed disappointment and displeasure at the way the computerization Project had been handled by the Corporation's Management without its authority, it is not clear, however, why the Corporation was committed to this extent without approval of the Board. It has also not been

possible to establish whether or not the Corporation received value for money in these transactions.

The Committee heard the evidence given by the Chief Executive that during the year under review, the then Managing Director Mr. Lawi Kiplagat and without the approval of the Board signed a Contract to upgrade its application programmes to "year 2000 Compliant" with computer Applications Ltd (CAL) and that the firm (CAL) was paid Kshs.2,488,468.75 in advance and further that the Board thereafter declined to ratify the contract award on procurement of Hardware which was part of the contract.

The Committee was further informed that the Board declined to ratify the procurement of Hardware for IBM RS/6000 as it was expensive and other cheaper alternatives could have been sought.

The Committee observed with concern that the then Managing Director ignored the Board's decision and went ahead to purchase Hardware at exorbitant prices and further retained the Consultants to maintain the IBM/RS 600 at an inflated cost of Kshs.90,000 per month and additional US\$2,300.

The Committee noted that the Computerization Project which included replacement of obsolete hardware and Technology, Y2K Compliance, improvement of Software and integration did not justify the costs and value for money.

The Committee recommends that the then Chief Executive Mr. Lawi Kiplagat should be surcharged for the losses amounting to Kshs.2,488,468.75 and be barred from holding public office conferred by the Republic of Kenya

The Committee further recommends that in future the Management should ensure that Procurement procedures currently in force are adhered to.

3. PAYMENT OF US\$.63,400

During the year 1998/99 the Corporation paid a total of US\$.63,400 (Ksh.3,778,686.30) to two foreign firms for ¼ page adverts on a project entitled 'Kenya'. This expenditure was apparently incurred without the Board's approval. Although the Corporation has explained that the parent Ministry authorized these foreign payments, considering the core business of the Corporation as mandated by the National Housing Corporation Act, this explanation is not considered satisfactory. Moreover, even if the authority by the parent Ministry was accepted as proper, the same would still neither

legitimize nor validate the expenditure as the advert was at best a public relations exercise, which normally would not fall within the purview of the Corporation's mandate. In addition, the expenditure of Ksh.3,778,686.30 in respect of only ¼ page advert is considered quite expensive.

The Committee heard the evidence given by the Chief Executive that the Management of the Corporation paid a total of US\$63,400 (Kshs.3,778,686,30) to Publex S.A of Paris and Universal News Inc. of New York for ¼ page adverts on a publicity project titled "Kenya" without competitive bidding and the Board's approval.

The Committee further heard that the expenditure was initiated by the parent Ministry and Ministry of Finance.

The Committee observed with concern that the Corporation participated in an advert which would not fall within the purview of the Corporation and whose charges were too high.

The Committee recommends that the management should ensure that procurement procedures are adhered to without exception and that officers from the parent Ministry who exerts undue influence should be surcharged.

4. TERMS AND CONDITIONS OF SERVICE

In the Report for the year 1997/98 reference was made of the fact that the Corporation reviewed and implemented new salary scales and allowances without proper approvals. A review of the matter in 1998/99 indicates that the Corporation's Chief Executive continued to enjoy a fully furnished Corporation's house, usage of two Corporation's vehicles, a monthly entertainment allowance of Ksh.4,500, security services of four guards at Ksh.2,500 per month per guard, an unlimited medical cover, while his approved monthly salary was consolidated and was inclusive of all the allowances. Further, the Chief Executive's outstanding imprest had accumulated to Ksh.6,471,801.10 as at 10 March, 2000 when he was suspended. Also included in imprests taken by the Chief Executive during the year were payments totaling Ksh.440,775 made to other parties for undisclosed purposes but debited to the Managing Director's imprest account. As in the previous years, no information was availed to support approval of these terms and conditions of service as required under Section 5 (3) of the State Corporations Act, (Cap 446). Consequently, it was not possible to confirm that the payments were within the terms and conditions of service as approved and that the Corporation's ability to sustain the salaries in the medium and long term had been taken into account before implementation of the same.

The Committee heard the evidence given by the Chief Executive that the Corporation implemented new salary scales and allowances without the necessary authority which was later sought.

The Committee further heard that the then Managing Director Mr. Lawi Kiplagat was paid a salary of Kshs.270,000 per month from 28th February, 1995 when he was appointed Managing Director until 6th April 2000 when he was suspended, without deducting tax.

The Committee further heard that the then Managing Director continued to enjoy unlimited medical cover, occupy a fully furnished Corporation's House and drew a monthly entertainment allowance of Kshs.4,500 when his salary was consolidated and inclusive of all allowances.

The Committee was informed that the imprest held by the then Chief Executive amounting to Kshs.6,471,801.10 had been demanded from him.

The Committee noted that according to the contract Agreement between Mr. Lawi Kiplagat and the Executive Secretariat and Technical Unit (ESTU) of the Parastatal Reform Programme Committee, there was no provision for tax exemption.

The Committee further noted that the use of Senator Card has been cancelled and expressed concern that the Corporation effected salary increases without the approval of the Parent Ministry and the Office of the President.

The Committee was further concerned that the then Managing Director continued to enjoy other benefits and allowances when his salary was consolidated and inclusive of all allowances.

The Committee reiterates its earlier recommendations in the 11th Report that:

- (i) the Chief Executive should ensure that in future, any review of terms and conditions of service of the Corporation should be referred to the State Corporations Advisory Committee for approval.
- (ii) all benefits enjoyed and allowances paid to Mr. Lawi Kiplagat during his tenure as the Managing Director of National Housing Corporation including imprest of Kshs.6,471,801.10 should be treated as a debt and be recovered from him with immediate effect.
- (iii) the then Chief Executive Mr. Lawi Kiplagat should be investigated by the Kenya Anti-Corruption Commission for abuse of office and corrupt practices.

5. IRREGULAR PAYMENTS

During the year 1998/99, the Chief Executive and a senior staff member of the Corporation were paid lunch allowances totaling Ksh.54,000 for attending Board Meetings. Some Directors, who are public officers and in receipt of salary, were also, paid sitting as well as lunch allowances contrary to provisions of Section 10(1) of the State Corporations Act, (Cap 446). Such payments to the Chief Executive and Senior Staff and Directors who are public officers totalled Ksh.145,000 during the year. As these payments appear to have been made contrary to the law, the charge by the Corporation of the expenditure to public funds is yet to be justified.

The Committee heard the evidence given by the Chief Executive that the then Chief Executive and a senior staff were paid lunch allowances totalling Kshs.54,000 for attending Board's meeting contrary to provisions of Section 10(1) of the State Corporations Act, (CAP.466)

The Committee observed with concern that the management fraudulently flouted the law and paid themselves irregular allowances.

The Committee therefore, recommends that the amount of Kshs.54,000 should be recovered from the two officers.

KENYATTA NATIONAL HOSPITAL

REPORT OF THE CONTROLLER AND AUDITOR-GENERAL ON THE ACCOUNTS OF KENYATTA NATIONAL HOSPITAL FOR THE YEAR ENDED 30 JUNE, 1999

1. SHORT-TERM INVESTMENTS

In the report for the previous year, reference was made to the unsatisfactory manner in which surplus funds totalling Ksh.1,436,513,792 were held in banks and other financial institutions contrary to a Treasury directive on investment of surplus funds by State Corporations. A review of the position in the year 1998/99 showed that the Hospital still continued to hold substantial deposits in the same banks and financial institutions which as at 30, June 1998 totalled Ksh.1,386,621,332, including rolled over interest of Kshs.330,356,816. These short-term investments also included an amount of Ksh.352,522,962 held in a privately owned bank which was established not too long time ago. As previously reported, investment of Hospital's surplus funds in the above financial institutions was contrary to Treasury requirement that such funds be placed in either Treasury Bills or Bonds and that specific Treasury Authority be obtained when such funds are invested elsewhere. Just as was the case in the previous year, I have not seen any such authority.

The Committee heard the evidence given by the Chief Executive and was informed that surplus funds totalling Ksh.1,436,513,792 were held in banks and other financial institutions contrary to a Treasury directive on Investments of Surplus Funds by State Corporations. The institutions/banks were:

| <u>Bank</u> | <u>Total principal sum held</u> |
|----------------------------------|-------------------------------------|
| National Bank of Kenya | Kshs.736,503,876.77 |
| Housing Finance Company of Kenya | Kshs.102,268,493.15 |
| Central Bank of Kenya | Kshs.195,326,000.00 |
| Euro Bank | <u>Kshs.352,522,962.00</u> |
| Total | <u>Kshs.1,386,621,331.62</u> |

The Committee was also informed that

- (i) the Hospital had divested the funds in National Bank totalling Kshs.736,503,876.77 as at June 1999 to Ksh.49,650,196.08 as at June, 2003 and further that the funds were deposited in the Bank to cater for operational costs.

- (ii) the funds amounting to Kshs.102,268,493.15 deposited in the HFCK were for staff mortgage scheme and that they amounted to Kshs.85,489,407.21 as at 30th June, 2003.
- (iii) the deposit held in Euro Bank initially totalling Kshs.352,522,962.00 had risen to Kshs.458,900,972.24 due to withdrawals, accrued interests and additional deposits since 1997, and that the funds were meant for defraying construction costs on the Rehabilitation of the Registrar's flats, sister flats and mess, a Laboratory and for procurement of medical equipment.

The Committee heard that:

- (i) the Permanent Secretary, Treasury vide his letter of 9th October, 2000 referenced Conf.158/2866101, had recommended an orderly divestiture from the Euro Bank in order to avoid creating instability in the Financial Sector, and subsequently directed the Director of the Hospital to withdraw all the deposits by 30th June, 2001, which was pushed further to August 31st, 2001, and later the Bank requested for 36 months extension which the Permanent Secretary declined.
- (ii) by 17th October, 2001, the Hospital had withdrawn a total of Kshs.242,162,947.80 from the Bank and further efforts to redeem the outstanding deposits on monthly basis bore no fruits.
- (iii) the Hospital through its lawyers M/s Nyakundi & Co. Advocates obtained a court ruling to recover all the deposits plus accrued interests of total of Kshs.401,435,732.23 at 11% interest from 8th June, 2002 to 5th December, 2002, and thereafter at 12% until payment is made in full. Consequently with instructions from the High Court the Lawyers had all moveable assets of the bank attached on 10th February 2003.
- (iv) the Bank closed all its operations on 20th February, 2003 and was consequently placed under liquidation by the Central Bank of Kenya and an official receiver appointed.

Further that the Hospital through its lawyers filed a case in court to recover the deposits held by the Bank from the known directors.

- (v) that the directors of Euro Bank were Messrs J. P. W. Munge, S.B.A. Muthamia and F. E. Jamal.

The Committee noted that depositing of the funds in Euro Bank was contrary to the Treasury Circular No.10 of 15th July, 1992 and further that the Director of the Hospital deposited the highest percentage of its surplus funds in the Bank thereby exposing itself and further that the Hospital tended to deposit funds in institutions without monitoring the financial stability of such institutions.

The Committee also noted with grave concern that the management of KNH was slow and showed ineptitude in recovering the deposits over time and that the loses would have been avoided had the Director acted timely and expeditiously to withdraw the deposits.

The Committee recommends that any future investments of surplus funds by the Hospital be made in accordance with regulations governing such investments.

The Committee further recommends that in view of the evident abuse of office and negligence, the then Directors of Kenyatta National Hospital Prof. Julius Meme and Dr. Augustine Muita should be pursued with a view to recovering the monies for which they are responsible for depositing in Euro Bank (in liquidation)

2. WORK-IN-PROGRESS

Reference was also made in the report for the year 1997/98 regarding the expenditure of Ksh.610,483,233 incurred as at 30 June 1998 on the Kenyatta Hospital Rehabilitation Project and treated as Work-In-Progress in the Accounts for that year. During the year 1998/99 additional expenditure of Kshs.26,792, 652 was incurred thereby bringing total cost on the project to Ksh.637,275,885 as at 30 June 1999. Although some of this expenditure has been capitalised, the following three issues are still unresolved:

- (i) At the Sterile Production Unit, two (2) bottle corking machines valued at Ksh.280,000 were rejected by the Hospital on account of being obsolete. Similarly, a bottle washing machine valued at Kshs.500,000 was rejected by the user because of non-performance. The Hospital has, however, confirmed that the supplier has now been requested to refund the Kshs.780,000 paid for the defective machines even though no refund has been received.
- (ii) An Embalming machine was also rejected by the Hospital due to defects on its formaline pump which was not in conformity with the user requirement and was subsequently stored at the Hospital premises. In view of the foregoing, it is not possible to confirm that the Hospital obtained full value for money with regard to some of the expenditure relating to the Rehabilitation Project.

The Committee heard the evidence given by the Chief Executive that an additional amount of Kshs.26,792,652 had been incurred by the Hospital from the previous year's Kshs.610,483,233 as work-in-progress.

The Committee was informed that:

- (i) an amount of Kshs.280,000 was spent to purchase a bottle corking machine which was delivered in 1998, six years after specifications had been drawn and that the machine was subsequently rejected by the user department as they were obsolete and had since been boarded and replaced with a pneumatically operated high-speed bottle capping product/filling machine.
- (ii) an amount of Kshs.500,000 was spent to purchase a bottle washing machine which was also part of a World Bank Health Rehabilitation Project and was delivered six years later and could not conform with then changes in technology.
- (iii) the embalming machine was also rejected by the user department as it's formaline pumpset did not have a measuring unit. The pumpset was estimated at Kshs.10,000.

The Committee observed with concern that:

- (i) the machines were delivered six years after the specifications were drawn thus could not conform with the changes in technology and user needs and consequently were obsolete.
- (ii) the Ministry of Public Works overlooked the time lag between the time the specifications were drawn and the delivery time and proceeded to approve the deliveries therefore facilitating the losses.
- (iii) the Hospital did not realize full value for money on purchase of the machines.

The Committee recommends that Chief Executives should ensure that in future, proper planning and clear specifications are made before procurement of goods and services is initiated to avoid losses, and further that in future any officer who causes the Hospital to incur losses out of unplanned procurement will be held solely responsible and surcharged therefor.

3. DEBTORS

The Balance Sheet Debtors figure of Kshs.219,804,642 includes Kshs.36,969,114 made up of miscellaneous debtors of Kshs.31,863,207 and several bank transfers amounting to Kshs.5,105,259 whose supporting or source documents have not been provided by the bank holding the Hospitals bank account. In the absence of such supporting documents, I am unable to establish the propriety of the above transfer of Kshs.5,105,259 or even to confirm the correctness and accuracy of the Debtors figure of Kshs.219,804,642 as at 30th June 1999. It is, however, understood that the Hospital has now requested the banks to provide the documents to support the transfers.

The Committee heard evidence given by the Chief Executive that:

- (i) the figure of Kshs.31,863,207.00 refers to the Hospital fees incurred by General Ward patients who at the time of discharge were unable to settle the bills.**
- (ii) that the hospital has resolved to write-off the debts as it is very difficult to recover them, and that the schedule analyzing the debtors had been availed to auditors for verification.**
- (iii) the figure of Kshs.5,105,259 which included banks transfers that had been carried forward since 1995/96 and referred to bank transfers with Kenya Commercial Bank and National Bank of Kenya, and that the payments had been effected in the banks without indicating the cheque numbers being cleared on the statement on the relevant bank debit advice being submitted to the Hospital, thereby making it impossible to enter the same in the Hospital books.**
- (iv) the figures have been examined, confirmed and entered in the Hospitals Books of accounts and ready for verification by Auditors and that they are no longer an outstanding item.**

The Committee recommends that the Chief Executive should ensure that all supporting documents in regard to debtors are availed to the auditors for verification on time.

The Committee further recommends that the case of Mr. Kubebea, a former employee of the Institution, who stole the cheque which was being taken to the Central Bank for buying Treasury Bills and Bonds be reported to the police for investigation and prosecution.

4. FIXED ASSETS

The Balance Sheet Fixed Assets figure of Kshs.2,311,139,634 as at 30th June 1999 still includes assets valued at Kshs.1,379,913,411 in respect of land and buildings inherited from the Ministry of Health. As repeatedly indicated in previous reports, Kenya National Hospital has not yet acquired documents of title for these assets. Accordingly, it is not possible to confirm the ownership of the properties. Also included in the Hospital's fixed assets for 1998/99 are assets valued at Kshs.27,676,535 in respect of the IDH Mbagathi District Hospital which now falls under the Ministry of Health. Consequently, the Hospital's fixed assets as reflected on the Balance Sheet are overstated to the extent of the value of assets belonging to the Ministry.

The Committee heard the evidence given by the Chief Executive and was informed that:

- (i) the Hospital had since acquired title deeds for the plots as follows:

| <u>Location</u> | <u>Area (Ha)</u> | <u>(LR. No.)</u> |
|----------------------|------------------|------------------|
| Main Hospital Title | 45.01 | 209/25138 |
| Mortuary Chapel | 0.3309 | 209/13980 |
| New and Old Mortuary | 0.3462 | 209/13979 |

- (ii) the Hospital jointly with Kenya Medical Training College and College of Health Sciences, University of Nairobi owns Plot. LR. No. 209/13978 measuring 2.544 ha for recreational purposes.

- (iii) the Board of Management on 21st June, 2000 granted authority to remove from the records Fixed Assets valued at Ksh.27,676,555 in respect of Mbagathi District Hospital and were subsequently excluded from the Accounts of the Hospital for the year 1999/2000 and that the District Hospital has since been taken over by the Ministry of Health.

The Committee recommends that the Chief Executive should ensure that the title deeds for all Lands owned by the Hospital are obtained.

5. IRREGULAR AWARD OF CONTRACT - KSHS.383,800,000

During the year 1998/99, Kenyatta National Hospital entered into a contract with a building and civil engineering firm for the rehabilitation and extension of Registrars, Sisters' Flats, Sisters Mess and Histopathology Laboratory at a total

contract sum of Kshs.383,800,000. The contract was apparently awarded through selective tendering. Apart from the fact that no Treasury authority was seen approving the award of the job through selective tendering, it has also not been explained how a contract of this magnitude and which is also of a general nature would be sourced without being subjected to competitive bidding. The contractor was also irregularly paid an advance payment amounting to Kshs.57,570,000 prior to moving to site. The bank guarantee for the advance payment together with the performance bond for the project were sourced from a privately owned bank at which the Hospital held fixed deposits of Kshs.352,522,962 as at 30th June, 1999.

The Committee heard the evidence given by the Chief Executive and was informed that during the year under review the Hospital selectively and without Treasury approval entered into a contract with a firm to rehabilitate and renovate the registrar's flats, Sister flats and mess & Histopathology Library at a total of Kshs.383,800,000.

The Committee further heard that:

- (i) the Consultants of the Project was M/s Tectura International while the contractor was M/s Neliwa Builders and Construction Company owned by Dr. Mutiso and Mr. Chuchu respectively.
- (ii) the award to the consultant was on recommendation by the Hospital's Maintenance and Development Committee on 13th February, 1997, and thereafter approved Funding for the project on 18th September, 1997.
- (iii) approval for the project was given by the Minister for Health in September, 1998 and that Treasury authority for selective tendering was not sought.
- (iv) by approval of the Board, the contractor was irregularly given an advance payment of Ksh.57,570,000 ostensibly to mobilize materials and equipment for the project works.
- (v) the Bank providing the contractor's advance guarantee was the contractor's bank which apparently was also the Hospital's bank, and further that payment (guarantee) was fully recovered by 13th October, 2001 in 24 monthly installments.
- (vi) the contract was later terminated and as a result, M/s Neliwa Builders and Construction Company filed a suit against the Hospital and that the Hospital did not file its defence and thereafter *ex-parte* judgement was delivered for a Kshs.78,315,914 compensation claim against the Hospital.

- (vii) an assessment of the value of the remaining work by the Ministry of Public Work revealed that it was valued at Ksh.93,445,135 as at June, 2003.

The Committee was also informed that the Board had since approved for the work to continue and that work had been resumed by the same contractor.

The Committee observed with grave concern that a project of such magnitude was not subjected to competitive bidding and that the advance payment made to the contractor was irregular.

The Committee recommends that the Director should adhere to the law and regulations on Tender and Procurement currently in operation when contracting for any of its project/works.

The Committee further recommends that the then Chief Executive Dr. Augustine Muita should be held responsible for failing to advise the Board on the irregular advance payment to the contractor before moving to site.

6. LEASING OF AN OFFICE FOR NON-EXECUTIVE CHAIRMAN

During the year 1998/99, the Hospital incurred expenditure totalling Kshs.1,862,655.40 towards lease charges, electricity, salaries and allowances to staff attached to the office of its non-executive Chairman. The office is located away from the main offices of the Hospital. The above expenditure of Kshs.1,862,655.40 also excludes running expenses of a Peugeot 504 saloon car registration No. KAE 211E exclusively used by the Chairman although the Hospital had indicated that an office was being identified for its Chairman within the Hospital premises, this indication, however, appears to contradict the fact that the previous lease agreement which covered a period of two years has again been extended for a further period of two years effective from 1st April 2000. In the circumstances, and in view of the non-executive nature of the Chairman's appointment, it has not been possible to vouch and confirm the propriety of the expenditure incurred on leasing his office and also on other charges related thereto.

The Committee heard the evidence given by the Chief Executive that acute shortage of office space forced the management of the Hospital to rent an office for the Chairman outside the Institution.

The Committee was informed that:

- (i) there was no Board's approval for renting the office and incurring expenditure amounting to Kshs.1,862,655.40.

- (ii) vehicle KAE 211E that had been allocated to the Chairman was withdrawn from the Chairman's exclusive use on 23rd September 2002 and now operates under the Hospital pool service.

The Committee was gravely concerned that the then Chairman Mr. John Cheruiyot was accorded benefits other than those accorded to a Non-Executive Chairman of Government Corporations and that as a result Kshs.1,862,655.40 was irregularly incurred.

The Committee recommends that in view of the fact that non-Executive Chairmen are not entitled to permanent offices, a recurrence of such an irregularity should be avoided.

7. THEFT OF TOYOTA HIACE VAN - KAD 858M

On 03 November 1995, a Toyota Hiace van registration No. KAD 858M belonging to the Hospital and purchased for Kshs. 1,408,273 in 1994/95 was stolen and a loss report made to the insurers. To date, however, the Hospital is yet to be compensated for the loss despite the fact that the vehicle had been comprehensively insured for Kshs.2.1million under policy No. 08/080/00457/97. Available information indicates that insurance company offered to compensate the Hospital an amount of Kshs. 973,000 in May 1997 which the Hospital rejected and insisted on settlement based on sum assured. There is no satisfactory explanation for the delay in obtaining full settlement of the loss from the insurance company. In the meantime, the vehicle still continues to be included in the fixed assets of the Hospital despite the fact that the asset no longer exists.

The Committee heard the evidence given by the Chief Executive and was informed that vehicle Toyota Hiace van KAD 858M which was bought on 3rd November, 1995 was stolen and reported to insurers for compensation of a sum of Kshs.2.1 million.

The Committee further heard that the insurers M/s Standard Assurance Company offered to settle the claim at Kshs.973,000 in May, 1997 although the Hospital rejected it and insisted on settlement based on sum insured.

The Committee noted that the matter was filed in court vide High Court Civil Case No.597 of 2001 and later referred to arbitrators where M/s Muthoga, Gaturu and Co. Advocates have been instructed to finalize it.

The Committee observed with concern that the matter has taken inordinately long time to be resolved and that the management of the Hospital has handled the matter imprudently.

The Committee recommends that the management of the Hospital should follow the matter to its logical conclusion and the value of the vehicle be put in the unsettled losses.

8. UNACCOUNTED FOR NHIF CHEQUES - KSHS.806,550

During the year under review, the Hospital received cheques totalling Kshs.806,550 from the National Hospital Insurance Fund on account of claims for in-patient treatment. These cheques do not also appear to have been receipted by the Hospital before banking. It was further noted the "special clearance" was effected for one of the cheques No.023949 dated 31 May 99 in the amount of Kshs.26,550. Apart from the fact that the non-receipting and non-recording of these cheques clearly indicated existence of a fraud, no evidence has been provided to support any investigations by the Hospital regarding the matter and the cheques still remain unaccounted for todate.

The Committee heard the evidence given by the Chief Executive that the Hospital lost funds equivalent to Kshs.806,550 due to unaccounted NHIF cheques and that as a result five officers have been charged in Court in connection with the matter.

The Committee further heard that the Hospital had instituted certain System measures to stem out similar fraud and that this include ensuring that NHIF cheques are physically delivered and receipts delivered to NHIF and cheques accounted for separately.

The Committee was also informed that the following five (5) officers were identified and charged in the Anti-corruption Court for participating in the fraud:

**James Atati - 141/687/03- CF 2351/03
Francis Miiri- 141/687/03- CF 2351/03
Zacharia Ndigwa- 141/685/2003- CF 46/03
Charles Onchiri- 141/686/2003- CF 43/03
N. Nyakundi- 141/686/2003- CF 43/03**

The Committee was concerned that in total, cheques worth over Kshs.72,000,000 remained unaccounted for, while between August 1999 and November, 2001, cheques issued by NHIF to Kenyatta National Hospital and not received in the Hospital's Cheque Register amounted to Kshs.90,005,933.

The Committee recommends that the Director of the Hospital should ensure that Internal Audit Department is pro-active in its work and that fraud on cheques is detected and eradicated on time.

KENYA RAILWAYS CORPORATION

REPORT OF THE CONTROLLER AND AUDITOR-GENERAL ON THE ACCOUNTS OF KENYA RAILWAYS CORPORATION FOR THE YEAR ENDED 30 JUNE 1999

1. FINANCIAL POSITION

During the year 1998/99 the Corporation realised a deficit of Ksh.1,392,057,134 which brought its accumulated deficits to Ksh.8,144,532,088 as at 30 June, 1999. The Balance Sheet also reflects negative working capital of Ksh.1,500,236,348 as at 30 June 1999. The Corporation was still unable to meet its loans obligations as they fell due while statutory and other deductions totalling Ksh.391,357,267 had not been remitted as at 30 June, 1999. The Corporation was, therefore, technically insolvent and its continued operation as a going concern was dependent upon the support of its creditors, bankers, lenders and Government.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Corporation realised a deficit of Kshs.1,392,057,134.00 and further that the Audited Balance Sheet for the Corporation reflected negative working capital of Kshs.1,500,236,348 as at June 1999.

The Committee further heard that the Corporation had not honoured accrued loan obligations as they fell due and that statutory and other deductions totalling Kshs.391,357,267 had not been remitted.

The Committee also heard that the Corporation was initiating arrangements through the government to convert into equity, loans which have been serviced and that the management was remitting statutory deductions at the rate of Kshs.14 million per month leaving outstanding arrears of Kshs.679.8 million as at 31st May 2003.

The Committee was informed that in order to settle these liabilities, the Government approved the sale of the Corporation's land which realized an amount of Kshs.1,538,097,500. (*A list of Kenya Railways properties sold to third parties is attached in the Report as Appendix C*)

The Committee was concerned that the Corporation had continued to realize deficits despite constant assurance by the Management that measures had been put in place to avert this. They observed with concern that the Corporation had failed to honour its statutory obligations.

The Committee recommends that the Government should continue restructuring the Corporation to take it back to profitability.

2. FIXED ASSETS VALUE

The Balance Sheet net tangible assets balance of Ksh.8,306,232,929 as at 30 June 1999 excludes an undetermined value of twenty (20) motor vehicles and some Corporation's surveyed and unsurveyed parcels of lands not valued as at 30 June, 1999. It has therefore not been possible under the circumstances, to confirm that the Corporation's tangible assets are fairly stated in these accounts.

The Committee heard the evidence given by the Chief Executive that 20 (twenty) motor vehicles which were not included in the Balance Sheet were subsequently capitalized and included in the year 1999/2000 Balance Sheet.

The Committee further heard that due to financial constraints, the Corporation had not been able to value its lands and that only lands under the Land Sale Programme were valued in the year 2001 by the Commissioner of Lands to facilitate the Sales.

The Committee noted that no new Survey had been commissioned due to financial constraints and that the Corporation is examining the possibility of using government valuers to assist in the exercise.

The Committee recommends that the Chief Executive should ensure that the Kenya Railways Land is surveyed and valued.

3. DEBTORS

The Balance Sheet Debtors figure of Ksh.2,561,428,099 as at 30 June, 1999 includes Advances (General) and Traffic Account-Current Trade Debtors balances of Ksh.1,636,271,345. respectively. In addition, the Advances (General) amount of Kshs. 157,690,237 as at 30 June, 1999 represents a decrease of Ksh.428,689,115 from the previous year's figure of Ksh.586,379,352 but without adequate explanation as to why balances reflected in the Corporation's Accounts for the previous year including Ksh.64,152,546 owed by General Electric Company, Ksh.33,447,364 from KECOSO Games and Ksh.291,367,870 owed in respect of services rendered to Uganda and Tanzania Railways through M.V. Uhuru were omitted in these Accounts even when no record was seen for settlement of any of these very substantial accounts. Further, some 42 customers had exceeded their guaranteed limits by Ksh.253,419,434 as at 30 June, 1999 while 10 firms which had not placed freight deposits with the Corporation were also allowed to operate and overdraw their accounts to the extent of Ksh.75,649,241, contrary to the provisions of the Corporation's Financial Regulations.

The Committee heard the evidence given by the Chief Executive that Balance Sheet debtors figure of Kshs.2,561,428,099 included Advances (General) and Traffic Account Current Trade Debtors Balances of Kshs.157,690,237 and Kshs.1,636,271,345 respectively and that the figures were isolated and reported separately in the 1998/1999 Accounts leading to a decrease of Kshs.428,689,115 as follows:

| | | |
|-------|-------------------------------------------|---------------------------------------|
| (i) | Magadi Railways | Kshs.117,639,179 |
| (ii) | Transtrade | Kshs. 978,646 |
| (iii) | Uganda Railways | Kshs. 291,367,870 |
| (iv) | Regional imprest advance Accounted for | <u>Kshs. 18,703,420</u> |
| | Total | <u><u>Kshs.428,689,115</u></u> |

The Committee further heard that:

- (i) an amount of Kshs.291,367,870 being earnings for MV Uhuru was omitted from the accounts of the year under review, to allow for more investigative auditing to establish the correct indebtedness between Kenya Railways and Uganda Railways.
- (ii) most accounts of the 432 customers who had exceeded their guaranteed limits, had become dormant and efforts to follow them up has become fruitless as they no longer do business with the Corporation and that placement of wagons to such customers had been stopped.
- (iii) the 10 firms which are parastatals had not placed freight deposits with the Corporation as they were not required to since they were wholly owned by the government.

The Committee noted that the above ten Parastatals are operating and the reconciliations to recover the amounts owing amounting to Kshs.75,649,241 are underway.

The Committee recommends that the Chief Executive should ensure that all debts due are recovered.

The Committee further recommends that reconciliation in respect of indebtedness between the Kenya Railways and the Uganda Railways should be done regularly.

4. CASH AND BANK BALANCES

Unpaid cheques amounting to Ksh.415,211,356 dating back to May 1996 which were indicated as being stale in 1997/98 had still not been written back into the Cashbook. The Corporation did not also analyse unrepresented cheques amounting to Ksh.1,125,484,667 as at 30 June 1999 reflected as Accrued Payments under Note 9 to the Accounts and as a result it was not possible to determine the current value of stale cheques yet to be written back or even to establish whether the Accrued Payments amounting to Ksh.1,125,484,667 was fairly stated. Further, the actual physical cash balance as per Cash survey was Ksh.7,271,395.75 while the General Ledger balance was only Ksh.208,383.00 thereby resulting into an unexplained difference of Ksh.7,063,012.75. In addition, the analysis of Cash In Transit amount of Ksh.6,921,458 as at 30 June 1999 was not provided for audit review nor were analyses for Miscellaneous Bank Debits and Miscellaneous Bank Credits figures for Kshs.125,854,268 and Ksh.30,945,342 respectively also availed for verification. In view of the foregoing it has not been possible to confirm the accuracy of the Cash and Bank balances reflected in the Corporation's Accounts as at 30 June 1999.

The Committee heard the evidence given by the Chief Executive that unpaid cheques amounting to Kshs.415,211,356 dating back to 1996 which were indicated as being stale in the year under review are still been written back in the Cash Books and that the Corporation did not analyse the unrepresented cheques amounting to Kshs.1,125,484,667 as at 30th June 1999.

The Committee was informed that:

- (i) the unrepresented cheques were presented to the auditors for verification and captured in the 1999/2000 Accounts, while cheques drawn and could not be released due to financial constraints were cancelled and written back.**
- (ii) miscellaneous debits and credit figures of Kshs.125,894,268 and Kshs.30,945,442 respectively amounts accumulated over a period of time due to lack of accurate reconciliation in the past are now being reconciled with the bank.**
- (iii) that cash in Transit amounting to Kshs.6,921,458 which represents amount earned in the previous year had not been presented to the auditors for verification in the year under review, since they had not been received in the cash office for balancing as at 30th June 1999 while the unexplained difference of Kshs.7,063,012.75 represents part of cash in Transit, Imprests cash and cash on hand.**

The Committee recommends that cheques which are drawn are released immediately.

The Committee further recommends that the Chief Executive should ensure that internationally accepted Accounting Systems are constituted and maintained and Bank reconciliation done on monthly basis.

5. IRREGULAR ALLOCATION OF LAND

The Corporation's property records for 1998/99 show that Plot KSM/MUN/BLOCK7/3365, formerly plot No.LR/118/1184 was sub-divided and allocated by the Commissioner of Lands to an Insurance Company, a private developer and a financial institution without approval of the Board and the parent Ministry. Available information also indicates that plot Nos. 209/661/1 and 37/38 with improvements thereon valued at Kshs.1,250,000 and Kshs.1.5 million respectively were surrendered by Government but without compensation for the improvements on the plots being addressed. In addition, Plot No.209/12472 at Upper Hill with a book value of Ksh.7,500,000 was transferred to a Church Development Trust for consideration of Ksh.750,000 in addition to an exchange of two acres of land situated at a remote corner on Plot L.R. NO. Karen/22409 at Karen but whose transfer to the Corporation is yet to be effected to-date. The Corporation also surrendered plots NO.209/6620 (5.06 acres) and L.R. No.209/6337 (13.562 acres) to a public Girls High School in Nairobi reportedly on instructions from Government but without compensation being paid for the substantial developments on the two plots valued at Ksh.10,000,000 in 1995. Further, Corporation's plots Nos.209/9101 and 209/9103 were also apparently grabbed by private developers. The loss of its land to private developers under unexplained circumstances as well as the issue of non-compensation by Government for improvements on the land surrendered to the latter have not, therefore, been appropriately addressed and as a result it has not been possible to confirm the propriety of the related property transactions.

The Committee heard the evidence given by the Chief Executive and was informed that:

- (i) Kenya Railways Management consented to the surrender of part of the Plot No. KSM/MUN/Block 7/369 formerly Plot LR No. 118/1184 which was then subdivided and allocated to Kenya National Assurance, Central Bank of Kenya and Thabiti Finance Company Limited, and that Central Bank declined to take Plot LR KSM/MUN/384, which was subsequently allocated to Mr. Solomon Ndalo Obede by the Commissioner of Lands without consulting the Corporation.**

- (ii) the intended surrender of plots No. 209/6617/1. Kilimanjaro Avenue, and LR. No 37/28, Kiambere Road did not materialize and that the plots are still under the ownership of the Corporation.
- (iii) the Commissioner of Lands irregularly allocated the Corporation's land countrywide and that a presentation had been made to the Presidential Commission on Land Inquiry with the aim of having the existing title deeds cancelled. (Attached is a list of the irregular allocations *as Appendix D*)
- (iv) the Plot LR No. 209/12472, Upper Hill Road was transferred to African Inland Church having paid the total value of Kshs.7,500,000 after the Corporation failed to have the plots exchanged.
- (v) plots LR 209/9101 and LR. 209/9103 which were originally part of Railways temporary Plot No. 1140 was surrendered to the Government for development of Golden Gate Plainsview Estates and further that one of the subdivided plots which stood on a Railways Class III house was subsequently sold under the Lands Sale programme.

The Committee noted that the Corporation surrendered the plots LR. NO. 209/6620 (5.06 acres) and LR No. 209/6837 (13.562 acres) to Pangani Girls High School on instructions of the Government, portions of this land measuring 1.080 hectares had earlier been surrendered in 1975 and allocated to:

- ◆ LR. 209/8397 K. Thinga, G. Kangoyo, Muriuki Muchanja
- ◆ LR No. 209/8538 LR. Emma wanjiku Murai
- ◆ LR. 209/821 Pentecostal Assemblies of God

The Committee observed that:

- (i) the Commissioner of Lands without recourse to and consent of the Kenya Railways illegally allocated the Corporations lands in Nairobi, Mombasa, Kisumu, Kitale, Nakuru, Eldoret and Muguga to private developers (*the list is attached as Appendix D*).
- (ii) the Commissioner of Lands allocated plot LR No. KSM/MUN/384 to Solomon Ndalo Obede without consulting the Corporation.
- (iii) some plots which were sold by the Management were sold far below the then existing market values.

The Committee recommends that:

- (i) the Chief Executive should liaise with the Commissioner of lands with the view to placing caveats on the irregular allocated pieces of land (List attached as appendix D) and having the allocations cancelled.**
- (ii) the Chief Executive should liaise with the Commissioner of Lands with the view to having the case against Solomon Ndalo Obede in respect of the irregular allocation of Plot No. KSM/MUN/384 concluded.**
- (iii) the Chief Executive should ensure that any disposal of the Corporation's property is done in accordance with the procurement procedures currently in force.**
- (iv) the Commissioner of Lands should provide documents showing the allottees of the Lands indicated as unknown and the current status established with a view to having the allotments nullified.**

6. NET PUBLIC DEBT

The Corporation's Accounts for the year 1998/99 reflect a Net Public Debt of Ksh.4,217,951,224 while Treasury's confirmation as at 30 June 1999 is for a balance of Ksh.3,637,086,666. Although the Corporation has now explained that the figure confirmed by Treasury excluded Ksh.722,891,257 being the amount reimbursable to Government and that the balance, therefore, should be Ksh.4,359,977,923 as at 30 June 1999 there is still a difference of Ksh.142,026,700 which has not been reconciled and which remains excluded from the Net Public Debt balance of Ksh.4,217,951,224 as at 30 June 1999. Under the circumstances, it has not been possible to confirm that the Net Public Debt is fairly stated in these Accounts.

The Committee heard the evidence given by the Chief Executive and was informed that the unreconciled figure of Kshs.142,026,699.00 was excluded from the net public debt of Kshs.4,217,951,224.00 and the Treasury's confirmation of Kshs. 4,359,977,923.00.

The Committee was further informed that the excluded amount of Kshs.142,026,699 .00 was in respect of matured loans due for payment in the next financial year.

The Committee noted that the reconciliation of loans between KRC and the Treasury is on going.

The Committee reiterates its earlier recommendation on the 11th Report page 31 that the Net Public Debt should be reconciled on annual basis and the agreements from the loans be availed to auditors during audit review.

7. DIESEL GAS OIL SHORTAGE

Diesel Gas Fuel's records maintained in the Regional Mechanical Engineer's (RME) Office in the Coast Region revealed an apparent fuel shortage of 268,330 litres valued at Ksh.9,391,550. The Corporation has not explained the cause of the above material diesel gas oil shortage or even indicated the action taken against those involved in the shortage.

The Committee heard the evidence given by the Chief Executive that Diesel Gas Fuel's Records in the Coast region revealed a variance of 268,330 litres valued at Kshs.9,391,550 between the records and the Actual Dipping and that this represented handling losses.

The Committee, while noting that the variance was within the acceptable oil industry maximum losses, observed that the Corporation had not determined the rate of evaporation of fuel to verify the losses.

The Committee recommends that the Chief Executive should establish the actual evaporation rates to verify such losses.

8. IRREGULAR USE OF CREDIT AND CHARGE CARDS

During the year 1998/99, the Managing Director and other Senior managers used Credit Cards and committed the Corporation to a total expenditure of Ksh.34,517.00 contrary to provisions of Office of the President Circular No.1/93 dated 29 April, 1993.

The Committee heard the evidence given by the Chief Executive that the former Managing Director Mr. Eric Nyamunga, the then Deputy Managing Director Mr. S. K. Githendu and the then General Manager Mr. G. Gathurima used credit cards and committed the Corporation to an expenditure of Kshs.32,872.50, Kshs. 1,322.50 and Kshs.322.00 respectively contrary to provisions of clause 16 of circular No. 1193 Ref. No. OP.9/21/2A Vol. XXXVII (52) of 29th April, 1999.

The Committee noted that a reminder had been sent to the above officers to refund the money but to no avail.

The Committee further noted that the then Managing Director Mr. Eric Nyamunga has since refunded the money due from him.

The Committee recommends that the Chief Executive should use all means at his disposal to recover the monies.

9. IRREGULAR PAYMENT OF SITTING ALLOWANCES

During the year under review, the Corporation's Managing Director, its Deputy Managing Director and other public officers in receipt of salary were paid sitting allowances totaling Ksh.55,000 contrary to provisions of Section 7 of the Kenya Railways Corporation Act, Cap.397.

The Committee heard the evidence given by the Chief Executive and was informed that the then Managing Director and other public officers in receipt of salary were paid sitting allowances totalling Kshs.55,000 contrary to provisions of the Kenya Railways Corporations Act. Cap. 397.

The Committee noted that the then Managing Director had since refunded Kshs.10,000.

The Committee further noted that the officers named herebelow had been asked to refund the monies:

| | | | |
|----|--------------------|---|-------------|
| 1. | Mr. S. M. Kinuthia | - | Kshs.28,000 |
| 2. | Mr. J. G. Mwangi | - | Kshs.15,000 |
| 3. | Mr. S. K. Githendu | - | Kshs. 5,000 |

The Committee recommends that the Chief Executive should ensure that the above named people repay the money without delay.

10. SUBSIDIARY COMPANIES

The Corporation has two (2) subsidiary companies namely Kenrail Consultants Limited and Numerical Machining Complex Limited, with the latter company being exempted from the provisions of the State Corporation's debtors accounts for 1998/99 include an amount of Ksh.16,207,850 shown as owing from Numerical Machining Complex Limited as at 30 June 1999 in respect of salaries and allowances paid at the rate of Ksh.377,275 per month for some 41 employees of the Corporation seconded to the company subsidiary to work in the Foundry Shop. The terms and conditions of the secondment have however, not been clearly specified.

In addition, Numerical Machining Complex Limited has never paid any dividends to the Corporation, apparently due to its doubtful viability.

The Committee heard the evidence given by the Chief Executive and was informed that arbitration audit was carried out by the Controller and Auditor General on Kshs.16,207,850 shown as owing from Numerical

Machining Complex (NMC) Limited and the outcome was that the Corporation owes NMC Kshs.6,986,901.00.

The Committee further heard that NMC is not functional as initially planned as nine Plants required were never put in place due to lack of Funds amounting to Kshs.7.8 billion.

The Committee recommends that Numerical Machining Complex Ltd urgently submits its accounts for auditing.

KENYA SUGAR DEVELOPMENT FUND

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA SUGAR DEVELOPMENT FUND FOR THE YEAR ENDED 30 JUNE 2000

1. TISSUE CULTURE PROGRAMME

Reference was made in the previous year's report regarding the unsatisfactory manner in which the Tissue Culture Programme was handled by the Fund during that year. A review of the position in the year 1999/2000 showed that a total amount of Ksh.211, 750,000 had been spent on the programme as at 30th June, 2000. As previously stated, the Fund has not explained why it has paid for propagation of plantlets in excess of the one million plantlets per year as stipulated and approved by the Sugar Development Fund Committee at its 29th Meeting held on 20 January, 1998. It has also not been possible to ascertain when and to whom the sugar cane clones of the Philippine variety for the Coast Province were to be supplied to in view of the known absence sugar cane farming at the Coast. In the circumstances, therefore, it has not been possible to express an opinion or even confirm the propriety of the expenditure incurred on the tissue culture programme.

The Committee heard the evidence given by the Chief Executive that the 29th SDF Committee meeting of 20th January, 1998 approved propagation of 5,000,000 plantlets at Kshs.35/= each over a period of five years and that 4,003,571 plantlets were propagated by KARI in the year 1998/99 contrary to the number of one million plantlets approved.

The Committee further heard that:

- (i) approval of the 29th SDF Committee meeting was for procurement of plantlets of four clones of the locally bred Kenyan varieties and one clone of the Philippine bred variety for the Coast Province and that as a result the Authority started negotiations with M/s. Genetic Technologies Ltd for micro propagation of Sugarcane for industrial use.**
- (ii) a memorandum of understanding (MOU) was signed between Kenya Sugar Authority and KARI in January 1st 1996, on the micro-propagation of Sugarcane and that the MOU gave KARI the rights to determine the programme requirements and timing of the propagation.**
- (iii) with the assistance and recommendation of KARI, whose Director then was, Dr. Nderitu, vide letter Ref. KARI & 1/043/101 dated 29th**

January 1999, M/s. Genetic Technologies Ltd whose registered office is at LR. No. 13070 Lower Kabete Road, Nairobi were identified to undertake the variety improvements and further that the Directors of Genetic Technologies are:

1. Irene Wanjiru Nderitu
2. Narendra Bhailalbhair Patel
3. Saryakant Bhailalbhair Patel

- (iv) that the Board had spent Kshs.211,750,000 on the Tissue Culture Programme as at 30th June, 2002, had paid Kshs.627,127,000 for 17 million Plantlets and that Kshs.150,050,000 remain unpaid to date. This was way above the approved 5 million plantlets for an amount of Kshs.175,000,000. for a period of five years.
- (v) that no authority has ever been sought for the excess order of 16,080,000 Plantlets.

The Committee was concerned that the Fund varied the earlier arrangement for spreading of the propagation over a period of five years without recourse to the Board and that this brought financial constraints to the Fund.

The Committee made the following observations:

- (i) that the Tissue Culture Programme was initiated by the Management of KARI and Kenya Sugar Authority with the intention of defrauding the KSA and that MOU signed between KARI and KSA in 1996, could not override the decision of the 29th SDF Committee of 20th January 1998 which approved procurement of 5 million plantlets at Kshs.35/= each over a period of 5 years only.
- (ii) that despite the SDF Committee directive that only 5 million plantlets be procured over a period of 5 years and that the prices of Kshs.35/= be negotiated downwards, the then Chief Executive of Kenya Sugar Board Mr. Francis Chahonyo, who was the Chairman of the SDF Management Committee, ignored the decision, declined to negotiate the price and procured more plantlets than approved.
- (iii) that the then Director of KARI Dr. Nderitu, knowingly and willfully introduced M/s. Genetic Technologies Ltd to do the propagation without declaring that one of the Directors of the Company Mrs. Irine Wanjiru Nderitu was his wife.

The Committee therefore recommends that the then Chief Executives of KARI and KSA Messrs. Nderitu and Francis Chahonyo respectively should be investigated by the Kenya Anti-Corruption Commission for possible

abuse of office and corrupt practices in the initiation and implementation of the Tissue Culture Programme.

2. LOANS TO SUGAR COMPANIES

Included in Loans to Companies figure of Kshs.4,065,308,142 shown on the Balance Sheet as at 30 June, 2000 is an amount of Kshs.2,588,498,571, being overdue loans from sugar companies. Also included in the interest on Loans figure of Ksh.1,348,927,130 reflected on the Balance Sheet is an amount of Ksh.1,276,266,742 in respect of over due interest on the same loans which the sugar companies had not paid to the Fund as per the related loan agreements. The huge outstanding and over-due loans and interest thereof are apparent indications that the Fund may not have put in place an adequate and effective loans recovery mechanism. Unless and until this problem is adequately addressed, loan advances to sugar companies may eventually turn out to be irrecoverable, a situation which would adversely affect the objective of the Fund.

The Committee heard the evidence given by the Chief Executive that repayment of overdue loans amounting to Ksh.2,588,498,571 and interest due on loans of Kshs.1,276,266,742 from Sugar Companies had not been paid to the Fund as at 30th June, 2000 and that this has adversely affected the activities of the Fund.

The Committee was informed that the Board waived all interests as at 28th July, 2003 on outstanding loans and interest on levy arrears amounting to Kshs.2,020,647,760.57 owed by both Sugar and Outgrowers Companies, and that negotiations had been opened up with the debtors with a view to resolving the principal amounts.

The Committee noted that the Sugar Development Fund Management Committee had reviewed its lending procedure which include ensuring that borrowers provide clean adequate securities, making a down payment as proof of commitment for the loan applied and satisfactory evaluation of the previous disbursements before any further disbursement is made.

The Committee reiterates its earlier recommendation in the Eleventh Report, Paragraph 2, on Page 15, that the Chief Executive should use all means possible, including legal redress, to be carried out by the Board's Legal Department, to recover the overdue loans amounting to Kshs.2,588,498,571.

3. LEGAL FEES

In the year 1999/2000 the Fund incurred expenditure totalling Kshs.32,265,931 on legal fees out of which Kshs. 30,155,831 was paid to

firms of advocates and was charged to respective sugar companies in respect of engagement of such law firms to collect overdue loans from the sugar companies. As previously reported the Fund has not produced evidence to support the law firms' basis for various payments, particularly in view of existence of huge overdue loan balances and also lack of any clear record regarding corresponding recovery by such lawyers of the overdue loans.. The Fund has also not justified its use of private lawyers instead of using its own legal services to collect the outstanding loans.

The Committee heard the evidence given by the Chief Executive that out of an amount of Kshs.32,488,429 paid out to the Board's Lawyers, an amount of Kshs.14,189,257.90 was paid out to third party Lawyers of Miwani and Muhoroni Sugar Companies, while the balance of Kshs.18,299,172 was paid out to the following law firms in respect of legal fees for recovering overdue loans:

| <u>LAW FIRM</u> | <u>CHQ. NO.</u> | <u>DATE</u> | <u>FEES</u> |
|------------------------------|-----------------|-----------------------------|---------------|
| Wetangula & Co. Advocates | 000941 | 22 nd Sept, 1999 | 1,852,410.00 |
| Hayanga & Co. Advocates | 65 | 5 th April, 2000 | 1,727,295.00 |
| Wetangula & Co. Advocates | 000942 | 22 nd Sept, 1999 | 1,852,410.00 |
| Hayanga & Co. Advocates | 003658 | 12 th Aug, 1999 | 1,493,635.00 |
| Lumumba & Mumma Advocates | 4467 | 30 th Mar, 2000 | 540,178.75 |
| Wetangula & Co. Advocates | 03533 | 8 th July 1999 | 516,210.00 |
| Kasamani & Co. Advocates | 003478 | 4 th July, 1999 | 2,842,186.90 |
| Hayanga & Co. Advocates | 004030 | 29 th Nov. 1999 | 3,817,250.00 |
| E. A. Ngaira | 4652 | 28 th Jan, 2000 | 3,562,055.00 |
| R.K. Somaia Adv. | 004148 | 31 st Jan, 2000 | 11,347,071.00 |
| Wetangula & Co. Advocates | | | 1,897,500.00 |
| | | | 32,488,429.00 |

The Committee further heard that:

- (i) instructions fees were purportedly paid once instructions were issued and were determined in accordance with the subject matter and fee notes raised as per Schedule VI of the Advocates (Remuneration)(Amendment) Order, 1997 (Advocates and Clients Fees).**
- (ii) the Board is in the process of strengthening the capacity of its legal Department with the view to carrying out all conveyancing and debt collection work in-house.**
- (iii) to date a total of Kshs.329,845,479 has been recovered by the law firms and fee notes amounting to Kshs.32,488,429.00 has been paid to the lawyers.**

The Committee was concerned that the legal fees were charges on Sugar Companies without proper agreements.

The Committee recommends that all claims by the lawyers be referred to the Registrar of High Court for taxation and where there was no justification for payments, appropriate recoveries be made.

4. BUSIA SUGAR COMPANY

Information available shows that Busia Sugar Company owed the Fund loans and interest thereof totalling Ksh.320,070,675 as at 30 June 2000. The Busia Sugar Factory, which was planned to process 115,000 tonnes of sugar a year at Nasewa in Busia, was to be operational by 1997 but the construction and completion of the same has delayed. Although Busia Sugar Company has been selling its cane to Mumias Sugar Company and has been recovering its costs before releasing payments to cane farms, only Kshs.32,021,779 had been recovered in respect of SDF loan repayment as at 24th October 2001. It is not clear, therefore, why the Company has not repaid SDF loans from the trading revenue received from the Mumias Sugar Company. It was particularly noted that an external firm which provided technical management services to Mumias Sugar Company also held a 33% shareholding in Busia Sugar Company.

The Committee heard the evidence by the Chief Executive and was informed that Busia Sugar Company owed the Sugar Development Fund amounts of Kshs.3,950,000 as Principal Loan on factory design under the rehabilitation component and Kshs.209,840,058. 50 as Principal Loans for cane development.

The Committee was further informed that:

- (i) due to delay in construction of the factory in Busia, arrangements have been made to have all cane developed in Busia Scheme milled by Mumias Sugar Factory and that Mumias Suga Company would recover loans advanced to Busia Sugar Company against Busia Sugar Company cane delivery proceeds and remit such recoveries to the Kenya Sugar Board to service the loan.
- (ii) that only Kshs. 32,021,779.00 had been recovered in respect of the loan repayment to the Board as at 24th October, 2001 and that Busia Sugar Company has made a proposal for the conversion of the Kenya Sugar Board loans and accrued interests to equity in a financial restructuring.
- (iii) that the Board of Directors and Management of Busia Sugar Company has failed to facilitate the verification of actual use of the loan advanced to it by Sugar Development Fund.
- (iv) the Kenya Sugar Board is in possession of the Title Deed No. Bukhayo/Nasewa/1500 for 341.2 hectares registered in the name of Busia Sugar Company as a security.
- (v) That M/s. Booker Tate holds 33% share holding in Busia Sugar Company.

The Committee made the following observations:

- (i) that Busia Sugar Company is not servicing the loan advanced to it, despite the understanding that Mumias Sugar Company would recover loans advanced to the Company from its cane delivery proceeds.
- (ii) the title deed held by Kenya Sugar Board in respect of loan advanced to Busia Sugar Company is not charged to the Kenya Sugar Board and therefore it not adequate security.
- (iii) a proper confirmation has not made on the status of M/s. Booker Tate's role in the establishment of Busia Sugar factory, given that they are also providing technical management services to Mumias Sugar Company.

The Committee recommends that:

- (i) the Management of Kenya Sugar Board should ensure that Busia Sugar Company continues to service loans advanced to it which now stands at Kshs.307,678,528.00.**
- (ii) the Management of Kenya Sugar Board should ensure that the process of charging the title deed Bukhayo/Nasewa/1500 presented as security is concluded without further delay and not later than October 30th, 2004.**
- (iii) the role of M/s. Booker Tate in the establishment of Busia Sugar Factory and verification of the actual use of the loan be determined before a proposal for financial restructuring is considered.**

5. OUTSTANDING IMPRESTS

During the year 1999/2000 the Fund issued imprests totally Kshs.2,132,471 to an employee of the Kenya Sugar Authority, the balance of which stood at Kshs.1,718,263 as at 30 June 2000. Available information shows that the officer has since left the employment of the Kenya Sugar Authority but without settling the outstanding imprest. Although the Authority has filed a suit in court against the ex-employee under HCCC No.2130 of 2000, recoverability of the outstanding amount is, however, still not certain.

The Committee heard the evidence given by the Chief Executive that the Fund issued imprests totalling Kshs. 2,132,471 in the 1999/2000 financial year to an employee of Kenya Sugar Board a Mr. Kegode who has since left the company and further that the balance of Kshs.1,139,055.85 is yet to be recovered.

The Committee further heard that the company has filed a civil suit in court against the ex-employer under HCCC No.2130 of 2000.

The Committee recommends that the Chief Executive follow the case to its conclusion.

KENYA SUGAR BOARD

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA SUGAR BOARD FOR THE YEAR ENDED 30TH JUNE 2000

1. MEDICAL SCHEME AND ALLOWANCES

During the year 1999/2000, Authority's expenditure on medical expenses increased from Ksh.6,428,390 as at 30 June 1999 to Kshs.14,611,005 as at 30 June 2000 and exceeded the Item budget allocation for the year by Kshs.4,098,005. Although a Medical Scheme for the Authority was approved by its Board on 13 December 1996, the Scheme was not, however, approved by Government as required under existing regulations. In March and April 2000 the Authority also revised allowances payable to its directors and staff including house allowances, against which expenditure increased from Kshs.5,017,926 in 1998/99 to Kshs.7,702,163 in 1999/2000. Although the Authority wrote to Government requesting for approval for the revised rates of allowances no approval was, however, seen for the implementation of the revised rates of allowances. In the absence of any such approval, it was not possible to confirm the propriety of the expenditure incurred by the Authority on both the Medical Scheme and the house and other allowances.

The Committee heard the evidence given by the Chief Executive that the Authority's expenditure on medical expenses increased following approval of a new medical scheme by the Board of Directors on 13th December 1996 and that the scheme had been submitted to the office of the president for approval.

The Committee further heard that the Authority revised allowances for its Directors and staff including house allowances without the approval of the government and that an approval had been sought from the office of the President.

The Committee noted that the Board had harmonized the House Allowances in line with the Civil Service Housing allowance structure vide office of the President letter ref. OP.18/1A of 21st June, 2000 and further that they had appealed to the office of the President on other allowances for Directors and members of staff.

The Committee observed with concern that the management of the Board revised allowances of the Directors and its staff without recourse to the State Corporations Advisory Committee contrary to section 27 of the State Corporations' Act Cap. 466.

The Committee recommends that the Board must ensure that any future review of Terms and Conditions of Service for Staff and Board of Directors should be submitted to the State Corporations Advisory Committee for consideration and approval.

The Committee further recommends that the Chief Executive of the Board should implement allowances for Board of Directors and staff as per the letter Ref. OP/CAB/9/145A dated 24th July, 2003 from the office of the President without delay.

2. PRIVATE REGISTRATION OF VEHICLE NO. KAJ 791S

During the year 1998/99 the Authority purchased a Toyota 4 wheel-drive vehicle reportedly for the use of its non-executive chairman at a cost of Kshs.2,157,870. After the purchase, the vehicle was, however, registered in private number plates instead of the normal blue number plates as is required for State Corporations' vehicles. Although the Authority has stated that civilian registration of the vehicle was authorized by the Office of the President, no such authority has been seen. Instead the Registrar of Motor Vehicles has indicated that the vehicle was allocated Blue Number KAJ 791S on 04 June 1999. In the meantime, the vehicle continues to illegally carry civilian registration while the propriety of the vehicle's utilization cannot also be confirmed.

The Committee heard the evidence given by the Chief Executive and was informed that during the year 1998/99, the Board purchased a Toyota four wheel drive for use by its non-executive chairman and that the vehicle was registered in private number plates instead of the normal blue number plates as required of all State Corporations' vehicles.

The Committee was further informed that no authority was obtained for use of civil registration and that the then Chairman Mr. Mark Too used it without keeping official work tickets.

The Committee expressed grave concern that the then Chairman who was non-executive was allocated a car, used civil registration without requisite authority and operated it without official work tickets as required of all government vehicles.

The Committee noted that lack of work tickets exposed the vehicle to abuse and non-accountability of fuel consumed.

The Committee recommends that the Chief Executive should ensure that the Board's vehicles are registered in blue number plates and that work tickets are properly kept.

KENYA PORTS AUTHORITY

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA PORTS AUTHORITY FOR THE ENDED 30 JUNE 1999

1. EXTENSION AND REFURBISHMENT OF KIPEVU HEADQUARTERS

In August 1994, and apparently without invitation of open competitive tenders, the Authority appointed a firm of architects to be Lead consultants for the extension and refurbishing of the Kipevu existing Headquarters building Project. The month following their selection, the Lead Consultant appointed, on a selective basis, three other consultants to design the Project, which basically involved construction of extra floors onto the existing, Headquarters building. In December 1994, the consultants forwarded the related architectural drawings which the Authority duly accepted and on 5th January 1995, the Lead Consultant instructed the other consultants to proceed and complete the Project. About two months later on 10th March 1995 the consultants presented the Authority with Bills of Quantities, thus bringing the Project to tender stage. Records, however, show that the Project was designed without properly establishing whether the existing foundation of the present building could support extra weight of the additional floors and without prior authority of the parent Ministry and the Treasury.

There was also no budgetary provision for the expenditure in the 1995/96 or 1996/97 Estimates of the Authority.

Thereafter fee notes for Kshs.405,849,355 were raised by both the Lead Consultant and the other three consultants as follows:-

| | |
|------------------|----------------------------|
| Lead Consultant | Kshs.147,445,658 |
| Other Consultant | <u>“ 258,403,697</u> |
| Total | Kshs. 405,849,355 ===== |

The fee notes were accepted by the Authority and a total amount of Kshs.42,000,000 paid in August 1995 but the Project was abandoned thereafter, apparently for being impracticable. Since the abandonment of the Project the consultants have been paid a further total amount of Kshs.289,377,164, thereby bringing total expenditure on the Project to Kshs.331,377,164 as at 28 February 2001. Available information also indicates that the Authority having lost a civil court case against one of the consultants for a total claim of Kshs.197,973,267, has now entered into an agreement with that consultant to pay the balance of the amount due to plaintiff at the rate of kshs.5 million per month over a period of about 7 years. At this rate the Authority stands to lose an additional Kshs.309 million on the

already abandoned Project. Arising from the foregoing, the total expenditure incurred on the Project of Kshs 331,377, 164 as well as the expenditure anticipated to be incurred further of more than Ksh 309 million will most likely turn out to be waste of public funds

The Committee heard the evidence given by the Chief Executive and was informed that in August 1994, the Authority without open competitive tendering appointed M/s. Mode Architects to provide professional services for the design of extension and refurbishment of the Kipevu Headquarters in the Port of Mombasa comprising of three phases whose construction work was estimated at Kshs.2,673,125,100

The Committee further heard that:

(i) the idea of refurbishing the Headquarters was initiated in a Board Paper Memorandum No. 888 of 1994 which among others stated that the building required extensive rehabilitation in operations and marine offices, replacement of floor tiles, toilet fittings, cleaning of windows, wall repainting, repairing of cold water fountains, harmonization of external wall appearances, improvement of the fire station and creation of new offices at the new Services Area for the Purchasing and Supplies Departments.

(ii) the Board in its 163rd sitting held on 24th August, 1994 approved the proposals subject to the fact that the Architect and other Consultants would only be paid if construction work was undertaken in furtherance of the designs and the letter appointing the Lead Consultants.

(iii) In September 1994, the following consultants were appointed to work under the Lead Consultant in accordance with the terms and conditions agreed upon between the Authority and the Lead Consultants.

M/s. Kisa and Partners - Mechanical/Electrical Services

M/s. Multiconsult Consulting Engineering - Civil/Structural Service

M/s. Jagar Consultants - Quantity Surveying Services

(iv) that, meanwhile, the composition of the Board had changed, and that, in March 1995, the Lead Consultants and the three other Consultants presented their fee notes amounting to Kshs.42 million for design works and that payments were made following Board's

approval during its 172 sitting held on 8th August, 1995. The Board making the decision consisted of Mr. A.C Juma, Chairman, Mr. Simeon M. Mkalla, Managing Director; Mr. S.N. Arasa, Director (P.S); Mr. J.K. Ole Wuantai, Director, Mr. W.K. Rotich, Director; Mr. O.M.A. Ahmed, Alternate Director and in attendance was Mr. George Dulu, Ag. Secretary. The Consultants were paid as follows:

| | | |
|---------------------|---|-------------------------------|
| ◆ Mode Architect | - | Kshs.11,625,600 |
| ◆ Multiconsult | - | Kshs. 6,908,800 |
| ◆ Kisa & Partners | - | Kshs. 4,774,400 |
| ◆ Jagar Consultants | - | <u>Kshs.18,691,200</u> |
| Total | | <u>Kshs.42,000,000</u> |

These payments were meant to defray costs incurred by the Consultant while the overall issue of their fees had the project was being considered.

(v) a view of the design works by M/s. Davidson and Ward revealed that the costs of the whole project were high and subsequently the costs were reviewed downwards.

(vi) the project was abandoned thereafter ostensibly for being impractical and that a total of Kshs.331,317,163 had been paid to the Consultants for design work and drawings as at 28th February, 2001.

(vii) the Authority had paid a total of Kshs.405,849,355.95 as at 31st March 2001 on the abandoned project as follows:

| | | |
|---------------------|---|----------------------------|
| ◆ Mode Architect | - | Kshs.147,445,658.98 |
| ◆ Multiconsult | - | Kshs. 87,635,457.85 |
| ◆ Kisa & Partners | - | Kshs. 60,515,613.95 |
| ◆ Jagar Consultants | - | <u>Kshs.110,253,625.20</u> |
| | - | Kshs.405,252,625.20 |

(viii) the Authority lost a civil suit filed by M/s. Jagar Consultants vide civil suit HCCC No. 2931 of 1997 for breach of contract and it decreed that the Authority must pay a total of Kshs.197,973,367.05 inclusive of interests of Kshs.100,689,737.20 at 26%. The Authority entered into an agreement with the Consultant to pay the amount in three instalments.

(ix) while the other three Consultants amicably resolved their claims through joint meetings with the Authority on pending

contractual/consultancy claims, M/s. Jagar Consultants who carried out Quantity Surveying work based drawings supplied by Architects and the structural Engineers which included preparation of Bills of Quantities took the Authority to Court which awarded it full principal fee claim of Kshs.97,282,505.

- (x) owing to the poor cash flow to the Authority prevalent then, the management entered into an agreement with M/s. Jagar Consultants to settle the decretal amount by instalments of Kshs. 5 million per month with an initial payment of Kshs.10 million and that on 17th July, 2001 the two parties agreed to settle the outstanding amount as follows:

| | | |
|---------------------------------|---|-------------------|
| 17 th July 2001 | - | Kshs.57.5 million |
| 31 st August 2001 | - | Kshs.57.5 million |
| 30 th September 2001 | | Kshs.57 million |

The total amount paid to M/s. Jagar Consultants in respect of the alleged Quantity Surveying works between 18th November 1995 and 27th September, 2001 came to Kshs.315,691,200.

- (xi) although the M/s. Jagar Consultants had been hired under Architects and Quantity Surveyors Act Cap. 525, the principal fee claim of Kshs.110,252,625.20 was inflated compared to the fees charged by the other Consultants.
- (xii) the Court ruling vide Civil Case No. 2931 1997 failed to take cognizance of the Board's earlier decision made on 24th August, 1994 during its 163rd sitting that the Consultants should only be paid for services rendered if construction work was undertaken in furtherance of the designs and that the High Court award of interest at the rate of 26% was very punitive to the Authority.

The Committee observed with concern that:

- (i) the Board had initially resolved and explicitly approved for refurbishment and rehabilitation works only, with reference to looking into possibility of extension and additional floors, subject to its approval and that there was no budgetary allocation for the extension and the additional floors.
- (ii) the then Chief Executive Mr. Simeon Mkalla and the the Ag. Secretary Mr. George Dulu (now Judge of the High Court) appeared to have deliberately withheld from the Board its earlier decision that payments for the design works would only be made if construction work was undertaken in furtherance of the designs and

that as a result, the Board in its 172 Sitting approved payments to Consultants.

- (iii) on the basis of the initial project, the fee note paid to M/s. Jagar Consultants on quantity surveying were inordinately inflated in comparison to fees paid to the Consultants thus flouting the provisions of CAP 525 of the Laws of Kenya.
- (iv) the project that included extensions and additional floors was neither viable nor necessary as the Authority then and now had sufficient office space and some of the works earmarked for rehabilitation did not require designing as they were normal maintenance works.
- (v) the High Court ruling vide civil case No. 2931 of 1991 ignored to take into account the Board's original decision of 24th August 1994 on appointment and payments to Consultants. Had the Court taken cognizance of this decision, it would have made a different decision.

The Committee recommends that:

- (i) the then Managing Director Mr. Simeon Mkalla and the then Ag. Secretary Mr. George Dulu (now Judge of the High Court) be investigated and prosecuted by the Kenya Anti-Corruption Commission for deliberately withholding the original decision made by the Board during its 163rd Sitting from the subsequent Board therefore misleading it to approve irregular payments to consultants in its 172rd Sitting.
- (ii) the Principal, Jagar Consultants Mr. J.N. Gachagua be investigated and prosecuted for demanding and receiving from the Kenya Ports Authority, unlawful payments amounting to Kshs.315,691,200 contrary to the clearly stated terms of appointment.
- (iii) the then Managing Director Mr. Simeon Mkalla, Justice George Dulu and Hon. J.N. Gachagua be barred from holding any public office conferred by the Republic of Kenya.

KENYA PORTS AUTHORITY

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA PORTS AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2000

1. OPERATION AND MANAGEMENT CONTRACT - MOMBASA CONTAINER TERMINAL

In August 1996, the authority entered into a two year contract with a consulting firm to provide a management team to supervise the modernization of the Port of Mombasa facilities effective from 01 September, 1996 a contract which included, among others, development, supply and installation of computer software and communications network at a contract price of US\$2,145,500. The contract agreement stipulated that the company would be paid at a monthly instalment of US\$70,558 for the first twelve (12) months. However, available information indicates that the consultant was paid a total of US\$1,121,348.60 (Kshs.65,672,827.00) at a monthly instalment of US\$89,375 over a period of thirteen months, an amount which included a profit and contingencies payment of US\$244,621 (Kshs.13,271,767). The contract was terminated on 30 September, 1997 reportedly due to the Authority's failure to procure new equipment or refurbish the existing equipment that were a prerequisite to enable the consultants carry out their job as provided in the agreement. Apart from the fact that the payment of the profit of Kshs 13,271,767 (US\$244,621) was noted to be irregular in view of the fact that the Company did not carry out any work that would have earned the profit, the total payments to the consultants of Kshs.65,672,827 during the 13 month period to 30 September, 1997 represented expenditure on services not rendered. In addition, the Authority paid salaries and allowances totalling Kshs.5,156,124 to its former computer manager who was rehired after retiring from the service so as to oversee and supervise the implementation of the same contract. In view of the non-implementation of the contract, the re-hiring of this officer has not been justified. Consequently, the propriety of the total expenditure of Kshs.70,828,951 paid on this contract cannot be confirmed.

The Committee heard the evidence given by the Chief Executive that:

- (i) the Authority entered into a contract with M/s. Felixstowe consultants for provision of a management team, and further that the consultant was paid a monthly instalments of US\$ 89,375 for a period of 13 months which was profit and contingency as per the terms of the contract.**
- (ii) m/s. Felixstowe consultants terminated the contract due to the Authority's inability to meet pertinent contract agreements, that**

included purchase of a serviceable equipment or refurbishment of the existing one.

- (iii) the Contract was based on a wrong notion that poor management was contributing to the poor performance at the Port, and that it was at the instigation of the Government in line with Policy Framework Paper of 16th February 1996 that required the Authority to hire a contractor for external management of the Mombasa Container Terminal by March 1996.
- (iv) rehiring of Mr. Kibacha to oversee and supervise the implementation of the project was negated by the termination of the contract.

The Committee observed with concern that:

- (i) the amount of Kshs.65,572,827.00 (US\$1,121,348.60) paid to Felixstowe Consultants was a loss to the Authority since the project was not implemented.
- (ii) the Authority failed to conduct a cost-benefit feasibility study to undertake such a project and further that the Governments decision to have the Port managed by an external body/firm was not beneficial to the Authority.
- (iii) the World Bank put pressure on the government and the Authority to enter into the agreement when there was no need for new Cranes and thus the project was doubtful.

The Committee recommends that the Authority should not enter into any future agreements on management of the Port without carrying out adequate cost-benefit analysis.

2. SOFTWARE DEVELOPMENT CONTRACT

In April, 1997 the Authority awarded a contract at an unspecified sum to a Company, for software development, which included container tracking, software development, Oracle RDB and tools, Oracle training and PC enterprise training. A total of Kshs 7,307,660 was paid to that company between January 1997 and January 1999. Available information, however, indicates that the company not only took too long to deliver the system but also used inferior equipment of the container management information system which when tested was found to contain too many errors and could not, therefore, work. In September, 2000, the Authority terminated the contract on the grounds that the contractor had failed to complete the contract for implementation in January, 1998 and had actually abandoned the project while on the other

hand the contractor considered his work completed. In view of the apparent contradictory situation, it has not been possible to confirm the propriety of the expenditure of Kshs.7,307,660 incurred by the Authority on a project which did not work.

The Committee heard the evidence given by the Chief Executive and was informed that the Authority on 17th April, 1997 through its Consultants M/s. Felixstowe Port Consultants awarded a contract with specific sum amounting to US\$133,170 to Software Technologies Limited (STL) for development of Container Tracking Software, supply of Oracle rotational Data Base Management System Licences and Tools, plus oracle PC enterprise.

The Committee was further informed that there was lack of proper specification and that the supervision of the project was not effective.

The Committee noted that the project was terminated when a Committee set up to review the project concluded that software was not useful to the Kenya Ports Authority needs.

The Committee expressed its displeasure at the manner in which the contract was initiated.

The Committee recommends that the Chief Executive concludes the matter.

3. PROCUREMENT OF SPARES

Between July 1997 and February 1999, the Authority ordered for the supply of various items of spares worth Kshs.38,872,137 which were included as being urgently required for the repair of its machines. The spares were, however, not delivered until July and August, 1999 and had to be kept in the stores because the machines for which the spares were ordered had broken down and had been withdrawn from use. By February, 2000, the items were still in stores with no indication as to when they would be put to use to avoid their becoming obsolete. It is not clear why the Authority had to spend such substantial sums of money in buying spares when they were apparently not required and I am unable to confirm the propriety of the expenditure of Kshs.38,872,137 incurred on urgent requirement basis of spares which were subsequently not used.

The Committee heard that the evidence given by the Chief Executive that the Authority placed orders for various items of spares worth Kshs.38,872,137 between July 1997 and February 1999 and which even though stated as urgently required were not delivered until July 1999.

The Committee further heard that by the time these spares were delivered some of the machines had broken down and withdrawn from use and that the delay in delivery was attributed to the procurement systems that were in place that time.

The Committee observed with concern that the Authority purchased spares worth millions of shillings for no apparent reason and without planning thus tying up its cash in stocks instead of putting it to more deserving needs.

The Committee recommends that the Authority should dispose of the spares that are obsolete in a competitive bidding and further that the management of the Authority should ensure that proper planning is done prior to purchase of any spares and that any officer(s) who, in future purchase spares without planning will be held personally responsible.

4. SUPPLY AND INSTALLATION OF COMPUTER HARDWARE AND SOFTWARE CONTRACT

In May 1997, the authority signed a contract with a Company for the supply, installation and commissioning of a computer hardware and operating systems software, comprising two servers and eight (8) pieces including cabling and communications systems all at a contract sum of Ksh.47,415,682 (US\$684,703.88). On the same date, the Authority made advance payment to the contractor of Ksh.33,190,992 which was 70% of the contract sum. It was, however, noted that the Authority awarded this contract before the necessary infrastructure (the network) was in place and as a result the contractor was advised not to deliver the equipment. The contractor was also not able to install the network because cabling could not be done as ducting was not done until November, 1998, when the contractor was instructed to implement the contract. Similarly, the contractor could not complete the implementation because the cables had not been shipped reportedly due to non-payment by the contractor for them. Available information further indicates that the quoted Servers, Compaq 5000, which the contractor was required to install became obsolete before installation due to technology advancement and the contractor had to sell them elsewhere in order to replace them with Compaq 6500 series. The new Servers could also not be supplied and installed because the Board did not give the necessary approval on time. Apart from the fact that it is not clear why the Authority entered into this contract before all the required prerequisites were ready, it is not understood why the advance of Ksh.33,190,992 was made to the contractor before the equipment was supplied. Although in June, 2002, the Authority took the contractor to court and judgement entered in its favour for the claim of amount of US\$464,507.30 plus interest at 24% with costs with effect from 22 August, 1997, no evidence has been seen to confirm that any payments have been received by the Authority.

The Committee heard the evidence given by the Chief Executive that the Authority signed a contract with M/s. Amarco Kenya Limited on 28th May 1997 for the supply and installation of Computer Hardware, Operating Systems and Communication network at a contract sum of Kshs.47,415,682 and that 70% of the contract sum was paid the same date as per contract term that provided for a down payment of 20% on signing and 50% on placing of the order for the hardware.

The Committee was informed that:

- (i) the contract was awarded before the necessary prerequisites were in place as a ducting contractor could not finish the exercise in time as envisaged
- (ii) m/s. Amarco Kenya Ltd was finally unable to implement the project when finally asked to do so forcing the Authority to take it to Court claiming for US\$479,292.30 plus costs and interests at 24% from August 22nd 1997.
- (iii) judgement was given in favour of the Authority for the claimed amount less US\$14,785 for computers already supplied and that Managing Director Amarco (K) Ltd applied for stay of execution whose ruling is yet to be made by the Court.

The Committee was gravely concerned that the contract was entered into before the necessary infrastructure was put in place and that the contract was skewed in favour of the supplier.

The Committee recommends that the Chief Executive should pursue the recovery of the amount using the most cost-effective way.

The Committee further recommends that the then Executive Chairman Mr. Breineisten be censured for flouting procurement procedures.

TENDER FOR MANUFACTURE AND SUPPLY OF GANTRY CRANES

The Committee heard the evidence given by the Chief Executive that the tender for manufacture and supply of gantry cranes was advertised internationally and that the tenders would have been opened on 26th September, 2003 but had to be extended three times due to intervention by the Ministers for Transport & Communication Hon. John Michuki, the Minister for Planning and National Development Hon. Prof. Anyang Ny'ongo, and the Minister for Trade and Industry Hon. Dr. Mukhisa Kituyi.

Concerned that the reported conducts of the Ministers mentioned may have had some impact on the tendering process, the Committee invited them for each one of them to explain the circumstances in which they had interfered with the process.

The Committee was informed that:

- (i) the first extension was as a result of a clarification sought by some bidders, which the Authority responded to through an addendum, and which was in line with procurement regulations. The clarification also contained a request for extension of time.
- (ii) the second extension was as a result of a verbal request by the Ministers for Trade and Industry and Planning and National Development to have Numerical Machining Complex (NMC) in partnership with Industrial Plant Ltd owned by a Mr. H. S. Sagoo to participate in the tender.
- (iii) the third extension was necessitated by a telephone call from the Minister for Transport and Communications in which the Minister requested a further extension of ten days to allow him address some of the representations he had received from prospective bidders which the Authority granted, hence extending the opening of the tender to 6th November, 2003.
- (iv) the tenders were finally opened on 6th November, 2003 and only 10 bidders including Numerical Machining Company returned their bids.
- (v) following investigations by various government agencies and the concern of the Public Investments Committee, the tender was annulled and re-advertised to ensure fair play and transparency.

The Committee observed with concern that the requests by the three Ministers interfered with the Authority's tendering process contrary to Government procurement regulations. The Committee also expressed concern that the requests for extension of time by the Ministers disadvantaged the bidders who bid on time. Concern was also raised that the Authority, and not the Ministers, bore the extra cost of the two extensions.

The Committee recommends that although Ministers may give guidance of a general nature to State Corporations, they should not interfering in the day-to-day running of Parastatals and in particular the tendering procedures as the Exchequer and Audit Act (Public Procurement) Regulations 2001 do not give Ministers any role.

NATIONAL WATER CONSERVATION & PIPELINE CORPORATION

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION FOR THE YEAR ENDED 30 JUNE, 1999

1. DEFICIT

As in the previous year the Corporation again realised a substantial deficit of Ksh.173,286,882 which brought cumulative deficit to Ksh.2,161,584,808.55 as at 30 June, 1999. It would appear that the Corporation will evidently continue to post deficits for as long as its revenue base remains unimproved. Such deficits may make it impossible for the Corporation to achieve its main objective of developing and managing water projects in future.

The Committee heard the evidence given by the Chief Executive that the Corporation posted a loss of Ksh.173,286,882 in the volume statement and that this was attributed to the increase in cost of water production and distribution, losses of water in the distribution system, weaknesses in the billing process, water unaccounted for and the high depreciation changes on the Fixed Assets.

The Committee further heard that the Corporation had undertaken certain measures to reverse the situation:

- (i) meters were installed where none existed.**
- (ii) billing has been computerized to the extent of 70%.**
- (iii) training of meter readers and billing clerks to improve on meter reading and raising of accurate bills.**
- (iv) adjusted meter tariffs in November, 1999.**
- (v) tightening of staff discipline in revenue collection and cost control measures.**

The Committee was informed that as a result of the above measures and rehabilitation of several water projects the Corporation has turned round its operation resulting in a profit of Ksh.133,783,049 and Ksh.21million in the years 2000/2001 and 2001/2002 respectively.

The committee was concerned that the revenue of the Corporation has been eroded by high cost of production and operation and depreciation of assets.

The Committee recommends that the Chief Executive should take measures to reduce the cost of operations and production to minimise losses.

2. WATER DEBTORS

The Corporation's Water Debtors stood at Ksh.1,186,484,658.95 net of a 20% provision for bad and doubtful debts of Ksh.296,164.75 as at 30 June, 1999. The debtors position for 1998/99 represents a net increase of Kshs. 273,082,774 on uncollected water Debtors as at 30 June, 1998.

As previously indicated, the system of charging and raising water bills and eventual revenue collection still needs to be evaluated with a view of putting in place a proper control policy. In the meantime, it is still doubtful as to what extent the Corporation's debts reflected on the Balance sheet as at 30 June, 1999 are realizable.

The Committee heard the evidence given by the Chief Executive that the Corporation was owed a sum of Ksh.1,186,484,658.95 as at 30th June, 1999 and that included the debtors are government institutions who owed an accumulated figure of Ksh.406 million.

The Committee was informed that in order to collect debts due, the Corporation took the following measures:-

- (i) performance by managers has been tied to revenue collection.
- (ii) undertaken disconnection exercises which has yield Kshs.127,380,587.40.
- (iii) a balance owed by Government institutions has been forwarded to the committee on Government indebtedness on utility providers based in the Treasury.
- (iv) meters are being installed where none existed.

The Committee reiterates its earlier recommendations in the 11th Report that the Chief Executive should continue to use all means possible including disconnection until all debts due are collected.

The Committee also recommends that Treasury should allocate funds to Ministries/Departments to clear money owed to the Corporation.

3. OTHER DEBTORS

Included in Other Debtors Balance Sheet figure of Kshs.30,521,714.55 are amounts of Kshs.942,383 and Kshs.10,037,167.75 debited to General Suspense and Sundry Debtors respectively. The General Suspense comprises of debits in bank statement but without supporting documents while Sundry Debtors include a total of Kshs.1,282,844.50 being outstanding sale proceeds of old motor vehicles relating to the year 1995/96. Although an amount of Kshs.892,844.50 is stated to have since been recovered, the Corporation has not, however, justified the irregular credit sales made contrary to the normal cash sale terms.

In addition, the recovery of temporary imprests totalling Kshs.348,671 owed to the Corporation by a former financial controller, still remains doubtful.

The Committee heard the evidence given by the Chief Executive that other debtors figure of Ksh.30,521,714.55 comprised of an amount of Ksh.942,382 and Ksh.10,037,167.75 debited to suspense account and sundry debtors respectively.

The Committee was informed that the suspense account had been cleared, an amount of Ksh.1,282,844.50 in respect of disposal of uneconomical vehicles in the year under review had been paid and that a legal action has been taken to recover outstanding imprest of Ksh.348,671 from the then Financial Controller Mr. J. N. Kiluva.

The Committee observed with concern that the corporation disposed of their old vehicles on credit sales contrary to the normal sale terms and that imprest has not been surrendered within the stipulated period.

The Committee recommends that the Chief Executive should ensure that :

- (i) government regulations governing disposal of goods are followed.**
- (ii) rules and regulations governing issuance of imprest are strictly adhered to and that legal action against Mr. J.N. Kiluva, the then Financial Controller, be followed to its conclusion.**

4. FIXED ASSETS REGISTER

The Corporation did not still maintain a Fixed Assets Register to record details, location and other particulars of its fixed assets in 1998/99. In the absence of such register, it was not possible to confirm the correctness and accuracy of the Balance Sheet fixed assets figure of Kshs.11,132,220,515.40 as at 30 June, 1999.

The Committee heard the evidence given by the Chief Executive that a Fixed Assets Register which had not been completed during the financial year under review has since been updated.

The Committee recommends that the Chief Executive should ensure that an up-to-date Fixed Assets Register is maintained.

5. ACCRUED EXPENSES

During the year 1998/99 the Corporation was still unable to remit statutory and other deductions to the respective organisations totalling Kshs.36,621,028,85 as at 30 June, 1999.

As previously reported the Corporation was clearly in breach of statutory obligations and could suffer penalties for failure to remit the deductions.

The Committee heard the evidence given by the Chief Executive and was informed that the Corporation was still unable to remit Statutory and other deductions to the respective organizations totalling Ksh.36,621,028.85 as at 30th June, 1999.

The Committee confirmed that the Corporation had paid some part of the arrears leaving a balance of Ksh.14,773,603 as at 30th October, 2003.

The Committee observes with concern that the Corporation had violated statutory requirements on remission of statutory and other deductions.

The Committee recommends that the Chief Executive should ensure that all statutory and other deductions are remitted as required.

6. REPAYMENT OF LONG TERM LOAN

During 1998/99 and, as in the previous year, the Corporation did not service any portion of the IDA redeemable loan of Kshs.582,902,882.65 which, according to Article 2.05 of the Subsidiary Loan Agreement, fell due on 15 November, 1997. The Corporation did not also pay accumulated interest of Kshs.391,378,397 shown in note 10 to the Accounts, which amount has accrued in the books since 1992/93 and which did not include penalty accruing from delayed payments.

The Committee heard the evidence given by the Chief Executive that the Corporation did not pay IDA loan amounting to Ksh.582,902,887.65 neither did it pay accrued interest of Ksh.391,378,397 as at 30th June, 1998.

The Committee was informed that the loan which had been guaranteed by the Government was utilized on the engineering design and rehabilitation of water supply to Mombasa and Coastal region.

The Committee further heard that this was attributable to the fact that the government did not effect increase on water tariffs as expected by the Corporation.

The Committee recommends that the Government should address the issue of loan servicing by the Corporation including putting measures in place to address payment of water bills and increasing subsidies to the Corporation.

7. PROCUREMENT

In the year under review, the Corporation did not procure supplies for production in respect of aluminium sulphate, chlorine and soda ash, all valued at Ksh.60,193,568, through competitive bids even though some sixteen (16) tenders had actually been floated. The Corporation has explained that supply contracts were not awarded because tenderers failed to submit samples to the relevant adjudicating committees for tests, which was a major precondition for the award. No indication was also given as to why fresh tenders were not invited. In the circumstances, it was not possible to confirm that the corporation obtained value for money in transactions where proper procurement was not followed.

The Committee heard the evidence given by the Chief Executive that the Corporation floated tenders for supply of water treatment chemicals and that the tender could not be awarded as the Supplies and Services Committee of the Board of Directors declined to award insisting that samples for the chemicals should have been submitted for tests.

The Committee was informed that the tenderers had not been asked to submit chemicals for tests as a major pre-condition for the award of the tenders and that they were later asked to do so.

The Committee was further informed that this caused delay leading to expiry of tender price validity and yet in the mean time water had to be treated, forcing the Corporation to use the unapproved tenders for supply of the chemicals.

The Committee was gravely concerned that the then management of the Corporation intentionally and apparently with intention to abuse the tender regulations, omitted the requirement of submission of chemical samples as a major pre-condition for awarding the tenders.

The Committee recommends that the Chief Executive should ensure that the procurement regulations currently in force are adhered to without exception.

8. PROCUREMENT OF MACHINERY AND EQUIPMENT

In 1994, the Corporation under the 2nd Mombasa and Coastal Water Supply Project awarded contracts to M/S HMT International Limited to supply one Lathe Speed Precision Machine, two Mobile Compressors and two agricultural tractors with trailers at a total cost of US\$61,285. The Supplier was to deliver the machinery and equipment to the purchaser's yard at the Regional Office, Mombasa. Although the machine and equipment arrived at the port of Mombasa between 29 April, 1996 and 25 September, 1996, it was, however, not until June 1999 that the Lathe Machine and the two compressors were cleared through Customs after payment of Kshs.438,809,50 and Kshs.720,360 was made against demurrage and warehousing charges respectively. As Project records do not show the balance of the Ministry as cleared, it is, therefore, not understood why it has taken such a long time to have these items cleared, a delay which, as was the case for the items earlier cleared, could occasion substantial avoidable costs.

The Committee heard the evidence given by the Chief Executive that the Corporation contracted M/S. HMT International Ltd to supply tractors, 2 tipping tractors, 2 compressors and one lathe machine at a cost of US\$61,285 at the exchange rate of Ksh.78.00 per US dollar tax free.

The Committee further heard that the Corporation paid to Customs departments Ksh.438,809.50 and Ksh.720,360.00 as demurrage costs due to delay in processing of waiver for duty from the Treasury.

The Committee was informed that the demurrage costs incurred were partly recovered by the amount of Ksh.478,020 which the Corporation had withheld from the supplier as part of the final payment of 10% equivalent to the performance bond.

The Committee observed with concern that the loss could have been avoided had the concerned officers acted diligently.

11. NJORO WATER TREATMENT PLANT

The Corporation took over ownership of water treatment plant complete with all facilities which was constructed by the then Ministry of Water Development under the Greater Nakuru West Water Supply in 1979/85 at Njoro. The plant has never been operational reportedly because the intended source of water was, however, not realized during the Project Implementation. The Corporation has not satisfactorily explained the action it intends to take to make the Plant

operational except for an indication that a dam would be constructed nearby when funds become available.

The Committee heard the evidence given by the Chief Executive and was informed that the Njoro Treatment Plant is not currently in use as water from two additional boreholes contain safe and quality water that do not require treatment as opposed to one borehole that contained excess iron and manganese which has since dried up.

The Committee further heard that the Njoro Treatment Plant which remains the Corporation's asset will be put to use when and as need arise.

The Committee recommends that the treatment plant be put to good use, including transferring to other areas where it is required.

12. RONGAI INTAKE

The Rongai Water Intake was noted to have been grabbed by a private developer who later fenced it off, thus restricting it. Accordingly the Corporation's staff have no access to the Water Intake. In the circumstances, and in view of the access restriction to the Intake area, it would appear that the Corporation cannot exercise proper efficient management of the Intake in the event that something went wrong at the Intake.

The Committee heard the evidence given by the Chief Executive that the land surrounding the Rongai Water Intake which had been alienated and fenced off by a private developer has been allocated to the Corporation, survey works completed and fenced.

The Committee recommends that the Chief Executive should ensure that a title in respect of the land is obtained without further delay.

13. WORK-IN-PROGRESS- KIRANDICH DAM PROJECT

The Corporation's Balance Sheet as at 30 June, 1999 reflects an amount of Kshs6,991,914,509.45 as work-in-progress out of which Kshs.2,387,706,153 relates to the Kirandich river dam project undertaken by the Corporation mainly to provide water to Kabarnet town and its environs. Kirandich river Dam project commenced on 12 September, 1999 under contract No. NWCPC\WW\22 signed in February, 1994. The project was to be completed within a contract period of 30 months or by 1st March,1997 at a contract sum of Kshs.2,285,946,918. The contractor was an Italian consortium firm.

Records available indicate that the project is still uncompleted to date, more than 38 months or over 3 years after the agreed completion date of 1 March, 1997. Apart from the fact that the execution of this dam project appears to

have been handled by the contractor in a most unsatisfactory manner, the agreed project cost of Kshs.2,285,946,918 has been overrun by more than Kshs.150,000,000.

The Committee heard the evidence given by the Chief Executive and was informed that the completion date was delayed by the following reasons:

- (i) the preparation of the Dam Foundation which involved the treatment of various faults in the location by drilling and grouting earthwork and concreting that took a longer period than was envisaged.**
- (ii) the preparation of proper rock-filling material of the Dam**
- (iii) negotiations for the additional funding between the Donor and the Government that took longer than was anticipated.**

The Committee was further informed that the government met the additional financing of Ksh.150 million to complete the project.

The Committee noted that the project had been completed thereby resolving the audit query.

KENYA MEDICAL TRAINING COLLEGE

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA MEDICAL TRAINING COLLEGE FOR THE EIGHTEEN MONTHS PERIOD ENDED 30 JUNE, 1997

1. FIXED ASSETS

The balance Sheet asset figure of Ksh.600,829,194.60 excludes undermined value of land and buildings at Kenya Medical Training College Headquarters, South Hill Mess, Nairobi and also at all constituent colleges across the country as previously inherited from the Ministry of Health. Accordingly, the College's fixed assets of Kshs.600,829,194.60 are understated to the extent of the undermined value of land and buildings so excluded. Further, the college has not obtained title deeds for the land. In addition, two buildings have been erected on the land at South Hill Mess by a private developer, thus throwing doubts on the ownership of the South Hill Mess land parcel.

The Committee heard the evidence given by the Chief Executive and was informed that the Balance Sheet assets figure of Kshs.600,829,194.60 excluded undetermined value of land and buildings at the College's Headquarters, South Hill Mess, Nairobi and all urban constituent colleges, which had not been valued at the time of the audit and further that the valuation had been undertaken and the correct value stands at Kshs.4,032,348,690.00 as at November 1999.

The Committee further heard that:

- (i) The land LR.No.209/14269 - 78 (South Hill Mess) which was originally reserved for the college and allocated to it vide the allotment letter No. 248093/V/45 dated December 18th 1996 and which had staff houses occupied by four families was later subdivided and allocated to the following private developers based on a spurious Part Development Plan No. 42/15/94/13 of 18th September 1994:

| No. | LR No. Plot No. | Letter of Allotment No. (all dated 22 nd August 2000) | Lands File No. | Name of Allottee and Box No. | Title Status |
|-----|-----------------------|------------------------------------------------------------------------------|-------------------|----------------------------------------------|----------------------------------|
| 1. | 209/14269 (Plot A) | 185788/24 | 226080 | Westlink Associates Box 79222, Nairobi | Title No. I.R 90812 Issued |
| 2. | 209/14270 | 185788/25 | 223517 | Robert Mutiso | - |

| | | | | | |
|-----|-----------------------|-----------|--------|----------------------------------------------------------------------------|---------------------------------|
| | (Plot B) | | | Leli, Box 28587 Nairobi | |
| 3. | 209/14271 (Plot C) | - | - | Unknown | - |
| 4. | 209/14272 (Plot D) | - | 228092 | Unkknown | - |
| 5. | 209/14273 (Plot K) | 185788/30 | - | MicroTech Accessories Ltd, Box 62360 Nairobi | - |
| 6. | 209/14274 (Plot H) | 185788/29 | - | Hope Concepts & Spirit Ltd, Box 2354 Nairobi | Title No. IR 91420 issued |
| 7. | 209/14275 | 185788/31 | - | Philip Kangwaini & Angela Mwaniko, Box 52006, Nairobi | - |
| 8. | 209/14276 (Plot F) | - | 226079 | Unknown | - |
| 9. | 209/14277 (Plot E) | 185788/27 | 226082 | Cabin Crew Investments Ltd Box 42498 Nairobi | Title No. IR 85965 issues |
| 10. | 209/14278 (Plot G) | 185788/28 | - | Tea Zone Properties and Saiwa View Inv. Ltd. Box 62810 Nairobi | - |

- (ii) land LR No. 209/14270 belonging to the college was irregularly allocated to Robert Mutiso Lelli vide civil case No. Nairobi HCCC No.1354/98 of 1988, allegedly as an alternative piece of land since the piece of land, which had been earlier, allocated to him in Mombasa was submerged in the Sea.
- (iii) land LR No. 1160/13 and LR No. 1160/26 which had been allocated to the college vide letter of allotment No. 33408/V/76 of 11th February, 1998 was irregularly allocated to the National Museums of Kenya.
- (iv) Machakos Municipal Council had sued the college in respect of Land LR No. 11597 (Machakos - Kenya Israeli Campus) which had been reserved for the college vide Letter of allotment No. 73029/54 of 12th March 1993 and further that the title deed is in the name of Masaku County Council.

(v) one of the college's residential plots in Nakuru was subdivided into several plots and irregularly allocated to the following private developers:

- James Mokaya Osano Nakuru/Mun/Block 12/264
- Joseph K. Chepkitany Nakuru/Mun/Block 12/263
- John Chepkien Nakuru/Mun/Block 12/262
- Unknown Nakuru/Mun/Block 12/263;

and that the title deeds have been cancelled and reallocated to the Treasury as a trustee of the Ministry of Health's property.

(vi) Garissa MTC had been allocated approximately 7.46 hectares of land by the DDC in 1994 and later a portion of the land was irregularly allocated to private developers.

The Committee observed with concern that the Commissioner of Lands without recourse to the college and contrary to the recommendations of the Mutito Adhoc Commission of 1994 which dealt with the subdivision of the Kenyatta National Hospital Complex, allocated land reserved and/or allocated to the college to private developers.

The Committee recommends that:

(i) the Director of Kenya Medical Training College should liaise with the Commissioner of Lands to ensure that the allocation of the following pieces of land to private developers are cancelled:

| No. | LR No. Plot No. | Letter of Allotment No. (all dated 22 nd August 2000) | Lands File No. | Name of Allottee and Box No. | Title Status |
|-----|-----------------------|------------------------------------------------------------------------------|-------------------|----------------------------------------------------|----------------------------------|
| 1. | 209/14269 (Plot A) | 185788/24 | 226080 | Westlink Associates Box 79222, Nairobi | Title No. I.R 90812 Issued |
| 2. | 209/14270 (Plot B) | 185788/25 | 223517 | Robert Mutiso Leli, Box 28587 Nairobi | - |
| 3. | 209/14271 (Plot C) | - | - | Unknown | - |
| 4. | 209/14272 (Plot D) | - | 228092 | Unknown | - |
| 5. | 209/14273 (Plot K) | 185788/30 | - | MicroTech Accessories Ltd, Box 62360 Nairobi | - |

| | | | | | |
|-----|-----------------------|-----------|--------|----------------------------------------------------------------------------|---------------------------------|
| 6. | 209/14274 (Plot H) | 185788/29 | - | Hope Concepts & Spirit Ltd, Box 2354 Nairobi | Title No. IR 91420 issued |
| 7. | 209/14275 | 185788/31 | - | Philip Kangwaini & Angela Mwaniko, Box 52006, Nairobi | - |
| 8. | 209/14276 (Plot F) | - | 226079 | Unknown | - |
| 9. | 209/14277 (Plot E) | 185788/27 | 226082 | Cabin Crew Investments Ltd Box 42498 Nairobi | Title No. IR 85965 issues |
| 10. | 209/14278 (Plot G) | 185788/28 | - | Tea Zone Properties and Saiwa View Inv. Ltd. Box 62810 Nairobi | - |

(ii) the allottees in respect of the plots Nakuru/Mun/Block/12/262, 263, 264 and 283, which have since been allocated to the Treasury as trustee of the Ministry of Health, should be evicted with immediate effect.

(iii) the Commissioner of lands should recall title deed No. IR.77918 in respect of plot LR No. 1160/13, Karen, which was irregularly allocated to the National Museums of Kenya to facilitate the resurveying of the land and subsequent regrant of the proper acreage to the college, and that the National Museums of Kenya is required to surrender the title deed to facilitate the resolving of the dispute.

(ii) the Chief Executive should have the titles registered under the Treasury transferred to the Kenya Medical Training College.

2. DEPRECIATION ON FIXED ASSETS

During the period under review the College did not depreciate any of its fixed assets of Kshs.600,829,194.60, reportedly due to the non-valuation of the assets. The non-depreciation by the College of its fixed assets was contrary to the requirements of generally accepted international accounting standards. Consequently, the College's excess income over expenditure of Kshs.206,593,174.70 together with the fixed assets balance of Ksh.600,829,194.60 as at 30 June 1997 are overstated to the extent of the depreciation charge not effected. Under the circumstances, therefore, the

accuracy and completeness of the College's fixed assets as reflected in the accounts at 30th June, 1997 could not be confirmed.

The Committee heard the evidence given by the Chief Executive and was informed that the College did not appreciate any of its Fixed Assets of Kshs.600,829,194.60 due to non valuation of the assets and that proper rates on the depreciation have since been charged on the College Assets based on individual asset values.

The Committee recommends that the Chief Executive should ensure that depreciation of the College Fixed Assets is always conducted in accordance with generally accepted International Accounting Standards.

The Committee further recommends that the College should keep an upto date Fixed Asset Register.

3. COLLEGE VEHICLES HELD IN A PRIVATE GARAGE

Between September and December 1995, six College vehicles were towed or driven to a private garage, reportedly for repairs even though no Local Service Orders were issued to the private garage for the repairs of the vehicles. Further, no quotations or inspection reports were seen to ascertain and confirm the extent of the repairs to be carried out on each of the six vehicles. When an audit visit was made to the garage in May, 1999 all the six (6) were lying at the private garage in a bad state of disrepair including extensive vandalism. Although the college has explained that the vehicles were towed/driven to the garage without proper authority and that the matter has been reported to the parent Ministry and Police for investigation, no evidence was seen of any further action by either the College, parent Ministry or the Police.

The Committee heard the evidence given by the Chief Executive and was informed that between September and December 1999 the following six vehicles were towed/driven to Seven Plan Motors Garage allegedly for repairs:

- | | | | |
|-------|-----------|---|-----------------|
| (i) | GK 248(I) | - | Mazda |
| (ii) | GK 702B | - | Mazda (Pick UP) |
| (iii) | GK T1830 | - | Nissan Cab Star |
| (iv) | GK C304 | - | V.M. Kombi |
| (v) | GK 902T | - | Leyland |
| (vi) | GK B750 | - | V.M. Kombi |

The Committee was further informed that:

- (i) inspection was done on all the vehicles and mechanical reports forwarded to Supplies Department to prepare the Local Service Orders (LSO).
- (ii) the vehicles were towed/driven to the garage with the full knowledge of the Principal of the College.
- (iii) the vehicles could not be traced since the proprietor of the garage Mr. John Chemonges had relocated to an unknown place.
- (iv) the vehicles could have been sold off vide Kenya Gazette No. 628 of October 1999, which the Management of the College admitted had no knowledge of.

The Committee was gravely concerned that the management of the College failed to retrieve the vehicles from the garage or take appropriate action to the point that the vehicles had to be gazetted for disposal.

The Committee recommends that the officers of the College who failed to take the necessary action to have the vehicles retrieved be held responsible and be surcharged by the Inspector General of State Corporations.

4. DEBTORS

The Balance Sheet Debtors figure of Kshs.51,415,227.40 includes debtors of Ksh.42,822,576 whose supporting documents were not availed for verification as follows:-

| | |
|------------------------------|-----------------------------|
| Ministry of Health | Kshs. 19,812,181.00 |
| G.O.K Sponsored students | 1,930,720.00 |
| Kenyatta National Hospital | 19,600,525.00 |
| Privately sponsored students | 829,650.00 |
| Foreign students | <u>649,500.00</u> |
| TOTAL | <u>42,822,576.00</u> |

The debtors figure also includes Ksh.8,592,640 reflected as Boarding charges for Hostels occupied by University of Nairobi for which no Lease Agreement between the College and the University stipulating the terms and conditions for the lease of the Hostels was seen. In the absence of any supporting documents or any signed Lease Agreements between the College and University of Nairobi, it is not possible to ascertain and confirm the correctness of the Debtors Balance Sheet figure of Ksh.51,415,227.40 as at 30 June, 1997.

The Committee heard the evidence given by the Chief Executive and was informed that the debtors of Kshs.42,822,576.00 where supporting documents were not availed for audit verification have since been availed and relayed to the following:

- (a) Ministry of Health an amount of Kshs.19,812,181.40 which represented closing balance of Grants under KMTC Account in the Books of Ministry of Health and which could not be remitted in the subsequent years.
- (b) outstanding Fees - Governments students, Private, Foreign and Kenyatta National Hospital sponsored - Kshs.23,010,406.00 in respect of outstanding fees in the year under review was extracted from the students ledgers and the date has since been reduced to Kshs.3,325,759.

The Committee was further informed that the debt of Kshs.8,592,640.00 is owed by the University of Nairobi as Boarding charges arising from a mutual agreement between the Ministry of Health, the Treasury and the University of Nairobi.

The Committee deplored the unsatisfactory nature of the agreement which has constrained the Boarding facilities of the college.

The Committee noted that the University of Nairobi has failed to develop plot adjacent to the hostels for its own students and instead has continued to rely on the hostels of the college without reasonable cause.

The Committee recommends that:

- (i) the Management of the college should recover the outstanding debt of Kshs.3,325,789.00.
- (ii) the College should liaise with the parent Ministry with a view to resolving the matter pertaining to the use of hostels by University of Nairobi students.

TEACHERS SERVICE COMMISSION

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE TEACHERS SERVICE COMMISSION FOR THE YEAR ENDED 30 JUNE, 1999

1. FINANCIAL POSITION

During the year 1998/99, the Commission incurred a net deficit of Ksh.92,888,910 which, however, appears to have been understated by Kshs.257,500,000 being expenditure against funds earlier transferred from accumulated savings to recurrent accounts and treated as grants from Government. The expenditure was erroneously capitalized to fixed assets instead of being charged to recurrent transactions. The accounts also show total creditors of Ksh.1,472,089,944 as at 30 1999 which include unremitted statutory deductions for P.A.Y.E., N.S.S.F., N.H.I.F. and W.C.P.S. and other payroll deductions, some of which, when delayed, attract penalties. The Balance Sheet also shows negative working capital of Kshs.106,159,013. Evidently, therefore, the Commission was facing serious financial problems as it was unable to settle its financial obligations when they fell due. These Accounts have, therefore, been drawn on a going concern basis on the assumption that the Commission will continue to get financial support from Government and its creditors.

The Committee heard the evidence given by the Chief Executive that the Commission incurred a net deficit of Kshs.92,888,910 which was the difference between the grants figure of Kshs.36,595,157,764 which included Kshs.257,500,000 transferred from the Accumulated Fund and the expenditure on salaries, allowances and operation and maintenance totalling Kshs.36,688,090,014.

The Committee further heard that an amount of Kshs.257,500,000 which was capitalized to fixed assets instead of being charged to recurrent transactions were approved by the Treasury and constituted additional provision to the Teachers Service Commission budgetted funds.

The Committee was also informed that the Accounts show total Creditors of Kshs.1,472,089,944.00 as at 30th June 1999, and which include unremitted deductions for PAYE, NSSF, NHIF, WCPS and other payroll deductions which attract penalties when delayed.

The Committee heard that as they were third parties, they would only have been paid in the month of July.

The Committee was also told that the Balance Sheet shows negative working capital of Kshs.106,591,013.00 and that this was due to failure by the Ministries of Education, and Ministry of Research and Technology to remit grant shortfalls of 30th June 1999 totalling Kshs.249,027,819.00.

The Committee noted with concern that the Commission had failed to remit statutory deductions and that this would commit the Commission to extra charges as penalties and that keeping of stale cheques beyond 6 months was against the International Accounting Standards.

The Committee recommends that the Commission settle all its statutory deductions on time as per regulations and further that the parent ministry remits all grants to the Commission timely, so as to enable it run its activities effectively.

The Committee further recommends that the Chief Executive should ensure that stale cheques are brought to account as required by Commission's accounting regulations.

2. PARTITIONING OF BIMA HOUSE OFFICES

In my previous year's report, concern was expressed on the irregular contracting of two consultants to prepare Drawings, Bills of Quantities and to supervise the partitioning of Commission Offices on 3rd and 4th floors at Bima House. It was further stated that, the contractor had been paid a total amount of Kshs.11,684,529 at the completion of the job. During the year 1998/99, the Commission paid a further amount of Ksh.5,690,600 to the same contractor to repair the same partitioning reportedly due to damage caused by the August, 1998 Bomb blast. As was the case in the previous contract, the Commission has not indicated how the contract sum of Ksh.5,690,600 was determined in the absence of any open tendering. In addition, no record of any instruction or signed contract agreement between the Commission and the contractor was seen and as a result it has not been possible to confirm the propriety of the expenditure.

The Committee heard the evidence given by the Chief Executive and was informed that the Commission irregularly and by flouting procurement procedures enlisted the services of M/s. Associated Architects and M/s. Kajumba Consultants through single sourcing to prepare Drawings, Bills of Quantities and supervise partitions at the Bima House offices of the Commission, at a cost of Kshs.11,684,529.

The Committee further heard that these were the same contractors who had been hired to repair the offices after the 1998 Bomb blast at a cost of Kshs.5,690,600.

The Committee was informed that the two Consultants were identified through selective tendering due to the urgency of occupying the offices of the premises after the Bomb blast.

The Committee noted with concern that the Commission flouted the procurement procedures by single sourcing a contractor and further that the Treasury was not consulted for a waiver as was the requirement then.

The Committee observed that a post-facto authority from the Treasury had since been obtained to validate the single sourcing.

The Committee recommends that the Commission Secretary should strictly adhere to regulations governing procurement procedures.

3. COMMISSION OFFICES AT BAZAAR PLAZA

After the August, 1998 Bomb blast, which also extensively damaged the Commission's offices at the Co-operative House, the Commission identified and hired office accommodation at Bazaar Plaza for its relocation. To partition the hired space to its requirements, the Commission appointed a Lead Consultant and a Quantity Surveyor for the Project. Thereafter, eight other contractors were invited to tender for the project with the lowest bidder being awarded the contract to partition a space of 74,000 sq. ft. at a cost of Ksh.79,800,300. The same contractor was also later on, and without competitive bidding, awarded a further contract to partition an additional space of 17,544 sq.ft. including other works and supply of furniture and equipment at a cost of Ksh.74,826,803. Although the total contracted space partitioned by the contractor is 91,544 sq.ft. according to the Lease contract, the lettable space occupied by the Commission is 105,600 sq.ft. while a verification of the same space by the Ministry of Roads and Public Works established rentable space of only 88,373 sq.ft. Although the Commission has explained the difference of 17,227 sq.ft. as being due to space occupied by Basement 03, lobbies, toilets, terraces and cupboard areas not taken into account by Ministry of Roads and Public Works, the Ministry and the Commission have, however, still not yet reconciled the difference which, at the contract rate of charge of Ksh.59.20 per sq. ft. per month, represents a total payment of Ksh.1,019,838.90 per month. Further, the contract for Phase I partitioning included Ksh.15,000,000 worth of furniture valued at only Ksh.10,009,000 while the balance of the furniture worth Ksh.4,991,000 was not delivered even though the Commission has explained that the undelivered furniture was never paid for and, therefore, its non-delivery represented no loss to the Commission.

The Committee heard the evidence given by the Chief Executive and was informed that:

- (i) after the 1998 Bomb blast that extensively damaged the earlier offices of the Commission at the Co-operative House, the Commission contracted the lowest bidder, M/s. K.G. Patel as a Lead Consultant & Quantity Surveyor to partition the newly hired premises of Bazaar Plaza at the cost of Kshs.79,800,000 for 74,000 sq ft, and that while the Contractor was still in site, more space was acquired from the landlord whose partitioning was contracted to the same contractor at the original contract rates, as it would have been costly to tender and hire fresh contractors for the additional space.
- (ii) the rental space is 105,600 sq. ft. while the partitioned space is 91,544 sq. ft and that the difference represented by 17,225 sq. ft as reported by the Ministry of Roads, Public Works and Housing, is due to such areas as lobbies, toilets, cupboard areas, terrace areas, areas occupied by outside bench of First(1) floor, and basement areas which had not been included by the Ministry during its verification.
- (iii) the contract for Phase 1 partitioning included Kshs.15,000,000 worth of furniture which were to be provided to the Commission and that the supplier delivered furniture worth Kshs.10,009,000 and the balance of Kshs.4,991,000.00 was not paid for as the furniture valued at that much was not delivered as shown:

| <u>Item</u> | <u>Undelivered Quantity</u> | <u>Value</u> |
|--------------------------|-----------------------------|----------------------------|
| (i) Mahogany desks | 4809 | 4,401,000.00 |
| (ii) Chairs without Arms | 400 | <u>590,000.00</u> |
| | Total | <u>4,991,000.00</u> |

The Committee noted that the lettable space has now been reconciled and confirmed to be 116,000 sq. ft.

The Committee recommends that the Chief Executive should ensure that the issue of the undelivered items worth Kshs.4,991,000 is dealt with expeditiously and resolved to avoid matters that may arise from the performance of the contract.

4. WRONG ACCOUNTING TREATMENT OF ACCUMULATED SAVINGS

During the year 1998/99, the Commission applied and obtained approval to utilize an amount of Ksh.175 million from its accumulated savings for the purpose of partitioning its offices at Bazaar Plaza and also to purchase

furniture, fittings, equipment and motor vehicles. After receiving approval for the transfer and the expenditure a different amount of Ksh.257,500,000 was, however, transferred from the Commission's accumulated funds to a grants' account, a treatment which erroneously increased income from grants from the Ministry of Education by the same amount of Ksh.257,500,000 to Ksh.35,932,311,388 as at 30 June, 1999. Accordingly, the excess expenditure of Ksh.92,888,910 reflected in the Commission's Accounts for 1998/99 is understated to the extent of Ksh.257,500,000.

The Committee heard the evidence given by the Chief Executive that with the approval of the Treasury, the Commission utilized from the Accumulated Fund Kshs.175,000,000.00 and 82,500,000 in the year 1998 and 1999 respectively, totalling Kshs.257,500,000.00 for the purpose of partitioning its offices at Bazaar Plaza, and purchase of furniture, fittings, equipment and motor vehicles.

The Committee also heard that the Commission transferred the Kshs.257,500,000.00 to a grants accounts instead of the income expenditure Account as surrendering the money to the Treasury would have made the Commission be provided with equivalent additional provision in the Revised Estimates, and that procedurally, the amount was captured in the Revised Estimates as Appropriations-in-Aid.

The Committee recommends that the Chief Executive should liaise with the office of the Controller and Auditor General with a view to reconciling the figures.

The Committee further recommends that the Chief Executive should consult the relevant accounting regulations to ascertain the correct treatment for the expenditure.

5. BOMB BLAST DAMAGES COMPENSATION

During the August 07 Bomb blast, the Commission, which was the biggest tenant at the Co-operative House, suffered loss of both life and great damage to its property.

After the Bomb blast, Treasury, in a letter dated 11 August, 1998 advised all Government institutions concerned to take stock of damages caused by the blast both on individual life and property and to take remedial measures where applicable. On 21 August, 1998, the Commission forwarded to the parent Ministry for action, a list of items destroyed by the blast whose cost was then estimated at Ksh.180,732,196. To date and as far as it has been possible to ascertain only an amount of Kshs.2,887,224 has been received as assistance from USAID for damages caused by the blast. It has not been possible to

confirm whether the Commission filed any claims with its Insurers regarding loss of its property.

The Committee heard the evidence given by the Chief Executive that during the 7th August 1998 Bomb Blast, the Commission suffered loss of both life and great damage to its property and that a list of items destroyed estimated at Kshs.180,732,196.40 was forwarded to the Treasury and KPMG Peat Marwick and USAID for compensation.

The Committee was informed that USAID gave assistance of Kshs.2,887,224.40 towards repairs of damaged vehicles, and that they had no more additional funds to meet the other losses.

NATIONAL SOCIAL SECURITY FUND

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND FOR THE YEAR ENDED 30 JUNE, 1999

1. FINANCIAL POSITION

During the year 1998/99, the Fund realized a deficit of Kshs.1,469,351,000 which brought its accumulated deficit to Kshs.6,380,058,000 as at 30 June, 1999. Just as the case in the previous year, the unfavourable results realized by the Fund in 1998/99 were mainly due to provisions totalling Kshs.2,281,655,000 charged to the Accounts for 1998/99 which evidently arose from past imprudent financial decisions by the Fund.

The Committee heard the evidence given by the Chief Executive and was informed that the Fund realized a deficit of Kshs.1,469,352,000 in the year under review and that this was mainly due to provision for Kshs.2,281,655.000 which arose from past imprudent decision by the Fund.

The Committee was further informed that:

- (i) an amount of Kshs.944,271,000 relates to losses occasioned by change from one contractor to another in completing the Hazina Estate, South "B" project.
- (ii) the Hazina Estate was eventually completed, rented to the Government and finally sold on Tenant purchase-basis for Kshs.1,116,500.000.
- (iii) the balance of the provision of Kshs.1,337,384.000 relates to deposits held in Prudential Building Society (in liquidation) together with accrued interest.

The Committee observed with concern that the then Board of Trustees and in particular the Government representatives abdicated their statutory obligation by approving investments of huge sums of money in Prudential Building Society without ascertaining its financial viability.

The Committee recommends that the Fund should invest only in its core-business.

The Committee further recommends that the Managing Trustee should ensure that Surplus funds are invested in Treasury Bills and Bonds only.

2. PURCHASE OF LAND - ATHI RIVER

In June, 1994 and without proof of ownership or existence of land, the Fund entered into purchase agreement with five different land owners regarding parcels of land located at Athi River, all measuring 354.95 hectares at a total cost of Kshs.576,028,000 exclusive of professional fees of Ksh.5,820,310. Available records indicate that although the Fund, thereafter, obtained title deeds for these parcels of land, actual physical land did not exist at the time of the purchase. In addition and in particular, receipt of the sale proceeds of Ksh.401,000,000 for one of the parcels, LR No.19190 reportedly bought from M/s Kenya Cargo Handling Services Limited (Staff Pension Scheme), was not reflected in the records of the Pension Fund. The professional fees of Ksh.5,820,310 paid for the purported sale transactions also appeared not only excess but also irregular especially in the absence of any genuine land sale transactions between the parties involved. Consequently, therefore, the purchase by the Fund of land before confirming its physical existence resulted in a loss of public funds totalling Ksh.581,848,310. This situation notwithstanding and of even more significant interest is the fact that on 17 February, 2000, the Government allocated the Fund with land of equal size almost in the same area reportedly to compensate the Fund for the non-existent land it had earlier bought. It is, however, not clear why Government land was used to compensate the Fund for loss of land bought from individuals at colossal sums of money and which, as stated above, did not even exist. The Fund further incurred additional costs of Ksh.23,341,540 in respect of survey and land rent on the new land property, an expenditure which the Fund is also yet to justify.

The Committee heard the evidence given by the Chief Executive that on 27th June, 1994 the Fund without proof of existence of land, entered into purchase agreement with the following land owners for the purchase of land in Athi River measuring 354.95 hectares for an amount of Kshs.576,028,000:

| | | |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| L.R. 19186 - | Kagika Ltd | - Kshs.98,000,000 |
| L.R. 19187 - | Sky fish Line Ltd (Geofrey Edwin Ogada Ms. Elizabeth Achieng Miruka) | - Kshs. 7,890,000 |
| L R. 19189 - | James Tildi Ltd | - Kshs. 2,182,000 |
| L. R.199090- | Pandao Hotels & Lodges | - Kshs. 6,876,000 |
| L. R. 19190 - | Kenya Cargo Handling Service Trustees (Pension Scheme) (Mr. Sajjad Mohammed Rashid Mr. Albert Mumba Mr. Sospeter Arasa). | - Kshs.401,000,000 |

The Committee was informed that:

- (i) a firm of Valuers known as C.M. Pandya & Associates had offered the pieces of land at Kshs.1 million per acre and that all proceeds of the sale, Kshs.576,020,000 were paid directly to Fund's lawyers M/s. Murgor & Murgor Advocates who forwarded the monies to the vendors of the non-existent land.
- (ii) an amount of Kshs.5,820,410 was paid to Fund's Lawyers as fee notes for executing the sale Agreements in respect of the said pieces of land.
- (iii) the Fund discovered there was an anomaly on the land when it tried to relocate the beacons and that the matter was raised with the Commissioner of Lands who acknowledged that the problem emanated from the initial planning and survey of the Area and opted to compensate the Fund for the missing land.
- (iv) upon allocation of another land to compensate for the lost land, the Fund incurred an additional cost of Kshs.23,341,540 in respect of Planning, Surveying and registration fees on the new property.

The Committee made the following observations:

- (i) that it was inconceivable that the Commissioner of Lands could issue title deeds for non-existent land and further compensate the Fund with Land of equal size almost in the same area, an act that showed apparent complicity to defraud public funds.
- (ii) that the transaction relating to the purchase of the five plots constituted conspiracy between the Commissioner of Lands, the Fund Management and the vendors to defraud the Fund of Kshs.576 million.
- (iii) that the firm of valuers, C.M. Pandya & Associates and the Murgor & Murgor Advocates failed in their duty as professionals by participating and executing in the sale of the five plots whose actual physical location did not exist at the time of the purchase.
- (iv) an additional costs of Kshs.23,341,540 on rectification of titles and the replanning of the newly allocated land should not have been borne by the Fund.
- (v) that the Board of Trustees under the Chairmanship of Mr. M.J. Kisoso failed to discharge their responsibilities of supervision,

protection, control and management of the Fund's operation in general and including approval of purchase of "ghosts" land.

- (vi) it was totally irregular for the Commissioner of Lands to allocate the Fund another land for compensating for loss of land bought from individuals at colossal sums of money.

The Committee recommends that:

- (i) the Director of Kenya Anti-corruption Commission should investigate the apparent collusion between the then Commissioner of Lands, the then Managing Trustee, Mr. S. Muindi and the five vendors in the transaction relating to the purchase of the five non-existent plots with a view to preferring charges for false pretences.
- (ii) the Kenya Anti-Corruption Commission should institute civil suit against the vendors with view to recovering the irregular payment of Kshs.576,028,000.
- (iii) the Management of the Fund should demand refund of Kshs.5,820,310, being legal fees charged, from M/s. Murgor & Murgor Advocates in the absence of any genuine land transaction between the Fund and the vendors.

3. NYAYO ESTATE EMBAKASI

In February, 1995, the Fund bought land LR No.9042/179 situated at Embakasi, measuring 200 acres together with existing Phase I Project designs for an estate development at a cost of Ksh.980,000,000. Records show that before the purchase of the property, the Fund had commissioned two firms to value the property, which returned valuations of Ksh.758 million and Ksh.820 million respectively while the Chief Government Valuer returned a valuation of Ksh.400 million on the same property. Apart from the fact that it is not understood why the Fund decided to acquire the land and the designs at a price far above valuation, the Fund also paid a further amount of Ksh.348,289,564 to cover cost of additional design work on the Project as well as cost for re-designing Phase I of the Project. The hiring of consultants to re-design the Project at the additional cost of Ksh.348,289,564 when the original price of Ksh.980,000,000 also included cost of designs has not been satisfactorily explained. Under the circumstances and arising from the foregoing, it has not been possible to confirm the propriety of the total expenditure of Ksh.1,328,289,564 incurred on the purchase of the land and project designs thereof. In addition, construction of 4774 housing units has partially been completed at a cost of Ksh.14,180,000,000, while the Fund is expected to realize sale proceeds of only Kshs.11,609,000,000. The Fund is, therefore, likely to incur a total loss of Kshs.2,571,000,000; a loss which could

possibly have been avoided had proper feasibility studies been carried out before the implementation of the Project.

The Committee heard the evidence given by the Chief Executive that the Fund, in 1995 purchased land L.R. No. 9042/179 measuring 200 acres together with Phase I designs in Embakasi Nairobi at Kshs.980 million from M/s. Beta Enterprises Ltd and that an additional Kshs.348,284,564 was paid to consultants to supervise only Phase I and design and supervise Phases II and III.

The Committee further heard that:

- (i) m/s. Mugoya Construction Co. Ltd was awarded the tender to build the houses at Kshs.2,463,000,125 and that to date the Company has been paid Kshs.14,180,000,000 for completing 1,156 units in Phase I while 3518 units are partially complete.
- (ii) while less than 30% works have been done, the Contractor has been paid more than 90% of the contract sum with an overpayment of Kshs.2.7 billion.
- (iii) some of the 2.7 billion overpayments were made without Board's authority.
- (iv) the Management of the Board and the Trustees bought and developed the plot in Embakasi area Nairobi, before adhering to the parent Ministry's condition vide letter MLMD/20/2A(113) dated 2nd February, 1995 that a feasibility study including affordability of the finished houses be forwarded to the Minister for approval before any commitment could be made.
- (v) another Kshs.3.5 billion is required to complete the project.

The Committee observed with concern that:

- (i) the then Board and Management of the Trustees bought the plot and developed the Estate before availing a feasibility study, to the Minister.
- (ii) the manner in which the plots were valued, bought, Contractor identified and contract sums varied has significantly contributed to a final total loss of Kshs.2,571,000,000.

The Committee recommends that:

- (i) Mugoya Construction Company be precluded from participating in State Corporations and Government tenders.
- (ii) the then Managing Trustee Mr. Samuel Muindi and the then Board of Trustees under the Chairmanship of Mr. Kisoso be held responsible for the loss in the project for failing to conduct a feasibility study on the project and be barred from holding public office conferred by the Republic of Kenya.
- (iii) the Director of Kenya Anti-Corruption Commission should institute investigations to ascertain the circumstances that led to the initiation, commissioning and execution of the project with a view to determining whether any crime was committed for possible prosecution and recovery of the losses.

The Committee while expressing grave concern that no action had been taken to implement its recommendations on the matter in the 10th Report, strongly recommends that immediate action be taken on the recommendations and a report on action taken given to it by 30th October, 2004.

4. ABANDONED PROJECTS

Between the years 1994 and 1998, the Fund bought parcels of land at various locations in the Country and subsequently spent a total of Ksh.670,047,094 on consultation fees for Projects conceived on the same parcels of land. The Fund, however, later abandoned the Projects between 1996 and 1999. Abandonment of the Projects after such substantial expenditure had been incurred was a clear indication that proper feasibility studies were neither carried out nor were sources of funding properly identified before design consultants were commissioned for the work.

The Committee heard the evidence given by the Chief Executive that the Fund, between 1994 and 1998, bought various parcels of land and subsequently conceived projects on the lands on which an amount of Kshs.670,047,094 was spent. The Committee was informed that:

- (i) the Projects were conceived before proper feasibility studies had been done nor were sources of funding properly identified before design consultants were commissioned to work, which resulted in abandonment of the projects.
- (ii) the following amounts had been incurred on the abandoned projects:

| | |
|---------------------------------|----------------------|
| NSSF Sports Centre - Ngong Road | Kshs. 84,593,950.00 |
| Kileleshwa Housing Estate | Kshs. 6,887,258.60 |
| Lenana Rd Housing Estate | Kshs. 77,838,430.90 |
| Machakos Housing | Kshs. 27,944,614.25 |
| Kenyatta Avenue Shops & Offices | Kshs. 171,653,105.95 |
| Hospital Hill office Block | Kshs. 91,149,713.00 |
| Karen Housing Project | Kshs. 262,017,555.70 |

The Committee was gravely concerned that the projects were conceived with the sole purpose of defrauding the Fund of huge sums of money.

The Committee recommends that the Fund should not involve itself in buying pieces of land and instead should concentrate on its core-business.

The Committee further recommends that the Chief Executive should ensure that the Fund disposes the Assets at cost-effective market prices and ensure that the Fund does not incur further losses from the project.

5. MACHAKOS HOUSING

In March 1995, the Fund bought land LR No.20589 measuring approximately 49.86 hectares from a private company at a cost of Kshs.49,000,000. However, apart from the fact that the same plot of land had been hived out of land belonging to the Government and allocated to the private company by the Commissioner of Lands in late 1994, the purchase rate of about Ksh.1 million per hectare for the property appears excessive especially when account is taken of the location and prevailing market property prices in that area. In view of the foregoing, it has not been possible to confirm that the land was bought at a competitive market rate.

In addition, the land was indicated as fenced round at a total cost of Ksh.637,600 but an audit site visit to the property revealed that only one side of the four (4) perimeters of the land had been fenced even though the fence had subsequently been removed.

The Committee heard the evidence given by the Chief Executive that the Fund bought 123.2 acres of land from M/s. Hedel Enterprises at Kshs.49,000,000 (Kshs.397,714 per acre) after valuation by M/s. Milligan & Co. Ltd.

The Committee further heard that the plots have not been developed and have been leased out for grazing of camels.

The Committee was concerned that the plots were purchased at highly inflated prices given the location and prevailing market property prices in

the area. The Committee was further concerned that the land has been left undeveloped and is only used for grazing camels.

The Committee recommends that the land be sold on competitive bidding in order to recover the Fund's money.

6. KAREN HOUSING

Out of the total expenditure of Ksh.262,017,555 incurred on the Karen Housing Project, an amount of Ksh.56,865,199 was paid to the contractor in September, 1997 under Certificate No. 1 in respect of materials on site and off site. Although the Project was terminated about three months later, in December 1997, the Fund has not fully explained how these materials were disposed of as the Project's final account was indicated to be still under preparation.

The Committee heard the evidence given by the Chief Executive and was informed that payment to the Contractor for materials off-site was removed from the Final Account as prepared by the Consultants and signed by the Contractor.

The Committee, however heard that the amount of final account of Kshs.171,534,985.65 arises from a claim by the contractor due to termination of the project and that the claim is yet to be evaluated.

The Committee observed with concern that the project had been started without a feasibility study leading to unnecessary expenditure.

The Committee was further concerned that an amount of Kshs.262,017,555 had been spent on a project whose tangible asset cannot be identified.

The Committee recommends that the Director of Kenya Anti-Corruption Commission investigates the circumstances that led to the initiation, commissioning of consultants to do design works and engagement of the contractor with a view to determining whether any crime was committed for possible prosecution and recovery of the Fund's money.

The Committee further recommends that the Chief Executive should ensure that the interests of the Fund are secured and extreme caution be taken on the matter.

7. DEPOSITS WITH CONSOLIDATED BANK OF KENYA

In 1992, the Fund held deposits with the Consolidated Bank of Kenya totalling Kshs.200,000,000 which, including interest thereon, amounted to Ksh.670,800,000 as at 30 June, 1999. After the bank failed to pay back the deposit and the accrued interest thereof, the Fund went to court and obtained a court ruling to attach the assets of the Bank to recover the outstanding deposits. On 02 July, 1999, however, and in an unclear arrangement, the Central Bank directed the Fund to withhold execution of the court order and to instead seek an amicable solution to the matter including waiver of the accrued interest thereof totalling Ksh.467,500,000. As far as it has been possible to ascertain, this matter is still unresolved.

The Committee heard the evidence given by the Chief Executive that the Fund held deposits with the consolidated Bank of Kenya totalling Kshs.200 million which including interest thereon amounted to Kshs.670,800,000 and that after going to Court and further negotiation the Bank paid Kshs.263 million being the final and agreed figure thereby resolving the matter.

8. LOANS AND DEPOSITS IN NATIONAL BANK OF KENYA

The Balance Sheet Term deposits with banks and financial institutions figure of Ksh.4,459,178,000 as at 30 June, 1999 includes deposits totalling Ksh.567,068,000 held in National Bank of Kenya (NBK). The Fund also held an outstanding loan of Kshs.1,100,000,000 in the same Bank as at 30 June, 1999 while the Fund's investment in Government of Kenya Stocks totalling Kshs.977,999,000 had also been charged by NBK as security for its borrowing from the Central Bank of Kenya. Although the NBK provided the Fund with collateral security valued at Ksh.885,000,000 in 1994, the valuation had not been updated as at 30 June, 1999. Apart from the fact that the collateral security did not fully cover the funds involved, the Fund's investment in NBK has tied up colossal amounts of pensioners' funds in that Bank and on the basis of recent poor performance of the Bank it is not possible to confirm that pensioners' funds held in NBK are secure and are fully recoverable.

The Committee heard the evidence given by the Chief Executive that deposits totalling Kshs.567,068,000 held in the National Bank of Kenya had since been received while Kshs.1,100,000,000 loaned to the same Bank together with the accrued interest was converted to 235 million Non-Cumulative Preference Shares on 25th September, 2003.

The Committee was informed that the Government of Kenya stocks totalling Kshs.977 million which had been charged by the NBK as security for its borrowing from the Central Bank of Kenya had since been redeemed.

The Committee was concerned that the Fund's deposits were insecure as the National Bank of Kenya was under capitalized and had a large non-performing loan portfolio.

The Committee noted that the Government is preparing a financial reform on the Bank including capitalizing it.

The Committee recommends that the Fund and the Ministry of Finance should continue to review the Fund's investments policy with a view to securing its shares in the Bank.

9. COMPUTER MAINTENANCE CONTRACT

On 17 November 1997, and apparently without inviting open competitive tenders and without approval of the Board, the Fund appointed a consultant to repair its computer mainframe, ICL Series 39, which had broken down and had failed to produce members' contribution statements. Although it was not clear how the consultant was identified and the contract price agreed, the computer consultants thereafter on 17 December 1999, sub-contracted another firm to undertake the job on its behalf. There is, however, no information regarding the Fund's contractual relationship with the second company. Thereafter, the two firms were paid a total of Ksh.6,673,191, an amount whose propriety could not be confirmed as no invoices were seen to support payment claims by the firms after completion of the work. It is also not clear why the Fund could not obtain the services of a reputable firm to undertake the computer repairs instead of awarding the contract to a consultant who was apparently not a computer expert and as a result had to appoint another firm to do the work.

The Committee heard the evidence given by the Chief Executive that the Fund's Board without competitive bidding and contrary to Fund's Supplies Manual approved the appointment of M/s. Tandam Park Consultants to repair its Computer mainframe, ICL series 39.

The Committee was informed that:

- (i) between 16th December 1997 and 16th February, 1998 the Fund's ICL Mainframe Computer developed technical problems compelling the Fund to allow M/s. Tandam Park Consultants to negotiate with M/s. Resolute Ltd to print members and employees statements and that the Fund eventually signed a contract with Ms. Resolute Ltd.**
- (ii) that M/s. Resolute Ltd and M/s. Tandam Park Consultants were paid Kshs.5,570,466.80 and Kshs.1,102,725.00 respectively without invoices being produced by the firms.**

- (iii) that while the Fund was dealing with M/s. Tandam Park Consultants, the Mainframe Computer was repaired by ICL (K) Ltd as per the then existing terms of the maintenance contract.

The Committee was concerned that this was a scheme intended to defraud the Fund and was an outright theft, as M/s. Tandam Park Consultants had no expertise in the field. The Committee was further concerned the firm did not produce supporting documents for payments and that even as the contractor was being hired, there was an existing maintenance contract with ICL (K) Ltd.

The Committee recommends that:

- (i) the then Managing Trustee Mr. David Masika be held responsible for awarding computer maintenance contract irregularly and be surcharged for unsupported payments of Kshs.6,673,191.
- (ii) that Mr. David Masika be barred from holding public office conferred by the Republic of Kenya for abuse of office.

10. KANGEMI HOUSING PROJECT

In August 1994, the Fund bought 120 plots at Kangemi at a total cost of Ksh.270,007,000 where a high class housing estate was to be constructed. The plot sizes ranged between 0.1 ha. to 0.20 ha. There was, however, no information to indicate how the vendors of the plots were identified or the selling prices determined. After designs for the high cost houses had been made, the plots were discovered to be too small to accommodate the higher class houses initially designed for the Project due to the fact that a portion of the land had been carved out and allocated to individual developers before sale. Records also show that the Fund, and in a selective manner, awarded a contract for the construction of high class houses to a contractor who was ranked 3rd lowest at a contract sum of Ksh.1,538,844,800 while the lowest bidder had quoted Ksh.1,511,277,071. Justification for the rejection of the tenders from the lowest bidder which, if accepted, would have resulted in a saving of Ksh.27,566,729 was not seen. As the plots could not accommodate the high class houses intended for the Project, the same had to be redesigned to accommodate low class houses instead. While the fees charged for the first design amounted to Ksh.92,230,688, the redesigning cost was Ksh.368,873,737 with a revised contract cost of Ksh.841,638,636. It has, however, not been explained why proper feasibility studies were not carried before implementation of the Project was effected which would possibly have saved the Fund the expenditure of Ksh.92,330,688 incurred on the abandoned original Project designs. In addition, the total expenditure of Ksh.1,036,000,000 incurred on the construction of the Project by 30 June 1999, reflects a variation of Ksh.194,361,364 on the revised contract price of

Ksh.841,638,636 which the Fund has not satisfactorily explained. Further, the completed units comprising of 104 units have been advertised for sale at a total cost of Ksh.913,400,000, an indication that the Fund stands to realize a net loss of Ksh.392,600,000 after sale of the houses.

The Committee heard the evidence given by the Chief Executive and was informed that in August 1994 the Fund bought 120 plots from M/s. Mount Swiss (K) Ltd owned by Hon. Njoroge Mungai at Kshs.270,007,000 based on a valuation carried out by M/s. Milligan & Co. Ltd for construction of low cost apartments and that following a successful court case by Mountain View Owners Association the scheme was changed to high cost town houses.

The Committee heard that:

- (i) the tender for the construction of the houses was awarded to the 2nd lowest tenderer M/s. China Jiang International at Kshs.1,639,966,000 as the lowest tenderer, M/s. Mugoya Construction Co. Ltd was already committed in other Fund's projects.**
- (ii) the original design fees was Kshs.108,728,407.25 and that following the Court Case, the redesigning costed Kshs.22,577,948.60.**
- (iii) an amount of Kshs.883,919,623 has been incurred on the project to-date and that final account has not yet been completed.**
- (iv) the Project has since been completed and most of the houses sold on Tenant-Purchase basis.**
- (v) the Fund did not carry out proper feasibility studies on the project to determine the returns and that as a result the Fund may not realize worthwhile returns.**

The Committee observed with concern that the management of the Fund initiated the Kangemi Housing Project (Mountain View Estate) without carrying out proper feasibility study, a factor that will make the Fund realize a huge net loss when all the houses are sold.

The Committee recommends that the then Managing Trustee Mr. Samuel Muindi and the then Board of Trustees be held responsible for failing to conduct any feasibility study on the project.

The Committee further recommends that the Fund should divest from non-core business activities.

11. MEMBERS CONTRIBUTION ACCOUNT

The Members' Fund Account reflects contributions totalling Ksh.20,376,283,000 as at 30 June, 1999 which includes contributions totalling Ksh.7,300,000,000 held in a suspense account and which similarly include contributions of Ksh.6,127,000,000 brought forward from previous years but which could not be allocated to members' accounts, as the individual members' accounts were unknown. As in previous years, there was no clear indication as to the action taken to clear the suspense accounts particularly in view of the magnitude of the balances involved. The Fund is presently unable to identify the members account into which these suspense accounts should be cleared and as a result it is not possible to confirm that pensioners' funds totalling Ksh.7,300,000,000 held in these suspense accounts are secure and will eventually benefit the relevant contributors.

The Committee heard the evidence given by the Chief Executive and was informed that an amount of Kshs.7,300,000,000 was held in Suspense Account by the Fund as at 30th June, 1999 and that the build up of the Account was attributed to contributions received without returns or improper returns.

The Committee was further informed that various measures have been taken to address the problem of Suspense Account build-up which include extensive registration of Fund's members and upgrading of Information Technology so that members' accounts postings are verified on a monthly basis.

The Committee observed that given the magnitude of the balances involved in the suspense account, great care should be taken to ensure that the Suspense Account is analysed.

The Committee noted that the suspense account is being reduced and now stands at Kshs.1 billion.

The Committee recommends that measures be taken to reduce the Suspense Account and that where records are not available for verification, the Suspense Account be represented by an equal amount of assets and the same be reflected in the Books of Accounts of the Fund.

12. RECOVERY OF RENT

The Fund has not been able to recover rent arrears in respect of its tenants totalling Ksh.421,154,000 some of which have remained outstanding for over four years. This amount includes rent arrears totalling Ksh.213,507,064 outstanding against tenants who have vacated their premises. Arising from the foregoing, it has not been possible to confirm the recoverability of these debts.

The Committee heard the evidence given by the Chief Executive that out of the outstanding rent of Kshs.421,154,000 an amount of Kshs.221,705,267.10 has been collected as at 30th June 2003.

The Committee further heard that:

- (i) the uncollected rent is attributable to the tenants who have left premises and government departments.
- (ii) out of this rent, Kshs.134 million is owed by M/s. Azania Hotels Ltd owned by Mr. Kassim Owango and others for occupation of Hazina House in Mombasa.

The Committee observed with concern that the following government departments are defaulting in paying rent to the Fund and yet such expenditure is budgeted for and provided by the Government:

A. S S HOUSE - NAIROBI

| | | |
|-------------------------------------------|---|---------------|
| Ministry of Labour | - | 50,483,114.87 |
| National Registration Bureau | - | 1,270,655.00 |
| V.A.T Department | - | 15,968,521.80 |
| V.A.T Department | - | 3,272,275.70 |
| National Registration Bureau | - | 22,640,918.00 |
| Kenya Revenue Authority H/QS | - | 2,107,575.10 |
| National Hospital Insurance Fund | - | 182,548.98 |
| Ministry of Information & Broadcasting | - | 12,748,223.00 |
| National Registration Bureau | - | 5,673,927.00 |
| Human Rights Commission | - | 221,191.20 |
| Ministry of Labour | - | 1,650,400.00 |
| Kenya Anti-Corruption Authority (defunct) | - | 704,073.60 |

Sub Totals

121,313,050.55

B. S S HOUSE MOMBASA

| | | |
|-----------------------------|---|--------------|
| Adult Education | - | 266,580.00 |
| Factories Inspectorate | - | 2,717,800.00 |
| NHIF | - | 1,578,220.00 |
| Provincial Housing office | - | 1,190,780.00 |
| Provincial Labour | - | 928,263.80 |
| Provincial Local Government | - | 1,006,200.00 |
| Social Services Department | - | 1,320,569.00 |
| Government Coast Agency | - | 1,110,350.00 |
| Department of Culture | - | 546,795.00 |

| | | |
|----------------------------|---|---------------|
| District Labour Office | - | 1,628,531.00 |
| District Employment Office | - | 711,030.00 |
| Kenya Bureau of Standards | - | 1,119,150.00 |
| <hr/> | | |
| Sub Totals | - | 14,151,268.80 |
| <hr/> <hr/> | | |

The Committee further observed with concern that even the Parent Ministry is defaulting in paying rent.

The Committee recommends that:

- (i) the Managing Trustee should liaise with the Fund's parent Ministry to ensure that rents owing from the following Ministries/Departments are recovered in full in the 2004/2005 financial year:

S S HOUSE - NAIROBI

| | | |
|-------------------------------------------|---|----------------|
| Ministry of Labour | - | 50,483,114.87 |
| National Registration Bureau | - | 1,270,655.00 |
| V.A.T Department | - | 15,968,521.80 |
| V.A.T Department | - | 3,272,275.70 |
| National Registration Bureau | - | 22,640,918.00 |
| Kenya Revenue Authority H/QS | - | 2,107,575.10 |
| National Hospital Insurance Fund | - | 182,548.98 |
| Ministry of Information & Broadcasting | - | 12,748,223.00 |
| National Registration Bureau | - | 5,673,927.00 |
| Human Rights Commission | - | 221,191.20 |
| Ministry of Labour | - | 1,650,400.00 |
| Kenya Anti-Corruption Authority (defunct) | - | 704,073.60 |
| <hr/> | | |
| Sub Totals | | 121,313,050.55 |
| <hr/> <hr/> | | |

S S HOUSE MOMBASA

| | | |
|-----------------------------|---|--------------|
| Adult Education | - | 266,580.00 |
| Factories Inspectorate | - | 2,717,800.00 |
| NHIF | - | 1,578,220.00 |
| Provincial Housing office | - | 1,190,780.00 |
| Provincial Labour | - | 928,263.80 |
| Provincial Local Government | - | 1,006,200.00 |
| Social Services Department | - | 1,320,569.00 |
| Government Coast Agency | - | 1,110,350.00 |

| | | |
|----------------------------|---|--------------|
| Department of Culture | - | 546,795.00 |
| District Labour Office | - | 1,628,531.00 |
| District Employment Office | - | 711,030.00 |
| Kenya Bureau of Standards | - | 1,119,150.00 |

| | | |
|------------|---|---------------|
| Sub Totals | - | 14,151,268.80 |
|------------|---|---------------|

- (ii) the amount owing from M/s. Azania Hotels Ltd is recovered without further delay and the Director(s) of the company should be sued on their private capacities in order to recover the rent.
- (iii) all Government Ministries and Departments must clear rents owing to the Fund not later than 30th June 2004.

13. POSSESSION AND USE OF MOTOR VEHICLES

Three Fund vehicles, registration numbers KAC 828G, KAB 398B and KAB 904B were loaned out to the Office of the President in 1994 where the same have been in use since then. Although it is now understood that two of the vehicles, registration Nos. KAB 398B and KAB 904B have been returned to the Fund in the year 2001, it is not, however, clear what arrangement exists between the Fund and Office of the President regarding the continued retention and use of the remaining vehicle by that Office. This vehicle was also reportedly involved in an accident but the incident was never reported to the Fund in time to enable the Fund file the necessary claim with its insurers and as it is, no information has been availed to indicate who will take responsibility for the repair of the subject vehicle.

The Committee heard the evidence given by the Chief Executive and was informed that the Fund's motor vehicle registration number KAC 828G was loaned out to the Office of the President in 1994 and has never been returned as it was involved in an accident while under the use of the then Officer-in Charge, Marsabit Police Station.

The Committee was further informed that Office of the President did not report the accident on time to facilitate necessary claim with insurers and that efforts to get compensation from the office has been in vain. The Committee heard that the vehicle was involved in an accident while being driven by a police officer without authority.

The Committee observed that the vehicle was a total loss to the Fund and regretted that no formal arrangements had been made to release the car to the Office of the President.

The Committee recommends that the Office of the President must compensate the Fund for the loss of the vehicle.

IRREGULAR AWARD OF INSURANCE BROKERAGE AND UNDERWRITING SERVICES

The Committee was informed that a tender for provision of Insurance Brokerage and Underwriting Services was advertised in April 2003 and the following Insurance Brokers and Underwriters were awarded the tenders following an intervention by the then Permanent Secretary, Treasury, Mr. Joseph Magari:

Brokers

- ◆ Chancery Wright Insurance
- ◆ Kenbright Insurance
- ◆ Vike Insurance Brokers

Underwriters

- ◆ UAP
- ◆ Britok (British American Insurance Co. Ltd)
- ◆ Madison
- ◆ Intra Africa
- ◆ Alico
- ◆ Kenindia

The Committee further heard that:

- (i) Sifa, AON Minet, Clarkson Notcutt and Kabage and Mwiririgi firms of Insurance Brokers were omitted by the Treasury, while Madison Insurance and United Insurance Company were included in the list, even though they had not been short listed by the Fund.
- (ii) the award of the tender was annulled by the Public Procurements Complaints Review and Appeals Board upon appeals by certain tenderers who felt that interference by the Treasury had made the award irregular.
- (iii) the tender for Insurance cover had since been re-advertised.

The Committee noted that Treasury Circular Ref: CONF: 164/01 of 22nd May, 2003 which allegedly suspended procurement in State Corporations did not allow Treasury to circumvent procurement procedures and that it only required Chief Executives to seek authority for advertisement and award of tenders without changing the due process.

The Committee was concerned that the then Treasury Permanent Secretary, Mr. Joseph Magari vide his letter Ref. CONF.129/01 dated June 27th, 2003 proposed certain brokers and underwriters to be used by the Fund contrary to the Exchequer and Audit (Public Procurement), Regulations 2001.

The Committee was further concerned that the Fund entered into contract with successful bidders before the expiry of twenty one days as provided for under Regulations 33 of the Exchequer and Audit (Public Procurement) Regulations, 2001 and that Madison Insurance Company and United Insurance Co. who had scored poorly in the evaluation were included in the list by the Treasury.

The Committee recommends that the then Permanent Secretary, Treasury Mr. Joseph Magari should be investigated by the Kenya Anti-Corruption Commission for abuse of office and for the following irregularities:

- (i) proposing to the NSSF vide letter & Ref. CONF.129/01 dated 27th June 2003 Insurance Brokers and underwriters to use as opposed to the firms which had been recommended by the NSSF Technical and Financial Evaluation Report on Tender No. 10/2002/2003 contrary to Exchequer and Audit (Public Procurement) Regulations, 2001.
- (ii) granting a waiver vide letter Ref. No. 2238/110/04A(13) dated 3rd July 2003 to ignore 21 days notice requirement as per regulations before any procuring entity can enter into contract.

The Committee further recommends that the Treasury should desist from interfering with tendering processes in State Corporations.

The Committee also recommends that the then Permanent Secretary, Mr. Magari be surcharged for the cost arising from re-advertising of the Insurance Cover tender which was necessitated by the unlawful interference in the procurement procedures.

KENYA MEDICAL RESEARCH INSTITUTE

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA MEDICAL RESEARCH INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 2000

1. STAFF HOUSING PROJECT

In the reports for previous years reference was made of the unsatisfactory manner in which the Institute handled a staff housing project on Plot No. LR/10683 Mbagathi Road, Nairobi which was estimated to be completed by February 1991 at a cost of Kshs.165 million. The project was, thereafter, abandoned but after the contractor had been paid a total of Kshs.101,272,177. It was also indicated that Government paid a further amount of Kshs.280 million to the developer's account in respect of the same Project and on behalf of KEMRI on 20 April 1993 which brought total payments on the project to Kshs.381,727,177. A review of the position in 2000/2001 showed that the Project has still remained stagnant even though an amount of Kshs.142,000,000 was released by Government to KEMRI in the year 2000 towards settlement of the outstanding debt with National Bank of Kenya and, therefore, revival of the Project. Out of Kshs.142,000,000 received from the Government the Institute deposited Kshs.120,000,000 with its lawyers for onward transmission to the National Bank of Kenya but after the correct pending amount payable to the Bank on behalf of the developer had been agreed. To date the deposit of Kshs.120 million is still held by the lawyers out of which Kshs.27,327,697 was reportedly and irregularly spent to pay City Council rates and land rent in April, 2000. In the circumstances, therefore, and apart from the fact that immediate revival of the Project continues to remain doubtful, when releasing the amount of Kshs.142 million to KEMRI, Government intended to not only get the dispute between the Bank and the developer resolved and the Project revived and completed but also to avoid further escalation of the cost of the Project arising from further interest charges on the outstanding loan. It is, however, understood that as per the Public Investments Committee's directive during its last sitting and discussion on KEMRI's Accounts that the issue be resolved speedily, the matter is now under active negotiation between the Bank, the developer and KEMRI and that a solution, including release to KEMRI of the title deed for the property is expected.

The Committee heard the evidence given by the Chief Executive that the Institute entered into an agreement with a developer Mr. Cyrus Jirongo of M/s. Cypper Enterprises Ltd for development of staff Housing project on Mbagathi Road, next to Nyayo Highrise Estate in Nairobi which was then estimated to be completed in February 1991 at a cost of Kshs.165 million.

The Committee further heard that:

- (i) by the time the project stalled in 1993/94 financial year, the Institute had incurred expenditure totalling Kshs.101,727,177 and that the developer, using the title documents of the land on which the development was being undertaken, borrowed funds from the National Bank of Kenya which initially grew to Kshs.313 million.
- (ii) in order to resolve the matter and discharge the title, the Treasury paid Kshs.280 million to the developer's account leaving a balance of Kshs.8 million as at April, 1993.
- (iii) m/s. Cypper Enterprises was advanced Kshs.25 million by the National Bank of Kenya Ltd on the KEMRI account without the knowledge of KEMRI, thus increasing up the money owing from the Housing Project to Kshs.193 million by 1998.
- (iv) an inter-Ministerial Committee, formed by the Government to resolve the problem facing the project, recommended that Treasury pays National Bank of Kenya an amount of Kshs.160 in order to release the title and as a result the Institute received Kshs.142 million in the 1999/2000 financial year to settle the outstanding account.
- (v) the Director of the Institute, without relevant authority, deposited Kshs.120 million out of the Kshs.142 million with the Institute's lawyers M/s. Sande Makhandia & Co. Advocates allegedly as commitment to settle the outstanding accounts on the Staff Housing Project.

The Committee was informed that:

- (i) out of Kshs.120 million held by M/s. Sande Makhandia & Co Advocates, Kshs.27,327,677 was allegedly disbursed to Mr. A.D.O. Rachier of Rachier & Company Advocates vide KCB cheque No. 000033 on 6th April 2000 to pay council rates amounting to Kshs.14,067,567.20 and land rents amounting to Kshs.13,260,129.60 in respect of LR. No.209/10683
- (ii) the Commissioner of Lands, when she appeared before the Committee disowned the payments and informed the Committee that receipt No. 333214 dated 7th April, 2000 for cheque No. 067118 produced for the alleged payment was fake and that land rents outstanding including penalties on the plot L.R. No. 209/10683 since 1993 stood at Kshs.3,616,675 as at 26th April, 2004.

- (iii) the Clerk to the City Council of Nairobi confirmed when he appeared before the Committee that no payment of Kshs.14,067,567.20 was made to the Council vide cheque No. A448658001 as alleged by M/s. Cypper Enterprises and its Lawyers Rachier & Co. Advocates as the receipt allegedly issued was fake and the City Council's Bank Statement for the period April 2000 does not show any banking of any cheque for the said amount. Further at the time of alleged payment in April 2000, only Kshs.2,975,392.30 was owing to the City Council and the Council could not therefore legally demand Kshs.14,067,567.20.
- (iv) the remaining public funds amounting to Kshs.92,672,303 out of the Kshs.120 million originally held by the Institute's Lawyer M/s. Sande Makhandia & Co. Advocates has not been transferred to a Government Account because the lawyers are allegedly contemplating first discharging the various professional undertakings and commitments before they surrender the Funds.

The Committee was gravely concerned that:

- (i) the matter on the KEMRI staff Housing project has taken inordinately long and that an amount of Kshs.381,272,177 has been spent on a project which is far from being completed.
- (ii) public funds have been irregularly used to clear a personal loan of Kshs.25 million borrowed by M/s. Cypper Enterprises from the KEMRI Housing Project Account at the National Bank of Kenya Ltd without the knowledge of KEMRI.
- (iii) the management of the institute, for unexplained reasons and without reasonable cause, has not taken the necessary steps to resolve the matter and appears to abet some of the irregularities that have taken place on the project.
- (iv) the release of public funds amounting to Kshs.120 million to a lawyer to bank in a private (client) Account was irregular as no authority appears to have been obtained from either the parent Ministry, the Treasury nor from the Board of the Institute and that the safety of the money and its recovery is now highly doubtful.
- (v) that the alleged payments to the City Council and the Ministry of Lands totalling Kshs.27,327,697 was fraudulent as no such monies were ever received by the two Government Departments.

- (vi) that despite assurance and commitment made on oath by M/s. Sande Makhandia & Co. Advocates that the remaining Kshs.92,672,303 was safe and would be returned to the Institute Account, the amount has not been released to date.
- (vii) the Law firms of Rachier & Co. Advocates and M/s. Sande Makhandia & Co. Advocates appear to have connived with M/s. Cypper Enterprises in defrauding KEMRI of Kshs.27,327,697 through false payments by uttering forged receipts in respect of land rents and council rates.
- (viii) the Treasury and the parent Ministry of Health have been misled to believe that there are genuine pending bills in respect of the project leading to an amount of Kshs.544 million to be provided for in the Ministry of Health estimates for the 2004/2005 financial year.

The Committee recommends that:

- (i) the Director of KEMRI Dr. Davy Koech be asked to step aside to allow the Government to carry out intensive investigation into the manner in which the project was conceived, the developer identified, how the project Account at the National Bank of Kenya has been operated since February 1991 and how huge sums of money have continued to be paid to the developer yet the housing project has stalled.
- (ii) the Institute in liaison with the parent Ministry and other government agencies should ensure that an amount of Kshs.92,672,303 is recovered from M/s. Sande Makhandia & Co. Advocates without further delay.
- (iii) the Commissioner of Police should move with speed to investigate M/s.Sande Makhandia & Co. Advocates, M/s. Rachier & Co. Advocates & Mr. Cyrus Jirongo of M/s. Cypper Enterprises Ltd to establish the manner in which Kshs.27,327,697 was disbursed from KEMRI allegedly to pay for land rents and council rates in respect of plot No. LR. 209/10683, and yet the Ministry of Lands and the City Council have denied ever receiving the money and have declared the receipts as forgeries.
- (iv) the law firms of M/s. Sande Makhandia & Co. Advocates and M/s. Rachier & Co. Advocates be reported to the Advocates Complaints Commission for professional misconduct by abetting loss of client's money and uttering false receipts.

- (v) that Kshs.544 million included in 2004/5 estimates of the Ministry of Health for the project be withheld until an independent verification is carried out on the alleged pending bills and the correct amount outstanding with the National Bank of Kenya determined.
- (vi) the Government intervenes on behalf of the Institute to ask the National Bank of Kenya to discharge the title deed in respect of LR. 209/10683 to allow completion of the Housing Project.

2. PENSION SCHEME CONTRIBUTIONS

Between the period 01 July 1983 and 30th April 1996 the Institute remitted Staff Pension Scheme contributions amounting to Kshs.97,930,600 to the Kenya National Assurance Company Limited (now in Receivership). The Institute has, to date, neither received payment of these contributions from the Receivers of Kenya National Assurance Company Limited nor has it provided details of the pensioners and their respective balances in relations to the above contributions.

The Committee heard the evidence given by the Chief Executive and was informed that out of Kshs.97,930,600 held at the Kenya National Assurance Company Ltd (now in receivership) an amount of Kshs.33,720,785.35 has been recovered.

The Committee recommends that the Director of the Institute should continue to follow the repayment of the balance of the contributions.

3. ABANDONED PROJECT

The Balance Sheet Fixed Assets figure of Kshs.1,089,033,849 includes Kshs.5,375,472, being the Institute's contribution towards a joint project with Kenya Trypanosomiasis Research Institute (KETRI) which in 1987 was contracted at a cost of Kshs.28,785,039 but which was later abandoned when it was only 37% complete. A review of the project's position during the year 1999/2000 showed that the Project was still stalled even though KEMRI had reportedly taken over their portion of the houses. In the meantime, the stalled Project continues to deteriorate and may have to cost much more than originally planned when eventually revived and completed.

The Committee heard the evidence given by the Chief Executive and was informed that the project jointly started with the Kenya Trypanosomiasis Research Institute in Alupe, Teso District was later abandoned due to lack of funds to pay the contractor.

The Committee recommends that the Director liaises with the parent Ministry of Health with a view to getting allocation for completion of the project.

NATIONAL HOSPITAL INSURANCE FUND

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL HOSPITAL INSURANCE FUND FOR THE YEAR ENDED 30 JUNE 1998

1. ACCURACY OF ACCOUNTS: BALANCE SHEET

- (i) The Balance Sheet as at 30 June 1998 reflects Suspense Accounts debit balance of Kshs.46,378,536.55. No details or analysis has been provided for this Suspense account balance and in the absence of the necessary analysis it has not been possible to determine what the amount represents.
- (ii) The Balance Sheet further shows Total Assets figure of Kshs.4,749,113.65 as financed by corresponding accumulated Fund balance of Kshs.4,743,419,661.30 resulting in an unexplained difference of Kshs.5,693,772.35 between the total assets and the total liabilities. In the circumstances it has not been possible to confirm the accuracy of Balance Sheet as at 30 June 1998.
- (iii) The Balance Sheet of the Fund as at 30 June 1998 also reflects Tangible Assets amounting to kshs.99,772,730.00 which correctly included capitalized Motor Vehicle purchase expenditure of Kshs.8,866,500.00 during the year. The same expenditure is however, also charged to income and Expenditure Account under Transportation Expenses item resulting in double accounting for the expenditure. The total expenses figure of Kshs.883,474,080.60 reflected in the Income and Expenditure Account is therefore overstated by this amount while the Excess Income over Expenditure figure of Kshs.1,001,347,493.30 is understated by the same figure. The total expenditure of Kshs.50,488,626.20 incurred on purchase and installation of computer hardware system has been charged to the Income and Expenditure Account instead of being capitalized as office equipments and included in the Balance Sheet under Tangible Assets. The Balance Sheet Tangible Assets figure of Kshs.99,772,730.00 is therefore understated by Kshs.50,488,626.20 while the Income and Expenditure figure for Excess Income over expenditure is understated by the same figure.

The Committee heard the evidence given by the Chief Executive that the Fund's Balance Sheet reflected suspense Account debit balance of Ksh.46,378,536.55 as at 30th June, 1998 and that the suspense account has since been reduced to Kshs.40,684,764.55.

The Committee further heard that:

- (i) the difference of Ksh.5,693,772.35 between the net assets and accumulated fund was as a result of the depreciation charge for the year which was inadvertently omitted in the trial balance;**
- (ii) the tangible assets, long term investments and building work-in-progress were classified as fixed assets in the Balance Sheet as the Fund opted to classify them together and disclose as a note to the accounts and that current financial accounts are properly classified as required by the International accounting standards.**
- (iii) kshs.99,772,730 represented tangible assets which included cost of motor vehicles amounting to Kshs.8,866,500 and which was erroneously charged to the Income Expenditure Account; and**
- (iv) the Fund has updated the existing fixed assets register to reflect the location, depreciation amount and the vehicles useful lives.**

The Committee was concerned that the Fund was unable to provide details or analysis in respect of the Suspense Account.

The Committee was further concerned that the accounts were prepared through incomplete records like lack of Bank Reconciliation statements and a comprehensive ledger account.

The Committee recommends that:

- (i) the Chief Executive should analyse the Suspense Account with a view to clearing the balance from the Accounting records.**
- (ii) the Chief Executive should ensure that the Fund maintains a comprehensive ledger Account and reconcile its Statements.**

2. SALE OF STAMPS - N.H.I.F HEAD OFFICE

Note 1 of the Accounts indicates that income from sale of stamps at N.H.I.F. head office during the year was Kshs.196,484,950.00. Examination of stamps records maintained by the revenue collection department at the Fund headquarters however, indicated that an amount of Kshs.179,388,820.00 was collected giving rise to difference of Kshs.17,096,130.00 between the two sets of records which has not been explained.

The Committee heard the evidence given by the Chief Executive that:

(i) during the year under review, the Fund was involved in the sale of stamps and the offices involved were:

| | | |
|--------------------------------|---|----------------------------------|
| ♦ Head Office | - | <u>Ksh.205,326,137.00</u> |
| ♦ Kakamega and Eldoret Offices | - | <u>Kshs. 50,080.00</u> |
| Total | | <u>Ksh.205,376,217.00</u> |

(ii) the difference of Kshs.17,096,103.00 was due to an anomaly that arose due to the reason that the sales schedules shown by the cashiers did not reflect the stamps sold but that collected by the employees and thus formed part of the closing stock.

(iii) the Fund had communicated this anomaly to the office of the Controller and Auditor General after it was detected with a view to having the accounts reconciled.

The Committee observed that the issue could represent improper bookkeeping by the Fund.

The Committee recommends that the Chief Executive should ensure that proper bookkeeping is maintained by the Fund.

3. CERTIFICATE OF CONTRIBUTION

Similarly, Note 1 to the accounts shows an amount of Kshs.973,487,546.60 in respect of certificates of contribution receipts. Examination of documents and records relating to the certificates of contribution receipts for the year indicated that only an amount of Kshs.929,173,596.40 could be confirmed giving rise to an unexplained differences of Kshs.44,313,950.20.

Further verification of receipt vouchers in respect of certificates of contribution indicated that certificates of contribution totalling Kshs.8,507,702.00 were not recorded in the ledger and the amount was therefore included from the accounts for the year under review. In the circumstances it has not been possible to confirm the accuracy of the amount of Kshs.973,487,546.60 shown against the certificates of contribution.

The Committee heard the evidence given by the Chief Executive and was informed that the unexplained differences of Ksh.44,313,950.20 arose due to the fact that the revenue collected in the area offices by use of Certificate of Contributions (CCP) was not included in the General Ledger and therefore in the accounts.

The Committee was further informed that receipt vouchers amounting to Kshs.8,507,702 were not recorded in the General Ledger though they were entered in the Cash book.

The Committee recommends that the Chief Executive should make the necessary adjustments in the Accounts.

4. LATE CONTRIBUTIONS

Note 1 to the accounts further shows an amount of kshs.16,702,575.00 against late contributions receipts. However, the ledger shows an amount of Kshs.13,336,895.00 against late contributions receipts giving rise to a difference of Kshs.3,365,680.00 which has been explained.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Fund received a total late contributions amounting to Ksh.19,975,979.00 comprising of the Head office's contributions of Ksh.13,338,715.00 and area offices late contributions of Kshs.6,637,263.00 and further that the Accounts would be reconciled to take into account the discrepancy.

The Committee was also informed that the management of the Fund is putting in measures to ensure all physical receipt vouchers are availed for audit examination and that all area offices are automated and is effectively availed controlled and supervised.

The Committee was concerned that the fund had repeatedly failed to avail receipts to Auditors for verification.

The Committee recommends that the Chief Executive should ensure that the Accounting procedures for the Fund should conform with International Accounting Standards.

5. PENALTIES

The accounts show total receipts for the year in respect of penalties as Kshs.2,648,235.00 made up of Kshs.1,457,641.00 relating to Head office and Kshs.1,190,594.00 relating to Area Offices. However, the actual collections from Area Offices was Kshs.1,337,978.00 indicating that receipts in respect of penalties in the accounts are understated by Kshs.147,384.00.

The Committee heard the evidence given by the Chief Executive that the figure of Ksh.1,457,641 related to the Head Office while a sum of Ksh.1,337,978 collected at the area offices were reflected in the accounts as Ksh.1,190,594 resulting in a difference of Kshs.147,384.

The Committee recommends that the Chief Executive should make the necessary adjustments in the Accounts.

6. LONG TERM INVESTMENTS

The Balance Sheet as at 30 June 1998 reflects Long Term Investments amounting to Kshs.72,072,330.00 which includes shares worth Kshs.54,200,000.00 made up of 2,120,000 4% Non cumulative shares of Kshs.20 each and 590,000 ordinary shares of Kshs.20 each invested in Consolidated Bank since 1990. As reported previously the investment in the Consolidated Bank has not yielded any dividends income to the Fund since 1990.

The Committee heard the evidence given by the Chief Executive that:

- (i) the figure of Kshs.72,072,330.00 in Long Term Investments comprises Government stock of Kshs.17, 872,330.00 at the Central Bank and 590,000 Ordinary Shares at Kshs.20.00 per share and 4% 2,120,000 non cumulative preference shares of Kshs.20.00 held at Consolidated Bank.**
- (ii) the Shares at Consolidated Bank were a direct conversion of deposits in ailing banks into Shares by the Government.**
- (iii) the Government Stock were placed at the Central Bank to yield after every six (6) months for a period of 29 years, and consequently yielded Kshs.1,250,000.00 in the year 1997/98 while the Shares in Consolidated Bank have not yielded any returns since the Bank has not declared any dividends to share holders since 1990.**

The Committee further heard that by the year 2001, the Fund had approximately Kshs.600 million deposited in Consolidated Bank, and following the Fund's decision to divest from the Bank due to its financial instability, the Bank paid back Kshs.400 million in the year 2003 and that it was unable to repay the balance. This prompted the Fund to enter into an agreement with the Bank to secure the balance by buying a building from the Bank at a cost of Kshs.150 million.

The Committee also heard that the Fund's Management had earlier entered into transactions with the Bank and the Euro Bank (under liquidation), which could have led to loss of Kshs.49 million, which was part of the balance.

The Committee observed with concern that the Fund had heavily and unwisely invested in shares in a bank whose financial stability was uncertain.

Further the Committee observed with concern that the cost of the building appear to have been inflated so as to cover a large proportion of the Fund's balance with Consolidated Bank.

The Committee recommends that the Chief Executive should ensure that any future investments of the Fund are based on prudent commercial arrangements.

7. SHORT TERM INVESTMENT

The Balance Sheet shows Kshs.2,963,396,301.35 representing Short Term Investments as disclosed in Note 3 to the Accounts. It is, however, observed that investments amounting to Kshs.525,109,856.15 are in respect of cash deposits in (17) seventeen financially distressed institutions which have either gone into liquidation or are under receivership. The recoverability of these deposits is therefore doubtful.

The Committee heard the evidence given by the Chief Executive that the Fund's final accounts for 1997/98 reflected the short-term investments of Kshs.2,963,396,301.35 and that Kshs.525,109,856.15 were held in the following (17) seventeen financial institutions which are either under receivership or in liquidation:-

| | | |
|---------------------------------|---|---------------|
| Equity Building Society | - | 450,000 |
| United Trustee Finance | - | 4,000,000 |
| Continental Credit Finance | - | 15,000,000 |
| Rural Urban Credits & Finance | - | 9,800,000 |
| Middle Finance Building Society | - | 12,500,000 |
| Family Finance | - | 13,500,000 |
| Pioneer Buildings Society | - | 8,000,000 |
| Home Loans Building Society | - | 1,000,000 |
| Country Buildings Society | - | 2,000,000 |
| Inter Africa Credit Finance | - | 5,000,000 |
| Thabiti Finance | - | 147,500,000 |
| Trade Bank | - | 62,000,000 |
| Trade Finance | - | 36,000,000 |
| Nairobi Finance Corporation | - | 26,000,000 |
| Indo Africa Finance | - | 61,500,000 |
| Prudential Finance | - | 95,266,849.35 |
| Ari Credit & Finance | - | 37,000,000 |

The Committee was further informed that Kshs.6,240,143.85 had been received as interest from some of the ailing banks.

The Committee recommends that the Chief Executive should continue to pursue the held-up deposits until all the deposits are recovered.

The Committee further recommends that the officer(s) responsible for investing the funds in the ailing institutions in contravention of Treasury guidelines on Investments of Surplus funds be identified, and investigated with a view to being prosecuted.

8. SUNDRY DEBTORS

The Sundry Debtors balance of Kshs.306,261,626.80 reflect in the Balance Sheet includes Kshs.5,057,277.60 representing outstanding imprests as at 30 June, 1998 with Kshs.2,818,955.00 of such imprests relating to the year 1996/97 and earlier. However, due to the poor state of imprest records, it has not been possible to confirm the correctness of the outstanding imprests figure of Kshs.2,818,955.00 or to ascertain the reasons why the imprests remained outstanding as at 30 June 1998.

The Committee heard the evidence given by the Chief Executive that the Fund's Balance Sheet showed Sundry debtors balance of Kshs.306,261,626.80 which included outstanding imprests totalling Kshs.5,067,277.60 as at June, 1998, of which Kshs.2,818,955.60 was from the accounts of the year 1996/97.

The Committee further heard that the Fund has since recovered Kshs.1,353,628.00 on imprest leaving an outstanding balance of Kshs.1,465,327.00 which has remained unsurrendered from the following holders who are no longer employees of the Fund.

| | |
|-----------------------|------------------|
| Jeremiah Dhahdo | Kshs.417,466.00 |
| Agnes Kamami | Kshs. 16,000.00 |
| R. G. Mukuna | Kshs.249,000.00 |
| P.G. Kilel (Deceased) | Kshs. 366,857.00 |
| Hezekiel Bonuke | Kshs. 12,000.00 |
| Milton Omonge | Kshs. 7,004.00 |
| D.T.A Owino | Kshs. 3,000.00 |
| Yusuf A. Sheik | Kshs. 90,000.00 |
| Joseph Ngutu | Kshs. 50,000.00 |
| Dr. James Murgor | Kshs. 70,000.00 |
| Abdu Wakole | Kshs. 64,000.00 |
| Dr. James Murgor | Kshs. 65,000.00 |
| Barrack Amolo | Kshs. 55,000.00 |

The Committee expressed concern that the Fund had allowed the officers to stay with the imprest over time, and that it was giving imprests to officers before they surrendered previous ones and further that the Fund would lose substantial amount of money if urgent measures are not instituted to recover the outstanding balance.

The Committee recommends that the Chief Executive should use all cost effective means possible to ensure that all the outstanding debts are recovered.

9. CASH IN TRANSIT - KSHS.11,702,205.10 AND CASH BALANCES

The Balance Sheet reflects under Current Assets, Cash in Transit of Kshs.11,702,285 10 Audit verification of cash records seen indicated that only a sum of Kshs5,563,992 50 could be confirmed to be cash in transit as at 30 June, 1998 In the circumstances it has not been possible to confirmed correct the amount of Cash-In-Transit of Kshs.11,702,285.10 shown in the Balance Sheet as at 30 June 1998

The Current Asset figure of Kshs.4,054,423,334 15 includes cash balances totalling Kshs.726,684,584,35 at 30 June 1998 as follows:

| | |
|--------------|----------------------------|
| Cash at Bank | Kshs 695,029,720 00 |
| Cash on Hand | <u>Kshs 31,654,864.30</u> |
| Total | <u>Kshs 726,584,584 30</u> |

The correctness of the Cash on Hand of Kshs.31,654,864.30 could not, however, be confirmed because no Board of Survey certificates confirming the cash held by various cashiers as at 30 June 1998 were made available for audit review. Further, the Bank Reconciliation Statements in respect of the Main Account as at 30 June 1998 submitted for audit review were not signed or dated. In addition although the Fund operated fourteen (14) bank accounts country wide, including twelve (12) for Area offices, no bank reconciliation statements were made available for audit review in respect of the twelve (12) Area offices bank accounts. In the circumstances it was not possible to confirm the correctness of the Cash at Bank balance of Kshs.695,029,720.00

The Committee heard the evidence given by the Chief Executive that an amount of Kshs.11,702,285.10 represented cash-in-transit of Kshs.5,974,495.40 for the year under review and the balance brought forward of Kshs.6,010,014 and that of these amounts are bank commissions of Kshs.410,502.90 which have since been taken into account in the books.

The Committee further heard that:

- (i) **the correct cash and bank balances as at 30th June 1998 was Kshs.2,420,732.25 and Kshs.694,968,539.20 respectively and that the difference of Kshs.29,295,312.90 was an overstatement of the cash balances in the area offices.**

- (ii) in future all the statements will be signed and dated before being submitted to the Controller and Auditor General.

The Committee was concerned that the Fund did not update their cash books and instead relied on Bank Statements.

The Committee recommends that:

- (i) in future, all bank reconciliations should be signed and dated before being submitted to the auditors.
- (ii) the Chief Executive should ensure that the Fund maintains internationally acceptable Accounting Standards and that all reconciliations are promptly made.

NATIONAL OIL CORPORATION OF KENYA

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL OIL CORPORATION OF KENYA FOR THE YEAR ENDED 30 JUNE 1998

1. WORK IN PROGRESS

The Balance Sheet Work-In-Progress figure of Kshs.490,026,316 includes an amount of Kshs.21,700,173 being cost incurred to renovate a building which the Corporation leased for its office accommodations for period of six years. Available information regarding the expenditure indicates that the Corporation not only constructed permanent concrete walls after demolishing existing ones but also constructed an additional permanent wall. However and besides the fact that it is not clear why the Corporation had to spend such a large sum of money to construct permanent structures on a short term lease building, the inclusion in its Accounts for 1997/98 of this expenditure as intangible asset is erroneous. Under the circumstances, therefore, it has not been possible to confirm the propriety of the above capital expenditure of Kshs.21,700,173 which is now being amortized at the rate of Kshs.3,616,695 per annum,.

The Committee heard the evidence given by the Chief Executive that the Corporation incurred cumulative expenditure of Kshs.21,700,173 on renovation of Kenya Wildlife Service property which the Corporation had leased for its office accommodation and storage of petroleum Exploration tapes and materials for a period of six (6) years.

The Committee was informed that the Corporation undertook extensive rehabilitation to make the building suitable for its requirements and that the cost of improvements is amortized over the entire period of the lease.

The Committee observed with concern that the Corporation made permanent improvements on a building it did not own and that the costs would be a loss as there was no provision in the lease agreement for recovery of the costs incurred.

The Committee recommends that the management of the Corporation should liaise with the management of the Kenya Wildlife Service to ensure that some of the costs incurred in the renovation of the building are recovered.

2. STOCKS

The Corporation's stock records as at 30 June 1998 showed the value of its stocks as Kshs.291,153,102 as of the same date. On 2 July, 1998 the

Corporation adjusted the stock figure of Kshs.147,421,849 on the grounds that stocks valued at Kshs.143,731,253 had been sold to two Oil companies. The sale of the stocks to the Oil companies appears to have taken place after the closure of the financial year while available records in support of the sale of the stocks show that the Corporation only sold Oil stocks valued at Kshs.107,666,930 and that the sale proceeds were received by the Corporation between 2 July 1998 and 24 July 1998. In addition, the adjusted Balance Sheet stock figure of Kshs.147,421,849 was further adjusted by Kshs.9,621,232 to Kshs.137,800,000 as reflected in the revised Balance Sheet as at 30 June 1998. Although the Corporation explains that the difference represented further sales, no corresponding debit of the same amount has, however, been seen in these Accounts. Accordingly the Corporation has not provided an acceptable explanation regarding the total stock difference of Kshs.45,685,555 now excluded from the Corporation's Accounts for 1997/98.

The Committee heard the evidence given by the Chief Executive that:

- (i) the Corporation adjusted the stock figure from Kshs.291,153,102 on 30th June 1998 to Kshs.147,421,894 on July 2nd, 1998 on the basis that stocks value of Kshs.143,731,253 had been sold to two oil companies.**
- (ii) the Balance Sheet stock figure of Kshs.147,421,849 was further adjusted by Kshs.9,621,232 in a revised balance sheet showing stock figure of Kshs.137,800,000 on grounds of further sales.**
- (iii) the total difference in stocks figure of Kshs.45,685,555 was excluded from the Corporation's Accounts for the year 1997/98.**

The Committee was informed that the anomaly was an overstatement of stocks arising from wrong accounting and that efforts were underway to normalise them.

The Committee expressed concern over the poor accounting procedures of stocks used by the Corporation.

The Committee recommends that the Chief Executive should liaise with the Controller and Auditor General with a view to reconciling the accounts on Stocks, and further that the Corporation should maintain internationally acceptable accounting procedures.

3. FIXED DEPOSITS

The Accounts of the Corporation for 1997/98 show fixed deposits of Kshs.199,798,554 which exclude deposits already written off totalling Kshs.36,684,602 held in two financial institutions which are under liquidation.

Although recovery of these investments was evidently in doubt, the Corporation has not indicated the extent of any previous effort made to recover the deposit from the liquidators of the new liquidated banks before write off action was taken. Further no information was provided to confirm that the Corporation obtained prior authority before investing the amount in these financial institutions are required by Treasury regulations.

The Committee heard the evidence given by the Chief Executive that the Corporation held deposits amounting to Kshs.36,829,130.50 in two financial institutions now under receivership and that a provision for bad and doubtful debts had been made.

The Committee further heard that authority was obtained for placing of funds in Trade Bank while no authority was obtained for placing deposits in Heritage Bank.

The Committee expressed concern that deposits amounting to Kshs.21,296,268.90 were placed in Heritage Bank without the requisite authority from the Treasury.

The Committee recommends that the management of the Corporation should ensure that any surplus funds are invested in Treasury Bonds and Bills as per Treasury's directive.

The Committee further recommends that the Corporation should make more efforts to recover the deposits held in the ailing financial institutions.

4. CASH AND BANK BALANCES

- (i) Examination of ten (10) Bank reconciliation statements revealed receipts in bank statements not entered in the Cash Book totalling Kshs.114,466,346 some of which had remained unposted for over three years. There were also payments in the Bank Statements (direct debits) not entered in the Cash Book totalling Kshs.657,396,242. As the Corporation has not produced Debit Advice Notes or letters of authority advising the Bank to debit its Accounts, it has not been possible to confirm the correctness of these direct debits. Similarly, there were receipts in the Cash Book not entered in the Bank Statements totalling Kshs.119,031,300 some of which have remained unbanked for three years.
- (ii) Cash and Bank balance shown in the Balance Sheet as at 30 June 1998 is Kshs.198,985,525 while the amount supported by the reconciled Cash Books totals Kshs 706,202,265, thus resulting in an unexplained difference of Kshs.507,216,740 The Balance Sheet further reflects an

overdraft of Kshs.19,297,753 while that shown in the reconciled Cash Book is Kshs.1,863,024. The resultant difference of Kshs.7,614,728 has not been adequately explained. Arising from the foregoing, it has not been possible to confirm that the Cash and Bank balance and the overdraft shown in the Balance Sheet as at 30 June 1998 are correctly stated.

The Committee heard the evidence given by the Chief Executive that receipts receipts in bank statements not entered in the Cash Book totalling Kshs.114,466,346 comprised of Kshs.29,428,134 bank contra entries and receipts in the bank statements outstanding due to misposting and missing bank documents all totalling Kshs.85,038,212.

The Committee further heard that:

- (i) payments in the Bank Statements not entered in the cash books totalling Kshs.657,396,242 comprised of direct payments generated from bank charges amounting to Kshs.6,485,681, Bank entries reversing wrong receipts (credits) amounting to Kshs.44,667,891 and payments outstanding due to missing bank documents totalling Kshs.606,242,670 which were later retrieved and used to update the cash books.**
- (ii) the differences in cash and bank balance of Kshs.507,216740 and bank overdraft of Kshs.7,614,728 resulting from unreconciled cash books and balance sheet figures as at 30th June 1998 have since been reconciled resulting in cash differences and bank balance of Kshs.394,269 and bank overdraft of Kshs.709,698 respectively.**

The Committee recommends that the Chief Executive should ensure that Proper book-keeping is maintained by the Corporation and bank reconciliation are done on regular basis.

EAST AFRICAN PORTLAND CEMENT

FINAL REPORT ON THE MANAGEMENT PRACTICES AT THE EAST AFRICAN PORTLAND CEMENT COMPANY BY AUDIT INSPECTORATE TEAM

On January 30th, 2003 the Minister for Trade and Industry appointed an Audit Inspection Team to investigate into and conduct audits on management practices at the East African Portland Cement Company (EAPCC).

Among the issues raised in the report were:

- (i) Irregular awards of contracts for provision of goods, wares and services
- (ii) Irregular selection of cement distributors: Trade policy and practice
- (iii) Manipulation of quantity discounts in favour of one distributor - Trade Policy and practice.
- (iv) Staff appointments, promotions and dismissals.

A report of the findings of the team was adopted by the Company during its meeting of 24th September 2003 and subsequently tabled in the House on 1st April, 2004.

1. TRADE POLICY AND PRACTICES

In 1998 EAPCC was faced with urgent need for cash following the maturity of a Japanese Loan. Hastily, the Company introduced a system of Trade Volume Discounts to its cement distributors, requiring them to take minimum of 20,000 metric tons per month.

Following this, M/s. Donholm Rahisi Stores (M.K. Roble) became a distributor for the Company. Since M/s Donholm Rahisi Stores was the only distributor who could meet the conditions set out by the Company, over 200 other distributors found it uneconomical to buy from EAPCC since M/s. Donholm Rahisi would undercut them.

In the year 2000, M/s. Donholm Rahisi Stores and the then Managing Director entered into an agreement to give the distributor favourable trading discounts and transport rebates of Kshs.98; trade discount of Kshs.60 and transport discounts of Kshs.38 per bag, bringing purchase price to Kshs.372 per 50kg bag, compared to *ex -factory* price of Kshs.470 per 50kg bag for any other buyer.

This, in effect made the M/s. Donholm Rahisi Stores dominate and control 70% of the Company's sales.

Further, in the Financial Years 2001/2002 and 2002/2003 up to February 2003, M/s. Donholm Rahisi Stores was credited with Kshs.285,803,951 and Kshs.358,800,202 respectively totaling Kshs.671,604,153. It was noted that these irregular huge discounts were eating into the Company's profit margin.

The Committee heard the evidence given by the Chief Executive that:

- (i) upon maturity of the Japanese loan the Company without proper business consideration introduced a system of Trade Volume Discounts to its cement distributors, requiring them to take a minimum of 20,000 metric tons per month in order to generate income to service the debt.**
- (ii) consequently, M/s. Donholm Rahisi Stores (M.K. Roble) became a distributor of the Company since it was the only distributor who could meet these conditions, and that all other distributors, who were over two hundred in number, found it uneconomical to buy from EAPCC since M/s. Donholm Rahisi would undercut them. This made M/s. Donholm Rahisi Stores to monopolise 70% of the Company's sales.**
- (iii) the said distributor was paid the discounts even when it did not meet the Trading Volumes of 20,000 metric tons per month as per the Company's policy.**
- (iv) the contract, whose authenticity is a subject of court dispute offered a favourable 18.9% trading discounts and transport rebates to the distributor contrary to the Company's policy of 5 % discount.**
- (v) Mr. E. C. Birya the then Managing Director was subsequently relieved of his job and the contract terminated and that Donholm Rahisi Stores sued the Company for breach of the contract claiming compensation and further that the case has since been forwarded to the Kenya Anti -Corruption Commission for investigation.**
- (vi) m/s. Donholm Rahisi Stores engaged M/s. Abdulahi Ahmednassir & Company Advocates in the case.**

The Committee was however informed that since the adoption of the Report, the Company had instituted the following Trade Policy and Practice adjustments:-

- (i) recruiting distributors in Nairobi and other parts of the country.**

- (ii) daily, weekly and monthly reports on transactions of the depots are since submitted to the Headquarters
- (iii) strict supervision by Treasury Accountants on the financial activities of the depots.
- (iv) introduction of Bank guarantee cover for transporters/distributors allowing for 30 days credit, payable within the specified time failure to which the Bank guarantee is recalled.
- (v) abolition of transport rebates.

The Committee observed with concern that:

- (i) the then Managing Director Mr. E. C. Birya misled the Board during its sitting of June 13, 2003 that he had effected 5% discount rates as recommended by the Report of the Inspector General (State Corporations) when the true position was that he had already entered into a contract with Donholm Rahisi Stores giving 18.9% discounts.
- (ii) the contract was signed by the then acting Managing Director Mr. E. C. Birya and a former Finance Accountant, Mr. J.N. Otindo without informing the Board.
- (iii) due to over-reliance on one distributor, EAPCC's sales have tremendously declined over a short period of time, from 60% dominance of Nairobi market to 49%. The Company has also lost contact with customers.
- (iv) over dependence of one distributor is a risky commercial arrangement
- (v) The Company has no established distribution policy.

The Committee also expressed concern over the apparent conflict of interest in view of the fact that Mr. Abdulahi Ahmednassir who is acting for the Distributor in the civil suit, is also the Chairman of the Kenya Anti-Corruption Advisory Board to whom a case against M/s. Donholm Rahisi Stores had been referred to for investigation. The Committee observed that this represented a conflict of interest.

Subsequently, Mr. Abdulahi Ahmednassir assured the Committee that he would not, as the Chairman of the Kenya Anti-Corruption Advisory Board,

interfere with the due process in the case between Donholm Rahisi Stores and EAPCC.

The Committee was also assured that the Law firm of M/s. Abdulahi Ahmednassir & Co. Advocates would reconsider its status and position to represent the Distributor if the investigations revealed any criminal intent in the said agreement.

The Committee recommends that:

- (i) the Company must adhere to Public Procurement Procedures while tendering for distribution.
- (ii) the Company must introduce and adhere to a cost-effective distribution policy, which should apply to all distributors.
- (iii) the Board should constitute a panel of senior staff that will be charged with the responsibility of recommending to the Board discounts to distributors.
- (iv) the Chief Executive should ensure that an aggressive market penetration programme is made a priority of the Company.
- (v) the Chief Executive should follow closely the case against M/s. Donholm Rahisi Stores to its logical conclusion.
- (vi) Mr. E. C. Biryra, the then Managing Director be investigated by the Kenya Anti-Corruption Commission for misleading the Board during its Sitting on Friday June 13, 2003 that he had effected discount rates of 5% while he had actually entered into a contract with M/s. Dohholm Rahisi Stores giving 18.9% discounts.

2. STAFF APPOINTMENTS, PROMOTIONS AND DISMISSALS

The Report of the Inspector General (Corporations) indicated that the East African Portland Cement Company's practice in promotions was fundamentally inconsistent with its Management Standing Rules Regulations and Policies. Promotions were conducted with nepotism and completely flouted the then existing procedures, they were too frequent and were occasioned by favouritism. Moreover, five senior managers who were selectively and occasionally appointed to conduct interviews flouted procedures for competitive selection in favour of one ethnic community. Advertisements for vacancies were not floated. This led to wrongful deployments and low morale among other members of staff.

The Committee heard the evidence given by the Chief Executive that the

then Chief Executive Mr. Titus Barmasai ignored the Company's laid down Policies policies and practices in appointments, promotions and dismissals of some members of staff leading to resignations and low morale in the Company. The Committee observed with grave concern that the then Chief Executive and the overall Management flouted the Company's laid down policies and practice in appointments, promotions and dismissals of some members of staff.

The Committee recommends that:

- (i) the Management should ensure that the Company's laid down procedures and management standing rules on staff appointments, promotions and dismissals are adhered to the letter.
- (ii) the Board and the Chief Executive should re-advertise all managerial posts in the Company with a view to hiring qualified personnel.

KENYA POWER AND LIGHTING COMPANY

1. AUDITING OF ACCOUNTS AND COMPLIANCE WITH GOVERNMENT FINANCIAL CIRCULARS

The Committee heard the evidence given by the Chief Executive that:

- (i) Kenya Power and Lighting Company (KPLC) was exempted from auditing under the State Corporations Act (Cap. 446) in 1994 and further that this exemption was lifted in the year 2002 under the State Corporations (Miscellaneous Amendment) Act 2000.
- (ii) the Controller and Auditor General could not take over the audit immediately after lifting of the exemption as KPLC had on 26th May, 2003, appointed their earlier auditors who were conducting the audits during the exemption to continue.
- (iii) The Company obtained an approval from the Controller and Auditor General to continue using the current auditors M/s. Delloite and Touche to conduct the Company's Audits on behalf of the Controller and Auditor General and report to him.
- (iv) The latest audited accounts of the Company are for the year 2001/2002.

The Committee observed with concern that the Company was yet to conduct and compile audits for the 2002/2003 financial year.

The Committee recommends that the Chief Executive should ensure strict adherence to government regulations and conduct prompt audits of its accounts and submit them to the Controller and Auditor General.

2 KPLC AND INDEPENDENT POWER PRODUCERS (IPPs)

The Committee heard the evidence given by the Chief Executive that due to difficulties in mobilizing public finance for development of power projects in Kenya, the World Bank and other development partners in early 1990's required the Government to restructure the power sub-sector by separating the operational function from transmission and distribution functions and opening up the power generation market to private investors. Subsequently, in 1996, the government undertook a policy commitment to offer all future power projects with exception of multi-purpose hydro Schemes to international competitive bidding open to private and public sectors.

The Committee further heard that:

- (i) Arising from the foregoing, KPLC entered into Power Purchase Agreements (PPAs) with four (4) independent power producers namely:
 - ◆ Iber Africa Power (E.A) Limited
 - ◆ Westmount (Kenya) Limited
 - ◆ Or Power 4 Incorporated
 - ◆ Tsavo Power Company Limited
- (ii) the tariffs of all these IPPS were based on the Capacity Charges paid per kilowatt, energy charged paid per unit of electricity sold and fuel costs.
- (iii) Iber Africa (EA) Ltd Power Plant in Nairobi South which currently runs a 56.6 MW diesel Plant was commissioned in 1997 as a stop-gap measure to alleviate power generation shortfalls of the mid 1990s which resulted from the withholding of the World Bank's and Donor's support to fund a least-cost power development plant. In April 2001, KPLC and Iber Africa entered into a further agreement to reduce the then charges from 395 US\$/kW/yr to 255 US\$/kW/yr, in exchange for extending the contract by 15 years from August 2004 when it expires.
- (iv) following a contract with KPLC, the Westmont (Kenya) Limited power plant in Kipevu, Mombasa was commissioned in September 1997 for a seven-year power purchase agreement. The Company whose contract expires in September 2004, charges capacity charges of 212 US\$/kW/yr, energy charges at 7.3 Us cts/kWh and reimbursable fuel charge based on specific consumption rate of 270g/kWh.
- (v) in November 1998, KPLC signed a 100 MW Plant Power Purchase Agreement with Or Power 4 Inc. and that the 1st Phase of 8MW was commissioned in July 2000. The contract expires twenty (20) years after the date of commencement for the 48 MW Plant. The Company charges 502.9 US\$/kWyr and 1.8 Us cts/kWh on capacity and energy charges respectively and a government royalty of 0.4 US cts/kWh.
- (vi) under government funding, KenGen developed a 75 MW Power Plant, Kipevu I in 1999. A second 75MW Plant, Kipevu II was developed by an IPP and a Power Purchase Agreement signed in November 1998. The latter Plant was develop under Tsavo Power Company Limited and its contract will expire in the year 2021 being twenty (20) years

after the Plant achieves full commencement of operation in September 2001. Further that Tsavo Power Company Limited charges capacity charge of 255 US\$/kW/yr, energy charges of 8.2 UScts/KWh and reimbursable fuel costs in addition to a security package payment consisting of a letter of credit whose amount is three times average monthly payment and a cash cover of similar amount in a settlement account.

The Committee also heard that KPLC had embarked on negotiations aimed at reducing the charges by the four Independent Power Producers.

The Committee was informed that:

- (i) the Share holders of Iber Africa are First Independent Power Kenya Consultants, (FIPCK) and KPLC's Pension Scheme who owns 80 and 20 percent shares respectively, and further that FIPCK is in turn owned by a Spanish Company, Union Finosa.
- (ii) Westmont Power (K) Ltd is owned by two Malaysian Companies Westmont Land Asia and Tecno Asia Holdings Berhad.
- (iii) the Directors and owners of Or Power 4 Inc. which is a Cayman Island's Company are unknown, and that senior partners at M/s Kaplan & Stratton Limited Mr. Samuel Wainaina and Ms. Lin Auster (an Israeli) are negotiating on behalf of Or Power 4Inc.
- (iv) the Four IPPS charges as follows in addition to varying fuel charges:-

| IPP | Capacity Charge (US\$/kW/yr) | Energy Charge (US cts/kWh) | Total Cost Per Unit (Us cts per kWh) |
|-------------------------|------------------------------|----------------------------|---------------------------------------|
| Iber Africa(E.A) Ltd | 395 | 0.67 | 13.17 |
| Westmont Power (K) Ltd | 212 | 0.32 | 17.09 |
| Or Power 4 Inc. | 528 | 1.79 | 8.09 |
| Tsavo Power Company Ltd | 253 | 0.77 | 7.08 |

- (v) the Contracts were signed during the tenure of the then Managing Director Mr. Samuel Gichuru.

The Committee observed with concern that:

- (i) the contracts were signed in a rush to meet World Bank's demands and without recourse to the intrinsic economic backdrop and costs-benefits analysis of the operational Plants to KPLC being conducted.**
- (ii) negotiations for Iberafrica and Westmont were based on "build, and own" basis as opposed to "build own and transfer". In view of this, KPLC even having invested heavily on the Plants, may lose them at the end of the contract and thereby would not have realized full value for the money-invested.**
- (iii) appraisals were not conducted before initiation of the projects. This may put the Company at uncertain losses should the Plants fail to deliver the anticipated power outputs.**
- (iv) some of the risks that the Contractors stated and based their premiums on were vague.**
- (v) the Kenya Power & Lighting Company buys at exorbitant prices from the IPPs compared to Kshs.3.83/kWh from KenGen.**

The Committee recommends that:

- (i) the Chief Executive should renegotiate the contracts with a view to having the charges reduced.**
- (ii) the Chief Executive should ensure that any future power purchase programmes are subjected to thorough appraisals and cost benefit analysis conducted.**

MINUTES OF THE FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON WEDNESDAY, APRIL 16, 2003 AT 10.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang, MP

ABSENT WITH APOLOGY

The Hon. Maina Kamanda, MP
The Hon. Moḥamud Abdi Moḥamed, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.C. O. Omolo- Deputy Clerk/Administration
Mr. M.R. Sialai - Clerk Assistant
Mrs. S. Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

MIN. NO.01/2003

- **INTRODUCTORY REMARKS BY THE DEPUTY CLERK/ADMINISTRATION**

The Deputy Clerk welcomed the Members of the Committee to the meeting and briefed them on the procedures that govern the operations of the Public Investments Committee. Citing Standing Orders No.148, he informed Members that the Committee's key role was to examine and report on the Annual Accounts of the State Corporations, in addition to examining whether public investments were being managed prudently.

MIN. NO.02/2003

- **ELECTION OF CHAIRMAN**

The Deputy Clerk conducted the proceedings for the Election of Chairman. He called for proposals and Hon. J.B.N. Muturi, MP was proposed by Hon. Ali Bahari, MP and seconded by Hon. K.M. Sang, MP. while Hon. Henry Obwocha, MP was proposed by Hon. Otieno Kajwang and seconded by Hon. Gor Sungu, MP.

A vote ensued in which Hon. J.B.N. Muturi, got 5 votes against Hon. Henry Obwocha's, 4 votes.

Thereupon, the Deputy Clerk declared Hon. J.B.N. Muturi, MP. elected Chairman.

MIN. NO.03/2003 - **REMARKS BY THE CHAIRMAN**

Hon. J.B.N. Muturi, MP assumed the Chair and thanked Members for expressing their faith and confidence in him by electing him Chairman. The Chairman pledged to serve the Committee with dedication and impartiality. He called upon Members to serve the Committee with devotion.

MIN. NO.04/2003 - **ANY OTHER BUSINESS**

(i) **Programme of Business**

The Committee instructed the Secretariat to draw up a draft programme for consideration by the Committee during the next sitting.

(ii) **Meeting with the Controller and Auditor General**

The Committee resolved to schedule a meeting with the Controller and Auditor General in order to deliberate on areas of examination which the Committee would wish to give priority.

(iii) **Eleventh Report of the PIC**

The Committee resolved to table Eleventh Report afresh for adoption by the House.

The Secretariat was instructed to avail copies of the Report to new Members of the Committee to enable them familiarise themselves with the Report in order for them to prepare to contribute to the debate on the Report, once it is tabled.

The Chairman adjourned the Sitting at fifty minutes past Ten O'clock until a date to be decided upon later.

Hon. J.B.N. Muturi, MP

SIGNED
(CHAIRMAN)

13th June 2003

DATE

MINUTES OF THE SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, JUNE 13, 2003 AT 10.00 A.M.

PRESENT

The Hon. J.B.N. Muturi MP (Chairman)
The Hon. Sammy Weya, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Mahamud Abdi Mohamed, MP

ABSENT WITH APOLOGY

The Hon. Gor Sungu, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Henry Obwocha, MP
The Hon. Maina Kamanda, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang, MP

IN ATTENDANCE - **NATIONAL ASSEMBLY**

Mrs. S. Kioko Clerk Assistant
Mr. S. Kiama Parliamentary Intern

MIN. NO.06/2003 - **CONFIRMATION OF MINUTES**

Minutes of the First Sitting held on Wednesday April 16, 2003 were confirmed by Members present and signed by the Chairman. They were proposed by Hon. Wycliffe Oparanya, MP and seconded by Hon. Sammy Weya, MP.

MIN. NO.07/2003 - **MATTERS ARISING**

The following matters arose and were dealt with as herebelow: -

(i) **Min.No.4/2003(i)**

The Programme of business would be drawn after the orientation workshop, scheduled for Thursday June 26, 2003.

(ii) **Min.No.4/2003(iii)**

Copies of the Eleventh Report of the Public Investments Committee were ready and would be distributed to Committee Members.

The Committee deliberated at length on issues to be included in the Programme of business and resolved as follows:-

- (i) That it would sit on Mondays and Fridays at 2.30 p.m. and 9.00 a.m. respectively when the House is sitting and daily when the House is not sitting. Sittings of the Committee will commence on Monday, June 30, 2003 at 2.30 p.m.
- (ii) That the Committee would hold an orientation workshop at Serena Hotel on Thursday, June 26, 2003 between 8.00 a.m. and 1:00 p.m.

During the Workshop the Controller and Auditor General would be required to present a checklist/schedule of all State Corporations indicating the status of Audit of each Corporation.

The Investments Secretary would be required to submit a report on the performance of State Corporations and a schedule indicating performing and non-performing ones. He would also be required to submit a report on State Corporations, which have shares in private companies indicating the percentage of shareholding.

The Programme of the Workshop would also include a brief on powers and privileges of the Committee.

Briefs on the topics to be presented in the Workshop should be distributed to Committee Members two days earlier.

- (iii) That the following Corporations will be summoned to appear before the Committee whether or not their audited accounts are ready:-
 - (a) Kenya Power and Lighting Company
 - (b) Telkom Kenya Ltd.
 - (c) Kenya Pipeline Company
 - (d) Kenya Electricity Generating Company
 - (e) Kenya Airports Authority
 - (f) Kenya Ports Authority
 - (g) Kenya Sugar Board
 - (h) National Hospital Insurance Fund
 - (i) National Social Security Fund
 - (j) Kenya Railways Corporation
 - (k) Kenya Tourism Development Corporation
 - (l) Kenyatta National Hospital

- (m) Kenya Medical Research Institute
- (n) Agriculture Development Corporation (alongside Kenya Seed Company)
- (o) Coffee Board of Kenya
- (p) National Cereals and Produce Board
- (q) Kenya Bureau of Standards
- (r) Kenya Industrial Estates
- (s) Kenya Wine Agencies Ltd.
- (t) Numerical Machining Company
- (u) Kenya Agricultural Research Institute
- (v) Lake Basin Development Authority
- (w) Mumias Sugar Company
- (x) Kerio Valley Development Authority
- (y) Tana and Athi River Development Authority
- (z) Industrial and Commercial Development Corporation
- (aa) National Water Conservation and Pipeline Corporation.

MIN. NO.09/2003

ADJOURNMENT

The Chairman adjourned the Sitting at thirty minutes past Twelve O'clock until Thursday June 26, 2003.

Hon. J.B.N. Muturi, MP

SIGNED

(CHAIRMAN)

13th June 2003

DATE

MINUTES OF THE THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, JUNE 30, 2003 AT 2.30 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Henry Obwocha, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Gor Sungu, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Muhamud Abdi Mohamed
The Hon. Sammy Weya, MP
The Hon. Maina Kamanda, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. S. Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

MIN. NO.10/2003

CONFIRMATION OF MINUTES

Minutes of the Second sitting held on Friday June 13, 2003 were confirmed by Members present and signed by the Chairman. They were proposed by Hon. Wycliffe Oparanya, MP and seconded by Hon. K.M. Sang, MP.

MIN. NO.11/2003

MATTERS ARISING

The following matters arose and were dealt with as herebelow: -

(i) **Min.No.7/2003**

Copies of the Eleventh Report of the Public Investments Committee to be distributed to Committee Members forthwith.

(ii) **Min.No.8/2003**

The Committee approved the draft Programme of business with amendments.

MIN. NO.12/2003

NON-APPEARANCE OF THE PERMANENT SECRETARY, MINISTRY OF FINANCE

The Committee noted with grave concern that for the second time, the Permanent Secretary, Ministry of Finance had failed to appear before it as required and further that he neither sent a representative nor did he send an apology for his inability to appear.

Consequently, the Committee resolved to summon the Permanent Secretary to appear before it on Thursday, July 03, 2003 at 9.00 a.m. to explain his persistent inability to appear before the Committee when required and respond to issues raised in the Committee's letters to the Permanent Secretary.

MIN.NO.13/2003

ANY OTHER BUSINESS
Public Investments Committee Special Audit Report

The Committee resolved to deliberate on the 1986 Special Audit Report at a later date.

MIN. NO.14/2003

ADJOURNMENT

The Chairman adjourned the Sitting at thirty minutes past Four O'clock until Thursday July 03, 2003 at 9.00 a.m.

Hon. J.B.N. Muturi, MP

SIGNED
(CHAIRMAN)

30th June 2003

DATE

MINUTES OF THE FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, JULY 03, 2003 AT 9.00 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Maina Kamanda, MP
The Hon. Henry Obwocha, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Gor Sungu, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Sammy Weya, MP
The Hon. M. Abdi Mohamed, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, M.P.
The Hon. Otieno Kajwang, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. S. Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

MINISTRY OF FINANCE

Mr. Joseph Magari - Permanent Secretary
Mr. Joseph Mwangi - Director, DGIPE

MIN. NO. 15/2003

MEETING WITH THE PERMANENT SECRETARY MINISTRY OF FINANCE

Mr. Joseph Magari, Permanent Secretary, Ministry of Finance accompanied by Mr. Joseph Mwangi, Director, (DGIPE) appeared before the Committee and apologised to the Committee over his inability to appear before them on two earlier occasions. He explained that this had been as a result of his involvement in meetings of the East African Legislative Assembly held here in Nairobi. He nevertheless, assured the Committee that his office would respond to Committee concerns as and when required.

The Permanent Secretary then briefed the Committee on the role of Treasury representatives in Parastatal Boards and the status of

implementation of the Treasury Memoranda.

The Committee raised the following issues with the Permanent Secretary:

1. **Performance of Treasury Representatives in Parastatal Boards**

The Committee was concerned that some Treasury representatives did not seem well versed with the goings-on of the parastatals in whose Boards they sat, and further that on various occasions some Chief Executives had given untrue information to the Committee in the presence of the representatives without them raising any objection.

The Permanent Secretary assured the Committee that he would monitor the performance of Treasury representatives in Parastatal Boards with a view to taking appropriate action on those who were under-performing.

2. **Laxity in Implementation of Treasury Memoranda**

The Committee was concerned that in the past, the Government did not seem to take Committee recommendations seriously and that responses contained in most Treasury memoranda were vague.

The Permanent Secretary assured the Committee that the Government would do all it could to ensure that Committee recommendations were implemented as passed by Parliament.

3. **Declaration of Dividends by Parastatals**

The Committee noted with concern that some financially healthy parastatals had not been declaring dividends to shareholders as required by law (Cap 446).

The Permanent Secretary informed the Committee that he had issued a Circular (Treasury Circular No.3/2003 of January 2003) reminding Chief Executives of the requirement for declaration of dividends by State Corporations. He promised to ensure that the Chief Executives comply with the law and the Treasury Circular.

4. **Non-Adherence to Treasury Circulars**

The Committee expressed concern that many State Corporations had in the past flouted Treasury and other Government circulars

with impunity.

The Permanent Secretary assured the Committee that his office would take necessary action to ensure that State Corporations adhere to Government Financial Circulars.

The Committee asked the Permanent Secretary to initiate action towards ensuring that Treasury Circulars are published as Financial Orders/Subsidiary Legislation by the Office of the Attorney General.

The Committee would follow up the matter with the Attorney General.

5. Late Submission of Accounts

The Committee noted with concern that some parastatals were still submitting their accounts for audit beyond statutory deadlines.

The Permanent Secretary assured the Committee that appropriate action would be taken on Chief Executives of parastatals who submitted their accounts late.

6. Dilution of Government Shareholding in the Kenya Seed Company

The Permanent Secretary informed the Committee that the change in share holding in the Kenya Seed Company had not been recognised by the Government and that as far as the Government was concerned, it had majority shares in the Company. He further informed the Committee that the Anti-Corruption Police Unit was investigating the circumstances under which Government shareholding in Kenya Seed Company was diluted with a view to having the anomaly rectified.

7. Quarterly Performance Reports

The Committee noted with satisfaction that the Permanent Secretary had issued a circular (Treasury Circular No.3/2003 of January, 2003) requiring State Corporations to adhere to Treasury No. 8 of 15th August, 1990 which requires State Corporations to submit quarterly performance Reports to their Parent Ministries.

The Committee emphasised need for State Corporations to adhere to this requirement.

It also recommended sanctions for non-compliance.

6. E.M.U'S Audit Report on the Defunct Kenya Sugar Authority

The Committee asked the Permanent Secretary to avail to it copies of the Audit Report on the defunct Kenya Sugar Authority by the Efficiency Monitoring Unit.

MIN. NO. 16/2003 - ADJOURNMENT

The Chairman adjourned the Sitting at fifty minutes past Eleven O'clock until Friday July 04, 2003 at 9.00 a.m.

Hon. J.B.N. Muturi, MP

SIGNED
(CHAIRMAN)

July 3rd 2003

DATE

MINUTES OF THE FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, JULY 04, 2003 AT 9.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. M. Abdi Mohamed, MP

ABSENT WITH APOLOGY

The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Otieno Kajwang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. S. Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. J.K. Mukhooli - Deputy Director of Audit
Mr. H.O. Wanyama - Deputy Director of Audit
Mr. J.K. Ongwen - Principal Auditor
Mr. S.K. Mbuko - Senior Auditor

DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES (DGIPE)

Mr. S. Kitungu - Principal Economist
Mr. J. Mwangi - Director
Mr. F.W. King'ori - Assistant Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. E.M. Ngigi - Principal Inspector of State Corporations

MIN. NO. 17/2003 - **EVIDENCE**

1. **KENYA POWER AND LIGHTING COMPANY**

Mr. Joseph Oduor, Managing Director, Kenya Power and Lighting Company accompanied by Messrs:- Laurencial Njagi, Company Secretary; David Mwangi, Chief Manager Planning; Zachary Ayieko, Chief Manager Finance; Bernadette Nzioki, Senior Deputy Secretary, Ministry of Energy; Christine Mwangi, Chief Finance Officer, Ministry of Energy; Paul Ngatia, Deputy Secretary, Ministry of Energy; Martin M. Heya, Chief Supt. Geologist, Ministry of Energy and Ng'ang'a Munyu, Principal Economist, Ministry of Energy appeared before the Committee, in relation to the following issues:-

- (i) Auditing of the KPLC's Accounts
- (ii) Compliance with Government/Financial Circulars.

The Committee directed the Chief Executive to submit the following information by July 18,2003: -

- (i) KPLC's Quarterly Performance Report as per the Requirements of Treasury Circular No.8 of 15th August 1990, stating among other things, the position of the Company's Pension Fund.
- (ii) A brief on the relationship between KPLC and Independent Power Producers indicating names of companies which have entered into contracts with KPLC and stating the names of their directors. The brief should also state what kind of contracts they are, when they should end and the terms of the contracts.

2. **KENYA ELECTRICITY GENERATING COMPANY**

Mr. Eddy Njoroge, Managing Director, KenGen accompanied by Messrs: Wycliffe Temesi, Chief Manager Finance; A.H. Ali, Company Secretary; Bernadette Nzioki, Senior Deputy Secretary, Ministry of Energy; Christine Mwangi, Chief Finance Officer; Paul Ngatia, Deputy Secretary; Martin Heya, Chief Supt. Geologist and Ng'ang'a Munyu, Principal Economist appeared before the Committee in relation to the following issues: -

- (i) Auditing of the KenGen's Accounts
- (ii) Compliance with Government/Financial Circulars.

The Committee directed the Chief Executive to submit evidence of compliance with Treasury Circular No.3 of 2003 dated 30th January, 2003 in as far as submission of Quarterly Performance Report is concerned.

The information should be submitted by 18th July, 2003.

3. **KENYA PIPELINE COMPANY**

Dr. Shem Ochuodho, Managing Director, Kenya Pipeline Company accompanied by Messrs:- Maurice Danlas, Chairman; Hamilton Orata, Finance Manager; John Kithete, Chief Corporate Planning Officer; William Ooko, Chief Internal Auditor; Caleb Manyaga, Chief Accountant; M. Kiptui, Company Secretary; John Begisen, Chief Technical Manager, Bernadette Nzioki, Senior Deputy Secretary, Ministry of Energy; Christine Mwangi, Chief Finance Officer, Ministry of Energy; Paul Ngatia, Deputy Secretary, Ministry of Energy; Martin Heya, Chief Supt. Geologist and Ng'ang'a Munyu, Principal Economist appeared before the Committee in relation to the following issues:

- (i) Auditing of Kenya Pipeline's Accounts
- (ii) Compliance with Government Financial Circulars.

The Committee directed the Chief Executive to submit evidence of compliance with Treasury Circular No.3 of 30th January, 2003 in as far as submission of Quarterly Performance Reports is concerned.

The information should be submitted by 18th July, 2003.

4. **SAFARICOM (K) LTD**

Mr. Michael Josephs, General Manager, Safaricom (K) Ltd accompanied by Mr. L. Baillie, Chief Financial officer appeared before the Committee in relation to the following issues: -

- (i) Auditing of Safaricom's Accounts.
- (ii) Compliance with Government Financial Circulars.

The Committee directed the Chief Executive to submit evidence of compliance with Treasury Circular No.3 of 30th January, 2003 in as far as submission of Quarterly

Performance Reports is concerned.

The information should be submitted through the office of the Controller and Auditor General by 18th July, 2003.

MIN. NO. 18/2003

ADJOURNMENT

The Chairman adjourned the Sitting at one O'clock until Friday July 11, 2003 at 9.00 a.m.

J.B.N. Muturi, MP

SIGNED

(CHAIRMAN)

18th July, 2003

DATE.....

MINUTES OF THE SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS ON FRIDAY JULY 11, 2003 AT 9.00 A.M.

PRESENT

The Hon. J. B. Muturi, M.P. - (Chairman)
The Hon. Henry Obwocha, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. K. M. Sang, M.P.
The Hon. Ali Bahari, M.P.
The Hon. Maina Kamanda, M.P.
The Hon. Gor Sungu, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Wycliffe A. Oparanya, M.P.

ABSENT WITH APOLOGY

The Hon. Otieno Kajwang, M.P.
The Hon. Mohamud Abdi Mohamed, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mrs. S. Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. H. O. Wanyama - Deputy Director of Audit
Mr. J. K. Ong'wen - Principal Auditor

DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES (DGIPE)

Mr. J. Mwangi - Director
Mr. P. Sigei - Senior Economist
Mr. F. W. King'ori - Assistant Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi - Senior Inspector of State Corporations

1. KENYA POST OFFICE SAVINGS BANK

Mr. Ernest Saina, Managing Director, Kenya Post Office Savings Bank, Accompanied by Messrs:- Titus Gatumo, Senior Manager, Finance and Administration and J. M. Oyula, Financial Secretary/Alternate Director, Treasury appeared before the Committee, in relation to the following issues:-

- (i) Auditing of the Accounts of Kenya Post Office Savings Bank
- (ii) Compliance with Government Financial Circulars

The Committee directed the Chief Executive to submit the following information, through the office of the Controller and Auditor General, by July 18,2003:-

- (i) The Bank's Quarterly Performance Report as per the requirement of Treasury Circular No. 8 of 15th August 1990, stating among other things, the position of the Company's Pension Fund.
- (ii) A detailed report on the Bank's level of indebtedness with regard to deposits held in the collapsed Kenya Post Bank Credit. The report should indicate how much has been recovered by the bank, names of the beneficiaries and state whether the remaining amount is recoverable. The Chief Executive should obtain information-detailing names of those who benefited from the deposits from the Liquidators Deposit Protection Fund.
- (iii) An in-depth analysis on losses made by the Bank during the period when it was exempted from being audited by the Controller and Auditor General.

2. KENYA RE-INSURANCE CORPORATION

Mr. Johnson Githuka, Managing Director, Kenya Re-Insurance Corporation accompanied by Mr. John Kinyua, Financial Controller, appeared before the Committee in relation to the following issues:-

- (i) Auditing of the Kenya Re's Accounts
- (ii) Compliance with Government Financial Circulars

The Committee directed the Chief Executive to submit the following information, through the Controller and Auditor General, by July 18, 2003: -

- (i) A Copy of the business valuation report done in 2002
- (ii) A Copy of the valuation report by M/s Tyson Limited
- (iii) Names of sellers from whom Kenya - Re bought the 10 pieces of land which the Corporation did not require, where the sellers were companies indicate names of companies and their directors.
- (iv) Copies of the valuation reports of the pieces of land at the time when they were purchased by Kenya Re.
- (v) The value at which the pieces of land were bought, their actual value then and currently.
- (vi) A copy of the latest valuation of the assets of Kenya-Re.

3. KENYA WINE AGENCIES LIMITED (KWAL)

Mr. Francis Oyugi, Managing Director, Kenya Wine Agencies Limited appeared before the Committee in relation to the following issues:-

- (i) Auditing of KWAL's Accounts
- (ii) Compliance with Government Financial Circulars.

The Committee directed the Chief Executive to submit evidence of compliance with Treasury Circular No.3 of 30th January, 2003 in as far as submission of Quarterly Performance Reports is concerned.

The information should be submitted by 18th July, 2003.

4. NATIONAL BANK OF KENYA

Mr. Reuben Marambii, Managing Director, National Bank of Kenya accompanied by Mr. Francis Wanganju, Finance Director, Mr. L. Kamweti, Company Secretary and Mr. J. M. Oyula, Alternate Director Treasury, appeared before the Committee in relation to the following issues:-

- (i) Auditing of National Bank of Kenya's Accounts

- (ii) Compliance with Government Financial Circulars

The Committee directed the Chief Executive to submit the following information, through the office of the Controller and Auditor General:-

- (i) Evidence of compliance with Treasury Circulars No.3 of 30th January 2003 in as far as submission of Quarterly Performance Reports is concerned.
- (ii) A report on the Bank's debt portfolio indicating rate of recovery.
- (iii) A report on KEMRI's Housing Project Account.

The Committee further directed the Financial Secretary, Treasury to convene a meeting between Treasury, the Controller and Auditor General and the management of National Bank in order to look at the best way of auditing the NBK's accounts by the Controller and Auditor General.

MIN. NO. 20/2003

ADJOURNMENT

The Chairman adjourned the Sitting at thirty minutes past two O'clock until Friday July 18, 2003 at 9.00 a.m.

J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

31st October 2003

DATE:

MIN. NO. 21/2003**CONFIRMATION OF MINUTES**

Minutes of the Third, Fourth and Fifth sittings held on Monday, 30th June, 2003, Thursday, July 03, 2003 and Friday, July 04, 2003 respectively were confirmed by Members present and signed by the Chairman.

MIN. NO. 22/2003**MATTERS ARISING**

The following matters arose and were dealt with as here below:-

(i) MIN. NO. 15/2003 OF JULY 03, 2003

The Committee resolved that a reminder be sent to the Permanent Secretary, Ministry of Finance to submit the report of the E.M.U. on the defunct Kenya Sugar Authority. The Permanent Secretary should also submit a brief stating the status of compliance with Treasury Circular No. 3 of 2003, by Chief Executive of State Corporations.

(ii) MIN. NO. 17/2003 OF JULY 04, 2003

The Committee directed the Secretariat to send a reminder to Chief Executives to comply with Treasury Circular No. 3 of 2003 and to submit information on time as directed by the Committee.

MIN. NO. 23/2003**EVIDENCE****The Report and Accounts of Kenya Airports Authority for the year 1996/97 and the certificate thereon by the Controller and Auditor General.**

Mr. George Muhoho, Managing Director, Kenya Airports Authority accompanied by Messrs.: - Joseph Mutua, General Manager, Finance; John Tito, Manager, Legal Services; Edward Kavivya, Senior Manager, Property Management; Eng. M. Mukhwana, General Manager, Engineering; Leonard Moss, General Manager, Personnel and Administration, and William Yagamba, Principal Air Transport Officer, Ministry of Transport and Communication appeared before the Committee and gave evidence on the accounts of the Authority for the year 1996/97.

MIN. NO. 24/2003

ADDITIONAL INFORMATION:
PARAGRAPH 4 OF THE 1996/97
ACCOUNTS - MISUSE OF TEMPORARY
IMPREST FACILITY

The Committee directed the Chief Executive to submit:-

- (i) a report on the current status of imprest holders indicating how much is outstanding and a list of those with outstanding imprest.
- (ii) a copy of the Authority's Accounting Manual.

The information should be submitted by July 21, 2003.

The Committee also directed the Controller and Auditor General to verify whether the amount of Kshs. 13, 336, 479 being the amount of imprest issued between April 1996 and June 1998 had been recovered.

MIN. NO. 25/2003

ADDITIONAL EVIDENCE:
PARAGRAPH 5 OF THE 1996/97 ACCOUNTS -
INVESTMENTS

The Committee directed the Controller and Auditor General to verify the amount so far recovered by the Authority out of the Kshs. 90,000,000 deposited in Prudential Bank (in Liquidation) and whether the outstanding balance was recoverable.

MIN. NO. 26/2003

DEFERRED EVIDENCE:
PARAGRAPHS 1, 2, 3, 6, 7,
AND 8 OF THE 1996/97 ACCOUNTS

The Committee deferred taking evidence on paragraphs 1, 2, 3, 6, 7, and 8 of the 1996/97 accounts to a later date.

The Committee in addition, directed the Controller and Auditor General verify whether the 1996/97 Accounts of the Authority were audited or not.

MIN. NO. 27/2003 - **ANY OTHER BUSINESS**

Compliance with Treasury Circular No. 3 of 2003

The Committee directed the Chief Executive to submit a Quarterly performance Report of the Authority in compliance with Treasury Circular No. 3 of 2003. The report should be submitted, through the office of the Controller and Auditor General Controller, by August 01, 2003.

MIN. NO. 28/2003 - **ADJOURNMENT**

The Chairman adjourned the sitting at five minutes past One O'clock until, Monday July 21, 2003 at 9.30 a.m.

SIGNED: J.B.N Muturi, MP
(CHAIRMAN)

DATE: 31st October, 2003

**MINUTES OF THE EIGHTH SITTING OF THE PUBLIC INVESTMENTS
COMMITTEE HELD IN COMMITTEE ROOM NO. 7 PARLIAMENT BUILDINGS
ON MONDAY JULY 21, 2003 AT 2.30 P.M.**

PRESENT

Hon. J.B.N. Muturi, MP - **Chairman**
Hon. Sammy Weya, MP
Hon. Gor Sungu, MP
Hon. M. Abdi Mohamed, MP
Hon. Kipkorir Sang, MP

ABSENT WITH APOLOGY

Hon. Wafula Wamunyinyi, MP
Hon. Ali Bahari, MP
Hon. Maina Kamanda, MP
Hon. Otieno Kajwang, MP
Hon. Henry Obwocha, MP
Hon. Wicliffe A. Oparanya, MP

IN ATTENDANCE -

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mrs. Sarah Kioko - Second Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern.

CONTROLLER AND AUDITOR-GENERAL

A. Denge - Director of Audit
H.O. Wanyama - Deputy Director of Audit
J.M. Ogutu - Principal Auditor

**DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC
ENTERPRISES (DGIPE)**

J.G. Mwangi - Director/DGIPE

INSPECTORATE OF STATE CORPORATIONS

T. Muriithi - Principal Inspector

Report and Accounts of National Housing Corporation for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Mr. A .J. Odera, the Managing Director, National Housing Corporation, accompanied by Messrs. B .J. Ogolla, Technical Manager, A. N. Nyaga, Acting Chief Accountant, M. M. Wandabwa, Acting Finance Manager, E. W. Mbugua, Corporation Secretary and Philip O. Sika, Chief Architect Ministry of Roads, Public Works and Housing, appeared before the Committee and gave evidence on the Accounts of the Authority for the year 1998/99.

MIN. NO. 30/2003

**ADDITIONAL INFORMATION -
PARAGRAPH I OF 1998/99 ACCOUNTS -
LOAN ARREARS**

The Committee directed the Chief Executive to submit the following information by 4th August 2003: -

- (i) The names of the loan defaulters with regard to Rural Housing Loan Arrears indicating the amount owed by each defaulter and the loan guarantors.
- (ii) Current list of Local Authorities that owe the Corporation money and whose housing premises were handed over to the Corporation for direct management.

MIN. NO. 31/2003

**DEFERRED EVIDENCE - PARAGRAPH 2
OF 1998/99 ACCOUNTS - IRREGULAR
AWARD OF CONTRACTS**

The Committee deferred taking evidence on the paragraph and resolved that the then Managing Director Mr. Lawi Kiplagat, should appear along with the Management of the Corporation, at a later date to explain why he signed the contract to make the Corporation's computer application year 2000 compliant without the Board's approval.

The Committee also directed the Chief Executive to submit a report explaining whether the Corporation got value for money from the computerization project.

The Committee deferred taking evidence on the paragraph and resolved that the following people should appear along with the management of the Corporation, at a later date to explain why the Corporation incurred an expenditure totalling US\$ 63,400 without the Board's approval and for purposes not in any way related to the Corporation's core business:

- (i) Hon. Kipkalya Kones, the then Minister for Public Works and Housing
- (ii) The then Chief Executive Mr. Lawi Kiplagat
- (iii) Mr. Kiguru, Ministry of Roads Public and Housing

The Committee also directed the Chief Executive to submit the following information by August 04, 2003:

- (i) Copies of the advertisement for which the Corporation paid US\$ 63,400
- (ii) Invoices for the US\$ 63,400 being payment for the adverts and indicating the manner in which the money was paid.

The Committee directed the Chief Executive to submit the following information by August 04, 2003: -

Details of other parties to whom payments totalling Ksh.440,775 were made for undisclosed purposes.

The Committee also directed the Chief Executive together with the Inspectorate of State Corporations and the Parent Ministry to pursue the investigations of Mr. Lawi Kiplagat, by the Anti-Corruption Police Unit as per the Committee recommendation in the Eleventh Report.

The Committee directed the Chief Executive to submit a Quarterly Performance Report on the Corporation's financial position in compliance with Treasury Circular No. 3 of 2003.

The Chairman adjourned the meeting at fifteen minutes past five O'clock until Friday 25th July 2003, at 9.30 a.m.

J.B.N. Muturi, MP

SIGNED:

CHAIRMAN

31st October, 2003

DATE:

MINUTES OF THE NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY OCTOBER 3RD AT 9.00 A.M.

PRESENT

The Hon. Justin B. Muturi, M.P. (Chairman)
The Hon. Maina Kamanda, M.P
The Hon. Wafula Wamunyinyi, M.P
The Hon. Ali Bahari, M.P
The Hon. Henry Obwocha, M.P
The Hon. Kipkorir Sang, M.P
The Hon. Wycliffe A. Oparanya, M.P

ABSENT WITH APOLOGY

The Hon. Gor Sungu, M.P
The Hon. M. Abdi Mohamed, MP
The Hon. Otieno Kajwang', MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. Michael R. Sialai - Senior Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

MIN. NO. 36/2003 - CONFIRMATION OF MINUTES

The Committee was informed that the Minutes of the previous meetings were not ready. The Secretariat was however instructed to prepare them for confirmation during the next sitting.

MIN. NO. 37/2003 - CONSIDERATION OF SITTING PROGRAMME

The Committee noted that the programme of the Committee was on several occasions disrupted. The Committee resolved that additional information and responses from the Corporations should be availed. Further, the Secretariat was instructed to prepare a programme for consideration and subsequent adoption by the Committee.

After consideration of the workload that lay ahead of the Committee, the Members unanimously agreed to schedule their Sitings on Monday afternoon and Friday morning every week.

The Chairman adjourned the Sitting at thirty minutes past ten O'clock, until Friday 10th October 2003.

J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

10th November 2003

DATE:

MINUTES OF THE TENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY OCTOBER 14, AT 9.30 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. M. Abdi Mohamed, MP

ABSENT WITH APOLOGY

The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Otieno Kajwang', MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mr. S.M. Kiama - Parliamentary Inten

CONTROLLER & AUDITOR GENERAL

Mr. E. H. Gikonyo - Director of Audit
Mr. H.O. Wanyama - Deputy Director of Audit
Mr. G. Osaho - Senior Auditor

DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISE (DGIPE)

Mr. Protus C. Sigei - Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. R. E. Ndubai - Senior Principal Inspector

MINISTRY OF TRANSPORT & COMMUNICATIONS

Mr. Charles Kimemia - Ag. Deputy Secretary
Mr. G.G. Irungu - Ag. Chief Finance Officer

MIN. NO. 40/2003 - EVIDENCE

The Report and Accounts of Kenya Airports Authority for the year 1996/97 and the Certificate thereon by the Controller and Auditor General

Mr. George Muhoho, Managing Director Kenya Airports Authority accompanied by Messrs.: B. Kavivya, Manager Property; Mr. P. Chonde, Corporate Financial Accountant; Eng. M. Mukhwana, General Manager (Engineering Services); L.N.K. Moss, General Manager (Personnel & Administration); J. Tito, Manager, Legal Services, appeared before the Committee and gave evidence on the accounts of the Authority for the year 1996/97.

MIN. NO. 41/2003 - ADDITIONAL INFORMATION: PARAGRAPH 4 OF THE 1996/97 ACCOUNTS - MISUSE OF TEMPORARY IMPREST FACILITY

The Committee directed the Chief Executive to liaise with the office of the Controller and Auditor General with a view to verifying imprests recovered and those outstanding and report back to the Committee by 28th October, 2003.

MIN. NO. 42/2003 - PARAGRAPH 7 OF THE 1996/97 ACCOUNTS - ACCURACY OF THE ACCOUNTS

Evidence on the paragraph was taken and concluded.

MIN. NO. 43/2003 - PARAGRAPH 2 OF THE 1996/97 ACCOUNTS - SURVEY OF AIRPORTS

The Committee asked the Controller and Auditor General to verify the breakdown of furniture and office equipment valued by Gimco Valuers Ltd at Moi International Airport, Malindi and Kisumu Airports, and the discrepancies in hectares allocated to the Authority and those illegally allocated to private developers.

The Committee directed: -

- (i) the Chief Executive and the parent Ministry to report the progress on efforts being made to recover land illegally

alienated from the Authority and allocated to private developers and implementation of previous recommendations made by the Committee on surcharges.

- (ii) the Chief Executive should follow up the recovery of excess fees paid to Gimco Valuers Ltd amounting to Ksh.1,428,358 and report progress to the Committee by 31st October.

MIN. NO. 44/2003 - **DEFERRED EVIDENCE:**
PARAGRAPH 3 OF THE 1996/97
ACCOUNTS - CONTRACTS

The Committee deferred taking evidence on the paragraph and resolved that the following persons should appear along with the management of the Authority at a later date,

1. Mr. Peter Lagat - former Chief Executive,
2. Mr. H.M. Nyagoe - Quantity Surveyor
3. Mr. Z. J. Chireah
4. Mr. Francis Mbugua

They will be required to explain their roles in the award of six contracts to contractors other than the lowest bidders.

MIN. NO. 45/2003 - **EVIDENCE ON 1996/97**
ACCOUNTS

The Committee took evidence and concluded on the following paragraphs:-

- | | | | |
|-------|-------------------------|---|-------------|
| (i) | Stocks | - | Paragraph 6 |
| (ii) | Work in Progress | - | Paragraph 7 |
| (iii) | Cash and Bank Balances- | | Paragraph 8 |

MIN. NO. 46/2003 - **ADJOURNMENT**

The Chairman adjourned the Sitting at 12.55 P.M. until Friday 27th October, 2003.

Hon. J.B.N. Muturi, MP

SIGNED.....
CHAIRMAN

10th November 2003

DATE.....

MINUTES OF THE ELEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY OCTOBER 17, 2003 AT 9.30 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Muhamud Abdi Mohamed, MP

ABSENT WITH APOLOGY

The Hon. K. M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Second Clerk Assistant
Mr.S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. Edward H. Gikonyo - Director of Audit
Mr. Boniface K. Mulli - Senior Auditor

TREASURY (DGIPE)

Mr. Fredrick E.K. Kihara - Senior Principal Personnel Officer
Mr. Lawrence B. Amoko - Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Ntonjira Mwingirwa - D.C.E

MINISTRY OF HEALTH

Anne G. W. Njiru - Chief Finance Officer/Ministry of Health (Moved to Ministry of Finance from 16th October 2003)

MIN. NO. 47/2003 - Evidence

The Report and Accounts of Kenyatta National Hospital for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Dr. Florence M. Musau, Director of Kenyatta National Hospital accompanied by Messrs.: Nzuki Mwinzi, Advocate; Alice N. Kindiga, Finance; Maimuna M. Itambo, Ag. Deputy Director (Administration); F.A. Oyombe, Personnel & Training; John O. Auma, Supplies; Samson Nyakundi, Audit; C.K. Mutua, Maintenance & Transport; James M. Munoithania, Planning and Peter M. Akuno, Finance, appeared before the Committee and gave evidence on the accounts of the Hospital for the year 1998/99.

MIN. NO. 48/2003 - ADDITIONAL INFORMATION - PARAGRAPH 1 OF THE 1998/99 ACCOUNTS SHORT TERM INVESTMENTS

The Committee directed the Chief Executive to submit the following information by November 03, 2003: -

- (i) An update on the expected ruling on a Constitutional Reference made to the Chief Justice, whose ruling will be made on 31st October 2003.
- (ii) Provide a schedule of movable assets attached by Auctioneers at Euro Bank (in Liquidation).
- (iii) Provide a cost benefit analysis of depositing money in the HFCK on call to cater for the staff mortgage scheme and compliance with Treasury's Circulars.

The Committee further directed the Chief Executive to withdraw money held in HFCK and find the best and convenient way of running the House Mortgage Scheme without disadvantaging the loanees.

MIN. NO. 49/2003

**ADDITIONAL INFORMATION:
PARAGRAPH 2 OF THE 1998/99 ACCOUNTS -
WORK IN PROGRESS**

The Committee directed the Chief Executive: -

- (i) to report Geomax Consultants to Engineers Registration Board lodging a complaint for professional negligence and take measures to seek recoveries.
- (ii) to provide the names of Directors of Geomax Consultants and category of their registration, the suppliers and the key officers from the Ministry of Public Works & Housing who were involved in the project and certification.

The Chief Executive should report on action taken by 16th of November 2003.

MIN. NO. 50/2003

**ADDITIONAL INFORMATION: PARAGRAPH
3 - DEBTORS**

The Committee directed the Chief Executive to establish the circumstances under which a cheque that was purportedly being taken to Central Bank by a Mr. Kubebea for buying Treasury Bills and bonds disappeared, and to report the matter to the Police for immediate investigation and prosecution. The Chief Executive should report progress to the Committee by 2nd of November, 2003.

MIN. NO. 51/2003

**ADDITIONAL EVIDENCE PARAGRAPH 4
OF THE 1998/99 ACCOUNTS - FIXED
ASSETS**

The Committee directed the parent Ministry to confirm whether or not, it has taken over the assets of Mbagathi District Hospital.

MIN. NO. 52/2003

**DEFERRED EVIDENCE: PARAGRAPH 5
OF THE 1998/99 ACCOUNTS -
IRREGULAR AWARD OF CONTRACT
(KSH. 383,800,000)**

The Committee deferred taking evidence on the paragraph and directed the Chief Executive to give the names of the Directors of the following firms and the Hospital's Board as constituted in 1998/99:

- (i) M/s. Tectura International Co.
- (ii) M/s. Nelliwa Builders & Civil Engineers

The Committee further directed the Chief Executive to explain how the contractors were sourced and the contract awarded, and who the Chief Executive was during the period.

The Directors of the said firms, the then Chief Executive of the Hospital, the then Chief Architect in the Ministry of Public Works and management of the Hospital would be required to appear before the Committee at a later date.

MIN. NO. 53/2003 - **PAPER LAID**

The following paper was laid in relation to paragraph 1:

Copy of Ruling of the High Court HCCC. No. 1675 of 2002.

MIN. NO. 54/2003 - **ADJOURNMENT**

And there being no Other Business, the Chairman adjourned the Meeting at 1.45 P.M. until 24th October 2003.

Hon. J.B.N. Muturi, MP

SIGNED.....
CHAIRMAN

10th November, 2003

DATE.....

MINUTES OF THE TWELFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY OCTOBER 24, 2003 AT 9.00 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang, MP

ABSENT:

The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Maina Kamanda, MP
The Hon. M. Abdi Mohamed, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Second Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. A. Denge Director of Audit
Mr. J.K. Mukhooli- Deputy Director of Audit
Mr. M. S. Madhedi Senior Auditor

TREASURY/DGIPE

S.M. Karehu - Chief Accountant

INSPECTORATE OF STATE CORPORATIONS

Ntonjira Mwingirwa - D.C.E

The Report and Accounts of Kenya Railways Corporation for the year 1998/99 and the certificate thereon by the Controller & Auditor General.

Mr. Andrew A. Wanyandeh, Managing Director of Kenya Railways Corporation, accompanied by Messrs: Richard Otieno, General Manager Finance; Edith Jenkim, Estates Manager; Robert Mokuia Nyabocha, Chief Accountant; Rodgers Washika, Financial Accountant; David Bosire, Management Accountant; Peter Kamwere, Alternate Director, Ministry of Transport and Communication and Mr. G.G. Irungu Ag. Chief Finance Officer Ministry of Transport & Communications appeared before the Committee and gave evidence on the accounts of the Kenya Railways Corporation for the year 1998/99.

ADDITIONAL INFORMATION:
PARAGRAPH I OF THE 1998/99
ACCOUNTS - FINANCIAL POSITION.

The Committee directed the Managing Director to submit the following information by November 24th 2003.

- (i) The names of the contracted agents.
- (ii) Figures realized from the sale of properties stating whether value for money was obtained.
- (iii) Buyers of the properties and where they are companies, provide names of directors.
- (iv) Reason for selling the land below the valuation price in cases where land was sold below valuation price.
- (v) The criteria and process of valuation
- (vi) Names of firms of valuer(s) and their directors.
- (vii) Names of Chief Executives of the Corporation during the period of sale of properties.
- (viii) Reasons for the exaggerated variations in the property sale as per Appendix 1 .1 of the response, (between the Valuation Price, Purchase Price, and the amount received).
- (ix) The allottees for the unsurveyed Nyalenda plot in Kisumu.

- (x) Explanation on what became of property whose buyers are either deceased or withdrew before completion of transaction.
- (xi) Clarification on an unspecified property in Kisumu sold at an amount of Ksh.120, 000,000.
- (xii) Evidence that Numerical Machining Complex bought the piece of land 209/9534 (part) measuring 5.0 acres.

MIN. NO. 57/2003 - **EVIDENCE: PARAGRAPH 2 OF THE 1998/99 ACCOUNTS - FIXED ASSETS VALUE**

The Committee took and concluded evidence on the paragraph.

MIN. NO. 58/2003 - **ADDITIONAL EVIDENCE: PARAGRAPH 3 OF THE 1998/99 ACCOUNTS - DEBTORS**

The Committee directed the Chief Executive to submit the following information to the Controller and Auditor General for verification:

- (i) Explanation on the payment of Ksh.64,152,546 to General Electric Company.
- (ii) Ksh.14,130,302 owed to KECOSO Games.

The information should be submitted by November 24th 2003.

MIN. NO. 59/2003 - **DEFERRED EVIDENCE - PARAGRAPH 5 OF THE 1998/99 ACCOUNTS - IRREGULAR ALLOCATION OF LAND**

The Committee deferred taking evidence on the paragraph and resolved that the Commissioner of Lands should appear along with the management of the Corporation at a later date to explain why she has not revoked the illegal allocation of Kenya Railways land Plot No.Kisumu/MUN/BLOCK 7/365 (formerly LR/118/1184) to Mr. Solomon Ndalo Obede and why Land LR No. 209/6620 and LR No. 209/6337 which were surrendered for use by Pangani Girls High School were allocated to other people.

MIN. NO. 60/2003 - **DEFERRED EVIDENCE: PARAGRAPHS 6 -10 OF THE 1998/99 ACCOUNTS**

The Committee deferred taking evidence on paragraphs 6 -10 of the 1998/99 Accounts to a later date and resolved that the management of Numerical Machining Complex Ltd should appear along with the Kenya

Railways Management in connection with paragraph 10 of the 1998/99 Accounts.

MIN. NO. 61/2003 - **ADJOURNMENT**

There being no other business the Chairman adjourned the Sitting at thirty minutes past one O'clock until Monday, 27th October, 2003 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED.....
CHAIRMAN

10th November, 2003

DATE.....

MINUTES OF THE THIRTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY OCTOBER 27, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang, MP
The Hon. M. Abdi Mohamed, MP

ABSENT

The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gor Sungu, MP
The Hon. K. M. Sang, MP
The Hon. Maina Kamanda, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. C.O. Kiange - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Ms. T.K. Gichana - Inspector I

TREASURY - **DEPARTMENT OF GOVERNMENT INVESTMENT AND PUBLIC ENTERPRISES (DGIPE)**

Mrs. T. N. Gathaara - Under Secretary

MINISTRY OF AGRICULTURE

Emily M. Gatuguta

Mr. Andrew Otieno, the Chief Executive Officer of the Kenya Sugar Board, accompanied by Messrs: Rosemary Mkok, Company Secretary; Vincent Mutilangi, Head of Internal Audit and Peter G. Karogi, Acting Head, Finance, appeared before the Committee and gave evidence on the accounts of the Kenya Sugar Board/Sugar Development Fund for the year 1999/2000.

The Committee observed that there has not been adherence of the Law, as far as section 27 of State Corporation Act that requires State Corporations to get approval from the State Corporation Advisory Committee on revised terms and conditions of service.

The Committee resolved to summon the Head of Public Service and Secretary to the Cabinet at a later date to explain why the office of the President continues to flout the said Act.

Evidence was taken and concluded.

The Committee however directed the Chief Executive Officer to submit the following information to the office of the Controller and Auditor General and a copy to the Committee in two weeks time:

Copies of the work tickets that were kept during the time when the vehicle had civilian registration number.

The Committee deferred taking evidence on the paragraph until a later date. The Committee however directed the Chief Executive Officer to provide the following information by the end of December, 2003: -

- (i) A brief on the decision to be made by the Board on the Tissue Culture Project.

(ii) Proprietors and/or directors of M/S. Genetic Technologies Ltd.

MIN. NO. 66/2003 - **DEFERRED EVIDENCE**

The Committee deferred taking evidence on paragraphs 2, 3, 4 & 5 until a later date.

MIN. NO. 67/2003 - **ADJOURNMENT**

There being no Other Business, the Chairman adjourned the meeting at 5.30 p.m., until Friday 31st October 2003 at 9.00 a.m.

Hon. J.B.N. Muturi, MP

SIGNED.....
(CHAIRMAN)

10th November, 2003

DATE.....

MINUTES OF THE FOURTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY OCTOBER 31, 2003 AT 11.00 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Wafula Wamunyinyi, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang', MP

ABSENT

The Hon. Ali Bahari, MP
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. Maina Kamanda, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant

DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES (DGIPE)

Mr. D. Ndegwa - Economist I

MIN. NO. 68/2003 - CONFIRMATION OF MINUTES

Minutes of the Sixth, Seventh, Eighth and Ninth sittings were confirmed by Members present and signed by the Chairman as follows:

- (i) The Sixth Sitting held on Friday July 11th 2003 were proposed by the Hon. Wafula Wamunyinyi, MP and seconded by the Hon. Wycliffe A. Oparanya, MP.
- (ii) The Seventh Sitting held on Friday July 18, 2003 were proposed by the Hon. Wycliffe A. Oparanya, MP and seconded by the Hon. Wafula Wamunyinyi, MP.

- (iii) The Eighth Sitting held on Monday July 21, 2003 were proposed by the Hon. Mohamed A. Mohamed and seconded by Hon. the J.B. Muturi, MP.
- (iv) The Ninth Sitting held on Friday October 03, 2003 were proposed by the Hon. Wycliffe A. Oparanya, MP and seconded by the Hon. Wafula Wamunyinyi, MP.

MIN. NO. 69/2003 - **MATTERS ARISING**

The following matters arose and the Committee resolved on them as follows: -

1. Min. No. 19/2003 of July 11, 2003

- (a) That, the Controller and Auditor General, should examine submissions by the various State Corporations and advise the Committee accordingly.
- (b) That, the management of Kenya Wine Agencies Limited should appear again at a later date in relation to the issue of privatization of the Corporation. During the appearance, the Corporation should be accompanied by their parent Ministry, ICDC, a representative from Treasury and the Investments Secretary. The Management will also be required to submit the Corporation's current trading position.

That, the management of the National Bank of Kenya together with the parent Ministry and Treasury should appear at a later date in relation to KEMRI's Housing Project Account.

2. Min. No. 22/2003 of July 18, 2003

That, the Controller and Auditor General should examine the Report of the E.M.U on the defunct Kenya Sugar Authority and advise the Committee accordingly.

The Committee should follow-up the matter with the Kenya Sugar Board during their next appearance.

3. Min. No. 24/2003 of July 18, 2003

That, the Controller and Auditor General should examine the submissions by Kenya Airports Authority and advise the Committee accordingly.

4. **Min. No. 27/2003 of July 18, 2003**

That, a follow-up should be made on the status of compliance with Treasury Circular No. 3 of 2003 by Chief Executives of State Corporations.

5. **Min. No. 32 of July 21, 2003**

That, only Mr. Lawi Kiplagat along with the Management of National Housing Corporation should appear before the Committee in relation to paragraph 3 of the 1998/99 Accounts of the Corporation.

MIN. NO. 70/2003 - **REVIEW OF SITTING PROGRAMME**

The Committee considered and approved the Draft Sitting Programme for November/December 2003, with amendments.

MIN. NO. 71/2003 - **ANY OTHER BUSINESS**

1. **Overseas Visits**

The Committee resolved to visit the Parliaments of South Africa, New Zealand and Australia between the months of April and May 2004.

The purpose of the visit will be to find out the operations of Committees with functions similar to those of the Public Investments Committee with a view to adopting what would enhance the efficiency and effectiveness of the Committee.

2. **Extension of time for Submission of Accounts of Kenya Railways Corporation for the Year 2002/2003**

The Committee acceded to a request by Kenya Railways Corporation for extension of time for submission of the Corporation's Accounts for audit for the year 2002/2003.

The Chairman adjourned the Sitting at Forty Minutes Past Twelve O'clock until Monday November 03, 2003 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED.....

CHAIRMAN

10th November, 2003

DATE.....

MINUTES OF THE FIFTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY NOVEMBER 3, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. Otieno Kajwang', MP
The Hon. K.M. Sang, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Gor Sungu, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. Edward H. Gikonyo - Director of Audit
Mr. H.O. Wanyama - Deputy Director of Audit
Mr. B. Okondo - Senior Auditor

TREASURY (DGIPE)

Mr. F.W. King'ori - Assistant Secretary I
Mr. Elijah T. Nduati - Alternate Director for
Permanent Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. R.E. Ndubai - Senior Principal Inspector of
State Corporations

Report and Accounts of the National Social Security Fund for the year 1998/99 and the Certificate thereon by the Controller and Auditor General.

Mr. Naftali O. Mogere, Managing Trustee of the National Social Security Fund (N.S.S.F) accompanied by Messrs:- Rachel Lumbasyo, Deputy Managing Trustee (Finance and Investments), Albert Odero, Deputy Managing Trustee (Personnel and Administration); Wycliff W. Mutonyi, Information Technology Manager; Anderson Ndwiga, (Administration Manager); James Akoya, (Finance Manager); Grace Kasungu, (Compliance Manager); F.Z. Moturi, (Investments Manager); Said Chitembwe, (Corporation's Secretary); P.M. Weru, (Chief Accountant); P.K. Keitany, (Senior Accountant) and Mrs Debora A. Ongewe, Permanent Secretary, Ministry of Labour and Manpower Development appeared before the Committee and gave evidence on the accounts of the Fund, for the year 1998/99.

MIN. NO. 74/2003**ADDITIONAL INFORMATION:
PARAGRAPH 1 OF 1998/99 ACCOUNTS -
FINANCIAL POSITION**

The Committee directed the Managing Trustee to submit copies of the following information to the Controller and Auditor General and the Clerk of the National Assembly by November 10, 2003:-

- (i) Advertisement inviting tenders for the insurance cover
- (ii) A register showing persons who bought the tender documents
- (iii) Evaluation Report on the submitted bids
- (iv) Minutes of the Tender Committee, which sat to award the tender pursuant to the procurement procedures.
- (v) The name of the company which won the tender
- (vi) The final ruling of the Appeals Board on this matter.

MIN.NO. 75/2003**ADDITIONAL INFORMATION:
PARAGRAPH 2 OF 1998/99 ACCOUNTS -
PURCHASE OF LAND - ATHI RIVER**

The Committee directed the Managing Trustee to submit copies of the following information to the Controller and Auditor General and the Clerk of the National Assembly by November 10th 2003: -

- (i) Names of directors of the following companies that sold non-existent pieces of land to the Fund:

- ◆ Kagika Ltd
 - ◆ James Tildi Ltd
 - ◆ Pandrad Hotels & Lodges Ltd
- (ii) Copies of sale agreements signed on 27th June, 1994, indicating the persons who executed them.
- (iii) Progress made towards reporting the matter on irregular buying of land to the Kenya Anti-Corruption Commission.

MIN. NO. 76/2003 - **DEFERRED EVIDENCE: PARAGRAPHS 3**
 - **13 OF 1999\8/99 ACCOUNTS**

The Committee deferred taking evidence on paragraphs 3 - 13 of the 1998/99 Accounts to a later date.

MIN. NO. 77/2003 - **PAPERS LAID**

The following papers were laid by the Managing Trustee in relation to paragraph 2 of the 1998/99 Accounts:

- (i) A copy of the letter to the Permanent Secretary, Ministry of Labour and Manpower Development, dated 27th May, 1994 requesting for investment approval to N.S.S.F.
- (ii) A copy of the letter from Treasury dated 16th June, 1994, granting approval of investment to N.S.S.F.
- (iii) Report and Valuation of the following:
- ◆ Plot No. L.R. 19190, Athi River
 - ◆ Plot No. L.R. 20589, Machakos Road, Machakos Municipality.
 - ◆ Plot No. L.R. 9042/179, Embakasi Village, Nairobi
 - ◆ Plot No. L.R. 19189, Athi River
 - ◆ Plot No. L.R. 19187 Athi River
 - ◆ Plot No. L R. 19186, Athi River

The Chairman adjourned the Sitting at fifteen minutes past Five O'clock until Friday 7th November, at 9.00 a.m.

Hon. J.B.N. Muturi, MP

SIGNED.....

(CHAIRMAN)

10th November 2003

DATE.....

MINUTES OF THE SIXTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY NOVEMBER 07, 2003 AT 9.30 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Sammy Weya, MP
The Hon. Gor Sungu, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Kipkorir Sang, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Otieno Kajwang', MP
The Hon. Henry Obwocha, MP
The Hon. Wicliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. J.K. Mukhooli - Deputy Director of Audit
Mr. M.O.Gichana - Auditor I

DEPARTMENT OF GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES (DGIPE)

Mr. D. Ndewa - Economist

INSPECTOR OF STATE CORPORATIONS

Mr. R. E. Ndubai - Senior Principal Inspector of State Corporations

The Report and Accounts of Kenya Ports Authority for the years 1998/99 and 1999/2000 and the Certificates thereon by the Controller and Auditor General.

Mr. Brown Ondego, Managing Director, Kenya Ports Authority accompanied by Messrs: J.O. Atonga, Technical Services Manager; James Lukiri, Financial Accountant; Georgina Afire, Ag. Chief Internal Auditor; Patrick Njari, Financial Controller; Abdullahi Samarta, Chief Civil Engineer; Flora Mutiso, Support Programme Administrator; G.G. Irungu, Chief Finance Officer Ministry of Transport & Communications and S.N. Nzavu, Shipping Officer, Ministry of Transport & Communications, appeared before the Committee and gave evidence on the Accounts of the Authority for the years 1998/99 and 1999/2000.

DEFERRED EVIDENCE:
PARAGRAPH 1 OF THE 1998/99
ACCOUNTS - EXTENSION AND
REFURBISHMENT OF KIPEVU
HEADQUARTERS

The Committee deferred taking evidence on the paragraph and resolved that the following people should appear before them at a later date in relation to the Paragraph:

- (i) The then Chief Executive(s) of the Authority during the period when the decision to extend and refurbish the Kipevu Headquarters was made.
- (ii) The Lead Consultant.
- (iii) Other consultants involved in the project.

The Committee also directed the Chief Executive to submit the following information by Thursday November 13, 2003:

- (i) Names of directors of all the consultancy firms involved in the project,
- (ii) Board minutes when the decision to extend and refurbish the Kipevu Headquarters was made, indicating the reaction of the Board to the proposal for extension and refurbishment of the Headquarters.
- (iii) Evidence of approval from Treasury and the Parent Ministry to carry out the project;

- (iv) Minutes of the subsequent Board meetings where the decision to abandon the project was made, indicating the reasons for change of mind;
- (v) Any other relevant correspondence or documents related to the project.

MIN. NO. 81/2003

**DEFERRED EVIDENCE: PARAGRAPH I OF
1999/2000 ACCOUNTS - OPERATION AND
MANAGEMENT CONTRACT - MOMBASA
CONTAINER TERMINAL**

The Committee deferred taking evidence on the paragraph and resolved that a representative of the Parent Ministry (preferably the Permanent Secretary or a competent representative) should appear before them along with the management of the Authority in relation to the paragraph.

The parent Ministry will be required to explain why the Government required KPA to sign a contract for external management and operations of the Mombasa Container Terminal by March 1996, which ended up making the Authority incur a total expenditure of Ksh.70,829,951 for services whose propriety cannot be confirmed.

The Committee in addition directed the Chief Executive to submit the following information, by Thursday, November 13, 2003: -

All correspondence between KPA and the Parent Ministry related to the contract.

MIN. NO. 82/2003

**DEFERRED EVIDENCE:
PARAGRAPHS 3 & 4 OF 1999/2000
ACCOUNTS**

The Committee deferred taking evidence on paragraphs 3 and 4 to a later.

MIN. NO. 83/2003

**KPA'S TENDER FOR SUPPLY OF
CRANES**

The Committee sought to know from the Chief Executive the circumstances under which dates for opening the Authority's tender for supply of cranes was extended thrice.

The Chief Executive informed the Committee that: -

- (i) The first extension was as a result of a clarification sought by some bidders, which the Authority responded to through an addendum,

which necessitated the first extension and which was in line with procurement regulations. The clarification also contained a request for extension of time.

- (ii) The second extension was as a result of a verbal request by the Ministers for Trade and Industry and Planning and National Development to have Numerical Machining Complex in partnership with another company participate in the tender.
- (iii) The third extension was necessitated by a telephone call from the Minister for Transport and Communications in which the Minister requested a further extension of ten days which the Authority granted, hence extending the opening of the tender to 6th November, 2003.

The Committee observed with concern that the requests by the three Ministers interfered with the Authority's tendering process contrary to Government procurement regulations. The Committee also expressed concern that the requests for extension of time by the Ministers disadvantaged the bidders who bid on time. Concern was also raised that the Authority, and not the Ministers, bore the extra cost of the two extensions.

The Committee consequently resolved to invite the three Ministers to explain why it became necessary for them to interfere with the Authority's tender for supply of cranes.

MIN. NO. 84/2003 - **ADJOURNMENT**

The Chairman adjourned the Sitting at One O'clock until Monday November 10, 2003 at 2.30 p.m.

Hon. Henry Obwocha, MP

SIGNED.....
(Ag. CHAIRMAN)

21st May 2004

DATE.....

MINUTES OF THE SEVENTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY NOVEMBER 10, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang', MP
The Hon. Ali Bahari, MP
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. K.M. Sang, MP

ABSENT

The Hon. Wafula Wamunyinyi, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Maina Kamanda, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. E.M. Gikonyo - Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi - Senior Inspector
Ms. M. Ratemo - Inspector I

MIN. NO. 85/2003 - CONFIRMATION OF MINUTES

Minutes of the Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth and Fifteenth Sittings were confirmed by Members present and signed by the Chairman as follows: -

- (i) The Tenth Sitting held on Tuesday, October 14, 2003 were proposed by the Hon. Gor Sungu, MP and seconded by the Hon. Sammy Weya, MP.
- (ii) The Eleventh Sitting held on Friday, October 17, 2003 were proposed by the Hon. Henry Obwocha, MP and seconded by the Hon. Ali Bahari, MP.
- (iii) The Twelfth Sitting held on Friday, October 24th, 2003 were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Ali Bahari, MP
- (iv) The Thirteenth Sitting held on Monday, October 27th, 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Ali Bahari, MP.
- (v) The Fourteenth Sitting held on Friday, October 31, 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. J. B. Muturi, MP
- (vi) The Fifteenth Sitting held on Monday, November 3rd, 2003 were proposed by the Hon. Sammy Weya, MP and seconded by the Hon. K.M. Sang, MP.

MIN. NO. 86/2003 - **MATTERS ARISING**

The following matters arose and the Committee resolved on them as follows: -

1. **Min. No. 41/2003 of October 14, 2003**

That the Controller and Auditor General, should verify imprests recovered and those still outstanding, with regard to paragraph I of the 1996/97 Accounts of Kenya Airports Authority on misuse of Temporary Imprest. Upon verification, the Controller and Auditor General should report back to the Committee in writing.

2. **Min. No. 43/2003 of October 14, 2003**

That, the Controller and Auditor General should verify the breakdown of furniture and equipments belonging to Kenya Airports Authority, valued by Gimco Values Ltd and the discrepancies in hectarage of land allocated by the Authority including hectares of land allocated to private developers. Upon verification the Controller and Auditor General should report back to the Committee, in writing.

The Committee also instructed the Secretariat to send a reminder to the Chief Executive of Kenya Airports Authority to submit the information required by the Committee regarding paragraph 2 of the 1996/97 Accounts of the Authority on Survey of Airports.

3. **Min. No. 48/2003 of October 17, 2003**

That, the Secretariat should write to the management of Kenyatta National Hospital expressing the Committee's concern over non-compliance with Committee directives by the management of the Hospital.

In every case where a Corporation had not complied with Committee directives, the Secretariat was instructed to write and register the concern of the Committee.

4. **Min. No. 68/2003 of October 31, 2003**

That, the Controller and Auditor General should examine the Report of the Efficiency Monitoring Unit on the defunct Kenya Sugar Authority and report back to the Committee, in writing. The Committee will follow-up the matter with Kenya Sugar Board during their next appearance.

The Committee also resolved to hold sitting with Treasury at a later date to review the status of compliance with Treasury Circular No. 3 of 2003, by Chief Executives of Corporations.

5. **Min. No. 73/2003 of November 03, 2003**

That, Management of NSSF should appear before the Committee on November 20, 2003 in relation to paragraph 4 of 1998/99 Accounts of the Fund.

MIN. NO. 87/2003 - **ADJOURNMENT**

The Committee adjourned the Sitting at Five O'clock until Thursday November 13, 2003 at 9.30 a.m.

Hon. Henry Obwoch, MP

SIGNED.....

(Ag. CHAIRMAN)

21st May, 2004

DATE.....

MINUTES OF THE EIGHTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY NOVEMBER 12, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Sammy Weya, MP
The Hon. Maina Kamada, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang', MP

ABSENT WITH APOLOGY

The Hon. Henry Obwocha, MP
The Hon. K.M: Sang, MP
The Hon. Abdi M. Mohamed, MP
The Hon. Gor Sungu, MP
The Hon. Wafula Wamunyinyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

MIN. NO. 88/2003 - KENYA PORTS AUTHORITY'S TENDER FOR CRANES

Dr. the Hon. Mukhisa Kituyi, MP Minister for Trade and Industry and Prof. the Hon. Anyang' Nyongo, Minister for Planning and National Development, accompanied by the Permanent Secretary in the Ministry of Trade and Industry Mr. Eric Keter, appeared before the Committee in relation to Kenya Ports Authority's Tender for Cranes.

The Chairman invited the Minister to respond to issues raised by the Committee during its Sixteenth sitting on Friday November 07, 2003. During the November 07, 2003 sitting the Chief Executive, Kenya Ports Authority had informed the Committee that the Ministers made verbal requested to him to allow Numerical Machining Complex (NMC) to participate in the tender for cranes and extend the tender opening dates.

In response, the Minister for Planning and National Development first sought to know whether the issue was within the jurisdiction of the

Public Investments Committee. The Chairman clarified that the Committee is mandated under Standing Order No. 148 (5)(c) to look into the issue and other issues concerning public investments, to ensure public investments are managed in accordance with sound business principles and prudent commercial practices.

The Chairman further clarified that the Speaker had made a ruling in the House to the effect that the Committee had the right to question the issue.

The Two Ministers conceded that they had made requests to the Chief Executive, Kenya Ports Authority to allow Numerical Machining Complex (NMC) participate in the cranes tender. The Ministers, however, pointed out that their action was necessitated by the desire to encourage domestic investment as an effort towards economic recovery.

The Committee observed that even when ideas are noble, they must be implemented within the law.

IN. NO. 89/2003 - ADJOURNMENT

The Chairman adjourned the Sitting at twenty minutes Past Three O'clock, until Thursday November 14, 3002 at 9.00 a.m.

Hon. Henry Obwocha, MP

SIGNED.....

Ag. CHAIRMAN

21st May, 2004

DATE.....

MINUTES OF THE NINETEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY NOVEMBER 13, 2003 AT 10.00 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Sammy Weya, MP
The Hon. Gor Sungu, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Kipkorir Sang, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Otieno Kajwang', MP
The Hon. Henry Obwocha, MP
The Hon. Wicliffe A. Oparanya, MP

IN ATENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. Gichana - Auditor I (KPA Branch)

TREASURY (DGIPE)

Mr. Dominic Ndewa - Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. T.Muriithi - Senior Inspector
Ms. M. Ratemo - Inspector I

Kenya Ports Authority's Tender for supply of Cranes and the Report and Accounts of Kenya Ports Authority for the 1999/2000 and the Certificate thereon by the Controller and Auditor General.

Mr. Brown Ondego, Managing Director, Kenya Ports Authority accompanied by Messrs. A. Samatar, Chief Civil Engineer; J. Atonga, Technical Services Manager; P.G. Njari, Financial Controller and J.O. Lukiri, Financial Accountant; S.P. Ndemo, Senior Deputy Secretary Ministry of Transport and Communications; G.G. Irungu, Ag. Chief Finance Officer; Ministry of Transport & Communications and S.N. Nzavu, Shipping Officer I Ministry of Transport & Communications appeared before the Committee in relation to the Authority's Cranes Tender and the Accounts for the year 1999/2000.

The Chief Executive briefed the Committee on the Authority's tender for cranes and made the following clarifications:-

1. That, the tender for cranes was International.
2. That, current procurement regulations require that an international tender be opened after 42 days of advertisement hence the opening date should have been 26th September, 2003.
3. That, the tender opening date was extended three times as follows:
 - (i) the first extension from 26th to 13th October, 2003 was sought by prospective bidders and was within the law.
 - (ii) The second extension was as a result of verbal requests by Hons. Mukhisa Kituyi and Anyang Nyongo to allow M/s Numerical Machining Complex to participate in the tender.
 - (iii) The third extension was necessitated by request by the Minister for Transport and Communications, via a telephone call, in order to allow him as the Minister for the parent Ministry to address some of the representations he had received
4. That, the tender was advertised in the local and international newspapers on 11th and 12th August, 2003.

5. That, 24 bidders bought the tender documents well before the first closing date of 26th September, 2003 but Industrial Plant Limited/Numerical Machining Complex bought their documents on 3rd October, 2003 while M/s Triton Network Solutions Limited, on behalf of Delwan Heavy Industries and Delwan Crane Works, bought their documents on 3rd November, 2003 and therefore the total number of bidders came to 26.
6. That, the tenders were finally opened on 6th November 2003 and only 10 bidders (including IPL/NMC) returned their bids.
7. That, the tender would be technically evaluated by Professionals.
8. That, the extensions did not disadvantage any of the bidders and no bidder had complained over the extensions.
9. That, it would be imprudent to cancel the tender, as this would be detrimental to the Port.

The Committee directed the Chief Executive to ensure that procurement regulations are adhered to the letter, in the Authority's business transactions.

MIN. NO. 92/2003

**DEFERRED EVIDENCE: PARAGRAPH 1
OF THE 1999/2000 ACCOUNTS - OPERATION
AND MANAGEMENT CONTRACT - MOMBASA
CONTAINER TERMINAL**

The Committee deferred taking evidence on the paragraph and resolved that the following people along with the Management of the Authority should appear at a later date in relation to the paragraph:

- (i) the then Executive Chairman Mr. Robert Breineisten
- (ii) the then Permanent Secretary, Ministry of Transport & Communications Mr. Stanley Murage.

The Committee further directed the Chief Executive to submit the following information during the Authority's next appearance:

- (i) Minutes of the Board meeting when the contract was discussed.
- (ii) All correspondence regarding the contact

MIN. NO. 93/2003

**EVIDENCE: PARAGRAPHS 2 AND 3 OF
THE 1999/2000 ACCOUNTS**

The Committee took and concluded evidence on Paragraphs 2 and 3 of the 1999/2000 Accounts.

MIN. NO. 94/2003

**ADDITIONAL INFORMATION:
PARAGRAPH 4 OF THE 1999/2000
ACCOUNTS - SUPPLY AND INSTALLATION OF
COMPUTER HARDWARE AND SOFTWARE
CONTRACT**

The Committee directed the Chief Executive to seek an appropriate legal opinion to ensure that the Authority recovers the amount of US\$464,501.30 plus costs from M/s. Amarco (K) Ltd.

MIN. NO. 95/2003

ADJOURNMENT

The Chairman adjourned the Sitting at fifty-five Minutes Past Twelve O'clock until Friday November 14, 2003 at 9.00 a.m.

Hon. Henry Obwocha, MP

SIGNED.....
(Ag. CHAIRMAN)

21st May, 2004

DATE.....

Report and Accounts of the National Water Conservation & Pipeline Corporation for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Eng. Michael O. Ochieng, Managing Director of National Water Conservation and Pipeline Corporation accompanied by Messrs: Stanley Amuti, J. Muchemi, S. Kitwili, V. Nyapilo and Odero N. Ontweka of the Ministry of Water Resources and Management Development appeared before the Committee and gave evidence on the accounts of the Corporation for the year 1998/99.

MIN. NO. 97/2003

ADDITIONAL INFORMATION:
PARAGRAPH 1 OF 1998/99 ACCOUNTS
- DEFICIT

The Committee directed the Managing Director to submit the copies of the following information to the Controller and Auditor General and Clerk of the National Assembly by 21st November, 2003:-

- (i) An analysis in respect of miscellaneous expenditure breakdown including fees, commissions, honoraria, renewal of water suppliers and expenses of the Board & Committees.
- (ii) List of the projects and the cost of their rehabilitation.

MIN. NO. 98/2003

ADDITIONAL INFORMATION:
PARAGRAPH 2 OF 1998/99 ACCOUNTS -
WATER DEBTORS

The Committee directed the Chief Executive Officer to provide debt analysis year by year since 1988, by 12th January 2004 to the Controller and Auditor General and Clerk of the National Assembly.

MIN. NO. 99/2003

ADDITIONAL INFORMATION:
PARAGRAPH 3 OF 1998/99 ACCOUNTS -
OTHER DEBTORS

The Committee directed the Chief Executive to provide the following information to the Controller and Auditor General and Clerk of the National Assembly by 21st November, 2003:

Court Case in connection with recovery of outstanding imprest of Ksh.348, 671 from a former employee Mr. J.N Kiluva.

MIN. NO. 100/2003

- **EVIDENCE: PARAGRAPH 4 OF
1998/99 ACCOUNTS - FIXED ASSESTS**

Evidence on this paragraph was taken and concluded.

MIN. NO. 101/2003

- **EVIDENCE: PARAGRAPH 5 OF
1998/99 ACCOUNTS - ACCRUED
EXPENSES**

Evidence on this paragraph on Accrued Expenses was taken and concluded.

MIN. NO. 102/2003

- **EVIDENCE: PARAGRAPH 6 OF
1998/99 ACCOUNTS - REPAYMENTS OF
LONG TERM LOANS**

Evidence on this paragraph was taken and concluded.

MIN. NO. 103/2003

- **ADDITIONAL INFORMATION:
PARAGRAPH 7 OF 1998/1999
ACCOUNTS - PROCUREMENT**

The Committee directed the Chief Executive to provide the following information by 21st November, 2003 to the Controller and Auditor General and the Clerk of the National Assembly: -

Details on the manner in which tenders were flouted and also copies of adverts in the local daily newspapers.

MIN. NO. 104/2003

- **PAPERS LAID**

The following papers were laid before the Committee with respect to various paragraphs of 1998/99 Accounts:-

- (i) C. J. Chebet & Co. Advocates (Lawyer)
Letter Ref. CJ/10/MISC/01 in respect of paragraph 3
- (ii) Schedule of Pay-Master General for July 2003, in respect of paragraph 5.
- (iii) Outstanding Statutory Deductions as at 20th October, 2003 in respect of paragraph 5.
- (iv) Statutory Deductions as at 30th April, 2001 in respect of paragraph 5.

- (v) Staff Appraisal Report, Kenya Second Mombasa Project and Coastal Water Supply Engineering and Rehabilitation Project.
- (vi) Summary of the current water tariff rates, with respect to paragraph 6.
- (vii) A copy of letter Ref. No. NCPE/FIN/12, on the waiver of the outstanding IDA Loan, sent to the Permanent Secretary Ministry of Water Resources Management and Development, in respect of paragraph 6.
- (viii) The Minutes of the 60th Sitting of Supply and Services Committee in respect of paragraph 7.
- (ix) Schedule of Revenue collection, efficiency and targets.

MIN. NO. 105/2003

- **ADJOURNMENT**

The Chairman adjourned the Sitting at One O'clock until a later date.

Hon. Henry Obwocha, MP

SIGNED.....

Ag. CHAIRMAN

21st May, 2004

DATE.....

MINUTES OF THE TWENTY-FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY NOVEMBER 17, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. M. Abdi Mohamed MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang', MP

ABSENT WITH APOLOGY

The Hon. Gor Sungu, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. E.H. Gikonyo - Director of Audit
Mr. M.H. Onyango - Senior Auditor

TREASURY (DGIPE)

Mr. S. Kitungu - Director of Reforms

INSPECTORATE OF STATE CORPORATIONS

Mr. S.M. Maluki - Financial Advisor

1. **Kenya Ports Authority's Tender for Cranes**

Hon. John Michuki, MP, Minister for Transport & Communications accompanied by Messrs. Salom Ndemo, Senior Deputy Secretary in the Ministry and Peter Kamere Under Secretary, Ministry of Transport & Communications appeared before the Committee in relation to KPA's Crane's Tender.

The Committee sought clarifications from the Minister over a report from the Management of Kenya Ports Authority that he had requested for an extension of tender opening dates in relation to the Authority.

Thereupon, the Minister informed the Committee that he had requested the Management of KPA to extend the opening dates for the cranes from 27th October to 6th November, 2003 in the interest of transparency and wider advertising.

The Committee expressed concern that the request for extension was contrary to laid down procurement regulations and may have created the impression that the Minister was pursuing personal interests.

The Committee was also of the view that the extension may not have benefited the Authority in any way and may have disadvantaged bidders who bided on time.

The Minister informed the Committee that whatever he did was done in good faith and was meant for the benefit of the Authority and the Nation at large.

MIN. NO. 107/2003 - EVIDENCE

Kenya Power & Lighting Company Ltd

Mr. Jasper Oduor, Managing Director, Kenya Power & Lighting Company Ltd, accompanied by Messrs. Lawrence Njagi, Company Secretary; Zachary Ayieko, Chief Manager Finance; Ben Chumo, Chief Manager Human Resource and Administration; Lawrence Yeyo, Financial Accounting Manager; Albert Mugo, Power System Development Manager; appeared before the Committee in relation to the following issues:

1. KPLC's Financial Status
2. KPLC's Pension Scheme

3. KPLC and Independent Power Producers.

The Committee resolved that the following people who were involved in negotiations with IPPS on behalf of KPLC should appear before the Committee at a later date in relation to KPLC's contracts with independent power producers:

- (i) the then Managing Director Mr. Samuel Gichuru
- (ii) the then Company Secretary Mr. Justin Kimani
- (iii) Mr. M.A. Gupta
- (iv) M/s. MOH Mac Donald - Consultants
- (v) The Permanent Secretary, Ministry of Energy, who will be required to submit the Nyanja probe Committee Report on the activities of Kenya Power & Lighting Company.

The Committee further, directed the Chief Executive to submit the following information by November 24th 2003:

- (i) Copies of agreements with the respective independent power producers.
- (ii) Accounts of KPLC's Pension Fund and Iberafrica

MIN. NO. 108/2003 - ADJOURNMENT

The Chairman adjourned the Sitting at Fifty Minutes Past Five O'clock until Thursday November, 20, 2003 at 10.00 a.m.

Hon. Henry Obwocha, MP

SIGNED.....
(Ag. CHAIRMAN)

21st May, 2004

DATE.....

MINUTES OF THE TWENTY-SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON THURSDAY NOVEMBER 20, 2003 AT 10.00 A. M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang', MP
The Hon. Gor Sungu, MP

ABSENT WITH APOLOGY

The Hon. Mohamud Abdi Mohamed, MP
The Hon. K.M. Sang, MP
The Hon. Henry Obwocha, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.M. Kiama - Parliamentary Intern

CONTROLLER & AUDITOR GENERAL

Mr. E.H. Gikonyo - Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Edward M. Ngugi - Principal Inspector

MIN. NO. 109/2003 - EVIDENCE

Mr. Naftali Mogere, Managing Trustee, National Social Security Fund; accompanied by Messrs. Rachael Lumbasyo, Deputy Managing Trustee; Albert Odero, Deputy Managing Trustee; Said Chitembwe, Corporation Secretary; Anastasia W. Mbogo, Chief Supplies Officer; F.Z. Moturi, Investments Manager; N.K. Mukula, Insurance Officer; Deborah Ongewe, Permanent Secretary, Ministry of Labour and Manpower Development; and Rachael Nzombo, Deputy Chief Finance Officer; appeared before the

Committee and gave evidence on Insurance Cover Tender in reference to Min. No. 73/2003 of the Fifteenth Sitting of the Public Investments Committee.

MIN. NO. 110/2003

INSURANCE COVER TENDER

The Committee was informed that the tender for provision of Insurance Brokerage and underwriting services was annulled by the Public Procurement Complaints Review and Appeals Board upon appeals by certain tenderers.

The Committee was further informed that the tender has since been re-advertised. The Committee was concerned that the Permanent Secretary, Treasury, Mr. Joseph Magari vide his letter Ref. CONF.129/01 dated June 27th 2003 proposed certain brokers and underwriters to be used by the Fund contrary to the Exchequer and Audit (Public Procurement), Regulations, 2001.

The Committee was further concerned that the Fund entered into contract with successful bidders before the expiry of twenty one days as provided for by Regulation 33 of the Exchequer and Audit Act, and that Madison Insurance Company and United Insurance Co. who had scored poorly in the evaluation were included in the list by the Treasury.

The Committee resolved that the Permanent Secretary, Treasury Mr. Joseph Magari should appear before the Committee at a later date to explain under what provisions of the law was he acting on when he:-

- (i) Proposed vide letter & Ref. CONF.129/01 dated 27th June 2003 to the NSSF, Insurance brokers and underwriters to use against the firms which had been recommended by the NSSF Technical and Financial Evaluation Report on Tender No. 10/2002/2003.
- (ii) Granted a waiver letter Ref. No. 2238/110/04A(13) dated 3rd July 2003 for the 21 days notice requirement as per Regulations before any procuring entity can enter into contract.

The Committee directed the Chief Executive to provide schedule of the payments negotiated on premiums of the different categories of the Insurance cover.

MIN. NO. 111/2003 - PAPERS LAID

The following papers were laid before the Public Investments Committee by the Managing Trustee of National Social Security Fund in relation to Insurance Cover Tender on 20th November, 2003.

1. Letter Ref. SF/A/11/8/Vol. II(22) dated 20th June, 2003.
2. Letter Ref CONF/129/01, dated June 27th 2003.
3. Letter Ref. 2238.110/04 A(13) dated 3rd June, 2003.

MIN. NO. 112/2003 - ADJOURNMENT

The Chairman adjourned the meeting at 12.30 p.m. until Friday 21st November, 2003.

Hon. Henry Obwocha, MP

SIGNED.....
(Ag. CHAIRMAN)

21st May, 2004

DATE.....

MINUTES OF THE TWENTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY NOVEMBER 21, 2003 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Maina Kamanda, MP
The Hon. Gor Sungu, MP

ABSENT WITH APOLOGY

The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Otieno Kajwang' MP
The Hon. M. Abdi Mohamed, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant
Mr. S. Kiama - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E.H. Gikonyo - Director of Audit
Mr. B.K. Mulli - Senior Auditor

TREASURY (DGIPE)

Mr. K. Ondiek - Deputy Director

MIN. NO. 113/2003 - **EVIDENCE**

The Report and Accounts of Kenya Medical Research Institute for the year 1999/2000 and the Certificate thereon by the Controller and Auditor General.

Dr. Davy Koech, Director, Kenya Medical Research Institute accompanied by Messrs. D. M. Ngumo, Deputy Director, Administration and Finance; R. A. Kirui, Assistant Director, Finance; and John Gakuu, Ministry of Health appeared before the Committee and gave evidence on the Accounts of the Institute for the year 1999/2000.

MIN. NO. 114/2003

**DEFERRED EVIDENCE: PARAGRAPH 1
OF THE 1999/2000 ACCOUNTS - STAFF
HOUSING PROJECT**

The Committee deferred taking evidence on the paragraph and resolved that the following people along with the Management of the Institute should appear before them at a later date in relation to the paragraph:

1. Town Clerk and Treasurer, Nairobi City Council to clarify on sums of money owing to the Council in respect of Plot LR.NO. 209/10683, Mbagathi Road Nairobi and whether KEMRI paid an amount of Ksh.14,667,557.15 in respect of Council rates for the plot.
2. The Commissioner of Lands to explain what is owing as land rent in respect of Plot LR No. 209/10683 and the amount KEMRI has paid so far.
3. M/s. Sande Makhandia & Co. Advocates to explain the status of Kshs.120,000,000 held by them on behalf of KEMRI. They will in addition, be required to submit the latest certified bank statement showing the actual status of the Kshs.120,000,000.

The Committee further directed the Chief Executive to obtain a professional evaluation report on the status of the project from the Ministry of Roads, Public Works and Housing and submit the report to the Committee through the Controller and Auditor General by 21st December, 2003.

The Committee further directed the Chief Executive to ensure that the amount of Kshs.120,000,000 deposited with M/s Sande Makhandia & Co. Advocates is withdrawn and deposited in a reputable financial institution.

MIN. NO. 115/2003

EVIDENCE

The Committee took and completed evidence on paragraphs 2, 3 and 4 of the 1999/2000 Accounts.

MIN. NO. 116/2003

PAPERS LAID

The following papers were laid by the Chief Executive in relation to Paragraph 1 of 1999/2000 Accounts- Staff Housing Projects:

1. Rates Statement for property LR 209/10683
2. Fees Receipt No. D333214
3. Form of Statement of Rates and other charges, receipt No. AB683402

MIN. NO. 117/2003

ADJOURNMENT

The Chairman adjourned the Sitting at twenty minutes past Twelve O'clock until Monday November 24, 2003 at 9.30 a.m.

Hon. Henry Obwocha, MP

SIGNED.....

Ag. CHAIRMAN

21st May 2004

DATE.....

MINUTES OF THE TWENTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY NOVEMBER 24, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, Mp
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang', Mp
The Hon. Maina Kamanda, MP
The Hon. Mohamud Abdi Mohamed, MP
The Hon. Henry Obwocha, MP

ABSENT WITH APOLOGY

The Hon. K. M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

| | |
|------------------|------------------------|
| Mr. M. R. Sialai | Senior Clerk Assistant |
| Mrs S. Kioko | Clerk Assistant |
| Mr. S.M. Kiama | Parliamentary Intern |

CONTROLLER & AUDITOR GENERAL

| | | |
|------------------|---|-------------------|
| Mr. A. Denge | - | Director of Audit |
| Mr. M.S. Mashedi | - | Senior Auditor |

INSPECTORATE OF STATE CORPORATIONS

| | |
|---------------------|---------------------------|
| Mr. Edward M. Ngigi | Principal Inspector - ISC |
|---------------------|---------------------------|

TREASURY - DGIPE

| | |
|------------------|---------------------|
| Mr. G.M. Onchoke | Director of Finance |
|------------------|---------------------|

MIN. NO. 118/2003 - **EVIDENCE**

Report and Accounts of the Kenya Railways Corporation for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Eng. Andrew A. Wanyandeh, Managing Director of Kenya Railways Corporation, accompanied by Messrs: Richard Otieno, Acting General Manager, Finance; Edith Jenking, Acting Estate Manager; Rodgers Wachika, Financial Accountant and G.O. Magore, Acting General Manager, Numerical Machining Complex accompanied by messrs: S. L. Mbithi, Accountant; R.N. Mkelama, Company Secretary; M. K. Thumbi, Production Manager; A.O. Orukoh, Foundry Engineer, and Mrs. J.M. Okungu, Commissioner of Lands, appeared before the Committee and gave evidence on the accounts of Kenya Railways Corporations for the year 1998/99.

MIN. NO. 119/2003 - **EVIDENCE: PARAGRAPH 3 OF THE 1998/99 ACCOUNTS - DEBTORS**

The Committee was informed that the Managing Director of the Kenya Railways Corporation had submitted the required information with regard to paragraph 3 of the 1998/99 Accounts.

MIN. NO. 120/2003 - **DEFERRED EVIDENCE: PARAGRAPH 5 OF THE 1998/99 ACCOUNTS - IRREGULAR ALLOCATION OF LAND**

The Committee deferred taking evidence on the paragraph and resolved that the Commissioner of Lands should appear again along with the Management of the Corporation at a later date to explain why she has not revoked illegal allocation of Kenya Railways land Plot No. Kisumu/Mun/BLOCK 7/365 (formerly LR/118/1184) to Mr. Solomon Ndalo Obede and why land LR No. 209/6620 and LR No. 209/6337 which was surrendered for use by Pangani Girls High School was allocated to other people. In addition the Managing Director will be required to clarify on the following:

1. The correct hectage of the land hived off from Kenya Railways Corporation's properties.
2. History of the land parcels: LR 209/6620 (app. 5. 06 acres LR 209/6337 (app. 13.562 acres) and the date which this parcels of land ceased being the property of Kenya Railways Corporation .

3. Information on under what instrument was the transaction effected.
4. Allotees of the parcels of the land when allotted; if sold to other parties, when, where and the consideration of the transaction.
5. Directors of WAK
6. How plot No. Kisumu/MUN/BLOCK 7/365(formerly LR/118/1184) was allocated to Mr. Solomon Ndalo Obede.

The Committee also directed the Managing Director to submit a copy of the letter that authorized and effected the surrender of Plot No. LR 209/6337 (approx. 13.562 acres) by 8th December 2003.

MIN. NO. 121/2003 - **ADDITIONAL INFORMATION:**
PARAGRAPH 6 OF 1998/99 ACCOUNTS:
NET PUBLIC DEBT

The Committee directed Treasury to conclude the reconciliation of Loans between the KRC and the Treasury and avail the information to the Controller and Auditor General for verification by 5th December, 2003.

MIN. NO. 122/2003 - **ADDITIONAL INFORMATION:**
PARAGRAPH 7 OF 1998/99 ACCOUNTS
- DIESEL GAS OIL SHORTAGE

The Committee directed the Chief Executive to provide the rate of evaporation of fuel and the covered period when the fuel shortage of 268,330 litres was experienced, by 2nd December, 2003.

MIN. NO. 123/2003 - **ADDITIONAL INFORMATION:**
PARAGRAPH 8 OF 1998/99 ACCOUNTS -
IRREGULAR USE OF CREDIT AND CHARGE
CARDS

The Committee directed the Chief Executive to send a reminder to the then Managing Director and other officers to refund money arising from the irregular use of credit and charge cards.

MIN. NO. 124/2003 - **ADDITIONAL INFORMATION:**
PARAGRAPH 9 OF 1998/99 ACCOUNTS -
IRREGULAR PAYMENT OF SITTING
ALLOWANCES

The Committee directed the Chief Executive to send reminders to the then Managing Director and other officers to refund money paid to them as sitting allowances contrary to provisions of Section 7 of the Kenya Railways Corporation Act, Cap. 397.

MIN. NO. 125/2003 - **DEFERRED EVIDENCE:**
PARAGRAPH 10 OF 1998/99
ACCOUNTS - SUBSIDIARY COMPANIES

The Committee deferred taking evidence on the paragraph to allow the Controller and Auditor General verify the response provided by the Corporation. However, arising from the evidence given by the Chief Executive Officer of Numerical Machining Complex, the Committee decided to pay a visit to their premises at a later date and to raise their plight with the parent Ministry and the Commissioner of Lands.

MIN. NO. 126/2003 - **ADJOURNMENT**

The Chairman adjourned the Sitting at five minutes past Six O'clock until Friday, November 28th 2003 at 9.30 a.m.

Hon. Henry Obwocha, MP
SIGNED.....
Ag. CHAIRMAN

21st May, 2004
DATE.....

MINUTES OF THE TWENTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY NOVEMBER 28, 2003 AT 10.00 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Mohamud Abdi Mohamed, MP
The Hon. K.M. Sang, MP
The Hon. Sammy Weya, MP
The Hon. Maina Kamanda, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Henry Obwoch, MP
The Hon. Otieno Kajwang', MP
The Hon. Gor Sungu, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant

CONTROLLER & AUDITOR GENERAL

Mr. E.H. Gikonyo - Director of Audit
Mr. Boniface K. Mulli - Senior Auditor

TREASURY (DGIPE)

Mr. Lawrence B. Amoko - Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. Ntonjira Mwingirwa - Deputy Chief Economist

MINISTRY OF ROADS, PUBLIC WORKS & HOUSING

Mr. Philip O. Sika - Chief Architect

TECTURA INTERNATIONAL LTD

Mr. Ndungu Mbugua - Director
Mr. Gideon Mulyungi - Director

OTHER WITNESSES

Mr. G.N. Gitonga Consultants
Dr. Augustine Muita, former KNH Director

MIN. NO. 127/2003 - **EVIDENCE**

Report and Accounts of the Kenyatta National Hospital for the year 1998/99 and the Certificate thereon by the Controller and Auditor General.

Mrs. Florence Musau, Director Kenyatta National Hospital accompanied by Messrs: Nzuki Mwinzi, Senior Legal officer; A.N. Kindinga, Ag. Finance Manager; J.C. Kiptum, Systems Analyst; John Gakuo, Ministry of Health; S. Nyakundi, Senior Internal Auditor; Mrs. Miamuna M. Itambo, Ag. Deputy Director (Administration); G.K. Mutura, Ag. Hospital Engineer; F.A. Oyombe, Personnel & Training Manager; P.M. Akuno, Ag. Chief Accountant; M. O. Opundo, Ag. Chief Internal Auditor; J .O. Auma, Supplies & Procurement Manager appeared before the Committee and gave evidence on the accounts of the Hospital, for the year 1998/99.

MIN. NO. 128/2003 - **ADDITIONAL EVIDENCE**

The Committee directed the Chief Executive to obtain a confirmation from M/s. Nyakundi & Co. Advocates that the amount of Kshs.7.5 million is a full settlement in respect of legal services to Kenyatta National Hospital.

The Committee further directed the Chief Executive to inform the Committee on the judgment to be delivered by the Court by Notice against the Directors of Euro Bank Ltd (in liquidation).

MIN. NO. 129/2003 - **EVIDENCE: PARAGRAPH 5 OF THE
1998/99 ACCOUNTS - IRREGULAR
AWARD OF CONTRACT -
KSHS. 383,800,000**

The Committee directed the Chief Executive to give access to records of the Hospital in respect of the above mentioned contract to the former

Chief Executive Dr. Augustine Muita to peruse and obtain information regarding the technical advice he received from his officers, a copy of a letter from the Ministry of Public Works & Housing forwarding the names of ten contractors and the circular from the Office of the President on procurement and disposal procedures.

Dr. Muita was directed to give a write up to the Committee on the issues raised by the Controller and Auditor General.

The Chief Executive was directed to provide the budgetary estimates for the year under review to ascertain whether or not the project had been budgeted for and whether a Sinking Fund existed then.

MIN. NO. 130/2003 - **DEFERRED EVIDENCE**

The Committee deferred taking evidence on paragraphs 6 to 8 of the 1998/99 Accounts of the Corporation.

MIN. NO. 131/2003 - **ADJOURNMENT**

The Chairman adjourned the sitting at 2 p.m. until Monday December 01, 2003 at 2. 30 p.m.

Hon. Henry Obwocha, MP

SIGNED
Ag. CHAIRMAN

21st May, 2004

DATE.....

MINUTES OF THE TWENTY-SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY DECEMBER 05, 2003 AT 10.30 A.M.

PRESENT:

The Hon. J.B.N. Muturi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Otieno Kajwang', MP
The Hon. Mohamud Abdi Mohamed, MP

ABSENT:

The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Maina Kamanda, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Serah Kioko - Clerk Assistant

CONTROLLER & AUDITOR GENERAL

Mr. G.H. Gikonyo - Director of Audit
Mr. F.D. Maluki - Assistant Director of Audit
Mr. P.C. Kibera - Senior Auditor

TREASURY/DGIPE

Mr. F. W. Kingori - Assistant Secretary I

INSPECTORATE OF STATE CORPORATIONS

Mr. R.E. Ndubai - Senior Principal Assistant Inspector

The Report and Accounts of Kenya Airports Authority for the year 1996/97 and the certificate thereon by the Controller and Auditor General.

Mr. George K. Muhoho, Managing Director; Kenya Airports Authority accompanied by Messrs: Patrick Chonde, Corporate Management Accountant, Eng. Mohamed Mukhwana, General Manager (Engineering Services); Leonard Moss, General Manager, (Personnel and Administration); Eng. Francis Mbugua, Deputy General Manager (Engineering Services); Bernard Kavivya Senior Manager (Property); H.M. Nyagoe, Quantity Surveyor; John Tito, Manager (Legal Services) and Z.T. Chireah former Senior Architect appeared before the Committee and gave evidence on the Accounts of the Authority for the year 1996/97.

The Committee deferred taking evidence on the paragraph and resolved that the then Managing Director, Mr. Peter Lagat should appear before them along with the Management of the Authority to explain why the Authority awarded six contracts to contractors other than the lowest bidders and why two of the contracts were awarded to firms which had not bid. Mr. Z. T. Chireah will be required to be in attendance.

The Chairman adjourned the Sitting at Forty Minutes past noon until Monday December 08, 2003 at 2.30 p.m.

Hon. Henry Obwocha, MP

SIGNED

Ag. CHAIRMAN

21st May, 2004

DATE.....

MINUTES OF THE TWENTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY DECEMBER 08, 2003 AT 2.30 P.M.

PRESENT:

The Hon. Ali Bahari, MP - **Ag. Chairman**
The Hon. J.B.N. Muturi, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Maina Kamanda, MP
The Hon. Otieno Kajwang', MP
The Hon. M. Abdi Mohamed, MP

ABSENT:

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gor Sungu, MP
The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant

CONTROLLER & AUDITOR GENERAL

Mr. G.H. Gikonyo - Director of Audit
Mr. J.M. Ogutu - Principal Auditor

TREASURY/DGIPE

Mr. D. Ndewa - Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. P. Ochieng - Senior Economist

The Report and Accounts of National Housing Corporation for the year 1998/99 and the certificate thereon by the Controller and Auditor General.

Mr. A. J. Odera, Managing Director; National Housing Corporation accompanied by Messrs: B.J. Ogolla, Technical Manager; E.W. Mbugua, Corporation Secretary; M.M. Wandabwa, Ag. Finance Manager; A.N. Nyaga, Ag. Chief Accountant; Philip O. Sika, Chief Architect, Ministry of Roads, Public Works and Housing and Lawi Kiplagat, former Managing Director; appeared before the Committee and gave evidence on the accounts of the Corporation for the year 1998/99.

The Committee took and completed evidence on the paragraph and the 1998/99 Accounts.

The Ag. Chairman adjourned the Sitting at Five O'clock until Monday 15th December, 2003 at 2.30 P.M.

Hon. Henry Obwocha, MP

SIGNED

Ag. CHAIRMAN

21st May, 2004

DATE.....

MINUTES OF THE TWENTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY DECEMBER 15, 2003 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - (Chairman)
The Hon. K.M. Sang, MP
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Henry Obwocha, MP
The Hon. Abdi M. Mohamed, MP
The Hon. Otieno Kajwang', MP
The Hon. Wafula Wamunyinyi, MP

ABSENT:

The Hon. Maina Kamanda, MP
The Hon. Ali Bahari, MP
The Hon. Gor Sungu, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mrs. Serah Kioko - Clerk Assistant

MIN. NO. 138/2003 - POSTPONEMENT OF SITTINGS

The Committee was informed that following the Speaker's Communication from the Chair on Thursday 11th December, 2003 that there would be no Committee Sittings after the adjournment of the House to allow the staff take their annual leave, the Public Investments Committee Sittings Scheduled for the week commencing 15th had been cancelled.

MIN. NO. 139/2003 - COMMITTEE TOURS

The Committee asked the secretariat to write to the Parliaments of Germany, Belgium and Finland on the possibility of undertaking tour to those Parliaments. The Committee will make a decision on which trip to undertake after getting response from the concerned Parliaments.

The Committee was informed that the funds for external travel have almost been exhausted and that AWEPA will be approached to fund the trip.

MIN. NO. 140/2003

KENYA PIPELINE CO-TENDERS

It was brought to the attention of the Committee that Kenya Pipeline Company Ltd. had allegedly entered into contract with two firms to repair Ngema Access Road and Road E 148 off Ndori - Owino - Luanda - K'Otieno in Bondo District without following the procurement procedures.

The Committee expressed concern that the Company is spending more money on Ngema Access Road and yet the road was completed four years ago. The Committee was further concerned that the Company was participating in road construction in Rarieda in Bondo District and yet it is not one of its core business.

The Committee resolved that an explanation be sought from the Management of the Kenya Pipeline Co. Ltd., as to why it has entered into contracts with firms without following the procurement procedures and why it is participating in road construction in rural areas.

MIN. NO. 141/2003

ADJOURNMENT

The Chairman adjourned the Sitting at 4.00-p.m. until a later date.

Hon. Henry Obwocha, MP

SIGNED.....
(Ag. CHAIRMAN)

21st May, 2004

DATE.....

Report and Accounts of the Kenya Sugar Board/Sugar Development Fund for year 1999/2000 and the Certificate thereon by the Controller and Auditor General

Mr. Andrew Oloo Otieno, the Chief Executive officer of the Kenya Sugar Board accompanied by Messrs.: Rosemary Mkok, Company Secretary; Vincent Mutalangi Head of Internal Audit and Thomas Makeni, Head of Finance appeared before the Committee and gave evidence on the accounts of the Kenya Sugar Board/Sugar Development Fund for the year 1999/2000.

DEFERRED EVIDENCE: PARAGRAPH 1 OF THE 1999/2000 ACCOUNTS - TISSUE CULTURE PROGRAMME

The Committee deferred taking evidence on the paragraph and resolved that the following persons should appear before them on Thursday 26th February 2004 in relation to the issues raised in the audit query:

1. Dr. Romano Kiome - Director of KARI
2. Dr. G. Nderitu - Former Director of KARI
3. Mr. Francis Chahonyo - Former Chief Executive of Kenya Sugar Authority

4. The Directors of Genetic Technologies Ltd: Messrs.:
Irene Wanjiru Nderitu
Narendra Bhailalbhai Patel
Suryakant Bhailalbhai Patel

The Committee in addition directed the Chief Executive to provide the following information by Thursday 26th February, 2004:

1. Number of Plantlets required to plant an acre/hectare
2. Amount so far generated from Kibos, Opapo and in Mtwapa farms planted with the crop varieties prorogated.

EVIDENCE: PARAGRAPH 2 OF THE 1999/2000 ACCOUNTS -LOANS TO SUGAR COMPANIES

Evidence taken and concluded.

MIN. NO. 145/2004 - **ADDITIONAL INFORMATION: PARAGRAPH 3 OF THE 1999/2000 ACCOUNTS - LEGAL FEES**

The Committee directed the Chief Executive to provide evidence to support the law firms' basis for various payments i.e. case numbers, matters in Court and how much was recovered in each case and specific amount paid to the law firms.

MIN. NO. 146/2004 - **DEFERRED EVIDENCE**

The Committee deferred taking evidence on paragraphs 4 and 5 of the 1999/2000 Accounts of the Sugar Development Fund.

MIN. NO. 147/2004 - **ADJOURNED**

The Chairman adjourned the meeting at 1.00 p.m. until Thursday 26th February 2004 at 2.30 p.m.

SIGNED:
Hon. Henry Obwocha, MP
(Ag. CHAIRMAN)

DATE:
21st May, 2004

**MINUTES OF THE THIRTIETH SITTING OF THE PUBLIC INVESTMENTS
COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT
BUILDINGS ON TUESDAY, FEBRUARY 24, 2004 AT 2.30 P.M.**

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP

ABSENT

The Hon. Gor Sungu, MP
The Hon. Maina Kamanda, MP
The Hon. Henry Obwocha, MP
The Hon. Otieno Kajwang', MP
The Hon. Mahumud Abdi Mohamed, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.A. Sialai Senior Clerk Assistant
Mr. Z. Mogere Clerk Assistant III
Mr. I Sogomo Clerk Assistant III

CONTROLLER & AUDITOR GENERAL

Mr. E.H. Gikonyo - Director of Audit
Mr. John K. Mukholi - Deputy Director of Audit
Mr. R.N. Bichanga - Principal Auditor

TREASURY (DGIPE)

Mr. Protus Sigei - Assistant Director

INSPECTORATE OF STATE CORPORATIONS

Mr. Peter Ochieng - Senior Economist
Mr. Peter K. Waweru - Inspector

MINISTRY OF EDUCATION

Mrs. Alice W. Gichu - Ag. Chief Finance Officer

Report and Accounts of Teachers Service Commission for the year 1998/99 and the Certificate thereon by the Controller & Auditor General.

Mr. James E.O. Ongwae, Chief Executive, Teachers Service Commission, accompanied by Mr. N.K. Kangichu, Senior Deputy Secretary (Finance), Mr. S.M. Kavisi, Senior Deputy Secretary (Staffing); Mr. C.M. Kariuki, Deputy Secretary (Human Resources Manager); Mr. Shem Motuka, Acting Senior Deputy Secretary (Internal Audit); Mr. P.J. Muriuki, Deputy Secretary (Accounts); Mr. O.B. Kimwomi, Assistant Deputy Secretary (Finance); Mr. S.M. Kathuo, Assistant Deputy Secretary (Finance); appeared before the Committee and gave evidence on the Accounts of the Commission for the year 1998/99.

The Committee noted with concern that the accounting policy of writing-off stale cheques after 6 years was not in line with International Accounting Standards.

The Committee further observed with concern that the Commission's compliance with Treasury circular No. 3/2003 of 30th January 2003, was poor and that the Treasury should ensure full compliance by State Corporations.

The Committee directed the Commission to seek post-facto authority to regularise the irregularity of single sourcing by writing to the Treasury through the Ministry of Education within 2 weeks.

Evidence was taken and concluded.

MIN. NO. 152/2004

**EVIDENCE: PARAGRAPH 4 OF THE
1998/99 ACCOUNTS -WRONG
ACCOUNTING TREATMENT OF
ACCUMULATED SAVINGS**

The Committee directed the Controller and Auditor General and the Teachers Service Commission to reconcile the accounting treatment of Accumulated Savings Account and report in writing to the Committee within 2 weeks.

MIN. NO. 153/2004

**EVIDENCE: PARAGRAPH 5 OF THE
1998/99 ACCOUNTS - BOMB BLAST
DAMAGES COMPENSATION**

Evidence was taken and concluded.

MIN. NO. 154/2004

ADJOURNMENT

There being no other Business the Chairman adjourned the Meeting at thirty-five minutes Past Five O'clock until Wednesday February 25, 2004 at 2.30 p.m.

Hon. J. B. N. Muturi, MP

SIGNED:
(CHAIRMAN)

28th May, 2004

DATE:

MINUTES OF THE THIRTY-FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS ON WEDNESDAY, FEBRUARY 25, 2004 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP (Chairman)
The Hon. Sammy Weya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Mahamud Abdi Mohamed, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP

ABSENT

The Hon. Gor Sungu, MP
The Hon. Maina Kamanda, MP
The Hon. Henry Obwocha, MP
The Hon. Otieno Kajwang', MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.A. Sialai Senior Clerk Assistant
Mr. Z. Mogere Clerk Assistant III
Mr. I. Sogomo Clerk Assistant III

CONTROLLER & AUDITOR GENERAL

Mr. A. Denge - Director of Audit
Mr. H.O. Wanyama - Deputy Director of Audit
Mr. George O. Nashon - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. R.E. Ndubai - Senior Principal Inspector

MINISTRY OF ENERGY

Mr. D.R.O Riaroh - Chief Geologist
Mr. J.F.A. Agili - D.C.F.O
Mr. F.M. Mukuria - Chief Accountant

Report and Accounts of National Oil Corporation of Kenya for the year 1997/98 and the Certificate thereon by the Controller & Auditor General.

Mrs. Mary Kimotho M'Mukindia, the Chief Executive of National Oil Corporation of Kenya accompanied by Mrs. Faith Wanjiru Njuguna, Acting Chief Accountant; Mr. Joe Kimutai Sang, Management Accountant, and Mr. Thadius Onyango Wambogo, Accountant III, appeared before the Committee and gave evidence on the Accounts of the Corporation for the year 1997/98.

MIN. NO. 156/2004**DEFERRED EVIDENCE: PARAGRAPH
1 OF THE 1997/98 ACCOUNTS - WORK
IN PROGRESS**

The Committee deferred taking evidence on this paragraph and directed the Chief Executive to liaise with Controller and Auditor General to come up with additional information on this paragraph.

MIN. NO. 157/2004**DEFERRED EVIDENCE: PARAGRAPH
2 OF THE 1997/98 ACCOUNTS -
STOCKS**

The Committee deferred taking evidence on the paragraph and directed the Chief Executive to liaise with the Controller and Auditor General to verify the various items of Stock.

MIN. NO. 158/2004**EVIDENCE: PARAGRAPH 3 OF THE
1997/98 ACCOUNTS - FIXED DEPOSITS**

Evidence was taken and concluded.

MIN. NO. 159/2004**EVIDENCE: PARAGRAPH 4 OF THE
1997/98 ACCOUNTS - CASH AND BANK
BALANCES**

The Committee directed the Chief Executive to liaise with the Controller and Auditor General and reconcile the balances and report back in writing to the Committee within two (2) weeks.

The Committee drew attention of the Chief Executive with regard to Treasury Circular No. 3/2003 and its implementation.

The Committee was concerned with the awarding and current state of the contract between the Corporation and the Nigerian Petroleum Corporation with regard to the Shipment of crude oil to Kenya. The Committee directed the Corporation to tender for such contracts in future.

There being no other business, the Chairman adjourned the meeting at five o'clock until Thursday February 26, 2004 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

28th May, 2004

DATE:

MIN. NO. 162/2004 - **EVIDENCE**

Report of the Controller and Auditor General on the Accounts of Kenya Medical Training College for the Eighteen months period ended 30th June 1997.

Dr. John Kibosia, Director of Kenya Medical Training College accompanied by Messrs. Dr. J. Maswan, Deputy Director (Administration & Finance), Mr. J. Obiye, Human Resource Manager, Mr. J. Ombayo, Finance Manager; and Mr. M.W. Ojiambo, Deputy Secretary, Ministry of Health appeared before the Committee and gave evidence on the accounts of the College for the year 1996/97.

MIN. NO. 163/2004 - **DEFERRED EVIDENCE: FIXED ASSETS**
- **PARAGRAPH 1 OF THE 1996/97**
ACCOUNTS

The Committee deferred taking evidence on the paragraph and resolved to summon the Commissioner of Lands to appear before the Committee to explain the circumstances under which the parcels of land belonging to the College were allocated to private developers.

The Committee also directed the Director to submit the following information by 25th March, 2004:-

1. All parcels of land belonging to the College and its constituent Colleges irregularly allocated to private developers i.e. land Registration numbers; the allottees by name and if Companies, their Directors and where they are situated.
2. Latest information on disputes over parcels of land with the National Museums of Kenya, Israel Campus in Machakos and Garissa.
3. Parcels of lands bought by the College, from whom and for how much.

MIN. NO. 164/2004 - **DEFERRED EVIDENCE: PARAGRAPH 3**
OF THE 1996/97 ACCOUNTS - COLLEGE
VEHICLES HELD IN PRIVATE GARAGE

The Committee deferred taking evidence on the paragraph and resolved that the then Executive Officer Mrs. Naomi Samba of Ministry of Health should appear before the Committee to explain the circumstances under which six college vehicles were towed/driven to a garage and which

remain untraceable. The Committee directed the Director to ensure that a statement is recorded with the police over the disappearance of the six vehicles and the Committee informed of the action taken by 11th March, 2004.

MIN. NO. 165/2004

**ADDITIONAL EVIDENCE: PARAGRAPH 4
OF THE 1996/97 DEBTORS**

Evidence taken and concluded.

The Committee directed the Director to provide ledger books for verification by the Controller & Auditor General.

MIN. NO. 166/2004

ADJOURNMENT

There being no other business the Chairman adjourned the Sitting at quarter past twelve O'clock.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th May, 2004

MINUTES OF THE THIRTY-THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY MARCH 04 2004 AT 2.30 P.M.

PRESENT

The Hon. J. B. N. Muturi, M.P. (**Chairman**)
The Hon. Sammy Weya; M.P.,
The Hon. Wafula Wamunyinyi, M.P.,
The Hon. Otieno Kajwang, M.P.,
The Hon. K. M. Sang, M.P.,
The Hon. Ali Bahari, M.P.

ABSENT WITH APOLOGY

The Hon. Maina Kamanda, M.P.,
The Hon. Wycliffe Oparanya, M.P.,
The Hon. Gor Sunguh, M.P.,
The Hon. Henry Obwocha, M.P.
The Hon. Mahamud Abdi Mohamed, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

| | |
|------------------|------------------------|
| Mr. M. R. Sialai | Senior Clerk Assistant |
| Mr. Z. Mogere | Clerk Assistant III |
| Mr. I. Sogomo | Clerk Assistant III |

CONTROLLER AND AUDITOR GENERAL

| | | |
|-----------------|---|-------------------|
| Mr. A. Denge | - | Director of Audit |
| Mr. C. O. Kiage | - | Principal Auditor |

TREASURY DGIFE

| | | |
|---------------------|---|------------------|
| Mrs. T. N. Gathaara | - | Deputy Secretary |
|---------------------|---|------------------|

INSPECTORATE OF STATE CORPORATIONS

| | | |
|-------------------|---|-----------|
| Ms. T. K. Gichana | - | Inspector |
|-------------------|---|-----------|

MINISTRY OF AGRICULTURE

Mr. W. G. Kerario - Deputy Secretary (State Corporations)

MIN. NO. 167/2004 - **EVIDENCE**

Report and Accounts of Kenya Sugar Board of Kenya for the year 1999/2000 and the Certificate thereon by the Controller and Auditor General.

Mr. Andrew O. Otieno, the Chief Executive Officer of the Kenya Sugar Board accompanied by Messrs: Rosemary Mkok, Company Secretary; Vincent Mutalangi, Head of Internal Audit and Thomas Makeni, Head of Finance. Also present were Dr. Romano Kiome, Director of KARI; Dr. G. Nderitu former Director of KARI appeared before the Committee and gave evidence on the accounts of the Kenya Sugar Board for the year 1999/2000.

MIN. NO. 168/2004 - **EVIDENCE: PARAGRAPH 1 OF THE 1999/2000 ACCOUNTS - TISSUE CULTURE PROGRAMME**

The Committee heard that Mrs. Irene Wanjiru Nderitu, one of the Directors of Genetic Technologies Limited is the spouse of Dr. Cyrus Nderitu, the then Director of KARI and was concerned about the conflict of interest in his role in the contract between Genetic Technologies Limited and the Kenya Sugar Board.

The Committee further heard that the idea of tissue culture was noble but the implementation did not achieve the intended objectives.

Evidence taken and concluded.

MIN. NO. 169/2004 - **EVIDENCE: PARAGRAPH 3 OF THE 1999/2000 ACCOUNTS - LEGAL FEES**

Evidence was taken and concluded.

MIN. NO. 170/2004 - **EVIDENCE: PARAGRAPH 4 OF THE 1999/2000 ACCOUNTS - BUSIA SUGAR COMPANY**

The Committee was concerned about the security of the loan advanced to Busia Sugar Factory as the Board is holding a mere Title Deed without a charge. The Committee also heard that the lawyer who did the original charge for the loan could not be traced.

MIN. NO. 171/2004

**EVIDENCE: PARAGRAPH 5 OF THE
1999/2000 ACCOUNTS - OUTSTANDING
IMPREST**

The Committee directed the management of Kenya Sugar Board to move with speed to prosecute one Peter Kegode, a former employee of the Board with a view to recovering the outstanding imprest.

MIN. NO. 172/2004

ADJOURNMENT

There being no other business, the Chairman adjourned the meeting at five minutes past five.

Hon. J.B.N. Muturi, MP

SIGNED.....

CHAIRMAN

28th May, 2004

DATE.....

MINUTES OF THE THIRTY-FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY MARCH 23, 2004 AT 2.30 P.M.

PRESENT

The Hon. J. B. N. Muturi, M.P. (**Chairman**)
The Hon. Sammy Weya, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. K. M. Sang, M.P.
The Hon. Wafula Wamunyinyi, M.P.

ABSENT WITH APOLOGY

The Hon. Gor Sunguh, M.P.
The Hon. Otieno Kajwang, M.P.
The Hon. Maina Kamanda, M.P.
The Hon. Ali Bahari, M.P.
The Hon. Henry Obwocha, M.P.
The Hon. Mahamud Abdi Mohamed, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

| | |
|------------------|------------------------|
| Mr. M. R. Sialai | Senior Clerk Assistant |
| Mr. Z. Mogere | Clerk Assistant III |
| Mr. I. Sogomo | Clerk Assistant III |

CONTROLLER AND AUDITOR GENERAL

| | | |
|--------------------|---|-------------------|
| Mr. Edward Gikonyo | - | Director of Audit |
| Mr. Charles Kiage | - | Principal Auditor |

TREASURY DGIPE

| | | |
|---------------------|---|------------------|
| Mrs. T. N. Gathaara | - | Deputy Secretary |
|---------------------|---|------------------|

INSPECTORATE OF STATE CORPORATIONS

| | | |
|----------------------|---|------------------|
| Mr. Peter E. Ochieng | - | Senior Economist |
|----------------------|---|------------------|

MINISTRY OF WATER RESOURCES MANAGEMENT AND DEVELOPMENT

| | | |
|-----------------------|---|-----------------------|
| Mr. Samson Ouma Ohala | - | Chief Finance Officer |
|-----------------------|---|-----------------------|

MIN. NO. 173/2004

EVIDENCE

Report and Accounts of National Water Conservation & Pipeline Corporation for the year 1998/1999 and the Certificate thereon by the Controller and Auditor General.

Eng. M. O. Ochieng, Managing Director, National Water Conservation & Pipeline Corporation, accompanied by Mr. Stanley M. Amuti, Chief Finance Manager, appeared before the Committee and gave evidence on the Accounts of the Corporation for the year 1998/1999.

MIN. NO. 174/2004

**PARAGRAPH 8 OF THE 1998/1999
ACCOUNTS - PROCUREMENT OF
MACHINERY AND EQUIPMENT**

The Committee noted with concern the delay in granting the waiver for duty and VAT resulting in the payment of customs duty and demurrage costs, which could have been avoided.

MIN. NO. 175/2004

**PARAGRAPH 9 OF 1998/1999
ACCOUNTS - NJORO WATER
TREATMENT PLANT**

Evidence was taken and concluded.

MIN. NO. 176/2004

**PARAGRAPH 10 OF 1998/1999
ACCOUNTS - RONGAI WATER INTAKE**

The Committee noted with concern the alleged grabbing of a piece of land belonging to the Corporation.

The Committee directed the Managing Director to provide the following information in writing by 6th April, 2004: -

- (i) Name of the alleged land grabber.
- (ii) Steps taken by the Corporation towards obtaining title deed for the piece of land.

MIN. NO. 177/2004

**PARAGRAPH 11 OF 1998/1999
ACCOUNTS - WORK IN PROGRESS
KIRANDICH DAM PROJECT**

The Committee noted with concern that the contractor did not envisage the fact that Rift Valley is a volcanic area and hence full of faults, fissures and fractures that could make Dam construction expensive.

The Committee asked the Controller and Auditor General to liaise with the corporation to verify the actual cost of the project up to the time the project was commissioned.

MIN. NO. 178/2004

-

ANY OTHER BUSINESS

The Committee was concerned with the manner in which State Corporations prepared their Annual Accounts. The Committee particularly took issue with notes to accounts which were not complete and miscellaneous expenses account in the income statements.

MIN. NO. 179/2004

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ADJOURNMENT

There being no other business, the Chairman adjourned the meeting at twenty-six minutes past four O'clock until Wednesday March 24, 2004 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED.....

CHAIRMAN

28th May, 2004

DATE.....

MINUTES OF THE THIRTY-FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY APRIL 1, 2004 AT 10.30 A.M.

PRESENT

The Hon. J. B. N. Muturi, M.P. (**Chairman**)
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Ali Bahari, M.P.
The Hon. K. M. Sang, M.P.
The Hon. Abdi M. Mohamed, M.P.
The Hon. Gor Sunguh, M.P.

ABSENT WITH APOLOGY

The Hon. Otieno Kajwang, M.P.
The Hon. Henry Obwocha, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. Maina Kamanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant
Mr. Z. Mogere - Clerk Assistant III
Mr. S. Njoroge - Clerk Assistant III

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama - Deputy Director of Audit
Mr. G. O. Osaho - Senior Auditor

MINISTRY OF TRANSPORT AND COMMUNICATION

Mr. William Yagomba - Ag. Deputy Director of
Air Transport

MIN. NO. 180/2004 - **EVIDENCE**

Report and Accounts of Kenya Airports Authority for the year 1996/97 and the Certificate thereon by the Controller and Auditor General.

Mr. George K. Muhoho, Managing Director, Kenya Airports Authority accompanied by Messrs: Eng. Mohamed Mukhwana, General Manager (Engineering Services), Mr. Patrick Chonde, Acting General Manager (Finance), Mr. John Tito, Manager Legal Services, Mr. Z. J. Chireah, former Senior Architect, Mr. Humphrey Makori Nyagoe, Quantity Surveyor, Eng. Francis Nganga Mbugua, former Deputy General Manager (Engineering Services) and Mr. Peter K. Lagat, former Managing Director, appeared before the Committee and gave evidence on the accounts of the Corporation for the year 1996/97.

MIN. NO. 181/2004

- **PARAGRAPH 3 OF THE 1996/97
ACCOUNTS - CONTRACTS**

The Committee was concerned that the Authority awarded a contract to the highest bidder who actually was not in the pre-qualification list thus flouting the tendering process.

The Committee directed the then Managing Director to submit full and signed minutes of the Tendering Board on the approval of the following contracts by 8th April, 2004:-

- (i) KAA/MIA/344/H - Supply and Installation of standby generator.
- (ii) KAA/ES/MLI/G - Consultancy services in Malindi Airport
- (iii) KAA/ES/KBIC/322/L- Rehabilitation of Kabarak Airstrip
- (iv) KAA/HQ/304/B/F - Modification & furnishing of offices.

MIN. NO. 182/2004

- **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at Thirty Five minutes past one O'clock until Friday, April 02, 2004 at 9.30 a.m.

Hon. J.B.N. Muturi, MP

SIGNED.....

CHAIRMAN

28th May, 2004

DATE.....

MINUTES OF THE THIRTY-SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON FRIDAY APRIL 2, 2004 AT 10:45 A. M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. W. Wamunyinyi, MP
The Hon. M. Abdi Mohamed, MP
The Hon. Otieno Kajwang, MP
The Hon. Maina Kamanda, MP
The Hon. Gor Sungu, MP
The Hon. Ali Bahari, MP
The Hon. W. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. K. M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai – Senior Clerk Assistant.
Mr. S. J. Njoroge – Third Clerk Assistant.
Mr. Z.I. Mogere – Third Clerk Assistant.

MINISTRY OF TRADE AND INDUSTRY

Ms. Melisa M. Musoma – Deputy Chief Finance Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. Titus Muriithi – Senior Inspector
Mr. Kennedy Nyambati – Inspector

MIN. NO. 183/2004

EVIDENCE

Report by the Inspector General (Corporations) on the Management Practices at the East African Portland Cement Company – March 2003.

Ms. Mary W. Ngari, the Acting Managing Director, East Africa Portland Cement Company, accompanied by Messrs. Musangi Mutua, Human

Resources Manager; Rosemary Gituma, Acting Finance Manager; Caleb Kapten, General Manager Commercial; and Sam M. Gatitu, Key Accounts Manager, appeared before the Committee and gave evidence on the Report on the Management Practices of the East African Portland Cement Company {EAPCC}, conducted by an Inspectorate Audit Team, appointed by the Minister for Trade and Industry in March 30, 2003.

MIN. NO. 184/2004

**TRADE POLICY AND PRACTICE OF
THE EAPCC**

The Committee observed that::

- The Company lost an amount of Kshs. 671,604,154 for the twenty months ending February 2003, through unapproved trade agreements with suppliers.
- The Agreement with Donholm Rahisi Stores was signed by the then acting Managing Director, Mr. E. C. Birya and Mr. J. N. Otido a Finance Accountant both of whom were not qualified to sign contracts of such nature on behalf of the Company without the Board's authority.
- The then Managing Director kept secret all Company's relation with Donholm Rahisi Stores.

The Committee was informed that Mr. E. C. Birya and Mr. J. N. Otido had since left the Company and further that M. K Roble (Donholm Rahisi Stores) was being paid 18% discounts contrary to the Company's policy of 5%.

The Committee further heard that the Distributor was paid the discounts even when it did not meet the Trading Volumes set out by the Company, and further that the payments were made in ten instead of thirty days as per the Company's Policy.

Further, the Committee was informed that the case was referred to the Kenya Anti-Corruption Commission by the Minister for Trade and Industry and that Donholm Rahisi's Lawyer is Mr. Abdullahi Ahmednassir, who is also the Chairman of the Kenya Anti-Corruption Advisory Board. In this regard, the Committee expressed concern on a possible conflict of interest on the side of Mr. Ahmednassir.

The Committee resolved to invite Mr. Titus Barmasai, the former Managing Director of EAPCC; Mr. E. C. Birya, former Acting Managing Director; and J. N. Otido, former Financial Accountant; and Abdullahi Ahmednassir, the Chairman of the Kenya Anti-Corruption Advisory Board to appear before them on 20th April 2004.

The Committee directed the Ag. Managing Director to provide to the Secretariat copies of letters and Minutes of the Board approving the contract between Donholm Rahisi Stores and The East Africa Portland Cement Company on or before Monday 5th April 2004.

MIN. NO. 185/2004 - ADJOURNMENT

There being no other Business, the Chairman adjourned the meeting at forty minutes past noon, until Monday 20th April 2004 at 9:30 A.M.

SIGNED:
Hon. J.B.N. Muturi,
(CHAIRMAN)

DATE:
28th May, 2004

MINUTES OF THE THIRTY-SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON TUESDAY APRIL 20, 2004 AT 11:00 A. M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. W. Wamunyinyi, MP
The Hon. Gor Sangu, MP
The Hon. Ali Bahari, MP
The Hon. W. Oparanya, MP
The Hon. Otieno Kajwang, MP
The Hon. Maina Kamanda, MP

ABSENT WITH APOLOGY

The Hon. Sammy Weya, MP
The Hon. Henry Obwocha, MP
The Hon. K. M. Sang', MP
The Hon. Mahamud Abdi Mohamed

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.

MINISTRY OF TRADE AND INDUSTRY

Mr. Owen K. N. Makuu - Senior Assistant Director of Trade

OFFICE OF THE CONTROLLER AND AUDITOR GENERAL

Mr. S. M. Muriuki - Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS:

Mr. Titus Muriithi - Senior Inspector
Mr. Kennedy Nyambati - Inspector

MIN. NO. 186/2004 - EVIDENCE

Report of the Inspector General (Corporations) on the Management Practices at the East African Portland Cement Company (EAPCC) - March 2003.

Ms. Mary W. Ngari, the Acting Managing Director, East Africa Portland Cement Company, accompanied by Messrs. Musangi Mutua, Human Resource Manager; Rosemary Gituma, Acting Finance Manager; Caleb Kapten, General Manager (Commercial); Sam M. Gatitu, Key Accounts Manager, Titus Barmasai, the former Managing Director; E. C. Birya, former Acting Managing Director; J. N. Otido, former Financial Accountant, EAPCC and Abdullahi Ahmednassir, the Chairman of the Kenya Anti-Corruption Advisory Board, appeared before the Committee and gave evidence on the Report on the Management Practices of the East African Portland Cement Company (EAPCC), conducted by an Inspectorate Audit Team, appointed by the Minister for Trade and Industry in March 30, 2003.

MIN. NO. 187/2004 - EVIDENCE: TRADE POLICY AND PRACTICES OF THE EAPCC

The Committee took evidence on the item. Mr. Abdullahi Ahmednassir informed the Committee that in the light of the fact that he is the Chairman of the Kenya Anti-Corruption Advisory Board, and the contract case between East African Portland Cement Company (EAPCC) and Donholm Rahisi Stores had been forwarded to the Kenya Anti-Corruption Commission; of which the latter is acting for; that his law firm will reconsider its status and position if the investigation revealed criminal intent in the agreement to avoid the perceived conflict of interest.

He assured the Committee that he will not, as the Chairman of the Kenya Anti-Corruption Advisory Board, interfere with the due process of the case between EAPCC and Donholm Rahisi Stores, that is before the Kenya Anti-Corruption Commission.

He further laid the following two papers before the Committee:-

- (i) Copy of court plaint between Donholm Rahisi Stores (Plaintiff) and EAPCC- (Defendant)
- (iii) Copy of court Defence and counterclaim before Milimani Commercial Courts Civil Suit No.18 of 2004, of Donholm Rahisi Stores (Plaintiff) versus EAPCC (Defendant).

Further the Committee heard that the parent Ministry was not aware of any EAPCC Board meeting approving the contract.

The Committee directed Mr. Makuu the Ministry's representative to accompany Mr. Biryia in the presence of the current EAPCC management to the EAPCC premises to access and avail the said contract/agreement to the Committee on the same day.

Mr. Biryia confirmed before the Committee that he misinformed the Board during its sitting on Friday, June 13, 2003, that he had effected discount rates of 5%, since he further went ahead to enter into an agreement giving 18.9% discounts to Donholm Rahisi Stores.

The Committee observed with grave concern that Mr. Barmasai and Mr. Biryia were withholding evidence.

The Committee directed the Secretariat to liaise with the Office of the Commissioner of Income Tax to establish whether and how much tax did M/s M. K. Roble pay in the 20 months period ending February, 2003, that EAPCC lost the amount of Kshs.671,604,154 through unapproved credits to the Company.

In addition, the Committee resolved to invite Mr. John Kaura, former EAPCC Chairman to its meeting to give evidence on the report at a later date.

MIN. NO. 188/2004 - ADJOURNMENT.

There being no other Business, the Chairman adjourned the meeting at twenty minutes past two O'clock, until Friday 23rd April 2004 at 9:30 a.m.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th May, 2004

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON FRIDAY APRIL 23RD 2004 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. **-Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Maina Kamanda, M.P.
The Hon. Ali Bahari, M.P.

ABSENT WITH APOLOGY

The Hon. Henry Obwocha, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Mahamud Abdi Mohamed, M.P.
The Hon. K. M. Sang, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

MINISTRY OF TRANSPORT AND COMMUNICATION

Mr. Alvin M. Gakere - Senior Deputy Secretary
Mr. G. G. Irungu - Acting Chief Finance Officer

TREASURY

Mr. Festus W. King'ori - Assistant Secretary

OFFICE OF THE CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua - Deputy Director of Audit
Mr. Eston K. M'Muthuri - Auditor I

Reports and Accounts of Kenya Ports Authority for the Years 1998/99 and 1999/2000 Accounts and the Certificate thereon by the Controller and Auditor General.

Mr. Brown M. M. Ondego, the Managing Director, Kenya Ports Authority (KPA) accompanied by Messrs. Yobesh Oyaro, Financial Accounting Manager; Mohamed Alawi Hassan, Legal Officer; Benjamin K. Mugambo, Principal Civil Engineer and Mr. Stanley K. Murage former Permanent Secretary, Ministry of Transport and Communication; Mr. Robert Brenneisten former Chief Executive Officer, K.P.A.; Mr. Adam S. Marjan, Consultant Quantity Surveyor, Davson and Ward; Eng. Maxwell O. Odongo, Consultant and Managing Director, Multi Consult; Eng. C. Gitahi, Consultant, Multiconsult and Eng. William Kalo a Consultant with Multiconsult, appeared before the Committee and gave evidence on the 1998/1999 and 1999/2000 Accounts of the Authority.

**PARAGRAPH 1 OF THE 1999/2000
ACCOUNTS - OPERATION AND MANAGEMENT
CONTRACT**

The Committee took evidence on the paragraph and heard that the contract was hired in a rush in order to meet the World Bank's recommendation that was then critical for the government to secure funding.

The Committee asked the office of the Controller and Auditor General to liaise with the management of K.P.A. to determine the correct amount paid to Felixstowe Port Consultant Limited, and the reason(s) for terminating the contract, and report to the Committee in two weeks time.

**DEFERRED EVIDENCE
PARAGRAPH 1 OF THE 1998/99
ACCOUNTS - EXTENSION AND
REFURBISHMENT OF KIPEVU
HEADQUARTERS**

The Committee took great exception to the failure by Hon. James Nderitu Gachagua to appear before them and give evidence despite having been personally served with a summon from the Committee.

The Committee observed that it appears the project was abandoned due to lack of feasibility study on the need for additional offices and lack of budgetary provision.

The Committee resolved that an opinion of Ministry of Roads, Public Works and Housing be sought on the payments made to Consultants, particularly the Quantity Surveyor.

The Committee deferred taking evidence on the paragraph and resolved that the former Managing Director Mr. Simeon Mkalla and Hon. James Nderitu Gachagua of M/s Jagar Consultants appear at a later date.

MIN. NO. 192/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the sitting at 2.00 p.m. until Monday April 26th, 2004 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

28th May, 2004

DATE:

MIN. NO. 194/2004

**EVIDENCE: PARAGRAPH 1 OF 1999/2000
ACCOUNTS - STAFF HOUSING PROJECT**

The Chief Executive informed the Committee that he had instructed the advocates to release the Kshs.120,000,000.

The Committee deferred taking evidence on the paragraph until Friday 30th April 2004, at 9.30 a.m. when the Nairobi City Council Town Clerk would appear to clarify on sums of money that KEMRI owes to the Council in respect of Plot No. L.R. 209/10683, Mbagathi, Nairobi, and whether KEMRI had paid an amount of Kshs.14,667,557 as Council rates for the plot.

MIN. NO. 195/2004

ADJOURNMENT

There being no other business, the Chairman adjourned the meeting at ten minutes past five O'clock until Thursday 29th April, 2004.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th May, 2004

MINUTES OF THE FORTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON FRIDAY APRIL 30TH 2004 AT 10.45 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Henry Obwocha, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Gor Sunguh, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Ali Bahari, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Maina Kamanda, M.P.

ABSENT WITH APOLOGY

The Hon. MAhamud Abdi Mohamed, M.P.
The Hon. K. M. Sang', M.P.
The Hon. Wycliffe A. Oparanya, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

MINISTRY OF LANDS AND SETTLEMENT

Mrs. J. M. Okungu - Commissioner of Lands

TREASURY

Mr. Dominic Ndegwa - Economist (DGIPE)

CITY COUNCIL OF NAIROBI

Mr. F. R. Magaju - Town Clerk
Mr. F. M. Muraa - Chief Council Valuer

KENYA NATIONAL AUDIT OFFICE

Mr. Eric O. Onyango - Deputy Director
Mr. P. N. Njuguna - Assistant Director
Mr. S. M. Muriuki - Director of Audit

Mr. Meshack S. Mashedi - Senior Auditor
Mr. Boniface K. Muli - Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Ms. T. K. Gachana - Inspector
Mr. Simon Indumuli - Inspector

MIN. NO. 196/2004 - EVIDENCE:

Report And Accounts of Kenya Medical Research Institute (KEMRI) for the Year 1999/2000 Accounts and the Certificate thereon by the Controller And Auditor General.

Mr. Davy Koech, the Chief Executive, Kenya Medical Research Institute, (KEMRI), accompanied by Messrs. Dustan M. Ngumo, Deputy Director, Renson K. A. Kirui, Assistant Director, and Mr. Moses Sande Makhandia of Sande-Makhandia & Co. Advocates appeared before the Committee and gave evidence on the 1999/2000 Accounts of the Institute.

MIN. NO. 197/2004 - EVIDENCE: PARAGRAPH I OF THE 1999/2000 ACCOUNTS - STAFF HOUSING PROJECT

The Town Clerk informed the Committee that the ownership of the Plot LR.N.209/10683, Mbagathi Road, Nairobi has not changed and it is still under KUZA FARMS AND ALLIED LIMITED, and further that the only payment that had been made in regard to council rates was Ksh.438,926 by the owner in 1993, leaving an outstanding balance of Kshs.6,678,012.50 as at April, 2004.

He further informed the Committee that the Council had not received the alleged amount of Ksh.14,067,567.20 from any agent acting on behalf of KEMRI in regard to the plot and that the authenticity of the receipts should be verified.

He confirmed before the Committee that the property could not have accrued Kshs.14 million, as above, in such a short period, thus the figure had been exaggerated.

The Committee directed the Town Clerk to verify the authenticity of the receipts and provide the information in writing together with copies of Bank Statements, if any, in respect of payments of Kshs.14,675,067.20 of Plot No. LR.209/10683, on Wednesday 5th May, 2004. Mr. Sande Makhandia on **Oath** assured the Committee that he will transfer all the money held by him on behalf of KEMRI, back to KEMRI Accounts on

Monday, 3rd May, 2004, failure to which he will be held accountable and made to pay. The Committee directed the officers from the Office of the Controller and Auditor General to confirm the transfer and report to it.

Further, the Committee directed that Mr. Makhandia should provide:-

- (i) Copies of letters forwarding the cheque of the payments of the plot's council rates.
- (ii) Letter or proof of communication from KEMRI authoring him to make the payments.
- (iii) Copies of letters between him and Rachier Advocates in respect to the plot LR. No.209/10683 and avail them on Friday 7th May, 2004 to the Committee Secretariat.

MIN. NO. 198/2004: - PAPERS LAID

The Town Clerk laid the following Paper before the Committee:-

- Certified Account Record for Kuza Farms and Allied Limited of Account No.V1062620 of the City Council of Nairobi, as at 29/04/04.

Further, Mr. Sande Makhandia laid the following papers before the Committee:-

- (i) Copy of letter dated 28/03/2000 Ref. MSM/CN/608/2000;
- (ii) Copy of letter dated 06/04/2000 Ref. MSM/CN/608/2000;
- (iii) Copy of letter Ref. KEMRI/ADM/15/Vol.III (388) dated 5th April, 2000; and
- (iv) Copy of cheque No.00003/011001/01/234748669 in respect of plot LR. No.209/10683.

MIN. NO. 199/2004 - EVIDENCE

Report and Accounts of Kenya Railways Corporation for the year ended 30 June, 1999 and the Certificate thereon by the Controller and Auditor-General.

Mr. Andrew A. Wanyandeh, the Managing Director, Kenya Railways Corporation; Mr. David Bosire, Chief Accountant; Ms. Edith Jenkins, Estate Manager; Mr. Thomas M. Ngira, Human Resource Manager; Mr.

Rodgers W. Washika, Financial Accountant; Mr. Joster I. Onyango of KenRail Consultants and former General Manager of Kenya Railways Corporation appeared before the Committee and gave evidence on Paragraphs 5 and 10 of the 1998/99 Accounts of the Corporation.

MIN. NO. 200/2004 - **EVIDENCE: IRREGULAR ALLOCATION OF LAND**

The Commissioner of Lands confirmed to the Committee that the land LR. No.209/10683 and LR. No.209/6837 belongs to Pangani Girls High School.

The Committee directed the Commissioner of Lands to avail information on the court case to the Committee and copies of the letter from the Registrar of High Court (Nakuru) informing her to appear before the Court for the case in respect of a case filed by Mr. Sam N. Obede.

The Committee concluded taking evidence on the 1998/99 Accounts of the Corporation.

MIN. NO. 201/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at Twenty minutes past One O'clock until a later date.

Hon. J.B.N. Muturi, MP
SIGNED:
(CHAIRMAN)

28th July, 2004
DATE:

MINUTES OF THE FORTY-FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON THURSDAY MAY 20TH 2004 AT 10.35 A.M.

PRESENT

The Hon. Henry Obwocha, M.P. - **Ag. Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Maina Kamanda, M.P.
The Hon. Mahamud Abdi Mohamed, M.P.

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, M.P.
The Hon. K. M. Sang', M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Ali Bahari, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

MIN. NO. 202/2004

- **CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

The Minutes of the 16th to 29th sittings of the Committee were confirmed by the Members present and signed by the Ag. Chairman as follows:

- (i) The Sixteenth Sitting held on Friday November 7th 2003, were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. Maina Kamanda, MP.
- (ii) The Seventeenth Sitting held on Monday, November 10th 2003, were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. Otieno Kajwang', MP.

- (iii) The Eighteenth Sitting held on Wednesday, November 12 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Maina Kamanda, MP.
- (iv) The Nineteenth Sitting held on Monday, November 13, 2003, were proposed by the Hon. Gor Sunguh and seconded by the Hon. Mahamud A. Mohamed, MP.
- (v) The Twentieth Sitting held on Friday, November 14 2003, were proposed by the Hon. Maina Kamanda, MP and seconded by the Hon. Otieno Kajwang', MP
- (vi) The twenty-first Sitting held on Monday, November 17 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Maina Kamanda, MP.
- (vii) The Twenty-second Sitting held on Thursday, November 20th 2003, were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. Otieno Kajwang', MP.
- (viii) The Twenty-third Sitting held on Friday, November 21, 2003, were proposed by the Hon. Maina Kamanda and seconded by the Hon. Gor Sunguh, MP.
- (ix) The Twenty-fourth Sitting held on Monday, November 24 2003, were proposed by the Hon. Gor Sunguh and seconded by the Hon. Maina Kamanda, MP
- (x) The Twenty-fifth Sitting held on Friday, November 28, 2003 were proposed by the Hon. Maina Kamanda, MP and seconded by Hon. M. A. Mohamed MP.
- (xi) The Twenty-sixth Sitting held on Friday, December 05, 2003 were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. M. A. Mohamed, MP.
- (xii) The Twenty-seventh Sitting held on Monday, December 08 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Maina Kamanda, MP.
- (xiii) The Twenty-eighth Sitting held on Monday December 15 2003 were proposed by the Hon. Maina Kamanda, MP and seconded by the Hon. Otieno Kajwang', MP.

- (xiv) The Twenty -Ninth Sitting held on Wednesday, February 11, 2003 were proposed by the Hon. Gor Sunguh , MP and seconded by the Hon. M. A. Mohamed, MP.

MIN. NO. 203/2004 - **MATTERS ARISING**

The following matters arose and the Committee resolved them as follows:

- (i) That due to the short time available for the Committee to conclude its work by July 31st 2004, as scheduled by the House, the Committee would constrict its work, so as to meet the deadline.

(ii) **Min. No. 104/2003**

That the Management of Kenya Power and Lighting Company (KPLC) should appear before the Committee at a later date along with the following people in relation to the Company's contracts with Independent Power Producers and the Report of the Technical and Financial Audit Committee (Nyanja Report)

1. Mr. Samuel Gichuru, former Managing Director
2. Mr. Justine Kimani former Company Secretary
3. Mr. M A. Gupta
4. M/s M.O.H. Macdonald - Consultants

(iii) **Min. No. 131/2003**

That the Committee should visit the Numerical Machining Complex of the Kenya Railways Corporation at a later date.

MIN. NO. 204/2004 - **PROGRESS ON THE VISIT TO THE
PARLIAMENT OF THE FEDERAL REPUBLIC
OF GERMANY**

The Committee was informed that arrangements to the proposed study tour to the Bundestag were at advanced stage and that a tentative date of June 12th to 19th 2004 has been set for the tour.

Members expressed need to also visit State Parliaments of the Federal Republic of German to appraise themselves on their operations during the tour.

MIN. NO. 205/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at twelve o'clock until Thursday, May 27th, 2004 at 2.30 p.m.

Hon. J.B.N. Muturi, MP

SIGNED.....
CHAIRMAN

28th July, 2004

DATE.....

MINUTES OF THE FORTY-SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON MONDAY, MAY 24, 2004 AT 2.30 P.M.

PRESENT:

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Mahamud Abdi Mohamed
The Hon. Otieno Kajwang, MP
The Hon. Maina Kamanda, MP
The Hon. Gor Sungu, MP
The Hon. W. Oparanya, MP
The Hon. Henry Obwocha, MP

ABSENT

The Hon. W. Wamunyinyi, MP
The Hon. Sammy Weya, MP
The Hon. Ali Bahari, MP
The Hon. K. M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. S. Maritim - Parliamentary Intern.

MINISTRY OF FINANCE

Mr. K. A. Ondieki- Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. E.M. Ngigi- Principal Inspector

KENYA NATIONAL AUDIT OFFICE

Mr. S. M. Muriuki- Director of Audit
Mr. Hiram Waciira- Assistant Director of Audit
Mr. Z. M. Onsando- Principal Auditor

MIN. NO. 206/2004 - EVIDENCE

Report and Accounts of the National Social Security Fund for the Year 1998/99 And the Certificate thereon by the Controller And Auditor General

Mr Naftali O. Mogere, the Managing Trustee, National Social Security Fund accompanied by Messrs; R. K. Lumbasyo, Deputy Managing Trustee (Finance and Investments), Anderson S. Ndwiga, Estates Manager; F. Z. Moturi, Investments Manager, J. Akoya, Finance Manager, P M Weru, Chief Accountant; W.W. Mutonyi, Information Technology Manager; P. Keitany; Senior Accountant; Said Chitembwe, Corporation Secretary and Mrs Deborah A. Ongewe, Permanent Secretary, Ministry of Labour and Human Resource Development appeared before the Committee and gave evidence on Paragraphs 3 to 7 of the 1998/99 Accounts of the Fund

**MIN. NO. 207/2004 - EVIDENCE: PARAGRAPH 3
OF THE 1998/99 ACCOUNTS -
NYAYO ESTATE EMBAKASI**

The Committee heard that no feasibility study was conducted before the purchase of the land L.R. No. 9042/179 and that an amount of Ksh. 1,328,289,564 was spent in purchase of the land and design and supervision of the project and that the main contractor was M/s. Mugoya Construction Company.

The Committee further heard that the Board has resolved to hire a different contractor to revive the project at Phases II and III and further filed a suit against M/s. Mugoya Construction Company, who has been overpaid by over Kshs 2.7 billion as at now, for breach of contract.

The Committee also heard that the Fund would incur an extra expenditure of Kshs. 3 billion if the project is to be completed.

The Committee directed;

- (i) The Managing Trustee to avail a breakdown of the expenditure of Kshs. 1,328,289,569 spent on the project.
- (ii) The Permanent Secretary avails correct information on implementation status of the 10th Report of the Committee.

MIN. NO. 208/2004

- **EVIDENCE: PARAGRAPH 4 OF THE
1998/99 ACCOUNTS - ABANDONED
PROJECTS**

The Committee heard that Kileleshwa plot has been sold off at Ksh. 43 million and that plans are underway to sell off the remaining parcels of land.

The Committee directed the Managing Trustee to avail information on the initial costs of the properties, intended prices of sale and valuation prices of the same.

MIN. NO. 209 /2004

- **EVIDENCE: PARAGRAPH 5 OF THE
1998/99 ACCOUNTS - MACHAKOS
HOUSING**

The Committee took evidence and concluded on the paragraph.

MIN. NO. 210 /2004

- **EVIDENCE: PARAGRAPH 6 OF THE
1998/99 ACCOUNTS - KAREN HOUSING**

The Committee heard that the project had been abandoned and that the contractor, M/s Mugoya Construction Company had claimed a total of 171,534,985.65.

Evidence taken and concluded.

MIN. NO. 211/2004

- **EVIDENCE: PARAGRAPH 7 OF THE
1998/99 ACCOUNTS - DEPOSIT WITH THE
CONSOLIDATED BANK OF KENYA**

The Committee was informed that the Bank had paid the deposit in installments and that as at 28th February, 2003, all the money had been repaid.

MIN. NO. 212/2004

- **PAPER LAID**

The Chief Executive laid the following paper before the Committee:

A Copy of a list of contractors in respect of paragraphs 4 and 6 of the 1998/99 of the Accounts of the Fund.

MIN. NO. 213 /2004 -

DEFERRED EVIDENCE:
PARAGRAPHS 8 - 13 OF THE 1998/99
ACCOUNTS

The Committee deferred taking evidence on Paragraphs 8 to 13 of the 1998/99 Accounts of the Fund until a later date.

MIN. NO. 214/2004 -

ADJOURNMENT.

There being no other business, the Chairman adjourned the sitting at ten minutes past five O'clock until Thursday, 27th May, 2004.

Hon. J.B.N. Muturi, MP

SIGNED.....
CHAIRMAN

28th July, 2004

DATE.....

MINUTES OF THE FORTY-THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON THURSDAY, MAY 27, 2004 AT 9.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Mahamud Abdi Mohamed
The Hon. Sammy Weya, MP
The Hon. Ali Bahari, MP
The Hon. Gor Sungu, MP
The Hon. K. M. Sang', MP

ABSENT

The Hon. W. Wamunyinyi, MP
The Hon. Otieno Kajwang, MP
The Hon. Henry Obwocha, MP
The Hon. W. Oparanya, MP
The Hon. Maina Kamanda, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. S. Maritim - Parliamentary Intern.

MINISTRY OF FINANCE

MS. Lucy W. Gitundu - Senior Accountant

INSPECTORATE OF STATE CORPORATIONS

Ms. Joyce M. Wesonga - Senior Auditor

KENYA NATIONAL AUDIT OFFICE

Mr. E.O. Onyango - Deputy Director of Audit
Boniface K. Mulli - Senior Auditor

OTHER WITNESSES

Mrs. Judith M. Okungu - Commissioner of Lands
Ms. Naomi Samba - Former Transport Officer, KMTC

MIN. NO. 215/2004 - **EVIDENCE**

Report and Accounts of the Kenya Medical Training College for the year 1996/97 and the Certificate thereon by the Controller And Auditor General

Dr. John Kibosia, Director, Kenya Medical Training College accompanied by Messrs. J. J O. Ombayo, Finance Manager; Silas E. Njeru, Principal Supplies Officer; John Isaac Obiye, Human Resource Manager; Patterson E. Midambo and David O.Ondeng' of Regional Administration and Academic respectively appeared before the Committee and gave evidence on Paragraphs 1 to 3 of the 1996/97 Accounts of the College.

MIN. NO. 216/2004 - **EVIDENCE: PARAGRAPH 1 OF THE 1996/97 ACCOUNTS - FIXED ASSETS**

The Committee expressed concern for failure by the Ministry of Health to send a representative to the meeting.

The Committee heard that Plot LR No. 209/14269-78 (South Hill Mess) was allocated to private developers and that title deeds were issued, and further that the title deed in respect of plot LR No. 11597 (Machakos – Kenya Israeli Campus) is in the name of Masaku County Council.

The Committee was also informed that letters of allotment in respect of Residential Plots Nos. Nakuru Municipality/Block 12/262, 263, and 283 were withdrawn vide the letter of 12th November, 1999, by the Commissioner of Lands.

The Committee heard that National Museums of Kenya had engaged private surveyors and carved out a portion of land LR No. 1160/13 without consent of the College.

The Committee directed the Director together with the Commissioner of Lands to pursue the case against Kenya National Museum in respect of Plot LR. No. 1160/13 with the view to having a regrant that addresses the interests of the two institutions.

MIN. NO. 217/2004

ADDITIONAL INFORMATION

The Committee directed the Commissioner of Land to provide the following information by Friday, 4th June, 2004;

- (i) The name(s) of the Allotee(s) of plot LR. No. Nakuru Municipality /Block 12/264.
- (ii) The status of Garissa MTC plot.

MIN. NO. 218/ 2004

**EVIDENCE: PARAGRAPH 3 OF THE
1996/97 ACCOUNTS - COLLEGE VEHICLES
HELD IN A PRIVATE GARAGE**

The Committee noted with grave concern that the then Executive Officer had not drawn a Local Service Order as required before the vehicles were driven/towed for repair, and further that the parent Ministry and the Management of the College had been hesitant in following up the case to have the vehicles recovered.

The Committee was further informed that the vehicles could have been sold off by the owner of the garage vide a *Kenya Gazette* notice No. 628 of 29th October, 1999 by Henna Investments Auctioneers.

The Committee directed the Director to follow up the case and report progress by Friday, 4th June 2004.

MIN. NO. 219/2004

ADDITIONAL INFORMATION

The Committee directed the former Executive Officer, Ms. Naomi Samba to avail the following information by Monday, 7th June, 2004;

- (i) Copies of the letter written by the garage Director requesting to repair the vehicles
- (ii) Copy of her letter of interdiction.
- (iii) A write-up in response to issues raised by the Committee.

MIN. NO. 220/2004 - ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at ten minutes past one O'clock, until Friday, 28th May, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED.....

CHAIRMAN

28th July, 2004

DATE.....

MINUTES OF THE FORTY-FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS ON FRIDAY MAY 28TH 2004 AT 11.45 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. W. Oparanya, MP
The Hon. W. Wamunyinyi, MP
The Hon. K. M. Sang', MP
The Hon. Sammy Weya, MP

ABSENT

The Hon. Henry Obwocha, MP
The Hon. Ali Bahari, MP
The Hon. Mahamud Abdi Mohamed
The Hon. Maina Kamanda, MP
The Hon. Gor Sungu, MP
The Hon. Otieno Kajwang,' MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. S. Maritim - Parliamentary Intern.

MIN. NO. 221/2004 - CONFIRMATION OF MINUTES

Minutes of the thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth Sittings were confirmed by Members present and signed by the Chairman as follows:

- (i) The Thirtieth Sitting held on Tuesday, February 24, 2004 were proposed by Hon. Wycliffee Oparanya, MP and seconded by the Hon. Kipkorir Sang, MP
- (ii) The Thirty-first sitting held on Wednesday, February 25, 2004 were proposed by Hon. Kipkorir Sang, MP and seconded by the Hon. Wycliffee Oparanya, MP.

- (iii) The Thirty-second sitting held on Thursday, February 26, 2004 were proposed by the Hon. Wafula Wamunyinyi, MP and seconded by the Hon. Kipkorir Sang, MP.
- (iv) The Thirty-third sitting held on Thursday, March 04 2004 were proposed by Hon. Wycliffee Oparanya, MP and seconded by the Hon. Wafula Wamunyinyi, MP.
- (v) The Thirty-fourth sitting held on Tuesday, March 23,2004 were proposed by the Hon. Kipkorir Sang, MP and seconded by the Hon. Wycliffe Oparanya, MP
- (vi) The Thirty-fifth sitting held on Thursday, April 1 2004, were proposed by the Hon. Wafula Wamunyinyi, MP and seconded by the Hon. Kipkorir Sang, MP.
- (vii) The Thirty-sixth sitting held on Friday April, 02 2004 were proposed by the Hon. Wycliffee Oparanya and seconded by the Hon. Wafula Wamunyinyi, MP
- (viii) The Thirty-seventh Sitting held on Tuesday April 20, 2004 were proposed by the Hon. Wafula Wamunyinyi and seconded by the Hon. Wycliffee Oparanya, MP.
- (ix) The Thirty-eighth sitting held on Friday April 23rd 2004, were proposed by Hon. Wycliffee Oparanya, MP and seconded by Hon. Wafula Wamunyinyi, MP.
- (x) The Thirty-ninth sitting held on Monday April 26, 2004, were proposed by the Hon. Kipkorir Sang, MP and seconded by Hon. Wycliffee Oparanya, MP.

MIN. NO. 222/2004 - MATTERS ARISING

The following matters arose and the Committee resolved on them as follows:

1. Min. No. 09/2004

That, the Committee had directed the Teachers Service Commission to seek post-facto authority to regularise the single sourcing by writing to the Treasury through the Ministry of Education.

2. Min. No. 15/2004

That, the National Oil Corporation should avail information in writing on the breakdown of costs on the:-

- (i) Perimeter wall
- (ii) Partitioning of office

3. Min. No. 16/2004

That the National Oil Corporation had written to the Secretariat on the issue of stocks as directed by the Committee.

4. Min. No. 35/2004

That, even after being directed by the Committee to provide information in writing on the name of the alleged land allottee and steps taken by the Corporation towards obtaining a title deed for the piece of land, the Managing Director of National Water Conservation and Pipeline had not yet responded.

5. Min. No. 46/2004

That Mr. John Kaura, the former Chairman of the East African Portland Cement should not be summoned as earlier decided since the evidence given by the others was conclusive.

6. Min. No. 49/2004

That the Kenya Ports Authority management had written to the Committee and requested to appear at a later date.

MIN. NO. 223/2004 - ADJOURNMENT

And there being no other business the Chairman adjourned the sitting at twenty-five minutes past noon until Friday June 04, 2004 at 9.30 a.m.

Hon. J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

28th July, 2004

DATE:

**MINUTES OF THE FORTY-FIFTH SITTING OF THE PUBLIC INVESTMENTS
COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT
BUILDINGS ON FRIDAY JUNE 11TH 2004 AT 10.05 A.M.**

PRESENT

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Abdi M. Mohamed, MP
The Hon. Otieno Kajwang, MP
The Hon. Maina Kamanda, MP
The Hon. Gor Sungu, MP
The Hon. W. Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. K. M. Sang, MP
The Hon. Sammy Weya, MP

ABSENT

The Hon. Henry Obwocha, MP
The Hon. W. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. S. Maritim - Parliamentary Intern.

MINISTRY OF LABOUR AND HUMAN RESOURCE DEVELOPMENT

Mrs. Deborah Ongewe - Permanent Secretary

TREASURY

Mr. Kennedy Ondieki - Deputy Director (DGIPE)

KENYA NATIONAL AUDIT OFFICE

Mr. Hiram Waciira - Assistant Director of Audit
Mr. Zacharia Onsando - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Edward M. Ngigi - Principal Inspector

MIN. NO. 224/2004

EVIDENCE

Report and Accounts of National Social Security Fund for the year 1998/99 Accounts and the Certificate thereon by the Controller and Auditor General

Mr. Naftali Mogere, the Managing Trustee, National Social Security Fund; accompanied by Messrs. Ms. R.K. Lumbasyo, Deputy Managing Trustee (Finance and Investments), Francis Moturi, Investments Manager, Said Chitembwe, Corporation Secretary, Anderson Ndwiga, Estates Manager, James Akoya, Finance Manager, Wycliffe Motonyi, Information Technology Manager, Philemon Keitany; Senior Accountant, and Patrick Weru, Chief Accountant appeared before the Committee and gave evidence on the 1998/99 Accounts of the Fund.

MIN. NO. 225/2004

**EVIDENCE: PARAGRAPH 8 OF
THE 1998/99 ACCOUNTS - LOANS AND
DEPOSITS IN NATIONAL BANK OF KENYA**

The Managing Trustee informed the Committee that, as per the recommendations of the 9th and 10th Reports of the Committee, the Fund had since converted the loan together with accrued interests to a Kshs.235 million Non-Cumulative Preference Shares in the National Bank of Kenya.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 226/2004

**EVIDENCE PARAGRAPH 9: COMPUTER
MAINTENANCE CONTRACT**

The Managing Trustee informed the Committee that the Sub-Contractor, M/s Tandam Park Consultants had sued the Fund for breach of contract and that the Fund had put up its defence and won the case and had since sued the contractor for non-completion of work and the case is pending in court.

The Committee further heard that the Director of M/s Tandam Park Consultants were Mr. Tony Gachoka and his wife.

The Committee deferred taking further evidence on the paragraph and resolved that Mr. David Masika, the then Managing Trustee should

appear before the Committee at a later date to explain why he entered into a contract with the contractor without competitive bidding and why he contracted an unqualified contractor for computer maintenance for the Fund.

The Committee also resolved that Mr. Tony Gachoka should appear along with the management of the Fund.

The Committee further directed the Managing Trustee to provide a copy of the Internal Audit Report of the Fund in respect of the consultancy service.

MIN. NO. 227/2004 - **EVIDENCE: PARAGRAPH 10 - KANGEMI HOUSING PROJECT**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 228/2004 - **EVIDENCE: PARAGRAPH 11- MEMBERS' CONTRIBUTION ACCOUNT**

The Committee was informed that the Fund had instituted measures to ensure that the funds in the Suspense Accounts were transferred to the rightful owners accounts and further that the amount now stands at about Kshs.1 billion from the initial total of Kshs.7, 300,000,000.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 229/2004 - **EVIDENCE: PARAGRAPH 12 - RECOVERY OF RENT**

The Committee was informed that the Fund has been able to recover Kshs.221,705,267.10 in rent arrears but has been unable to recover a further Kshs.134 million from M/s Azania Hotels Ltd in respect of Hazina Plaza Mombasa and Kshs.42,757,738.36 owed by government departments.

The Committee further heard that the directors of Azania Hotels Limited are Kassim Owango and Company. The Committee directed the Managing Trustee to:

- i. Avail to the Committee, a list of the various government departments owing rent to the Fund.
- ii. Names of directors of Azania Hotels Ltd.

The Committee concluded taking evidence on the paragraph.

The Committee deferred taking evidence on the paragraph and resolved that the Permanent Secretary in the Office of the President should appear before the Committee at a later date to explain why vehicle KAJ 828G has not been surrendered back to the Fund.

The Committee directed the Managing Trustee to provide copies of all correspondence with the Office of the President in respect of the vehicle.

There being no other business, the Chairman adjourned the meeting at twenty minutes past twelve O'clock until a later date.

Hon. J.B.N. Muturi, MP

SIGNED.....
(CHAIRMAN)

28th July, 2004

DATE.....

MINUTES OF THE FORTY-SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN THE OFFICE OF THE EMBASSY OF THE REPUBLIC OF KENYA, BERLIN, GERMANY, ON MONDAY, JUNE 14TH, 2004 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. Maina Kamanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

STAFF OF THE EMBASSY OF THE REPUBLIC OF KENYA, BERLIN

Mr. Frost Josiah - Ambassador
Mr. Muthaa - Administration Officer
Mr. Eshikuta - Protocol Officer
Mr. Kosure - Trade, Investment and
 Tourism Promotion Officer

MIN. NO. 231/2004 - **MEETING WITH THE AMBASSADOR AND STAFF OF THE EMBASSY OF THE REPUBLIC OF KENYA IN BERLIN**

The delegation paid a courtesy call on the Ambassador and staff of the Kenya Embassy in Berlin and was informed that the Kenya -German relation is at their best.

Further the Committee was informed that German-Kenya trade in volume stood at over Ksh. 1.26 billion and that Germany is Kenya's fourth largest trading partner taking 8% of all Kenya's exports. Economic cooperation is mainly on agriculture, education and health with imports

from Kenya being mainly on coffee, tea, fruits, vegetables and flowers. Kenya has the biggest market share of 25% in the German flower market. Germany is the world's largest consumer of Kenyan Coffee.

Further, the Committee heard that unavailability of sufficient, reliable and economical cargo space in the Kenyan market significantly impedes on enhanced exports to potential markets as the fees charged are exorbitant compared to other markets.

Further, underdeveloped infrastructure, inadequacy of comprehensive legislation and insecurity in Kenya, were singled out as the utmost impediments to investments.

MIN. NO. 232/2004 - **VISIT TO THE PARLIAMENT OF THE
FEDERAL REPUBLIC OF GERMANY (THE
BUNDESTAG)**

The all-Germany Bundestag is composed of at least 656 Members of whom 328 are elected in the Constituencies and a further 328 via lists of candidates drawn up by political parties in each land or federal state. The outgoing President convenes the first sitting of the Bundestag not later than 30 days after the election. Until a new President (Speaker) is elected, the oldest Member of the Bundestag chairs the meeting. According to tradition, the largest parliamentary group nominates a candidate for the seat. Five Vice-Presidents who form a Presidium assist the President.

After the general election, parties with a view to electing the Federal Chancellor by secret ballot hold negotiations. The person is then appointed by the Federal President and sworn in before the Bundestag.

MIN. NO. 233/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at 15.00hrs until Tuesday 15th June 2004 10.00 a.m.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th July, 2004

MINUTES OF THE FORTY-SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN NEUER JUNGFERNSTIEG HAMBURG, GERMANY, ON TUESDAY JUNE 15TH, 2004 AT 12. 00 P.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. -**Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P
The Hon. Wycliffe Oparanya, M.P
The Hon. Maina Kamanda, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

MIN. NO. 234/2004 - **MEETING WITH THE GERMAN TEA ASSOCIATION (GTA)**

The Committee was informed that the Association engages in research and promotion of tea and links German tea importers to tea brokers and producers in the international tea trade. GTA is also represented in the European Union negotiation of trade tariffs and setting of tea standards for the EU market.

The Committee was implored to promote assertive and rigorous involvement by Kenyan tea agencies in the negotiations for setting standards for penetration to the EU market as onus of promoting tea lies with respective Governments.

MIN. NO. 235/2004 - **MEETING WITH AFRICA VEREIN (GERMAN- AFRICA BUSINESS ASSOCIATION)**

The Committee was informed that the German Verein brings together people from different sectors and links them to different investments potential in Africa. The organization whose membership is approximately 500 conducts research on investments opportunities in Africa and sells these ideas to interested parties in Germany for investments.

There being no other business, the Chairman adjourned the meeting at 15.00hrs until Wednesday 15th June 2004 10.00 a.m.

SIGNED:
Hon. J.B N. Muturi, MP
(CHAIRMAN)

DATE:
28th July, 2004

MINUTES OF THE FORTY-EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN BERLIN, GERMANY, ON WEDNESDAY, JUNE 16TH, 2004 AT 10.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. Maina Kamanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

TRANSPARENCY INTERNATIONAL REPRESENTATIVES

Dr. Muzonga Koda - Executive Director for Africa
and the Middle East
Ms. Chantal Uwimama - Charg'ee de Programmes
Mr. Babatunde Olugboji - Programme Officer
Mr. Nelso Muffuh - Programme Officer

MIN. NO. 237/2004

**MEETING WITH REPRESENTATIVES
OF TRANSPARENCY INTERNATIONAL**

The Committee heard that Transparency International was started in 1993 and is presently active in 27 Countries with a department, which focuses on Africa.

Transparency International engages in the promotion of democracy and good governance through:

- Coordination of anticorruption efforts,
- Capacity building,
- Collaboration with international and regional Partners, like Nepad, Gopac, etc
- Monitoring of elections,

- Civil advocacy,
- Lobbying for assets recovery,
- Combating corruption in Arms trade
- Calling politicians to account
- Campaigning for greater access to information

The Committee was further informed that in the year 2002, Kenya was ranked as the world's 6th most corrupt country with a corruption index of 1.9. with the public sector being singled out as leading in the vice.

MIN. NO. 238/2004 - **MEETING WITH A PARLIAMENTARY COMMITTEE ON AFRICAN AFFAIRS**

The Committee has 23 Members and does not directly engage in questioning the running of public affairs since the Court of Audit conducts the Audits and seeks explanation on contentious issues.

MIN. NO. 239/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at 16.00hrs until Thursday 17th June 2004 10.00 a.m.

Hon. J.B.N. Muturi, MP

SIGNED:.....
(CHAIRMAN)

28th July, 2004

DATE:.....

MINUTES OF THE FORTY-NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN BERLIN, GERMANY, ON THURSDAY, JUNE 17TH, 2004 AT 10.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. -**Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P
The Hon. Wycliffe Oparanya, M.P
The Hon. Maina Kamanda, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III

MIN. NO. 240/2004 - **MEETING WITH OFFICIALS OF THE GERMAN CHAMBERS OF COMMERCE AND INDUSTRY (DHIK) AND FEDERATION OF GERMAN INDUSTRY AND ENTREPRENEURS (BDI)**

The BDI is the umbrella organization for industrial businesses and industry-related service-providers. As the representative of the interests of industry, the BDI coordinates the views and recommendations of its members. It provides information covering all fields of economic policy. The BDI thus supplies support for businesses for task of keeping pace with the intensive competition resulting from globalization.

MINUTES OF THE FIFTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN BERLIN, GERMANY, ON FRIDAY, JUNE 18TH, 2004 AT 10.00 A.M.

THE PUBLIC INVESTMENTS COMMITTEE HELD IN BERLIN, GERMANY, ON FRIDAY, JUNE 18TH, 2004

PRESENT

The Hon. J.B.N. Muturi, M.P. - Chairman
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. Maina Kamanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Clerk Assistant
Mr. S. J. Njoroge - Senior Assistant III
Clerk As.

MIN. NO. 242/2004

MEETING WITH OFFICIALS OF THE MINISTRY OF LABOUR AND ECONOMICS

The Ministry formulates and implements policies related to labour and economics and also promote investments in the country. Within the Ministry, is a Commission for investments whose membership is drawn from successful local business persons who represent the investments interest of the Federal Government in all forums.

MIN. NO. 243/2004

ADJOURNMENT

There being no other business, the Chairman adjourned the meeting at 15.00hrs until Friday 25th June 2004 9.30 a.m.

SIGNED:
Hon. J.B.N. Muturi,
(CHAIRMAN)

DATE:
28th July, 2004

There being no other bu
15.00hrs until Friday 18

AD he Chairman adjourned the meeting at
business, t 004 10.00 a.m.
a June 2

SIGNED: Hon. J uri, MP
..... B.N. Mut
(CHAIRMAN)
28th J
DATE: July, 2004
.....

MINUTES OF THE FIFTY-FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS ON FRIDAY, JUNE 25TH, 2004 AT 10.45 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Abdi M. Mohamed, MP
The Hon. Maina Kamanda, MP
The Hon. W. Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Sammy Weya, MP

ABSENT

The Hon. Otieno Kajwang, MP
The Hon. Gor Sungu, MP
The Hon. Henry Obwocha, MP
The Hon. W. Oparanya, MP
The Hon. K. M. Sang, MP, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. S. Maritim - Parliamentary Intern.

MINISTRY OF HEALTH

Mr. Felix M.M Karimba - Ag. Chief Finance Officer

TREASURY

Mr. F.E.K Kihara - Senior Principal Personnel Officer)

KENYA NATIONAL AUDIT OFFICE

Mr. Boniface K. Muli - Senior Auditor
Mr. S.M. Muriuki - Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Edward M. Ngigi - Principal Inspector

MIN. NO. 244/2004 - EVIDENCE

Report and the Accounts of Kenyatta National Hospital for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Dr. Florence M. Musau, Director of Kenyatta National Hospital accompanied by Messrs.: Nzuki Mwinzi, Advocate; Alice N. Kindiga, Finance; Maimuna M. Itambo, Ag. Deputy Director (Administration); F.A. Oyombe, Personnel & Training; John O. Auma, Supplies; Samson Nyakundi, Audit; C.K. Mutua, Maintenance & Transport; James M. Munoithania, Planning; Peter M. Akuno, Finance and Anne G.W. Nkiru, Chief Finance Officer, Ministry of Health appeared before the Committee and gave evidence on the accounts of the Hospital for the year 1998/99.

MIN. NO. 245/2004 - ADDITIONAL INFORMATION

The Committee directed the Chief Executive to submit a list of the legal fees paid to lawyers including M/s Nyakundi by 9th July 2004.

MIN. NO. 246/2004 - EVIDENCE: PARAGRAPH 6 OF 1998/99 ACCOUNTS - LEASING OF AN OFFICE FOR THE NON-EXECUTIVE CHAIRMAN

The Committee directed the Chief Executive to give a write-up to the Committee on the issue of any approval of payments made and any records available concerning the leasing of the office of the non-executive Chairman on or before 2nd July 2004.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 247/2004 - EVIDENCE: PARAGRAPH 7 OF THE 1998/99 ACCOUNTS - THEFT OF TOYOTA HIACE VAN KAD 858M

The Chief Executive was directed to remove the vehicle from Fixed Assets to a Loss Account or any other such Account because the vehicle is non-existent as a Fixed Asset.

The Committee concluded taking evidence on the paragraph.

The Chief Executive informed the Committee that the Corporation had now put control measures to control future disappearance of NHIF cheques.

The Committee further heard that there was other unaccounted for NHIF cheques totalling to Kshs.90 million that were revealed by the Hospital's Internal Audit team after investigation.

The Chief Executive was directed to expeditiously follow the case against the suspect(s) implicated in the disappearance of cheques to its logical conclusion.

The Committee concluded taking evidence on the paragraph.

There being no other business, the Chairman adjourned the meeting at forty-five minutes past noon until Friday, July 2nd 2004 at 9.30 a.m.

Hon. J.B.N. Muturi, MP

SIGNED.....
(CHAIRMAN)

28th July, 2004

DATE.....

MINUTES OF THE FIFTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON MONDAY, JULY 5TH, 2004 AT 3:15 P.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. -**Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K. M. Sang', M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

TREASURY

Mr. K.O. Ondieki - Deputy Director (DGIPE)

OFFICE OF THE CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira - Assistant Director of Audit
Mr. Zacharia Onsando - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. E.M Ngigi - Principal Inspector

OTHER WITNESSES

Mr. Dave Mwangi - Permanent Secretary, Office of the President
Mr. Mwenda - Chief Finance Officer, Office of the President

MIN. NO. 250/2004 - EVIDENCE

Report and Accounts of National Social Security Fund for the Years 1998/99 and the Certificate thereon by the Controller and Auditor General

Mr. Naftali Mogere, Managing Trustee of the National Social Security Fund accompanied by Messrs:- Rachel Lumbasyo, Deputy Managing Trustee (Finance & Investments), Said Chitembwe, Corporation Secretary, Wycliffe Mutonyi, IT Manager, Patrick Weru Chief Accountant appeared before the Committee and gave evidence on the 1998/99 Accounts of N.S.S.F.

**MIN. NO. 251/2004 - DEFERRED EVIDENCE
PARAGRAPH 9 OF 1998/99 ACCOUNTS-
COMPUTER MAINTENANCE CONTRACT**

The Committee deferred taking evidence on the paragraph to a later date.

**MIN. NO. 252/2004 - EVIDENCE
PARAGRAPH 13 OF THE 1998/99 ACCOUNTS
- POSSESSION AND USE OF MOTOR
VEHICLES**

The Permanent Secretary in the Office of the President informed the Committee that the motor vehicle Landrover 110 series registration number KAC 828G was loaned out to the Office of the President but never returned to the Fund as it was involved in an accident in Marsabit and was written off.

The Committee heard that the Office of the President is making plans to ensure that the Fund is duly compensated.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 253/2004 - PAPERS LAID

The Permanent Secretary in the Office of the President, Mr. Dave Mwangi, laid the following paper before the Committee with respect to paragraph 13 of 1998/99 Accounts:

Correspondence relating to the vehicle KAC 828G.

And there being no other business, the Chairman adjourned the sitting at 4: 00 p.m. until Tuesday July 6th, 2004 at 9.30 a.m.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th July, 2004

MINUTES OF THE FIFTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON TUESDAY, JULY 6TH, 2004 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P.
The Hon. K.M.Sang, M.P

ABSENT WITH APOLOGY

The Hon. Wycliffe Oparanya, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

MINISTRY OF HEALTH

Mr. Edward Kimari - Deputy Chief Finance Officer

TREASURY

Mr. Festus W. King'ori - Assistant Secretary

OFFICE OF THE CONTROLLER AND AUDITOR GENERAL

Mr. Boniface Mulli - Senior Auditor
Mr. Stanley Muriuki - Director of Audit

Report and Accounts of the National Hospital Insurance Fund (NHIF) for the Year 1997/98 and the Certificate thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, the Chief Executive, National Hospital Insurance Fund accompanied by Messrs. Jacinta Mwangi, Manager Accounts, David Mulli, Manager Planning, Lawrence Ondari, Manager Finance, Richard Kerich, Chief Finance Officer appeared before the Committee and gave evidence on the 1997/1998 Accounts of N.H.I.F.

MIN. NO 256/2004 -

EVIDENCE: PARAGRAPH 1 OF THE 1997/1998 ACCOUNTS - ACCURACY OF ACCOUNTS

The Committee expressed concern on the inaccuracy of the Fund's Accounts, which the National Audit Office disclaimed due to wrong accounting procedures used by the Fund. There were several cases of double accounting and understatements of the Fund's income.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 257/2004 -

EVIDENCE: PARAGRAPH 2 OF 1997/1998 ACCOUNTS- SALE OF STAMPS- N.H.I.F HEAD OFFICE

The Committee heard that the difference in the two sets of records was as a result of non-inclusion in the schedules of the stamps sold by cheques and not collected by employers.

The Committee noted with concern that there was improper book-keeping of records in the Fund.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 258/2004 -

EVIDENCE: PARAGRAPH 3 OF 1997/1998 ACCOUNTS - CERTIFICATE OF CONTRIBUTION (CCP)

The Committee heard that the amounts shown in the Accounts under review and the figures on the General Ledger were not tallying because the revenue collected in the Area Offices by use of CCP was not recorded, therefore, omitted in the ledger.

The Committee noted that this was a case of improperly kept records and directed the Chief Executive to update their records so that the issue does not recur.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 259/2004 - **EVIDENCE: PARAGRAPH 4 OF 1997/1998**
ACCOUNTS - LATE CONTRIBUTIONS

The Committee heard that the difference between the figures shown in the Accounts and the Receipt Vouchers occurred due to non-inclusion of the Late Contributions receipts relating to Area Offices in the general ledger.

The Chief Executive assured the Committee that all Area Offices are now automated and that the issue will not arise again.

The Committee concluded taking evidence on the paragraph.

MIN. NO 260/2004 - **EVIDENCE: PARAGRAPH 5 OF 1997/98**
ACCOUNTS PENALTIES

The Committee heard that the penalty figure reflected in the accounts under review was understated.

The Chief Executive was asked to avail to the Committee the correct records by 14th July 2004.

MIN. NO. 261/2004 - **EVIDENCE: PARAGRAPH 6 OF 1997/98**
ACCOUNTS- LONG TERM INVESTMENT

The Committee heard that shares held by the Fund in the Consolidated Bank have not yielded any returns since the Bank had not made any profits and had therefore not declared dividends.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 262/2004 - **EVIDENCE: PARAGRAPH 7 OF 1997/98**
ACCOUNTS- SHORT TERM INVESTMENT

The Committee heard that the Fund had deposited its surplus funds in financially distressed institutions some of which collapsed with the Fund's money. However, the Fund has been able to recover some money through its lawyer.

The Chief Executive was asked to provide the Committee with the name of the law firm that was contracted to recover some money from Euro Bank.

The Committee concluded taking evidence on the paragraph.

MIN.NO. 263/2004 - **EVIDENCE: PARAGRAPH 8 OF 1997/98
ACCOUNTS - SUNDRY DEBTORS**

The Committee directed the Chief Executive to furnish it with an up-to date record of the Fund's outstanding imprests on or before July 14th 2004.

The Committee concluded taking evidence on the paragraph.

MIN. NO 264/2004 - **EVIDENCE: PARAGRAPH 9 & 10 OF 1997/98
ACCOUNTS- CASH IN TRANSIT AND CASH
BALANCES**

The Committee expressed its discontent in the way the Fund handled its accounts and the fact that it did not keep financial reconciliation statements to depict the true picture of its financial status.

The Chief Executive was directed to provide a write up on or before July 14th 2004 to the Committee giving more information on the two paragraphs.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 265/2004 - **PAPERS LAID**

The following papers were laid before the Committee with respect to various paragraphs of 1997/98 Accounts: -

- (i) A list of Imprest holders as at 20th November 1997/98 in respect of paragraph 8.
- (ii) A brief on Audit Queries for the 1997/98 Accounts.

MIN. NO. 266/2004 - **ANY OTHER BUSINESS**

The following issues came up and the Committee resolved on them as follows: -

(i) **Irregular Procurement of furniture**

The Committee was concerned that the Fund irregularly awarded LANTEK a contract for supply of furniture, in the year 2001.

The Chief Executive was asked to write to the Committee and furnish the it with the full details of the contract with M/S Kasha & Brothers and names of its directors.

(ii) **Smart Card Project**

The Committee heard that the smart card project never took-off because it turned out to be expensive and that the Fund instead resolved to go for laminated cards, which it contracted through open tendering and competitive bidding.

(iii) **Public Sensitization Project**

The Committee heard that the Fund has embarked on a public sensitization project of the Fund.

(iv) **Alleged malpractice at the Fund**

The Chief Executive informed the Committee that a journalist had approached him threatening to expose him on alleged malpractice and mismanagement of the Fund and demanded a bribe, which the Chief Executive declined.

The Chief Executive was asked to write to the Committee and provide the name of the journalist and the SUPKEM official who had approached him on the same, and report the case to the Kenya Anti-Corruption Commission for action to be taken.

MIN. NO. 267/2004

- **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at fifteen minutes past two O'clock until Friday July 9th 2004 at thirty minutes past nine O'clock.

Hon. J.B.N. Muturi, MP

SIGNED:.....
(CHAIRMAN)

28th July, 2004

DATE:.....

MINUTES OF THE FIFTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7 PARLIAMENT BUILDINGS ON FRIDAY JULY 9TH, 2004 AT 10:25 A.M

PRESENT

The Hon. J.B.N. Muturi, M.P. -**Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Sammy Weya, M.P

ABSENT WITH APOLOGY

The Hon. Wycliffe Oparanya, M.P.
The Hon. K. M. Sang', M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

TREASURY

Mr. Kennedy Ondieki - Deputy Director

KENYA NATIONAL AUDIT OFFICE

Mr. Orina Gichana - Auditor-in-Charge
Mr. Joseph Karuma - Deputy Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit
Mr. Zacharia Onsando - Principal Audit

OTHER WITNESSES

Mr. Simeon Mkalla - Former Managing Director, KPA
Hon. Nderitu Gachagua - Proprietor, M/s Jagar Consultants
Mr. D. W. Masika - Former Managing Trustee NSSF
Mr. Tony Gachoka - Director, M/S Tandam Park Consultants

MIN. NO. 268/2004 - EVIDENCE

Report and Accounts of Kenya Ports Authority for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Mr. Brown M.Ondego, the Managing Director, Kenya Ports Authority accompanied by Messrs. Yobesh Oyaro, Financial Accounting Manager; appeared before the Committee and gave evidence on the 1998/99 Accounts of Kenya Ports Authority.

MIN. NO 269/2004 - EVIDENCE: PARAGRAPH 1 OF THE 1998/99 ACCOUNTS - EXTENSION AND REFURBISHMENT OF KIPEVU HEADQUARTERS

The Committee observed that the project was abandoned due to lack of feasibility study on the need for additional offices and lack of budgetary provision.

The Committee observed with great concern that the then Managing Director acted contrary to the Board's decision to pay up the sums once construction work had been started, and that he deliberately declined to give this information to the preceding Board's meeting, and further that he went ahead to make the payments.

The Committee concluded taking evidence on the paragraph.

MIN. NO 270/2004 - EVIDENCE

Report and Accounts of National Social Security Fund for the year 1998/99 and the Certificate thereon by the Controller and Auditor General

Mr. Naftali Mogere, the Managing Trustee, National Social Security Fund (NSSF) accompanied by Messrs. Rachel Lumbasyo, Deputy Managing Trustee, Wycliffe Mutonyi, IT Manager, Said Chitembwe, Corporation Secretary, Micheal Mwalo, Senior Supplies Officer, Patrick Weru, Chief Accountant, Kiano Maina, Head of Suspense, appeared before the Committee and gave evidence on the 1998/99 Accounts of N.S.S.F.

MIN. NO. 271/2004 -

**EVIDENCE: PARAGRAPH 9 OF 1998/99
ACCOUNTS - COMPUTER MAINTENANCE
CONTRACT**

The Committee observed that the contract for Computer Maintenance was irregularly awarded to M/S Tandam Park Consultants without open competitive bidding and that M/s. Tandam Park Consultants were not computer experts.

The Chief Executive was asked to write to the Committee and confirm whether there were any Board minutes approving the contract and submit this by 12th July, 2004.

He was also asked to provide any available records on the paragraph and submit the same on or before the above said date.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 272/2004 -

PAPER LAID

The following paper was laid before the Committee with respect to paragraph 1 of 1998/99 Accounts of the KPA: -

Bills of Quantities for KPA from M/S Jagar Consultants.

MIN. NO 273/2004 -

ADJOURNMENT

And there being no other business, the Chairman adjourned the meeting at 2.00 pm until Friday July 16th 2004 at 8.00 p.m.

Hon. J.B.N. Muturi, MP

SIGNED

(CHAIRMAN)

28th July, 2004

DATE.....

MINUTES OF THE FIFTY-FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT NYALI BEACH HOTEL POOL ROOM ON FRIDAY 16TH JULY, 2004 AT 10:00 A.M

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. K. M. Sang', M.P.
The Hon. Sammy Weya, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. S. M. Muriuki - Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit

MIN. NO. 274/2004 - RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:

1 **Kenya Airports Authority**
1996/97 Accounts

Paragraphs:

- 1.0 - Accuracy of the Accounts
- 2.0 - Survey of Airports
- 3.0 - Contracts
- 4.0 - Misuse of temporary imprests
- 5.0 - Investments
- 6.0 - Stocks

- 7.0 - Work in Progress
- 8.0 - Cash and Bank Balances

2. **National Housing Corporation**
1998/99 Accounts

Paragraphs

- 1.0 - Outstanding loan arrears
- 2.0 - Irregular award of contracts
- 3.0 - Payment of USD. 63,400
- 4.0 - Terms and Conditions of Service
- 5.0 - Irregular Payments

3. **Kenyatta National Hospital**
1998/99 Accounts

Paragraphs

- 1.0 - Short-term Investments
- 2.0 - Work-in-progress
- 3.0 - Debtors
- 4.0 - Fixed Assets
- 5.0 - Irregular award of contract – Kshs 383,800,000
- 6.0 - Leasing of an office for non-executive Chairman
- 7.0 - Theft of Toyota Hiace van – KAD 858M
- 8.0 - Unaccounted for NHIF cheques

4. **Kenya Railways Corporation**
1998/99 Accounts

Paragraphs

- 1.0 - Financial Position
- 2.0 - Fixed Assets Value
- 3.0 - Debtors
- 4.0 - Cash and Bank Balances
- 5.0 - Irregular allocation of land
- 6.0 - Net public debt
- 7.0 - Diesel Gas Oil Shortage
- 8.0 - Irregular use of credit and charge cards
- 9.0 - Irregular payment of sitting allowances
- 10.0 - Subsidiaries companies

5. **Kenya Sugar Development Fund**
1999/2000 Accounts

Paragraphs

- 1.0 - Tissue Culture Program
- 2.0 - Loans to Sugar Companies
- 3.0 - Legal fees
- 4.0 - Busia Sugar Company
- 5.0 - Outstanding Imprests

6. **Kenya Ports Authority**
1999/2000 Accounts

Paragraphs

- 1.0 - Operation and Management Contract- Mombasa container terminal
- 2.0 - Software Development Contract
- 3.0 - Procurement of spares
- 4.0 - Supply and Installation of Computer Hardware and Software Contract

7. **National Water Conservation and Pipeline Corporation**
1998/99 Accounts

Paragraphs

- 1.0 - Deficit
- 2.0 - Water Debtors
- 3.0 - Other Debtors
- 4.0 - Fixed Assets Register
- 5.0 - Accrued Expenses
- 6.0 - Repayment of Long Term Loan
- 7.0 - Procurement
- 8.0 - Procurement of machinery and equipment
- 9.0 - Njoro Water Treatment Plant
- 10.0 - Rongai Intake
- 11.0 - Work-in-progress - Kirandich Dam project

And there being no other Business, the Chairman adjourned the meeting at 8.30 p.m. until Saturday July 17th 2004 at 8.00 am.

Hon. J.B.N. Muturi, MP

SIGNED

(CHAIRMAN)

28th July, 2004

DATE.....

MINUTES OF THE FIFTY-SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT NYALI BEACH HOTEL POOL ROOM ON, SATURDAY, 17TH JULY 2004 AT 9:15 A.M.

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. K. M. Sang', M.P.
The Hon. Ali Bahari, M.P

ABSENT WITH APOLOGY

The Hon. Sammy Weya, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. S.M. Muriuki - Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit

MIN. NO. 276/2004 - RECOMMENDATIONS

MORNING SITTING

The Committee considered and approved the final draft recommendations as follows:

1. **Kenya Medical Training College**
1996/97 Accounts

Paragraphs

- 1.0 - Fixed Assets
- 2.0 - Depreciation on Fixed Assets
- 3.0 - College vehicles held in private garage
- 4.0 - Debtors

2. **Teachers Services Commission** **1998/99 Accounts**

Paragraphs

- 1.0 - Financial Position
- 2.0 - Partitioning of Bima House Offices
- 3.0 - Commission offices at Bazaar Plaza
- 4.0 - Wrong accounting treatment of accumulated savings
- 5.0 - Bomb Blast damages compensation

3. **National Social Security Fund** **1998/99 Accounts**

Paragraphs

- 1.0 - Financial Position
- 2.0 - Purchase of Land - Athi River
- 3.0 - Nyayo Estate - Embakasi
- 4.0 - Abandoned Projects
- 5.0 - Machakos Housing
- 6.0 - Karen Housing
- 7.0 - Deposits with Consolidated Bank of Kenya
- 8.0 - Loans and deposits in National Bank of Kenya
- 9.0 - Computer Maintenance Contract
- 10.0 - Kangemi Housing Project
- 11.0 - Members Contribution Account
- 12.0 - Recovery of rent
- 13.0 - Possession and use of motor vehicles

Others

Irregular award of Insurance brokerage and underwriting services.

MIN. NO. 277/2004 - ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at twelve O'clock until afternoon at 3.00 p.m.

AFTERNOON SITTING

PRESENT:

The Hon. J.B. Muturi, M.P **-Chairman**
The Hon. Ali Bahari, M.P
The Hon. Wafula Wamunyinyi, M.P
The Hon. Paul Sang, M.P
The Hon. Otieno Kajwang, M.P
The Hon. Gor Sunguh, M.P
The Hon. Wycliffe Oparanya, M.P

ABSENT WITH APOLOGY

The Hon. Sammy Weya, M.P

IN-ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. S.M. Muriuki - Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit

MIN. NO. 278/2004 - RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows: -

1 **Kenya Medical Research Institute**
 1999/2000 Accounts

Paragraphs

1.0 - Staff Housing Project
2.0 - Pension Scheme Contributions
3.0 - Abandoned project

2. **Kenya Sugar Board**
1999/2000

Paragraphs

- 1.0 - Medical Scheme and Allowances
- 2.0 - Private registration of vehicle no. KAJ 791S

3. **National Hospital Insurance Fund**
1997/98 Accounts

Paragraphs

- 1.0 - Accuracy of Accounts: Balance Sheet
- 2.0 - Sale of Stamps – NHIF Head Office
- 3.0 - Certificate of Contribution
- 4.0 - Penalties
- 6.0 - Short Term Investments

MIN. NO 279/2004

DEFERRED PARAGRAPHS

The Committee deferred making recommendations on the following paragraphs: -

1. **National Hospital Insurance Fund**
1997/98 Accounts

Paragraphs

- 5.0 - Long Term Investments
- 7.0 - Sundry Debtors
- Cash In Transit – Kshs 11,702,205.10 &
Cash Balances

2. **Kenya Ports Authority**
1998/99 Accounts

Paragraph

- 1.0 - Extension and Refurbishment of Kipevu Headquarters

3. **National Oil Corporation of Kenya**
1997/98 Accounts

Paragraphs

- 1.0 - Work in Progress
- 2.0 - Stocks
- 3.0 - Fixed Deposits
- 4.0 - Cash and Bank Balances

4. **East African Portland Cement Company**
Management Practices at EAPCC

Issues

- 1.0 - Trade Policy and Practice
- 2.0 - Staff Appointments, Promotions & Dismissals

MIN. NO 280/2004 - **COMMITTEE VISIT TO KENYA PORTS**
AUTHORITY

The Committee made inspection tour to Kenya Ports Authority to be briefed on the Extension and Refurbishment of the Kipevu Headquarters as queried in the 1998/99 Accounts of the Kenya Ports Authority (paragraph 1)

The Committee learnt that there was no urgent need for extension and additional floors in the Authority and that that had there been a need to do that, it would have been more economical to build new offices for the Authority on a land adjacent to the Headquarters.

The Committee was able to tour the Port area and was shown some of the obsolete cranes that are to be replaced and was informed that two of the newly procured Cranes would arrive in eight months time.

MIN. NO. 281/2004 - **ADJOURNMENT**

And there being no other business, the Chairman adjourned the meeting at 8.30 p.m. until Friday July 23rd 2004 at 9.00 a. m.

Hon. J.B.N. Muturi, MP

SIGNED:
(CHAIRMAN)

28th July, 2004
DATE:

MINUTES OF THE FIFTY-SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON FRIDAY 23RD JULY, 2004 AT 10:30 A.M

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Wycliffe Oparanya, M.P.
The Hon. K. M. Sang', M.P.

ABSENT WITH APOLOGY

The Hon. Sammy Weya, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. S.M. Muriuki - Director of Audit
Mr. Hiram Waciira - Assistant Director of Audit

MIN. NO. 282/2004 - RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows: -

1. **National Hospital Insurance Fund**
1997/98 Accounts

Paragraphs

5.0 - Long Term Investments
7.0 - Sundry Debtors
- Cash In Transit - Kshs 11,702,205.10 &
Cash Balances

2. **Kenya Ports Authority**
1998/99 Accounts

Paragraph

1.0 - Extension and Refurbishment of Kipevu Headquarters

3. **National Oil Corporation of Kenya**
1997/98 Accounts

Paragraphs

1.0 - Work in Progress
4.0 - Cash and Bank Balances

MIN. NO. 283/2004 - DEFERRED PARAGRAPHS

- (i) **National Oil Corporation of Kenya**
1997/98 Accounts

Paragraph

2.0 - Fixed Deposits

- (ii) **East African Portland Cement**
Management Practices at EAPCC

Issues

1.0 - Trade Policy and Practice
2.0 - Staff Appointments, Promotions & Dismissals

- (iii) **Kenya Power and Lighting Company**

Issues

1.0 - Auditing of Accounts and compliance with Government
Financial Circulars
2.0 - KPLC and Independent Power Producers (IPPs)

Kenya Ports Authority

Tender for Supply of Cranes

The following issues came up and the Committee resolved on them as follows: -

Telkom Kenya (Ltd) Tender

The Committee was concerned that the Telkom illegally awarded a tender for the second telephone operator to a Chinese firm without following the correct tendering procedures.

The Committee, therefore, resolved to summon the Telkom management and thereafter the Minister for Information and Communication.

And there being no other business, the Chairman adjourned the meeting at 12.30 p.m until Monday 26th July 2004 at 3.00 p. m.

Hon. J.B.N. Muturi, MP

SIGNED:.....
(CHAIRMAN)

28th July, 2004

DATE:.....

MINUTES OF THE FIFTY-EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON MONDAY 26TH JULY, 2004 AT 4:30 A.M

PRESENT

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. Wycliffe Oparanya, M.P.

ABSENT WITH APOLOGY

The Hon. Sammy Weya, M.P.
The Hon. Ali Bahari, M.P.
The Hon. K. M. Sang', M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroje - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. S.M. Muriuki - Director of Audit
Mr. Erick O. Onyango - Deputy Director of Audit

MIN. NO. 286/2004 - RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:

1. Kenya Ports Authority
Tender for Supply of Cranes
2. **East African Portland Cement**
Management Practices at EAPCC

Issues

1.0 - Trade Policy and Practice

2.0 - Staff Appointments, Promotions & Dismissals

3. **National Oil Corporation of Kenya**
1997/98 Accounts

Paragraph

2.0 - Fixed Deposits

4. **Kenya Power and Lighting Company**

Issues

1.0 - Auditing of Accounts and compliance with Government Financial Circulars

2.0 - KPLC and Independent Power Producers (IPPs)

MIN. NO. 287/2004

- **ADJOURNMENT**

And there being no other business, the Chairman adjourned the meeting at 5.30 p.m until Wednesday July 28th July 2004 at 10.00 a.m.

SIGNED:
Hon. J.B.N. Muturi, MP
(CHAIRMAN)

DATE:
28th July, 2004

MINUTES OF THE FIFTY-NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON WEDNESDAY, JULY 28TH, 2004 AT 11.30 A.M.

PRESENT

The following Members of the Committee were present: -

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. K. M. Sang', M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. W. Wamunyinyi, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Ali Bahari, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Erick O. Onyango - Deputy Director of Audit

MIN. NO. 288/2004 - **CONFIRMATION OF PREVIOUS SITTINGS**

The Minutes of the Fortieth to Fifty Eighth Sittings of the Committee were confirmed by the Members present as a true record of what transpired and signed by the Chairman as follows:

- (i) The Fortieth Sitting held on Friday April 30th 2004, were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. Sammy Weya, MP.
- (ii) The Forty First Sitting held on Thursday, May 20th 2003, were proposed by the Hon. Otieno Kajwang', MP and seconded by the Hon. Gor Sungu', MP.

- (iii) The Forty Second Sitting held on Monday, May 24th 2004, were proposed by the Hon. Oparanya, MP and seconded by the Hon. Gor Sungu, MP.
- (iv) The Forty Third Sitting held on Thursday, May 27th 2004, were proposed by the Hon. Sammy Weya, M.P and seconded by the Hon. Ali Bahari, MP.
- (v) The Forty Fourth Sitting held on Friday, May 28th 2004, were proposed by the Hon. Ali Bahari, MP and seconded by the Hon. Gor Sungu, MP
- (vi) The Forty Fifth Sitting held on Friday, June 11th 2004, were proposed by the Hon. Gor Sungu, MP and seconded by the Hon. Otieno Kajawang, MP.
- (vii) The Forty Sixth Sitting held on Monday, June 14th 2004, were proposed by the Hon. Sammy Weya, MP and seconded by the Hon. Wycliffe Oparanya, MP.
- (viii) The Forty Seventh Sitting held on Tuesday, June 15th, 2004, were proposed by the Hon. Ali Bahari, MP and seconded by the Hon. Gor Sunguh, MP.
- (ix) The Forty Eighth Sitting held on Wednesday, June 16th 2004, were proposed by the Hon. Wycliffe Oparanya, MP and seconded by the Hon. Ali Bahari, MP.
- (x) The Forty Ninth Sitting held on Thursday, June 17th, 2004 were proposed by the Hon. Gor Sungu, MP and seconded by Hon. Wycliffe Oparanya, MP.
- (xi) The Fiftieth Sitting held on Friday, June 18th, 2004 were proposed by the Hon. Ali Bahari, MP and seconded by the Hon. Wycliffe Oparanya, MP.
- (xii) The Fifty First Sitting held on Friday, June 25th 2004, were proposed by the Hon. Sammy Weya, MP and seconded by the Hon. Ali Bahari, MP.
- (xiii) The Fifty Second Sitting held on Monday July 5th 2004 were proposed by the Hon. Wycliffe Oparanya, MP and seconded by the Hon. Gor Sungu, MP.

- (xiv) The Fifty Third Sitting held on Tuesday, July 6th, 2004 were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. K.M. Sang, MP.
- (xv) The Fifty Fourth Sitting held on Friday, July 9th, 2004, were proposed by the Hon. Ali Bahari, MP and seconded by the Hon. Gor Sunguh, MP.
- (xvi) The Fifty Fifth Sitting held on Friday, July 16th 2004, were proposed by the Hon. Ali Bahari, MP and seconded by the Hon. Otieno Kajawang', MP.
- (xvii) The Fifty Sixth Sitting held on Saturday, July 17th, 2004 were proposed by the Hon. Wycliffe Oparanya, MP and seconded by Hon. Ali Bahari, MP.
- (xviii) The Fifty Seventh Sitting held on Friday, July 23rd, 2004 were proposed by the Hon. Gor Sunguh, MP and seconded by the Hon. Wycliffe Oparanya, MP.
- (xix) The Fifty Eighth Sitting held on Monday, July 26th. 2004, were proposed by the Hon. Gor Sungu, MP and seconded by the Hon. Sammy Weya, MP.

MIN. NO. 289/2004 - MATTERS ARISING

The following matters arose and the Committee resolved them as follows:

(i) **Min. No. 61/2004**

The Committee resolved to carry over the visit to the Numerical Machining Complex of the Kenya Railways Corporation to the next Committee.

(ii) **Min. No. 15/2004**

That, due to failure by the Management of National Oil Corporation to avail information in writing to the Committee, the Committee recommended that the issue should be dealt with by the next Committee.

(iii) **Min. No. 95/2003**

That, the Committee should discuss with the Minister for Trade and Industry, issues raised during their meeting with officials of Ministry of Labour and Economics of the Federal Republic of Germany held in Berlin Germany on June 18th, 2004.

(iv) **Min. No. 111/2004**

The Committee noted with concern that the Chief Executive of National Hospital Insurance Fund has not yet written to the Committee on Late Contributions as instructed.

MIN. NO. 290/2004 - **ANY OTHER BUSINESS**

The Committee resolved to meet with auditors from the Kenya National Audit Office to discuss possible improvements in the way Audit Reports and Accounts of State Corporations are presented.

MIN. NO. 291/2004 - **ADJOURNMENT**

There being no other business, the Chairman adjourned the meeting at fifteen minutes past twelve o'clock until Friday, July 30th, 2004 at 9.30 a.m.

Hon. J.B.N. Muturi, MP

SIGNED.....
(CHAIRMAN)

29th July, 2004

DATE.....

MINUTES OF THE SIXTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7 PARLIAMENT BUILDINGS, ON THURSDAY JULY 29TH, 2004 AT 11:00 A.M

PRESENT

The following Members of the Committee were present: -

The Hon. J.B.N. Muturi, M.P. - **Chairman**
The Hon. Gor Sunguh, M.P.
The Hon. Sammy Weya, M.P.
The Hon. Wafula Wamunyinyi, M.P.
The Hon. K. M. Sang', M.P.

ABSENT WITH APOLOGY

The Hon. Otieno Kajwang', M.P.
The Hon. Ali Bahari, M.P.
The Hon. Wycliffe Oparanya, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Sialai - Senior Clerk Assistant
Mr. S. J. Njoroge - Clerk Assistant III
Ms. S. Maritim - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Erick O. Onyango - Deputy Director of Audit

MIN. NO. 292/2004

:

CONSIDERATION OF THE 12TH REPORT

The Committee considered and made ammendments to the draft 12th Report.

MIN. NO. 293/2004

-

ADJOURNMENT

The Chairman adjourned the meeting *sine die*.

SIGNED.....
CHAIRMAN

DATE.....

Appendix B

Debts owed by Local Authorities to the National Housing Corporation as at 30th June, 2003.

APPENDIX B

NATIONAL HOUSING CORPORATION

DEBTS OWED BY LOCAL AUTHORITIES AS AT 30-JUNE-2003

| <u>LOCAL AUTHORITY</u> | <u>PRINCIPAL BAL KSHS</u> | <u>ARREARS KSHS</u> | <u>TOTAL DEBT KSHS</u> |
|-----------------------------|-------------------------------|-------------------------|----------------------------|
| NAIROBI CITY COUNCIL | 299,019,613.45 | 1,104,583,009.55 | 1,403,607,623.00 |
| KISUMU MUNICIPAL COUNCIL | 127,718,212.15 | 296,143,558.52 | 423,861,770.67 |
| ELDORET MUNICIPAL COUNCIL | 79,651,379.20 | 222,278,249.62 | 301,929,628.82 |
| MOMBASA MUNICIPAL COUNCIL | 87,735,608.30 | 208,040,207.07 | 295,775,815.37 |
| NAKURU MUNICIPAL COUNCIL | 68,224,525.60 | 60,282,149.96 | 128,506,675.56 |
| KITALE MUNICIPAL COUNCIL | 33,022,714.55 | 49,219,785.76 | 82,242,500.31 |
| THIKA MUNICIPAL COUNCIL | 28,678,171.20 | 42,126,368.47 | 70,804,539.67 |
| NYERI MUNICIPAL COUNCIL | 17,322,243.25 | 27,557,746.59 | 44,879,989.84 |
| TAITA TAVETA COUNTY COUNCIL | 23,185,007.00 | 11,027,403.85 | 34,212,410.85 |
| MERU MUNICIPAL COUNCIL | 13,423,169.65 | 16,436,827.89 | 29,859,997.54 |
| KERICHO MUNICIPAL COUNCIL | 15,660,499.10 | 12,144,445.11 | 27,804,944.21 |
| EMBU MUNICIPAL COUNCIL | 10,959,093.20 | 12,160,153.30 | 23,119,246.50 |
| KAKAMEGA MUNICIPAL COUNCIL | 10,062,759.00 | 12,104,625.15 | 22,167,384.15 |
| KITUI MUNICIPAL COUNCIL | 4,889,301.45 | 16,209,975.12 | 21,099,276.57 |
| NAKURU COUNTY COUNCIL | 3,970,701.10 | 13,345,580.10 | 17,316,281.20 |
| KISII MUNICIPAL COUNCIL | 6,004,601.50 | 11,011,403.46 | 17,016,004.96 |
| SIAYA MUNICIPAL COUNCIL | 5,484,883.00 | 10,306,799.60 | 15,791,682.60 |
| MURANGA MUNICIPAL COUNCIL | 5,323,598.45 | 10,390,962.60 | 15,714,561.05 |
| HOMA BAY MUNICIPAL COUNCIL | 4,508,771.90 | 9,991,834.50 | 14,500,606.40 |

| | | | |
|-----------------------------|--------------|--------------|---------------|
| MACHAKOS MUNICIPAL COUNCIL | 5,368,372.20 | 8,891,537.64 | 14,259,909.84 |
| BUNGOMA MUNICIPAL COUNCIL | 5,116,079.65 | 7,871,909.00 | 12,987,988.65 |
| NAIVASHA MUNICIPAL COUNCIL | 6,927,608.30 | 4,349,444.46 | 11,277,052.76 |
| MALINDI MUNICIPAL COUNCIL | 4,109,326.20 | 7,005,733.45 | 11,115,059.65 |
| VIHIGA MUNICIPAL COUNCIL | 6,431,163.00 | 4,441,008.80 | 10,872,171.80 |
| ISIOLO COUNTY COUNCIL | 5,838,017.50 | 4,377,617.56 | 10,215,635.46 |
| MAVOKO MUNICIPAL COUNCIL | 4,900,982.50 | 4,894,797.80 | 9,795,780.30 |
| KERUGOYA/KUTUS M COUNCIL | 2,495,373.45 | 2,038,294.00 | 9,431,465.28 |
| MARALAL MUNICIPAL COUNCIL | 4,412,244.50 | 4,528,669.35 | 8,940,913.85 |
| KABARNET MUNICIPAL COUNCIL | 5,631,160.45 | 2,676,297.80 | 8,307,458.25 |
| KIAMBU MUNICIPAL COUNCIL | 2,645,435.50 | 5,307,946.85 | 7,953,382.35 |
| NANYUKI MUNICIPAL COUNCIL | 4,353,193.70 | 3,591,007.00 | 7,944,200.70 |
| MUMIAS MUNICIPAL COUNCIL | 2,663,758.00 | 4,815,584.40 | 7,479,342.40 |
| KILIFI COUNTY COUNCIL | 1,907,690.45 | 5,071,871.30 | 6,979,561.75 |
| KAJIADO TOWN COUNCIL | 3,811,964.00 | 2,749,554.00 | 6,561,518.00 |
| NAROK COUNTY COUNCIL | 2,471,944.65 | 1,388,978.45 | 3,860,923.10 |
| TANA RIVER COUNTY COUNCIL | 1,576,577.20 | 2,258,134.00 | 3,834,711.20 |
| WEBUYE MUNICIPAL COUNCIL | 267,093.50 | 2,991,951.80 | 3,259,045.30 |
| KARATINA MUNICIPAL COUNCIL | 2,437,950.90 | 99,385.40 | 2,537,336.30 |
| ELDAMA RAVINE TOWN COUNCIL | 1,167,673.00 | 1,068,715.00 | 2,236,388.00 |
| TURKANA COUNTY COUNCIL | 284,602.45 | 869,561.80 | 1,154,164.25 |
| SIAYA COUNTY COUNCIL | 305,079.50 | 794,773.27 | 1,099,852.77 |
| RUIRU MUNICIPAL COUNCIL | 438,158.55 | 630,629.50 | 1,068,788.05 |
| SOUTH NYANZA COUNTY COUNCIL | 14,484.10 | 1,039,867.35 | 1,054,351.45 |
| GARISSA COUNTY COUNCIL | 240,978.45 | 708,958.95 | 949,937.40 |
| KIAMBU COUNTY COUNCIL | 125,370.15 | 749,579.70 | 874,949.85 |

| | | | |
|-----------------------------|--------------|--------------|------------|
| NYAHURURU MUNICIPAL COUNCIL | 3,121,010.45 | (2261402.60) | 859,607.85 |
| NYAMBENE COUNTY COUNCIL | 442,598.65 | 390,611.60 | 833,210.25 |
| OL KALAO TOWN COUNCIL | 628,231.45 | 114,692.75 | 742,924.20 |
| VOI MUNICIPAL COUNCIL | - | 663,177.45 | 663,177.45 |
| NYERI COUNTY COUNCIL | 462,826.65 | 193,203.46 | 656,030.11 |
| YALA TOWN COUNCIL | 123,887.80 | 465,624.05 | 589,511.85 |
| KWALE COUNTY COUNCIL | 420,418.80 | 159,447.65 | 579,866.45 |
| BUSIA COUNTY COUNCIL | 148,188.90 | 357,485.46 | 505,674.36 |
| KIRINYAGA COUNTY COUNCIL | 298,241.30 | 197,051.95 | 495,293.25 |
| KILIFI TOWN COUNCIL | 557,128.85 | (79328.50) | 477,800.35 |
| UKWALA TOWN COUNCIL | 123,699.90 | 340,317.00 | 464,016.90 |
| NZOIA COUNTY COUNCIL | 274,379.05 | 169,074.90 | 443,453.95 |
| SOTIK TOWN COUNCIL | 176,871.95 | 217,743.05 | 394,615.00 |
| NANDI HILLS TOWN COUNCIL | 188,070.75 | 205,362.60 | 393,433.35 |
| LAikipia COUNTY COUNCIL | - | 375,096.30 | 375,096.30 |
| MERU COUNTY COUNCIL | 292,902.90 | 59,735.50 | 352,638.40 |
| KIMILILI TOWN COUNCIL | 187,578.00 | 144,243.00 | 331,821.00 |
| BUNGOMA COUNTY COUNCIL | 174,992.70 | 133,271.10 | 308,263.80 |
| KISUMU COUNTY COUNCIL | 131,078.35 | 175,953.20 | 307,031.55 |
| POKOT COUNTY COUNCIL | 139,633.80 | 161,211.60 | 300,845.40 |
| UGUNJA TOWN COUNCIL | 61,946.20 | 226,094.15 | 288,040.35 |
| BUTERE MUMIAS C COUNCIL | 200,477.20 | 86,364.85 | 286,842.05 |
| KIPKELION TOWN COUNCIL | 111,342.15 | 168,070.35 | 279,412.50 |
| LIMURU MUNICIPAL COUNCIL | 118,006.95 | 157,573.50 | 275,580.45 |
| MALAVA TOWN COUNCIL | 154,105.40 | 84,928.70 | 239,034.10 |
| BONDO COUNTY COUNCIL | 53,610.50 | 172,391.50 | 226,002.00 |

| | | | |
|-----------------------------|------------|-------------|-------------|
| LUGARI COUNTY COUNCIL | 149,531.05 | 72,474.80 | 222,005.85 |
| BOMET TOWN COUNCIL | 85,976.85 | 111,039.80 | 197,016.65 |
| BONDO TOWN COUNCIL | 51,092.15 | 142,025.00 | 193,117.15 |
| KIKUYU TOWN COUNCIL | 130,443.55 | 59,011.60 | 189,455.15 |
| LONDIANI TOWN COUNCIL | 117,121.30 | 56,102.20 | 173,223.50 |
| VIHIGA COUNTY COUNCIL | 155,735.00 | 3,702.40 | 159,437.40 |
| THIKA COUNTY COUNCIL | 95,917.65 | 53,902.25 | 149,819.90 |
| SIRISIA TOWN COUNCIL | 141,823.70 | 7,641.00 | 149,464.70 |
| MANDERA COUNTY COUNCIL | 115,442.15 | (7669.75) | 107,772.40 |
| RUNYENJES MUNICIPAL COUNCIL | - | 73,224.60 | 73,224.60 |
| RUMURUTI TOWN COUNCIL | 49,040.00 | 12,156.40 | 61,196.40 |
| MURANGA COUNTY COUNCIL | - | 45,690.10 | 45,690.10 |
| EMBU COUNTY COUNCIL | - | 20,772.50 | 20,772.50 |
| MASAKU COUNTY COUNCIL | - | 2,550.80 | 2,550.80 |
| KEIYO COUNTY COUNCIL | 213,096.70 | (220019.60) | (6922.90) |
| NANDI COUNTY COUNCIL | - | (145213.70) | (145213.70) |

930,683,584.05

2,233,943,279.82

3,169,524,661.70

Appendix C

List of Kenya Railways properties sold to third parties with the approval of Government

KENYA RAILWAYS PROPERTIES TRANSFERRED SINCE 1994

| PLOT NO. | PURCHASER'S NAME | ACR AGE | DEVELOP MENT | VALUATION | PURCHASE PRICE | AMOUNT RECEIVED | YEAR OF SALE | REMARKS |
|-------------|---------------------------|---------|--------------|-------------|----------------|-----------------|--------------|---------------------------|
| | <u>NAIROBI</u> | | | | | | | |
| 17/53 | Shaque Holdings | 5.1 | 1 house | 18,000,000 | 20,000,000 | 20,000,000 | 1994 | |
| 295/108 | Shaque Holding | 2.75 | 1 House | 10,000,000 | 12,000,000 | 12,000,000 | 1994 | |
| Unsurveyed | Vulpine Investment | 8.13 | 16 houses | 105,800,000 | 179,675,000 | 179,675,000 | 1995 | |
| 209/6447 | Allan Holdings | 2.6 | 6 houses | 39,950,000 | 56,576,000 | 102,986,000 | 1995 | |
| 209/6438 | Crockery & Utensils | 4.66 | 9 houses | 64,080,000 | 102,986,000 | 102,986,000 | 1995 | |
| 209/6439 | Guardian International | 3.49 | 7 houses | 51,550,000 | 77,130,000 | 77,130,000 | 1995 | |
| 209/12938 | Mint Holdings | 4.022 | 4 houses | 33,750,000 | 88,886,000 | 88,886,000 | 1995 | Original plot No.209/6440 |
| 209/12933 | Trade World | 2.45 | 2 houses | 75,265,000 | 62,500,000 | 62,500,000 | 1995 | |
| 209/6617/3 | Kusco Limited | 1.0 | 1 house | 28,500,000 | 29,000,000 | 29,000,000 | 1997 | |
| 209/6522 | Total (K) Limited | 4.13 | 5 houses | 76,868,500 | 123,600,000 | 13,600,000 | 1998 | |
| 209/6524 | Embassy of Japan | 3.99 | 3 houses | 111,730,000 | 120,000,000 | 120,000,000 | 1998 | |
| 209/12182 | Amazon Motors | 5.5 | Vacant | 82,500,000 | 85,000,000 | 85,000,000 | 1998 | |
| 214/394 | Shimmers Plaza | 1.95 | 1 house | 40,000,000 | 36,500,000 | 36,500,000 | 1998 | |
| 209/300/1 | Upper Hill Med. Centre | 1.0 | 1 house | 20,000,000 | 25,000,000 | 25,000,000 | 1998 | |
| 330/316 | Ceasar Asiyo | 0.75 | 1 house | 6,000,000 | 6,500,000 | 6,500,000 | 1998 | |
| 209/6406 | Vission Oil | 2.2 | 3 houses | 35,000,000 | 25,000,000 | 25,000,000 | 1998 | |
| 209/6617/2 | Donate Merchant Ltd | 1.0 | 1 house | 28,000,000 | 25,000,000 | 25,000,000 | 1998 | |
| 209/12509 | Cape Equatorial Trade Co. | 1.75 | 1 house | 45,000,000 | 45,000,000 | 45,000,000 | 1998 | |
| 3734/715 | Bishop Birech | 0.871 | 1 house | 9,000,000 | 8,000,000 | 8,000,000 | | |
| 3734/404 | Wilson A Chepkwony | 0.76 | 1 house | 9,000,000 | 8,000,000 | 8,000,000 | 1999 | |
| 330/1055 | F. Rono | 0.5 | 1 house | 6,000,000 | 5,500,000 | 5,500,000 | 1999 | |
| 209/5990/1 | Garissa Apartment | 4.8 | 4 houses | 24,000,000 | 20,000,000 | 20,000,000 | 1999 | |
| 3734/358 | Fakria Company | 0.6 | 1 house | 10,000,000 | 9,000,000 | 9,000,000 | 1999 | |
| 3734/711 | Naigzy Gebremedhin | 0.82 | 1 house | 9,000,000 | 10,000,000 | 10,000,000 | 1999 | |
| 1870/1/125 | Cannon Assurance | 0.95 | 1 house | 19,000,000 | 18,000,000 | 18,000,000 | 1999 | |
| 1870/1/1086 | Mr. Paul Githaiga | 0.5 | 1 house | 6,000,000 | 6,000,000 | 6,000,000 | 1999 | |

| | | | | | | | | |
|-------------------------------|--------------------------------|-------|-----------|------------|------------|------------|------|-------------------------------------------------------------------------------------------|
| 4857/25 | Invigo Limited | 1.0 | 1 house | 12,500,000 | 12,500,000 | 12,500,000 | 1999 | |
| 209/10425 | Mwakio Investments | 2.0 | - | 8,000,000 | 8,000,000 | 8,000,000 | 1999 | |
| 209/9534 (part) | Numerical Machining Complex | 5.0 | Vacant | 25,000,000 | 25,000,000 | 25,000,000 | 1999 | |
| 209/13767 | Gapco (K) Limited | 10.0 | Vacant | 40,000,000 | 40,000,000 | 40,000,000 | 1999 | |
| 209/4389/1 | Charter House Invest. | 0.75 | 1 house | 18,000,000 | 12,000,000 | 10,472,000 | 1999 | Buyer retained 540,000/= interest and 988,000/= for repairs Matter contested. |
| 3734/839 | Sajica | 0.917 | 1 house | 9,000,000 | 8,500,000 | - | 1999 | Withdrawn |
| 209/391 | Excel Limited | 4.56 | 4 houses | 60,000,000 | 60,000,000 | 58,000,000 | 1999 | Area adjusted |
| 330/411 | Mr. Koech | 0.75 | 1 house | 6,000,000 | 6,750,000 | 5,750,000 | 1999 | |
| | <u>MOMBASA</u> | | | | | | | |
| XLVIII/180 | Signon Freight | 2.0 | 4 houses | 18,000,000 | 20,000,000 | 20,000,000 | 1994 | |
| MN/V/568 & 569 | Mistry Jadva Parbat | 7.21 | Vacant | 10,000,000 | 15,000,000 | 15,000,000 | 1995 | |
| XLVIII/171 & 172 | Freight Frowarders Ltd | 1.3 | 2 houses | 13,000,000 | 37,470,000 | 37,470,000 | 1996 | |
| XLVIII/173 | Lima Limited | 1.36 | 2 houses | 13,000,000 | 38,900,000 | 38,900,000 | 1996 | |
| XLVIII/175 & 176 | Bawazir & Co. | 1.573 | 2 houses | 15,730,000 | 44,900,000 | 44,900,000 | 1996 | |
| Block 1/495 | Masumin Holdings | 9.0 | Developed | 27,000,000 | 90,000,000 | 90,000,000 | 1999 | |
| Block XLVIII Unsurveyed | Gapco (K) Limited | 1.0 | 3 houses | 10,000,000 | 10,000,000 | 1,000,000 | 1999 | Balance awaiting issuance of titles |
| | <u>NAKURU</u> | | | | | | | |
| Block 6/59 | Hardwood & Eng. Works | 0.14 | Vacant | 530,000 | 530,000 | 530,000 | 1995 | |
| Block 11/68 (Part) | Mr. John Mark Moi | 2.0 | 1 house | 3,500,000 | 3,500,000 | 3,500,000 | 1999 | |
| 451/1926 | Jesam Enterprises | 9.0 | Vacant | 5,400,000 | 5,400,000 | 540,000 | 1999 | Incomplete survey |

| | | | | | | | | |
|---------------------|-------------------------|-------|--------|------------|-------------|---------------|------|-------------------------|
| Block 4/397(Part | Lanet T.E.A.M. | 0.5 | Vacant | 800,000 | 900,000 | 590,000 | 1999 | Incomplete Survey |
| | | | | | | | | |
| | <u>KITALE</u> | | | | | | | |
| Block 4/12/122 | Turner Baker & Hatfield | 1.0 | Vacant | 1,250,000 | 1,750,000 | 1,750,000 | 1995 | - |
| Block 4/132 | Namalo Distributors | 0.14 | Vacant | 652,000 | 870,000 | 217,500 | 1995 | Buyer deceased |
| Block 4/133 | Mr. Pius Gumo | 0.212 | Vacant | 652,000 | 870,000 | 217,500 | 1995 | Buyer deceased |
| | | | | | | | | |
| | <u>KISUMU</u> | | | | | | | |
| Block 12/59 | Mr. T.A. Okoko | 1.0 | Vacant | 4,000,000 | 3,500,000 | 350,000 | 1999 | Cancelled |
| Unsurveyed Nyalenda | - | 10.0 | Vacant | 10,000,000 | 10,000,000 | - | 1999 | Titles being processed |
| | | | | | 120,000,000 | 120,000,000 | 1998 | |
| | | | | | | | | |
| | <u>VOI</u> | | | | | | | |
| Unsurveyed | Redeemed Gospel Church | 1.5 | Vacant | 1,500,000 | 1,000,000 | 1,000,000 | 1999 | Title Under Preparation |
| | | | | | | 1,538,097,500 | | |

Appendix D

Cases of Land allocation by the Commissioner of Lands done without consultations and/or consent of the Kenya Railways Corporation

**CASES OF ALLOCATIONS BY COMMISSIONER OF LANDS DONE WITHOUT
CONSULTATION WITH KENYA RAILWAYS**

| NAIROBI | | | | |
|--------------------------------|------------------|---------------------|---------------------------|----------------------------------------|
| LR. NO. | AREA (Ha) | LOCATION | ALLOTTEE | REMARKS |
| 209/13772 | 0.0783 | RTI | Mwanya Investment | 209/13515 has a block of SQS on it. |
| 209/13515, 13553 & 13554 | 1.14 | Upper Hill | Hardy Play Land | |
| 209/12462 | 0.4034 | Muthurwa | Gamarco Ltd. | Old Nanyuki line |
| 17870 | 1.380 | Dandora | Loki Enterprises | Located within Station area |
| 209/12230 | - | RTI | Unknown | |
| 209/12354 - 57 | 0.6988 | RTI | Unknown | Allotees yet to be established. |
| 209/12262 | 0.2000 | Off Enterprise Road | Gachagwa Saw Mills Ltd | Land originally allocated on TOL basis |
| 209/8786/2-5 | 3.0 | Off Enterprise Road | Pabeco Enterprises Ltd | Land originally allocated on TOL basis |
| 209/12707 | 1.475 | Off Enterprise Road | T.M. Construction | Originally held on TOL basis |
| 209/12595 | 0.1232 | Off Enterprise Road | M/s. Tulja Investment Ltd | = do = |
| 209/13577 | 0.3445 | = do = | Not Known | |
| 209/13578 | 0.0703 | = do = | Not known | Originally held on TOL basis |
| 209/13579 | 0.1322 | = do = | Not Known | |
| 209/13580 | 0.1585 | = do = | Not known | |
| 209/12355 | 0.1747 | RTI | Gramac Holdings Ltd., | |
| Unsurveyed Plot A South 'B' | 0.08 | RTI | Elphas Ndusu Abasi | |
| 209/12359 | - | RTI | | |
| 209/13698 | - | RTI | Yet to be established. | On operational land. |

| | | | | |
|--------------------|--------|----------------------|-------------------------------|----------------------------------------|
| 209/13581 | 0.5572 | Off Enterprise Road | P. J. Dave | Originally held on TOL basis |
| 209/13582 | 0.0429 | = do = | Not known | |
| 209/8197 | 1.724 | Makongeni Goods | E.A.Packaging Co. Ltd. | There are KRC Godowns |
| 209/12781 | 0.3390 | Off Enterprise Road | Not known | |
| 209/11407 | - | Upper Hill | Cyrus Maina | |
| | | | | |
| MOMBASA | | | | |
| MSA/BLOCK XXVI/687 | 0.315 | Kizingo | Alcop Ltd. | Allocated to MCM |
| MSA/BLOCK 1/398 | - | Moi Avenue | N. J. Shah and Others | Allocated by Mombasa Municipal Council |
| BLOCK 1/525 - 526 | 0.4515 | Shimanzi | Z. Mawia | Allocated by Mombasa Municipal Council |
| BLOCK XIX/294 | - | Station Area | Corner Garage | Allocated by Mombasa Municipal Council |
| MN/V/2024 | 0.1467 | Jomvu Kuu | Karisa Karimiko | Sold to L.D. Pandya and R. D. Pandya |
| MN/V/239/1 | 1.737 | Jomvu Kuu | Karisa Karimiko | Sold to L. D. Pandya and R.D. Pandya |
| BLOCK 1/478 | 0.0503 | Kilindini High Level | M/s. J. O. Kogera & Others | |
| BLOCK XI11/415 | 0.1350 | Off Mwangeka Road | Abdulkarim S. Mahsin | Road of access to KR estate. |
| BLOCK 1/480 | - | - | - | Allottee not known. |
| 380 | - | - | - | = do = |
| 250 | - | - | - | = do = |
| 395 | - | - | - | = do = |
| 470 | - | - | - | = do = |
| KISUMU | | | | |
| KSM/BLOCK 3/198 | | Kisumu/Busia Road | Nyanza Petroleum Dealers Ltd. | |

| | | | | |
|-------------------|--------|------------------------|------------------------------------|---------------------------------|
| 3/16/ - 176 | Kisumu | Kotak and Others | Josiah Akinyi | |
| 7/410 | | Sindo Distributors- | | Allotees yet to be established |
| 7/411 | | Peter Oloo Aringo | | |
| KSM/BLOCK 7/384 | | Solomon Ndalo Obede | | |
| 9/180 | | Josiah Akinyi | | |
| BLOCK 9/181 - 185 | | | Allotees yet to be established | |
| BLOCK 7/474 | - | Kisumu Municipality | Shiraz Mohamed Nanji & Another. | |
| KITALE | | | | |
| BLOCK 4/199 | | | | |
| 4/196 | | | | Allotees yet to be established. |
| 4/200 | | | | Allotees yet to be established. |
| 4/202 | | | | Allotees yet to be established. |
| 4/842 | | | Kitale Municipal Council | |
| 4/319 | | Station Reserve | Unknown | |
| 4/320 | | = do = | Pius Manyasi Otido | |
| 4/445 | | | Unknown | Allotees yet to be established. |
| 4/446 | | | Unknown | = do = |
| 4/447 | | | = do = | = do = |
| 4/464 | | | = do = | = do = |
| 4/321-322 | | Station Reserve | = do = | |
| 4/323 | | = do = | Meshack Odima | |

| | | | | |
|-----------------------|--------|-------------------------|--------------------------------|--------------------------------|
| 4/324 | | = do = | Sitrus Adika Utito | |
| 4/325 | | = do = | Unknown | |
| 4/326 | | = do = | Judith Ngaulo | |
| BLOCK4//436 | | = do = | Dr. Festus Onyango | |
| NAKURU | | | | |
| BLOCK 4/141 | 0.443 | Ravine Road L-xing | Macharia | |
| BLOCK 9/101 | 0.40 | Ravine Road L-xing | J. M. Kamangara | |
| BLOCK 6/155 | | NRO Industrial Area | Unknown | |
| ELDORET | | | | |
| BLOCK 5/338 | 2.023 | Eldoret West | Gen. A. K. Cheruiyot | Paid to KR allocation charges. |
| BLOCK 5/339 | 2.023 | Eldoret West | Tiro Ltd | Paid to KR allocation charges. |
| PLOT NO. 1-20 | | Eldoret Industrial Area | Eldoret Flour Mills and others | |
| BLOCK 3/56 | | 64 Street | | |
| BLOCK 3/58 | | 64 Street | | |
| BLOCK 3/56 & 58 | 2.1327 | Ndalaview S.Station | | |
| MUGUGA STATION | | | | |
| MUG/MUG/1115 | 2.43 | Station Reserve | Mary Wangari Kinyanjui | |
| 1116 | | = do = | Alex Maina Mungai | |
| 422 | 1.62 | = do = | Sterring Civil Eng.(K) Ltd. | |

NB: There are many more cases of irregular allocation which my office is pursuing
And details will be availed as and when they are obtained.

