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TENTH PARLIAMENT – FOURTH SESSION – 2010

THE DEPARTMENTAL COMMITTEE ON DEFENCE
AND FOREIGN RELATIONS

REPORT ON THE PROCUREMENT, DISPOSAL AND
CONSTRUCTION OF PROPERTIES OF KENYA'S
DIPLOMATIC MISSIONS:

1. EGYPT
2. JAPAN
3. NIGERIA
4. BELGIUM
5. PAKISTAN

OCTOBER, 2010

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,

OCTOBER, 2010

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1.0 PREFACE

Mr. Speaker,

1.1 The Departmental Committee on Defence and Foreign Relations is established pursuant to provisions of Standing Order 198 (1). Under the provisions of Standing Order 198 (3) the Committee is mandated to:-

- (a). investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (b). study the Programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- (c). study and review all legislation referred to it;*
- (d). study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- (e). investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and*
- (f). make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

1.2 The Committee is also mandated to scrutinise the budget of line Ministries as provided for under Standing Order No. 152:-

- (1) Upon being laid before the National Assembly, the annual estimates shall stand committed to the respective departmental Committees according to their mandates.*

(2) Each departmental Committee shall consider, discuss and review the estimates committed to it under this standing order and submit its report thereon to the House within twenty one days after they were first laid before the House.

1.3 The Committee oversees the performance of the following Ministries and Government department:-

- (i) Defence;
- (ii) Foreign Affairs;
- (iii) East African Community; and
- (iv) National Security Intelligence Service.

1.4 Under the above Ministries, the Committee covers the following subjects;

- (i) Defence matters;
- (ii) Foreign policy;
- (iii) Treaties , Conventions and Agreements;
- (iv) International and Regional Organisations;
- (v) Bilateral and Multilateral Relations;
- (vi) Regional Cooperation policy;
- (vii) East African Community Affairs;
- (viii) National Security Intelligence.

1.5 Membership

1.5.1 The Committee comprise the following Members of Parliament:-

The Hon. Adan W. Keynan, MP – Chairperson

The Hon. Hassan A. Joho, MP – Vice Chairperson

The Hon. George Omari Nyamweya, MBS, MP

The Hon. Julius K. Kilonzo, MP

The Hon. Eugene L. Wamalwa, MP

The Hon. Jeremiah N. Kioni, MP

The Hon. Charles M. Kilonzo, MP

The Hon. Joshua S. Kutuny, MP

The Hon. Peter E. O. Anyanga, MP

The Hon. Benedict F. Gunda, MP

The Hon. Wilson M. Litole, MP

1.0 THE PROCUREMENT, DISPOSAL AND CONSTRUCTION OF PROPERTIES OF KENYA'S DIPLOMATIC MISSIONS ABROAD

1.1 The Committee embarked on interrogating the policy and its implementation on the matter of property purchase, construction or disposal of five Kenya Missions abroad:- Cairo, Egypt; Tokyo, Japan; Lagos/Abuja, Nigeria; Brussels, Belgium and Islamabad in Pakistan. To achieve this, the Committee resolved to hold meetings with Government Ministries, Departments and relevant individuals and undertook inspection visits of the Missions under review.

(a) Meetings

1.2 The Committee held meetings with officers of the relevant Government Ministries and other persons who made submissions on Government policy on properties of Kenya missions abroad and adduced evidence on the purchase, construction and disposal of properties of Kenya Missions abroad.

1.3 The Committee received submissions and evidence from the following:-

- (i) Attorney General;
- (ii) Minister for Public Works;
- (iii) Minister for Lands;
- (iv) Minister for Foreign Affairs;
- (v) Ambassador Dennis Awori, former Kenya Ambassador to Japan;
- (vi) Deputy Prime Minister and Minister for Finance;
- (vii) Interim Director, Public Procurement and Oversight Authority;
- (viii) Governor, Central Bank of Kenya; and
- (ix) Mr. Robert Osogo – former official cook to Kenya's Ambassador to Japan

1.4 The Committee also received written submissions.

(b) The Inspection Visits

1.5 The Committee undertook two inspection visits to the Kenya Missions abroad. The visits were undertaken in two phases: Cairo - Egypt and Tokyo - Japan between 14th and 22nd July, 2010 and Abuja and Lagos - Nigeria, Brussels - Belgium and Islamabad - Pakistan between 18th and 26th August, 2010. The purpose of the visits was twofold:-

- (i) To review the performance of Kenya Missions in the aforementioned five countries;
- (ii) Inspect properties disposed, acquired and or under construction by the Government through the Ministry of Foreign Affairs for the respective Missions.

1.6 The Committee set out to meet these objectives by visiting and inspecting Kenya's diplomatic Missions in the aforementioned Countries and held meetings with Mission staff and other relevant persons.

1.7 The following Members of the Committee undertook the visits:-

1.8.1 Inspection Visit to Cairo and Tokyo

- (i) The Hon. Adan W. Keynan, MP – **Leader of Committee**
- (ii) The Hon. George O. Nyamweya, MBS, MP
- (iii) The Hon. Charles M. Kilonzo, MP
- (iv) The Hon. Benedict F. Gunda, MP
- (v) The Hon. Peter O. Anyanga, MP
- (vi) The Hon. Eugene W. Wamalwa, MP
- (vii) Emejen Nicholas – Secretary to Committee

1.8.2 Inspection Visit to Abuja and Lagos, Brussels and Islamabad

- (i) The Hon. Adan W. Keynan, MP – **Leader of Committee**
- (ii) The Hon. George O. Nyamweya, MBS, MP
- (iii) The Hon. Wilson M. Litole, MP
- (iv) The Hon. Jeremiah N. Kioni, MP
- (v) Emejen Nicholas – Secretary to Committee

1.9 The Committee had successful inspection visits in which it met and held discussions with various persons as stated here below:-

1.9.1 Kenya Embassy in Cairo, Egypt

1. Meeting with the Kenyan Ambassador to Egypt, H.E. Ambassador Daniel Makdwallo and the Embassy home based staff. The meeting

discussed Kenya-Egypt relations, the operations at the Mission and the sale of the Government plot in Dokki, Giza area;

2. Meeting with Kenyans in Egypt - the meeting discussed the role of the Diaspora community in Kenya's development.

1.9.2 Kenya Embassy in Tokyo, Japan

3. Meeting with the Kenyan Ambassador to Japan, H.E. Ambassador Benson Ogutu and the home based Embassy staff – discussed the Kenya Japan relations, operations at the Mission as well as the purchase of the Mission property in Meguro ward.
4. Meeting with architect, Mr. Dick Olango – discussed his architectural report to the Mission.
5. Meeting with Mr. Nobuo Kuriyama, vendor – deliberated on the sale of the property to Kenya Mission in Japan.
6. Meeting with M/s Coral Corporation, real estate agents – deliberated on the valuation of the Mission property.
7. Courtesy call on Hon. Tetsuro Yano, Vice Chairman of the Japan Africa Parliamentary League;
8. Meeting with the Tokyo Fire Department – Committee briefed on the fire report.
9. Meeting with Mr. Akiyoshi Ohtake, the Shihoushoshi.
10. Meeting with representatives of Kenyans in Japan - the meeting discussed the need for dual citizenship, the role of the Diaspora community in Kenya's development, challenges faced by the

Diaspora, their view on the purchase of the property in Tokyo and fire that destroyed the Ambassador Residence.

11. Officials of the Ministry of Foreign Affairs of Japan – the Committee held the meeting at the Government of Japan offered plot in Minato area.

1.9.3 Kenya High Commission in Abuja, Nigeria

12. Meeting with the Kenya High Commissioner to Nigeria, H.E. Francis Sigei, EBS and the Mission's home based staff. The meeting discussed Kenya Nigeria relations, operations at the High Commission, the sale of the Mission property in Lagos and construction of the Chancery and Residence in Abuja.
13. Meeting with the Design and Build (D & B) Ltd, Lead consultants – discussed status of the project (construction).

1.9.4 Kenya Embassy in Brussels, Belgium

14. Meeting with the Kenya Ambassador to Belgium, H.E. Ambassador Kembi Gitura and the Embassy home based staff. The meeting discussed the Kenya Belgium relations, operations of the Mission and the purchase of the Chancery along Winston Churchill Avenue.

1.9.5 Kenya High Commission in Islamabad, Pakistan

15. Meeting with the Kenya High Commissioner, H.E. Mishi Masika Mwatsahu and Mission home based staff. The meeting discussed

Kenya Pakistan relations, operations at the Mission's and the construction of the Chancery and Residence.

16. Meeting with Impact Designs, Lead Consultants – discussed status of the project (construction works).

2.0 General recommendations

2.1 During the visits and the meetings held to discuss the matter of purchase, construction and or disposal of properties for Kenya Missions abroad the Committee on a broad perspective recommends that:-

- 2.1.1. The Ministry of Foreign Affairs should at all times adhere to its stated objectives of promoting, and protecting the image of Kenya. The Ministry should project Kenya's proper image and role in world commerce, diplomacy and peace building.
- 2.1.2. While the Committee acknowledges that the appointment of diplomats is undertaken by the office of the President, the Ministry of Foreign Affairs should consider the technical capacity of persons to be appointed and specific technical needs of various Missions so as to maximise gains for the people of Kenya.
- 2.1.3. The Ministry of Foreign Affairs should review its policy on appointments, promotions and terms of service of officers in the Foreign Service. The appointments and promotions should be based on merit and relevance to the respective Missions so as to curb cronyism, nepotism and corruption in the diplomatic service.
- 2.1.4. The Ministry of Foreign Affairs must take full advantage of the technical and educational support offered by friendly countries and

expeditiously disseminate the offered support to the relevant Ministries and Kenyans.

2.1.5. The Ministry of Foreign Affairs should review the rationalisation policy in relation to Attachés. While reviewing the role of Attaché's on a case by case basis to determine their relevance in each Mission the Ministry of Foreign Affairs should consult with the relevant line Ministry.

2.1.6. The Ministry of Foreign Affairs should develop a clear policy to be adopted by the Cabinet to guide the procurement, construction and or disposal of properties for Kenya Missions abroad.

2.1.7. The Ministry of Foreign Affairs should ensure that relevant Government Ministries and Departments particularly the Attorney General, Ministry of Public Works, Ministry of Lands, Ministry of Finance and the Public Procurement Oversight Authority are involved in the process of acquisition, construction and or disposal of properties. The involvement of the technical Government departments will ensure value for money for Kenya.

2.1.8. The Public Procurement Oversight Authority (PPOA) should ensure that the Public Procurement and Disposal Act, 2005 and attendant procurement regulations are adhered to by all public entities including Kenya's diplomatic Missions abroad when acquiring, disposing and or constructing properties abroad.

2.1.9. The Public Procurement Oversight Authority should undertake regular audit of procurement processes undertaken by the Ministry

of Foreign Affairs and in particular Kenya's diplomatic Missions abroad.

- 2.1.10. The Ministry of Foreign Affairs in conjunction with the Ministry of Public Works and the Ministry of Finance should establish a comprehensive inventory of all Government properties abroad complete with the authentic ownership documents.
- 2.1.11. The Government should take decisive disciplinary action on Public officers who may be found to have flouted relevant laws and procedures during the procurement of properties for Kenya missions abroad;
- 2.1.12. Public Officers found culpable in the transactions involving the purchase, construction and or sale of Government properties be surcharged and made to refund money lost by the Government.
- 2.1.13. Public Officers found culpable in the transactions involving the purchase, construction and or sale of Government properties be barred from holding public office.

3.0 ACKNOWLEDGEMENT

- 3.1 wish to express my appreciation to Members of the Committee who sacrificed time from their families and Constituents to undertake the study visit during a time of campaigns for the Referendum on the proposed Constitution. The Committee is grateful to the Speaker of the Kenya National Assembly for allowing the Committee to undertake the visit and to the Office of the Clerk, for facilitating and providing technical support during the visit.

3.2 The Committee is grateful to the Ministry of Foreign Affairs for their facilitation of the inspection visits. The Committee also wishes to register its appreciation to the Kenyan Diaspora in Egypt, Japan and Pakistan for finding time to meet and hold open discussions with the members of the Committee.

3.3 The Committee observations and findings in this Report are based on the submissions and evidence received by the Committee during meetings and site visits and were agreed to unanimously by all members present during report writing;

3.4 The decisions of the Committee on this Report were arrived at after extensive deliberations and were unanimous.

Mr. Speaker,

3.5 It is my pleasant duty and privilege, on behalf of the Departmental Committee on Defence and Foreign Relations to table this Report and commend it to the House for adoption pursuant to provisions of the National Assembly Standing Order 181.

Signed:

THE HON. ADAN W. KEYNAN, MP
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

Date:

7th OCT 2010

4.0 BACKGROUND

- 4.1 The National Assembly Standing Order No. 152 mandates the Committee on Defence and Foreign Relations to consider, discuss and review Estimates of assigned Ministries. The Committee while reviewing the Estimates of the Ministry of Foreign Affairs for the Financial Years 2009/2010 and 2010/2011 realised that a large portion of the Ministry's Development vote is dedicated to the acquisition and construction of properties for Missions abroad. While undertaking the budget scrutiny and Mid-Term expenditure review for FY 2009/2010.
- 4.2 The Committee identified the following Missions for review; Nigeria, Egypt, Belgium, Japan and Pakistan. From interactions with the Minister for Foreign Affairs during Budget Scrutiny, the Committee realised that proceeds from the sale of the Lagos properties was allegedly transferred to purchase property in Tokyo (DFR 1) instead of utilizing the proceeds of the sale for the stated and intended purpose of constructing a Chancery and Residence in Abuja where the Federal Government of Nigeria had offered a plot at no direct cost to the Kenya High Commission in Nigeria.
- 4.3 Because of the foregoing the Committee resolved to interrogate the Ministry's policy on property acquisition, construction and or disposal for Missions abroad and in particular:-

CAIRO, EGYPT

- 4.3.1 The Government through the Ministry of Foreign Affairs had in 2007 sold a plot it had purchased in Cairo. The proceeds of the sale (4,191,600 Egyptian pounds) were to be used in purchasing a

Residence for the Ambassador but instead the funds were allegedly returned to Treasury and not utilized for the intended purpose.

TOKYO, JAPAN

4.3.2 At the request of H. E. the President of the Republic of Kenya, the Government of Japan identified and offered a prime plot for sale, in Minato ward, to the Kenya Government for construction of a Chancery and Residence. However the Ministry of Foreign Affairs in 2009 purchased as Chancery and Ambassador's Residence in a residential area in Meguro ward, Tokyo, at a price of JPY 1,750,000,000. In February 13, 2010 a mysterious fire destroyed the Ambassador's Residence.

LAGOS AND ABUJA, NIGERIA

4.3.3 In 1972 the Government of Kenya purchased properties in a prime location along Queens Drive, Lagos. The Federal Government of Nigeria relocated its capital to Abuja in 1976 and all diplomatic Missions were offered plots at no direct cost to construct Chanceries and Residences in a diplomatic enclave in Abuja. The High Commission of Kenya relocated to Abuja in 2004 and a decision to sell the properties in Lagos was made with a recommendation to sell two of the three plots in Lagos, use the proceeds to construct a Chancery and Residence in Abuja and retain one of the plots. However all three properties were sold and the proceeds of the sale was allegedly used to purchase the Chancery and Residence in Tokyo.

4.3.4 The Ministry of Foreign Affairs commenced construction of a Chancery and staff quarters and Ambassador's Residence in Abuja in 2010.

BRUSSELS, BELGIUM

4.3.5 In 2008 the Ministry of Foreign Affairs purchased a Chancery located along Winston Churchill Avenue in Brussels, Belgium at a cost of 3,850,000 Euros. The purchase price was intended to include refurbishment, furniture and fittings. An Ambassador's Residence had been purchased earlier on.

ISLAMABAD, PAKISTAN

4.3.6 In 1991 the Government of Kenya bought land in a diplomatic enclave in Islamabad, Pakistan covering 6,773 Square Metres at KES 1.4 million for construction of a Chancery and Ambassador's Residence. Construction of the Chancery and Residence commenced in 2008 at a total cost of KES 366, 734, 700. Construction is ongoing.

4.4 The Committee also found it necessary to inquire into the application of monies allocated for this purpose in the Budget and also to inquire into the operations of the Missions as part of its oversight role as provided for under Standing Order No. 198 (3) .

4.5 In light of the fact that the Ministry had embarked on the purchase, construction and or disposal of properties abroad without a clear policy to guide the process, the Committee was concerned as to whether the procedure and policies used in the purchase, construction

and or disposal of the properties was in conformity with the public procurement procedures and if indeed the properties alleged to have been bought had been acquired and their general condition. While undertaking this exercise, the Committee took into consideration and was guided by the Constitution of Kenya; the Public Procurement and Disposal Act, 2005; The Government Contracts Act; The Fiscal Management Act and other relevant laws, rules and regulations.

4.6 The Committee resolved to hold hearings to receive submissions and evidence in respect of implementation of the foregoing and visit the aforementioned Missions. The Committee held meetings at Parliament Buildings with the following:-

- (i) Attorney General - March 30, 2010
- (ii) Minister for Public Works - May 12, 2010;
- (iii) Minister for Lands - May 13, 2010;
- (iv) Minister for Foreign Affairs – June 3, 2010 and August 12, 2010;
- (v) Ambassador Dennis Awori, immediate former Kenya Ambassador to Japan – June 22, 2010;
- (vi) Deputy Prime Minister and Minister for Finance – August 10, 2010 ,
- (vii) The Interim Director General, Public Procurement and Oversight Authority – August 12, 2010.
- (viii) The Governor, Central Bank of Kenya – September 7, 2010;
- (ix) Mr. Robert Osogo, former cook to Kenya's Ambassador to Japan – September 7, 2010.

4.7 During the visits the Committee also received oral and written submissions and evidence.

CHAPTER ONE: GOVERNMENT POLICY ON PURCHASE, CONSTRUCTION AND DISPOSAL OF PROPERTIES

SUBMISSIONS IN RESPECT OF GOVERNMENT POLICY ON PURCHASE, CONSTRUCTION AND DISPOSAL OF PROPERTIES

5.0 Submissions by the Minister for Foreign Affairs

5.1 The Minister for Foreign Affairs, Hon. Moses Wetangula, EGH. MP appeared before the Committee on June 3, 2010 and briefed the Committee that:-

5.1.1 The Ministry is formulating the broad policy of Government to own or build property in Missions abroad. The policy will take into consideration the political, economic and strategic importance of countries where Kenya Missions are located as well as rent paid by the Government for leasing properties.

5.1.2 The Government owns land, buildings and other movable assets in some diplomatic Missions abroad which include 47 residential and 15 non residential properties.

5.1.3 The acquisition of properties has been gradual but in the past it was prompted by the needs of specific Heads of Mission. With expansion of Kenya's diplomatic presence abroad demand for space and acquisition of properties will continue.

5.1.4 Treasury is the largest source of revenue for property acquisition.

5.1.5 Property acquisition is in line with the Ministry's strategic plan and the report of the Taskforce on rationalization, restructuring and

strengthening of the Ministry. In line with the aforementioned report the Ministry established an asset management unit so as to manage existing properties, create a comprehensive data base of all assets and recommend prioritization and acquisition of properties for Missions, consider joint acquisition of properties with Partner States of EAC as well as consider policies for funding the acquisition of properties.

5.1.6 In any tender there must be an inter Ministerial Committee which must adhere to the Public Procurement and Disposal Act and that Treasury's authorization must be sought before proceeding with the acquisition or disposal.

6.0 Submission by the Minister for Public Works

6.1 The Minister for Public Works, Hon. Chris Obure, EGH, MP appeared before the Committee on May 13, 2010 and informed the Committee that:-

6.1.1 The Ministry of Public Works undertakes technical assessment on the viability and suitability of buildings for intended purposes upon invitation by concerned Government Ministries by sending its professionals to the actual sites.

6.1.2 The Ministry also assesses on invitation the need for repairs of public buildings but the actual rehabilitation is normally undertaken by the parent Ministry.

6.1.3 When Government decides to lease or dispose property, the Ministry of Public Works is not involved in the process.

7.0 Submission by the Minister for Lands

7.1 The Minister for Lands, Hon. James Orengo, EGH, MP appeared before the Committee on may 13, 2010 and briefed the Committee as follows, that:-

7.1.1 The role of the Ministry of Lands in the acquisition of Government properties is advisory and Technical and is on request by the service consumer, in the case of acquisition of property by Kenya Missions abroad, the Ministry of Foreign Affairs requests for a Valuer to accompany the team.

7.1.2 The acquisition of property by the Government of Kenya is subject to Kenyan Laws and the Laws of the respective countries in which the property is located;

7.1.3 Before any purchase there should be thorough consultative meetings which should involve all relevant Government departments. There is insufficient legislation to compel ministries to consult technical Government departments.

8.0 Submissions by the Interim Director General, Public Procurement and Oversight Authority (PPOA)

8.1 The Interim Director General, Director General of the Public Procurement and Oversight Authority appeared before the Committee on August 9, 2010 and informed the Committee that:-

8.1.1 Procurement in the public sector is governed by the Public Procurement and Disposal Act, 2005 and Kenya Mission abroad are expected to follow the public procurement laws. The role of the

Public Procurement Oversight Authority (PPOA) is to give guidance and approve specially permitted procurement procedure. Public entities report to Public Procurement and Oversight Authority on how they have carried out their procurement, termination of contracts, contracts in excess of KES 5 million and also when an item is being sold to an employee.

- 8.1.2 There are several procurement procedures among them: open tendering, restricted tendering, direct procurement, request for disposal, procurement of low value items and specially permitted procurement. Before acquisition is done it is mandatory that the procurement entity has a plan which is reflected the public entities annual procurement plan.
- 8.1.3 When using direct procurement, negotiations are mandatory after the approval of the method by the Ministerial Tender Committee. A negotiation team is formed to negotiate with the bidder. There are no negotiations for open tendering.
- 8.1.4 In Direct procurement the tender committee must approve use of the method in writing with justifications. Direct procurement only applies where there is only a single bidder, no reasonable alternative and where there is an urgent need for the goods to be procured.
- 8.1.5 In the procurement of services and other items it is important for public entities to engage the services of experts from other public institutions so as to realize value for money.
- 8.1.6 According to the Public Procurement and Disposal Act, 2005 the following disposal methods are allowed;- Transfer to another public

entity; sale by open tender; sale by public auction; destruction by dumping or burying; trading in; and disposal to employees. Before disposal, there must be a disposal plan. A disposal committee carries out a valuation of items for disposal and recommends the method of disposal. Disposal can't be effected until final payments have been paid.

- 8.1.7 Procurement Contracts on behalf of public institutions are entered into by the accounting officers or duly authorized representative. Contracts and procurement processes not signed by the accounting officer are flawed as they do not meet the requirements of law.
- 8.1.8 The Public Procurement Oversight Authority has not carried out any audit assessment in relation to diplomatic missions abroad.

9.0 Submissions by the Deputy Prime Minister and Minister for Finance

- 9.1 The Deputy Prime Minister and Minister for Finance appeared before the Committee on August 10, 2010 and briefed the Committee as follows:-
- 9.1.1 The policy of the Government is to acquire rather than lease property so as to save on the ever increasing exorbitant rents. The savings realized can be applied to other urgent needs.
- 9.1.2 The Ministry of Finance does not give policy directions or micromanage Ministries. It is the role of the accounting officer to ensure that resources allocated are utilized efficiently. Treasury allocates funds in accordance with the policy objectives of the Government and sectors have ceilings within which they work out their priorities. Treasury is no longer involved in the signing of

procurement contracts for Ministries especially after the coming into force of the Public Procurement and Disposal Act, 2005. Treasury only oversees Ministries in line with financial regulations and only intervenes when there is reason to believe that money was not used appropriately.

9.1.3 When acquiring, disposing or constructing the Ministry of Foreign Affairs works with relevant Ministries with the technical capacity to ensure they get value for money.

10.0 Submissions by Governor, Central Bank of Kenya

10.1 The Governor, Central Bank of Kenya, Prof. Njuguna Ndungu appeared before the Committee on September 7, 2010 and briefed the Committee that:-

10.1.1 The Central Bank of Kenya (CBK) is a fiscal agent and banker to the Government of Kenya and is responsible for effecting foreign currency payments and receives offshore inward remittances on behalf of Government Ministries and Departments.

10.1.2 When CBK receives funds for Government Ministries it is in the form of SWIFT FN 103/202/910 messages from correspondent banks. Each message contains information pertaining to the sender of the money, type of currency, beneficiary and purpose of the funds. Once the money has been received it is credited to the beneficiary Ministry's account in Kenya shillings equivalent and the relevant Ministry is notified of the credit by a letter signed by two

authorised signatories of the Bank enclosed with a copy of the swift message and credit voucher.

10.1.3 Having received submissions on Government policy in respect of the procurement, disposal and or construction of properties for Kenya diplomatic Missions in:-

- ✓ Cairo, Egypt;
- ✓ Tokyo, Japan
- ✓ (a.) Abuja, Nigeria
(b) Lagos, Nigeria
- ✓ Brussels, Belgium
- ✓ Islamabad, Pakistan

10.2 The Committee embarked on receiving oral and written evidence and visits

CHAPTER TWO: SALE OF GOVERNMENT PLOT IN CAIRO, EGYPT

SALE OF GOVERNMENT PLOT IN DOKKI, GIZA AREA, CAIRO, EGYPT

11.0 Evidence from the Minister for Public Works

11.1 The Minister for Public Works, Hon. Chris Obure, EGH, MP appeared before the Committee on May 12, 2010 and informed the Committee that:-

11.1.1 The Ministry of Public Works and Housing was in August 1988 requested by the Ministry of Foreign Affairs to identify consultants to design, document and supervise the construction of a new Chancery in Cairo. Architect C. D.K Muya - Ag. CSA and Engineer M.M. Munzyu – SSE (Structural) visited Cairo on August 21st to 24th 1988 to undertake the assignment. The proposed project was however later shelved.

11.1.2 In October 2005 a team comprising of officers from the Ministry of Foreign Affairs, Ministry of Roads and Public Works and Ministry of Lands visited Cairo and recommended the purchase of a Chancery and an Ambassador's Residence to save on cost from rent. The Ambassador was tasked to scout for suitable premises and advise the parent Ministry accordingly. (DFR 2)

12.0 Evidence from the Minister for Lands

12.1 The Minister for Lands, Hon. James Orengo, EGH, MP appeared before the Committee on May 13, 2010 and informed the Committee that most of the properties acquired were not located in diplomatic enclaves

in the respective countries; some like in Cairo were in *slumatised* (Slum) areas. (DFR 03)

13.0 Evidence from the Minister for Foreign Affairs

13.1 The Hon. Moses Wetangula, EGH, MP Minister for Foreign Affairs appeared before the Committee on June 3, 2010 and informed the Committee that:-

13.1.1 In 1989 the Government of Kenya purchased a plot located at No. 4 Kassem Street, Dokki Location, Giza, Gavenret in Cairo. The plot measured approximately 698 metres squared and was purchased at a price of US \$377, 244.

13.1.2 Proposals for funding to develop the plot were made to Treasury but no funds were allocated and efforts to get alternative funding were not approved by Treasury and therefore the plot remained undeveloped.

13.1.3 At the time of purchasing the plot it was located in a prime area but the neighbourhood deteriorated and became 'slumatised' and hence unsuitable for an Embassy. The Mission therefore recommended that it be sold and the proceeds be used to acquire a Chancery or Residence elsewhere.

13.1.4 In November 2005 an inter Ministerial inspection team comprising of Ministries of Foreign Affairs, Finance, Lands and Public Works visited the plot, valued it at US \$ 1.2 million and recommended that the plot be disposed off due to the deteriorated

neighbourhood and the proceeds be used to acquire an Ambassador's Residence.

13.1.5 Treasury upon request from the Ministry of Foreign Affairs approved the disposal of the plot but the proceeds from the sale were to be forwarded to Treasury. (DFR 04) In 2007 the Ministry undertook an independent valuation of the plot and returned a value of Egyptian pounds 6,000 to 7,000 per square metre.

13.1.6 The Embassy advertised for the sale of the plot and the highest bidder, M/s Modern Power Systems offered Egyptian pounds 6,000 per square metre and was awarded the sale. A sale agreement was signed on March 19th 2007 by the Kenyan Ambassador to Egypt and the buyer. 10% of the sale price was paid to the Embassy in Egypt upon execution of the agreement and the remaining 90% (US \$677, 246) was transferred to the Ministry's Account No. 01010 R004. The money was later transferred to Treasury.

14.0 Evidence from the Interim Director General, Public Procurement Oversight Authority (PPOA)

14.1 The Interim Director General, Director General, Public Procurement Oversight Authority Mr. M. Juma appeared before the Committee on August 9, 2010 and informed the Committee that PPOA was not consulted on the sale of the property in Cairo.

15.0 Evidence from the Deputy Prime Minister and Minister for Finance

15.1 The Deputy Prime Minister and Minister for Finance, Hon. Uhuru Kenyatta, EGH, MP appeared before the Committee on August 10, 2010 and informed the Committee that the plot in Cairo was sold at KES 47, 106, 221.30 and the funds realised were remitted to Treasury's account at the Central Bank of Kenya.

16.0 Evidence by the Governor, Central Bank of Kenya

16.1 The Governor, Central Bank of Kenya, Prof. Njuguna Ndungu appeared before the Committee on September 7, 2010 and informed the Committee that:-

16.1.1 On December 24, 2007 it received a SWIFT FIN 103 message from the Bank of New York advising receipt of US \$ 677, 246 from Kenya Embassy in Cairo. The funds were remittance of 90% balance on sale of Government plot in Dokki area, Cairo and the beneficiary was Ministry of Foreign Affairs.

16.1.2 CBK raised entries to transfer the funds on January 7, 2008, equivalent to KES 42, 395, 599. 60 and advised the Ministry of Foreign Affairs accordingly. CBK is not aware of additional funds sent from Cairo. (DFR 04).

17.0 Inspection visit of the Kenya Embassy in Egypt – 14th to 16th July, 2010

17.1 The Committee paid a courtesy call on the Kenya Ambassador to Egypt, H.E. Daniel Makdwallo on Thursday July 15th, 2010. The Ambassador

welcomed the Committee to Egypt and thanked the Committee for visiting the Embassy in Egypt.

17.2 The Ambassador Mr. Makdwallo accompanied by the Embassy staff briefed the Committee on the sale of the Government plot in Dokki area as follows:-

17.2.1 In 1989 the Embassy purchased an undeveloped plot measuring 698.6 m² at a cost of US \$ 373,244 with the intention of building a Chancery and residential flats for Embassy staff but due to lack of funds the project was shelved.

17.2.2 An Inter-Ministerial audit and inspection team visited the Embassy in Cairo in November 2005 and recommended that the plot be disposed off and funds realised be applied towards the purchase of a Residence for the Ambassador. The plot was to be sold on account of being in an overcrowded area, lacking adequate parking space on the access road, unsuitable location for an Embassy and was being targeted for illegal sale by conmen due to non development. Treasury granted authority for the disposal of the plot in line with the recommendations of the inspection team and the Ambassador's request in October, 2006 vide letter Ref: **PPD.2/20/04 Vol. I/(72) (DFR 05).**

17.2.3 The Embassy began the process of disposal by appointing M/S Coldwell banker to provide indicative value for the plot in August 2006 and a value of 5,500 to 7,000 Egyptian pounds was returned subject to conditions. Adverts were subsequently placed in two local dailies Al Wasset and Al Ahram and four responses

were received ranging between 5, 000 and 6,000 Egyptian Pounds per square metre. The offers were communicated to Ministry of Foreign Affairs and subsequently Treasury granted authority for disposal in November 2006 and the Embassy procurement Committee met to discuss the sale and evaluate the bids. M/s Modern Power Systems was offered to purchase the plot after emerging the highest bidder at 6, 000 Egyptian Pounds per square metre.

17.2.4 The Embassy engaged Mr. Mahmoud El Shorbagy, a lawyer to oversee the sale and transfer transaction in December, 2006 but the Permanent Secretary, Ministry of Foreign Affairs put the sale on hold pending scrutiny of documents sent to Treasury related to valuations. The Ministry in February, 2007 directed that valuations be undertaken of the plot and the Embassy appointed two valuation firms to undertake valuation for the plot. Treasury granted authority for the sale to proceed in February, 2007 vide Ref: ES.90/06/02 and the Embassy proceeded with the sale with the sale agreement being signed on March 19, 2007 upon receipt of 10% deposit amounting to US \$ 73,279.72 which was transferred by the Embassy in June 2007 to the Ministry's Account (01-1010-R004) with Central Bank.

17.2.5 The buyer completed the payment of the remaining 90% of the purchase price in December 2007 and the amount equivalent to US 766,278 was transferred by the Embassy to the Ministry's account (R4 01-010-R004).

17.2.6 The Committee was further informed that the emerging trend amongst developed countries is the purchase of floors on already developed office blocks for use as Embassies. This is cheaper than developing a stand alone property. The Embassy currently has no plans to purchase property in Cairo.

18.0 Site Visit to the sold Embassy plot in Dokki, Plot No 4, Kassem Street Giza area

18.1 The Committee accompanied by the Ambassador visited the plot sold by the Government of Kenya and the surrounding area. At the site of the plot the Committee observed that a six storey building and the price per square metre is currently at 7, 000 Egyptian pounds.

19.0 Meeting with Kenyan Diaspora in Egypt

19.1 The Committee held a meeting with Kenyans working, living and or pursuing studies in Egypt. The Diaspora was briefed on the role of Parliament and the Mandate of its Committees. The Committee further advised the Diaspora to register themselves with the Embassy so that the Mission can cater for their welfare when need arises.

20.0 Committee Observations on the sale of government plot in Egypt Cairo

20.1 Only 90 % of the funds realised from the sale of the plot were remitted to CBK. The money was later on the request of the Ministry of Foreign Affairs, returned to the Ministry's development account

contrary to the Minister's submission that the proceeds of the sale were returned to Treasury.

20.2 Committee noted that the figures given by the respective officers on proceeds from sale of the plot and remittances to CBK.

20.3 Concern that officers gave contradictory information.

20.4 Sale of the property was the right decision since the plot was in a location that is mainly residential and therefore not suitable for an Embassy.

20.5 Funds realised from the sale of the property were to be used in purchasing a Residence for the Ambassador but funds were allegedly returned to Treasury and not utilized as intended.

20.6 In Missions where it is not viable to purchase or build a stand alone structure and instead the Mission should explore the principle of purchasing floors in already built structures in up market and suitable areas designated for diplomatic use.

**CHAPTER THREE: PURCHASE OF CHANCERY AND RESIDENCE
FOR KENYA EMBASSY IN TOKYO, JAPAN**
**PURCHASE OF CHANCERY AND RESIDENCE FOR KENYA
EMBASSY IN MEGURO-KU, TOKYO, JAPAN**

21. Evidence by the Attorney General

21.1 The Attorney General Hon. Amos Wako, EGH, MP appeared before the Committee on March 30, 2010 and informed the Committee that State Law Office was not involved in the purchase of the Chancery and Ambassador's Residence in Tokyo. (DFR 06)

22. Evidence by the Minister for Public Works

22.1 The Minister for Public Works, Hon Chris Obure, EGH, MP on May 12, 2010 informed the Committee that the Chancery and Ambassador's Residence was purchased by the Government in 2009 however the Ministry of Public Works was not involved in the purchase process. (DFR 02)

23. Evidence by the Minister for Lands

23.1 The Minister Hon. James Orengo, EGH, MP appeared before the Committee on May 13, 2010 and informed the Committee that:-

23.1.1 Vide letter MFA./212/15A/Vol. II/(18) dated 26th November 2008 the Ministry of Foreign Affairs requested the Ministry of Lands to nominate an officer to accompany a team visiting Tokyo in early

January. The letter gave a brief history of the plot to be valued where the Japanese Government had offered the Kenyan Government. (DFR 07)

23.1.2 The Assistant Commissioner of Lands, Mrs. Teresia Kimondiu was nominated by the Commissioner of Lands to be part of the team travelling to Japan for valuation of the plot. The team that left for Tokyo comprised of Mr. Antony Muchiri, Ministry of Foreign Affairs, Mr. Kimemia, Ministry of Finance and Mrs. Kimondiu from Ministry of Lands.

23.1.3 In Tokyo the team in the company of Ministry of Foreign Affairs representatives, Ministry of Finance/infrastructure of Japan and some real estate agents identified by the Mission visited 7 plots that had been identified by the Mission.

23.1.4 The team met with the Tokyo local finance officers on 15th January, 2009 who were charged with the sale of the plot offered by the Government of Kenya (plot 4-1-5 Minamu Azabu). On seeking to understand the basis of the price offered for the plot the team was informed that the valuation was confidential and final.

23.1.5 On 16th January, 2009 the team Leader Mr. Muchiri (MFA) and the Kenya Embassy management proposed that the team meets a Mr. Nobuo Kuriyama, the landlord of the premises housing the Embassy to know whether he was still interested in selling the property and a decision to value the this property (3-24-3 Yakumo Meguro-ku) was made.

- 23.1.6 The team also met with Mr. Dick Olango a Kenyan architect in Japan on 16th January, 2009. Mr. Olango briefed the team on the land values and regulations in Japan.
- 23.1.7 On 26th January 2009 the architectural analysis of the viewed plot for construction of the Chancery and Ambassador's Residence was forwarded to the Ministry of Foreign Affairs by the Architect.
- 23.1.8 In Tokyo, Japan, the Ministry of Lands valued the property (3-24-3 Yakumo Meguro-ku) at JPY 1, 600, 000 (KES 1.392 billion). The valuation was guided by the Tokyo area land rates released by the Government of Japan and the open market offers of the plots in Meguro-ku. The valuation report was sent to the Ministry of Foreign Affairs on 11th February, 2009.
- 23.1.9 At a ministerial tender committee meeting held on 25th May, 2009 held by the ministry of foreign affair it occurred that the acreage on offer was 1,431 metres squared and not 1,600 metres squared as earlier indicated in Japan. This necessitated a downwards revision of the final value of the property to JPY 1,431,300,000 (KES 1,245,231,000).
- 23.1.10 Though the depreciated value of the buildings had been included in the report it was clear that this should not be part of the purchase price. This was informed by the fact that permanent buildings in Japan are taken at a lifespan of 20 years – the subject is older.
- 23.1.11 While carrying out property valuation, the Valuer tries to acquire information on the property from both the Government and real

estate agents/local valuers. The valuation report shows that the Valuer did acquire limited information on various properties and the qualification of the real estate agents contacted, were questionable.

24.0 Evidence by the Minister for Foreign Affairs

24.1 The Minister for Foreign Affairs, Hon Moses Wetangula, EGH, MP appeared before the Committee on June 3, 2010 and briefed the Committee as follows:-

24.1.1 The Government of Kenya first established an Embassy in Tokyo in 1979.

24.1.2 In 1989, the late Amb. Ole Leken identified a plot and negotiated with the owner to construct a Chancery and Ambassador's residence to the specifications of the Kenya Government for leasing.

24.1.3 Mission moves into the premises the same year.

24.1.4 Amb. Ole Leken suggests purchase of the same premises in a letter dated 22nd June, 1990 at a cost of JPY 5.5 billion (Kshs830,500,000,000) and confirms that Egypt, Algeria, Zambia, and Zaire, countries with similar or less endowed economies that had purchased property in Tokyo.

24.1.5 By a letter dated 14th November, 2006 Amb. Awori wrote suggesting purchase of the property occupied by the Mission and highlighting its advantages. Further written confirmation regarding accessibility of the premises and the presence of 15 other

Embassies within the locality from the Japanese Embassy is attached.

24.1.6 Amb. Awori initiated discussions with the property owners who gave an offer of JPY 2,208,834,000.00.

24.1.7 He proposed that the money for the purchase be raised through credit from Tokyo Mitsubishi UFJ Bank, with the Government of Kenya guaranteeing the loan.

24.1.8 A meeting was held on 21st February, 2007 in Nairobi between Permanent Secretary, Ministry of Foreign Affairs, Treasury officials and the UFJ Bank Tokyo. However, Treasury advised against securing a commercial loan due to the likely negative effects on the external debt situation of the country.

24.1.9 The Ministry then advised the Mission to factor the entire cost of acquiring the property in its development budget, subject to a valuation to ensure that the offer price of JPY 2.2 billion was not above the prevailing market prices.

25.0 Justification for purchase of the property

25.1 Kenya's presence in Japan is based on Japan's strategic importance, implying long-term presence of the Kenya Embassy in Tokyo.

25.1.1 High rents of JPY 4.3 million (Kshs2.9 million) monthly payable 12 months in advance from 1989. By 2009, rent had risen to Kshs48 million per year.

- 25.1.2 The property had been built to the specifications of the Kenya Government with an understanding that should the owner ever decide to sell, the mission would be given first consideration. In addition, the Chancery and the residence were housed in one large compound, making the property even more attractive.
- 25.1.3 From 2006/2007, the Ministry initiated far-reaching reforms which included improving the management of public resources through cost cutting, reducing wasteful spending and poor financial control and entrenching prudent financial management measures.
- 25.1.4 A 2006 audit report showed that the Ministry's recurrent expenditure was extremely high due to high rents paid for property occupied by missions. It singled out Tokyo, which is one of the most expensive cities in the world, as the most expensive mission to maintain.

25.2 Identification of a suitable property

- 25.2.1 In light of the above factors, the Government prioritized the acquisition of the property in Tokyo.
- 25.2.2 Considering the difficulty in securing the funding to purchase the property occupied by the mission it was decided to explore other options.
- 25.2.3 The mission initiated the process of identifying alternative properties. During a meeting in July 2008 with a visiting

Japanese delegation led by Senator Tetsuro Yano, the Kenya Government therefore requested the Government of Kenya for construction of a Chancery and Residence.

25.2.4 Following Sen. Tetsuro's visit to Nairobi, Amb. Awori held a follow up meeting with him in upon his return to Tokyo. A summary is contained in a letter to the Permanent Secretary dated 3rd October, 2008.

25.2.5 The Government of Japan in October, 2008 identified a plot in Minami-Azabu, Minato-Ku measuring 700.39 square metres. In a letter dated 24th October, 2008, Amb. Awori recommended the plot for purchase and gave an indicative price of JPY 900,000,000.00 or (Kshs.603, 000,000.00). This estimate was based on the Government of Japan's annual published price guidelines for plots in this area. However, such price guidelines are normally followed by actual valuations as and when the Government of Japan decides to sell.

25.2.6 Indeed, Amb. Awori wrote two months later informing that after an evaluation commissioned by the Government of Japan, the plot was on offer at a market price of JPY1.307 billion or Kshs1.138, 527,700.00. This was disappointing since it had been anticipated that the plot would be offered at a price substantially lower than the market value.

25.2.7 An evaluation and inspection team was constituted and dispatched to Tokyo from 13th to 17th January, 2009. The team comprised Mr. A.M. Muchiri – Deputy Director of

Administration, Ministry of Foreign Affairs, Mr. Joseph Kimemia – Ministry of Finance and Mrs. Teresia Kimondiu, Ministry of Lands. Its mandate was to assess the suitability of the plot offered and compare it with other available options in the market.

25.2.8 Prior to its departure to Tokyo, the team requested the mission to identify other plots for purposes of comparison with the Japanese Government's plot.

25.2.9 On arrival, the team visited seven plots, identified through real estate agents and Japanese Ministry of Foreign Affairs. However, most of them were found unsuitable on account of exorbitant pricing (up to JPY 2.5 to 3 billion), unattractive, in inappropriate locations, irregularly shaped, and too small to accommodate a chancery and residence. Some of the plots had also already been sold or were subject to auction.

25.2.10 The plot on offer from the Government of Japan was assessed to be unsuitable based on the findings of the team photographs taken on account of the following:-

- It was undeveloped plot
- At 700.39 square metres, it was half the size of the property occupied by the mission which measures 1431 square metres.
- The neighbourhood was surrounded by high rise residential apartments and was therefore inappropriate and unsuitable to house an embassy.

- It was more expensive by 35% per square metre.
- It was irregularly shaped, rendering it unsuitable for the construction of both the Chancery and an ambassador's Residence, given that the regulations in that locality require that no more than 60% of the land should be built-up.
- The Government of Japan had registered a caveat on the property allowing it to excavate for archeological materials at anytime, including after its sale. In the event that such materials were found, the Government of Japan reserved the right to repossess the plot and refund any payments made.
- It would have cost Kshs1, 138,527,700.00 plus Kshs589, 000,000.00 as the cost of construction of buildings of similar size and quality as well as continued payment of rent for an estimated three years. The total cost would therefore have amounted to Kshs1,896,000,000.00

25.2.11 After ruling out all other options on this and other plots in a meeting chaired by Amb. Awori, the evaluation and inspection team on 17th January, 2009 decided that the property occupied by the mission was the most suitable for the purposes intended. This was based on the fact that the property is located in one of the most prime neighborhoods in Tokyo, is home to two international schools and more than 13 embassies, contrary to media reports. The buildings thereon

were 20 years. In Japan, as in many developed countries, stone buildings are assigned an economic value of 20 years merely for tax purposes. This does not affect their functional, intrinsic and market value.

25.2.12 By a letter dated 30th March, Amb. Awori conveyed the decision of the Government of Kenya to relinquish its interest in the Japanese Government -owned plot.

25.2.13 At the same time, the team, led by Amb. Awori met Senator Yano who was the principal link between the Embassy and the Government of Japan. The purpose of the meeting was to express the Ministry's dissatisfaction with the offer price. The team had learnt that the offer price was final. Senator Yano concurred and offered to take up the matter.

25.2.14 Following an analysis of all options, the evaluation and inspection team in a meeting chaired by Amb. Awori held discussions with the property owner with a view to expressing firm interest in purchasing the property. The owner consulted with his family and gave an offer of JPY 1.9 billion (Kshs1.654 billion) on 19th January, 2009.

25.3 The Procurement Process

25.3.1 Once the offer was made, and in line with Government procurement requirements for competitive tendering, the mission advertised in the local dailies for other plots within Meguro Ward where the property is situated.

- 25.3.2 Five plots were identified and evaluated by the mission. They found unsuitable on grounds of excessively high costs and unsuitable locations. Analysis of the responses indicated that the property currently housing the Chancery and ambassador's Residence was the best option that was likely to give the Government better value for money.
- 25.3.3 A valuation of the property occupied by the mission was carried out by an assistant commissioner (Lands Valuation) from the Kenyan Ministry of Lands. The valuation confirmed the area and ownership of the property, and returned a value of JPY1, 431,300,000.00 (Kshs1, 245,231,000.00) for the land only. Upon request by the Valuer from the Ministry of Lands, an Architectural Analysis Report was prepared by a Tokyo-based firm which returned a value of JPY 3,384,475,100.00 for the property occupied by the Mission. However, the evaluation took into account 1600 square metres of land, instead of 1431 square metres.
- 25.3.4 The embassy had earlier commissioned valuation from a Japanese firm, Coral Corporation. On 23rd, March, 2007, the firm returned a value of JPY 1.09 billion 1.195 square metres.
- 25.3.5 The structures on the property are in excellent condition, solid and habitable, as evidenced by the rent paid by the embassy of over Kshs4 million per month, orKshs48 million per year. Indeed, according to a letter from Amb. Awori, the buildings would not require any further renovations for 10 years after

major renovations by the owner in 2002. The total built up area of both buildings is approximately 1131.98 square metres, and they share twelve parking spaces. The structures remain beautiful and retain both intrinsic and functional values. In addition, the Government of Japan has confirmed that the economic lifespan for buildings is merely for tax purposes, and is set at 38 years for living purposes, and 41 years for office usage. This lifespan does not affect the functional value.

25.3.6 Upon instructions from the Permanent Secretary to continue negotiating, the mission pursued the matter further. Subsequently, on 19th February, 2009, the owner agreed to reduce the price further to JPY 1.75 billion (Kshs1.524 billion).

25.3.7 In line with the Government procurement procedures, a negotiating team was appointed on 6th May, 2009, to negotiate further on the price and conclude the transaction. However, despite efforts to negotiate, the owner declined any further reduction, and the team therefore settled on the JPY1.75 billion down from JPY 1.9 billion earlier offered in January, 2009.

25.3.8 The team recommended purchase on the terms negotiated and agreed upon with the landlord. These included payment installments, transfer and registration upon receipt of the first installment after which there would be no further payment of rent. As a result, the mission realized savings of JPY 20 million

(Kshs13, 440,000) in rental payments that would have fallen due within the transaction period.

25.3.9 The final decision on the purchase was passed in the Ministerial Tender Committee meeting No.MFA/MTC/07/2008-2009 of 25th May, 2009.

25.3.10 By a letter dated 20th April, 2009, the Ministry directed the embassy to procure the services of a lawyer. The mission subsequently advertised in two newspapers of 27th April, 2009 – the Japan Times and Daily Yomiuri. The lowest bidder quoted a fee of 2.8% of the sale value, amounting to Kshs45.7 million. Upon realizing that the cost of hiring a lawyer was exorbitant, the Permanent Secretary directed the mission to consult the Japanese Ministry of Foreign Affairs on possible options.

25.3.11 A meeting was held between the embassy and the Ministry of Foreign Affairs of Japan officials on 1st June, 2009, during which the mission was advised on the use of a licensed solicitor recognized under the Japanese law (also known as 'Shihoshoshi' in Japanese) to undertake the transaction.

25.3.12 The Ministerial Tender Committee thereafter approved this recommendation at its meeting No.MFA/MTC/09/2008-2009 held on 12th June, 2009. The solicitor then carried out background checks, tax exemptions and participated in drawing up the sale contract and finalization of the transaction. This cost the embassy Kshs383, 000.00.

25.4 Funding the Project

25.4.1 The cost of the property was JPY1, 750,000,000 billion which was at that time equivalent to Kshs1, 524,425,000. The purchase was to be funded as follows:-

- At this stage, there were indications that Treasury may not have had immediate budgetary provision for this purchase, and the Ministry therefore requested Treasury to allocate funds amounting to Kshs984, 709,080.40 realized from the sale of a Government plot in Lagos.
- The balance of the purchase price was to be funded from reallocation from other areas during the financial year 2008/2009 which was formalized by having funds in the amount of Kshs215, 290,920 factored under Development Vote – 04.

25.4.1 The first payment was made in June, 2009, pursuant to the terms of the sale agreement. Under the contract, the final installment should have been made by 1st September, 2009. However, due to budgetary constraints, it was paid on 15th January, 2010.

25.4.2 A letter from Mr. Kuriyama confirming the size of the property he sold and the amount of money he received for it.

25.5 Fire Incident

25.5.1 On 13th February, 2010, a fire broke out and the Ambassador's residence, substantially destroying the building, despite efforts

by the Tokyo Fire Department to extinguish it. However, the fire did not affect the Chancery building. A subsequent investigation by the Tokyo Fire Department at the mission's request established that the fire was caused by a frying pan that was left with cooking oil on a fully lit gas cooker by the , Ambassador's official cook, Mr. Robert Osogo.

25.5.2 By this time, the Residence was unoccupied as Amb. Awori had resigned on his own volition and left the station on 16th April, 2009 to take up employment as Chairman of Toyota East Africa. A copy of his letter dated 30th January, 2009 to His Excellency, the President requesting to be released, while a letter to the Ministry dated 17th April, 2009 informing of the end of his tour of duty.

25.5.3 Since the Ambassador had left the station ten months before and no replacement had been sent, there was no official occupation of the Residence except routine cleaning and nominal cooking by the cook.

25.5.4 No Government documents were kept at the Residence and none were therefore destroyed in the fire.

25.6 Conclusion

25.6.2 The embassy is open and operational and a new Ambassador has now been posted.

25.6.3 Land in Tokyo is not just scarce but extremely expensive. The cost of running the mission has been the highest in al the 48 embassies abroad. As far as back as 1990, the late Ambassador

ole Leken wrote to the Ministry giving a strong justification for acquiring the embassy premises. He gave examples of countries like Tanzania, Zambia, Zaire, Egypt and Algeria which were similarly or less economically endowed than Kenya but had moved ahead and purchased properties in Tokyo.

25.6.4 At that time, had we heeded his call, the property the mission was renting would have cost JPY5.5 million. As it is, we have now purchased the property after a meticulous process that adhered strictly to the Government procurement regulations. Attached is a matrix marked TP46 detailing all the meetings held both in the Ministry and the mission in Tokyo in pursuance of the property transaction.

25.6.5 The question must therefore be asked, "Did the public get value for money?". The answer is a resounding "YES" on account of:-

- The taxpayer was saved Kshs48 million per year in rent;
- The choice of the particular property with an unusually large area suitable for both a chancery and residence, with structures in excellent condition and custom-built for the embassy (as shown in the attached pictures);
- That no additional funds were required for the development of suitable buildings;
- That there would therefore be no further payments of rent during the construction period of at least three years;

- In contrast, the purchase of land and construction of suitable structures would have cost an estimated Kshs1.9 billion.

This decision was therefore wise and prudent, and was long overdue.

26.0 Evidence by Ambassador Dennis Awori, immediate former Kenya Ambassador to Japan

26.1 Ambassador Dennis Awori appeared before the Committee on June 22, 2010 and informed the Committee that:-

26.1.1 In August 2006 the Ministry of Foreign Affairs wrote to all Missions informing of the new policy of property acquisition proposed by the Ministry of Finance so as to mitigate the high rent paid by Missions. In response to this request the Mission wrote back in November 2006 forwarding a proposal to purchase the premises that were being rented by the Mission based on the price asked by the landlord which was subject to independent valuation. Together with the proposal, the Mission recommended that the Government borrows the purchase price from the Mission's bankers Tokyo Mitsubishi UFG with payments less than the monthly rents.

26.1.2 The Ministry informed the Mission in April 2007 that Treasury had turned down the proposal to borrow money from the commercial bank. The Ministry further advised that the purchase price was high and that an independent Valuer be procured to value the property and that the valuation price be factored in the 2007/2008 Budget. The Mission contracted M/s Coral

Corporation of Japan to value the property. The property was valued at JPY 1.09 billion against the landlord's asking price of JPY 1.9 billion. The landlord turned down the offer of the Mission which was pegged on the valuation by M/s Coral Corporation.

26.1.3 Following the refusal by the landlord to lower the price the Mission approached the Government of Japan to assist in identifying a plot or property since that would be a Government to Government transaction as opposed to dealing with a private individual. The Mission was seeking plot or property that had proximity to the Government offices, commercial hub, public transport, international schools, other Embassies, ease of development and building codes, good topology of the lands and quality neighborhood.

26.1.4 The process of identifying suitable plot took close to 14 months and involved meetings and negotiations with Government officials in the Ministries of Foreign Affairs and Finance of Japan. This culminated in the offer of several plots and in October 2008 the Mission zeroed in on two plots and eventually to one plot measuring 700 metres squared based on its proximity to Government offices and Central business district for political diplomacy and economic diplomacy (ten minutes drive as opposed to 45 minutes for the current location of the Mission). The plot was also close to a train station and located in an up market neighborhood with 8 Embassies as direct neighbors and

79 others in the neighborhood. The neighborhood allowed a building permission of 60% coverage of the plot with a 30 meters height restriction as compared to 10 meters for the current premises. Constructing a new building would have meant more space with a multi storey building. The Plot also had a road frontage meaning easy access, road parking and visibility as compared to the current premises that has no road frontage.

26.1.5 The Mission informed the Ministry of the decision to bid for the plot and subsequently applied to the Government of Japan for the plot. Following pressure from the Government which included a meeting between President Kibaki and Senator Yano, Vice Chairman of the Japan Africa Parliamentary League, the Mission was going to get the plot at a fair price. The Mission was advised by the Japanese Government that they would first commission independent valuations and offer the plot at the valuation price.

26.1.6 After valuation by the Japanese Government the plot was offered at JPY 1.3 billion. This price was communicated to the Ministry Headquarters together with a recommendation for an inter-ministerial team to assess and value the plot before purchase. The evaluation team arrived between January 13 to 17, 2009 and he (Awori) showed them the plots , and took them for meetings with Government officials and Senator Tetsuro Yano but did not participate in the evaluation committee meetings that assessed the plots because as the

Ambassador and the person recommending it wasn't right for him to do so.

26.1.7 Prior to the arrival of the evaluation team in Japan he had requested the President to release him from Ambassadorial duties by March 31st 2009. He left Japan to Kenya to lead Committee of Japanese tea importers who came to study Kenya's tea industry and returned to Tokyo on 5th February 2009.

26.1.8 On 20th January 2009 the landlord sent an offer of JPY 1.9 billion to the evaluation team and the team advertised intention to purchase the property. On 26th January 2009 the Mission advertised seeking plots to purchase and bids were to be submitted by 30th January, 2009 and due to the short time for submitting bids the response was poor.

26.1.9 The Embassy procurement Committee met with the landlord on 2nd February, 2009 and negotiated for price reduction and settled on JPY 1.75 billion and this was communicated to the Ministry on 3rd February, 2009.

26.1.10 On 5th February, 2009 he returned to Tokyo from Nairobi and on March 2nd, 2009 the Ministry sent a process matrix to guide the purchase of the premises occupied by the Mission. The matrix included:-

- 26th February , 2009 – Valuation
- 2nd to 6th March, 2009 – Ministerial Tender Board
- 9th to 20th March, 2009 – Consultations with Treasury
- 23rd March, 2009 – Public Works inspection

- 6th April, 2009 – Negotiations and feedback
- 14th April, 2009 – Ministerial Tender Committee deliberation approval or rejection
- 20th April, 2009 – Letter of acceptance
- 2nd to 30th May, 2009 – appointment of lawyer, verification of status and preparation of sale agreement
- 15th June, 2009 – payment of 10 % deposit
- 30th July 2009 – registration and transfer of Title
- August 2009 – final payment

26.1.11 He (Awori) left Tokyo on March 17th, 2009 to attend an International Conference for Africa's Development in Botswana and while he was away on 20th March the Mission received confirmation of authorization to purchase the building. In a letter dated 30th March 2009 (DFR 08) he informed the Japanese Government that the Government of Kenya had turned down the offer to buy the plot at Minato Ku. On 31st March, 2009, he chaired a meeting informing the landlord that the Government of Kenya had agreed to purchase the property based on the approval from Treasury, but subject to each party appointing a lawyer, thorough inspection of the buildings, independent valuation and final price to be negotiated by a negotiating team from Nairobi. (DFR 09);

26.1.12 He never chaired a meeting of the team that decided to purchase the current premises contrary to what the Minister for Foreign Affairs was reported to have told the Committee.

26.1.13 He personally was not happy about that decision since the plot offered by the Government of Japan was better in the long term and short term than the current premises.

26.1.14 The Ambassador informed the Committee that he had already left the diplomatic Service when the fire consumed the Ambassador Residence in Japan. (DFR 10).

27.0 Evidence by the Interim Director General, Public Procurement

Oversight Authority (PPOA)

27.1 The Interim Director General, Public Procurement Oversight Authority Mr M. Juma appeared before the Committee on August 9, 2010 and informed the Committee that:-

27.1.1 On Tokyo the Ministry of Foreign Affairs wrote requesting to use specially permitted procurement procedure in the acquisition of the Chancery and Residence but the Public Procurement and Oversight Authority declined and advised that they use other available procurement procedures and that they comply with the provisions of public procurement. (DFR 11)

28.0 Evidence by the Deputy Prime Minister and Minister for Finance

28.1 The Deputy Prime Minister and Minister for Finance, Hon. Uhuru Kenyatta, EGH, MP appeared before the Committee on August 10, 2010 and informed the Committee that:-

28.1.1 The final payment for Tokyo property (3-24-3 Yakumo Meguro-ku) was made this Financial Year (2010) and the cost for the purchase was KES 1.524 Billion.

28.1.2 Treasury conducted an internal audit of the Tokyo Mission after reports appeared suggesting that there might have been problems. The outcome of the audit indicated that Kenyans got value for money based on the size of the plot and the location (security and environment). The Auditors from Ministry of Foreign Affairs and Ministry of Finance relied on documents availed to them and did not involve the services of professionals such as surveyors, valuers or structural engineers.

29.0 Evidence by Robert Osogo, former cook to Kenya Ambassador to Japan

29.1 Mr. Robert Osogo appeared before the Committee on September 7, 2010 and informed the Committee that:-

29.1.1 He was hired as a local staff in January 2007 for a contract period of two years to manage the Ambassador's Residence in the capacity of a Chef and assist in any other duties assigned to him from time to time.

29.1.2 After the substantive Ambassador left the Charge D' Affaires assigned him duties at his residential house to cook for various guests.

29.1.3 In February 13, 2010 a fire broke out at the Ambassador's Residence. During the day there was a TV exchange programme

- between Kenyan and Japanese children. The children prepared Kenyan food (Samosa's and tea) with the assistance of Ms. Dorothy Nthiwa and Ms. Eri Osakabe (Tourist Assistant). On direction of Mr. Allan Mburu he (Osogo) prepared food for Ambassador Ruth Solitei, Director of Protocol Office of the Prime Minister.
- 29.1.4 Later Mr. Mburu requested him to prepare more Samosa for guests who were at the Chancery and since there weren't enough materials he rushed to purchase them. He prepared the Samosa's and switched off the cooking stove and went to the Chancery to prepare tea for the guests. A fire broke out at the residence while he was at the Chancery kitchen.
- 29.1.5 On February 12, 2010 some (two men and a lady) strangers in the company of Mr. Allan Mburu left their car, a RAV 4, overnight at the Chancery. The three strangers left the Chancery on 13 February, 2010 while the fire was being put out.
- 29.1.6 The handling of the cooking equipment by those working for the TV filming session was not supervised as he busy doing other duties and chores.
- 29.1.7 Several guests were accommodated at the Ambassador's Residence after Ambassador Awori left the service including officers from the Ministry of Foreign Affairs, Armed Forces, Brand Kenya, and Office of the Prime Minister among others.

30.0 Inspection visit to the Kenya Embassy in Japan – 17th to 22nd July, 2010

- 30.1 On Monday July 19th, 2010 the Committee paid a courtesy call on the Kenya Ambassador to Japan, H.E. Ambassador Benson Ogutu. The

Ambassador welcomed the Committee to Tokyo and thanked the members of the Committee for visiting the Kenya Embassy in Japan.

30.2 The Committee held meetings with staff at the Embassy who adduced evidence as follows:-

30.3. Evidence of Mr. Allan Mburu – Charge d' Affaires/Deputy Head of Mission. He briefed the Committee as follows: -

30.3.1 The Purchase of the Mission properties in Tokyo goes back to 1990 during Ambassador Leken's tenure when he requested the owners to construct the properties according to the Mission's specifications. The matter was revived during Ambassador Odinga's tenure and later by Ambassador Dennis Awori. Ambassador Awori had proposed that the Mission purchases the property through loan financing from Mitsubishi Bank which was willing to offer a loan of up to 90% of the purchase price. Mr. Manabe visited Kenya & held talks with Treasury attended by Ambassador Awori to discuss the financing of the purchase. Treasury advised against financing the purchase through a commercial bank loan citing Kenya's external loan balance.

30.3.2 In 2007 the Mission contacted M/s. Coral Corporation, a real estate agent, to value the property. A value of JPY 1.09 billion was returned by the real estate agent for an area of 1195m² covering the Chancery and the Residence that was leased by Mission (DFR 12). An additional 232m² was not included in the valuation by Coral Corporation.

30.3.3 In 2007 the Mission advised by Treasury through Ministry of Foreign Affairs headquarters to factor the cost of acquiring property in Tokyo into the budget and as a result KES 1.62 billion was factored in the 2008/2009 Budget. Negotiations with the owner of the property rented by the Mission did not bear fruits since the landlord offered the property at a higher price than what the Mission could afford. This led the Mission to explore other options. The Mission entered into discussions with the Government of Japan seeking a plot to construct a Chancery and Residence for the Mission. Hon Tetsuro Yano was instrumental in the negotiations with the Government of Japan that led to the Government of Japan offering a plot for sale to the Government of Kenya. Ambassador Awori delegated negotiations to a team led by himself (Mr. Allan Mburu). Following the negotiations, the Government of Japan offered the Mission a plot covering an area of 700 m² in Minato area. Due to the high price on the Government of Japan offered plot, Senator Yano undertook to seek price reductions for the plot.

30.3.4 In January 2009 a validation team was sent from Nairobi to value the plot offered by the Government of Japan and consider other options. The team from the Mission comprised all members of the procurement committee. The team visited other plots as well as the one offered by the Government of Japan. The team rejected the Government of Japan offered plot on account of its irregular shape and the high price. Other plots visited were dismissed on account

of size and price. The Mission advertised for other plots within Meguro ward. Adverts were placed on 26th Jan, 2009 to be returned on 30th Jan, 2009. The adverts were in English newspapers.(DFR 13)

30.3.5 Following the above decisions by the validation team, Ambassador Awori directed that the team meets with Mr. Kuriyama. The meeting was held at the Embassy and after consultations Mr. Kuriyama agreed to sell the property at JPY 1.9 billion for an area of 1,431 m².

30.3.6 After the validation team left Tokyo and presented its report, the Ministry Headquarters directed that further negotiations be held with Mr. Kuriyama with a view to reducing the price.

30.3.7 Before Ambassador Awori left the diplomatic service he informed Mr. Kuriyama of the Government of Kenya's intention to purchase the property. He further informed the Government of Japan of the decision by Kenya to withdraw interest in the plot in Minato Ku. (DFR 9)

30.3.8 In May 2009 a negotiation team was sent from Nairobi comprising Njambi Kinyanya, Deputy Director (Political Affairs) and Korir Erick, procurement. The team was joined by Mr. Allan Mburu, Charge d' Affaires (CDA), Njeru, Finance Officer and Mose, co-opted member and co – secretary to the team. Negotiations were entered into and the negotiating team agreed on JPY1.75bn with waiver of rent after payment of the first instalment. Upon return to Nairobi by the negotiating team, the Ministerial tender

committee communicated to the Mission that Government of Kenya was to purchase property at JPY 1.75 billion (DFR 14). As agreed with the vendor during the negotiations JPY 1.5 Billion was to be paid as the first instalment in June, 2009 and the remaining JPY 200 million was to be paid in September, 2009.

30.3.9 The Ministry of Foreign Affairs never requested the Mission to get a valuer and as such no valuation was done on the property by a local valuer in 2009.

30.3.10 He wrote to the Ministry seeking to use the services of a lawyer and the Ministry (Procurement Committee) advised the Mission to get a lawyer. Bids were placed and the lowest bidder placed a price of 3% of the purchase price. This was an exorbitant price and as a result the Permanent Secretary advised that the Mission employs the services of a 'Shihoshoshi' or legal scrivener. (DFR 15)

30.3.11 He granted himself the power of attorney in order to execute the agreement of sale. On 30th June 2009 he signed the sale agreement after the draft had been sent to Nairobi and returned to the Mission. A second agreement signed by the Permanent Secretary was brought to Tokyo by the Ministry's Principal Legal Counsel, Mr. Kihwaga on realisation that the first agreement signed by Mr. Allan Mburu was not sufficient. The agreement by the Permanent Secretary was to be lodged with the Government of Japan as the correct and legal agreement for sale.

30.3.12 On February 13, 2010 a fire broke out at around 5.30 pm at the official Ambassador's Residence. During the day there was a

function of film shooting by the Benesse Team of Japan whose crew members arrived at 12.30 pm at the Residence.

30.3.13 The Tokyo fire department after investigations established that the cause of the fire was a frying pan that was left with cooking oil on a fully lit gas cooker by the Ambassador's Cook (DFR 16). The cook was suspended from duty vide a letter Re: KET/L/PER/69(45) dated 23rd March, 2010

30.3.14 Mr. Allan Mburu Laid before Committee a file containing correspondence and documents related to the purchase of the property in Tokyo.

31.0 Evidence by Njeru John Kenneth Nyagah – Financial Attaché

31.1 He informed the Committee that:-

31.1.1 In 2006 several meetings were held between Mr. Kuriyama and the Mission on the possibility of selling the property to Mission. Mr. Kuriyama gave his price which was considered by the Ministry of Foreign Affairs to be overvalued. The Ministry advised for valuation of the property and not to rely on price by the owner.

31.1.2 The Mission contacted various valuers and real estate agents. The lowest bidder M/s Coral Corporation did a valuation in March 2007 and the Mission wrote to Ministry of Foreign Affairs on the valuation price.

31.1.3 Following the valuation the Ministry advised that the Mission approaches the owner of property on the basis of the valuation

price. Mr. Kuriyama rejected the valuation price after which the Embassy embarked on a search for other plots available for sale.

31.1.4 Seven plots were identified and categorised. The Government of Japan offered plot was ranked Number 1 on the basis of its size 700 m² , proximity to the Government offices, beautiful park, proximity to other Embassies, proximity to international schools, means of communication and rail transport etc. The immediate former Ambassador (Dennis Awori) was engaging with the Japanese Ministry of Foreign Affairs & Ministry of Finance on the land/plot.

31.1.5 The Mission wrote to the Ministry requesting that a team from Nairobi be sent to value the Government of Japan plot – (DFR 17). On 16/01/2009 the valuation team met Mr. Kuriyama at the Embassy. The valuation and validation team reintroduced the idea of purchasing the current premises. On the same day Mr. Kuriyama gave a quotation of JPY 1.9 billion for an area of 1664.28 m². Mr. Mburu convened another meeting to engage Mr. Kuriyama on the purchase price upon which Mr. Kuriyama gave a second offer of JPY 1.75 billion for an area of 1431.28m².

31.1.6 The adverts were placed on 26th January, 2009 and the deadline for submitting bids was 30/01/2009.

31.1.7 On 3rd Feb, 2009 a letter by the MF recommended that the offer be accepted within stated price.

31.1.8 The Ministry of Foreign Affairs wrote that Treasury had accepted the purchase on March 01, 2009.

- 31.1.9 Ambassador Awori convened meeting to inform Mr. Kuriyama that Government of Kenya had accepted to purchase the property & further informed that a lawyer was to be appointed to represent the Government of Kenya. Mr. Nobuo Kuriyama declined to have a lawyer in the transaction. The Mission was advised by Mr. Dick Olango, Architect not to use agents introduced by the vendor due to conflict of interest. (DFR 18)
- 31.1.10 When the decision to purchase current property was made Ambassador Awori was not in Japan.
- 31.1.11 He was on leave during the time that the team from Nairobi visited in January 2009 and therefore was not part of the team that validated the property.
- 31.1.12 The sale agreement was signed at the vendor's bank in the presence of all the mission procurement committee members.

32.0 Evidence by Catherine Muraguri - Confidential Secretary

32.1 She informed the Committee that:-

32.1.1 Ambassador Dennis Awori, initiated negotiations with Tokyo Mitsubishi UFG Bank for the financing of the purchase of the Tokyo property but the Ministry of Finance did not approve of the proposal to finance the purchasing of the property through a bank loan.

32.1.2 Mission requested the Government of Japan to sell land to the Government of Kenya for construction of an Embassy. The Ambassador held meetings with Senator Tetsuro Yano who assured

Amb. Awori that he would help in identifying a suitable Government land. Following meetings and negotiations the Government of Japan offered a plot measuring 700.39 meters squared for sale to the Government of Kenya in Minato-Azabu are at a price of JPY 1, 307, 000, 000. The Embassy procurement committee viewed the plot.

32.1.3 An inter ministerial team was sent from Nairobi comprising of officers from the Ministry of Foreign Affairs, Ministry of Lands and Ministry of Finance to assess the Government plot and other plots for comparison purposes. The team visited the plot, met officials of the Tokyo local finance office and Ministry of Foreign Affairs of Japan. The purpose of the meeting was to negotiate the price of the plot. The Government of Japan officials did not reduce the price citing that the price was decided through competitive tendering and in line with current market trends.

32.1.4 The team failing to make headways on price reductions decided to visit other comparative plots in the neighbourhood including the property rented by the Mission. The owner, Mr. Nobuo Kuriyama, of the rented property was approached to sell the property to the Mission. Mr. Kuriyama sought to consult family members after which he offered a price of JPY 1.9 billion but after negotiations the price came down to JPY 1.75 billion. The team advised that adverts be placed to get bids. A negotiating team was sent from Nairobi to negotiate for price reduction but Mr. Kuriyama declined further price reductions.

- 32.1.5 The procurement committee decided to hire a lawyer for the transaction and adverts were placed and Mr. Kijima was selected. A recommendation was sent to the Ministry headquarters. The Mission was informed that the permanent secretary had instructed that instead of hiring a lawyer the Mission should seek a letter of comfort from the owner indicating that once the money had been paid he would facilitate the transfer to the Government of Kenya. The Embassy procurement committee was also informed by Mr. Allan Mburu, that the Permanent Secretary had after consultation with the Japanese Ambassador to Kenya advised that the Mission uses a judicial scrivener (Shihoshoshi). The Mission was authorised to hire the 'Shihoshoshi' at a charge of JPY 457, 900. **(DFR 19)**
- 32.1.6 The purchase of the property was authorised vide Ministerial Tender Committee meeting No. MFA/MTC/07/2008-2009 of May 23, 2009. The sale agreement was drafted and sent for perusal by the Ministry's legal unit after which the Mission was advised to go ahead with the purchase. The Landlord was paid in instalments and the sale agreement was signed on behalf of the Government of Kenya by Mr. Allan Mburu in the presence of all members of the Embassy Procurement Committee and a bank representative at the Bank of the vendor. **(DFR 20)**
- 32.1.7 On February 13, 2010 a fire broke out at around 5.30 pm at the official Ambassador's Residence. During the day there was a function of film shooting by the Benesse Team of Japan whose crew members arrived at 12.30 pm at the Residence. Ms. Dorothy

Nthiwa was tasked to arrange for this function which involved preparation of a Kenyan dish.

33.0 Evidence of Mr. Peter Mose, Immigration Attaché –

33.1 The Committee was informed that:-

33.1.1 November 2006 Amb. Dennis Awori wrote to the ministry of the intention to purchase current property at US\$20 million (JPY 2 billion) with a recommendation to finance the purchase through bank loan.

33.1.2 April, 2007 the Mission was advised by Treasury to avoid the loan option and instead factor the cost in the budget

33.1.3 The Mission commissioned Coral Corporation to value the property and in March 2007 a valuation of JPY 1.09 billion was returned. This was communicated to the Ministry who advised that the offer be made to Mr. Kuriyama based on the valuation.

33.1.4 Mr. Kuriyama declined the offer and the mission explored other options and through the advice of experts the acquisition of Government of Japan land was recommended.

33.1.5 Amb. Awori initiated talks with the Ministry of Foreign Affairs, Ministry of Finance and Japanese political leaders on the purchase of a plot in Minami Azabu, Minato Ku where most embassies are located.

33.1.6 By August, 2008 Sen. Yano undertook to assist Kenya in getting a Government plot as he had promised His Excellency the President during a visit to Kenya. Subsequently, in October, 2008 the

Government of Japan offered to Kenya a plot at address 4-1-5 Minami Azabu, Minato Ku measuring 700.39 square metres.

- 33.1.7 From 13th to 16th January, 2009 an inter ministerial team was sent from Nairobi comprising of officers from the Ministry of Foreign Affairs, Ministry of Lands and Ministry of Finance to assess the Government plot and other plots for comparison purposes. The team visited the plot, met officials of the Tokyo local finance office and Ministry of Foreign Affairs of Japan. The purpose of the meeting was to negotiate the price of the plot. The team was accompanied by the mission's procurement committee.
- 33.1.8 The team failing to make headways on price reductions decided to visit other comparative plots in the neighbourhood including the property rented by the Mission. The owner, Mr. Nobuo Kuriyama, of the rented property was approached to sell the property to the Mission. Mr. Kuriyama sought to consult family members after which he offered a price of JPY 1.9 billion but after negotiations the price came down to JPY 1.75 billion. The team advised that adverts be placed to get bids. A negotiating team was sent from Nairobi to negotiate for price reduction but Mr. Kuriyama declined further price reductions.
- 33.1.9 The procurement committee decided to hire a lawyer for the transaction and adverts were placed and Mr. Kijima was selected. A recommendation was sent to the Ministry headquarters but during a meeting of the mission procurement committee Mr. Mburu informed members that the Permanent Secretary had

instructed that instead of hiring a lawyer the Mission should hire a Shihoshoshi who would facilitate the transfer to the Government of Kenya. The Embassy procurement committee was also informed by Mr. Allan Mburu, that the Permanent Secretary had after consultation with the Japanese Ambassador to Kenya advised that the Mission uses a judicial scrivener (Shihoshoshi). The Mission was authorised to hire the Shihoshoshi at a charge of JPY 465, 400. (DFR 21)

33.1.10 The purchase of the property was authorised vide Ministerial Tender Committee meeting No. MFA/MTC/07/2008-2009 of May 23, 2009.

33.1.11 The Landlord was paid in instalments and the sale agreement was signed on behalf of the Government of Kenya by Mr. Allan Mburu in the presence of all members of the Embassy Procurement Committee at the vendor's bank.

33.1.12 On February 13, 2010 a fire broke out at around 5.30 pm at the official Ambassador's Residence. During the day there was a function of film shooting by a Team of Japanese whose crew members arrived at 12.30 pm at the Residence.

34.0 Evidence of Ms. Dorothy Nthiwa, Political Officer-

34.1 She informed the Committee that:-

34.1.1 In January, 2009 an inter ministerial team was sent from Nairobi comprising of officers from the Ministry of Foreign Affairs, Ministry of Lands and Ministry of Finance to assess the Government plot

and other plots for comparison purposes. The team visited the plot, met officials of the Tokyo local finance office and Ministry of Foreign Affairs of Japan. The purpose of the meeting was to negotiate the price of the plot. The team was accompanied by the mission's procurement committee.

34.1.2 The team decided to visit other comparative plots in the neighbourhood including the property rented by the Mission. The owner, Mr. Nobuo Kuriyama, of the rented property was approached to sell the property to the Mission. Mr. Kuriyama sought to consult family members after which he offered a price of JPY 1.9 billion but after negotiations the price came down to JPY 1.75 billion. The team advised that adverts be placed to get bids. A negotiating team was sent from Nairobi to negotiate for price reduction but Mr. Kuriyama declined further price reductions.

34.1.3 The sale agreement was signed in June, 2009 when she was on leave in Kenya.

34.1.4 The deal was above board. On February 13, 2010 a fire broke out at around 5.30 pm at the official Ambassador's Residence. During the day there was a function of film shooting by the Benesse Team of Japan whose crew members arrived at 12.30 pm at the Residence. She assisted the cook to arrange for this function which involved preparation of Samosa's and tea. The TV team left at around 4 pm. When the fire broke out she was at the Chancery making arrangements for the Prime Minister's visit.

35.0 Evidence by the Mr. Dick Olango of Atelier Olango Architecture & Design

35.1 The Committee held a meeting with Mr. Dick Olango Architect on Monday, July 19th 2010 at the Kenya Embassy, Tokyo. Mr. Dick Olango informed the Committee that:-

35.1.1 The Committee was informed that he came to Japan 12 years ago to study architecture and after completing his studies he worked in Japan before starting his own firm AOAD – Atelier Olango Architecture & Design. He started his own firm Licence No. 78264 – Architect Licence No. Tokyo Government Architectural Practice Licence No. 13864.

35.1.2 In January 2009 he was hired to work with the evaluation and inspection team from Nairobi. During the team's validation exercise he translated technical terms & briefed it on how the Japanese real estate system works. He was also requested to evaluate the feasibility of constructing new Embassy property vis a vi purchasing the rented property. He was paid JPY 500,000 – by cheque by the Mission for the services rendered.

35.1.3 The current location of the Embassy is a first low rise residential area with a 10 metre high restriction and a site coverage ratio of 60% (one can build up to 60% of the site area) and a total floor space ratio of 150%. The area is also a quasi fire zone with shadow regulations (no building allowed 10 metres distance from the boundary line) (DFR 22). The Japanese real estate construction is based on a 'scrap and build' system which must adhere to

changing regulations, new technology and natural disasters. The buildings must therefore adapt to present requirements such as the yearly earthquake regulations.

35.1.4 The area in the Government of Japan offered plot at Minami Azabu, Minato-ku allows for more floor space, a tall structure is possible which could also cater for other diplomats apartments hence cut of monthly rent.

35.1.5 The current premises occupied by the Embassy were built more than twenty years ago and therefore according to Japanese standards it is only the land that is valued since the buildings have to be brought down, assuming that their suitability has been affected by the many earthquakes that have hit Japan, and new structures put in place in line with new technology and changing regulations.

35.1.6 Tokyo is an historical city and is generally considered to be rich in archaeological materials. As a result, during construction the site is tested for archaeological materials.

35.1.7 He advised the Mission that *with all factors taken into consideration, it is clear that staying in the present embassy proves to be costing the embassy more than the option of moving. The landlord quoted very high rates for the purchase of the land. Another factor is that the building will require renovations.*(DFR 23)

36.0 Evidence by Mr. Nobuo Kuriyama, Vendor

36.1 The Committee held a meeting with Mr. Nobuo Kuriyama, the vendor, at the Kenya Embassy in Japan. He informed the Committee that:-

36.1.1 The Kenya Embassy in Tokyo through the then Ambassador requested him to construct the property for use by the Embassy and as per specifications of the Ambassador. Upon completion a contract was signed with a clause indicating that if the property was to be sold then the Embassy could be given priority to purchase it.

36.1.2 Two years ago, the Mission requested him to sell the property. He was reluctant to sell the property since the land was an inheritance for the family but due to the longstanding relationship with the Mission he agreed to the request.

36.1.3 The purchase price was higher than the valuation but this was determined by the negotiations between himself and the Mission.

36.1.4 In Japan the price of buildings is not included in the purchase price because the buildings are old and can only be demolished to pave way for new construction but the Embassy wanted to use the buildings and never intended to demolish them.

36.1.5 He further informed the Committee that if he were to sell the property to Japanese, it can only fetch JPY 600 million.

37.0 Evidence by Mr. Hidehiko Takayashi, M/s Coral Corporation

37.1 The Committee held a meeting with Mr. Takayashi M/s Coral Corporation at the Kenya Embassy, Japan. The Committee was informed that:-

37.1.1 In 2007 the Kenya Embassy in Tokyo requested M/S Coral Corporation to prepare an evaluation of the land. An evaluation report was prepared and submitted to the Embassy and thereafter nothing was requested of the company. He only learnt of the purchase when requested to talk to the Committee.

37.1.2 Mr. Takayashi informed the Committee that he is not a land appraiser (valuer) but only collected information on land and real estate and submitted it to the Mission. In 2007 after the request by the Embassy he returned a value of 1.09 billion for the property. Current market price for the property would be around the same value or slightly cheaper. In Japan properties that are more than 10 years for wood and 20 years for natural stones are considered valueless, upon purchase such property is destroyed and new structures put up using modern technology and according to regulations and existing laws. (DFR 12)

37.1.3 The real estate property is located at 3-24-3 Yakumo, Meguro-ku, Tokyo was built in 1988 and is first low level residential area with a site coverage of 60% and a floor space ratio of 150% with a height limitation of 10 metres. The property is in a semi fire prevention area.

37.1.4 The land rates in Japan appreciate or depreciate depending on location or area. Prices in Meguro area are going down. Generally properties are going down from JPY 3million per Tsubo in 2007 to 2 million per Tsubo in 2010. (DFR 24)

38.0 Evidence by the Tokyo Fire Department

38.1 The Committee held a meeting with the Meguro Ward fire department at the Kenya Embassy, Tokyo. The Committee was informed that:-

38.1.1 The Fire started in the kitchen set cooker located in the ground floor of the Ambassador's Residence as indicated by the burnt board behind the store/gas cooker. The oil in the frying pan overheated and caused fire

38.1.2 The Fire later spread from the kitchen to the dining and other areas in the building and collapsing part of the second floor directly above the kitchen.

38.1.3 Received a call about the fire at 17.50 hours at the Tokyo Metropolitan area. Yagumko fire department arrived at 17.53 hours on 13/2/2010. The House was extremely burnt due to the materials (wood) used in building. The fire was extinguished one hour after the arrival of the fire fighters.

38.1.4 The area is categorised as residential area and therefore designated for small fire equipment. The Mission is located in the second row from the main Meguro road.(DFR 25)

39.0 Meeting with Kenyan Diaspora in Japan

39.1 The Committee met with representatives of Kenyans in Japan. The meeting discussed the role of the Kenyan Diaspora in Japan.

39.1.1 The Committee called upon the Ambassador to work closely with the Diaspora in promoting Kenya's image in Japan. The Diaspora was requested to invest in Kenya and project a positive image of the country.

39.1.2 The Kenyan's in Japan expressed concern that the purchase of the property was suspect and that the value of the property was exorbitantly high. The Diaspora further informed the Committee that real estate prices in Japan have been in the decline for the past five years.

39.1.3 The Committee was also informed that in Japan buildings that are more than ten years for wood and twenty years for concrete have no value attached to them and it is only the land that is purchased. Old structures once purchased are demolished and new buildings are constructed with new technology and construction guidelines.

39.1.4 It was preferable for the Mission to purchase the Government of Japan plot in Minamu Azabu rather than the current premises in Meguro - ku due to its location at the CBD. (DFR 26)

40.0 Site Visit of the areas surrounding the Kenya Embassy in Meguro-ku

40.1 The Committee observed that:-

- 40.1.1 The area is predominantly residential with narrow streets and with the exception of the Embassy of Rwanda there are no other Embassies in the immediate neighbourhood.
- 40.1.2 The plot has no road frontage and part of it is used as access road to the Embassy, hence reducing the area available for construction.
- 40.1.3 Buildings in the area are Maisonettes with no high rise buildings except on the other side of Meguro road which is in another building zone which is not covered by the same height restrictions. (DFR 27)

41.0 Site Visit to the Government of Japan offered plot, Minato-ku

41.1 The Committee visited the Government of Japan offered plot and observed that:-

- 41.1.1 The plot was located in close proximity to other Embassies such as Pakistan, Algeria, USA, Germany and Australia. Close to 70 other Embassies are located in the Minato ward.
- 41.1.2 The shape of the plot is not irregular as alleged by some witnesses.
- 41.1.3 The plot is located in Minato area and only a few minutes away from the Ministry of Foreign Affairs and the Central Business District and close to public transport system (trains, metro etc).

41.1.4 International schools and a beautiful park are located near the plot.

41.1.5 The European Union had commenced construction on a plot they had purchased next to the plot offered to Kenya. Morocco had also purchased a plot next to the EU. (DFR 28)

42.0 Site Visit to the Government of Japan offered plot, Minato-ku

42.1 The Committee visited the Government of Japan offered plot in the company of officials of the Ministry of Foreign Affairs of Japan who showed the Committee the beacons of the plot. (DFR 29)

43.0 Meeting with Senator Tetsuro Yano

43.1 The Committee held a meeting with Senator Tetsuro Yano at Parliament buildings and discussed bilateral relations between Kenya and Japan. The discussions centred on the technical assistance offered to Kenya by Japan, the role of Kenya in regional and international peace building efforts.

43.2 The meeting stated the long standing and strong relations between the two countries which has been strengthened by the high level visits by leaders from the two countries. The meeting reiterated the need for greater cooperation and sharing of information by the two countries.

43.3 The Committee appealed for greater cooperation in the areas of energy, environmental conservation, investment and peace building.

44.0 Written submission from Meguro tax and planning office –

44.1 The submission from Meguro tax office dealt on the issue of planning regulations, permissible height, land values in Meguro area.

44.1.1 Planning regulations - The Meguro planning office must be consulted on regulations governing development.

44.1.2 Permissible height for Yakumo 3-24-3 Chome

- (i) The height of structures to be developed is calculated at a radius of 20 metres from the main road and is applicable on either side of the road.
- (ii) Areas within 20 metres from the main road have a slight flexibility in height than those outside the 20 metre area.
- (iii) The location of current embassy is outside the 20 metres area and is located in a restricted residential area and therefore the maximum height is 10 metres.
- (iv) The building structures must be not more than 5 metres to the northern side.
- (v) This restriction is supposed to protect the neighbour's amount of sunlight per day.
- (vi) Current location of the embassy is a restricted residential area and the Embassy requires a special permit from Meguro planning office to construct an embassy chancery or convert into office use. The presence of the residence is the only guarantee at the moment that enables the buildings to be used for office use.

44.1.3 Value per Tsubo or square metre 2009/2010 in Yakumo

- (i) Since 2006 to 2009 property prices in Japan have fallen drastically and in 2009 to 2010 the prices per square metre fell by 16%.
- (ii) The price per square metre for 2009 at the current location where the embassy is located was 488, 000 Japanese Yen per square metre and in 2010 this price fell by 16%. (DFR 30) (DFR 31)

45. Committee Observations on the purchase of properties in Tokyo, Japan

- 45.1 The valuer from the Ministry of Lands relied on limited information to arrive at the value of the properties in Tokyo, Japan. The Kenyan valuer was not better placed to value the property and should instead have dealt with a local valuer who would have given appropriate cost for the plot.
- 45.2 The Government of Kenya had exerted political and diplomatic pressure on the Government of Japan to sell to the Kenya a suitable plot to develop a Chancery and Residence for the Embassy and there was assurance from the Government of Japan on the same and further that a suitable plot had been identified and offered for sale by the Government of Japan.
- 45.3 Other than the valuation carried by the Ministry of Lands no independent valuation was conducted in 2009 by a local firm.
- 45.4 M/s. Coral Corporation conducted two valuations on the property prior (2007) to and after the purchase. The valuation after the purchase of the property was worth less money than what the Government of Kenya purchased it.

- 45.5 Despite numerous indicative rates suggesting a much lower value for the property the Ministry decided to purchase the property at an exorbitant price way above the valuation prices given by the Ministry of Lands and M/s Coral Corporation.
- 45.6 Despite recommendations of the Ministerial Tender Committee and Mission's own procurement committee, the Ministry decided to conclude the purchase transaction without the services of a lawyer.
- 45.7 The sale agreement was drawn by the vendor, translated by the vendor's friend and signed by Mr. Allan Mburu and lodged at the justice Ministry of Japan by the Shihoshoshi. The Permanent Secretary Mr. Thuita Mwangi, signed another Agreement to regularize the agreement signed by Mr. Alan Mburu who was not authorized to sign the agreement. The officers ignored the provisions of the Public Procurement and Disposal Act, 2005
- 45.8 The Ministry of Public Works was not involved in determining and assessing the structural suitability of the premises in spite of the process matrix from the Ministry of Foreign Affairs indicating when the Ministry of Public Works was to undertake inspection of the Chancery and Residence.
- 45.9 The Mission advertised for bids within a limited locality and the time for submitting bids was limited contrary to Regulation 40 of the Public Procurement and Disposal Act. This limited time for submitting bids resulted in the few number of bids received. The adverts were also placed in English newspapers with limited

coverage instead of being placed in Japanese newspapers with wide coverage.

- 45.10 Negotiations started way before the normal procurement procedures were followed and the Ministry purported to use open tendering while using direct procurement contrary to the advice of the Public Procurement Oversight Authority and the provisions of the Public Procurement and Disposal Act, 2005.
- 45.11 Ambassador Awori did not Chair the evaluation and inspection team meeting that decided to purchase the Chancery and Ambassador's Residence as opposed to the plot offered by the Government of Japan contrary to allegations by the Minister for Foreign Affairs. At the time Ambassador Dennis Awori had left Japan for a meeting in Gaborone, in Botswana.
- 45.12 The internal audit carried by auditors from Ministries of Finance and Ministry Foreign Affairs did not involve technical experts like architects, town planners, valuers, surveyors or structural engineers. Thus the report purporting to exonerate wrongdoing relied on limited information as it did not involve professionals in the field.
- 45.13 Kenyans in Diaspora are not happy with the current location of the Chancery and would prefer that the Chancery be moved to Minato-ku. Further they consider the price paid in acquiring the Chancery as exorbitant and suspect.

46. Committee Findings on purchase of properties in Japan

- 46.1 Long negotiations with the Government of Japan with Presidential intervention during a meeting with Senator Tetsuro Yano in Nairobi. Intensive political and diplomatic pressure led the Government of Japan to prioritise the offer of the plot in Minato Ku to Kenya. The decision to reject the Government of Japan offered plot was a diplomatic embarrassment considering the long diplomatic negotiations (over 18 months) by the Mission through the Ministry of Foreign Affairs of Japan and the political intervention of H.E. President Mwai Kibaki during a meeting with Senator Tetsuro Yano. The rejection of the plot was an embarrassment to the Presidency. **(DFR 32)**
- 46.2 Taking into account Japan's importance as a strategic partner to Kenya, the current location is not convenient and does not reflect Kenya's strategic importance and stature in regional and international diplomacy. A move to a more convenient and suitable location preferably in Minato ward would reflect Kenya's regional and international standing among nations. There is therefore need to move to a suitable location preferably the Government of Japan offered plot where the Mission can build a modern multi storey building for a Chancery, Ambassador's Residence, staff Residences and leased space to other East African Partner States.
- 46.3 There was deliberate disregard of professional advice given to the Ministry both by professionals within and outside Government :-

46.3.1 Lawyers advise –

46.3.1.1 Mr. Yoshito Kijima of Kijima international legal office in Japan vide letter KET/ADM/1/11A/VOL.II/(73) dated 16th June, 2009 to act on behalf of the Government in overseeing the execution of the transfer of the property to the Government of Kenya. (DFR 33) – advised that the transaction is irregular and further that negotiations were necessary. The lawyer in a letter dated June 12, 2009 advised the Embassy that:-

- (a) *In Japan, we do not pay 80% of the price upfront. We usually pay 10%-20% of the price and pay the balance of changing the registration. This is historically common methods of transaction. This is to avoid all risks arising from the real estate transaction.*
- (b) *The price that was offered and agreed here is extremely higher than the true values of the properties. The Government should buy these properties in a not fair price because the lack of research and lack of 'tools' to win the negotiation. One of our brief research indicated that the reasonable price of the properties are 1 billion Japanese Yen. To deal with such a person, the Government should negotiate with him (Kuriyama) with the certificate of the values which is currently issued.*
- (c) *Please be kindly informed again that the scheme that the Government agreed above is very unusual and we barely*

could see such a transaction in Japan. This is not recommended scheme at all. The lack of the basic research is fatal. So the Government should purchase the properties not in the reasonable price. I believe that this could be avoided by involving the experts in the negotiations with the owners. It is very difficult for us to understand why the Government should not purchase the properties not in the reasonable price. I believe that this could be avoided by involving the experts into the negotiations with the owners. It is very difficult for us to understand why the Government wants to take this kind of risk and why they stepped into the negotiation without basic research required in Japanese deal. I believe that the process is totally different in the usual real estate transaction in Japan. Frankly speaking, these risks are now a hinder for processing the drafting the contracts and complete the transaction safely.

(d) This transaction is very irregular and no experts will agree to step these processes.

46.3.2.2 Lawyer Shoji Yanagawa in his letter dated 7th April, 2009 advised the Embassy that:-

- (i) Land prices in Japan generally began following a downward path from 2008.

(ii) I recommend that your embassy perceive the price range of JPY 1,018,284,985 to JPY 1,089,204,080 as a fair yard stick for the price range for the four plots.

(iii) There is the possibility that MS. Kuriyama and the two others will demand a considerably high price for the properties from the government of Kenya in order to repay the money they owe the bank. (DFR 34)

46.3.2 Public procurement oversight authority advice on the procurement method- the ministry sought to use special procurement procedure but were advised to use other methods. The Ministry purported to use open tender but only advertised for three days and negotiated even before the tenders were advertised and bids received.

46.3.3 Valuers advise

(a) Valuers' opinion on the buildings – M/s Coral Corporation, real estate agents had indicated that the buildings were more than 20 years old and therefore it is only the value of land that is considered and not the value of the buildings. Ministry of Lands, Kenya - *lifespan is more than 20 and 10 years value of the buildings has no value. The Value of buildings should be disregarded when negotiating for the selling price. (DFR 12)*

(b) Valuers opinion on the plot - The Ministry of Lands valuer Mrs. Teresia Kimondiu advised in her report dated 25th May 2009 that *property located off Meguro Dorri*

Road Yakumo area 3-24-3 Meguro-ku is zoned residential with a site coverage of 60% and a floor ratio of 150% with maximum height is 10 metres. The plot does not front the road and portion of it used as an access road hence reducing area available for construction. No embassies are located in the neighbourhood. The valuer further advised on need to establish if there are encumbrances/liabilities on the title.

(c) Architect advised that *with all factors taken into consideration, it is clear that staying in the present embassy proves to be costing the embassy more than the option of moving. The landlord quoted very high rates for the purchase of the land. Another factor is that the building will require renovations,* the architect further advised that the Government of Japan plot has more potential as compared to current premises.

(d) The Ministry of Foreign Affairs vide letter Ref: MFA.HSE 9/56A dated April 20th, 2009 advised that, *'..... imperatively necessary that the Mission engages a lawyer cum a licensed real estate agent to safeguard the interest of the Mission in the entire transaction'*. The letter further advises the Mission to urgently source for this service to enable the consultant join the negotiating team scheduled to visit the Mission shortly. (DFR 35)

(e) Technical team from Nairobi in its meeting of 12th may, 2009 in Tokyo *observed that in order to safeguard Government interests in a transaction of this magnitude, it was imperative to hire services of a legal counsel/estate agent as previously recommended because of the nature of the transaction i.e. different ownership of land and buildings, existing charge on the properties to the sum of 1.94 billion yen, property sits in on different parcel of land and therefore the need to consolidate them and more important, the adequate understanding of conveyance practises in Japan amongst mission staff bolstered by the language barrier.*

46.4 Valuation - The Committee noted that before the purchase of the property no valuation was done by local valuation (Japanese) firm as is the practise for those seeking to purchase property in foreign land. Disregard of Ministerial Procurement Committee advice to hire a professional Valuer to value the property. The use of a professional Japanese valuation firm could have given the Ministry the right price for the property and therefore value for money considering that land prices in Japan were on the downward trend following the world financial crisis beginning in 2008. (DFR 36)

46.5 Payment - All payments were effected before the property was purportedly transferred to the Government of Kenya. This exposed and compromised Kenya's national interest. From evidence adduced by Mission staff up to 85% of the payment was effected

before transfer of the properties (DFR 37). The Committee on Defence and Foreign Relations was concerned that all members of the Mission's procurement Committee went to the vendor's Bank when the vendor was being paid and therein signed the sales agreement. Officers accelerated the transfer of money in total disregard of the advice given by the lawyer and the provisions of section 9 of the public officers and ethics Act. (DFR 20)

46.6 Power of Attorney – The Committee was concerned that Mr. Allan Mburu, CDA, irregularly granted himself the power of Attorney and signed the sale agreement without authority contrary to provisions of section 2 and 4 of the Government Contracts Act and The Sources of Authority and Control of Government Finances. (DFR 38)

46.7 Hiring of a lawyer – The mission in a meeting held on 31/3/2009 established real estate practice in Japan requires that a lawyers who double as a real estate agent must be involved in process towards acquisition of property however the Ministry opted to hire a 'Shihoshoshi' instead of a lawyer to transact the purchase. From the visit it emerged that the 'Shihoshoshi' is not a lawyer and therefore could not represent the Mission in case of legal issues that might arise on the purchase. The 'Shihoshoshi' did not prepare the agreement and instead the Sale agreement was prepared by the vendor, with all risks involved.

46.8 Building not to be included in price negotiations – due to the age of the buildings and as per practice in Japan (land regulations)

buildings that are more than twenty years are not valued since new structures have to be built in line with new building requirements and technology. The Ministry however went ahead and included the price of buildings in their purchase price against the advice of the Ministry of Lands Valuer, Real Estate Agent (M/s. Coral Corporation) and Architect (Mr. Olango) as well as the validation team. (DFR 39)

46.9 Town planning regulations – the property is located in an area with limitations/restrictions on plot use and height restrictions (DFR 30) Minister misled the Committee. From a planning and a land use point of view, According to the Architect, bigger space can be put for Government of Japan offered plot as opposed to the current plot. Government of Japan plot has greater development potential. Part of the property purchased by the Government is used as a road as there is no road frontage (DFR 03).

46.10 Archaeological site – Government of Japan offered plots to diplomatic Missions for construction of Embassies. The Embassies of Pakistan and Algeria had already been constructed and in use while the EU was constructing on a plot they had purchased from the original plot without interference from the Government of Japan. Tokyo city is considered generally an archaeological area but the Government allows developers to excavate and only tests the ground for archaeological materials with limited interference. This is contrary to the Minister of Foreign Affairs submission that the

government of Japan offered plot is under caveat. Material misrepresentation of facts by the Minister. (DFR 40)

46.11 Existence of two sale agreements – The Committee was amazed of the existence of two sale agreements on the same property signed by two different officers purportedly on the same on 30th June, 2009 in Tokyo. One agreement signed by Mr. Allan Mburu, CDA and another by Thuita Mwangi the Permanent Secretary. The two agreements were purportedly signed on the same date. The Committee was concerned over the two agreements in respect of the same property and same day. Mr. Thuita Mwangi was never in Tokyo on the material day. (DFR 41), (DFR 42).

46.12 The Committee was amazed that the agreement used for purposes of registration and transfer of the property was the one signed by Mr. Allan Mburu. Mr. Alan Mburu signed the contracts in contravention of the section 2 and 3 of the Government Contracts Act Cap 25 Laws of Kenya. The Committee was concerned over the validity and authenticity of the sale agreements signed by Mr. Allan Mburu and the Permanent Secretary, Mr. Thuita Mwangi.

46.13 The Committee is concerned as to whether there is any legitimate or valid registration of Kenya's interest in the property and the fate of the payments of the JPY 1.75 billion made to Mr. Nobuo Kuriyama.

46.14 Ministry of Public Works was never involved in the purchase of the property – the Ministry of Public Works was not involved in the validation team that was sent to Tokyo and even after the

Ministry of Foreign Affairs prepared a process matrix in which the Ministry of Public Works was to assess the structural suitability of the buildings before the purchase, the Ministry of Public Works was never invited to assess the suitability of the premises in spite the matrix indicating their involvement. The involvement of the Ministry of Public Works before the purchase could have guided the Ministry of foreign affairs in determining the suitability of the structures and consequently the price. (DFR 43)

- 46.15 Contrary to the Minister and Mission officials, the Government of Japan plot according to the architect hired by the Mission had a better shape – the Ministry had briefed the Committee that the Government of Japan offered plot was irregular and therefore not suitable for the Embassy. On site visit and on interviewing the Architect, Mr. Dick Olango, it was evident that the shape of the plot could not affect the construction of an Embassy. The Architect had indeed submitted proposed architectural drawings to the Ministry for construction of the Chancery (DFR 23). The Ministry of Lands valuer had advised the Ministry of Foreign Affairs that the current property did not have a road frontage and portion of the plot used as an access road to the Chancery and Residence hence reducing area valuable for construction.
- 46.16 The Embassy never undertook due diligence to establish the insurance cover for the property upon the handing over of the ownership of the property after the first instalment.

46.17 To date the Kenya police have not investigated the cause of fire that destroyed the Ambassador's Residence in Japan.

CHAPTER FOUR: SALE OF GOVERNMENT PROPERTY IN LAGOS AND CONSTRUCTION OF CHANCERY AND RESIDENCE IN ABUJA, NIGERIA

47 Evidence by the Minister for Public Works

47.1 The Minister, Hon. Chris Obure, EGH, MP appeared before the Committee on May 12, 2010 and adduced evidence follows:-

47.2 Construction of Chancery staff quarters and Ambassador's Residence

47.2.1 Following the relocation of the political capital of Nigeria to Abuja the Federal Government of Nigeria allocated to all foreign diplomatic Missions plots at no direct cost for construction of Chanceries and Ambassadorial Residences in Abuja.

47.2.2 Initially the construction of the proposed Chancery was pegged on the sale of the property in Lagos but after the sale of the Lagos property the funds were diverted to purchase a property in Japan. Construction of the Chancery commenced in February 2010 and works are currently ongoing after the contract was awarded to M/s Diamatrix Ltd of Nigeria and contract agreement signed on February 12th, 2010.

47.2.3 The project was scaled down From 1, 183, 695, 249.15 Nigerian Naira to 1, 019, 753, 456.93 Nigerian Naira due to budgetary constraints.

47.3 Evidence by the Minister for Foreign Affairs –

47.3.1 The Hon. Moses Wetangula, EGH, MP, Minister for Foreign Affairs appeared before the Committee on August 12, 2010 and adduced evidence as follows:-

47.4 Sale of Government properties in Lagos

47.4.1 In 2003 the properties were advertised and bids received but the sale was suspended by the Ministry of Foreign Affairs Headquarters. In 2006 further attempts were made at selling the properties. Kenya Airways offered to purchase the properties at \$1,750, 000 but Treasury advised that the property be sold at the market value provided by the Ministry of Lands valuer. In March 2008 an Inter-ministerial inspection team visited Lagos to commence the sale process. The properties were valued by a Ministry of Lands valuer who accompanied the inter-ministerial team at N 710, 735,000 (KES 421,430,000). A second valuation was done by an independent Estate surveyor and valuer who returned a value of N 770, 000, 000 (KES 428, 996, 252). In April 11 to 15, 2008 tender adverts were placed in local dailies and the tender bids closed in April 25, 2008. A team from Nairobi was sent to oversee the bid selection and evaluation. The property was sold to 21st Century Global Capital Ltd, the highest bidder with GBP 8,815,000 (KES 984,709,080.40). The Ministry headquarters processed the transfer of documentation and consent to transfer of title ownership to the 21st Century Global Capital Ltd.

47.4.2 The proceeds of the sale of the properties were remitted to Treasury.

A total of KES 994, 205, 064 was remitted to Treasury and the balance of KES 7, 915, 293.40 was used to pay the Missions rent and a further GBP 14, 015 (KES 1, 580, 690.15) used to remit the money to Treasury.

47.5 Construction of Chancery staff quarters and Ambassador's Residence

47.5.1 In 1991 the Federal Government of Nigeria relocated its capital city to Abuja and all Diplomatic Missions were offered plots at no direct cost to construct a Chancery and Residence. The Kenya High Commission relocated to Abuja in 2004 and leased properties for the Chancery and Residences.

47.5.2 The Government of Kenya was allocated two plots: plot No. 357 measuring 1.92 acres in the CBD for construction of Chancery and staff quarters and the other plot No. 945 measuring 0.6 acres in Maitama area for construction of the official Residence.

47.5.3 Open tender prequalification for construction of the Chancery and Residence was carried out and advertisements placed in local dailies. Sixteen firms were prequalified during the tender committee in December 8th 2008. Twelve tenders were sold and tenders closed on January 27, 2009 and tenders received were five. Tender evaluation was done by M/s D & B limited, the project consultant, together with officers from Ministry of Foreign Affairs and Ministry of Public Works. The Ministerial Tender Committee awarded the contract to M/s Diamatrix limited of Nigeria and contract signed in February 12,

2010 and the works started in April 2010 with a contract period of 18 months.

47.5.4 The original contract sum was N 1, 183, 695, 249.45 (KES 769, 401, 902.14). The project was later scaled down by 14% to remove non priority items leading to reduction in the contract sum to N1, 019, 753, 456.93 (KES 662, 839, 747). The budgetary allocations for the projects were as follows: 2009/2010 KES 300 million; 2010/2011 KES 280 million. An initial certificate of 35% (KES 185, 595, 129.15) was issued and certified by the Ministry of Public Works. Inspection of the project was done in June 2010 by a team from Foreign Affairs and Public Works. The anticipated completion date is October, 2011.

48.0 Evidence by the Deputy Prime Minister and Minister for Finance

48.1 The Deputy Prime Minister and Minister of Finance, Hon. Uhuru Kenyatta, EGH, MP appeared before the committee on August 8, 2010 and gave the following evidence, that:-

48.1.1 Sale of Government properties in Lagos

48.1.1 The property was advertised and the highest bidder was offered to purchase the property at a price of KES 984, 709, 080 and the funds credited to the exchequer in January 15, 2009. Kenya airways had sought to purchase the property but later withdrew their offer of KES 129 million while the property had been valued at KES 161, 700, 000 in 2006.

49.0 Construction of Chancery and Staff Quarters and High Commissioner's Residence

49.1 The Government of Nigeria had allocated plots at no direct cost to all diplomatic Mission's for construction when the Federal Capital was relocated to Abuja. Tenders for construction of the Chancery, staff quarters and official Residence were floated and on February 12, 2010 the contract for the construction was signed at a cost of KES 753, 000, 000.93.

50.0 Evidence by the Governor, Central Bank of Kenya

50.1 The Governor Central Bank of Kenya, Prof. Njuguna Ndungu appeared before the Committee on September 7, 2010 and informed the Committee that:-

Sale of Government properties in Lagos

50.1.1 In December 16, 2008 the CBK was advised by the Ministry of Foreign Affairs through a letter from the Permanent Secretary that the Kenya High Commission in Abuja was transferring proceeds of GBP 8,815, 000 (Less 14, 000 for Bank charges) being sale of Government of Kenya property in Lagos, Nigeria to an account specified by the Ministry of Foreign Affairs.

50.1.2 The CBK, on December 29, 2008, received a Swift FIN 910 from the Bank of England advising a credit of GBP 8, 730, 805 from the Kenya High Commission, Abuja Nigeria.

50.1.3 On December 30, 2008 CBK received a letter from the Ministry of Foreign Affairs advising that GBP 8, 730, 805 be credited in their

Development Account No. 01-010-D004. An amount of KES 984, 709, 080.40 was transferred to the Ministry's account as advised and a notification issued. (DFR 44).

51.0 Inspection visit to the Kenya High Commission in Abuja – 18th to 19th August, 2010

51.1 The Committee paid a courtesy call on the Kenya High Commissioner to Nigeria, H.E. Francis K. Sigei, EBS on Thursday August 19th, 2010. The High Commissioner welcomed the Committee to Nigeria.

51.2 The Committee thereafter held a meeting with the Mission staff and was briefed on the operations of the High Commission and Kenya – Nigeria relations, sale of the Government property in Lagos and the construction works for the Chancery and staff apartments and official Residence in Abuja.

52.0 Evidence on Sale of properties in Lagos, Nigeria

52.1 The High Commissioner, H.E. Francis Sigei, EBS accompanied by Embassy staff briefed the Committee on the sale of Government properties in Lagos as follows:-

52.1.1 In 1991 the Federal Government of Nigeria relocated its capital city to Abuja and all Diplomatic Missions were offered plots to construct a Chancery and Residence at no direct cost. The Kenya High Commission was therefore to relocate to Abuja in 2004 and leased properties for the Chancery and Residences. Attempts to sell the property in 1998 and 2002 failed due to low offers received

from prospective buyers. In 2003 the properties were advertised and bids received but the sale was suspended by the Ministry of Foreign Affairs (DFR 45) Headquarters.

52.1.2 The Mission in November 1998 had engaged the services of a law firm, Chuma Anosike and Co. at a fee of 5% of the sale price. The lawyers have never been paid and are claiming payment. The lawyers have written to the Mission through the Ministry of Foreign Affairs of the Federal Republic of Nigeria. (DFR 46) & (DFR 47). The law firm was hired to ensure that the title was authentic and no outstanding payments to the state Government, carry out due diligence to ensure that bidders source of funds are transparent, facilitate transfer of title to successful bidder once the sale amount is in GOK account in Abuja and ensure that the buyer takes vacant possession of the property immediately after sale procedures and documents are completed.

52.1.3 In 2006 further attempts were made at selling the property. Kenya Airways offered to purchase the property at \$1,750, 000 but Treasury advised that the property be sold at the market value provided by the Ministry of Lands valuer.

52.1.4 In March 2008 an Inter-ministerial inspection team visited Lagos to commence the sale process. The properties were valued by a Ministry of Lands valuer who accompanied the inter-ministerial team at N 710, 735,000 (KES 421,430,000). (DFR 48) A second valuation was done by an independent Estate surveyor and valuer who returned a value of N 770, 000, 000 (KES 428, 996, 252)

appendix value reports) the independent valuation firm Ben Chika and Co. have never been paid and are now demanding to be paid their dues totalling N 31, 010,000 **(DFR 49)**. The Ministry vide letter MFA.212/320A/VOLIII approved payment of the services of a valuer **(DFR 50)**

52.1.5 In April 11 to 15, 2008 tender adverts were placed in local dailies and the tender bids closed in April 25, 2008. A team from Nairobi was sent to oversee the bid selection and evaluation. The property was sold to 21st Century Global Capital Ltd, the highest bidder with GBP 8,815,000 (KES 984,709,080.40). The Ministry headquarters processed the transfer of documentation and consent to transfer of title ownership to the 21st Century Global Capital Ltd.

52.1.6 Proceeds of the sale were remitted to a Central Bank of Kenya Account in London as per instructions from the Ministry Headquarters **(DFR 51)**. The proceeds of the sale of the property was remitted to bank of England, London account number GB1 1 BKEN 10000041810007. A total of GBP 8,744,820 was remitted to the aforementioned account and the balance of GBP 70, 180 **(DFR 52)** was used to pay the Missions rent in Abuja and a further GBP 14, 026 used to remit the money to London. **(DFR 53)**

52.1.7 Due to the importance of Lagos commercially, there is need to maintain the Missions presence in Lagos. Most Missions still retain presence in Lagos being the commercial capital for Nigeria and the whole of West Africa. The Immigration Attaché is currently

operating from Kenya Airways premises. This has denied him diplomatic privileges since it is contrary to the Vienna Convention.

52.1.8 A lawyer and valuer hired to assist in the disposal of the property in Lagos have written on several occasions to the Kenya High Commission demanding payment for the services offered. The lawyer has indeed written to the Ministry of Foreign Affairs of Nigeria seeking payment.

53.0 Evidence on construction of Chancery, Staff Quarters and High Commissioner's Residence

53.1 The Committee was further briefed on the Construction of the Chancery, Staff Quarters and High Commissioner's Residence as a follows, that:-

53.1.1 The Federal Government of Nigeria allocated Kenya two plots in the diplomatic enclave, Plot 357 and 945 for the Chancery at Abuja CBD and the other at Maitama for the Residence respectively. The High Commission sought the assistance of the Minister of Federal Capital Territory in providing information on reputable construction companies. Most of the companies provided by the Minister either declined or did not respond to the invitation to do the job. The Mission thereafter identified two companies D & B Ltd and Julius Berger through internet research to undertake consultancy and architectural services. Julius Berger declined to offer the services while D & B Ltd accepted to provide architectural services. Authority to procure the services of D&B Ltd

was granted by the Permanent Secretary who hired the consultant vide letter MFA.212/320A/49.

53.1.2 The consultant was hired to provide a detailed design and documentation of the project, appoint sub consultants and supervise them and supervise the entire construction works. The company initiated the original architectural design that was reviewed and approved by the Ministry of Public Works and Foreign Affairs.

53.1.3 As per the terms and conditions of hire, the Consultant was paid N17, 828,807.06 (25%) after completion of preliminary drawings, N35, 657,614.12 (50%) after completion of working and detailed drawings and a further N 875, 000 for geotechnical and topographical survey.

53.1.4 In November 2008 under instructions from the Government of Kenya the consultant prequalified construction companies with the aim of identifying construction firms with capacity to handle the project. Adverts were placed in two local dailies and on November 17, 2008 bids were opened by the High Commissions procurement committee and out of the 29 companies that had submitted their bids 16 companies were prequalified by the Ministerial Tender Committee and they were requested to bid. On January 29, 2009 bids were opened in the presence of an observation team comprising of officers from Ministry of Foreign Affairs and Ministry of Public Works. Only 5 out of the 12 companies that had purchased the tender document had

responded and Diamatrix Ltd was identified as the most qualified and was recommended to the Ministerial Tender Committee. The original quoted and approved cost of construction was N 1, 183,695,249.45 but was later scaled down to N 1, 019,753,456.93. The scaling down was on account of reduction in staff houses from six to five, removal of swimming pool, gymnasium and associated works, and removal of extra staff parking but later the NSIS appealed that a sixth flat be constructed raising the construction cost to N 1, 061,726, 124.90. (Appendix variation)

53.1.5 The Contract for construction was signed on March 12, 2010 and works started in April 2010 and is due for completion in November 2011 (18 months). An advance payment of N356, 913,709.93 has been paid for construction work after certificate was issued. Certificate No. 2 of N 398, 293, 395.08 is pending approval for payment in Nairobi.

54.0 Site Inspection of the construction works for the Chancery, staff quarters and official Residence in Abuja

54.1 The Committee inspected the construction work for the Chancery and Residence and noted that work was in progress and according to the lead consultant and the Mission staff it was on course and expected to be completed on due date.

55.0 Site visit of the sold property in Lagos, Nigeria.

55.1 The Committee toured the sold plots along Queen's Way Drive and observed that the plots were located in a prime location with the back fronting a creek in the Atlantic Ocean.

56.0 Committee Observations and findings

The Committee observed that:-

56.1 The Mission procured the services of a lawyer without following the laid down public procurement laws and regulations. Further the Mission failed to terminate the services of the lawyer despite the lawyer not participating in the critical stages of the transaction.

(DFR 54)

56.2 The Committee expressed concern over non payment of legal and valuation services rendered. The Ministry of Foreign Affairs even after the finalisation of the sale never paid the lawyer and valuer it had contracted during the sale process. The lawyer and the valuer have written to the Mission through the Ministry of Foreign Affairs of the Federal Republic of Nigeria. This has the potential of creating diplomatic embarrassment to Kenya. **(DFR 47)**

56.3 The Mission used part of the proceeds from the sale of the Government property in Lagos to pay rent for the Immigration Attaché without authorisation from Treasury. **(DFR 52)**

56.4 The Mission transferred the proceeds of the sale of the Lagos properties to a CBK account with the Bank of England for onward transmission to the MFA account with CBK contrary to the Minister's submission that the money was transferred to Treasury.

- 56.5 The entire proceeds of the sale were not remitted to the CBK yet the mission was directed to send the entire proceeds. A total of GBP 70,000 was not remitted and instead used to pay rent for consular services in Lagos. The Government incurred costs of transferring the money. (DFR 44)
- 56.6 Despite recommendations that the proceeds of the sale of the property in Lagos be utilised in construction of the Chancery and Residence in Abuja (DFR 55), the Ministry of Foreign Affairs transferred the proceeds to its Development Account through the CBK. There was urgency in disposing the property so as to construct Chancery and Residence due to the threat of plot repossession by the Federal Government of Nigeria yet the Ministry instead allegedly used the proceeds to purchase property in Tokyo.
- 56.7 A lot of funds (GBP 14, 026) were lost during the transfer of the proceeds of the sale of Government properties in Lagos to the final point of utilisation. Additional money was lost during the transfer and foreign exchange of funds to Tokyo.
- 56.8 The Ministry of Foreign Affairs sold all its properties in Lagos in spite the technical evaluation team recommending that a third of the plot be retained. The Mission is now renting office space for consular services and Residence for the Immigration attaché in Lagos.(DFR 56)
- 56.9 Construction works progressing well and is expected to be completed on time. There is delay in payment of the contractor

which might lead to variation and escalation of the contract costs if there is no close supervision and payment of certificates.

56.10 The Ministry had scaled down the construction of flats for staff from six to five however the sixth flat has been reinstated on request of NSIS.

CHAPTER FIVE: PURCHASE OF CHANCERY FOR KENYA

EMBASSY IN BRUSSELS, BELGIUM

57.0 Evidence by the Minister for Public Works

57.1 The Hon. Chris Obure, EGH, MP, Minister for Public Works appeared before the Committee on May 13, 2010 and adduced the following evidence in relation to the purchase of a Chancery in Brussels, that:-

57.1.1 The Ministry of Public Works was involved in assessing the condition of the property and after the assessment they recommended its acquisition. A technical team comprising of officers from the Ministry of Foreign Affairs, Ministry of Finance and Ministry of Public Works and Housing visited Brussels in October 3rd to 6th, 1998 to assess the property. The technical team recommended the acquisition of the building with an estimated value of 70, 000,000 Belgium Francs.

57.1.2 In May 2007 another team comprising officers from the Ministry of Foreign Affairs and Ministry of Lands visited Brussels to assess the property again. During the visit they held meetings with the landlord who offered to sell the property at a cost of Euro 4.5 million, equivalent to KES 410 Million. This included renovations to be undertaken by the landlord and a guarantee of 15 years.

57.1.3 In July 2007 another technical team comprising officers from the Ministry of Foreign Affairs, Ministry of Finance, Ministry of Lands and Ministry of Public Works visited Brussels and agreed to prepare a TOR, draft sale agreement, and collate relevant information related to the acquisition. The team also met with the

landlord Mr. Chalouhi and recommended significant renovations to be undertaken before the purchase.

57.1.4 The Contract Agreement was signed by the Ministry of Foreign Affairs after the report of an inter Ministerial Committee.

58.0 Evidence by the Minister for Lands

58.1 The Hon. James Orengo, EGH, MP Minister for Lands appeared before the Committee on May 12, 2010 and informed the Committee that the building in Brussels, Belgium had been residential prior to the purchase. It was valued at 4.5 million Euros including furniture, though this shouldn't have been the case as second hand furniture has no value in Europe unless the items are antiques.

59.0 Evidence from the Minister for Foreign Affairs

59.1 The Hon. Moses Wetangula, EGH, MP Minister for Foreign Affairs appeared before the Committee on August 12, 2010 and adduced the following evidence, that:-

59.1.1 Plans to acquire property in Brussels started in 1999 when Former President Moi granted authority for the purchase of a Chancery. A task force from the Ministry visited Brussels in May 2005 and considered several options including office apartments and detached building as well as the premises being rented by the Mission for the Chancery. The team recommended purchase of a detached building as opposed to an apartment. The team held a meeting with Mr. Chalouhi of Sucotrade on the possibility of

purchasing the premises (town house) rented by the Mission. Sucotrade offered to sell the property at 4.5 million Euros which was inclusive of building, furniture and fittings.

59.1.2 The matter was revived in 2006 when the Ministry of Foreign Affairs shifted its policy from renting towards ownership of properties in Missions abroad. The Mission was tasked to search for comparable properties and talks were also initiated with the owner (Sucotrade) of the property that the Mission was renting.

59.1.3 In 2007 an Inter-Ministerial inspection team visited Brussels with the mandate of carrying out a technical evaluation of the premises rented by the Mission. The team comprised of officers from Ministry of Foreign Affairs, Ministry of Finance, Ministry of Lands, Roads and Ministry of Public Works. The team identified various repairs works (cracks, leaks, roof gutters etc) to be done on the Chancery. The owner undertook to renovate the building and to provide a guarantee upon sale.

59.1.4 Other properties were identified but found to be unsuitable on account of size, current use and location characteristics. The Ministry revisited the issue with Sucotrade again with the view of further price negotiations. After several meetings Sucotrade agreed to sell the property at Euros 3, 850, 000 and the transaction was to be concluded in February 2008. In May 2007 the Mission had contracted S. A. Atisreal Belgium Valuers to value the property and they returned a value of Euros 3. 316 million. The Ministry of

Lands, Kenya, valued the property at Euros 3 million excluding the aforementioned repair works.

59.1.5 An inspection team from Ministry of Foreign Affairs, Ministry of Roads and Ministry of Public Works visited Brussels in February 2008 to inspect the renovations recommended by the team that visited in 2007 and make recommendations regarding finalisation of the purchase of the property. The team was satisfied with the repair works and recommended that the Ministry of Foreign Affairs proceeds to purchase the property.

59.1.6 In March 2008 the Ministerial Tender Committee approved the purchase of the property for the Chancery in Brussels. A sale agreement was drawn and checked by the Ministry's Legal Department and signed by the Permanent Secretary (Mr. Thuita Mwangi). The property was transferred to the Government of Kenya at a price of Euros 3, 850, 000 (KES 381, 150, 000) which included the cost of furniture and fittings.

59.1.7 The building purchased was constructed in 1920 as a residential structure but turned into offices.

60.0 Evidence by the Interim Director General, Public Procurement Oversight Authority

60.1 The Interim Director General, Mr. M. Juma appeared before the Committee on June 22, 2010 and informed the Committee that the Authority was not consulted on the purchase of the Chancery in Brussels.

61.0 Evidence by the Deputy Prime Minister and Minister for Finance

61.1 The Hon. Uhuru Kenyatta, EGH, MP, Deputy Prime Minister and Minister for Finance appeared before the Committee on August 10, 2010 and informed the Committee that the Chancery in Brussels was purchased in the FY 2007/2008 at a cost of KES 378, 250, 950.

62.0 Inspection visit of the Kenya Embassy in Brussels, Belgium - August 20th to 22nd, 2010

62.1 The H. E. Ambassador Kembi Gitura accompanied by Embassy staff informed the Committee that;-

62.1.1 Plans to purchase a Chancery for the Mission started in 1999 however the matter was never concluded. A task force from the Ministry visited Brussels in May 2005 and considered several options including the premises being rented by the Mission for the Chancery. The team held a meeting with Mr. Chalouhi of Sucotrade on the possibility of purchasing the premises (town house) rented by the Mission. Sucotrade offered to sell the property at 4.5 million Euros which was inclusive of the building, furniture and fittings.

62.1.2 The matter was revived in 2006 when the Ministry of Foreign Affairs shifted its policy from renting towards ownership of properties in Missions abroad. A task force was formed by the Mission to search for suitable properties for purchase by the

Mission. Talks were also initiated with the owner (Sucotrade) of the property that the Mission was renting.

62.1.3 In 2007 an Inter-Ministerial Inspection Team visited Brussels with the mandate of carrying out a technical evaluation of the premises rented by the Mission. The team comprised of officers from Ministry of Foreign Affairs, Ministry of Finance, Ministry of Lands, Ministry of Roads and Ministry of Public Works. The team identified various repairs works (cracks, leaks, roof gutters etc) to be done on the Chancery. The owner undertook to renovate the building and to provide a guarantee upon sale. (DFR 57)

62.1.4 Due to the long time it was taking to come into an agreement with Sucotrade other properties were identified but found to be unsuitable on account of size, current use and location characteristics. The Ministry revisited the issue with Sucotrade again with the view of further price negotiations. After several meetings Sucotrade agreed to sell the property at Euros 3, 850, 000 and the transaction was to be concluded in February 2008. In May 2007 the Mission had contracted S. A. Atisreal Belgium Valuers to value the property and they returned a value of Euros 3. 316 million. The Ministry of Lands, Kenya valued the property at Euros 3 million excluding the aforementioned repair works.

62.1.5 An inspection team from Ministry of Foreign Affairs, Ministry of Roads and Ministry of Public Works visited Brussels in February 2008 to inspect the renovations recommended by the team that visited in 2007 and make recommendations regarding finalisation

of the purchase of the property. The team was satisfied with the repair works and recommended that the Ministry of Foreign Affairs proceeds to purchase the property.

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63.0 Site Inspection of the Chancery

63.1 The Committee inspected the Chancery and observed that:-

63.1.1 There is a lot of unoccupied space in the Chancery particularly at the extension housing the Visa Section.

63.1.2 The building requires renovations.

63.1.3 There were cracks in the wall of the Chancery.

63.2 The Committee also visited the Residence and observed that it is spacious but requires renovations in certain areas. The Committee could not establish when the Residence was purchased as all officers were not privy to the purchase.

64.0 Committee Observations and findings

64.1 The Committee observed that:-

64.1.1 The building is old. It was built in 1920's.

64.1.2 The renovations that were to be carried out by the vendor, and which raised the price, were not completed since there are visible cracks on the wall and need for renovations and therefore the building requires urgent renovations.

64.1.3 The purchase price, Euros 3.85 million, was way above the market valuation by the independent valuer, S.A Atisreal (Euros 3.316 million) and Ministry of Lands, Kenya valuation (Euros 3 million). The Ministry of Foreign Affairs paid for incomplete renovations and furniture yet they were advised by the Ministry of Lands valuer that, in Europe second hand furniture has no value.

64.1.4 There is a lot of unoccupied space in the Chancery particularly at the extension that houses the Visa Section.

CHAPTER SIX: PURCHASE OF PLOT, CONSTRUCTION OF CHANCERY AND RESIDENCE FOR KENYA HIGH COMMISSION IN ISLAMABAD, PAKISTAN

65.0 Evidence from the Minister for Foreign Affairs

65.1 The Hon. Moses Wetangula, EGH, MP, Minister for Foreign Affairs appeared before the Committee and adduced the following evidence:-

65.1.1 In 1991 the Government of Kenya bought land measuring 6, 773 metres squared at a cost of KES 1.4 million in a Diplomatic Enclave in Islamabad. In the neighbourhood are the Embassies of Russia, Bulgaria, Libya, Hungary and Sri Lanka.

65.1.2 The construction of the Chancery and Residence was conceptualised in 1997 and drawings for the construction done in 1998 by M/s Atelier International Architects. In 2007 the Ministerial Tender Committee appointed M/S impact designs studio to design and provide consultancy services. Selective tendering was carried out for the procurement of a contractor. Tender documents were sold and four firms submitted their bids which were evaluated on the basis of technical and financial capacity. M/S Consol construction solutions was awarded the contract as the lowest bidder at a sum of 385,821,826 Pakistan Rupees (KES 366, 055, 734.70) with a contract completion period of 18 months from the date of commencement (12th May 2008).

65.1.3 The Contractor through the Consultant sought for variations. A team from the Ministry of Foreign Affairs and Ministry of Public Works visited Islamabad to verify the claims. The Ministerial Tender Committee approved a variation of Pakistan Rupees 53, 040, 163 (KES 50, 388, 155) following recommendation of the Inter-Ministerial team that visited the project. This has raised the total cost to KES 416, 443, 890. Due to the security situation in Pakistan, additional works will be required to enhance security. The Project was to have been completed in October 2009 but faced many challenges due to the security situation in Pakistan which has led to restrictions in the diplomatic enclave.

66.0 Evidence by the Deputy Prime Minister and Minister for Finance

66.1 The Hon. Uhuru Kenyatta, EGH, MP, Deputy Prime Minister and Minister for Finance, informed the Committee that the Project for construction of the Chancery and Residence in Islamabad, Pakistan was started in 2007/2008 and finalized in the last Financial year 2009/2010 at a total cost of KES 532, 834, 080. The buildings were constructed on land given free by the Government of Pakistan. The Government is expected to save approximately KES 10 million as rent expenses per year.

67.0 Inspection visit of the Kenya High Commission, Islamabad – August 23rd to 25th, 2010

67.1 The Committee paid a courtesy call on the Kenya High Commissioner to Pakistan, H.E. Mrs. Mishi Masika Mwatsahu on Monday August 23rd, 2010. The High Commissioner welcomed the Committee to Pakistan. The Committee was thereafter briefed on the operations of the High Commission, Kenya Pakistan relations and the construction of the Chancery and Residence in the diplomatic enclave.

68.0 Evidence on the Construction of the Chancery and Residence

68.1 The High Commissioner, H. E. Mrs. Mishi Masika Mwatsahu accompanied by the Mission staff briefed the Committee as follows:-

68.1.1 The Government of Pakistan has been encouraging diplomatic Missions in Islamabad to relocate to the designated diplomatic enclave for ease of security. Kenya Mission relocated to the new Chancery in spite the fact that it is still under construction.

68.1.2 In 1991 the Government of Kenya bought land measuring 6, 773 metres squared at a cost of KES 1.4 million in an area earmarked as a diplomatic enclave by the Government of Pakistan. In the neighbourhood are the Embassies of Russia, Bulgaria, Libya, Hungary and Sri Lanka.

68.1.3 The construction of the Chancery and Residence was conceptualised in 1997 and drawings for the construction done in 1998 by M/s Atelier International Architects. In 2007 the

Ministerial Tender Committee appointed M/S impact designs studio to design and provide consultancy services. Selective tendering was carried out for the procurement of a contractor. Tender documents were sold and four firms submitted their bids which were evaluated on the basis of technical and financial capacity. M/S consol construction solutions was awarded the contract as the lowest bidder at a sum of 385,821,826 Pakistan Rupees (KES 366, 055, 734.70) with a contract completion period of 18 months from the date of commencement (12th May 2008).

68.1.4 Payments for the contractor (M/s Consol Construction Solutions) have been made in respect of certificates issued totalling 417, 599, 359.78 Pakistan Rupees (KES 416, 045, 103.90) inclusive of an escalation cost of 50, 068, 008.66 Pakistan rupees (KES 47, 564, 608.25). The escalation costs were approved by the Ministerial Tender Committee in March 2009 after which payment was effected by the Mission. The consultant impact designs studio have so far been paid 44, 110, 000 Pakistan Rupees (KES 44, 567, 370).

69.0 Meeting with CEO of Impact Design Studios, Lead Consultant

69.1 The Committee held a meeting with the CEO of impact design studios, the lead consultants, Mr. Usman S. Khan, at the Chancery, Kenya High Commission in Islamabad. He briefed the Committee on the status of the project and progress in the construction as follows:-

69.1.1 The Government of Kenya purchased the plot measuring 53,110 square feet in the diplomatic enclave II. The plot is in block 6

numbered plots 1, 2, 3. The plot was purchased at a price of 8, 100, 000 Pakistan rupees. The plot is on a lease hold of 33 years extendable for two consecutive terms of 33 years each. The annual rates for lease of the plots is 159, 330 Pakistan Rupees.

69.1.2 The construction work for the Chancery and Residence started with the construction of a concrete perimeter wall around the plot at a cost of KES 10 million during the Financial Year 2005/2006.

69.1.3 Impact Design Studios was contracted as the lead consultant with the following associated consultants:-

- Structural Design Consultants – M/s Atiq Associates
- Electrical Consultants – M/s SEM Engineers
- Plumbing Consultants – M/s Sohail Ahmed Associates
- HVAC and Ventilation Systems Consultants – M/s Universal Consultants
- Landscape Consultants – M/s Roots and Shoot

69.1.4 Structural designs and bill of quantities were prepared and sent to Nairobi for perusal and approval by the Ministry of Public Works. Bids were prepared and tenders advertised and short listing completed in December 2007. A technical team from Nairobi comprising officers from Ministry of Foreign Affairs, Ministry of Roads and Public Works visited Islamabad to evaluate the tender documents. M/s Consol construction solutions was the lowest bidder and was awarded the tender. The contract for construction and consultancy services was signed in Nairobi on February 29,

2008 with a contract period of 18 months. The project is currently due in 2 or 3 months time.

69.2 Challenges facing the project

69.2.1 Delays in approval of Architectural drawings by the Capital Development Authority (CDA) of Islamabad - Pakistan.

69.2.2 Delay in completion of project on time necessitated the Mission staying in rented property. The contractor was made to pay for the unexpected rent bills.

69.2.3 Insecurity in Pakistan led to restriction on entry to the diplomatic enclave for workers and materials thus delay in the completion of the project.

70.0 Meeting with Kenyan students in Pakistan

70.1 The Committee was informed that more than 150 Kenyan students are pursuing university education in Pakistan universities. The students informed the Committee of the challenges facing them in Pakistan:-

70.1.1 Visa issuance – the Pakistan authorities issue students with visiting visas yet they require student visas to enable them pursue their studies. The issuance of visas also takes considerably long time thus forcing some students on partial scholarship to lose their scholarships.

70.1.2 Insecurity – the security situation in Pakistan is volatile. The Government should facilitate students in case of emergencies

70.1.3 Low employment opportunities for those students who successfully complete their studies from institution of higher learning in Pakistan.

71.0 Visit to Pakistan Ordinance Factory

71.1.1 The Committee visited the Pakistan ordinance factory and was briefed on the operations of the factory and the arms produced in the factory. The Committee was also informed that the Government of Kenya has been importing small weapons for the police and forest service from the factory.

71.1.2 The factory was established to meet the defence needs of Pakistan and surplus is exported. Products from the factory are exported to more than 36 countries in the world.

72.0 Committee Observations on Islamabad

72.1 The Committee observed that:-

72.1.1 Delay in the completion of the project.

72.1.2 Variations occasioned by delays

72.1.3 Ministry of Public Works has delayed in inspecting progress in the construction works leading to delay in payment and therefore delay in works.

72.1.4 Good working relations between students and the High Commission.

CHAPTER SEVEN: CONCLUSION AND RECOMMENDATIONS

73.0 Arising from the evidence taken, submissions received and observations, the Committee recommends that:-

73.1 The Ministry of Foreign Affairs should urgently put in place a strategic plan and policy approved by the Cabinet on property acquisition and disposal to meet stringent thresholds.

73.2 The Ministry of Foreign Affairs should explore the option of purchasing floors in safe and suitable already built up buildings as is the case with some western countries instead of purchasing plots and building or purchasing stand alone buildings. This would save the country funds in constructing or purchasing stand alone structures.

73.3 The Accounting Officer, Ministry of Foreign Affairs, should carry out a search and undertake due diligence to ensure that the properties for Kenya Missions Abroad are legally acquired and owned by the Government of Kenya. The accounting officer should use reputable lawyers and other professionals to accomplish this task.

73.4 The Government of Kenya lost close to over KES. 1.1 billion in the procurement transaction in Tokyo, Japan and close to KES 84, 150, 000 in the purchase of a Chancery in Brussels, Belgium. The Government should institute measures to recover the money lost in the aforementioned transactions.

73.5 The Kenya Anti Corruption Commission should institute investigations in respect to the Tokyo transaction.

73.6 Necessary action be taken against the Minister for Foreign Affairs, Hon. Moses Wetangula, EGH, MP, the Permanent Secretary, Ministry of Foreign Affairs, Mr. Thuita Mwangi and the Deputy Head of Mission, Kenya Embassy, Japan, Mr. Allan Mburu, Mr. A. M. Muchiri and any other officer involved in the purchase of properties in Tokyo.

73.7 The property acquired in Tokyo is unsuitable and should be disposed off. The proceeds be used to Purchase the plot offered by the Government of Japan and for construction of a Chancery and Residence on the same.

73.8 While independent and professional valuations by local reputable firms were carried out during the purchase and sale of Government properties in Brussels, Belgium and Lagos, Nigeria respectively, no valuation by an independent, professional and reputable local firm was commissioned by the Ministry of Foreign Affairs during the procurement of properties in Tokyo, Japan.

74.0 Sale of Government plot in Cairo, Egypt

74.1 The Ministry of Foreign Affairs should procure its own premises in a suitable area because of the economic potential and significance of the country.

75.0 Purchase of a Chancery and Ambassador's Residence in Tokyo, Japan

75.1 From evidence gathered, written submissions and price indications by the Lawyer in Tokyo (Mr. Yoshito Kijima), the Architect in Tokyo (Mr. Dick Olango), Ministry of Lands valuer (Mrs. Teresia Kimondiu), the real estate agent from Japan's M/s Coral

Corporation (Mr. Hidehiko Takahashi), and the Ministry of infrastructure of Japan, the Government of Kenya lost close to over KES 1.1 Billion as evidenced by submissions by the lawyer, M/s Coral Corporation and price indications.

76.0 Hon. Moses Wetangula, EGH, MP - Minister for Foreign Affairs –

76.1 The Minister deliberately misled the Committee in the following manner:-

76.1.1 The Minister said that there was value for money while the Government actually lost close to over KES 1.1 Billion as evidenced by submissions by the lawyer, Mr. Yoshito Kijima of Kijima International Legal Office, Real Estate Agent, M/s Coral Corporation and price indications from Meguro Tax Office.

76.1.2 The Minister informed the Committee that hiring a lawyer was expensive and was going to cost the Government 3% of the purchase price which was amounting to KES 45.7 million while a lawyer was actually available at KES 3.4 million (DFR 34). He further claimed that a 'Shihoshoshi' was a lawyer and that he drafted a sale agreement. Evidence adduced by Mr. Ohtake Akiyoshi was that he was not a lawyer but a judicial scrivener (someone with knowledge of the registration process and undertakes administrative duties). He was not involved in the drafting of the sale agreement but only facilitated in the registration of the property. There was a deliberate attempt at not using a lawyer for the transaction.

76.1.3 The Minister told the Committee that the shape of the plot offered by the Government of Japan was irregularly shaped rendering it unsuitable for construction of both a Chancery and an Ambassador's Residence. This statement contradicts the report of the Architect commissioned by the mission, who advised that the plot offered by the Government of Japan allows more floor space, a tall structure is possible which could also cater for other diplomats apartment hence cut monthly rent. This report was in the Minister's knowledge at the time he made the statement to the Committee. (DFR 23)

76.1.4 The Minister informed the Committee that Ambassador Dennis Awori chaired a meeting that decided to purchase the current premises at Meguro-ku. Ambassador Awori however told the Committee that he had already left Japan to attend a Conference for Africa's Development in Gaborone, Botswana, at the time the meeting took place.

76.1.5 The Minister stated that the plot allocated by the Government of Japan had on it a caveat registered that allowed the Government of Japan to at any time excavate for archaeological materials. However information received by the Committee from the Kenyan Embassy in Tokyo showed that contrary to the Minister's presentation of the situation regarding the plot, the whole of Tokyo is considered an archaeological area (what the Japanese Law for the Protection of Cultural Property, law No. 214 of May 1950 refers to as a Treasure trove). Countries such as Algeria and

Pakistan had constructed Embassies/High Commissions in the area where the plot is located. The European Union had also commenced construction on a plot purchased next to the plot offered to Kenya. Morocco had also purchased a plot in the same area for construction of an Embassy.

76.1.6 The Minister is therefore in breach of section 21 of the National Assembly [Powers and Privilege] Act, Chapter 6 of the Laws of Kenya which provides as follows:

“21. False evidence

Any person who before the Assembly or any committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination shall be guilty of an offence under section 108 of the Penal Code and liable to the penalty prescribed by the appropriate section for that offence.”

76.1.7 The Minister as a public servant is further in breach of section 19 of the Public Officer Ethics Act which provides as follows:

“19. Misleading the Public, etc

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.”

76.1.8 The Minister totally disregarded of professional advice given by the Real Estate Agent, Valuer, Lawyer, Evaluation and Inspection committee.

- (i) The Real Estate Agent, M/s Coral Corporation in its report of 23rd March 2007 commissioned by the Embassy had advised that *"According to the registration, the building was constructed 16 September 1988 and has aged almost 20 years now. Therefore we do not evaluate the building"*.
- (ii) Ministry of Lands valuer, Mrs. Teresia Kimondiu in her report of 25th May, 2009 had also advised that the *"The property is off Meguro Dorri Road, Yakumo Area. Address at 3-24-3 Yakumo Meguro-Ku Tokyo ... The plot is zoned residential with a site coverage of 60%. Floor space ratio is 150%. Maximum height is 10 metres ... Its noteworthy to mention that the economic lifespan of a building constructed in natural stone is 20 years while a wooden one is 10 years, thereafter only the site is considered valuable. However I will include a depreciated cost of the building which should be disregarded as the selling price is negotiated. The plot does not front the road and a portion of it is used as an access road, hence reducing area available for construction. No embassies are located in the neighbourhood. The plot/buildings are currently leased to the Kenyan Embassy ... As we return our figure the ongoing global economic crises, particularly on property values will be taken into account."*

- (iii) The Lawyer Mr. Yoshito Kijima of Kijima International Legal Office, Tokyo, Japan in his letter of June 12, 2009 addressed to the Embassy had advised that

"2.2.3.1 In Japan, we do not pay 80% of the price upfront. We usually pay 10%-20% of the price and pay the balance on the day of changing the registration. This is historically common methods of transaction. This is to avoid all risks arising from the real estate transaction..."

The price that was offered and agreed here is extremely higher than the true values of the properties. The Government should buy these properties in a not fair price because the lack of research and lack of 'tools' to win the negotiation. One of our brief research indicated that the reasonable price of the properties are 1 billion Japanese Yen. The value was calculated including the fact that the Embassy has been paying rent for almost 20 years and the rent was relatively higher than the rent around the area where the Embassy locates. As Mr. Kuriyama is from the family where owns a lot of real estate around the area and knows about real estates and we believe that he knows the true price of the properties where the Embassy locates. To deal with such a person, the Government should negotiate with him with the certificate of the values which is currently issued.

Please be kindly informed again that the scheme that the Government agreed above is very unusual and we barely could see such a transaction in Japan. This is not recommended

scheme at all. The lack of the basic research is fatal. So the Government should purchase the property not in the reasonable price. I believe that this could be avoided by involving the experts into the negotiations with the owners. It is very difficult for us to understand why the Government wants to take this kind of risk and why they stepped into the negotiation without basic research required in Japanese deal. I believe that the process is totally different in the usual real estate transaction in Japan. Frankly speaking, the risks are now a hinder for processing the drafting the contracts and complete the transaction safely.

2.4 ... This transaction is very irregular and no experts will agree to step these processes... The end

I know that I stated that the decision of the Government is not totally recommended. Please accept my apologies opposing to the decision. It is because I respect the government of the Kenya and the Embassy so that I want to protect the properties in Japan. Since I have been dealing with the Embassy, I always think of helping the government and the Kenyan people, I thought I should be frankly and honest.” [Please note that the above is a translation from Japanese]

- (iv) The Architect, Mr. Dick Olango in his architectural analysis report to the Embassy in January 2009 had advised that ‘*with all the*

factors taken in to consideration, it is clear that staying or buying the present Embassy proves to be costing the embassy more than the option of moving. The landlord quoted very high rate for the purchase of the land. Another factor is that the building will require some renovation, which will be extra cost on top of the present rental fees.'

- (v) The evaluation and validation committee in their report after the visit to Tokyo had *'observed that in order to safeguard Government interests in a transaction of this magnitude, it was imperative to hire services of a legal counsel/estate agent as previously recommended because of the nature of the transaction i.e. different ownership of land and buildings, existing charge on the properties to the sum of 1.94 billion yen, property sits in on different parcel of land and therefore the need to consolidate them and more important, the adequate understanding of conveyance practises in Japan amongst mission staff bolstered by the language barrier.'*

76.1.9 The Minister, while appearing before the Committee, asked the question *"Did the public get value for money?"* He answered the question as follows, *"The answer is a resounding "Yes"'* He then stated that the decision to purchase the property in the manner that the Ministry did was *"wise and prudent and was long overdue."* From all the evidence received by the Committee it is clear that the transaction as carried out was neither wise nor prudent. It was fraught

with irregularities and carried out in a manner that was not in the best interests of the Country. The Kenyan Public actually lost close to over KES 1.1 Billion in the transaction.

76.2 Therefore the Committee recommends that;-

76.2.1 The Hon. Moses Wetangula, EGH, MP, Minister for Foreign Affairs, should take Political responsibility and step aside to pave way for investigations by the Kenya Anti Corruption Commission (KACC) and other investigative arms of the Government.

76.2.2 The Committee further recommends that the appointing authority be advised that the conduct of Hon. Moses Wetangula, EGH, MP, is not compatible with that of a Minister.

76.2.3 Upon investigations and if found guilty by a Court of law the Hon. Moses Wetangula, EGH, MP should be barred from holding any State office in the Republic of Kenya.

76.2.4 The Minister be severely reprimanded and the matter of his breach of section 21 of the National Assembly (Powers and Privilege) Act by deliberately misleading the Committee be referred to the House Powers and Privileges Committee for action.

77.0 Mr. Thuita Mwangi, Permanent Secretary, Ministry of Foreign Affairs

77.1 The Permanent Secretary failed to ensure that the provisions of the Public Procurement and Disposal Act, 2005 were complied with. The Permanent Secretary:-

77.1.1 Did not ensure a valuation was conducted on the properties by an independent local firm in Japan the year the purchase was done despite advise from his own office cautioning the Embassy that the property is over-valued in 2007 (DFR 36), This led to the property being purchased at a price higher than market value. This is contrary to section 18(2)(g) of the Government Financial Management Act which provides as follows:

“Responsibilities of accounting officers - In carrying out his responsibilities under subsection (1), an accounting officer shall do the following in relation to his ministry, department or commission-

(g) ensure that all applicable procedures are followed in the acquisition or disposal of property and that adequate arrangement are made for the custody, safeguarding and maintenance of property;”

77.1.2 Failed to institute investigations after the fire incident (letter on fire no action taken) contrary to provisions of the Government Financial Regulations Procedures. Regulation 12.6 sets out the procedure for handling losses. (Regulation 40)

77.1.3 Failed to ensure that property was insured after the payment of the full purchase price and transfer to the government of Kenya (DFR 58). Again this is contrary to section 18(2) (g) of the Government Financial Management Act.

77.1.4 Allowed payment of the full purchase price before making adequate arrangements to guarantee that the transfer of the property shall be done thereby exposing the Government to risk of financial loss.

77.1.5 Purported to have signed a sale agreement in Tokyo while he was actually in Nairobi.

77.2 The Committee therefore recommends that:-

77.2.1 He should step aside to allow investigations on the purchase of the properties for Kenya Mission abroad.

77.2.2 The Kenya Anti Corruption Commission (KACC) and other investigative arms of the Government should investigate the conduct of the Permanent Secretary, Mr. Thuita Mwangi in the purchase, sale or construction of properties for Kenya Missions abroad and in particular in the purchase of the properties in Tokyo.

77.2.3 If prosecuted and found guilty the Permanent Secretary, Mr. Thuita Mwangi should be barred from holding any State office in the Republic of Kenya.

78.0 Mr. Allan Mburu, Deputy Head of Mission, Kenya Embassy Japan

78.1 Mr. Allan Mburu purportedly signed a sale agreement on behalf of the Government of Kenya without authority from the Minister contrary to section 2 and 4 of The Government Contracts Act, CAP 25 Laws of Kenya which state as follows:

“2. Subject to the provisions of any written law, any contract made in Kenya on behalf of the Government shall, if reduced to writing, be made in the name of the Government of Kenya, and shall be signed either by the accounting officer or by the receiver of revenue of the Ministry or for the department of the Government concerned, or by any public officer duly authorized in writing by the such accounting officer or receiver of revenue, either specially in any particular case or generally for any contracts below a specified value in his department or otherwise as may be specified in such authorisation.”

4. No contract made after the commencement of this Act shall, unless made in the manner hereinbefore provided, be deemed to be made by the authority of the Government.”

78.2 The Permanent Secretary, who is the person authorised in law to sign agreements on behalf of the Government, had to sign another agreement that was to be lodged with the Government of Japan.

78.3 Granting himself a power of Attorney. The form of authorisation is set out in section 7 of the Government Contracts Act and the First Schedule of the Act. This is contrary to section 9(a) of the Public Officer Ethics Act that provides as follows:

“Professionalism

A public officer shall-

(a) Carry out his duties in a way that maintains public confidence in the integrity of his office;” (Authorisation under section 7 of the Act).

78.4 Discriminated against other bidders by bargaining and agreeing with the owner of property 3-24-3 Meguro-ku on the purchase price before advertising for bids. The advertising was done in English newspapers which have limited coverage in Japan. The time for submitting bids was also limited.

78.5 The advertisement for properties was made in two Japanese newspapers both in the English language and required responses within four (4) days, between 26th to 30th February, 2009. This is contrary to section 54 of the Public Procurement & Disposal Act as a result of failure to take reasonable steps to bring the invitation to tender to the attention of those who may wish to submit tenders Japan being a Japanese speaking country. Regulation 40 of the Rules under the Act further requires tenderers be given at least 21 days to respond to the advertisement.

78.6 Disregarded all professional advice and went ahead to purchase property (valuers, technical team, lawyer, letter cautioning property being over valued from Ministry of Foreign Affairs) The valuer and real estate agent advised that buildings should not be included in the purchase price.

78.7 Witnessing falsely a second agreement for sale purportedly signed by Mr. Thuita Mwangi while knowing that he (Mr. Allan Mburu) had already signed an agreement for sale for the same properties.

78.8 Deliberately misled Committee by feigning ignorance of the letter, on town planning regulations and the letter from the Ministry of Foreign Affairs cautioning on over pricing of the property and need for a valuer (DFR 36). This is in contravention of section 21 of the National Assembly [Powers and Privilege] Act.

79.0 The Committee therefore recommends that:-

79.1 He should step aside to allow investigations on the transaction to be conducted.

79.2 The Kenya Anti Corruption Commission (KACC) and other investigative arms of the Government should investigate the conduct of the Mr. Allan Mburu in the purchase of the properties in Tokyo.

79.3 Mr. Allan Mburu should be barred from holding public office conferred by the Republic of Kenya.

80.0 Sale of Government properties in Lagos and construction of Chancery and staff quarters and High Commissioner's residence in Abuja, Nigeria

80.1 The accounting officer should ensure that all pending bills are paid to avoid litigation and escalation of construction costs.

80.2 The accounting officer should further ensure that the ongoing construction works in Abuja, Nigeria are completed on schedule without variations/extra cost on public finances.

80.3 As a matter of urgency the accounting officer, Ministry of Foreign Affairs should ensure that all persons legally involved in the sale of the Government properties in Lagos are paid for services rendered. This will ensure that the Ministry avoids litigation and diplomatic embarrassment.

80.4 The Ministry of Foreign Affairs should accredit the Kenya High Commission in Nigeria to the ECOWAS. The Ministry should further consider the possibilities of opening additional Missions in West Africa particularly in the Francophone countries.

80.5 The Ministry should look for appropriate premises in Lagos as they organise to procure permanent premises for use especially for visa purposes.

80.6 The High Commission in Abuja did not remit the entire proceeds of the sale of Government properties in Lagos to CBK. GBP 70, 000 was used to pay rent for the immigration attaché in Lagos without authority from Treasury.

81.0 Purchase of a Chancery in Brussels, Belgium

81.1 Considering that Brussels is the Headquarters of the European Union, the Minister for foreign affairs should ensure that the officers posted and stationed in Brussels have the technical capacity to handle the critical role that the Mission is expected to play so as to be able to realise maximum returns for the country.

81.2 The purchase price, Euros 3.85 million, for the Chancery in Brussels was way above the market price by the independent valuer, S.A

Atisreal (Euros 3.316 million) and Ministry of Lands, Kenya valuation (Euros 3 million). The Ministry included the cost of renovations and furniture in the purchase price, this is in spite the advice from the Ministry of Lands valuer in the report and valuation dated 26th July 2007, that “unlike in third world countries, the market for second hand items especially in Europe is almost non existent or poor due to low demand. Furniture is not an exception and it was the visiting groups considered view that that furniture should not be part of the purchase of the Chancery. Consideration should therefore be given to purchase of new embassy furniture to enhance the image of the same.” (DFR 03) Renovation work was not complete and the furniture was more than ten years old before the Mission leased the property and therefore valueless. The Government as a result, lost close to Euros 85, 000 (KES 84, 150, 000) in the transaction.

82.0 Construction of Chancery and Ambassador's Residence in Islamabad, Pakistan

82.1 The Accounting Officer, Ministry of Foreign Affairs should ensure that the building is completed before the final certificate is issued. There must be close supervision of the construction works.

82.2 The accounting officer should ensure that the ongoing construction works in Islamabad, Pakistan are completed on schedule without further variations/extra cost on public finances.

- 82.3 The Ministry of Foreign Affairs should strive to meet its contractual obligations on time to avoid escalation of construction costs in Islamabad.
- 82.4 The Ministry of Public Works should conduct periodic and timely inspection of construction works for various Kenya Missions abroad.
- 82.5 As the Government meets its financial obligation the contractor should be made to meet his contractual obligation and complete the construction within the agreed time frame.

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS, THURSDAY , 23TH SEPTEMBER 2010, HELD IN
THE CONFERENCE ROOM, SERENA HOTEL, MOMBASA.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Charles Kilonzo, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Kiema Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.
The Hon. George Nyamweya, MBS, M.P.
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Peter Edick O. Anyanga, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Eugene Wamalwa, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mrs. C.W. Munga – Deputy Director Committees
Mr. Nicholas Emejen – Second Clerk Assistant
Mr. Ahmad Kadhi – Third Clerk Assistant
Mr. Anthony Njoroge – Legal Counsel
Mr. Oscar Nabulindo – Hansard Reporter

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer.

MINUTE 235/2010: CONSIDERATION OF THE DRAFT REPORT

The Committee was taken through the draft report and made the following observations:-

Sale of Government plot in Cairo, Egypt

The Committee noted that the sale of the plot was the best decision by the Embassy considering that the neighbourhood was deteriorating and recommended that the

Ministry of Foreign Affairs should procure its own premises in a suitable area because of the economic potential and significance of the country.

Purchase of Chancery and Ambassador's Residence in Tokyo, Japan.

- (i) The property acquired be disposed off and proceeds be used to Purchase GOJ plot and construction of chancery and residence

The Committee further made the following recommendations:-

- (i) Ministry of Foreign Affairs should urgently put in place a strategic plan and policy adopted by the Cabinet on property acquisition and disposal to meet stringent thresholds.
- (ii) Ministry of Foreign Affairs should explore the option of purchasing floors in safe and suitable already built up buildings as is the case with most western countries instead of purchasing plots and building or purchasing stand alone buildings. This would save the country funds in constructing or purchasing stand alone structures.
- (iii) The Accounting Officer, Ministry of Foreign Affairs, should ensure that immediate investigations commence on the activities of the internal audit, procurement committee and other departments involved during the period of the transaction in the stated diplomatic missions.
- (iv) Necessary action be taken against the Minister for Foreign Affairs for misleading the Committee in accordance with the Standing Orders and the Powers and Privileges Act.

Sale of Government properties in Lagos and construction of Chancery and Residence in Abuja

The Committee noted that the proceeds realized from the sale of Government properties in Lagos were allegedly transferred to purchase properties in Tokyo instead of being used in construction of chancery and residence in Abuja.

The Committee made the following recommendations:-

- (i) The accounting officer should ensure that all pending bills are paid to avoid litigation and escalation of construction costs.
- (ii) As a matter of urgency the accounting officer, Ministry of Foreign Affairs should ensure that all persons legally involved in the sale of the Government properties in Lagos are paid for services rendered. This will ensure that the Ministry avoids litigation and diplomatic embarrassment.

- (iii) The Ministry of Foreign Affairs should accredit the Kenya High Commission in Nigeria to the ECOWAS. The Ministry should further consider the possibilities of opening additional Missions in West Africa particularly in the Francophone countries.
- (iv) The Ministry should look for appropriate premises in Lagos as they organise to procure permanent premises for use especially for visa purposes.

Purchase of Chancery in Brussels, Belgium

- (i) Members noted that renovations that were alleged to have been done by the vendor were not complete as witnessed during the inspection visit by the Committee. The Committee resolved to seek a clarification from the Ministry of Public Works on the nature of renovations done and the certificate issued for completed works.
- (ii) Considering that Brussels is the Headquarters of the European Union, the Minister for foreign affairs should ensure that the officers posted and stationed in Brussels have the technical capacity to handle the critical role that the Mission is expected to play so as to be able to realise returns for the country.

Purchase of plot and construction of Chancery and High Commissioners' Residence in Islamabad, Pakistan

The Committee expressed concern over the lack of supervision that was occasioning delays in construction works resulting in price variations. The Committee resolved to seek a progress report from the Ministry of Public Works on the construction works at the Mission.

The Committee further recommended that:-

- (i) The accounting officer should ensure that the building is completed before the final certificate is issued. There must be close supervision of the construction works.
- (ii) The Ministry of Foreign Affairs should strive to meet its contractual obligations on time to avoid escalation of construction costs in Islamabad.
- (iii) The Ministry of Public Works should conduct periodic and timely inspection of construction works for various Kenya Missions abroad.
- (iv) As the Government meets its financial obligation the contractor should be made to meet his political obligation.

The Legal Counsel took members through the various legal aspects and statutes touching on the public procurement, responsibilities and conduct of Public Officers and financial management in relation to the recommendations by the Committee.

MINUTE 236/2010: ADOPTION OF THE REPORT

The members present after extensively deliberations on the draft report and the proposed amendments, unanimously adopted the report.

MINUTE 237/2010: ADJOURNEMENT

There being no other business the Committee adjourned at thirty minutes past one O'clock.

Sign:signed
(Chairperson)

Date:7/10/2010

MINUTES OF THE 54TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY, 16TH SEPTEMBER 2010, IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. George Nyamweya, MBS, M.P.
The Hon. Wilson Mwotiny Litole, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.
The Hon. Kiema Kilonzo, M.P.
The Hon. Eugene Wamalwa, M.P.
The Hon. Peter Edick O. Anyanga, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Ahmad Kadhi – Third Clerk Assistant.

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer. The agenda of the day was adopted.

MINUTE 229 /2010 : CONFIRMATION OF PREVIOUS MINUTES

The minutes of the 48th sitting of the Committee were proposed by the Hon. George Nyamweya, MBS, M.P. and seconded by the Hon. Wilson Mwotiny Litole, M.P. and signed by the Chairman as the true record of proceedings of the Meeting.

MINUTE 230 /2010 : MEETING WITH MINISTER FOR PROVINCIAL
ADMINISTRATION AND INTERNAL SECURITY

The members were informed that the Minister for Provincial Administration and Internal Security had written requesting a rescheduling of the meeting. The Committee deliberated and resolved to invite the Minister on Monday 20th September at 2.30 pm.

MINUTE 231 /2010 : ADJOURNEMENT

There being no other business the meeting was adjourned to Monday 20th September at 2.30 pm.

Signed.....signed.....
(Chairperson)

Date:7/10/2010.....

MINUTES OF THE 53RD SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON TUESDAY, 7TH SEPTEMBER 2010, IN
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 3.00PM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. George Omari Nyamweya, MBS, M.P.
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.

ABSENT WITH APOLOGY

The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Peter Edick O. Anyanga, M.P.

ABSENT

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Kiema Kilonzo, M.P.
The Hon. Eugene Wamalwa, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Ahmad Kadhi – Third Clerk Assistant.

IN ATTENDANCE

Mr. Robert Osogo – Former Official Ambassador's Cook, Kenya Mission, Tokyo Japan

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer.

MINUTE 226/2010 : MEETING WITH MR. ROBERT OSOGO, FORMER COOK TO
KENYA AMBASSADOR TO JAPAN

The Chairman introduced the Committee members, explained the mandate of the Committee and what it was investigating and thereafter called upon Mr. Robert Osogo to brief the Committee on the circumstances that caused the fire incident that gutted down the Ambassador's Residence in Tokyo, Japan.

The Committee was informed that:-

- (i) He was hired as a local staff in January 2007 for a contract period of two years to manage the Ambassador's Residence in the capacity of a Chef and assist in any other duties assigned to him from time to time.
- (ii) After the substantive Ambassador left the Charge D' Affaires assigned him duties at his residential house to cook for various guests.
- (iii) In February 13, 2010 a fire broke out at the Ambassador's Residence. During the day there was a TV exchange programme between Kenyan and Japanese children. The children prepared Kenyan food (Samosa's and tea) with the assistance of Ms. Dorothy Nthiwa and Ms. Eri Osakabe (Tourist Assistant). On direction of Mr. Allan Mburu he (Osogo) prepared food for Ambassador Ruth Solitei, Director of Protocol Office of the Prime Minister at the Residence.
- (iv) Later Mr. Mburu requested him to prepare more Samosas for guests who were at the Chancery and since there weren't enough materials he rushed to purchase them. He prepared the Samosa's and switched off the cooking stove and went to the Chancery to prepare tea for the guests. A fire broke out at the residence while he was at the Chancery kitchen.
- (v) On February 12, 2010 some (two men and a lady) strangers in the company of Mr. Allan Mburu left their car, a RAV 4, overnight at the Chancery. The three strangers left the Chancery on 13 February, 2010 while the fire was being put out.
- (vi) The handling of the cooking equipment by those working for the TV filming session was not supervised as he busy doing other duties and chores.
- (vii) Several guests were accommodated at the Ambassador's Residence after Ambassador Awori left the service including officers from the Ministry of Foreign Affairs, Armed Forces, Brand Kenya, and Office of the Prime Minister among others.

The members were given a list of some of the officials from Kenya who had recently put up residence at the Ambassador's Residence.

Members noted that on the material day, there were a lot of uncoordinated activities taking place at the Embassy, that the cook was an experienced/professional having an impeccable service record and knew of sound safety measures in the kitchen.

MINUTE 227/2010 : ANY OTHER BUSINESS

The Committee appreciated that the CPA conference would be ongoing the following week however it was resolved that there may be a need to invite the Minister for Internal Security to know whether any investigations into the fire had been undertaken.

The Committee resolved to interact with the Commissioner of Police to establish if the police had conducted investigations and whether there was any foul play.

MINUTE 228/2010 : ADJOURNEMENT

The meeting ended at fifty seven minutes past four O'clock. The date of the next meeting would be 16th September 2010.

Signed.....signed.....
(Chairperson)

Date:7/10/2010.....

MINUTES OF THE 52ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON TUESDAY, 7TH SEPTEMBER 2010, IN
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. George Nyamweya, MBS, M.P.
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Wilson Mwotiny Litole, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Kiema Kilonzo, M.P.
The Hon. Eugene Wamalwa, M.P.
The Hon. Peter Edick O. Anyanga, M.P.
The Hon. Joshua Kutuny, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Nicholas Emejen – Second Clerk Assistant
Mr. Ahmad Kadhi – Third Clerk Assistant.

IN ATTENDANCE: CENTRAL BANK OF KENYA

Prof. Njunguna Ndungu – Governor
Mr. Gerald Nyaoma – Director, Banking Services.

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer. The agenda of the day was adopted.

MIN. NO. 223/2010 : MEETING WITH THE GOVERNOR, CENTRAL BANK OF KENYA

The Committee was informed that:-

- (i) The Central Bank of Kenya is a fiscal agent and banker to the Government of Kenya (GOK) and amongst others is responsible for effecting foreign currency payments on behalf of Government Ministries and Departments. Likewise, the

Bank receives offshore inward remittances in favour of Government Ministries and Departments with Central Bank of Kenya (CBK) retaining the foreign currency and paying the equivalent amount in Kenya Shilling to respective Ministries/Departments.

(ii) In case of receipt of funds for Government Ministries and Departments, CBK received SWIFT FN 103/202/910 messages from respective correspondent banks. Each message normally contained the following information:

- a) Ordering customer
- b) Currency of funds
- c) Amount
- d) Beneficiary's name, bank and account number
- e) Purpose of the funds.

(iii) Once the payment details have been established, CBK raises the necessary accounting entries by crediting the beneficiary's Government Ministry/Department account with the Kenya Shillings equivalent of the foreign currency amount using the prevailing CBK bid rate on that date.

(iv) Thereafter, the Ministry/Government Department would be notified of the credit via a letter signed by two authorised signatories of the Bank and a copy of the SWIFT messages and credit voucher issued.

(v) As regards the Receipt of Proceeds of Sale of Government Property in Lagos, Nigeria members were told that, On 16th December, 2008 CBK received a copy of a letter of similar date from the Permanent Secretary, Ministry of Foreign Affairs (MFA) advising the Kenya High Commissioner in Abuja, Nigeria, to transfer the entire proceeds of Great Britain Pounds (GBP) 8,815,000 .

(vi) On 29th December, 2008, CBK received a Swift FIN910 from the Bank of England advising a credit of GBP 8,730,805 from the Kenya High Commission, Abuja Nigeria. On 30th December 2008, CBK received a letter from the Ministry of Foreign Affairs advising Central Bank of Kenya to credit the amount of GBP 8,730,805 to their development bank account No. 01-010-D004.

(vii) CBK raised entries to transfer funds on 30th December, 2008, which amounted to KES equivalent of 984,709,080.40 and advised MFA accordingly vide a letter dated 31st December, 2008.

(viii) In relation to the receipt of proceeds of sale of government property in Cairo, Egypt, the Committee heard that, On 24th December, 2007 CBK received a SWIFT FIN 103 from Bank of New York, N.Y. advising receipt of funds as follows:

- a) Ordering customer – Kenya Embassy, Cairo, Egypt
- b) Currency of funds – USD
- c) Amount – 677,246
- d) Beneficiary's name, bank and account number – MFA CBK, 01-010-R004

- e) Purpose of the funds – Remittance of 90 percent balance on sale of government plot in Dokki area, Cairo, Egypt.

Subsequently, CBK raised entries to transfer funds on 7th January 2008, which amounted to the KES equivalent of 42,395,599.60 and advised the Ministry of Foreign Affairs accordingly vide a letter dated 7th January, 2008.

- (ix) Once the CBK receives instructions where to credit the receipts of funds, they may not know how the funds are allocated.
- (x) The Central Bank of Kenya indeed noted the difference in amounts and notified the Ministry of Foreign Affairs on the same, and that they are not aware if the proceeds of sale were surrendered to Treasury.
- (xi) As the Central Bank pays out and receives huge remittances on behalf of Government Ministries and Departments on a daily basis, it was not in a position to tell whether any further payments were received on account of the two transactions until supporting document is produced for reference and confirmation.

Members were gravely concerned of the high Bank charges amounting to GBP 14,000 and the fact that not all the money realised from the sale was remitted as had been directed. The amount remitted to CBK was less by GBP 70, 000 in addition to GBP 14,000 for the bank charges. In response the governor informed the committee that CBK had no power to negotiate these tariffs charged by foreign banks who act as intermediary and further that CBK does not inquire into the use of funds by government. It only receives money on behalf of government ministries or departments.

MINUTE 224/2010 : ANY OTHER BUSINESS

Chairman briefed members who were not part of the delegation about the visit to Lagos and the Committee observations while there.

The Committee had included gathering evidence and it was resolved that a retreat to write the Report on the matter under investigation was in order. The Secretariat was instructed to make the necessary arrangements.

MINUTE 225/2010: ADJOURNEMENT

There being no other business the Meeting was adjourned at twenty three minutes past 11'Oclock.

Signed.....signed
(Chairperson)

Date:7/10/2010.....

MINUTES OF THE 51ST SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS, HELD ON THURSDAY 12TH AUGUST 2010, IN THE COMMITTEE ROOM, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.30 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. George Nyamweya, MBS, M.P.
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Peter Edick O. Anyanga, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Kiema Kilonzo, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.
The Hon. Eugene Wamalwa, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Nicholas Emejen – Second Clerk Assistant.

IN ATTENDANCE : MINISTRY OF FOREIGN AFFAIRS

Hon. Moses Wetangula, EGH, M.P. –	Minister
Hon. Richard Onyonka, M.P. –	Assistant Minister
Mr. Thuita Mwangi –	Permanent Secretary
Ambassador Wamoto –	Political and Diplomatic Secretary
Mr. J. K. Ndathi –	Director of Administration
Mr. Khadiagalla –	CFO
Mr. Kariuki Mugwe –	Principal Accountant
Mr. A. Kihurani –	Deputy Director, Political Affairs
Mr. F. Matuanga –	Personal Assistant to Minister
Mrs. Judy Ngunia –	Head of Press and Communication
Mrs. Soila Kasaine –	Third Secretary

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer. The agenda of the day was adopted.

MIN. NO. 218 /2010: CONFIRMATION OF THE MINUTES OF PREVIOUS SITTINGS

The Confirmation of the previous minutes was postponed to another sitting of the Committee.

MIN. NO. 219/2010: MEETING WITH THE MINISTER ON ACQUISITION OF MISSION PROPERTIES ABROAD

The Chairman welcomed the Minister and his team and started by clarifying that the Committee was still investigating the matters before it and had not reached any conclusions, he therefore impressed upon the media to be responsible and report accordingly.

In his brief, the Minister informed the Committee that:-

- (i) The Federal Government of Nigeria had offered sites for Embassies to relocate to the new Capital city in Abuja following which approval for disposal of the plots located in Ikoi, Lagos was granted by Treasury, and that was because they were costly to maintain as well as avoiding deterioration.
- (ii) The Permanent Secretary, Ministry of Foreign Affairs moved to implement the decision to dispose of the property as there were of no political or economic benefit to keep. In March 2008, a team visited Lagos to start the process of disposal with the market value of US \$ 6,022,000. The property was advertised between 11th – 15th April 2008, followed by a meeting of the Tender Committee which resolved to sell the property to the highest bidder, 21st Century Global at Sterling Pounds 8,815,000. The proceeds from the sale of the property in Lagos were transmitted to the Treasury.
- (iii) The Nigerian Government had allocated many countries properties and Kenya was allocated three plots by the Federal Capital Territory administration. The plots were located within a diplomatic enclave where various Countries with diplomatic presence in Nigeria had put up their Chanceries and Residences.
- (iv) An open tender prequalification for contractors was carried out followed by tender evaluation for the bids received. This was carried out by the consultant, M/s. D&B Limited together with officers from the Ministry of Public Works and the Ministry of Foreign Affairs. The Ministerial Tender Committee in its meeting vide MFA/MTC/04/2008-09 approved award of the contract and the construction of the proposed Chancery, High Commissioner's Residence and staff houses to M/s Diamatrix Limited of Nigeria. The project consultant, M/s D&B Limited submitted contract documents and other mandatory requirements

including a performance bond of 11 million Naira and an advance payment guarantee of 414 million Naira.

- (v) As regards Islamabad, the Government of Kenya bought land set aside by the Islamic Republic of Pakistan in a diplomatic enclave in 1991 at Kshs1.4 million. Construction of a Chancery and an Ambassador's residence was conceptualized in 1997 and preliminary designs were drawn by M/s Attelier International Architects in October, 1998. The project did not take off until 2007/08 financial year when a budgetary allocation of Kshs 200 million was voted for the construction work to begin. M/s Consul Construction Solutions, rated as the lowest responsive bidder and awarded the contract at a sum of Pakistan Rupees 385,821,826 an equivalent to Kshs 366,055,734,700.
- (vi) The Ministerial Tender Committee in its meeting vide Minute MFA/MTC/05/2008/009 held on 12th March, 2009 discussed the application of the contract variation to meet the escalation of costs and approved a variation of Pakistan Rupees 53,040,163 or an equivalent of Kshs50,388,155. The Chancery had since been completed and operations have shifted from the rented premises to the new Kenyan-owned Chancery. Some works were still pending at the Residence.
- (vii) On Brussels, plans to acquire the Chancery in Brussels dated back to 1999, the task force recommended the purchase of a detached building citing various advantages which included convenience, image, and prestige. The search for a property eventually narrowed down to a building that the Embassy was occupying and it had occupied for nearly ten years. In 2005, a team of senior officials from Nairobi visited the Embassy with a view to discussing the proposal to purchase in addition to assessing what was available in the market. A meeting was held with the owners of the building that the Embassy was occupying during this mission. The owner of the property emphasized the suitability of the property especially its location along one of the major streets of Brussels. The owner confirmed that they were in possession of the property ownership documents and the property had been valued recently at 5 million Euros and offered to sell to the Government of Kenya at 4.5 million Euros. The price was inclusive of the building, furniture, fixtures and fittings.
- (viii) The owners also undertook to renovate the building and to provide a guarantee upon sale. Evaluation had been requested from S.A Atisreal Company which returned a gross market value of 3.316 million Euros and a net market value of 2.940 million Euros in May, 2007.
- (ix) Another valuation by the Deputy Commissioner for Lands from Nairobi had also been carried in 2007 which returned a value of three million Euros for the property in its current state excluding the required repairs on the roofs, wiring et cetera.
- (x) An inspection team comprising officers from the Ministry of Foreign Affairs, Roads and Public Works visited Brussels between 21st to 24th February, 2008 with a main objective of carrying out an inspection of the renovation identified by the team that had visited in 2007 and make recommendations regarding finalization of the purchase of the proper. The report indicated satisfaction. The

Ministry of Roads and Public Works Officers were satisfied with the repairs that had been carried and made recommendation to the Ministry of Foreign Affairs to go ahead and finalize the purchase.

- (xi) The Ministerial Tender Committee held on March, 19th, 2008, approved the purchase of the Chancery in Brussels under minute No.MFA/MTC/011/09/2007-08. A sale agreement was drawn and the property transferred to the Government of Kenya. The total purchase price of the Chancery was 3,850,000 Euros or an equivalent of Kshs 381,150,000 which was provided by the Treasury. Records from the Mission indicate that the full payment was made to the sellers by June, 2008.

MIN. NO. 220/2010: CONCERNS BY THE COMMITTEE

Members raised the following concerns from the presentation by the Minister

- (i) Why did the Ministry ended up paying 3,800,000 Euros which is more than the valuation of the property?
- (ii) Whether the property had any historical significance to the Municipality of Brussels or by extension to the Government of Belgium or whether they were at liberty to redevelop it.
- (iii) If it was the visiting group's considered view that furniture should not be part of the purchase of the Chancery and yet, they took into consideration furniture when purchasing.
- (iv) That in almost several instances the long periods taken to conclude matters was what was causing all the problems including large price variations.
- (v) The fact that the buildings with time may not be suitable for the intended purpose and without an option of redevelopment may be insignificant to Kenya's Foreign Policy.
- (vi) Whether indeed the Minister was getting the correct facts from his officers as what he had previously informed the committee had turned out to be a misrepresentation to what the Committee observed when they visited the missions
- (vii) What is the variation percentage that is reasonably acceptable on the Islamabad property?
- (viii) What is the justification for seeking to be exempted from the Public Procurement and Disposal Act and going on to do what was advised against by the Public Procurement Oversight Authority?
- (ix) What informed the decision not to retain one plot in Lagos against what was advised?
- (x) Was the Attorney General involved in any of the transactions or was there a lawyer involved in both the purchase and disposal?

MIN. NO. 221/2010: MINISTER'S RESPONSE

The Minister in response informed the Committee that:-

- (i) The value that he had made reference to, was exclusive of furniture and repairs.

- (ii) He was not aware of any special conditions and limitations of the Brussels property.
- (iii) The teams that visited Brussels several times established that if they were, to furnish that Chancery, it would have cost not less than 1 million Euros, yet the property had been furnished properly and was in use by the Embassy.
- (iv) That there was no contradiction in terms of the location of the Chancery in Belgium and the policy they were pursuing as it was close to the EU which is Kenya's primary engagement in Europe.
- (v) The issue of how long it takes to procure is a concern that runs across all Ministries. First of all, budgets are annual, and sometimes they would be allocated money and the procurement process under the Act was so cumbersome that by the time they went over the procurement, the financial year was over.
- (vi) To the best of his knowledge all the information submitted was accurate and in the event that it was not, he would inform the Committee accordingly.
- (vii) The variation on the Pakistan construction is an equivalent of 13.74 per cent of the contract sum. Whereas the recommended ceiling by the Ministry of Public Works is 15 per cent. So, it was reasonable.
- (viii) The authority given by the Treasury was to dispose of the three plots and the three plots were hence disposed of in Lagos.
- (ix) That the Ministry of Foreign Affairs has a fully fledged team of lawyers who are also advocates of the High Court of Kenya and a good number of them were part of the Attorney General's team and were seconded from the AG's office in addition to being State Counsels. However, when it is necessary to involve the Attorney General, they do so.

MINUTE 222/2010 : ADJOURNEMENT

There being no other business, the Meeting was adjourned at Twenty six minutes past One o'clock.

Signed.....Signed.....
(Chairperson)

Date:7/10/2010.....

MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE
AND FOREIGN RELATIONS HELD ON TUESDAY 10TH AUGUST 2010, IN COMMITTEE
ROOM 9, MAIN PARLIAMENT BUILDINGS AT 10.30 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Eugene Wamalwa, M.P.
The Hon. Jeremiah Ngayu Kioni, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Kiema Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.
The Hon. Peter Edick O. Anyanga, M.P.
The Hon. George Omari Nyamweya, MBS, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Nicholas Emejen – Second Clerk Assistant.

IN ATTENDANCE : THE OFFICE OF THE DEPUTY PRIME MINISTER
AND MINISTER FOR FINANCE

Hon. Uhuru Kenyatta, EGH. MP. -	The Deputy Prime Minister and Minister for Finance
Mr. Joseph Kinyua -	Permanent Secretary
Mr. O.N. Ontweja -	Deputy Director
Mr. P. Ndungu -	Internal Auditor-General

PRELIMINARIES

Prayers were said followed by the Chairman introducing himself and other Members of the Committee.

MIN. NO. 213/2010: CONFIRMATION OF THE MINUTES OF PREVIOUS SITTINGS

The Confirmation of the previous minutes was postponed to another sitting of the Committee.

MIN. NO.214 /2010: MEETING WITH THE MINISTER ON ACQUISITION OF MISSION PROPERTIES ABROAD

The Committee was informed that:-

- (i) The policy of the Government is to acquire rather than to lease properties abroad and the strategy to acquire both residential and non-residential properties was based on the fact that there are huge savings generated once a property was acquired.
- (ii) The Status of funding for the Missions was as follows:-
 - (a) Tokyo, the final payment was made the last financial year and the cost was approximately Kshs. 1.524 billion.
 - (b) The plot in Cairo was sold at Kshs 47,106,221.30 and the funds were remitted to the Treasury account at the Central Bank.
 - (c) The Chancery in Brussels was bought during the Financial Year 2007/2008 at a cost of Kshs 378,250,950.
 - (d) As for Lagos and Abuja, the building in Lagos was sold at Kshs984,709,080 and these funds were received and credited to the Exchequer on 15th January, 2009.
 - (e) Islamabad, Pakistan - the project for construction of the Chancery and Ambassador's Residence started during 2007/2008 Financial Year and was finalized in the last Financial Year, 2009/2010 at a total of Kshs. 532,834,080. It was allocated to the vote of the Ministry of Foreign Affairs under the same period. The buildings are constructed on land given free by the Government of Pakistan and it is expected that approximately Kshs. 10 million will be saved as rent expenses each year.

MIN. NO. 215/2010: CONCERNS BY THE COMMITTEE

Members of the Committee then raised the following queries

- (i) On the issue of purchase of properties, they had observed in other countries that there is the possibility of buying floors rather than buying a whole plot or building. And whether such considerations are taken into account by the ministry before allocating funds.
- (ii)What factors were considered before giving such colossal sums of money?
- (iii)How it came to be that all the funds were paid in full before the transfers were effected. Whereas it is well established practice that when dealing with properties, one only pays in full when the transfer is effected in ones name. Was it the

procedure within the Government to buy property, pay the owner and then later transfer the property in the name of the Government?

- (iv) The Ministry of Finance being in charge of the national resource envelope would have been prudent to ask whether there was valuation for that particular property in Tokyo and if there was a structure in place and whether there was a report by the Ministry of Public Works.
- (v) When did it come to their knowledge that there was a problem in the Japan Mission or any other Mission?
- (vi) Had the Internal Audit completed their work? If so, whether the Minister for Finance was comfortable that the deal was good value for money?
- (vii) What was the take of The Ministry of Finance on issue of viability of the project?

MIN. NO. 216/2010: RESPONSE BY THE DEPUTY PRIME MINISTER

The Minister, assisted by his team of technocrats, responded to the concerns raised by the Committee as follows:-

- (i) The Foreign Affairs policy is driven by the Ministry of Foreign Affairs and so they would be the best people to respond, as ultimately it is their business to know what it requires to execute its mandate.
- (ii) The process for allocating money to the Ministries is guided by a determination on the resources, in accordance with the development strategy guiding the development agenda of the country which clearly articulates the areas which, as a country, were given priority in promoting the ultimate national objectives.
- (iii) The criteria in place, for funds to be allocated involves sectorised meetings where the Ministry of Foreign Affairs, participates in the Finance, Administration and Planning sub-sector. The Treasury gives a ceiling for each sector. The Ministries in that sector then go and put in place priorities within that subsector in accordance with the national objectives of the Government.
- (iv) On the question of the execution of the budget, there was a very clear mandate of what Treasury and line Ministries do. There are laws and financial regulations that govern that. When it comes to procurement whether it is of a building or a road construction, the Treasury will not be directly involved in signing the agreement.
- (v) Treasury does not earmark resources as in the case of allocating receipts from the Lagos sale to be utilised in Japan. What the Committee may have seen in the communication with the Ministry of Foreign Affairs is that they were trying to make up their case. This was because initially in view of other areas that Treasury would have felt there were perhaps, more important priorities for the Government.
- (vi) As regards the question on the issue of viability of the project. Treasury would not be involved. It was the Ministry which should take the responsibility to liaise with the Ministry of Lands so that they get viability as when undertaking purchases or construction, they do not have the capacity. Therefore it is only prudent that they have to do the work through the Ministry of Public Works which was the one

mandated. They, however, must have a way of supervising so that they ensure that they get value for money that has been given to them

- (vii) There were reports that were appearing in the Newspapers, which raised reason to believe that there could be some problems. Thereafter the internal audit took up that matter and called in the Internal Auditor General to carry out an audit so that Treasury would have confidence that everything was regular. In the assumption that the internal auditor would be given the full co-operation and necessary information.
- (viii) In totality the Ministry of Finance, Internal Audit, relied on documentary evidence that came into their possession and given to them by the Ministry of Foreign Affairs when investigating into the allegations they had picked up from the media reports. In the report that was shared with the Ministry of Foreign Affairs, they had a lot of evidence to demonstrate how they arrived at that conclusion.

MINUTE 217 /2010 : ADJOURNEMENT

There being no other business, the Meeting was adjourned at fifty minutes past eleven o'clock.

Signed.....signed.....
(Chairperson)

Date:7.10.2010.....

MINUTES OF THE 49TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD ON MONDAY 9TH AUGUST 2010, IN THE MAIN CONFERENCE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 3PM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Eugene Wamalwa, M.P.
The Hon. Jeremiah Ngayu Kioni, M.P.
The Hon. Peter Edick O. Anyanga, M.P.
The Hon. George Omari Nyamweya, MBS, M.P.

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, M.P. – Vice Chairperson
The Hon. Kiema Kilonzo, M.P.
The Hon. Joshua Kutuny, M.P.

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Nicholas Emején – Second Clerk Assistant.

IN ATTENDANCE : PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

Mr. M. Juma - Acting Interim Director-General
Mr. P. Ndung'u - Acting Deputy Manager, Compliance
Mr. C. Gachanja - Compliance Officer

PRELIMINARIES

Prayers were said followed by the Chairman introducing himself and other Members of the Committee.

MIN. NO. 207/2010: ADOPTION OF THE AGENDA

The Committee went through the agenda of the day which was subsequently adopted.

MIN. NO. 208/2010: CONFIRMATION OF THE MINUTES OF PREVIOUS SITTINGS

Confirmation of the minutes was postponed to a later date.

MIN. NO. 209/2010: MEETING WITH THE PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

The Chairman welcomed the team to the meeting and quoted the letter inviting the Director from the Clerk of the National Assembly which required the PPOA to give an overview of public procurement procedures on acquisition of properties in the Government with specific reference to Kenya diplomatic Missions Abroad.

The Committee was informed that:-

- (i) Public procurement in the public sector, including disposal are governed by the Public Procurement and Disposal Act, 2005 and its attendant regulations of 2006.
- (ii) The Public Procurement and Disposal Act were operationalised in January 2007. With respect to procurements in the Ministry of Foreign Affairs and Kenya Missions abroad, they were all expected to comply with the requirements of the procurement law during acquisition of properties by Government.
- (iii) Regarding procurement under the procurement law, there were various procurement methods. On the use of alternative procurement methods, then the Tender Committee of the respective public entity must approve that procurement method. The approval must be made in writing and it has to be prior to initiating the procurement process.
- (iv) The role of Public Procurement Oversight Authority (PPOA) on the purchase and or sale of Government properties as regards Tokyo, is that PPOA recommended that the Ministry of Foreign Affairs must procure the property in accordance with the Public Procurement and Disposal Act and the regulations.
- (v) On Cairo, Egypt, the records do not show that PPOA was consulted and the same applies to Brussels, Belgium. In Lagos and Abuja, the Ministry of Foreign Affairs only reported to PPOA on the use of direct procurement method. The PPOA raised concern on the method that was applied then, and needed some clarifications and raised these concerns through the letter of dated 24th October, 2007. The Ministry responded and explained the justifications that they had in their application of direct procurement method.
- (vi) On Islamabad, Pakistan, PPOA was not consulted during the procurement process, but the Ministry reported the use of direct procurement to PPOA and again, they raised some concerns via letter of 24th October, 2007. The Ministry subsequently responded to the issues raised on 1st November, 2007.

MIN. NO. 210/2010: COMMITTEE'S CONCERN

Members sought to know from the Director General:-

- (i) Whether it was mandatory for government ministries and departments to seek intervention of the PPOA when transacting.
- (ii) If Treasury itself had to countersign or participate in the agreements for sale as was the practice previously.
- (iii) Where the Government purchases property is being bought and the services of a valuer from that country where the property is being bought are not used or if under the law, there was a mandatory provision that property must be valued?
- (iv) Whether they had received any request from the Ministry of Foreign Affairs in any of the matters seeking authorization for direct procurement?
- (v) If there was a legal provision that requires the Attorney-General to be consulted or whether a Ministry rely on any other legal advice.
- (vi) Whether they have been contacted by any other of the many bodies that are looking into this matter such as the KACC, Office of the Prime Minister or any other.
- (vii) How long the advertisements should be run supposed to be in the media as per the provisions of the Act?
- (viii) As the person in charge of the Public Procurement Oversight Authority (PPOA) how the Director General would term such a transaction?

MINUTE NO. 211/2010: RESPONSE BY THE INTERIM DIRECTOR GENERAL, PPOA

In response, the Members of the Committee were informed that:-

- (i) The role of the Authority (PPOA) as enshrined in the procurement law is basically to give guidance and advice, to public entities where they seek intervention on issues of procurement and disposal and on the use of specially permitted procurement procedure which they must approve. But the other methods, from the outset to the finality, entities may procure without reference to Public Procurement Oversight Authority (PPOA).
- (ii) Public entities initiate their procurement processing and enter into contracts with the successful firms without reference to Treasury. Before the coming into effect of the Public Procurement and Disposal Act, 2005 treasury was involved in counter signing contracts.
- (iii) One of the functions of a disposal committee is to carry out a valuation which is provided for, in the Procurement Act, related with the procurement regulations and also the general procurement manual which was issued to public entities.
- (iv) The PPOA does not approve the use of procurement methods other than specially permitted procurement procedure in Section 92. They had not received any request of on the use of direct procurement. What they had advised the Ministry of Foreign Affairs on request to use specially permitted procedure was to use the other conventional methods that are contained in the procurement law.
- (v) The guidance that is available on property valuation is that the value of the property as given by the experts would be the guiding amount that will be used by the public entity to make a decision. Further the margin of price variations is not clearly outlined in law, but the general procurement manual that was in place gives an outline of how the amount that has been valued should be treated. The

- figure that the valuers would have come up with would form the basis for the negotiation committee to discuss with the other party that is selling the property.
- (vi) In terms of consulting with the Attorney-General on matters that border on contract agreement, in the Public Procurement Law, there is no provision for consulting the Attorney-General. On signing of contracts, the Accounting Officer is responsible for signing all procurement and disposal contracts on behalf of a procuring entity.
- (vii) The Public Procurement Oversight Authority is required under the Procurement Law to monitor how procurement is being implemented in Kenya. We do this through the use of assessments and we visit public entities to determine whether they are complying with the procurement law. They also carry out procurement reviews which are deeper than procurement assessments.
- (viii) The law requires the Authority to carry out investigations and report findings to the KACC.
- (ix) As regards, open tendering the period of advertisement required is 21 days and is the same for procurement of services. However when it came to terms of issuing the request for proposals to those who have been prequalified, the requisite period is two weeks.
- (x) If the procurement laws were not adhered to then the procurement process was flawed.

The Chairman thanked the Team but informed them that they may be called back should the Committee feel that any of the Issues required clarification.

MINUTE 212/2010 : ADJOURNEMENT

There being no other business, the Meeting was adjourned at ten minutes past Five o'clock.

Signed.....signed.....
(Chairperson)

Date: 7/10/2010.....

MINUTES OF THE 40TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE
AND FOREIGN RELATIONS HELD ON TUESDAY, 22ND JUNE, 2010, IN COMMITTEE
ROOM 7, MAIN PARLIAMENT BUILDINGS AT 11.30 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. George Nyamweya, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Peter Edick O. Anyanga, MP
The Hon. Eugene Wamalwa, MP

ABSENT WITH APOLOGY

The Hon. Benedict Fondo Gunda, M.P.
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. Jeremiah Kioni, MP

ABSENT

The Hon. Hassan Ali Joho, MP – Vice Chairperson
The Hon. Joshua Kutuny, MP
The Hon. Kiema Kilonzo, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Emejen Nicholas	– Second Clerk Assistant
Mr. Ahmad Kadhi	- Third Clerk Assistant

WITNESS

Ambassador Dennis Awori – Former Kenya Ambassador to Japan

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer.

MIN. NO. 166/2010: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of minutes of the previous sitting was postponed to the next sitting.

MIN. NO 167/2010 – MEETING WITH AMBASSADOR AWORI – FORMER KENYA
AMBASSADOR TO TOKYO, JAPAN

The Chairperson began by highlighting the mandate of the Committee and the agenda of the meeting. The Chairperson thereafter invited Ambassador Dennis Awori to brief the Committee on the purchase of Government property for Kenya Mission in Tokyo, Japan.

Ambassador Dennis Awori briefed the Committee as follows:-

MIN. NO: 168/2010 – PURCHASE OF GOVERNMENT PROPERTY IN TOKYO,
JAPAN

- (i) In August 2006 the Ministry of Foreign Affairs wrote to all Missions informing of the new policy of property acquisition proposed by the Ministry of finance so as to mitigate the high rent paid by Missions. In response to this request the Mission wrote back in November 2006 forwarding a proposal to purchase the premises that were being rented by the Mission based on the price asked by the landlord which was subject to independent valuation. With the proposal the Mission recommended the Government to borrow the purchase price from the Mission's bankers Tokyo Mitsubishi UFG with payments less than the monthly rentals.
- (ii) The Ministry informed the Mission in April 2007 that treasury had turned down the proposal to borrow money from the commercial bank. The Ministry further advised that the purchase price was high and that an independent valuer be procured to value the property and put the valuation price in the 2007/2008 budget. The Mission contracted M/s Coral corporation of Japan to value the property. The property was valued at Japanese yen 1.09 billion against the landlord's asking price of Japanese yen 1.9 billion. The landlord turned down the offer of the Mission which was pegged on the valuation by M/s Coral Corporation.
- (iii) Following the refusal by the landlord to lower the price the Mission approached the Government of Japan to assist in identifying a plot or property since that would be a Government to Government transaction as opposed to a private individual. The Mission was seeking plot or property that had proximity to the Government offices, commercial hub, transport, international schools, other embassies, ease of development and building codes, good topology of the lands and quality neighbourhood.
- (iv) The process of identifying suitable plot took close to 14 months and involved meetings and negotiations with Government officials in the ministries of foreign affairs and finance of Japan. This culminated in the offer of several plots and in October 2008 the Mission zeroed in on two plots and eventually to one plot measuring 700 meters squared based on

its proximity to Government offices for political diplomacy, Central business district for economic diplomacy (ten minutes drive as opposed to 45 minutes for the current location of the Mission. The plot was also close to a train station and located in an up market neighbourhood within 8 embassies as direct neighbours and 79 others in the neighbourhood. The neighbourhood allowed a building permission of 60% coverage of the plot with a 30 metre height restriction as compared to 10 metres for the current premises. Putting up a new building would have meant more space with a multi storey building. The Plot also had a road frontage meaning easy access, road parking and visibility as compared to the current premises that has no road frontage.

- (v) The Mission informed the Ministry of the decision to bid for the plot and subsequently applied to the Government of Japan for the plot. Following pressure from the Government which included a meeting between President Kibaki and Senator Yano, Vice Chairman of the Africa Japan parliamentary league, the Mission was going to get the plot at a fair price. The Mission was advised by the Japanese Government that they would first commission independent valuations and offer the plot at the valuation price.
- (vi) After valuations the plot was offered at Japanese yen 1.3 billion. This price was communicated to the embassy together with a recommendation for an inter-ministerial team to assess and value the plot before actual purchase. The evaluation team arrived in January 13 to 17 2009 and he (Awori) showed them the plots, and took them for meetings with Government officials and senator Yano but did not participate in the evaluation committee sittings assessing the plots because as the Ambassador and the person recommending it wasn't right for him to do so.
- (vii) Prior to the arrival of the evaluation team in Japan he had requested the resident to release him from Ambassadorial duties by March 31st 2009. He left Japan to Kenya to lead a delegation of Japanese tea importers who came to study Kenya's tea industry and returned to Tokyo on 5th February 2009.
- (viii) On 20th January 2009 the landlord sent an offer of 1.9 billion yen to the evaluation team and the team advertised intention to purchase the property. On 26th January 2009 the Mission advertised seeking plots to purchase and bidders were to submit bids by 30th January, 2009 and due to the short time for bids the response was poor.
- (ix) 2nd February the embassy procurement committee met with the landlord and negotiated for price reduction and settled on 1.75 billion yen and this was communicated to the Ministry on 3rd February, 2009.
- (x) On 5th February he returned to Tokyo from Nairobi and on March 2nd the Ministry sent a process matrix to guide the purchasing of the premises occupied by the Mission. The matrix included:-
 - 26th February – Valuation

- 2nd to 6th March – Ministerial tender board
 - 9th and 20th March – Consultations with treasury
 - 23rd March – Public Works inspection
 - 6th April – Negotiations and feedback
 - 14th April – Ministerial Tender Committee deliberation approval or rejection
 - 20th April – Letter of acceptance
 - 2nd and 30th May – appointment of lawyer, verification of status and preparation of sale agreement
 - 15th June – payment of 10 % deposit
 - 30th July – registration and transfer of Title
 - August 2009 – final payment
- (xi) March 17th, 2009 he left Tokyo for an international conference for Africa's development in Botswana and while he was away on 20th march the Mission received confirmation of authorization to purchase the building. On 31st march he chaired a meeting informing the landlord that the Government of Kenya had agreed to purchase the property based on the approval from treasury, but subject to each party was to appointing a lawyer, thorough inspection of the building, independent valuation and final price to be negotiated by a negotiating team from Nairobi. At this juncture he informed the Japanese Government that the Government of Kenya had turned down the offer to buy the plot.
- (xii) He never chaired a meeting of the team that decided to purchase the current premises. He personally was not happy about that decision sine the plot offered by the Government of Japan was better in the long term and short term than the current premises. The current premises measured 1, 100 meters squared.

MIN. NO 169/2010 – COMMITTEE OBSERVATIONS

From the evidence adduced by the Ambassador Awori the committee observed that:-

- (i) The Government of Kenya had exerted political and diplomatic pressure on the Government of Japan to sell to it a suitable plot to develop a Chancery and Residence for the Embassy and there was assurance from the Government of Japan on the same and further that a suitable plot had been identified by the Mission and offered for sale by the Government of Japan.
- (ii) No independent valuation was conducted in 2009 apart from that done by the Ministry of Lands.
- (iii) The Government did not appoint a lawyer during the transaction

- (iv) The Ministry of Public Works was not involved in determining the structural suitability of the premises in spite the process matrix indicting when they were to undertake the inspection.
- (v) The Mission advertised for bids within a limited locality and the time for submitting bids was limited and therefore the low number of bids.
- (vi) Negotiations started way before the normal procurement procedures were followed.
- (vii) Ambassador Awori did not chair the valuation committee meeting that decided to purchase the current premises over the plot offered by the Government of Japan.
- (viii) The Ministry decided to purchase the property at rates way above the valuation prices.

MIN. NO. 170/2010 - FIRE INCIDENT AT THE AMBASSADOR'S RESIDENCE IN TOKYO, JAPAN

The Ambassador informed the Committee that he had already left the diplomatic service when the fire consumed the Ambassador residence in Japan.

MIN. NO. 171/2010: ADJOURNMENT

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

Signed.....Signed.....
(Chairperson)

Date:5/7/2010.....

MINUTES OF THE 38TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY, 3RD JUNE, 2010, IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS AT 2.30 PM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Hassan Ali Joho, MP – Vice Chairperson
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. George Nyamweya, M.P.
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Peter Edick O. Anyanga, MP

ABSENT

The Hon. Joshua Kutuny, MP
The Hon. Jeremiah Kioni, MP
The Hon. Kiema Kilonzo, MP
The Hon. Eugene Wamalwa, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Emején Nicholas – Second Clerk Assistant

MINISTRY OF FOREIGN AFFAIRS

Hon. Moses Wetangula – Minister
Hon. Richard Onyonka – Assistant Minister
Mr. Thuita Mwangi – Permanent Secretary
Mr. J. Ndathi – Director of Administration
Amb. Patrick Wamoto – Director for Political Affairs
Mr. A. M. Kiurani – Deputy Director for Political Affairs
Mr. Johnson Weru – Director Economic Division
Juliet Gicheru – Principal State Counsel
Dr. M. Gachuru – Assets Manager
Soila Kasaine – Third Secretary

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer.

MIN. NO. 153/2010: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of minutes of the previous sitting was postponed to the next sitting.

MIN. NO 154/2010 – MEETING WITH THE MINISTER FOR FOREIGN AFFAIRS

The Chairperson began by highlighting the mandate of the Committee and the agenda of the day. He then invited the Minister to brief the Committee on the Government policy on acquisition of properties abroad; the status of funding for the purchase and sale of Government properties for Kenya Missions in Japan, Egypt, Belgium and Lagos/Abuja and the status of the Tokyo Mission after the fire incident.

The Minister briefed the Committee as follows:-

MIN. NO: 155/2010 - GOVERNMENT POLICY ON ACQUISITION OF PROPERTIES ABROAD.

The Committee was informed that:-

- (i) The Ministry is formulating the broad policy of Government to own or build property in Missions abroad. The policy will take into consideration the political, economic and strategic importance of countries where Kenya Missions are located as well as rent paid by the Government for leasing properties.
- (ii) The Government owns land buildings and other movable assets in some diplomatic Missions abroad which include 47 residential and 15 non residential properties.
- (iii) The acquisition of properties has been gradual but in the past it was prompted by the needs of specific Heads of Mission. With expansion of Kenya's diplomatic presence abroad demand for space and acquisition of properties will continue.
- (iv) Treasury is the largest source of revenue for property acquisition.
- (v) Property acquisition is in line with the Ministry's strategic plan and the report of the taskforce on rationalization, restructuring and strengthening of the Ministry. In line with the aforementioned report the Ministry should establish an asset management unit so as to manage existing properties, create a comprehensive data base of all assets and recommend prioritization and acquisition of properties for Missions, consider joint acquisition of properties with partner's states of EAC as well as consider policies for funding the acquisition of properties.
- (vi) The Ministry will share with the Committee the general policy on property acquisition once it is finalized.

The Minister further briefed the Committee on the procurement process. He informed the Committee that in any tender there must be an inter Ministerial

Committee which must adhere to the Public Procurement and Disposal Act and that treasury's authorization must be sought before proceeding with the acquisition or disposal.

MIN. NO 156/2010 – PURCHASE OF PROPERTY IN TOKYO, JAPAN.

The Minister for Foreign Affairs briefed the Committee as follows:-

- (i) Kenya opened its Embassy in Tokyo in 1979 and in 1989 the then Amb. Ole Leken identified a plot and negotiated with the owner to construct a chancery and residence to the Mission's specifications for leasing. The Mission moved into the property the same Year (1989) after construction. In June 1990 the Ambassador further advised the Government to purchase the Chancery and the residence at a price of Yen 5.5 Billion.
- (ii) In November 2006, Amb. Awori revived the issue of purchase of the property that was being leased by the Mission. The Amb. wrote that the property had easy accessibility and located among 15 other Embassies. In the letter the Amb. sought authority to initiate discussions with the property owners who offered to sell the property at Yen2, 208,834,000 equivalent to Kshs. 1,484,336,448. In January 2007 Amb. Awori proposed that funds for the purchase be raised through credit from Tokyo Mitsubishi UFJ bank, with the Government guaranteeing the loan but treasury advised against borrowing from a commercial bank due to its negative effects on the country's external debt situation. The Ministry instead advised the Mission that the offer price be factored in the Ministry's development budget.
- (iii) The decision to purchase the property in Tokyo was based on Japan's strategic importance, the high rent (4.3 million Japanese Yen) paid by the Mission per month to lease the property and the fact that the property was built to the Mission's specifications.
- (iv) In July 2008 the Mission wrote to the Ministry of foreign affairs of Japan requesting for assistance to identify a property to purchase. The Government of Kenya in the same month in a meeting between president Maw Kibaki and senator Yano officially requested the Japanese Senator who was the Vice Chair of the to help the Government of Kenya to be allocated Government land for purposes of construction of a chancery.
- (v) In October 2008 the Government of Japan identified a plot in Minato Ku measuring 700.39 meters squared with an indicative price of 900 million Yen but was subject to valuation. The property was later valued at 1.307 billion yen.
- (vi) In January 2009 upon advise from amb. Awori an evaluation and inspection team was constituted and dispatched to Tokyo with the mandate of assessing the suitability of the plot offered by the Japanese Government and the property leased by the Mission. The inspection and valuation team comprised officers from the Ministry of Foreign Affairs (Mr.

Muchiri), Ministry of Finance (Mr. Kimemia) and Ministry of Lands (Mrs. Teresia Kimondiu).

- (vii) In took he inspection and evaluation team visited seven plots identified through a real estate management and the Ministry of foreign affairs of Japan. The team found most of the plots unsuitable on account of exorbitant prices, inappropriate locations, irregular shapes and some had already been sold. The plot offered for sale by the Japanese Government was found to be undeveloped, measured 700.39 meters squared as compared to the property leased by the Mission which was 1,431 meters squared, its neighbourhood was surrounded by high rise residential apartments, expensive, irregularly shaped, had a caveat for excavation and therefore unsuitable for an Embassy and difficult for the Government to acquire it.
- (viii) In January 17, 2009 in a meeting chaired by Amb. Awori the team decided that the property occupied by the Mission was the most suitable for purposes of purchasing for a Chancery and residence. The decision was based on the facts that the property was in one of the most prime neighbourhoods, home to two international schools, thirteen other Embassies in the neighbourhood and that it was in good condition (would not require maintenance for the next ten years).
- (ix) In a meeting chaired by amb. Awori the inspection and evaluation team held meetings with the property owners to discuss the possibility of buying the property. The owner consulted with his family and on January 17th, 2009 returned an offer of 1.9 billion Yen (Kshs. 1.654 billion). After the offer the Government advertised in the local dailies for other plots within then same ward or area where the Mission property is located. Five plots were identified and valuation done and found to be unsuitable on grounds of high cost and unsuitable for use as an Embassy. The property housing the Mission was found to be the most suitable and offered best value for money.
- (x) The property occupied by the Mission was valued by the Ministry of lands at Japanese Yen 1.431300 billion (Kshs. 1,245,231 billion) for land only. Upon further negotiations with the owner (Mr. Kuriyama) of the property, the owner agreed on January 19, 2009 to reduce the price to JPY 1.75 Billion (Kshs. 1, 524, 000, 000). The team settled on this price and recommended the property be purchased on the terms negotiated and agreed upon with the landlord. The terms negotiated included payment in installments; transfer and registration upon receipt of the first installments after which there would be no further payment of rent.
- (vii) In March 30th, 2009 the Government of Kenya communicated to the Japanese Government of its decision to relinquish interest in the Government plot after which the team led by Amb. Awori zeroed in on the property leased by the Mission.
- (viii) The final decision to purchase the property was passed on May 25th, 2009 in an Inter-Ministerial tender Committee and the Mission was directed to procure the services of a lawyer. The Mission advertised in two local dailies

on April 27, 2009. The lowest bidder quoted a fee of 2.8 percent of the sale price translating to Kshs. 45.7 million as legal fees. Due to the exorbitant fees the Ministry directed the Mission to liaise with the Japanese Ministry of Foreign Affairs which advised that a licensed solicitor be hired instead. Amb. Awori chaired a meeting on 1st June 2008 and confirmed that there shall be such a solicitor. The Ministerial tender Committee approved the use of a solicitor who undertook background checks, tax exemptions, and participated in the drawing of a sale agreement and finalization of the transaction. The solicitor was paid Kshs. 383, 000 as fees.

- (ix) The funding of the purchase was done with the approval of Treasury. The Ministry requested Treasury to allocate Kshs. 984,709,080.040 realized from the sale of a Government property in Lagos. The balance of the purchase price was to be funded from reallocation of funds from other areas in the 2008/2009 budget. This was achieved when Kshs. 215,290,920 was factored in the Ministry's 2008/2009 development budget. The initial payment was done in June 2009 and the final installment was to be made in September but due to budgetary constraints was paid in January 2010.

The Minister further informed the Committee that for the last two and half years he had not been to the Mission in Japan.

MIN. NO. 157/2010 - FIRE INCIDENT AT THE AMBASSADOR'S RESIDENCE IN TOKYO, JAPAN

The Minister informed the Committee that:-

- (i) Fire broke out at the Embassy building, residence, on February 13, 2010 and substantially destroyed the building but did not affect the chancery.
- (ii) The Mission requested the Tokyo fire department to investigate the cause of the fire which established that the fire was caused by a frying pan that was left with cooking oil on a fully lit gas cooker by the Ambassador's Cook.
- (iii) A new Ambassador, Mr. Benson Ogutu, has since been appointed to the Embassy following the departure of Amb. Dennis Awori.

MIN. NO. 158/2010: PURCHASE AND DISPOSAL OF PROPERTY IN CAIRO, EGYPT

The Committee was informed that:-

- (i) In 1989 the Government of Kenya purchased a plot located at No. 4 Kassem Street, Doki Location, Giza, Gavenret in Cairo. The plot measured approximately 698 metres squared and was purchased at a price of US \$377, 244.
- (ii) Proposals for funding to develop the plot were made to treasury but no funds were allocated and efforts to get alternative funding were not approved by treasury and therefore the plot remained undeveloped.
- (iii) At the time of purchasing the plot it was located in a prime area but the neighbourhood deteriorated and became slumatised and hence unsuitable for an Embassy. The Mission therefore recommended that it be sold and the proceeds be used to acquire a chancery or residence elsewhere.

- (iv) In November 2005 an inter Ministerial inspection team comprising of Ministries of Foreign Affairs, Finance, Lands, Public Works visited the plot, valued it at US \$ 1.2 million and recommended that the plot be disposed due to the deteriorated neighbourhood and the proceeds be used to acquire an Ambassador's residence. Treasury upon request from the Ministry of Foreign Affairs approved the disposal of the plot. The proceeds from the sale were to be forwarded to treasury. In 2007 the Ministry undertook an independent valuation of the plot and returned a value of Egyptian pounds 6,000 to 7,000 per square metre.
- (v) Mission advertised for the sale of the plot and the highest bidder, M/s Modern Power Systems offered Egyptian pounds 6, 000 per square metre and was awarded the sale. A sale agreement was signed on March 19th 2007 between the Kenya Ambassador to Egypt and the buyer. 10% of the sale price was paid to the Embassy in Egypt upon execution of the agreement and the remaining 90% (US \$677, 246) was transferred to the Ministry's Account No. 01010 R004. The money was later transferred to Treasury.

MIN. NO. 159/2010 – COMMITTEE OBSERVATIONS

The Committee observed that:-

- (i) The inter-Ministerial Committee that was sent to Tokyo to inspect and value the property notably did not involve the Ministry of Public Works whose role is critical in determining the structural suitability of the property for the intended purpose and therefore the structural suitability of building that were more than ten years old could not be professionally determined.
- (ii) The Ministry of Land Valuer recommended that the value of the building should not be included in the bargaining price yet the Ministry purchased the property at a price extremely higher than the valuation price.
- (iii) The Ministry did not involve the services of an independent valuer from Japan in 2009 except for a valuation done by M/s Coral Corporation done in 2007. The use of a local valuer with real estate knowledge of properties and valuation in Japan would have given the Ministry the actual valuation of the property and therefore good basis for bargaining. The Ministry did not also use the services of the chief Government legal advisor, the Attorney General during the transaction and instead opted to hire the services of a Japanese solicitor.
- (iv) The Ministry advertised for properties within a very limited area, Meguro ward alone where the Embassy is located, instead of casting the net wider so as to get more bids. The limited time of returning bids could also have affected the number of bidders.
- (v) The property purchased by the Ministry does not front the road but instead a portion of it is used as access – this is as per the valuation report by the Ministry of Lands.
- (vi) At the time the property burnt down, it was not insured. The vendor had terminated his insurance and the Embassy had not procured insurance for the property.
- (vii) The Ministry paid the vendor an amount equivalent to rent as compensation for delayed payments yet the terms of purchase stipulated that no more rent shall be paid after the first instalment.

MIN. NO.160/2010: ANY OTHER BUSINESS

The Committee was informed that the East African Legislative Assembly, Kenya chapter had organised a sensitization workshop on the East African Common Market for members of the Committee on Defence and Foreign Relations and the that of Finance Planning and Trade. The Chairperson impressed upon members to attend the workshop as it related to the Committee's mandate.

The Committee deliberated on the issue of purchase of property in Tokyo and resolved to invite Ambassador Dennis Awori, former Kenya ambassador to Japan to shed more light on the purchase of the property.

MIN. NO.161/2010: ADJOURNMENT

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

Signed.....signed.....
(Chairperson)

Date:..5/7/2010.....

MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE
AND FOREIGN RELATIONS, THURSDAY 13TH MAY 2010, HELD IN COMMITTEE ROOM,
5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 2.30 PM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Wilson Mwotiny Litole, M.P.
The Hon. George Nyamweya, M.P.
The Hon. Peter Edick O. Anyanga, MP
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Jeremiah Kioni, MP.

ABSENT WITH APOLOGY

The Hon. Charles Kilonzo, M.P.

ABSENT

The Hon. Hassan Ali Joho, MP – Vice Chairperson
The Hon. Joshua Kutuny, MP
The Hon. Kiema Kilonzo, MP
The Hon. Eugene Wamalwa, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. Rana Tiampati	– Second Clerk Assistant
Mr. Ahmad Kadhi	– Third Clerk Assistant

MINISTRY OF LANDS

Hon. James A. Orengo, EGH, MP	– Minister.
Ms. Dorothy Angote, CBS	– Permanent Secretary.
Mr. Anthony Itui	– Chief Valuer.
Mrs. Teresia Kimundu	– Deputy Valuer.

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer, followed by brief introductions by Members of the Committee and the Minister and his team thereafter.

MIN. NO. 134/2010: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sittings was postponed to the next meeting.

MIN. NO. 135/2010: MEETING WITH THE MINISTER OF LANDS.

PAPERS LAID:

The Minister tabled before the Committee the Report on the procedure followed by the Ministry in the valuation of property and their reports of valuation – in respect of the Kenya missions in Abuja/Lagos- Nigeria, Tokyo -Japan, Brussels – Belgium, Cairo – Egypt.

The Minister then informed the Committee that:-

- (i) The role of the Ministry of Lands in the acquisition of Government property is advisory and Technical and is on request by the service consumer, in the case of acquisition of property by Kenya Missions abroad, the Ministry of Foreign Affairs requested for a Valuer to accompany the team;
- (ii) The Ministry was involved in the valuation process only, of the four properties in Lagos/Abuja-Nigeria, Tokyo–Japan, Brussels–Belgium, Cairo–Egypt; and report of the process and valuation were prepared for each of the properties; see paper laid;
- (iii) The Permanent secretary, Ministry of Lands appoints an officer upon request by Ministry of Foreign Affairs for the process of acquisition of property to accompany the team designated for work by the Ministry of Foreign Affairs;
- (iv) The officer nominated from the Ministry is mostly a Valuer, who prepares a valuation report of already identified property, the report is then sent to the Ministry of Foreign Affairs; the Ministry of Lands does not identify property at all;
- (v) Ministry of lands has not received any feedback on the reports submitted if they were acted upon or not;
- (vi) Most of the properties acquired were not in the so called diplomatic enclave in the respective countries; some like in Cairo were in *slumatised* (Slum) areas ;
- (vii) On the Tokyo property, the Committee heard that an evaluation of the property at Kshs. 1.245 billion which was not within the diplomatic enclave, furthermore the building was old and dilapidated;
- (viii) On Brussels property, the Committee heard that the building had been residential prior to the purchase. It was valued at 4.5 million Euros including furniture, though this shouldn't have been the case as second hand furniture has no value in Europe unless the items are antiques.
- (ix) The acquisition of property by the Government of Kenya is subject to Kenyan laws and the laws of the respective countries in which the property is located;
- (x) The Ministry did not participate in the Interministerial Committee which was set up before, however the Valuer participated by way of report presentation in the later stages;
- (xi) The Valuer tries to acquire information on the property from both the Government and real estate agents/local valuers. The report shows that the Valuer did acquire limited information on various properties and the qualification of the real estate agents contacted, were questionable;
- (xii) Before any purchase there should be thorough consultative meetings which should involve all relevant Government departments, however without sufficient

legislation on procurement on this area, it would ensure that questionable transactions such as the ones the Committee was investigating would not arise.

MIN. NO. 136/2010: ISSUES ARISING FROM THE BRIEF

Members raised the following concerns from the presentation by the Minister

- Whether the advice given by the Ministry is followed?
- Whether the Ministry was part of the Inter-Ministerial Committees that are set up prior to Government buying property abroad?
- If the Ministry sources local expertise from professional Valuers in the host country?
- What information was exchanged by the Kenyan architect from Japan who met the Valuer from the Ministry of Lands?
- Is it prudent for the Ministry of foreign affairs to have involved the Ministry of Lands at an earlier stage instead of at the time just before purchase?
- Are there other reports from Japanese Officials apart from the ones from Kenyan officers?
- What is the rationale of the purchaser and seller to use the same lawyer and Valuer apart from saving costs?
- What procedures should be followed by the Ministries when purchasing property and if the Ministry of Foreign Affairs embezzled public funds?

MIN. NO. 137/2010: COMMITTEE OBSERVATIONS

From the Minister's presentation the Committee observed that:-

- (i) There is need for the Government of Kenya to acquire or have a Government property inventory in future;
- (ii) There are many challenges facing the Grand Coalition Government but also expressed grave concern that the Ministry of Foreign Affairs was not prudent enough when disregarding advice from other Ministries and sometimes not even seeking professional advice from relevant arms of Government;

MIN. NO.138/2010: ADJOURNMENT

The meeting was adjourned at Five o'clock. Next meeting will be held on Friday May 14, 2010 in Committee Room 4, 4TH Floor, Continental House at 10.00 am.

Signed.....signed.....
(Chairperson)

Date: ...2/6/2010.....

MINUTES OF THE 32ND SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS, WEDNESDAY 12TH MAY 2010, HELD IN COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30 AM.

PRESENT

The Hon. Adan Keynan, M.P. – (Chairperson)
The Hon. Charles Kilonzo, M.P.
The Hon. Peter Edick O. Anyanga, MP
The Hon. Benedict Fondo Gunda, M.P.
The Hon. Jeremiah Ngayu Kioni, MP
The Hon. George Nyamweya, M.P.
The Hon. Kiema Kilonzo, MP

ABSENT WITH APOLOGY

The Hon. Hassan Ali Joho, MP – Vice Chairperson
The Hon. Joshua Kutuny, MP
The Hon. Eugene Wamalwa, MP
The Hon. Wilson Litole, MP

IN ATTENDANCE : NATIONAL ASSEMBLY

Mr. Nicholas Emejien – Second Clerk Assistant
Mr. Ahmad Kadhi – Third Clerk Assistant

IN ATTENDANCE: MINISTRY OF PUBLIC WORKS

Hon. C. M. Obure, EGH, MP – Minister
Leah Adda Gwiyo, CBS – Permanent Secretary
Architect Gideon Mulyungi – Works Secretary
Architect Maweu J. M – Chief Architect
Architect P.S. Wasike - Senior Principal Supt. Architect
Engineer J. M. Kamau - Senior Principal Supt. Architect
M. A. Nyakiongora – Chief Quantity Surveyor

PRELIMINARIES

The Chairperson called the meeting to order, and thereafter the meeting started with a word of prayer, followed by brief introductions.

MIN. NO. 126/2010 : CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sittings was postponed to the next meeting.

MIN. NO. 127/2010: MEETING WITH THE MINISTER FOR PUBLIC WORKS

The Chairperson informed the Minister that the agenda of the meeting was for the Minister to brief the Committee on its role in the acquisition and or disposal of properties abroad by the Government. The Minister for Public Works tabled before the Committee a copy of his brief to the Committee on the role of his Ministry in the acquisition of government properties for missions abroad.

The Minister informed the Committee that the Ministry of Public Works undertakes technical assessment on the viability and suitability of buildings for intended purposes upon invitation by concerned government Ministries. The Ministry undertakes this by sending its professionals to the actual sites. The Ministry also assesses on invitation the need for repairs of public buildings but the actual rehabilitation is normally undertaken by the parent Ministry. When government decides to lease or dispose property, the Ministry of public works is not involved in the process.

The Minister further briefed the Committee on the four mission properties that the Committee had sought to be briefed on: -

(a) Brussels, Belgium

The Minister informed the Committee that :-

- (i) The Ministry of Public Works was involved in assessing the condition of the property and after the assessment they recommended its acquisition. A technical team comprising of officers from the Ministry of Foreign Affairs, Finance and Public Works and Housing visited Brussels in October 3rd to 6th, 1998 to assess the property. The technical team recommended the acquisition of the building with an estimated value of 70, 000,000 Belgium francs.
- (ii) The Contract Agreement was signed by the Ministry of Foreign Affairs after the report of an inter Ministerial Committee.
- (iii) In May 2007 another team comprising officers from the Ministry of Foreign Affairs and Ministry of Lands visited Brussels to assess the property again. During the visit they held meetings with the landlord who offered to sell the property at a cost of Euro 4.5 million, equivalent to Kshs. 410 Million. This included renovations to be undertaken by the landlord and a guarantee of 15 years.
- (iv) In July 2007 another technical team comprising officers from the Ministry of Foreign Affairs, Ministry of Finance, Ministry of Lands and Ministry of Public Works visited Brussels and agreed to prepare a TO , draft sale agreement, and collate relevant information related to the acquisition. The team also met with the landlord Mr. Chalouhi and recommended significant renovations to be undertaken before the purchase.

(b) Tokyo, Japan

The Minister informed the Committee that the chancery building was purchased by the Government one and half years ago (1½ years) however the Ministry of Public Works was not involved in any way.

(c) Cairo, Egypt

The Committee was informed that:-

- (i) The Ministry of Public Works and Housing was in August 1988 requested by the Ministry of Foreign Affairs to identify consultants to design, document and supervise the construction of a new chancery in Cairo. Architect C. D.K Muya - Ag. CSA and Engineer M.M. Munzyu – SSE (Structural) visited Cairo on August 21st to 24th 1988 to undertake the assignment. The proposed project was however later shelved.
- (ii) In October 2005 a team comprising of officers from the Ministry of Foreign Affairs, Ministry of Roads and Public Works and Ministry of Lands visited Cairo and recommended the purchase of a chancery and an Ambassadors residence to save on cost from rent. The Ambassador was tasked to scout for suitable premises and advise the parent Ministry accordingly.

Lagos and Abuja, Nigeria

The Minister informed the Committee that:-

- (i) Following the relocation of the political capital of Nigeria to Abuja the Federal Government of Nigeria freely allocated all foreign diplomatic missions plots for construction of chanceries and ambassadorial residences in Abuja.
- (ii) Initially the construction of the proposed chancery was pegged on the sale of the property in Lagos but after the sale of the Lagos property the funds were diverted to purchase a property in Japan. Construction of the chancery commenced in February 2010 and works are currently ongoing after the contract was awarded to M/s Diamatrix Ltd of Nigeria and contract agreement signed on February 12th, 2010.
- (iii) The project was scaled down From 1, 183, 695, 249.15 Nigerian Nira to 1, 019, 753, 456.93 Nigerian Nira due to budgetary constraints.

MIN. NO. 128/2010: COMMITTEE OBSERVATIONS

Following the presentation by the Minister for Public Works, the Committee observed that:-

- (i) The work of the Ministry of Public Works was to assess the structural integrity of and suitability for the intended purpose of properties for the government. The parent ministries handle the financial aspect of the purchase, disposal and renovations.
- (ii) Ministry of public works was never involved in the acquisition of the government property in Tokyo, Japan.
- (iii) Funds from the sale of the Lagos property were diverted to purchase the property in Tokyo, Japan and not to build the chancery in Abuja has had been planned.
- (iv) The then Ambassador in Cairo, Egypt never reported on his search for a suitable property to be purchased in Cairo.
- (v) The Ministry is mandated to keep an inventory of Government properties but currently the inventory is with the Ministry of Housing.
- (vi) The Public Procurement and Disposal Act, 2005 was never followed in the purchase and or sale of the government properties abroad.

MIN. NO.129/2010 : ANY OTHER BUSINESS

The Committee was informed that as a result of the introduction of the Public Procurement and Disposal Act ,2005 which repealed Chapter 17 of the Financial regulations, and gave powers to other ministries to act independently of the Ministry of Public Works in respect to Government property, the ability of the Ministry to undertake an assessment of the structural suitability of properties had been curtailed since ministries and government agencies are free to contract private companies.

The Minister further informed the Committee that he was not aware of any property that had been attached as a result of Government debts, though there were threats of the same in particular incidents.

MIN. NO.130/2010 : ADJOURNMENT

The meeting was adjourned at thirty six minutes past twelve o'clock to the same day at 2.30 pm.

Signed.....Signed.....
(Chairperson)

Date:2/6/2010.....

ANNEX

DFR 01

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(22)

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MINISTRY OF FOREIGN AFFAIRS

Ref. No.
MFA. 212/320/001A

20th March, 2009

The Charge D'Affaires, a.i.
Kenya Embassy
TOKYO

Action taken
01/04



PURCHASE OF PROPERTY IN TOKYO

This is to inform that Treasury has granted authority for proceeds from sale of the Kenya Government land in Lagos amounting to Kshs. 984,709,080.40 and a re-allocation within the D-4 vote amounting to Kshs. 215,290,920 be factored in your Mission's vote to initiate purchase of the plot on which the Chancery and Ambassador's residence are built at a cost of Kshs. 1,524,425,000.

A copy of the letter from Treasury is attached for your information and action as appropriate.

Further details related to the property acquisition will be communicated in due course.

A.M. MUCHIRI
FOR: PERMANENT SECRETARY

c.c.	Director for Political Affairs	-	for information
	Director of Administration	-	for information
	Principal Accountant		
	Principal Procurement Officer		
	Ag. Chief Finance Officer		

REPUBLIC OF KENYA
OFFICE OF THE DEPUTY PRIME MINISTER AND
MINISTRY OF FINANCE

Telegraphic Address: 22921
FINANCE-NAIROBI
FAX NO. 330426
Telephone. 252299
When replying please quote

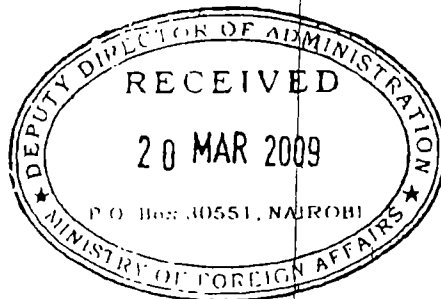


THE TREASURY
P.O. Box 30007
NAIROBI

Ref. No: DV/ES 5/04/08

Date: 16th March, 2009

Mr. Thuita Mwangi, CBS
Permanent Secretary,
Ministry of Foreign Affairs,
P.O. Box 30051,
NAIROBI.



Dear *M. Mwangi,*

**PROCEEDS FROM THE SALE OF KENYA GOVERNMENT LAND IN LAGOS, NIGERIA
AND PURCHASE OF PROPERTY IN TOKYO**

Please refer to your letter Ref. No. MFA.212/320/0001A/ (19) dated 12th February, 2009 regarding the above subject matter.

I have reviewed your requests notably;

1) Treasury's authority to retain the proceeds from sale of Government land in Lagos, Nigeria amounting to **KShs.984,709,080.40** in your Development Vote. In this regard, I take note that the funds although factored as Appropriations in Aid were recalled by the Treasury.

2) Authority to purchase property in Tokyo, Japan on which the current Kenya's chancery and Ambassador's residence are built, at a cost of **KShs.1,524,425,000**, to be funded through application of the above proceeds and the balance from re-allocation of funds within the Development Vote amounting to **KShs.215,290,920**.

In view of the above and given that you have prioritized acquisition of the property in Tokyo, Japan, funds surrendered to the Treasury will be factored in the Financial Year 2008/09 Revised Estimates to enable you to purchase the plot on which the Chancery and the Ambassadors residence are built.

ANNEX

DFR 02

**MINISTRY OF PUBLIC WORKS
P O BOX 30743-00100
NAIROBI**

**MEETING BETWEEN THE COMMITTEE ON DEFENSE AND FOREIGN RELATIONS
AND THE MINISTER FOR PUBLIC WORKS**

- [i] The role of the Ministry of Public Works [MOPW] in the acquisition of properties abroad by the Government was to assess the technical viability of the buildings whereas the value was determined by officers of the Ministry of Lands.
- [ii] The role of the MOPW in the acquisition or disposal of properties in the following missions is as stated hereunder:-

[a] Tokyo, Japan

It is understood that the chancery building in Tokyo was purchased by the Kenya Government about 1½ years ago, but the MOPW was not involved in the purchase process, in any way.

[b] Cairo, Egypt

21st – 24th August, 1988

Arch. C.D.K. Muya, Ag CSA accompanied by Eng. M.M. Munzyu, SSE [Structural] of MOPW&H visited Cairo and their Terms of Reference were to identify consultants to design, document and supervise construction of a new chancery. Apparently this proposed project was shelved.

October 2005

A team comprising officers of MOFA, MOL and MOR&PW [included Arch. P.O. Sika, Chief Architect] visited Cairo and recommended the purchase of both a Chancery and residence for the Ambassador to save on rent. The Ambassador was to scout for suitable premises and advise the Hqs accordingly.

[c] Brussels, Belgium

3rd to 6th October 1998

Technical Team comprising officers of Ministry of Foreign Affairs [MOFA], Finance and Public Works & Housing [MOPW&H] visited Brussels to assess the property. The MOPW&H team included Arch. P.O. Sika and Eng. Mbiu Kimani.

The Technical Team recommended acquisition of the building [estimated value of property [BEF 70,000,000].

May 2007

A team comprising officers of MOFA and the Ministry of Lands visited Brussels to assess the property again. Held meetings with the Landlord who offered to sell the property at Euro 4.5million [KShs.410 million] – included renovations by Landlord and 15 years guarantee.

Mission was allocated KShs. 450million in the year 2007/2008 for the purchase.

15th – 18th July, 2007

Technical team comprising officers of MOFA, MOF, MOL and MOPW visited Brussels. The team agreed to:-

- Prepare TOR
- Draft Sale Agreement
- Collate all relevant information related to the acquisition

The team also met Mr. Chalouhi, the Landlord. The team recommended significant renovations to be undertaken before purchase.

21st - 24th February, 2008

A team comprising two officers of the Ministry of Foreign Affairs [MOFA] and Ministry of Roads & Public Works [Arch. C J M Maweu] visited Brussels to check whether the renovations proposed had been carried out. Except for a few minor items, that were to be attended to, the team was satisfied with the renovations and recommended that the Government proceed and finalise the purchase agreement.

[d] Lagos & Abuja, Nigeria

Lagos

- Following the re-location of the capital of the Federal Republic of Nigeria from Lagos to Abuja; the Federal Government of Nigeria freely allocated all foreign diplomatic missions plots for the construction of Chanceries and Ambassadorial Residences in Abuja.
- Construction of the Proposed Kenya Chancery in Abuja was tied to the sale of the Kenya Government properties in Lagos. Due to the above reason, the Kenya High Commission in Nigeria recommended the disposal of Government of Kenya properties in Lagos so that proceeds from the same could be utilized for the construction of the Chancery and Residence in Abuja.

- Construction of the Chancery [Abuja] commenced after contract signing on 12th February, 2010 and works are currently on-going.

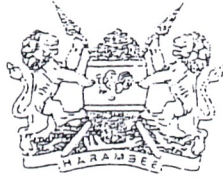
This recommendation for the disposal of the properties was upheld by the two teams that visited Lagos in September 2002 and August 2005 [the latter team included the Chief Architect, MOPW]. The MOPW, however, did not participate in the actual sale of the properties which we understand were disposed off about two years ago.

Abuja

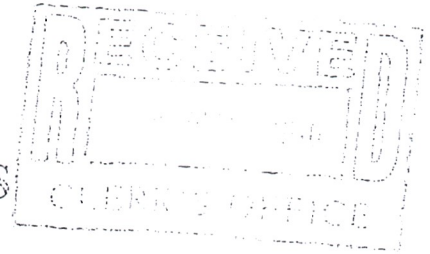
- The Proposed Chancery and Residence of the Ambassador, Abuja, Nigeria was tendered and awarded to M/s Diamatrix Ltd – Nigeria vide the Permanent Secretary [MOFA] letter ref. MFA.HSE9/42A dated 5th June, 2009 at tender sum of N1,183,695,249.45.
- Due to budgetary constraints, further consultation were held in scaling down the project for which approval was given by the MOFA's tender committee on 28th January, 2010. The project tender sum was reduced from N1, 183,695,249.15 to N1,019,753,456.93.
- The contract agreement between The Permanent Secretary [MOFA] and the contractor M/s Diamatrix Ltd was signed on Friday 12th February, 2010.

ANNEX

DFR 03



MINISTRY OF LANDS
OFFICE OF THE PERMANENT SECRETARY



Telegram: "MINILANDS", Nairobi
Telephone: Nairobi 2718050
When replying please quote

Con/L/A/10/87

ARCHI HOUSE
1ST NGONG AVENUE
P.O. Box 30430-00100
NAIROBI, KENYA

12th May, 2010

Ref. No.

Date.

Mr. Patrick G. Gichohi, CBS
Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 -00100
NAIROBI

Dear

Mr. Gichohi,

**MEETING BETWEEN THE COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS AND
THE MINISTER FOR LANDS**

Please refer to your letter Ref. KNA/DFR/CORR/2010/(64) dated 26th April, 2010 requesting the appearance of the Minister before the above committee to shed light on the following:-

- (i) The role of the Ministry of Lands in acquisition of properties abroad by Government through the Ministry of Foreign Affairs.
- (ii) The valuation reports by the Ministry of Lands on the purchase and Sale of the Government properties in the following Kenya Missions:-
 - (a) Tokyo, Japan
 - (b) Cairo, Egypt

*Emergency
Please deal
H. B. B. B.
17/5*

- (c) Brussels, Belgium
- (d) Lagos & Abuja, Nigeria

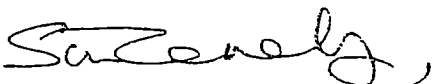
From the outset, I wish to indicate that the role of Ministry of Lands in acquisition of Government Properties abroad, through the Ministry of Foreign Affairs, is mostly advisory/technical opinion, on the value.

It is envisaged that the Ministry of Foreign Affairs once so advised will follow up and be guided by the applicable procurement regulations.

Please note that we were never requested to value the property in Abuja (Nigeria). However for the remaining four, we received requests from the Ministry of Foreign Affairs to give them an opinion on their value and the Valuation reports are attached hereto.

I, therefore append hereto the background and valuation reports for the four Kenyan Missions namely:-

Appendix 1	Cairo
Appendix 2	Brussels
Appendix 3	Lagos
Appendix 4	Tokyo

Yours ,


Dorothy N. Angote, (Ms), CBS
PERMANENT SECRETARY

CC:
Hon Minister for Lands

Cairo - Egypt Valuation - Brief

Page 1
Thursday May 23, 2016
By Ministry for Lands
[Signature]

Back ground to valuation of Cairo Property is as follows:-

- (i) By letters Ref, No. MFA 168/421/302/001/A of 19th September 2005 from the Permanent Secretary Ministry of Foreign Affairs requesting nomination of a valuer to join an Inter-ministerial Technical team to visit various Missions abroad for inspection of their properties.
- (ii) On 21st September, 2005 the Permanent Secretary Ministry of Lands nominated Mr. Anthony M. Itui who was then Deputy Chief Valuer vide letter reference MLH/2/012 VOL.III/(49).
- (iii) The Technical team comprised of representative from the following Ministries:-
 - (a) Ministry of Foreign Affairs,
 - (b) Ministry of Finance,
 - (c) Ministry of Roads & Public Works,
 - (d) Directorate of Personnel Management (DPM), and
 - (e) Ministry of Lands and Housing.
- (iv) The Team left via Lagos on 12th ~~November~~^{October} 2005 and returned on 17th November 2005. Cairo was the last mission to be visited by the team on 14th -17th November 2005.
- (v) The Team together with senior staff in the mission inspected four plots (4 No.) in Kassem Street, Cairo with a view to establishing it's open market value.
- (vi) Afterwards the team visited comparable properties as identified by the Mission. They also held meeting/discussions with local property consultants/estate agents and valuers with a view to understanding the property market in Cairo.

Analysis: It was observed that the user in this neighbourhood is residential and although it was previously more open it had become ('slumatised') with time and the plots around it are all built-up with apartments. The streets are very narrow and this particular plot is relatively small. The property was then valued at \$1.4 million.

TOKYO PROPRTY VALUATION BRIEF:

Background to valuation of Tokyo property is as follows;

- i) By letter ref MFA. /212/15A/Vol. II/(18) dated 26th November 2008, from Permanent Secretary Ministry of Foreign Affairs addressed to Permanent Secretary Ministry of Finance and copied to Permanent Secretary Lands our Ministry was requested to nominate an officer to accompany a team visiting Tokyo in early January. The letter gave a brief history of the plot to be valued where the Japanese Government had offered the Kenyan Government.
- ii) On 5th December 2008, the Commissioner of Lands nominated Mrs. Teresia Wambui Kimondiu who was by then an Assistant Commissioner of Lands (Valuation) to be part of the team travelling to Japan for valuation of the plot.
- iii) The Team left for Toyko - Japan on 13th January and arrived on 14th January 2009. It comprised of the following 3 officers:-

- (a) Foreign Affairs - Anthony Muchiri (Team leader)
- (b) Ministry of Finance - Mr. Kimemia
- (c) Ministry of Lands - Teresia Kimondiu

- iv) On 15th January 2009, the team met Ambassador Dennis N.O. Awori plus other Embassy staff in Tokyo. The Ambassador informed the team other plots had been identified and needed to be viewed for possible valuation. ~~We were informed that other plots had been identified and needed to be viewed and possibly valued if found suitable.~~ In total 7 plots were visited as listed here below.

LOCATION/ADDRESS	SIZE/AREA (m)	PRICE (JPY)
4-1-5 Minami Azabu Minato - Ku	700.39	1,307,000,000
3-17-26 Nishi Azabu	1095.65	2,413,070,000
2-4-11 Minami Aojama	670.71	1,361,541,300
3-3-5 Kita Akasaka	724.23	1,651,244,400
2-15 Aobadai	778.94	891,362,000
336-3 Shirokane	1019.38	978,500,000
6-19-23 Akasaka	724.23	1,651,244,400

- v) During the Inspection Tour, the team was accompanied by the Ministry of Foreign Affairs representatives, Ministry of Finance/Infrastructure staff of Japan and some Real Estate Agents identified by the Kenyan Embassy. In order to understand the Tokyo market to enable valuation work, the Kenyan team was assisted by a Japanese interpreter working in the Kenyan Embassy. An Embassy

staff (local) served as an interpreter, as I interviewed the Real Estate Agents, in trying to understand the Tokyo market.

- vi) On January 15th, the team and staff from the Embassy, met the Tokyo Local Finance officers, who were charged with the sale for the vacant plot being offered by the Japanese Government i.e. Plot 4-1-5 Minami - Azabu. The team sought to understand the basis of the offered price of JYP 1,307,000,000 but was informed that the valuation was confidential and could not be allowed to meet the Valuers commissioned by the Japanese Government. The price for the plot was final.
- vii) On 16th January, the Team leader (Mr. Muchiri from Foreign Affairs) and the Kenyan Embassy Management proposed that the team meets a Mr. Nobuo Kuriyama, who was the landlord of the premises housing the Embassy. The explanation was that sometime in April 2007 he had made an offer to sell the premises to the Kenya Government at about 2.00 billion Japanese yens. The valuation then as per the Ambassador's letter was JPY 1.09 billion.

The aim was to know whether he was still interested in selling the property. It was after this (and not before) that it was agreed this plot be included for valuation. (i.e. 3-24-3 Yakumo Meguro-ku)

On the same day the team was introduced to a Kenyan Architect, who is also involved in Real Estate in Japan, Mr. Dick Olango. He briefed the team on land values and regulations in Japan. The team learnt that the Government of Japan publishes declared sale figures for land yearly around March. He promised to avail the data through E-mail. This was done for the years - 2006, 2007 and 2008.

- viii) On 26th January 2009 more information was forwarded by the Ministry of Foreign Affairs on the Architectural Analysis of the viewed plots for construction of the chancery and Ambassador's residence.

Analysis

The following information guided valuation for the Embassy plot:-

- (i) Tokyo area land rates released by the Ministry of Lands, Infrastructure Transport and Tourism - years 2006-2008. An analysis on average value provided for 2007 -2008 shows a general increase in values at 13% for the Meguro-ku ward.

Assuming all things remain constant it was projected that an average value of 957,675 Yen per m² for the Meguro-ku ward for the year 2009.

- ii) Plots on offer in the open market at Meguro-ku averaged JYP 1,740,000m². A rate of JPY 1,000,000/m² was adopted.

Valuation

Subject to the above factors, the subject plot was valued at Kshs. 1,392,000,000 (1,600,000 yens)

The report was forwarded to Ministry of Foreign Affairs on 11th February 2009 together with two others.

ix) On 25/5/09 the team was invited to the Ministerial Tender Committee meeting.

As the team went through the report it occurred that the acreage on offer was 1431m² and not 1600m² as the Architect had indicated. This necessitated a revision downwards of the valuation report which was done the same day - to JPY 1,431,300,000 or Kshs. 1,245,231,000/=. This should therefore be taken as the final valuation.

Though the depreciated cost of the buildings had been included in the report, it was very clear that this should not be part of the purchase price. This was informed by the fact that permanent buildings in Japan are taken at a life span of 20 years - the subject is older.





REPUBLIC OF KENYA

MINISTRY OF LANDS

Telegrams: "LANDS", Nairobi
Telephone: Nairobi 718050-9

When replying please quote

DEPARTMENT OF LANDS
1st NGONG AVENUE
OFF NGONG ROAD
P. O. Box 30089
NAIROBI

VAL 1200/1/42

25TH MAY 2009

THE PERMANENT SECRETARY
MINISTRY OF FOREIGN AFFAIRS
P.O BOX 30551-00100
NAIROBI: ATTN - MR. KORIR

OPEN MARKET VALUATION FOR PURCHASE

OF EMBASSY PLOT - 3-24-3 YAKUMO, TOKYO JAPAN

Reference is made to a Ministerial Tender Committee meeting held in your offices today (25/5/09). After going through the valuation report forwarded on 11th February 2009, it was noted that the acreage (1600m²) is higher than what is on offer i.e 1431.28m². This necessitated a revision of the valuation.

The revised value for the plot is Japanese yen One billion four hundred and thirty one million three hundred thousand (JPY 1,431,300,000) free from any encumbrances.

Or

Kenya shillings - one billion two hundred and forty five million two hundred and thirty one thousand (Ksh, 1,245,231,000/=)

NB: Rate of exchange 100 yens to Ksh. 87.

T.W KIMONDIU

SENIOR ASSISTANT COMMISSIONER OF LANDS (VALUATION)
FOR: COMMISSIONER OF LANDS

MINISTRY OF LANDS

Telegrams "Lands", Nairobi
Telephone Nairobi 02718050
When replying please quote

DEPARTMENT OF LANDS
1st NGONG AVENUE
OFF NGONG ROAD
P.O BOX 30089,
NAIROBI.



REPORT AND VALUATION ON 3-24-3 YAKUMO, MEGURO-KU TOKYO, JAPAN

L. R. ADDRESS: 135-2, 137-2, 137-3

3 Chome Yakumo

Meguro-Ku, Tokyo

LOCATION: The property is off Meguro Dori Road, Yakumo Area. Address at
3-24-3 Yakumo Meguro-Ku Tokyo

TITLE DETAILS: Tenure - freehold

Area:	135 - 2:	782m ²
	137 - 10:	278.33m ²
	137 - 3:	135m ²
	135 - 3:	223.34m ²
	Total:	1431.28m²

Registered owner: Ms Taeko Kuriyama

Buiding owner: Mr. Nobuo Kuriyama

ENCUMBERANCES: A search will be necessary to establish if there are any
encumberances/ liabilities on the title.

PLANNING REGULATIONS: The plot is zoned Residential with a site coverage of 60%.
Floor space ratio is 150%.
Maximum height is 10 metres.

IMPROVEMENTS: General description

The parcel is developed with a chancery and the ambassador's residence

i. Chancery

Constructed in reinforced concrete walls under a slates roof.

Floor has wall to wall carpets.

Windows are in aluminium casements.

External doors are in solid wooden panels while the internal ones are flush.

Accommodation

Basement parking

Upper ground floor: office space with temporarily partitions, utility areas.

Ablution area.

First floor.

Office space with temporary partitions

Ablution areas.

Plinth area: 698.53m²(7516 sq.ft)

ii. Residence

Construction in wood on steel frames under a slates roof.

Floors have wall to wall carpets

Windows are in aluminium casements.

External doors are double lockable solid wooden panels. Internal doors are flush timber.

Accommodation

Ground Floor: living rooms, dining room

Kitchen

Family room

First Floor: Master bedroom

4 no. bedrooms

Study room

Guest room

Servants quarters - 6 no. rooms

Parking: - 2 no. vehicles

Plinth area: 436.85m²(4700 sq.ft)

SERVICES:

All mains are available- sewer, electricity and water. Central heating system is already in place.

Transport is available by railway, at Jyugaoka station or by road using Toei and Tokyo bus.

International schools are in the neighbourhood so are commercial banks.

REMARKS:

It is noteworthy to mention that the economic lifespan of a building constructed in natural stone is 20 years while a wooden one is 10 years, thereafter only the site is considered valuable. However I will include a depreciated cost of the building which should be disregarded as the selling price is negotiated.

The plot does not front the road and a portion of it is used as an access road, hence reducing area available for construction.

No embassies are located in this neighbourhood. The plot/building are currently leased to the Kenyan Embassy. Though the buildings are almost 20 years old, they can still be renovated to a more user friendly design/space allocation.

There's still the option of re-development to a more optimum space utilisation. Being sitting tenants, the Embassy has a better bargaining position with the owner of the premises.

As we return our figure the ongoing global economic crisis, particularly on property values will be taken into account.

VALUATION:

The following figures are returned:

Land ----- 1,431,300,000 yens (One billion four hundred and thirty one million, three hundred thousand yens), free from any encumbrances.

OR

Kenya shillings 1,245,231,000 (Kenya shillings one billion two hundred and forty five million two hundred and thirty one thousand only)

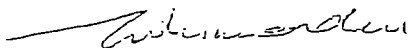
Buildings --- 149,318,200 yens (One hundred & forty nine million, three hundred and eighteen thousand, two hundred yens)

OR

Kenya shillings 129,906,834/= (Kenya shillings
one hundred and twenty nine million, nine
hundred and six thousand, eight hundred and
thirty four).

NB: 1. Value of building not to be included in the negotiation.

2. Rate of Exchange 100 yens to Ksh. 82.

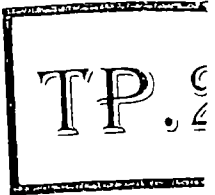


TERESIA W. KIMONDI

SENIOR ASSISTANT COMMISSIONER OF LANDS (VALUATION)
FOR COMMISSIONER OF LANDS.

DATED 25TH MAY 2009

ARCHITECTURAL ANALYSIS FOR THE PLOT AND BUILDING OF NEW EMBASSY



I had a meeting with Mrs. Teresia Kimondiu on Jan 16th 2009 during which we had a look at the plots and had discussion on value of land and feasibility of building. We also examined the present plot of the embassy. Find below compiled report.

1. *Architectural Analysis Report*- An overall remarks
2. *Architectural Cost Analysis Report*- Shows cost effect of construction
3. *Floor space and Program study*- Shows possible layout for the Embassy on a 726 m² plot

1. Remarks on present plot

The present Embassy is located at 3-24-3 Yakumo, Meguro-Ku, Tokyo with a total land area of

1,195.33 m². It is on First Low Residential area: Maximum height 10m, Site coverage ratio 60%,

Floor space ratio 150%.

2. Special exemption for Embassies

I talked with the Meguro Ward and confirmed that the embassy (embassies in general) is not bound by the zoning regulations. The present embassy lies on a residential Zone with stringent height (10m) and buildable area regulations. Embassy is generally exempted as the property will be in the ownership of the mission.

The Mission can therefore build slightly higher than present, the only consideration is the 4-hr sunlight provision to consider for the neighboring houses.

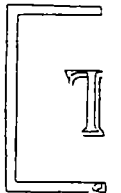
3. Life of Building and Earthquake regulations

The embassy was completed on the 16th September. Not undermining the construction at that moment, Japan's construction is based on a "Scrap and Build" system. This is for the obvious reason of the changing regulations, new technology and natural disaster and buildings adapt to present requirements.

The earthquake regulations in Japan have yearly amendments; there have been 2 major changes in June 1981 and June 2006.

4. Cost of Renewing the Embassy

Given the age of the building, the cost of renewing the embassy will apart from interior finishes, will also include structural renovation. This is to make it conform to the present requirements. This will allow for proper utilization of the space.



LAGOS PROPERTY VALUATION BRIEF

Background to valuation of Lagos property is as follows;

- I. By a letter ref: MFA 212/320A/VOL.III (62) dated 30th January 2008 from Permanent Secretary, Ministry of Foreign Affairs addressed to the Permanent Secretary Ministry of Lands requesting nomination of an officer to be part of a technical team visiting Lagos, to re-value the plots for sale.
- II. TERESIA KIMONDIU who is Assistant Commissioner of Lands (Valuation) was nominated by the ministry vide letter ref: VAL 1200/11 dated 5th February 2008 and the same communicated to the Permanent Secretary, Ministry of Foreign Affairs vide letter ref no: CON/L/A/15/29/V dated 5th January 2008. (It should have been February)
- III. The team travelled to Lagos from 10th – 13th March 2008 and comprised the following :
 - a) Foreign Affairs officers
 - Ambassador A.A.Musasia- Team leader
 - Mr. Wambugu
 - Mrs. Kerich
 - Mr.Okoth
 - b) Ministry of Lands – Teresia Kimondiu
- IV. The team had a brief meeting with the Foreign Affairs staff at Lagos on 11th March 2008. Subsequently the team had a meeting with a lawyer from Lagos who confirmed the status; that the property was free from any encumbrances. In the meeting there was there was a land valuer from Lagos who provided a schedule of recent sales for the area. The Kenyan team did have a professional discussion in connection to the Lagos property market.
- V. The property was inspected on the 11th & 12th March of 2008 and data Analysis done which included;
 - i. Sales evidence – average rate/m² Nairas 112,087
 - ii. Newspaper/Property magazine – provided by Embassy staff – Lagos. Average rate/m²≈Nairas 144,000. In practice the advertised property prices are normally

higher than the actual prices realized. This is because sellers allow room for negotiations and commissions.

VI. Subsequently and based on the above data analysis the property was valued as follows;

- i. Plot 51 – USD 1,750,000 or Nairas 206,550,000
- ii. Plot 52 – USD 1,790,000 or Nairas 211,275,000
- iii. Plot 53 – USD 2,482,000 or Nairas 292,910,000

TOTAL – USD 6,022,000

or Nairas (N 710,735,000)

or Kshs. 391,430,000

ANNEX

DFR 04

REPUBLIC OF KENYA
MINISTRY OF FINANCE

Telegraphic Address: 22921
FINANCE-NAIROBI
Fax No.: 340898
Telephone: 252299



THE TREASURY
P.O. Box 30007
NAIROBI
KENYA

When replying please quote

PPD.2/20/04 VOL.I/(72)

27th October, 2006

Mr. Thuita Mwangi
The Permanent Secretary
Ministry of Foreign Affairs
P.O. Box 30551 - 00100
NAIROBI



Dear *M. Mwangi,*

RE: SALE OF EMBASSY PLOT IN CAIRO

Reference is made to your letter Ref. No.MFA/212/46A/(164) dated 9th October, 2006 on the above captioned subject.

As you are aware, the sale/disposal of the embassy plot falls under the purview of public procurement.

In this connection, the rules and regulations applicable to public procurement should be adhered to enhance transparency and ensure the Government gets value for money in this transaction.

With the foregoing, we have no objection for the sale of the embassy plot in Cairo and the subsequent acquisition of suitable residential properties provided:-

1. The plot is sold to the highest bidder in accordance with Regulation 44(b) in a competitive manner.

2. The transaction is processed through the Tender Committee in accordance with the First schedule and Regulation 17
3. The residential properties are acquired through a competitive process from the lowest evaluated bidder subject to the approval of the Tender Committee and.
4. You seek the assistance of the Ministry of Lands and Housing in this procurement proceeding including the Ministry's valuation recommendation.

Please take the necessary action as appropriate.

Yours

Sincerely,


JOSEPH K. KINYUA, CBS

PERMANENT SECRETARY/TREASURY

ANNEX

DFR 05

FO/08/GPA/1A

07/01/2008

The Principal Accounts Controller
Ministry of Foreign Affairs
P.O Box 30551
NAIROBI.

Dear Sir,

CREDIT OF KES. 42,395,599.60

We confirm that value 07/01/2008 your a/c. no. 01-010-R004 was credited with Kes 42,395,599.60 (Equiv. to USD 677,246.00). The ordering institution is Kenya Embassy Cairo, the amount being remittance of the balance on sale of Government plot in Dokki area.

We enclose herewith copies of SWIFT message from our correspondent bank and credit voucher for ease of reference.

Yours faithfully,



JOHN K. BIRECH
ASSISTANT DIRECTOR
EXTERNAL PAYMENTS &
RESERVES MANAGEMENT



JANE W. KAMITA
AUTHORISED SIGNATORY
EXTERNAL PAYMENTS &
RESERVES MANAGEMENT

24/12/07-07:01:21

RECEIVED-0949-341068

1

----- Instance Type and Transmission -----

Original received from SWIFT

Priority : Normal

Message Output Reference : 0701 071224CBKEKENXAXXX9946538370

Correspondent Input Reference : 1609 071223IRVTUS3NCXXX2775097697

----- Message Header -----

Swift Output : FIN 103 Single Customer Credit Transfer

Sender : IRVTUS3NXXX

BANK OF NEW YORK

NEW YORK, NY US

Receiver : CBKEKENXXXX

CENTRAL BANK OF KENYA

NAIROBI KE

MUR : FTS0712236552200

55363

----- Message Text -----

20: Sender's Reference

FTS0712236552200

23B: Bank Operation Code

CRED

32A: Val Dte/Curr/Interbnk Settl'd Amt

Date : 24 December 2007

Currency : USD (US DOLLAR)

Amount : #677,246.#

50K: Ordering Customer-Name & Address

/106070

KENYA EMBASSY

CAIRO-EGYPT

52A: Ordering Institution - BIC

BCBIEG CX

BARCLAYS BANK - EGYPT S.A.E.

CAIRO EG

53A: Sender's Correspondent - BIC

IRVTUS3N

BANK OF NEW YORK

NEW YORK, NY US

54A: Receiver's Correspondent - BIC

CHASUS33

JPMORGAN CHASE BANK, N.A.

NEW YORK, NY US

59: Beneficiary Customer-Name & Addr

/01-010-R004

MINISTRY OF FOREIGN AFFAIRS

70: Remittance Information

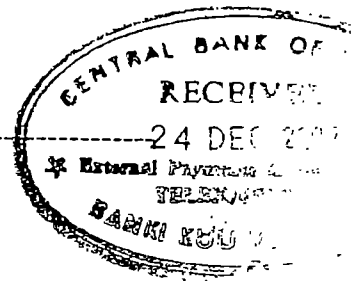
REMITTANCE OF 90 PERCENT BALANCE

ONSALE OF GVT. PLOT IN DOKKI AREA

BNY CUST RRN - FTS0712236552200

71A: Details of Charges

SH 4



Adonair
Re attached Cover
07/01

ANNEX

DFR 06

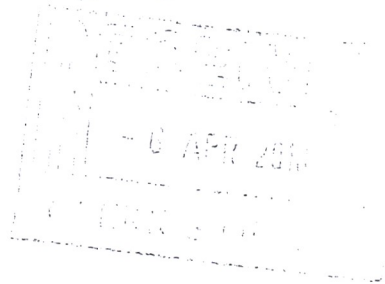
Telegrams: "SHIRAZ", Nairobi
Telephone: Nairobi 227461
When replying please quote

Ref. No. _____ and date
AG/CONF/6/B/85

ATTORNEY-GENERAL'S CHAMBERS
P.O. Box 40112-00100
NAIROBI, KENYA

April 1, 2010

The Clerk
National Assembly
Parliament Buildings
NAIROBI



D/comm.
pl
Brief
the chair
+ Comm
pl
0

WRITTEN BRIEF FURTHER TO THE MEETING BETWEEN THE
COMMITTEE ON DEFENCE AND FOREIGN RELATIONS AND THE
ATTORNEY GENERAL, ON TUESDAY, 30TH APRIL 2010

Following the deliberations at the meeting of the Departmental Committee on Defence and Foreign Relations and the Attorney General held on 30th March 2010, the State Law Office wishes to make the following comments and table the documents attached hereto.

We wish to make the following submissions on the Memoranda of Understanding (MoU) as per our records. The following is a summary of the status of the agreements as hereunder:

1. GOK/CANADA - MOU

The State Law Office received a letter ref No. MFA.SEC.22/30/VJ dated 5th June 2009 inviting our office to a meeting that was scheduled for 11th June 2009 to consider the proposed MoU. Due to the increasing number of requests to conclude MoUs on matters dealing with Piracy, we were of the opinion that there was need to have a clear policy and guidance from Cabinet on this matter.

After the necessary consultations between the Department of Public Prosecutions and the Department of Treaties & Agreements, the Attorney General wrote the letter dated 4th December, 2009 to the Permanent Secretary, Secretary to the Cabinet, Head of Public Service requesting for a National Security Advisory Committee meeting to discuss the matter that a policy decision on this matter may be taken.

We vide a letter ref No. AG/CONF/3/B/329 dated 10th December 2009 our opinion was to stay further work on all MoUs' pending policy guidance from the Cabinet. On perusal of our files we have no further documentation on this matter and have no information as to whether our advice was considered.

2. GOK/CHINA - MOU

We received a letter dated 2nd March, 2009 enclosing the draft MoU's for China and Denmark and inviting the State Law Office to an Inter ministerial meeting

that was scheduled to be held on 4th March 2009. This letter was received at our Central Registry on 3rd March 2009 and at the Department of Treaties and Agreements on 4th March 2009. However due the short notice we could not send a representative to this meeting. Vide our letter dated 13th March 2009, we reiterated the need for the necessary policy and technical clearance noting that the receipt, trial and detention of transferred pirates had a cost element for the Government of Kenya especially for the investigative, prosecutorial and judicial authorities. The relevant support to cover these costs should be addressed in tandem with the transfer agreements. We have not been informed if the advice and comments were incorporated into the MOU and if this agreement was finalised and executed.

3. GOK/DENMARK – MOU

We received a letter dated 2nd March, 2009 enclosing the draft MoU's for China and Denmark and inviting the State Law Office to an Inter ministerial meeting that was scheduled to be held on 4th March 2009. This letter was received at our Central Registry on 3rd March 2009 and at the Department of Treaties and Agreements on 4th March 2009. However due the short notice we could not send a representative to this meeting. Vide our letter dated 13th March 2009, we reiterated the need for the necessary policy and technical clearance noting that the receipt, trial and detention of transferred pirates had a cost element for the Government of Kenya especially for the investigative, prosecutorial and judicial authorities. The relevant support to cover these costs should be addressed in tandem with the transfer agreements. We have not been informed if the advice and comments were incorporated into the MOU and if this agreement was finalised and executed.

4. GOK/EU – MOU

The State Law Office received a letter dated 7th January 2008 from the Ministry of Foreign Affairs enclosing a draft MoU between Kenya and the EU and sought our opinion on the same. Our advice was given vide our letter dated 16th January 2009 which same letter gave our opinion with regard to the MoU between Kenya and the US.

By a letter dated 27th January 2009 the Ministry of Foreign Affairs sought clarification on the issue of death penalty with regard to the MoU and the State Law office vide our letter dated 30th January 2009 clarified on the issue. We have not been informed if the advice and comments were incorporated into the MOU and if the same was finalised and executed.

5. GOK/USA – MOU

Advice on the draft MoU was given vide our letter dated 16th January 2009. We have not been informed if the advice and comments were incorporated into the MOU and if the same was finalised and executed.

6. GOK/UK – MOU

The State Law Office received a letter dated 4th December 2008 forwarding the draft MoU's of UK and EU on 5th December 2008. We received another letter dated 5th December 2008 which letter suggested that the agreement is intended to be concluded at the sidelines of the proposed conference on piracy that was to take place between 10th & 11th December 2008. By our letter dated 11th December 2008 we responded to the above letters and suggested areas which support could be channeled to in order to enhance capacity.

It is worth noting that the State Law Office did not at any one time initiate, prepare and/or draft any of the MoU's in question. From the letters from the Ministry of Foreign Affairs forwarding the draft MoU's to the State Law Office (Copies of which are attached) seem to suggest that the MoU's had been initiated, prepared and/or drafted by the respective countries that were to be entering into the agreements with the Government of Kenya.

We wish to state that on perusal of our files we note that we only have the drafts of the MoUs' sent for our perusal and initial and interim comments. We do not have copies of the amended drafts or even the final signed copy of the MoUs' and there is no indication that our advice was incorporated in the said drafts before the execution thereof.

Purchase of Properties: Tokyo, Brussels, Egypt and Lagos & Abuja

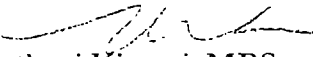
As regards the role of the Attorney General as the Government's legal advisor during the purchase or sale of properties in Tokyo, Brussels, Egypt and Lagos & Abuja, we wish to state that the State Law Office was not involved in the said aforementioned transactions. We do not have in our possession any records to support the position that the Government has acquired any properties in the above said countries.

In regard to acquisition of properties by the Government of Kenya in foreign countries, the only documents in our possession relate to the purchase of a property by our mission in Dar es Salaam. We have no information if the advice and comments were incorporated into the agreements and if the transaction was concluded.

Please find attached hereto the following documents that the Attorney General referred to during the meeting:-

- a. Brief on the contents of the MoUs' relating to Piracy;
- b. Status of Piracy Cases that Kenya is Prosecuting;
- c. Report on the Support requested by the DPP's Office in Prosecution of Piracy Cases;
- d. Way Forward on Piracy Prosecution;

- e. Copy of a letter reference No. AG/CONF/3/B/329 Vol. I dated 4th December 2009 to the Permanent Secretary, Secretary to the Cabinet, Head of Public Service;
- f. Copy of a letter reference No. MFA. 33/253/002 dated 4th December 2008 from the Ministry of Foreign Affairs to the Attorney General inviting our office to an Inter Ministerial Meeting on the Escalation of Piracy off the Coast of Somalia. The letter was received in our offices on 5th December 2008 the day of the meeting;
- g. Copy of a letter reference No. MFA. 231/156A dated 5th December 2008 from the Ministry of Foreign Affairs to the Attorney General informing our Office of the British Government intention to explore an Agreement on the area of Piracy with the Government of Kenya;
- h. Copy of a letter reference No. AG/CONF/3/B/332 Vol. I dated 11th December 2008 from our office to the Permanent Secretary, Ministry of Foreign Affairs expressing our comments on the letter dated 5th December 2008; and
- i. Copies of the letters referred to hereinabove.


Muthoni Kimani, MBS
Senior Deputy Solicitor General
FOR: ATTORNEY GENERAL

Copy **The Chairman**
 Departmental Committee on Defence
 and Foreign Relations
 National Assembly
 NAIROBI

ANNEX

DFR 07

Annex I

(2)

Telephone: +254-20-318888
Fax: +254-20-240066/341955/344333
E-mail: communication@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

TO COL

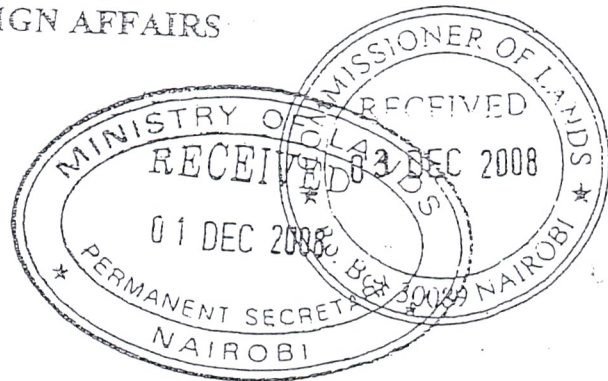
MINISTRY OF FOREIGN AFFAIRS

MFA. 212/15A/VOL. II/(18)
Ref. No.

26th November, 2008

The Permanent Secretary
Ministry of Finance
Treasury
NAIROBI

COL
FNA
2/12



BRIEF ON PURCHASE OF A PLOT FROM THE GOVERNMENT OF JAPAN

A. Background

The Mission rents both the Chancery and the Ambassador's Residence and spends JY4.7 million (Kshs. 3,141,950.00) a month which translates to JY56.4 million (Kshs. 37,703,400.00) a year. This excludes rent for other Diplomats working at the Kenyan Embassy.

Following wide and high level consultations between the Governments of Kenya and Japan, the latter accepted to facilitate purchase of a plot to put up both the Chancery and the Ambassador's Residence in a suitable area with close proximity to the Ministry of Foreign Affairs, other embassies, convenient subway line and easy access to international schools. Other considerations were proximity to residential areas suitable for Home Based Officers and an area with good quality of life with parks and a quiet atmosphere.

B. Chronology

- On 23rd October, 2007, H.E. the Ambassador accompanied by other officials from the Embassy held a meeting with officials from the Supervisory Office for National Property Management, at the Tokyo Local Finance Office. The Ambassador declared interest for Plot No. Minami-Azabu, No. 4-6-1, Minato-ku measuring 2,700 m². The Ministry of Finance promised to place the Embassy second on the waiting list for this plot and informed that it would communicate their decision within two months. At the expiry of the two months, the Ambassador had not received any communication

4(5)

- On 17th June, 2008, the Mission once again wrote to the Supervisory Office for National Property Management, Tokyo Local Finance Office, renewing its declared interest in the plot. The Ambassador requested for an appointment to meet the Lands Officials on either 19th or 25th of June, 2008 to discuss the matter. The response was that such an appointment was unnecessary as the Lands Office did not have any land to offer at that particular time.
- In July 2008, a Japanese delegation led by Senator Tetsuro Yano met H.E. President Mwai Kibaki at State House, Nairobi where the President was assured that our request would be finalized soon.
- In September 2008, Senator Yano met H.E. President Mwai Kibaki in Lusaka, Zambia where the issue of the land was once again revisited. Senator Yano assured the President that the Japanese Government would facilitate purchase of a plot for purposes of constructing the Chancery and Residence of the Ambassador.
- On 15th August, 2008, another meeting was held at the Ministry of Foreign Affairs (Gaimusho) which was attended by Senator Yano, Mr. Okada, Director, 2nd Africa Division, Amb. Kusumoto, the Chief of Protocol and the Ambassador. During the meeting, Senator Yano confirmed that although many other Embassies had shown interest on the plot, it was only Kenya which had lodged an official request through the Ministry of Foreign Affairs to the Ministry of Finance.
- On 11th September, 2008, another meeting was held at Tokyo Local Finance Office, Kanto Local Finance Bureau between the Mission and the Lands Office Officials. During the meeting, the following issues came up:
 - ❖ The 4-6-1, Minami Azabu, Minato-ku Plot measuring 2700m² was still available. The plot could be sold as a block without being sub-divided.
 - ❖ A new regulation for disposal of government land in Japan had come into effect between June and July, 2008. The new procedure was that Embassies would declare interest on a parcel of land and put in a bid for the plot along with other Embassies.

Upon receipt of bids by Lands Office, a private valuer appointed by the Ministry of Finance would value the plot and thereafter, the Ministry of Finance would allocate the land to the highest bidder. This process would normally take up to four months.

- ❖ It would be unlawful for the Ministry of Finance, through the Lands Office to disclose the reserve price for the plot. In this regard, the Embassy raised concern over this procedure as placing a bid would be difficult without any guidelines on the reserve price.
- ❖ The Lands Office also disclosed that the following plots were available for sale to any interested Embassy:
 - a) Nishi-Azabu 3-17-26 measuring 1096.85m²
 - b) Minami-Aoyama 2-4-11 measuring 670.71m²
 - c) Kita-aoyama 3-3-5 measuring 812.82m²
 - d) Akasaka 6-19-23 measuring 724.23m²

All these plots had earlier been visited by the Embassy and were found unsuitable for the stated purpose.

- ❖ The Mission was further informed that if it submitted a bid after the valuation, and was unsuccessful, no further negotiations would be allowed once the decision was communicated. It would require another application for a different plot if any was available, and the same process would have to be followed.
- On 19th November, 2008, the Embassy was invited for a follow-up meeting with officials of the Ministries of Foreign Affairs, Finance and Lands. During the meeting, it was informed that the Ministry of Finance had contracted two private valuers to carry out valuation of the plot that the Embassy had been negotiating with the Government of Japan. The exercise was expected to take six weeks and thereafter, the cost of the plot would be advised within the last week of December, 2008. The validation of the price given would expire on 31st May, 2009 following which the plot would be revalued for any other Embassy that might be interested.

C Way Forward

- To reciprocate the magnanimity of the Government of Japan which has gone out of its way to provide the said land, it is critical that we take up the offer.
- H.E. President Mwai Kibaki has variously requested senior government officials of the Government of Japan to assist the Government of Kenya acquire a plot for the construction of a Chancery and Ambassador's residence in Tokyo. As a country, we need to follow-up on this requests and show commitment. (Copies of correspondence attached).
- Funds for the purchase of the plot are available in the current financial year. Funds for construction of the Chancery and Ambassador's Residence will be factored in the sector hearings for the financial year 2009/2010.
- The Government of Japan has accepted to facilitate access to the plot for purposes of an independent Valuation by the Government of Kenya.

The purpose of this letter is to highlight the above facts and to request that you nominate an officer to be part of a team that will travel to Japan in the second week of January 2009 to value the plot.

All expenses related to the trip will be met by this Ministry.

A.M. MUCHIRI
FOR: PERMANENT SECRETARY

c.c. The Permanent Secretary
Ministry of Lands
Ardhi House
NAIROBI

- Please nominate an officer for the stated purpose.

ANNEX

DFR 08

平成 21 年 3 月 30 日

(30th, March, 2009)

財務省関東財務局東京財務事務所長 殿

(Ministry of Finance, Kanto Local Finance Bureau,
the Head of Tokyo Local Finance Office)

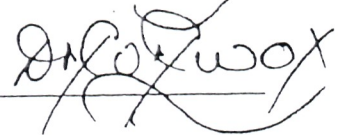
駐日ケニア共和国大使館

(Embassy of the Republic of Kenya to Japan)

デニス・N. O. アウォリ

(Dennis N.O. Awori)

signature



大使館用地取得の断念に関する通知

(Re: Report of Resignation from Obtaining the Property for the Embassy)

平成 20 年 10 月 21 日付で売却価格とその他売却条件の提示を依頼した下記財産
について、本国と検討した結果、取得を断念することとしたのでその旨通知します。

(This is regarding the following property that I requested you to present the selling
price and its conditions on 21st, October, 2008. As a result of consultation with the
home government, I hereby report to you that I resign from obtaining the property.)

記

(Note)

財産の表示

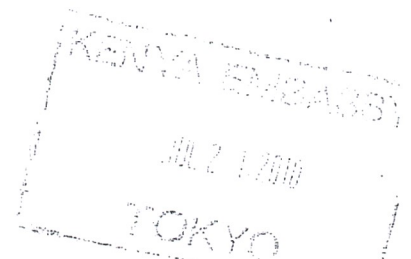
(Indication of the property)

所在地 (地番) 東京都港区南麻布 4 丁目 1 番 5

(Address 4-1-5, Minami-Azabu, Minato-ku, Tokyo)

数量 (土地) 700.39 平方メートル

(Mass/Size 700.39m²)



平成21年3月30日

財務省関東財務局東京財務事務所長 殿

駐日ケニア共和国大使館
デニス・N. O. アウオリ



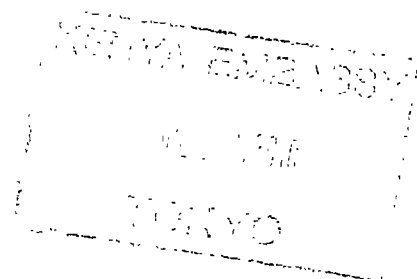
大使館用地取得の断念に関する通知

平成20年10月21日付で売却価格とその他売却条件の提示を依頼した下記財産について、本国と検討した結果、取得を断念することとしたのでその旨通知します。

記

財産の表示

所在地	(地番) 東京都港区南麻布4丁目1番5
数量	(土地) 700.39平方メートル



ANNEX

DFR 09

(34)

MINUTES OF THE PROCUREMENT COMMITTEE MEETING TO
DELEBARATE ON THE HIRE OF ATTORNEY HELD ON 21ST APRIL
2009 AT 9.15AM

PRESENT:

- | | |
|------------------------------|--|
| 1. Mr. Allan W. Mburu | Charge d'affaires a.i |
| 2. Mr. Peter K. Mose | 1 st Secretary-Consular |
| 3. Ms. Catherine M. Muraguri | 1 st Secretary-Administration |
| 4. Mr. John K. Njeru | 2 nd Secretary-Finance |
| 5. Ms. Dorothy K. Nthiwa | 3 rd Secretary-Political |

Agenda

1. Hire of Attorney for Acquisition of the Embassy Property
2. A.O.B



The meeting was called to order at 09.15hrs

- The C.D.A. informed that instructions had been received from the headquarters via letter Ref. No. MFA.HSE 9/56A "*Purchase of Property in Tokyo on which the Chancery and Residence of the Ambassador are Located*" dated 20th April, 2009 to hire an Attorney to guide and act for the Mission during the entire period of transactions
- It was informed that Nairobi had also concurred with the draft document on the terms and conditions for the Attorney
- It was further informed that the negotiating team from Nairobi had indicated it will be in Tokyo as from 27th April, 2009
- The committee explored the different avenues of procurement as stated in the Public Procurement Act of Kenya 2005
- The committee tasked the Trade and Investment Assistant to seek for quotations from the leading dailies on the cost and time lines for placing the advertisement according to regulation *Part V-Open Tendering 54(1) and(2) of the Public Procurement Act 2005*
- The Trade and Investment Assistant later reported on the assignment (see attached)
- The committee after analyzing the outcome and bearing in mind the time constraints of sourcing the Attorney so as to get him/her briefed

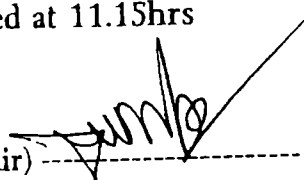
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[Handwritten signatures and initials]

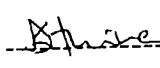
- prior to joining the negotiating team from Nairobi expected on 27th April 2009 viewed this option as not being viable
- SSF further informed that the funds available at the bank as of 21st April, 2009 could not cater to meet the cost of the advertisement
 - The committee thus unanimously invoked *Part VI-Alternative Procurement Procedures, section C-request for proposal of the Public Procurement Act 2005* in procuring the services of an Attorney
 - The following firms were identified and invited to tender

- I. Langley Enterprise
2-2-801 Nihon bashi, odema-cho
Chuo-Ku, Tokyo 103-0011
- II. Nishimura and Asahi
Ark Mori Building 28th Floor
1-12-32 akasaka, Minato-Ku, Tokyo 107-6029
- III. Sakura Kyodo Law Offices
Yamato Seimei Building 16th Floor
1-1-7 Uchisaimai-Cho, Chiyoda-Ku
- IV. Yanagawa Legal Office
1402 line Shijukugyoen Tower
30-16 Shinjuku 1-chome
Shijuku-Ku, Tokyo 160-0022

The meeting was adjourned at 11.15hrs

Signed:

Mr. Allan W. Mburu (Chair) 

Ms. Dorothy K. Nthiwa (Secretary) 

Date

24-04-09

ANNEX

DFR 10

*Paper Land by Amb. Dennis An.
on June 22, 2010* (1)

31st August 2006 Vide MFA .397/168/001 A –MOFA asked all Missions to forward purchase plan proposals on acquisition of suitable properties to save on rent

14th November We forwarded a proposal to purchase the premises being rented by the Embassy. The Purchase price offer from the landlord was Yen 1.9 billion. I recommended That we borrow from our bankers (Tokyo Mitsubishi UFJ) with repayments not to exceed the existing monthly rental.

2nd April 2007 MFA informed us that Treasury had turned down the proposal to borrow money for purchase of the property and in addition that the price seemed high. They asked us to get it valued and put the figure into our 2007/8 budget.

4th April We commissioned M/S Coral Corporation to value the property. They put the Value at Yen 1.09 billion yen (as against the offer price of 1.9 billion yen) based on the Japanese norm of valuing the land only when the buildings are more than 10 years old. The Chancery and Ambassadors residence having been built 20 years previously were thus considered valueless, although they were in reasonable condition. We thus sought to put the figure of 1.09 billion yen into our budget of 2007/2008 and made a counter offer to the Landlord for that figure of 1.09 billion, which he refused.

Further analysis of the premises in light of Kenya's new focus on Economic Diplomacy indicated it was not the right to property to purchase because:

- It is situated 45 minutes by car from the Government offices and the central business district.
- To reach it by subway you have to change trains twice.
- Being 20 years old, the design is old fashioned and limited in use. For instance it has no open plan offices and the conference room is not expandable, with a total floor space of 700sq meters for the Chancery and 412 sq meters for the residence.
- It has no road frontage and no garden or terrace for open air events.

Thereafter we commissioned a consultant to assist the Mission to analyze and find premises or plots in the right locality. Our brief was to find a plot closer to the center of Tokyo, so as to facilitate more effective economic diplomacy by being in a locality with easy access for the private sector. In addition we wished to lift Kenya's profile by moving to a location that was among the major Embassies which receive many more visitors to whom we would be exposed.

18th Oct 2007 Consequently, We met with the Ministry of Foreign Affairs of Japan and lodged our Request to Purchase a plot in Minato ward as the best locality for us. The Ministry In turn directed us to the Ministry of Finance as custodians of all government land. We then began nearly 18 months of lobbying using contacts and friends in Government and Parliament, including the Vice Chairman of the Africa Japan Parliamentary Friendship League- Senator Yano, who on two occasions promised

St

HE President Kibaki that he would ensure we got suitable land at a fair price. We Held meetings on the 23rd Oct 2007, June 17th 2008, 15th August 2008, and 11th September 2008 at the end of which we were offered several plots from which to choose. We zeroed in on two plots that were to be subdivided from a large municipal one into units for sale to Embassies only. One was 2,700 sq meters and the other 700sq meters.

21st Oct 2008 We formally applied for the plot of 700 square metres because the larger plot was too expensive. Our decision the plot was based on:

- Its proximity to the Government Offices and the CBD which are only ten minutes away by car.
- Its proximity to a train station on a line that runs direct to the CBD
- Its location in an upmarket neighbourhood (Hiroo) that is both commercial and residential.
- Its location among Major Embassies. Direct neighbours would have been Algeria, the European Union, Pakistan, Morocco, Finland, Germany Switzerland and France with a total of 79 Embassies in the same ward close by.
- Its location in a zone where building permission allowed 60% coverage of the plot with a 30 meter height restriction and total allowable floorspace of 2,500 sq meters. This would have allowed us to build a multistorey structure for the Chancery with more and better designed space than our current premises and still have room for the Ambassador's residence, all set in such a way that even big functions like our Jamhuri Day celebrations could be held on site.
- Its location overlooking a beautiful public park.
- Its road frontage allowing easy access, visibility and roadside parking during functions.

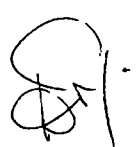
24th Oct 2008 The Embassy informed the Ministry of its decision to bid for the smaller plot.

27th Oct 2008 MFA advised us to obtain an offer from the Government of Japan for the plot, so that a team from the Ministry can travel to Japan to conclude the arrangements for procuring the plot, subject to existing GOK Procurement procedures.

19th November The Government of Japan at a meeting informed us that it had commissioned two land valuers to carry out a valuation of the plot we had identified (700 sq metres). We wrote to the Ministry on the same day informing them of the same.

24th Dec 2008 The Government of Japan formally made us an offer of Yen 1,307,000 on the selected plot and we wrote to MFA on the same day asking for an evaluation team to be sent to assess and act upon our recommendation.

6th-7th Jan 2009 We received confirmation that the evaluation team would come to Tokyo from



the 13th to 17th of January and that they would like to see similar plots in strategic places for comparison purposes. In addition meetings were to be arranged with relevant government officials concerned with the plot that we recommended.

- 9th January We confirmed the meetings and sent an itinerary for the visit accordingly
- 13th-17th Jan The evaluation committee met with the the Government of Japan officials toured the plots and consulted with local experts arranged for by the mission.
- 16th January The evaluation committee met with the Landlord who once again asked for 1.9 Billion yen for his property which the Embassy was renting. Thereafter the Committee took the decision turn down the government plot and recommend to to the Ministry to purchase the plot currently being rented.
- 17th January The evaluation committee left Tokyo before compiling their report. Meanwhile I left Tokyo (without knowing the result of the evaluation Committee's deliberations), to lead a delegation of Japanese tea importers to tour The Kenya Tea Industry, strengthen trade relations and forge new supply chains.

Whilst I was away

- 20th January The CDA sent an offer of Yen 1.9 billion from the Landlord to the evaluation Committee and advertised our intention to purchase the plot at Yen 1.9 billion.
- 21st January CDA sent a report on the Government and private plots toured by the committee Together with a second report done by a Kenyan architect based in Japan which Contained estimates of the cost of development of the different plots seen.
- 23rd January The CDA sent a report on the inspection and valuation of plots in Tokyo for Consideration of purchase and requested for advice to the mission on the way Forward.
- 26th January The Mission advertised seeking plots to purchase. Bidders were to submit details by 30th January. Because of the short time given to submit bids the response was very poor. The Embassy's landlord once again submitted his offer of 1.9 billion.
- 2nd Februar The Embassy procurement committee met with the Landlord to negotiate with Him for a price reduction and settled on Yen 1.75 billion (down from 1.9 billion). The landlord issued an offer to the Embassy of 1.75 billion yen on the same day.
- 3rd February The Procurement Committee sent a recommendation to the Ministry to purchase the Existing Embassy for Yen 1.75 billion and sought guidance from the Ministry.

5th February I returned to Tokyo to find that our recommendation to buy the Government plot was rejected and instead the Evaluation Committee from the Ministry had settled on the premises that we were renting and had begun the process for purchasing it. With less than two months left to serve in the Mission I accepted their decision.

2nd March The Embassy received the process Matrix to guide the process. This indicated:
 Valuation- 26th Feb
 Ministerial Tender Board Meeting – 2nd to 6th March
 Consultations with Treasury- 9th to 20th March
 Public Works Inspection- 23rd March
 Negotiations and feedback – 6th April
 MTC deliberation /approval/ rejection – 14th April
 Letter of Acceptance – 20th April
 Appointment of Attorneys, verification of status and preparation of sale Agreement- 2nd to 30th May

Payment of 10% deposit – up to 15th June

Registration and transfer of Title – up to 30th July

Final payment and settlement of transaction- Aug 2009

17th March - I departed for TICAD IV - Ministerial Conf. in Botswana
 20th March The Mission received confirmation of authorization from the Treasury to purchase the buildings. Authorization related to the Ministry's request dated 12th February

23rd March The Mission alerted the Ministry of the need to factor in the cost of a lawyer which was not budgeted for.

25th March - I returned to Tokyo

31st March Embassy met with the Landlord and informed him of the Government of Kenya's Decision to purchase his buildings based on standard government procedures that include each party appointing a lawyer, a thorough inspection of the buildings, valuation of the property and negotiation by a committee.

31st March The Mission informed the Government of Japan that it was no longer going to purchase the plot they had offered.

1st April The Mission requested the Ministry for a lawyer to form part of the Negotiating Committee due to come and finalize the price negotiation.

16th April I departed from Tokyo for good.

By the time I left all of the items on the process matrix were still pending. These included

- Valuation of the plot
- Minutes of the MTC
- Public Works Inspection
- Negotiation Committee visit
- Letter of Acceptance from the Ministry

- Appointment of Lawyers
- Preparation of the Sale Agreement
- Registration and Transfer of Title
- Any payment at all

[Signature]
22nd June 2010

ANNEX

DFR 11



PUBLIC PROCUREMENT OVERSIGHT AUTHORITY
Transforming Procurement

Telephone +254(020) 3244000, 2213106, 2213107
Fax +254(020) 2213105, 3244177, 3244277
E-mail: info@ppoa.go.ke
Website: www.ppoa.go.ke

National Bank Building, 10th Floor
Harambee Avenue
P.O. Box 58535-00200
NAIROBI
KENYA

When replying please quote:

PPOA 6/19(21)

15th April, 2009

The Permanent Secretary
Ministry of Foreign Affairs
P.O Box 30551-00100
NAIROBI

RE: REQUEST FOR AUTHORITY FOR A SPECIALLY PERMITTED
PROCUREMENT PROCEDURE - PROPOSED ACQUISITION
OF CHANCERY AND HIGH COMMISSIONER'S RESIDENCE,
TOKYO JAPAN

Your letter Ref No. MFA. HSE 9/56A dated 3rd April, 2009 on the above captioned refers.

We have scrutinized the contents of the letter and the accompanying enclosures and noted that the intended transaction does not qualify any special circumstances to have it to fall under Section 92 of the Public Procurement and Disposal Act, 2005.

Hence, we advise that the property be acquired through the relevant conventional procedures set forth in Sections 72 to 85 of the Act which will enable your entity realize value for money. It is imperative that your Tender Committee plays its role in the transaction as provided for in the procurement law and its attendant regulations.

You are also reminded to adhere to the Public Procurement and Disposal Act and its Regulations in this procurement.


M. J. O. JUMA
Ag. INTERIM DIRECTOR GENERAL

Tel: +254-20-316229
Fax: +254-20-316229/344111
E-mail: information@info.go.ke
Website: info.go.ke
When writing please quote Ref No. and date



24
HARAMBEE AVENUE
P.O. Box 1010-00101
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

MFA. HSE 9/56A

Ref: /

3rd April, 2009

The Director General
Public Procurement Oversight Authority
NAIROBI

[Handwritten signature]
24/4/09



REQUEST FOR AUTHORITY FOR A SPECIALLY PERMITTED PROCUREMENT
PROCEDURE - PROPOSED ACQUISITION OF CHANCERY AND HIGH
COMMISSIONER'S RESIDENCE, TOKYO JAPAN.

It has been the intention of the Ministry to gradually acquire properties in our missions abroad as a long term strategy towards cutting costs and having the country's presence felt especially in politically and economically strategic stations.

Towards this end, in the current financial year, the Government has made a budgetary provision of over one billion Kenya Shillings for the purchase of the chancery and High Commissioners residence in Tokyo. (letter attached)

The justification for this reasoning is the fact that Tokyo is politically and economically strategic to Kenya and in addition, is one of the most expensive cities in the world and property prices are correspondingly very high as evidenced by the current rent payable for the Chancery and the Ambassador's residence at JPY4.7 million equivalent to Kshs. 4,094,170.00 per month.

In January 2009, a team from the Ministry of Lands and Ministry of Finance and Ministry of Foreign Affairs was sent to Tokyo to inspect the plot that was being offered by the Government of Japan as well as consider other available options. In its report, the team recommended that the Government purchase the current land housing the Chancery and Ambassador's residence which was the most suitable option as it offered the Government value for money. The asking price for this land measuring 1431.28m² including the structures is JPY1.75 billion equivalent to Kshs. 1,524,425,000.00

The Kenya Ministry of Lands had valued the Land without the structures at JPY1.6 billion equivalent to Kshs. 1,393,760,000.00. Other available options were exorbitantly priced and were considered not ideal as chancery and High Commissioners Residence for as per the report of the inspection and Valuation Mission. (Copy of report attached)

It is worth noting that our mission in Tokyo has leased this property for the last twenty years and previous attempts to acquire the same have been unsuccessful because of lack of budgetary provisions.

The ministerial tender committee in its meeting No MFA/MTC/05/2008-2009 held on 12th March 2009 under Min 5 authorized the engagement of the Public Procurement Oversight Authority for The specially permitted procurement procedure in light of the prevailing circumstances and property market in Japan.

PROPERTY DESCRIPTION

A. RESIDENCE

Two storey steel framed wooden house with a total floor area of 436.85 m² consisting of hall, living room, dining room, kitchen, family room, laundry (service room), stairs, Master bedroom, four (4) bedrooms, study room, guest room, two maid's rooms and four bathrooms plus storage. It is currently equipped with central heating, air conditioning, hot water boiler, refrigerator, dishwasher, clothes washer and dryer, gas cooking stove, telephone and wall to wall carpeting throughout the house and parking space for two (2) cars.

B. CHANCERY

Two storey steel framed ferro-concrete building having a total floor area of 695.13 m² consisting of the Ambassador's, Counsellor's, Secretary's, four Home Based Officers' offices, VIPs Reception room, telex room, library, register room, storage room, kitchen and two toilets on the second floor, entrance hall, stairs, four local officers' rooms, multi-purpose room, receptionist room, three toilets and pantry on the ground floor.

The said building is equipped with unit-type heating and air conditioning, hot water boiler, refrigerator, dishwasher, clothes washer and dryer, gas cooking stove, telephone and wall-to-wall carpeting throughout the building and parking space for ten (10) cars.

The total ground area for both the Chancery and Ambassador's Residence is 1207.94 m² including a garden with fence and gate for privacy

It is against this background that a specially permitted procurement procedure is being sought to accomplish this process. Our request is based on the very nature of the ministry's operations and requirements considered to be specialized, unique and exceptional as well as the prestige and status that come along in acquisition of a chancery and Ambassadors residence. The ministry is also cognizant of the property market conditions and behavior which make it impossible, impracticable or uneconomical to comply with the Procurement Act and Regulations.

In line with the mandate of the Authority, this request is submitted for your consideration and advice as appropriate.

A handwritten signature in black ink, consisting of a stylized 'E' followed by a long horizontal stroke and a vertical line at the end.

E. K. Korir

FOR: PERMANENT SECRETARY

ANNEX

DFR 12

Japan Land in 1966
to be used for 21 years
before the completion
on 10/10/87 9 years
Relations Committee

B-1

21/1/02



PROPERTY EVALUATION

23. March.2007.

Embassy of the Republic of Kenya

The subject of the evaluation: Real estate property located at 3-24-3
Yakumo, Meguro-Ku, Tokyo.

Dear Sirs,

I hereby submit you the following report of the survey and the evaluation of the above mentioned property.

1. Details of the registration

I visited Ministry of Justice, Minato Registration office to get following registration information of the property.

In Japan Tsubo is commonly used as a space measurement term.

One Tsubo is equivalent to 3.3 m² which is the same size of Two Tatami floor mats. Please allow me to use this traditional term in this report.

Land registration address: 135-2,137-2,137-3 3-Chome Yakumo,
Meguro-Ku, Tokyo.

Building registration address: 135-2,137-2 3-Chome Yakumo,
Meguro-Ku, Tokyo.
Building No. 135-2

Land space: 135-2: 782 m²
137-2: 278.33 m²
137.3: 135 m²

Total 1,195.33 m² (362.22 Tsubo)

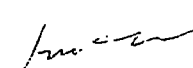
Building space & structure:

Chancery: Steel frame, reinforced concrete, slate covered roof 2 stories
building with basement, built 16 September 1988.

1F: 303.44 m²
2F: 296.09 m²
B1F: 99.00 m²

Total 698.53 m² (211.67 Tsubo)

Residence: wooden, slate covered roof 2 stories building.



1F: 244.97 m²

2F: 167.71 m²

Total 412.68 m² (120.05 Tsubo)

Land ownership holder: Ms. Taeko Kuriyama

3-12-15 Yakumo, Meguro-Ku, Tokyo.

Building ownership holder: Mr. Nobuo Kuriyama

3-12-15 Yakumo, Meguro-Ku, Tokyo.

Joint mortgage: Total mortgage amount: ¥1.74 Billion.

Joint mortgage property:

1. Land 135-1
2. Land 135-2
3. Land 137-1
4. Land 137-2
5. Land 137-3
6. Building 135-1-1
7. Building 135-1-2
8. Building 135-2
9. Land 137-5
10. land 137-9

(please see exhibit ①)

2. Restrictions under applicable law

I visited Meguro ward office to have following information about the building restriction around that area.

City planning law: urbanization zone

Zoning by use: First low level residential area.

Zoning by different purpose: Semi fire prevention area.

Site coverage ratio: 60%

Floor space ratio: 150%

Heights limitation: First low level area. Maximum 10 m.

3. Governmental evaluation

I contacted Ministry of Land Infrastructure and Transport to know the public declared value which they publish every year.

The following value of that area was published recently on the basis of 1 January 2007. It increased 15 % more than last year on the average.

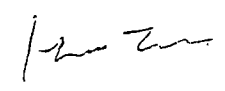
4-5-20 Yakumo ¥760,000-per m² ¥2.508 Million per Tsubo(3.3 m²)

2-24-15 Yakumo ¥725,000-per m² ¥2.392 Million per Tsubo(3.3 m²)

4-1-19 Yakumo ¥770,000-per m² ¥2.541 Million per Tsubo(3.3 m²)

2-18-26 Jiyugaoka ¥950,000-per m² ¥3.135 Million per Tsubo(3.3 m²)

(please see exhibit ②)



4. Present market value around that area.

In spite of the above mentioned public declared value on the basis of 1 January 2007, the real estate market in central Tokyo has become hotter since that time. Somebody calls it semi bubble situation. Therefore it is more practical to know the present market value of the neighboring area for making evaluation.

The following sample property are now in the market around that area.

List of the real estate property for sale now.

Address	Space(m ²)	Fronting road	Price per Tsubo(3.3 m ²)
3-8-16 Yakumo	124.51 m ²	North 6m	¥ 3,58 Million
3-10-9 Yakumo	348.34	South 6m	¥2,94 Milhon
3-31-3 Yakumo	146.84	East 6m	¥3,37 Million
2-10-15 Yakumo	214.77	West 11m	
		North 6m	¥3,84 Million
1-10-7 Yakumo	107.96	West 3.6m	¥3,36 Million(sold)
3-6-27 Jiyugaoka	150.29	South east 4m	¥3,26Million

(please see exhibit ③)

5. Other considerations.

- ① In Japan as a general practice of real estate business in case the building has aged over ten(10) years, it shall be considered to be valueless and only the land shall be valued.

According to the registration, the building was constructed 16 September 1988 and has aged almost 20 years now. Therefore we do not evaluate the building.

- ② Evaluation draw back of the property

- (1) The land is surrounded by other buildings shaped like a flag and is not square and the fronting length to the public road is narrow being used as the entrance of the approaching road.

If you like to build the bigger building, you may have limitation of the floor space of the building because of this shape.(please see exhibit ④)

- (2) Total land space of 1,195.33 m² is too big for the ordinary private Japanese customer to be purchased for their own residence. Usually land space between 100 m² to 330 m² is more common in the real estate market.

- (3) In general the property with leased building is considered to be less valuable than vacant land without building because the buyer who bought such property must pay the compensation for eviction of the lessee, if the buyer likes to use or demolish the building. Moreover some does not like to buy the building occupied by the Embassy due to its diplomatic immunity.

6. Conclusion

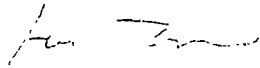
Comparing the present market price of the neighboring properties from ¥2.94 Million to ¥3.84 Million per Tsubo which mentioned in the clause 4 and taking consideration of the several points mentioned in the preceeding clause 1 hereby submit you the evaluation price of the said property as follows;

Valuation amount per Tsubo(3.3 m²): ¥3 Million

Total valuation amount : ¥1,09 Billion

Yours sincerely,

20 July 2016



Hidehiko Takahashi
Coral Corporation

ANNEX

DFR 13

m agenda since Baini-
a toppled the elected
ment in December
in the nation's fourth
two decades.
Australia and New Zealand
ince been at the forefront

country's electoral system.

At a forum summit in Niue
last August — which Baini-
marama boycotted — the Pa-
cific leaders decided they
would consider taking the un-
precedented action of sus-

official and the ambassador to
Papua New Guinea have both
been sacked in recent days for
suggesting Bainimarama
should have taken the chance
to put Fiji's case, reports from
Suva say.

AL PRICE!

WE CAN BEAT
TO INDIA!!!

IA.

HINDI,
ELUGU LANGUAGES.

G TO DEPARTURE AND RETURN DATE.

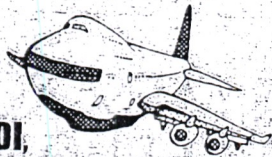
KOLKATA
¥62,000~

COCHIN
¥62,000~

FARE FOR JAN. FEB. DEPARTURES.

3 5654-2442
: Lnjitha@r-a-j.com

2:00-13:00) LICENSE No.3-5445



The Embassy of the Republic of Kenya in Japan is seeking to purchase a plot on which to construct a chancery and ambassador's residence.

The preferred locations are: Minato-ku, Chiyoda-ku, Meguro-ku and Shinagawa-ku.

The plot should measure between 700 and 1,700 sq. meters, with freehold tenure. Interested parties should submit their expression of interest, indicating registered owner, price and area maps.

Correspondence to be addressed to:

The Ambassador,

Embassy of

the Republic of Kenya

3-24-3, Yakumo, Meguro-ku,

Tokyo 152-0023

Tel: 03-3723-4006/7

Fax: 03-3723-4488 or 03-3723-4546

so as to reach by **Friday, January 30, 2009, at 5:00 p.m.**

COMPANY HANDBOOK

SPRING 2009

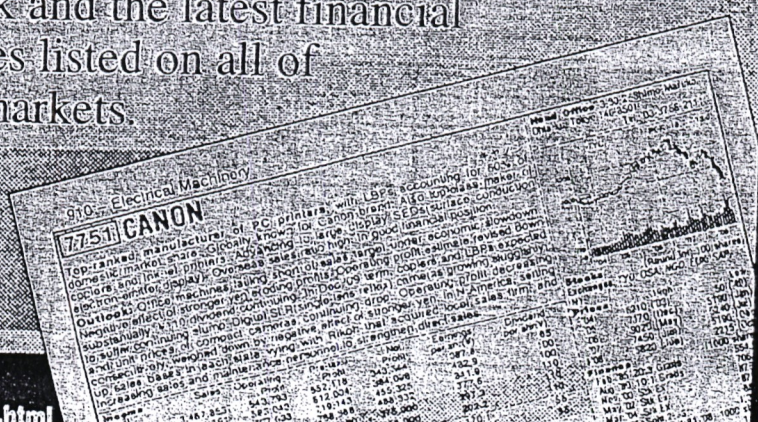
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 Looking for advertising company is looking for part-time Japanese accountant with good English to take care of our day-bookkeeping and other administrative tasks. Flexible hours possible. Must be able to handle English-based accounting. Friendly atmosphere here in Hiroo. Please fax resume in English and Japanese to Ext Inc. at (03) 5435 or e-mail to extinc.com.

Real Estate

Wanted to Buy

The Embassy of the Republic of Kenya in Japan is seeking to purchase a plot on which to construct a Chancery and Ambassador's Residence. The preferred locations are: Minato-ku, Chiyoda-ku, Meguro-ku and Shinagawa-ku. The plot should measure between 700 and 1,700 square meters with freehold tenure. Interested parties should submit their expression of interest indicating registered owner, price and area maps. Corre-

spondence to be addressed to: The Ambassador, Embassy of the Republic of Kenya, 3-24-3, Yakumo, Meguro-ku, Tokyo 152-0023. Tel. No. 03-3723-4006/7; Fax No. 03-3723-4488 or 03-3723-4546, so as to reach by Friday, 30th January 2009 at 5.00 p.m.

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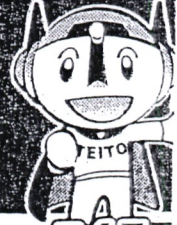
からもエントリーできます。

職 種	求人内容	勤務地
《デジタル衛星放送(CS)、CATV放送等を通じて行っている、テレビショッピング大手企業の求人》		
1 社内SE(会計システム担当)	基幹システムである会計システム・自動仕訳システムをサブシステム単位で運用・管理する	東京
2 ECシステムエンジニア	ECシステムの運用管理業務(障害時トラブル対応、システムメンテナンスなど)	東京
3 社内SE(発注・商品管理システム担当)	基幹システムである発注管理・商品管理システムをサブシステム単位で運用・管理する	東京
4 社内SE(TV製作支援システム担当)	基幹システムであるTV製作システム(製作支援システムインターフェイス)をサブシステム単位で運用・管理する	東京
5 社内SE(インフラ担当)	Solarisサーバーを使用したインフラをアプリケーションとハードウェアの両面からの運用・改善	東京
6 社内SE(精算管理システム担当)	基幹システムである精算管理システムをサブシステム単位で運用・管理する	東京
《ゲーム機・遊戯機メーカーでの新規事業展開に伴う求人》		
1 品質保証	新機種導入から量産確立までのパチンコ・パチスロ製造に関わる品質保証業務全般	東京
2 製造ライン管理	新機種導入から量産確立までのパチンコ・パチスロ製造に関わる製造ラインの管理全般	東京
3 生産技術	新機種導入から量産確立までのパチンコ・パチスロ製造に関わる生産技術業務全般	東京
《その他の求人》		
1 電子回路設計・開発	高精密度ディスプレイの開発・地上デジタル波放送関連機器など自社製品の開発	東京
2 生産プラントユーティリティ開発	薄型テレビの生産工場建設技術者、離散系プラントでの客先の要望を反映した建築物の構築	東京
3 半導体製造装置の機械設計	各種半導体製造装置の機械設計全般、各種機構部分の設計・機構解析	東京
4 生産管理・原価管理	工場における製造原価管理業務(生産管理、工場経理、原価計算など)	東京

の転職エージェント 人材紹介室

TEL 03-5226-9904

人材紹介: 13-ユ-303108



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【所定勤務】タクシ
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ANNEX

DFR 14

Telephone +254-20-318888
Fax +254-20-240066/341953/344333
E-mail communication@mfa.go.ke
Website www.mfa.go.ke
When replying please quote Ref No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

MFA HSE 9/56A

Ref No

28th May, 2009

THE AMBASSADOR
KENYA EMBASSY
TOKYO

FS(A)
File and bring
up 20/05/06



done
20/09/06

PURCHASE OF CHANCERY AND AMBASSADOR'S RESIDENCE TOKYO- JAPAN

Reference: is made to your letter Ref ADM/1/11A/VOL. II/(57) of 14th May, 2009 and previous correspondence on the same.

I write to convey to decision of the Ministerial Tender Committee meeting NO. MFA/MTC/07/2008-2009 of 25th May, 2009 on the above subject. The committee discussed the Proposed Purchase of Chancery and Ambassador's Residence Tokyo and approved as indicated below:

ITEM/DESCRIPTION	SELLER	PURCHASE PRICE
Chancery & Ambassadors residence Address 135-2, 137-3, 137-10, 137-3 Total Area: 1431.28m²	Mr. Nobuo Kuriyama Ms. Taeko Kuriyama	Japanese Yen 1,750,000,000 equivalent to Kshs. 1,500,000,000 payable in two tranches 1.5 billion yen by 30 th June 2009 and 250 million yen by 30 th September, 2009

The committee further took note that upon payment of the 1st amount of Japan Yen 1.5 billion rent payment for ensuing month's upto 30th September, 2009 will cease and transfer of proper will effected upon first payment.

A copy of signed minutes will be sent to you later.

E. K. Korir

FOR: PERMANENT SECRETARY

ANNEX

DFR 15

Telephone +254-20-318888
Fax +254-20-240066/341953/344333
E-mail communication@mfa.go.ke
Website www.mfa.go.ke
When replying please quote Ref No and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

Ref No

MFA. HSE.9/56

5th June, 2009

The Charge D'affaires a.i
Kenya Embassy
Tokyo
Japan



*Please file.
Action already
taken.
JN 12/06*

RE: HIRING OF JUDICIAL SCRIVENER SOLICITOR

Your report dated 1st June, 2009 on the above matter refers.

You have been authorized to hire a Judicial Scivener Solicitor (Shihoushoshi) to do a search on the property and draw up the documents for the sale of agreement.

Before entering into a contract, this office will require you to forward the amount of fees to be charged by the Solicitor. Guidance shall thereafter be given on the mode of procuring the services.


J.K. NDATHI
DIRECTOR OF AMINISTRATION
FOR: PERMANENT SECRETARY

ANNEX

DFR 16



97

EMBASSY OF THE REPUBLIC OF KENYA

Telegraphic Address : KENREP J

Telex No : 2672378-KENREP J

http://www.kenyarep-jp.com

E-mail : kenrep@kenyarep-jp.com

info@kenyarep-jp.com

3-24-3, Yakumo Meguro-ku,

Tokyo 152-0023, JAPAN

Telephone : 03-3723-4006/7

Facsimile : 03-3723-4488/4545

REF. No KET/ADM/1/11A

2nd June, 2010

Mr. Thuita Mwangi, CBS
Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

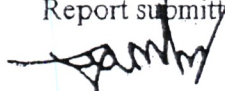
RE: OFFICIAL REPORT OF THE FIRE OUTBREAK IN AMBASSADOR'S
RESIDENCE IN TOKYO ON 13TH FEBRUARY, 2010

This is to inform that upon request from the Mission to the Ministry of Foreign Affairs of Japan on 20th May, 2010 for official report from the Tokyo Metropolitan Fire Department and from the translation which was done by a local staff at the Embassy, the following observations have been made:-

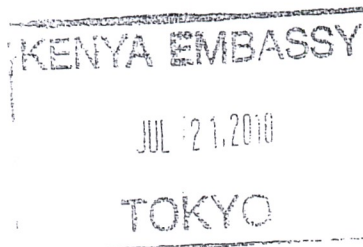
1. The cause of fire was the Gas cooking stove which was left unattended and in full blast with 500ml of oil being heated.
2. According to the report, there does not seem to be an explanation as to why the cooking oil was heated again after the official cook had cleaned the kitchen.

Under the circumstances therefore, and based on the interest and anxiety which the fire outbreak has caused the Kenyan public, I strongly recommend that further investigations be carried out and possibly involve the Kenyan Police.

I attach hereto copies of both Japanese and English translated versions of the Fire Investigation Report submitted through the Ministry of Foreign Affairs for information and further action.

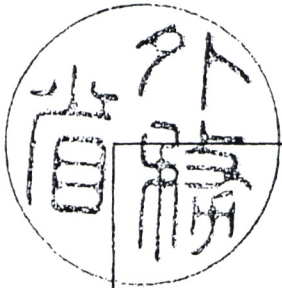

ALLAN W. MBURU
CHARGE D'AFFAIRES, A.I.

c.c. Mr. Julius N. Muraya
Senior Attorney, Crime Reading
Kenya Anti-Corruption Commission
Integrity Centre,
NAIROBI



CDP

KENYA EMBASSY
JUN 02.2010
TOKYO



儀第1852号

平成22年5月31日

口 上 書

外務省は、在本邦ケニア共和国大使館に対し敬意を表するとともに、
2010年5月19日付け同大使館口上書第KET/ADM/1/11A号に関し、
本年2月13日同大使公邸で発生した火災原因に関する目黒消防署発
火災調査書を別添する光栄を有する。

Original

KENYA EMBASSY
JUL 21.2010
TOKYO

Translation

No. 1852/M-PL

NOTE VERBALE

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Republic of Kenya, and with the reference to the latter's Note No. KET/ADM/1/11A dated 19 May 2010, has the honor to attach the copy of the Fire Investigation Report issued by Meguro Fire Department on the cause of fire of the Ambassador's Residence on 13th Feb 2010.



Tokyo, May 31, 2010.



山崎

12923-4546

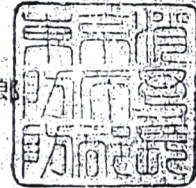
22予調第220号

平成22年5月28日

外務省大臣官房儀典総括官 殿

東京消防庁

予防部長 有賀 雄一郎



火災の報告書発給依頼について (回答)

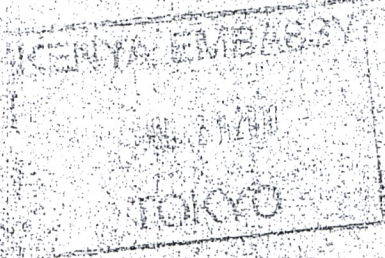
平成22年5月20日付、儀第5691号で発給依頼のあった平成22年2月13日17時40分ごろ、東京都目黒区八雲三丁目24番3号ケニア共和国大使公邸で発生した火災に関する火災調査書を別添えのとおり発給します。

問い合わせ先

東京消防庁予防部

調査課損害調査係 森田 千葉

電話 03(3242)2111 内線 5028



様式第15号 (第64条関係)

KENYA EMBASSY

21目予(調)第27号

平成22年3月31日

予防部長 殿

TEL 03-3200

TOKYO

目黒消防署長

火災調査書

火災番号 00723-4

出火日時	平成22年2月13日(土) 17時40分ごろ	覚知	2月13日 17時50分	鎮火	2月13日 23時14分	火災の程度	1 全焼 ② 半焼 3 部分焼 4 ほか
覚知別	② 報知電話	3 加入電話	4 警察電話	5 専用電話	6 駆付	7 事後聞知	9 その他
火災種別	① 建物	2 林野	3 車両	4 船舶	5 航空機	6 その他	
場所	目黒区 八雲三丁目24番3号				建物名称等	ケニア共和国大使公邸	
職業・職	参事官 (大使代理)	氏名	アラン ワテウエル ムブル (49歳)		火元区分	1 占有 ② 占有 3 所有	階数 地上 2 階 地下 0 階
事業所名		業態		用途	住宅		面積 延 244 m ² 延 411 m ²
構造	1 木造	② 防火	3 準耐火	5 耐火(軒高 m)	9 その他		
焼損状況	全焼 0 棟	焼損表面積計	70 m ²		焼損物件		
	半焼 1 棟 220 m ²	焼損以外棟数	0 棟		防火造2階建て住宅、延べ411m ² のうち、床面積1階60m ² 、2階160m ² 計220m ² 及び1階天井表面積70m ²		
	部分焼 0 棟	火災による死者	0 人		傷者 0 人		
	ほか 0 棟	死傷者	0 世帯		0 人		
火元	1 棟 220 m ²	火災人員	0 人		火災損害額 円		
発生原因	2 1 1 0 4	部位	4 1	経緯	6 5 1	着火物	2 3 6
	ガスレンジ	位置	ごんる部	経過	放置する・忘れる	動植物油	出火箇所 台所 (+1階)

火災・原因概要	本火災は、防火造2階建てケニア共和国大使公邸の1階台所から出火し、床面積1階60㎡、2階160㎡の計220㎡及び1階天井表面積70㎡を焼損した建物半焼火災である。 出火原因は、1階台所内で大使館の調理師が、フライパンに動植物油約500㎖を入れ、ガスレンジのこんろにかけ点火し、調理後、後片付けをした際、理由は不明であるが、動植物油を加熱し、その場を離れて隣棟の大使館で別の仕事をしていたため、時間の経過とともに動植物油が過熱され、出火したものである。								
発見状況	目黒区八雲三丁目に居住する近隣者（男性）は、ケニア大使館の西側道路を歩いていたところ、臭気を感じ、大使館の方向から煙と炎が見えた。								
通報状況	火災を発見した近隣者（男性）は、自分の携帯電話で119番通報した。								
初期消火状況	なし								
用途地域	防火地域	気象	天気	気温	風速	風向	温度		
第一種低層住居専用地域	準防火地域	象	みぞれ	2.3℃	3.0m/s	北東	相対 9.9% 実効 6.0%		
原因判定理由									
判定者	消防署								



MAY 20 2010

EMBASSY OF THE REPUBLIC OF KENYA

Telegraphic Address: KENREP J

Telex No. 2422378 KENREP J

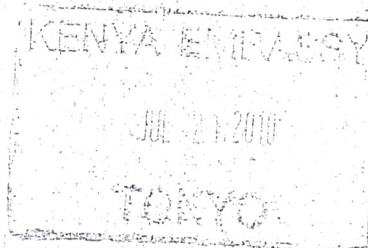
<http://www.kenyarep-jp.com>

E-mail: kenrep@kenyarep-jp.com

info@kenyarep-jp.com

KET/ADM/1/11A

REF. No.



3-24-3, Yakumo Meguro-ku,

Tokyo 152-0023, JAPAN

Telephone : 03-3723-4006/7

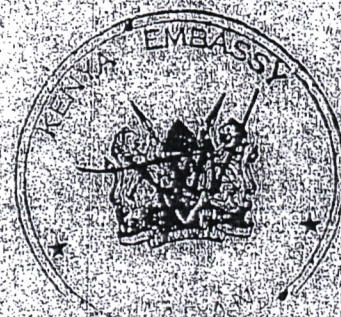
Facsimile : 03-3723-4488/4546

The Embassy of the Republic of Kenya presents its compliments to the Ministry of Foreign Affairs of Japan and has the honour to request the latter to facilitate release of a Report from Meguro Fire Department on the cause of fire that partially burnt the Official Residence of the Ambassador of the Republic of Kenya to Japan on 13th February 2010.

The Embassy of the Republic of Kenya avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Japan the assurances of its highest consideration.

Tokyo, 19th May 2010

Ministry of Foreign Affairs
Tokyo
Japan



Ref: 220

28th May, 2010

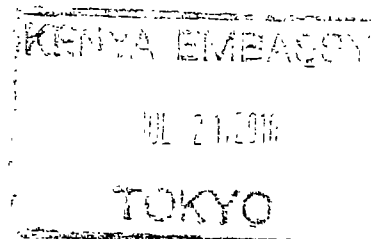
Ministry of Foreign Affairs
Principal Deputy Chief of Protocol

RE: Request for publishing Fire Investigation Report (Response)

As you requested in your letter dated on 20th May, 2010, Reference No. 5691, we would like to enclose the Fire Investigation Report on the fire at around 17:40 on 13th February, 2010 at Ambassador's residence of the Republic of Kenya which is located in 3-24-3, Yakumo, Meguro-ku, Tokyo.

Yours sincerely,

Yuichiro Ariga
Director
Fire Prevention Division
Tokyo Metropolitan Fire Department



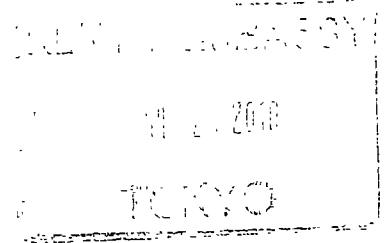
For more information please contact below
Mr. Morita or Mr. Chiba
Fire Prevention Division
Tokyo Metropolitan Fire Department
TEL: 03-3212-2111 Ext: 5026

31st March, 2010

To Director, Prevention Div.

From: Commissioner
Meguro Fire Department

Report on Fire Disaster



Fire Reference No.: 007232-4
Date of Fire Outbreak: Around 17:40 on 13th February, 2010
Date of Perception: Around 17:50 on 13th February, 2010
Damage of the Fire: Partially destroyed

Method of Perception: Emergency Telephone Call
Type of Fire: Building

Address of Fire Origin

24-3, Yakumo 3-chome, Meguro-ku Ambassador's Residence of the Republic of Kenya

Title: Chargés d'affaires ad interim

Name: Allan W. Mburu (49 years old)

Classification of Fire Origin: Administration

Stories: two stories high

Purpose of use: Residence

Acreage: Building: 244 m²

Floor: 411 m²

Structure: Firesafe

Fire Damage

Partially destroyed 220 m²

Total surface acreage of damaged building: 70 m²

Damaged Item

Two stories fire safe residence. 60 m² of 1st floor, 160 m² of 2nd floor and 70 m² of roof is damaged out of total estimated 411 m² total space.

Source of Ignition

Gas cooking stove

Exact Part

Stove

Process

Leave stove on

Source of Fire

Cooking oil

Place of fire outbreak

Kitchen

Outline of the fire

This fire is happened at Ambassador's Residence of the Republic of Kenya. Place of fire outbreak is the kitchen and the fire destroyed 60 m² of 1st floor, 160 m² of 2nd floor and 70 m² of roof is damaged out of total estimated 411 m² total space.

The reason of the fire is over heat of cooking oil. A cook prepared food using 500ml cooking oil. After the cooking, he clean up the kitchen that a cook put fire on the gas stove with frying pan of 500ml cooking oil. After cooking food he cleaned kitchen. However, he heated the cooking oil again but the reason is not clear, the oil is over heated and outbreak the fire.

Fire finding

A person who lives in neighboring area (Yakumo 3-chome) was walking west side of the Embassy. He noticed the smell and found the fire and smoke at the embassy

Emergency phone call

The person who find the fire made an emergency call to fire department with his cell phone.

Use of Area

First low level residential area

Fire Protection

Semi- Fire Protection Area

Weather

Snowy rain

Temperature

2.3°C

Speed of Wind

3.0m/h

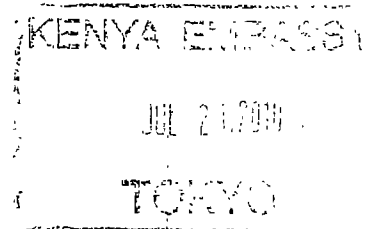
Direction of Wind

North East

Humidity

Relative 99%

Actual: 60%



ANNEX

DFR 17



EMBASSY OF THE REPUBLIC OF KENYA

Telegraphic Address : KENREP J

Telex No. : 2422878 KENREP J

http://www.kenyarep-jp.com

E-mail : kenrep@kenyarep-jp.com

info@kenyarep-jp.com

3-24-3, Yukumo Meguro-ku,

Tokyo 152-0023, JAPAN

Telephone : 03-3723-4006/7

Facsimile : 03-3723-4488/4546

REF. No. KET/ADM/1/11A/78

3rd December 2008

The Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Attn: Mr. A. M. Muchiri

**RE: INVITATION FOR A VALUATION TEAM TO INSPECT AND ADVISE
ON THE PLOTS IDENTIFIED IN TOKYO**

Please refer to your letter Ref. No. MFA.212/15A/VOL.III/(16) dated 19th November, 2008 and ours Ref. KET/ADM/1/11A/(73) dated 19th November, 2008 on the same subject.

Our request for the valuation team from Nairobi prior to release of the valuation report by Japanese authorities is based on the following:

1. The Government of Japan has clearly stated that the plot we have declared interest on will be sold to us at **market value**. We should not therefore expect any deviation from market prices unlike the case where Kenya offered Japan a plot at Upper Hill for construction of the Embassy of Japan in Nairobi at a price that was far below market value. We have always mentioned this as a bargaining tool in our meetings with the Japanese authorities.
2. On 17th July, 2008, the Mission wrote a letter Ref. No. KET/ADM/1/11A to the Ministry and gave a detailed report on the Tokyo Plots Market Survey and went ahead to outline a list of the selected plots and their locations including the Ministry of Land valuation per square metre. In the conclusion and recommendation, the Mission gave an alternative of the plot measuring 896.17m² whose price/m² is given as JY1,950,000. This plot has been disposed and we are therefore left with alternative number 3 of the plot measuring 778.94 m² going for JY1,667,000/m². However, the owner is willing to negotiate with the Embassy and have the price adjusted downwards to correspond with the declining prices of land in Tokyo occasioned by the global financial crisis.

The rationale of inviting the inspection team therefore is two-fold:

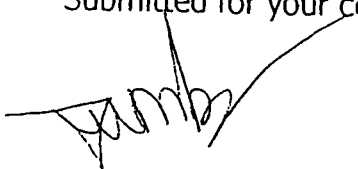
1. To seek a second independent opinion from the team coming from Nairobi guided by a contracted valuer in Tokyo that we may use to compare the valuation from Japanese authorities. Out of this, we shall have a fall back position.
2. To meet the budgetary cycle deadlines and more so if any additional funds will be required to finance purchase of the plot. We have sent feelers and judging from informal discussions held, there is a possibility that the plot may cost more than the allocated funds in the printed development vote estimates. We are not sure there will be enough time to hire independent valuers who can accompany our team after 26th December, 2008 when we expect the report from Japanese authorities. We had hoped that with the team being here before 26th December, we can very quickly put up a case for consideration during the supplementary budget proposals to meet any shortfall.

In order to enable you determine the merit of a team being sent before 26th December, I kindly request you to study the attached copy of H.E. the Ambassador's letter. Ref. No. KET/AD/1/11A dated 17th July, 2008 on the subject of **"Purchase of Land for Construction of Chancery and Residence of the Ambassador in Tokyo"**. This, in our opinion, will safeguard the Mission's Work Plan and what we aspire to achieve during the current Financial Year.

Finally it may also be necessary to take cognisance of the fact that based on the appreciation of Japanese Yen against the Kenya Shilling, the exchange rate as at yesterday was JY100 to KShs.85.6442, as compared to the rate in July, 2008 which was approximately JY100 to KShs.58.9501. We should therefore expect loss in the exchange rates in transferring the KShs.1 billion by approximately KShs.453 million.

In this regard, we would like to request adjustment in the revised estimates alongside the effects of the changes of the market exchange rates.

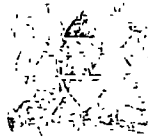
Submitted for your consideration and further advice.



ALLAN W. MBURU
for: AMBASSADOR

ANNEX

DFR 18



MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF KENYA

KET/ADM/1/11A/VOL.II/(24)

1st April, 2009

The Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Dear Sir,

**RE: PURCHASE OF PROPERTY IN TOKYO ON WHICH THE CHANCERY
AND RESIDENCE OF THE AMBASSADOR ARE LOCATED**

This is in further reference to your letter No. MFA.212/320/001A of 20th March, 2009 and ours Ref. No. KET/ADM/1/11A dated 23rd March, 2009 both related to the above subject.

Following the decision by the government to purchase the property in Tokyo on which the Chancery and the Residence of the Ambassador are located, H.E. the Ambassador convened a meeting yesterday, 31st March, 2009 with Mr. Kuriyama, our landlord who doubles up as proprietor of the property to convey the decision by the Government of Kenya.

The meeting was occasioned by a decision by the Mission to delay payment of rent for the Residence due to the current liquidity problem being faced by the Mission. We therefore owe the landlord ¥ 2.3 million for the month of March.

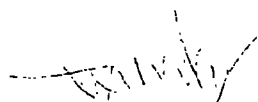
During the meeting, we established that the real estate practice in Japan demands that a lawyer who combines as a licensed real estate agent must be involved throughout the process of purchasing property. This information was obtained by H.E. the Ambassador from Mr. Dick Olang'o, the architect who was contracted by the Mission to accompany the Kenyan delegation that visited the Mission in January and assisted the Valuer from the Ministry of Lands to conduct valuation on the property which we have declared interest on. Copies of an e-mail exchanged between H.E. the Ambassador and Mr. Olang'o as well as Minutes for the meeting are hereto attached for reference.

The above made reference to the memo sent by the Mission showing the roadmap on the procurement process. It is clear from the work plan sent to us on 27 March 2006 by Mr. Houn, Head of Procurement titled *"Steps/Processes Towards Acquisition of Tokyo Chamber"* that appointment of Attorneys to the sale agreement to verify the status of property is scheduled for 27th - 29th May 2006. The Mission therefore proposes an amendment to this part so that the Attorney for the Mission forms part of the negotiation team at the earliest stage. The involvement of a lawyer at this stage will ensure that due diligence on the property is carried out prior to the final agreement. Further, any other legal issues related to the current status of the property will be addressed appropriately and in particular the parcel of land that will be annexed to form part of the whole land. This parcel was negotiated for separately from the land covered by the current lease agreement.

In order to move to the next stage therefore, H.E. the Ambassador has proposed that you kindly consider the advice and give us your opinion in good time.

Submitted for your information and guidance

Yours sincerely



ALLAN W. MBURU
FOR: AMBASSADOR

Encl.

ANNEX

DFR 19

The Charge d'affaires
Embassy of the Republic of Kenya
24-3, Yakumo 3-Chome
Meguro-ku, Tokyo 152-0023

Nobuo Kuriyama
Taeko Kuriyama
3-Chome 12-15, Yakumo, Meguro-ku,
Tokyo 152-0023

RE: LETTER OF COMFORT

This is to confirm that we, Mr. Nobuo Kuriyama and Mrs. Taeko Kuriyama guarantee the following in regard to the sale of the land on which the Chancery and Official Residence of the Ambassador of Kenya in Japan are located as well as all developments thereon to the Government of Kenya:

1. We accept to sell the property at the agreed price of Yen 1,750,000,000 (1.75 billion Japanese Yen). That upon payment of the mutually agreed deposit of Yen 1,500,000,000 (1.5 billion Japanese Yen) by the Embassy by 30th June, 2009 we shall transfer, through the bank the property to the Government of Kenya, whereas the balance of Yen 250,000,000 (250 million Japanese Yen) will be settled from the Embassy by 30th September, 2009.
2. That part of the deposit shall be used to clear all outstanding loan balances at the bank.
3. No other party is enjoined to the property and we are the sole owners.
4. The agreement so drawn between us and the Embassy is based on mutual trust and therefore done in good faith based on the long standing relationship between our family and the Embassy.
5. There are no caveats or restrictions placed on the property.
6. Our long standing and healthy relationship with the Embassy will extend beyond the period upon which the final payment will be settled and which has mutually been agreed to be by 30th, September, 2009.
7. We state this in all manner of sincerity. Dated this 29th day of May, 2009.

Mr. Nobuo Kuriyama

Singed: 栗山 延夫
Date: 平成21年5月29日

Mrs. Taeko Kuriyama

Singed: 栗山 妙子
Date: 平成21年5月29日

アラン W. ブル
臨時代理大使
ケニア共和国大使館
〒152-0023
東京都目黒区八雲 3-12-15

栗山 延夫
栗山 妙子
〒152-0023
東京都目黒区八雲 3-12-15

念 書

この書面は私達、栗山延夫および栗山妙子、は駐日ケニア共和国大使館執務室ならびに駐日大使公邸のある土地および建物のケニア共和国への売買について下記の事項を保証いたします。

1. 私達は双方で合意された金額 1,750,000,000 円 (17 億 5 千万円) にて上記の不動産を販売いたします。これは双方で合意された金額 1,500,000,000 円 (15 億円) を初回の保証金として 2009 年 6 月 30 日までに駐日ケニア共和国大使館が支払います。支払いを確認後、土地および建物の所有権はケニア共和国の所有となります。また、残額 250,000,000 円 (2 億 5 千万円) は在日ケニア共和国大使館により 2009 年 9 月 30 日までに支払われるものとします。
2. 保証金については銀行の未払融資残高を清算するものとします。
3. 私達は今回売買する不動産全ての所有者でありいかなる第三者の所有権は存在いたしません。
4. この念書は私達家族と駐日ケニア共和国大使館との長年の信頼関係に基づき私達二名と駐日ケニア共和国大使館の間に誠実に作成されたものです。
5. この不動産にはいかなる警告または制限事項は存在しておりません。
6. 私達の駐日ケニア共和国との長年にわたる良好な関係は合意された最終支払日である 2009 年 9 月 30 日を過ぎても続く事と期待いたします。
7. 2009 年 5 月 29 日に私達は誠実にこの念書に押印いたします。

栗山 延夫 

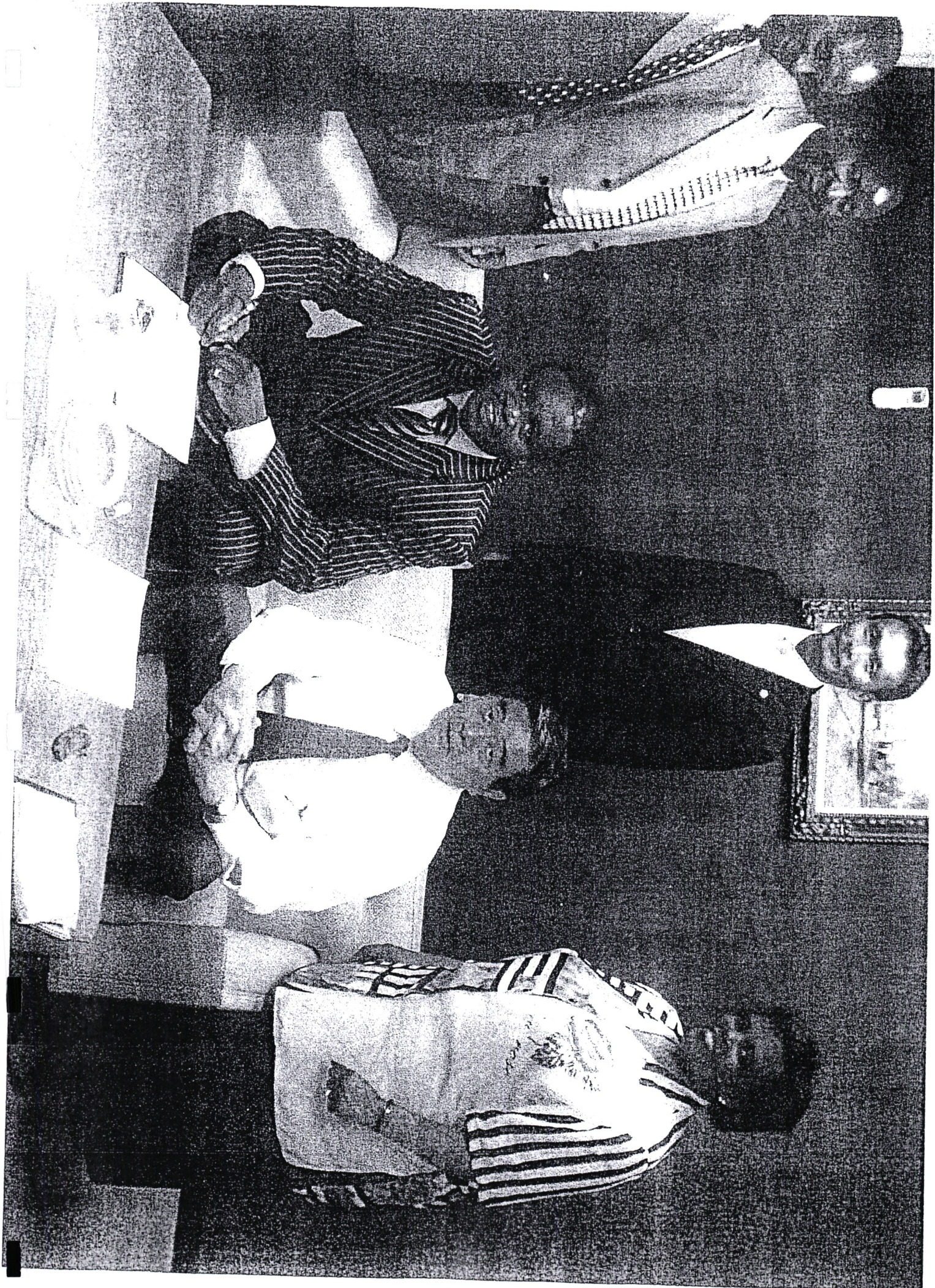
日付: 2009年5月29日

栗山 妙子 

日付: 2009年5月29日

ANNEX

DFR 20



ANNEX

DFR 21

Telephone: +254-20-318888
Fax: +254-20-240066/241955/34555
E-mail: communication@mpa.go.ke
Website: www.mpa.go.ke
When replying please quote Ref. No. and date



70

HAIRAMBLE AVENUE
P.O. Box 50551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

Ref: **MPA. HSE 9/56A**

15th June, 2009

The Ambassador
Kenya Embassy
TOKYO



See f(69)

**HIRE OF LEGAL/ ESTATE SERVICES (SHIHO-SHOSHI LAWYER) FOR
PURCHASE OF - CHANCERY AND HIGH COMMISSIONER'S RESIDENCE
KE, TOKYO**

Reference is made to your letter Ref: **KEY/ADM/1/11A/VOL II/ (69)** dated **9th June, 2009** and your fax transmission on **12th June, 2009** on the above captioned subject.

I write to convey the decision of the Ministerial Tender Committee No. **MPA/MTC/09/02/2008-2009 of 12th June, 2009** on the above subject.

The committee discussed the hire of legal/ estate services (Shiho-Shoshi Lawyer) for the purchase of- chancery and high commissioner's residence and approved the hire of **Mr. Akiyoshi Ohtake** at an estimate cost of **Japanese Yen 465,400**.

A copy of signed minutes will be sent to you later.

E. K. Korir
FOR: PERMANENT SECRETARY

[Signature]
21/07/10

ANNEX

DFR 22

AOAD

ATELIERS OLANGO ARCHITECTURE & DESIGN
Tel +81 90 6490 6309 mail info@aoad.jp
1-18-21-302 SHIKAHAMA ADACHI-KU, TOKYO JAPAN

To the Chairman

Parliamentary Committee on Defense and Foreign Relations

2010 Aug 05

RE- RECONFIRMATION OF ARCHITECTURAL RESTRICTIONS FOR MEGURO PLOT

In pursuant to the 19 of July 2010 meeting with the Parliamentary Committee on Defense and Foreign Relations Team about the Kenya Embassy plot purchase at the Kenya Embassy Tokyo, I have compiled the following data as was requested by the Chairman

Architectural restrictions for Meguro-ku, Yakumo 3-24-3.

- 1 First Low-Rise Building Exclusive Residential Area
- 2 Site Coverage Ratio 60% (This means that one can build up to 60% of the site area; also known as Building to Site ratio)
- 3 Site Minimum Area 70sqm (This means to build a house the site has to be a minimum of 70sqm)
- 4 Total Floor Ratio: 150% (This means that one can build a total floor area 1.5 times the site area)
- 5 Height Restriction 10m
- 6 Quasi Fire Zone
- 7 Shadow Regulations. A shadow restriction between 8am to 4pm For 5m (10m) distance from the boundary line, shadow cast to neighboring plot to be less than 4hrs (2.5hrs). This restriction is on the level of 1.5m above the Ground level

Closing remarks.

The above regulations are the same as the one presented at the time of purchase of Meguro plot.

The present Embassy was built to approximately maximum allowable site coverage ratio and was built to the restrictions at that time.

Yours sincerely

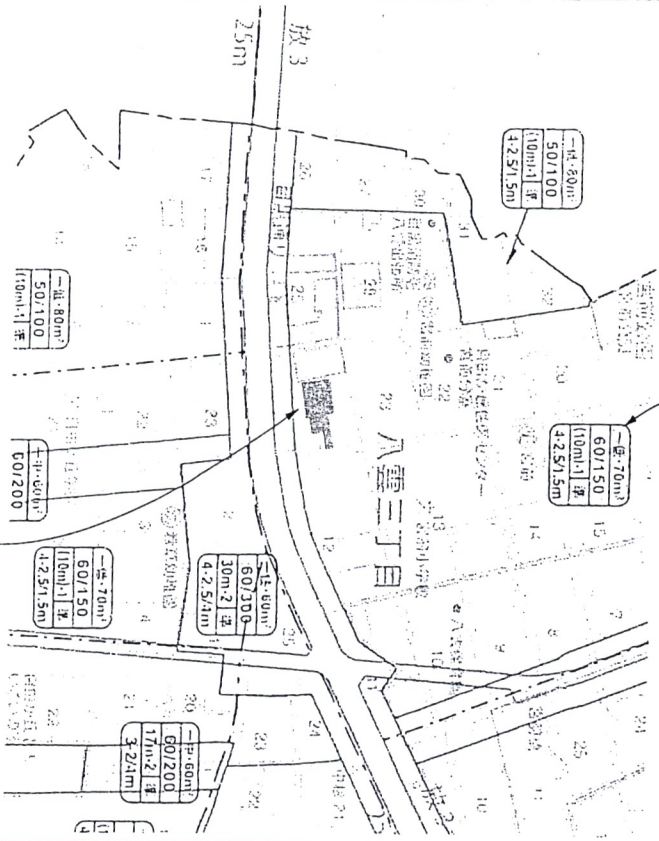
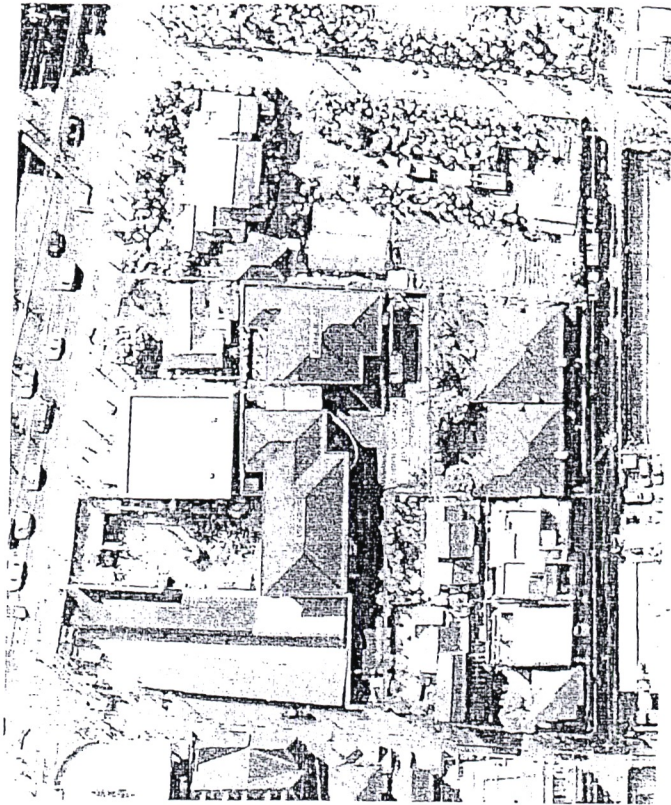


Dick Olango

Principal

www.aoad.jp
info@aoad.jp

AOAD is a registered Architectural Firm in Tokyo, Japan/ARCHITECT LICENCE NO 78264 TOKYO/ARCHITECTURAL OFFICE TOKYO GOVERNOR REG NO 13854



LEGEND

Full Low-Rise	Site
Building Envelope	0 Minimum
Residential Area	Area
Site Coverage / Ratio	Total Floor Ratio
Height Restriction	Fire Zone
Types	

Shadow Projections

NOTES AND LEGEND

KENYA EMBASSY PROJECT

PROJECT NO 9 02

CLIENT: KENYA EMBASSY

AOAD

10/10/2005

2010 AUGUST 05

A-01

ANNEX

DFR 23



EMBASSY OF THE REPUBLIC OF KENYA

Telephone: 254 20 247010 KENREP

Telex: 247010 KENREP

Fax: 254 20 247011

E-mail: kenrep@kenyaembassy.com

info@kenyaembassy.com

321 E. Yabumo Meguro-ku.

Tokyo 152-0023 JAPAN

Telephone: 03 3723-4005/7

Facsimile: 03 3723-4480/1, 545

REF. No. KET/ADM/1/11A/(111)

22nd January, 2009

The Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Attn: Mr. A. M. Muchiri

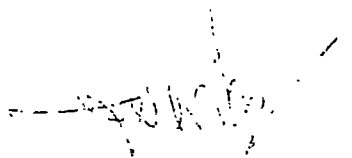
Dear Sir,

PROGRESS REPORT ON THE PURCHASE OF PLOT

Attached hereto please find a report forwarded to us by the Architect who is based in Tokyo and who accompanied us during your inspection and validation tour in Tokyo between 15th and 17th January 2008.

Please advise on way forward.

Yours sincerely,


ALLAN W. MBURU
CHARGE D'AFFAIRES, A.I.

ARCHITECTURAL ANALYSIS FOR THE PLOT AND BUILDING OF NEW EMBASSY

I had a meeting with Mrs. Teresia Kimondiu on Jan. 15th 2009 during which, we had a look at the plots and had discussion on value of land and feasibility of building. We also examined the present plot of the embassy. Find below compiled report.

1. *Architectural Analysis Report*- An overall remarks
2. *Architectural Cost Analysis Report*- Shows cost effect of construction
3. *Floor space and Program study*- Shows possible layout for the Embassy on a 726 m² plot

1. Remarks on present plot

The present Embassy is located at 3-24-3 Yakumo, Meguro-Ku Tokyo with a total land area of 1,195.33 m². It is on First Low Residential area. Maximum height 10m, Site coverage ratio 50%, Floor space ratio 150%.

2. Special exemption for Embassies

I talked with the Meguro Ward and confirmed that the embassy (embassies in general) is not bound by the zoning regulations. The present embassy lies on a residential Zone with stringent height (10m) and buildable area regulations. Embassy is generally exempted as the property will be in the ownership of the mission.

The Mission can therefore build slightly higher than present; the only consideration is the 4-hr sunlight provision to consider for the neighboring houses.

3. Life of Building and Earthquake regulations

The embassy was completed on the 16th September. Not undermining the construction at that moment, Japan's construction is based on a "Scrap and Build" system. This is for the obvious reason of the changing regulations, new technology and natural disaster and buildings adapt to present requirements.

The earthquake regulations in Japan have yearly amendments; there have been 2 major changes in June 1981 and June 2006.

4. Cost of Renewing the Embassy

Given the age of the building, the cost of renewing the embassy will apart from interior finishes, will also include structural renovation. This is to make it conform to the present requirements. This will allow for proper utilization of the space.

See *Architectural Cost Analysis Report*

5. New Needs to be fulfilled

Japan building technology is growing at a fast pace and architectural regulatory needs and architectural equipment needs need to be revisited time after time. With the opportunity for relocation, I see the embassy fulfilling more functions than the present building can offer.

Here are some of the improvements:

- Flexible use of space to cater for various events with varied magnitude e.g. national functions, Kenya exhibition, conferences and seminars, fashion shows etc.
- A green sustainable design. Energy conserving solar power.
- Smart building together with enhanced security.
- Inclusion of staff apartments which will reduce cost of outside rental.
- A Kenyan expression of identity by the design architecture -- a way to promote our culture and heritage.

Dick Olango

Principal Architect

AOAD

ATELIERS OLANGO ARCHITECTURE & DESIGN

Tel/Fax +81 3 6427 6309

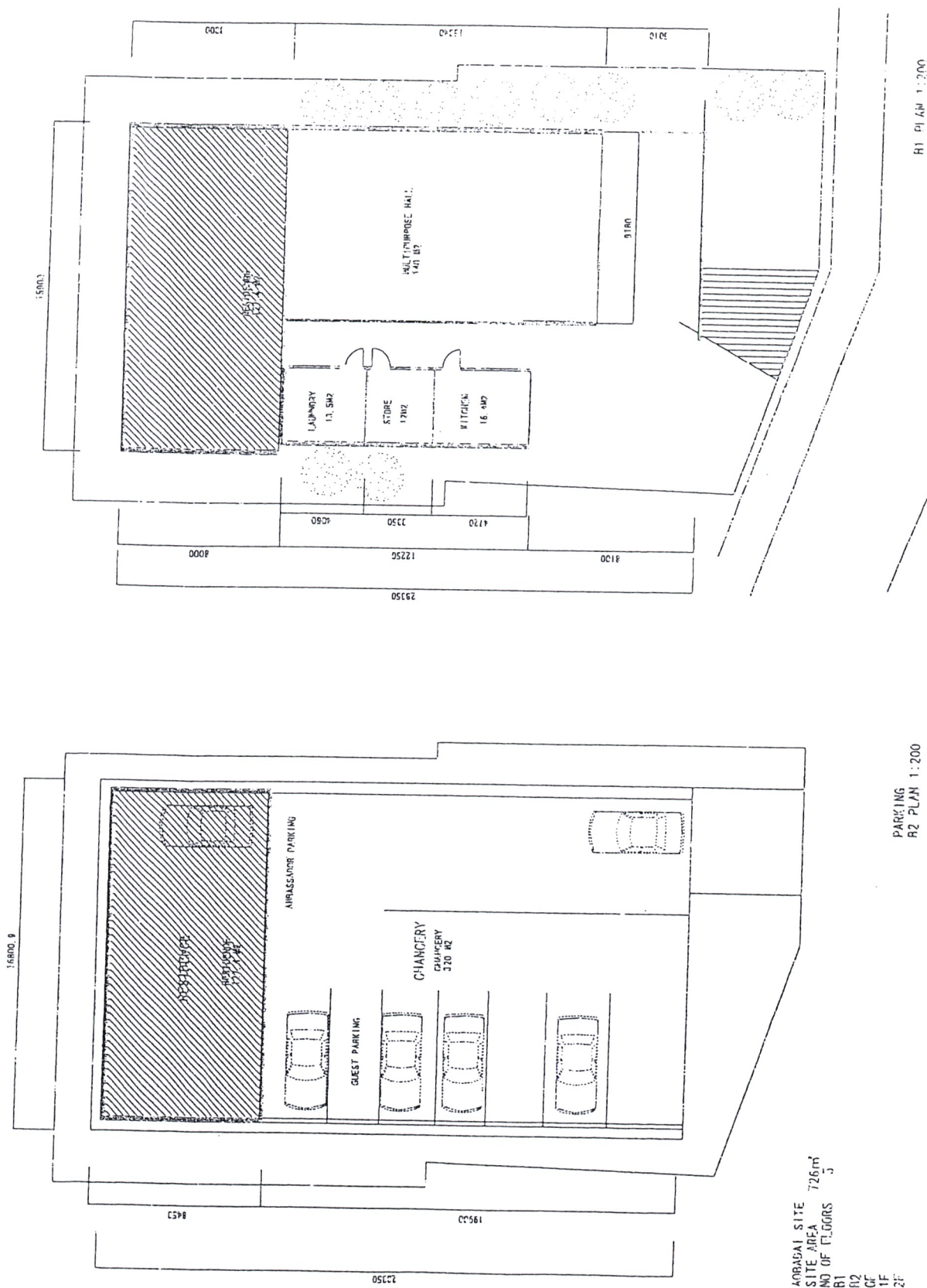
Mobile| +81 90 6490 6309

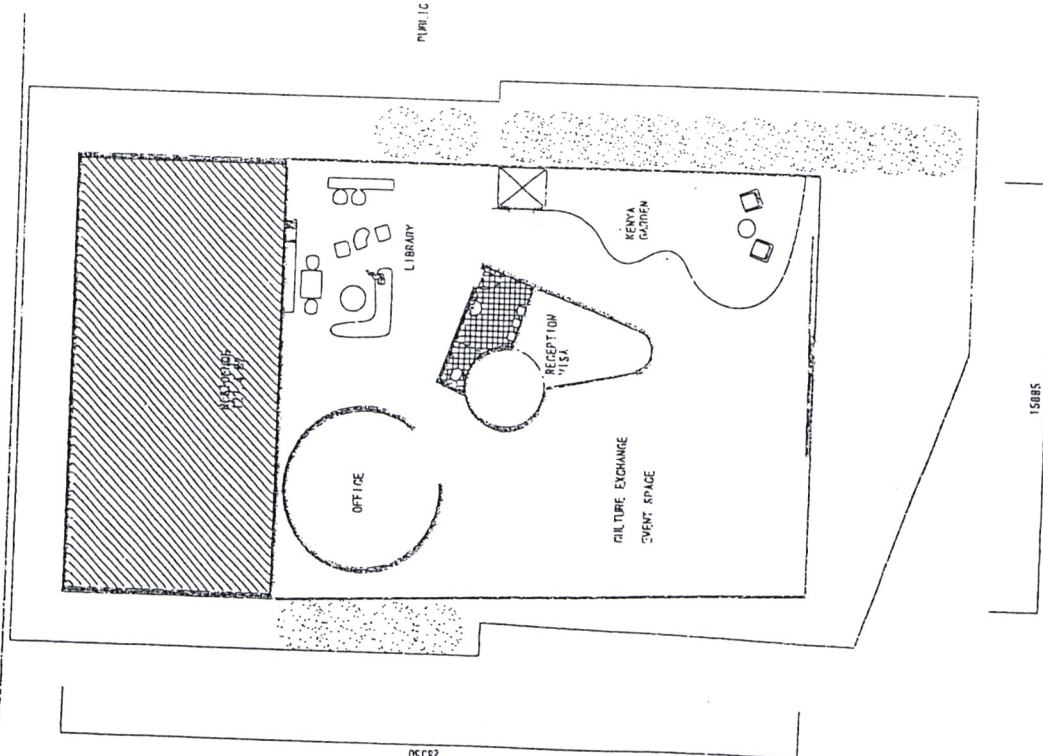
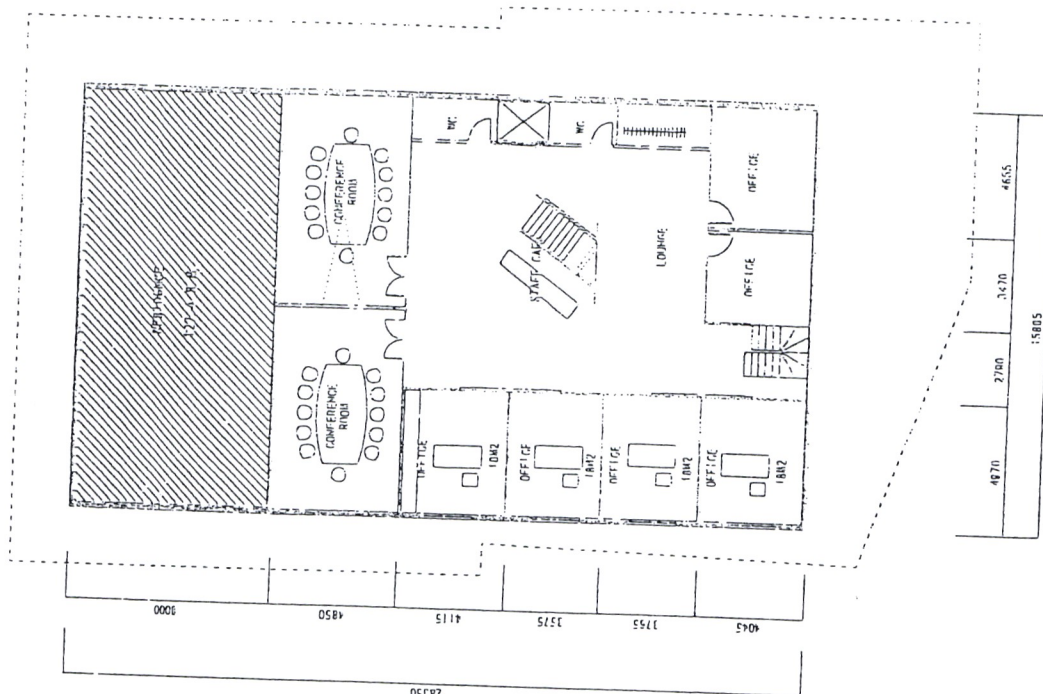
1-16-21-302 SHIKAHAMA, ADACHI-KU, TOKYO, JAPAN

ARCHITECT LICENCE REG NO 78264 TOKYO

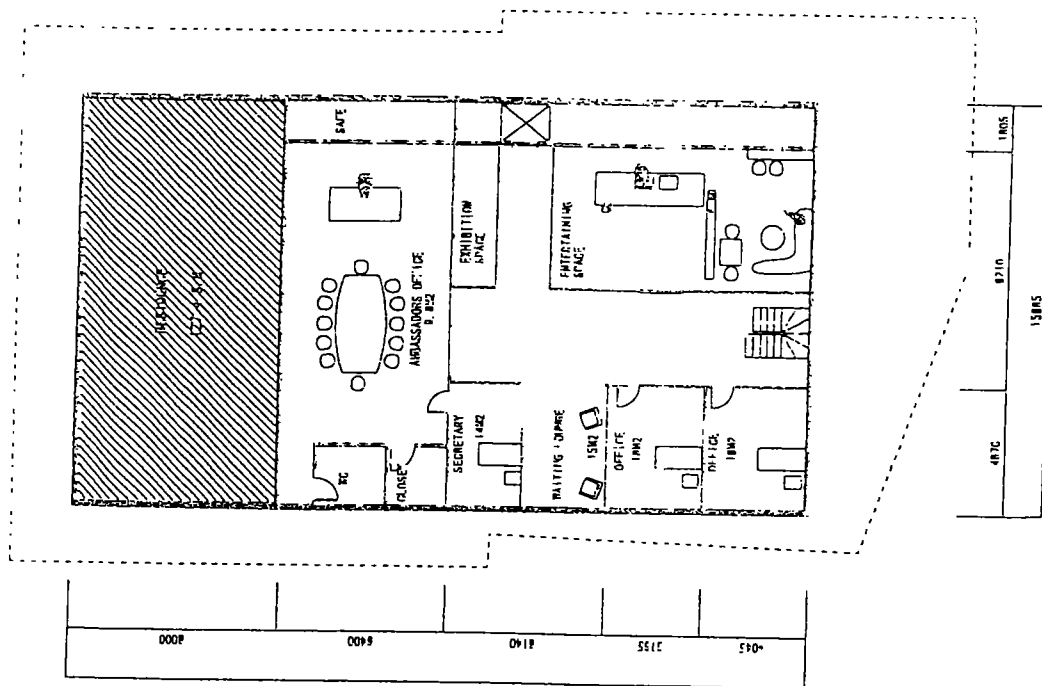
ARCHITECTURAL OFFICE TOKYO GOVERNOR REG NO 13864

LAND 1		LAND 2		LAND 3	
ADDRESS	4-1-5 Minami Azabu, Minato-Ku, Tokyo	2-15 Aobadai, Meguro-Ku, Tokyo	2-26-22 Aobadai, Meguro-Ku, Tokyo	3-24-3 Aobadai, Meguro-Ku, Tokyo	Present Use: Office Building
SIZE (m ²) (A)	700.39	770.94	1016.58	1500.00	1500.00
PRICE/m ² (B)	11,866,000	11,110,000	10,900,000	1,900,000	1,900,000
TOTAL LAND PRICE (C)	11,307,000,000	8,562,000,000	10,967,651,000	1,350,000,000	1,350,000,000
SITE COVERAGE RATIO (D)	60%	50%	50%	50%	50%
FLOOR SPACE RATIO (E)	400%	100%	100%	100%	100%
FLOOR SPACE (F)=(A) x (E)	2801.56	770.94	508.32	750.00	750.00
NO OF FLOORS ABOVE GROUND LEVEL	3 to 5	2 to 3	2 to 3	2 to 3	2 to 3
FLOOR SPACE REQUIRED FOR CHANCERY (G)	1500	900	1100	1100	1100
FLOOR SPACE REQUIRED FOR RESIDENCE (H)	400	400	400	400	400
TOTAL (I)=(G) + (H)	1900	1300	1500	1500	1500
COST OF CONSTRUCTION (J)=(I) x (K)	15,890,000,000	1,703,000,000	1,650,000,000	1,650,000,000	1,650,000,000
TOTAL COST OF LAND AND NEW BUILDING	11,096,000,000	11,294,362,000	12,617,651,000	12,617,651,000	12,617,651,000
COMMENTS	This area allows for more floor space, a tall structure is possible. This could also cater for other diplomats apartments hence cut of monthly rent	This area is a low floor space area. You can comfortably construct 60% more of the stipulated floor space. See note 1	This land has 2 parcels, 195m ² x 23.5m. It has one building which can be divided into two. It can serve as Ambassador's residence space	This land is extremely expensive. Its size is almost double of the others but the rates are higher than the rest. Another option of staying and renovation the chancery will cost 130,716,000 yen (200,000,000 yen x 50% off)	
Notes	1 Embassy are not implied from floor space regulation, however consultation with the ward office is required				
COST OF CONSTRUCTION	Range of Cost/m ² dependent on Type of structure				
Reinforced Concrete Structure	1320,000				
Steel Structure	1380,000				
Wooden Structure	1280,000				
Renovation Cost/m	1250,000				
AVE (K)					
CONCLUSION					
With all the factors taken in to consideration, it is clear that staying or buying the present Embassy proves to be costing the embassy more than the option of moving. The landlord quoted very high rate for the purchase of the land. Another factor is that the building will require some renovation, which will be extra cost on top of the present rental fee.					



PUBLIC FLOOR
GF PLAN 1:20G

OFFICE OF
THE ATTORNEY GENERAL



AMEMBASSADOR OFFICE
OF P: AM 1 200

Kenya Embassy Tokyo Commercial Section

From: "Allan Mburu" <amburu@kenyarep.jp>
 To: tketomjp@kenyarep.jp
 Cc: suthw@kenyarep.jp
 Sent: 20 January 2009 12:41 PM
 Attach: Floor Space Program Study.pdf; Architectural Analysis Report.doc; Architectural Cost Analysis Report.xls
 Subject: Fw: Repon

Dear Emma

Please print this in order that we can send the analysis to Nairobi.

Regards

Allan

----- Original Message -----

From: DICK OLANGO
 To: Allan Mburu
 Cc: H.E.Dennis N.O.Awonri, mose
 Sent: Wednesday, January 21, 2009 10:32 PM
 Subject: Report

Mr Allan

I have the report here. Please review and amend as is

--

Dick Olango
 Principal Architect

AOAD

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11-3C2 SHIKAHAMA, ADACHI-KU, TOKYO, JAPAN

ANNEX

DFR 24

4-5-20 Yakumo	¥855,000·per m ²	¥2.821 Million per Tsubo(3.3 m ²)
2-24-15 Yakumo	¥814,000·per m ²	¥2.686 Million per Tsubo(3.3 m ²)
4-1-19 Yakumo	¥866,000·per m ²	¥2.857 Million per Tsubo(3.3 m ²)

3 Present market price around that area.

In spite of the above mentioned governmental evaluation, the real estate market price dropped drastically this year due to the global recession. Therefore it is more practical to follow the present market value of the neighboring area. Here are some sample properties in the market around that area.

<u>Address</u>	<u>Price per Tsubo</u>	<u>Price per m²</u>
Yakumo 2-Chome	¥2.35 Million	¥712,000
Yakumo 3-Chome	¥2.4 Million	¥745,000
Yakumo 5-Chome	¥2.2 Million	¥660,000

4. Conclusion

Judging from the above mentioned present market price, I hereby submit you the evaluation price of the said property as follows;

Valuation amount per Tsubo(3.3 m²) ¥2.4 Million per square meter
¥745,000

Total amount ¥1 Billion 67 Million (1,431.77 m²)

Yours sincerely,

21 Nov 2010



Hidehiko Takahashi Coral Corporation

ANNEX

DFR 25

page 1 of 1
Kilmanville for departure Foreign Relations during the
inspector went to Kenya embassy January 20/7/2010

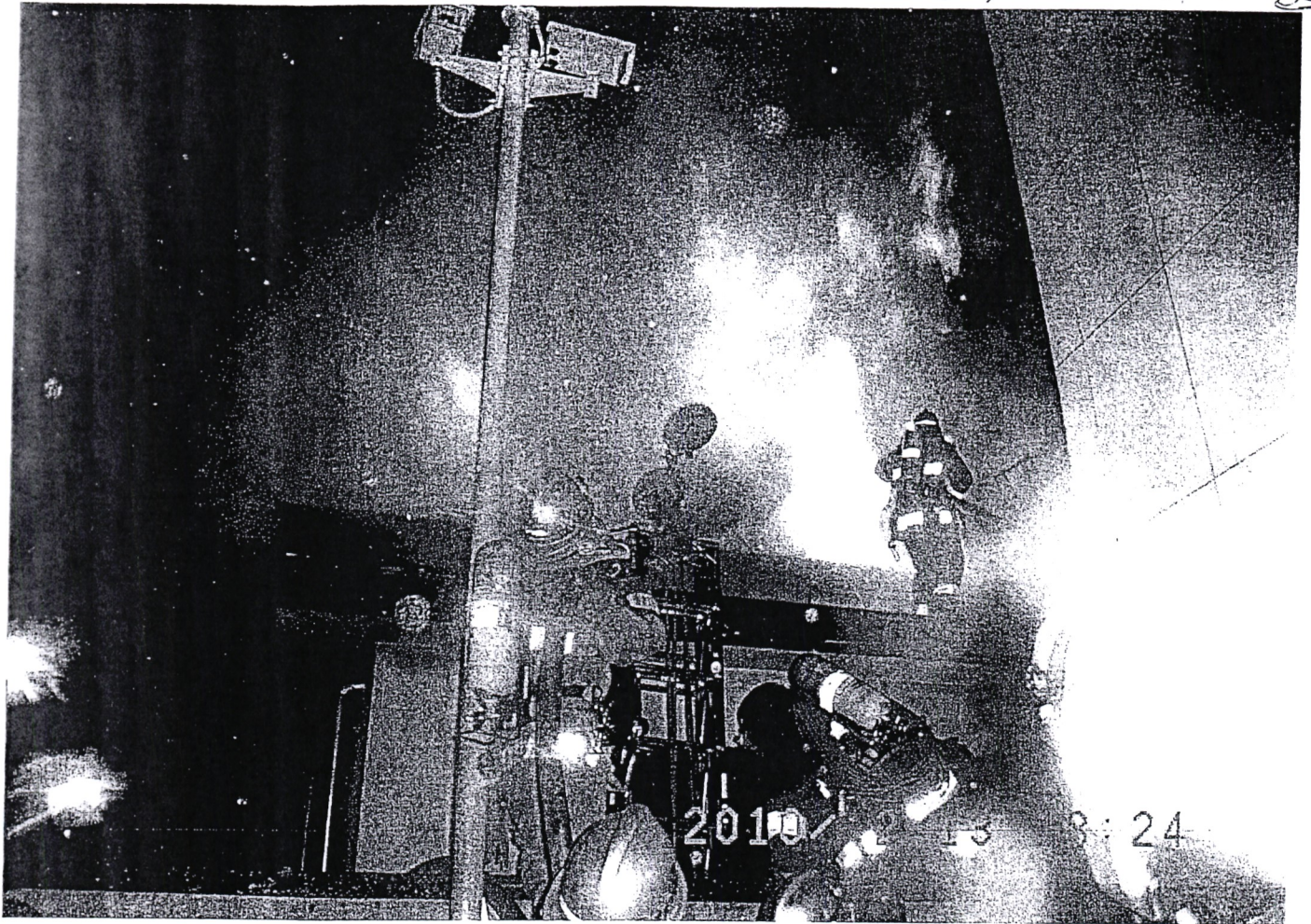
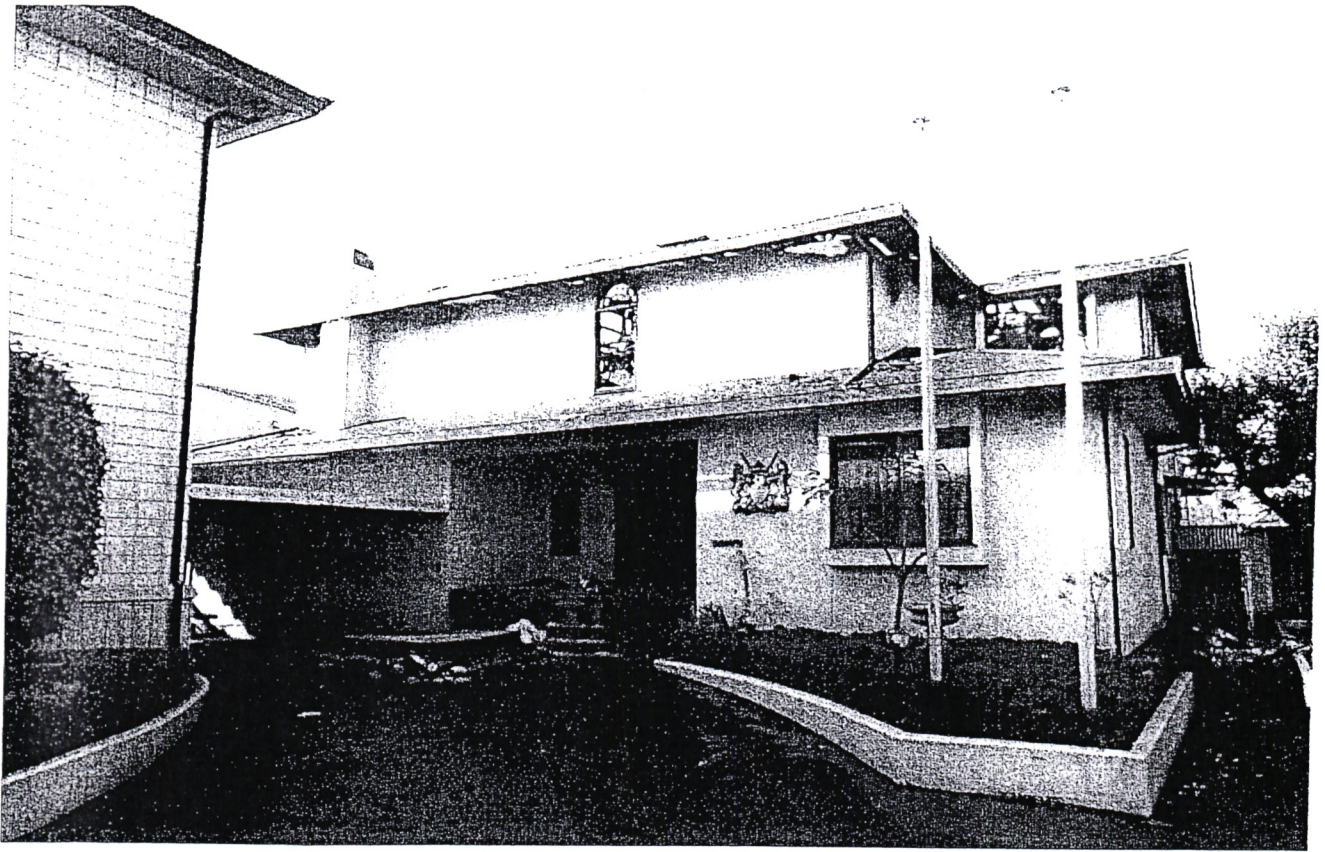


写真 1



ケニア共和国大使公邸を東側から撮影したもの

写真 2



写真 2 は、第 1 図の 1 → の位置から、食堂から台所方向を撮影したもの

写真 3

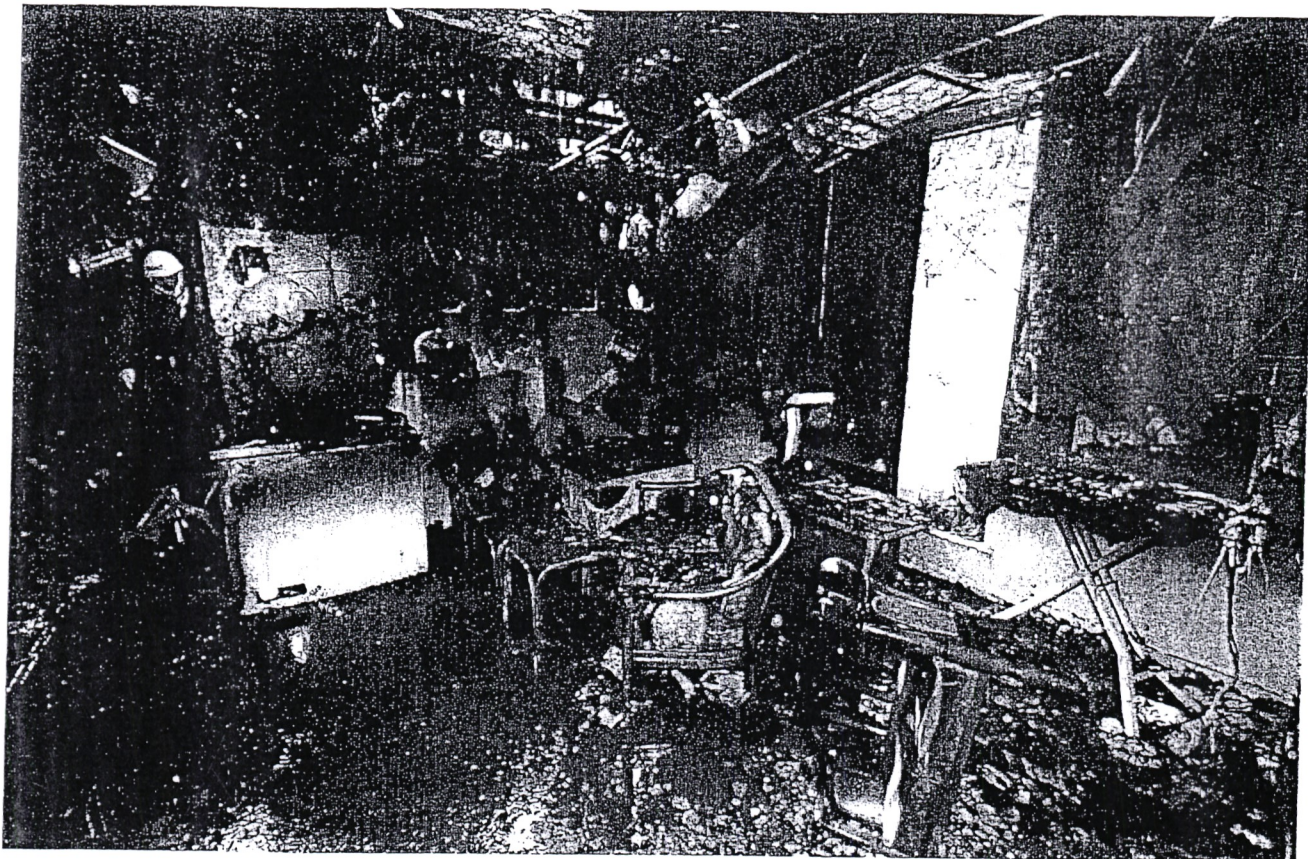


写真 3 は、第 1 図の [2] → の位置から、1 階納戸から南側の台所方向を撮影したもの

写真 4

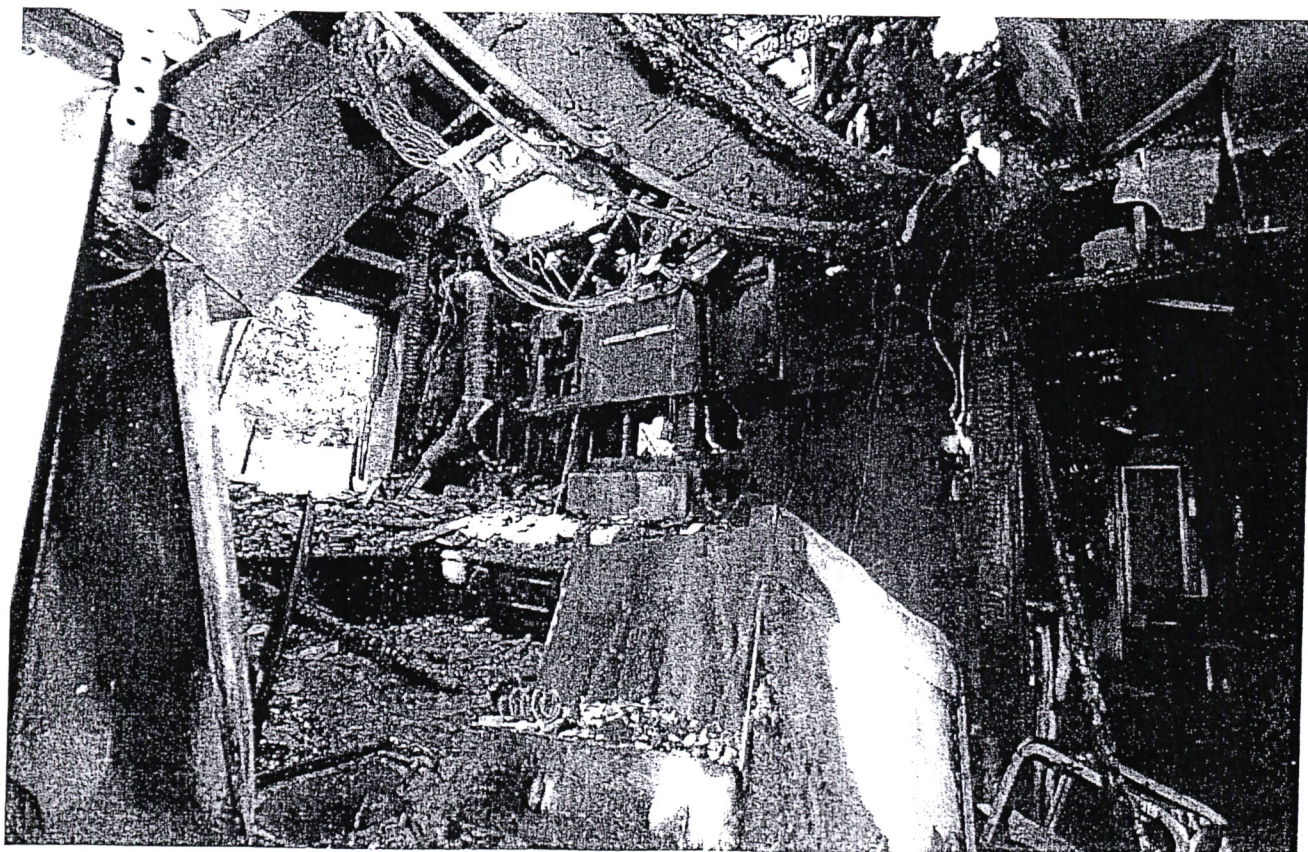


写真 4 は、第 2 図の [3] → の位置から、発掘前の台所を撮影したもの

写真 5

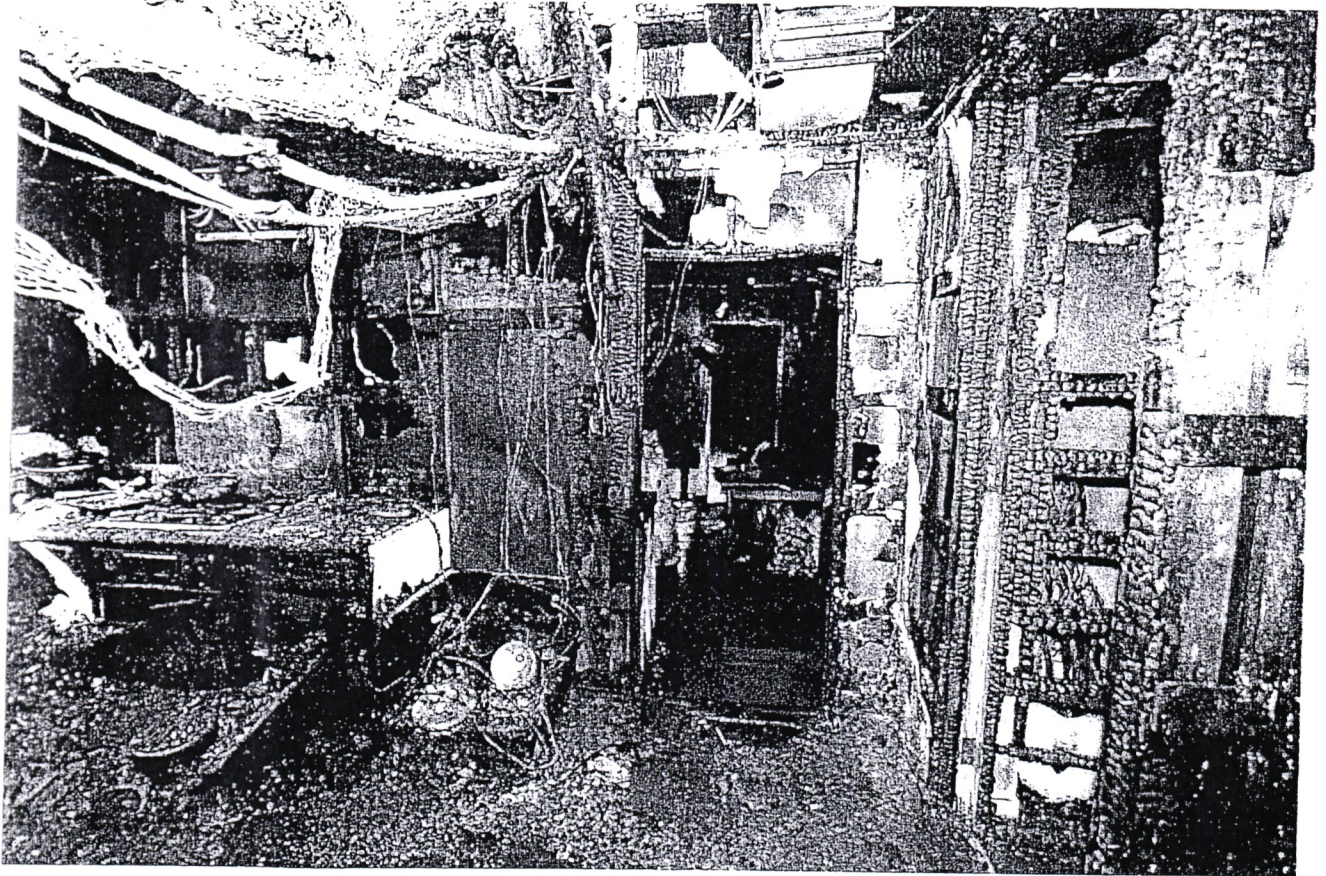


写真 5 は、第 2 図の [4] → の位置から、台所内の堆積物を取り除いた状態を撮影したもの

写真 6

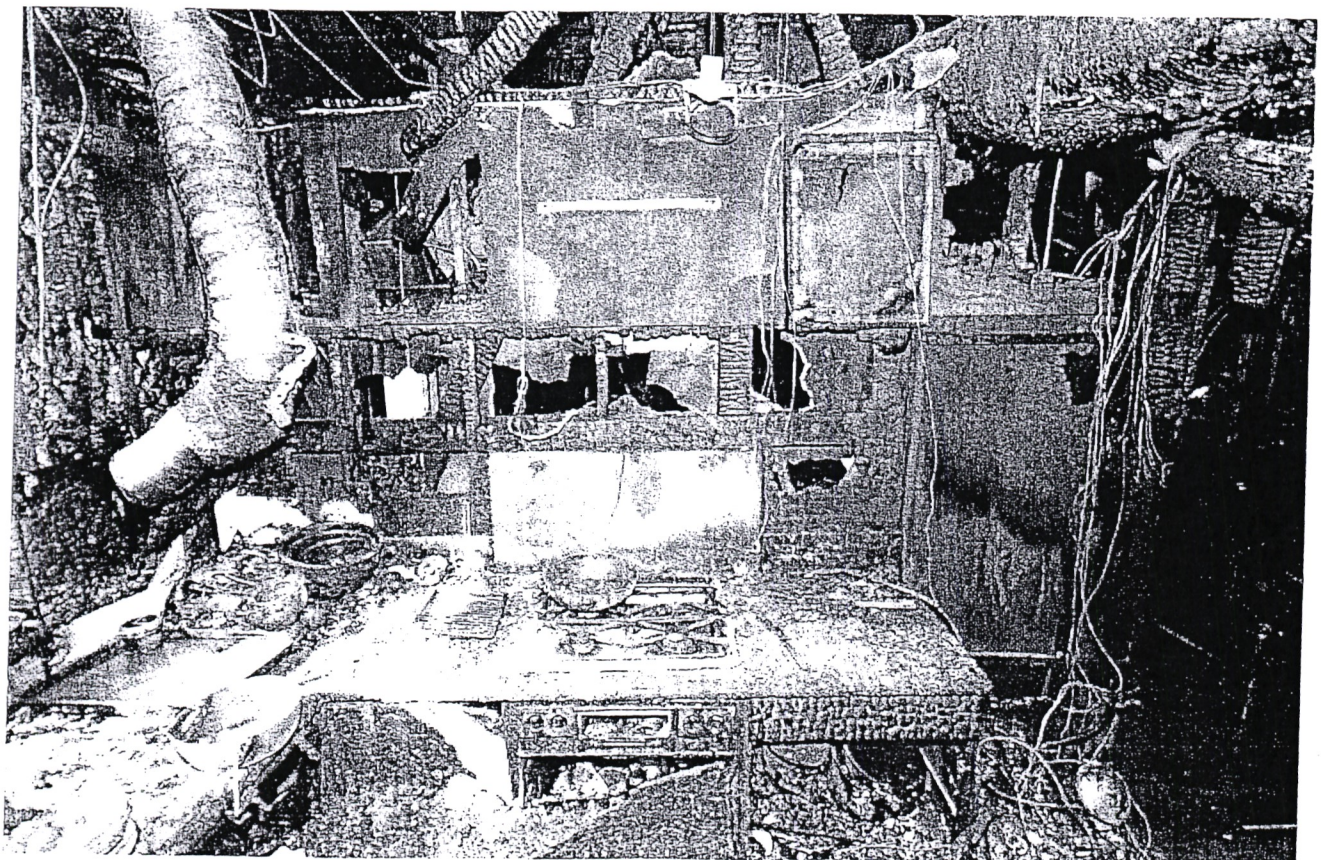
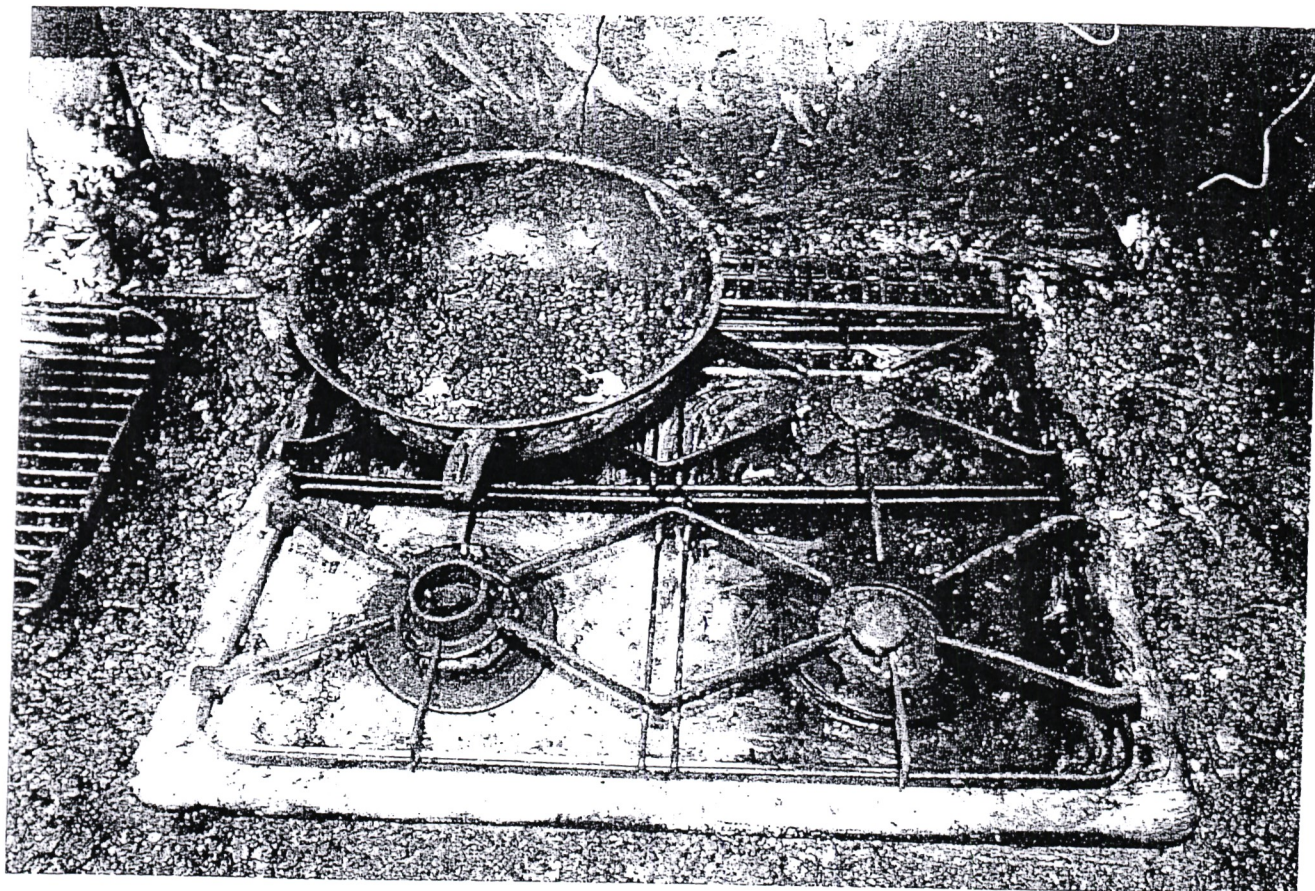


写真 6 は、第 2 図の [5] → の位置から、台所内ガステーブル周辺を撮影したもの

写真 7



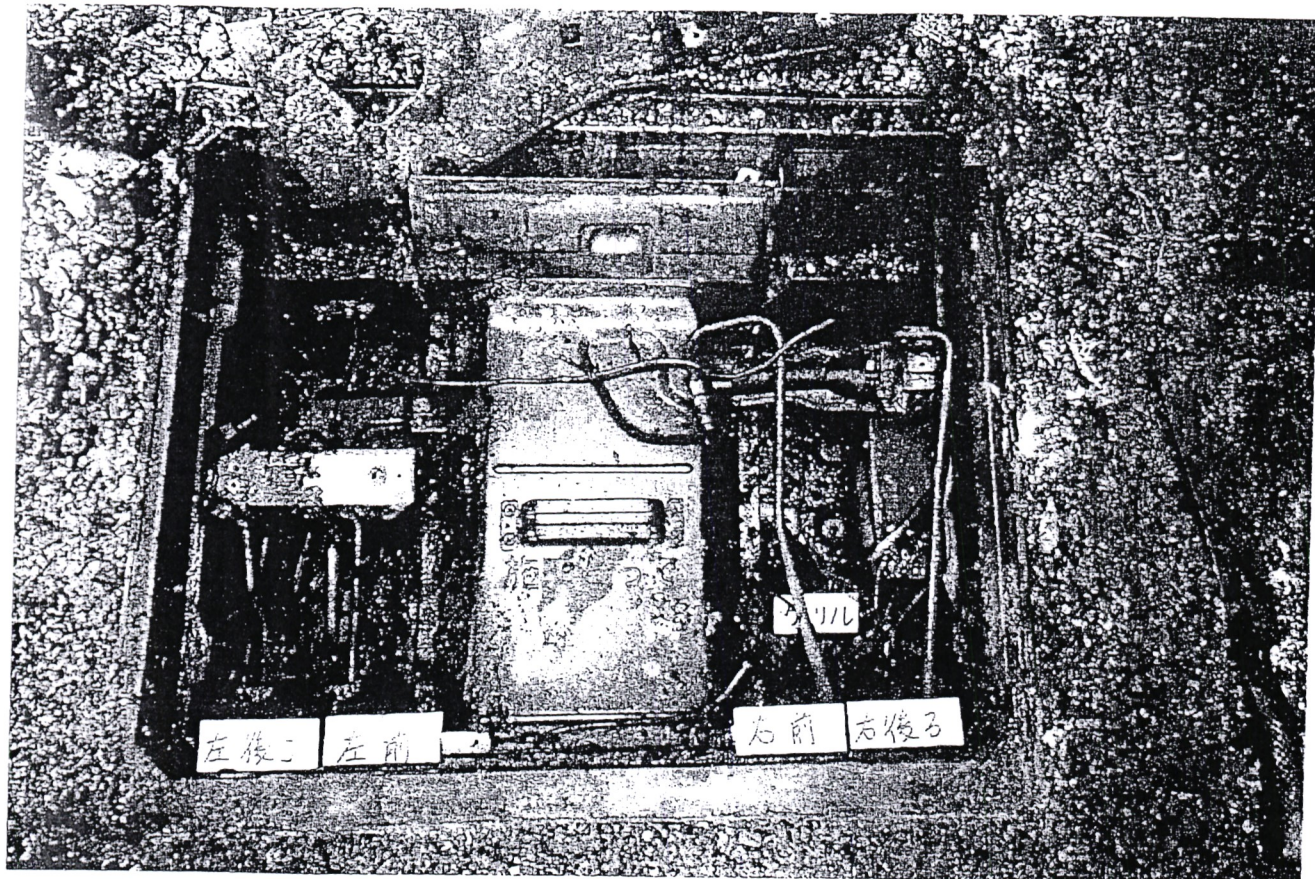
4口ガステーブルの焼損状況（鍋は残されていたもの）

写真 8



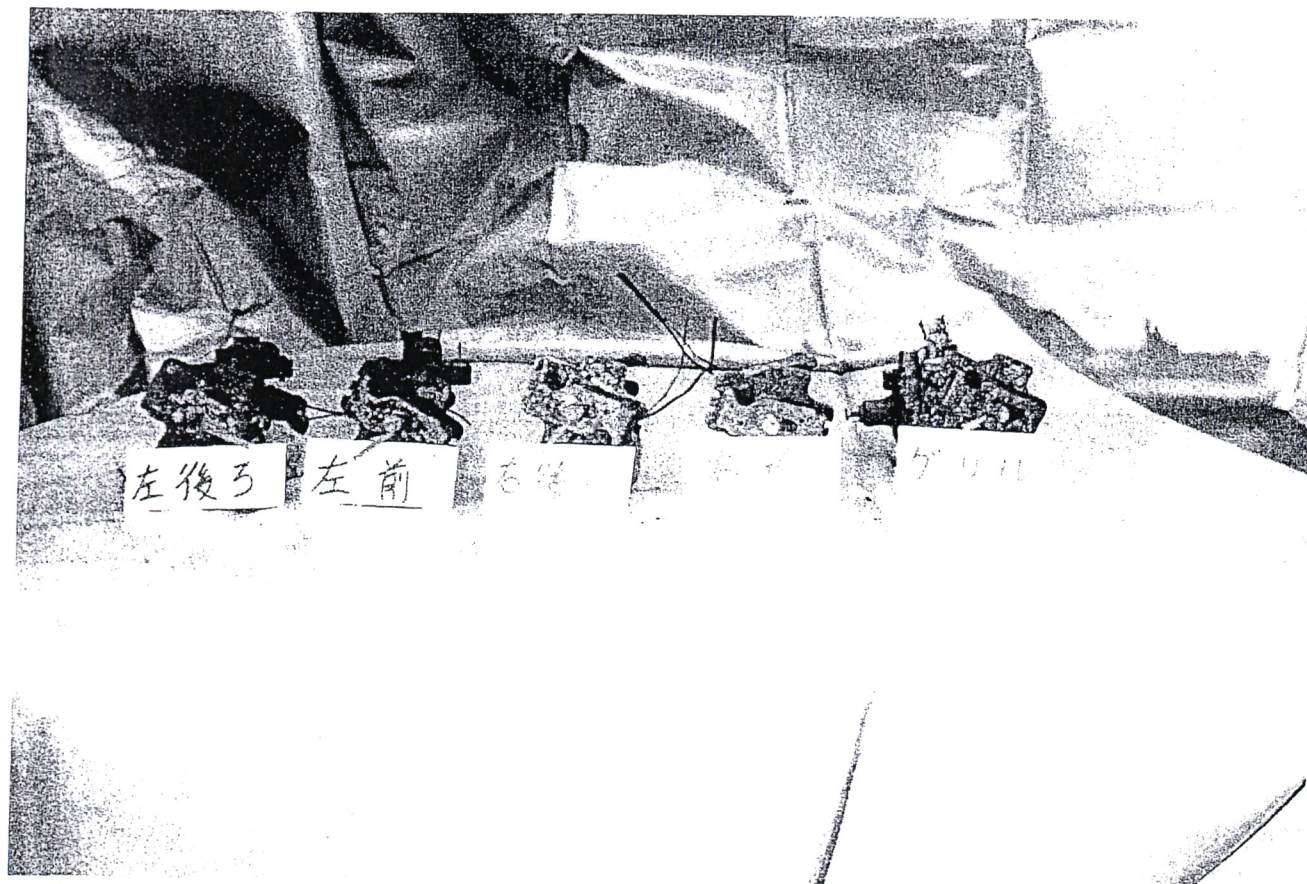
4口ガステーブルのスイッチ部付近の焼損状況

写真 9



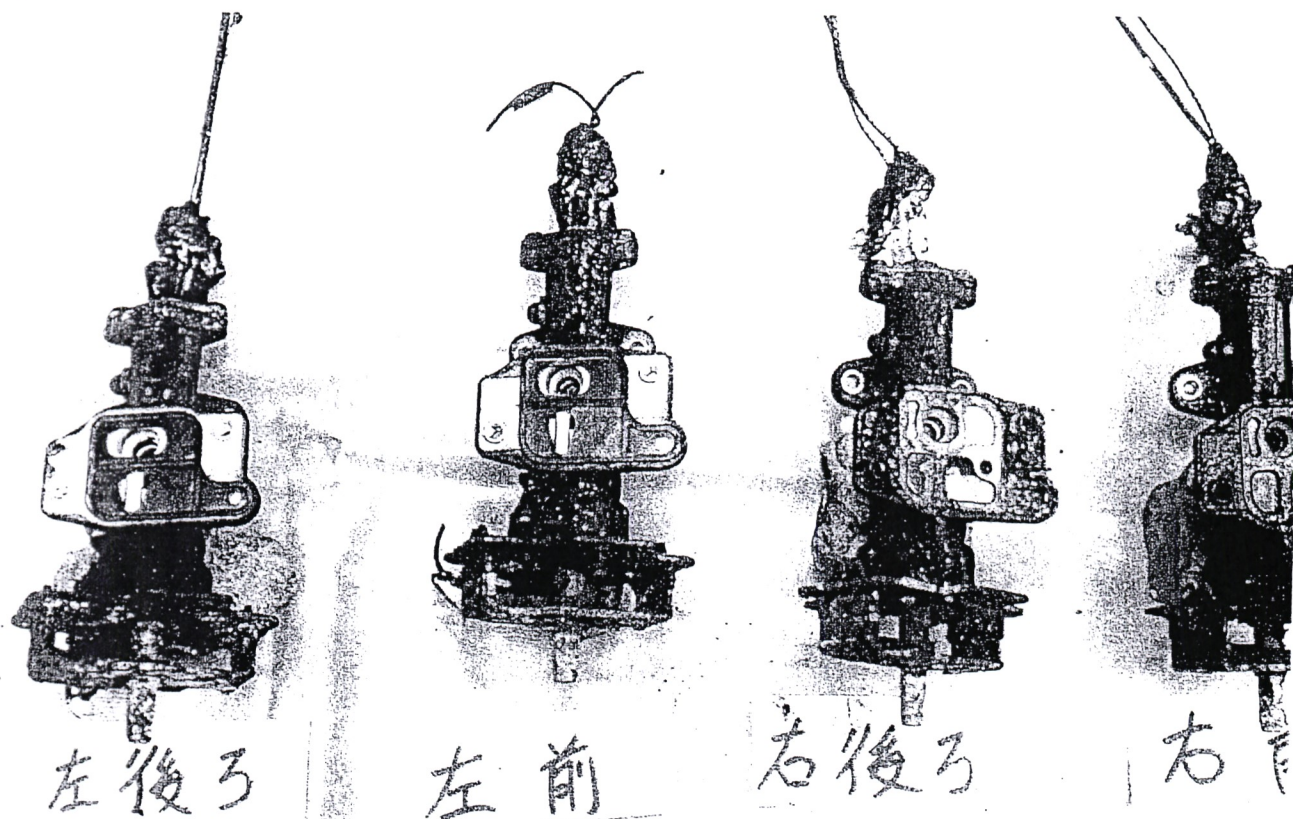
ガステーブルの天板を外した内部の状況

写真 10



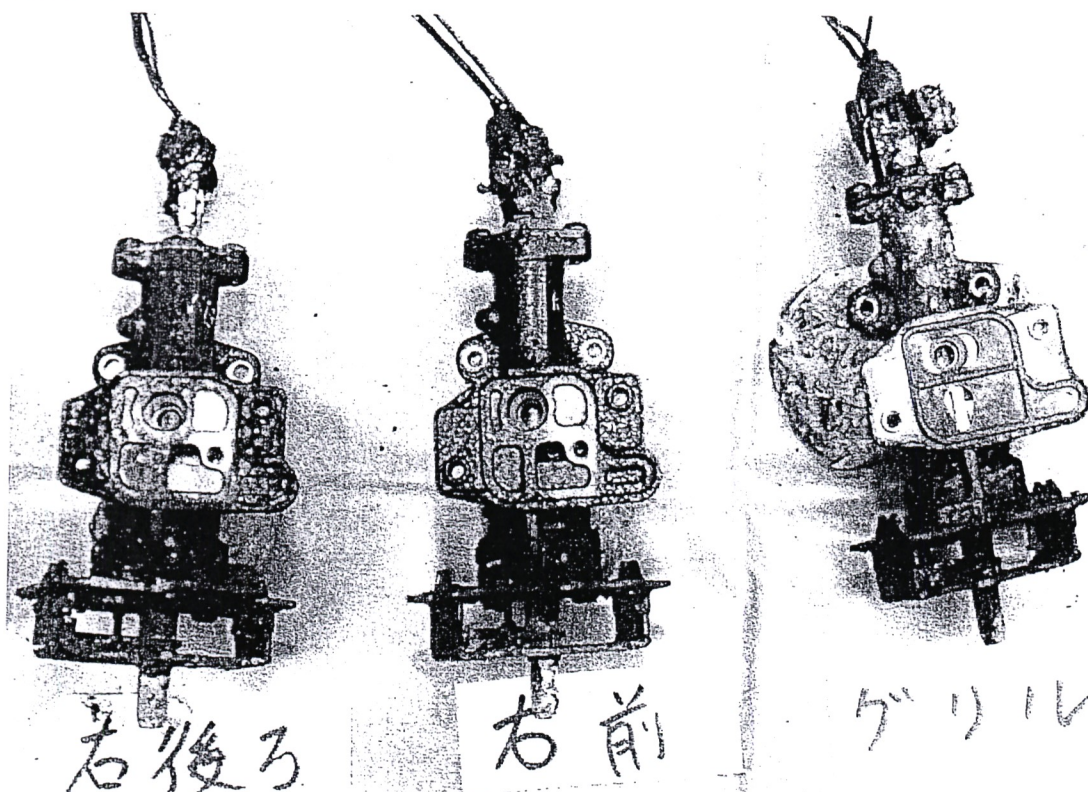
4口+グリルのスイッチを外し器具栓シャフトの「切欠き」の向きを比較した状況

写真 1 1

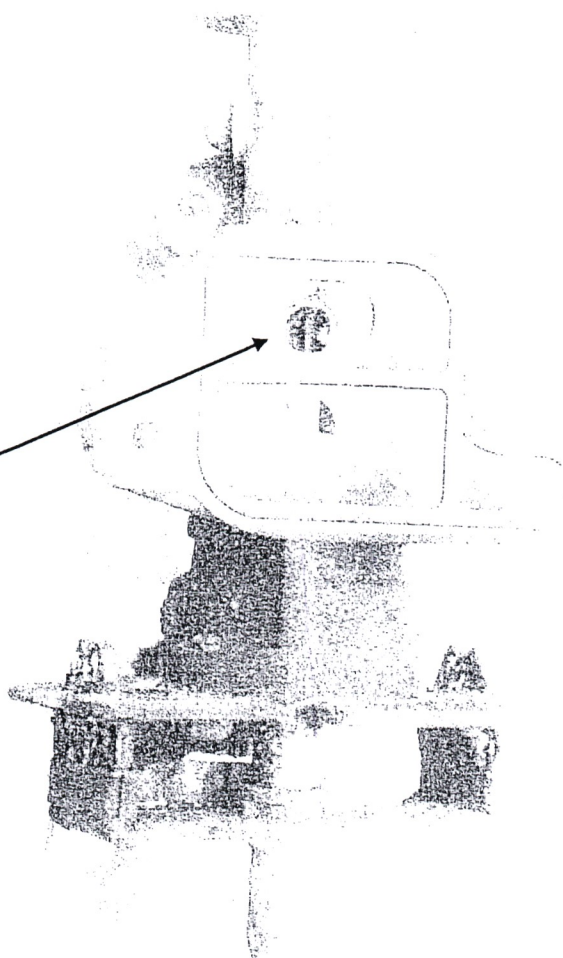


器具栓の「閉子」の状況を撮影したもの（「左後ろ」だけが「開」）

写真 1 2



器具栓の「閉子」の状況を撮影したもの（「左後ろ」以外は「閉」）



器具栓の閉子の状況を撮影したもの③

○ 「全開」の状態である（ガスがバーナーに向かっている状態）

例えば…



「半開」の場合

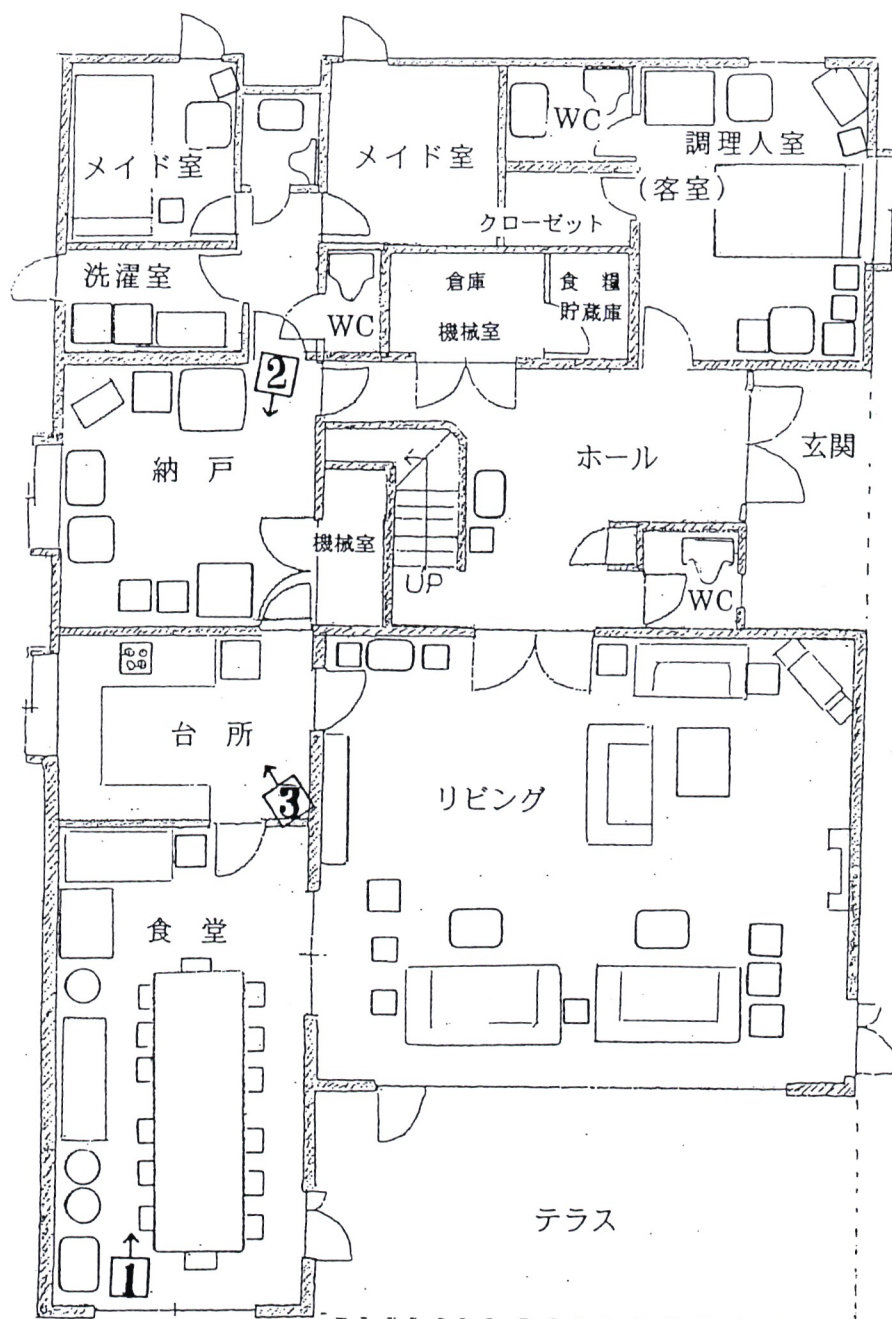


「閉」の場合

回転する「閉子」でガスの出口を塞ぐため、
ガス量が変わる。

第 1 図

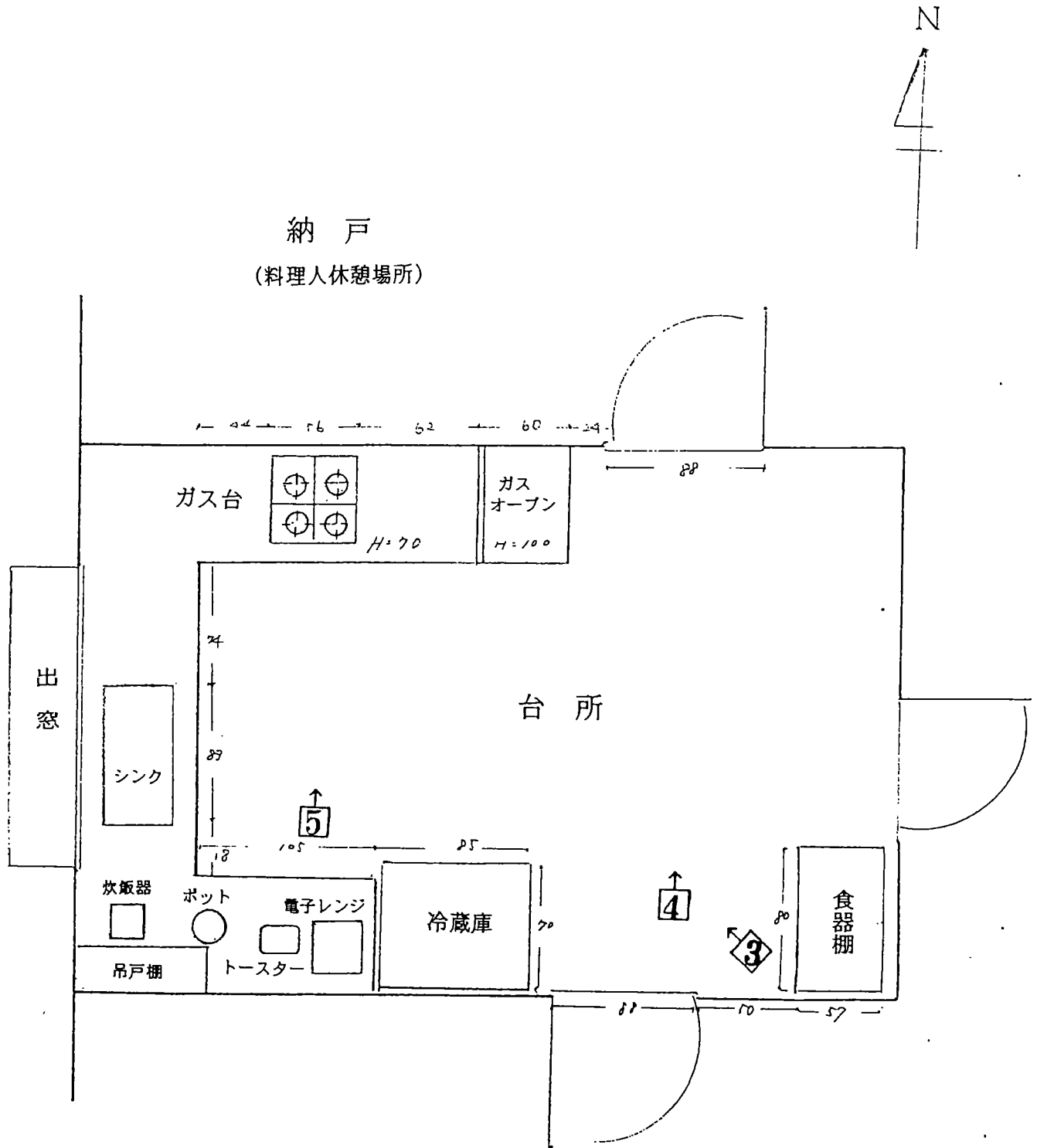
1 階 平 面 図



□→: 写真撮影位置

第 2 図

台 所 配 置 図



食 堂

□→:写真撮影位置

縮尺 : 1/33

単位 : cm

ANNEX

DFR 26

Memorandum of the Kenyans In Japan Association on Land Purchase Controversy

We would hereby like to present our views and concerns in regard to the controversy surrounding the purchase and burning down of the property for the Kenyan Embassy in Japan.

The concerns voiced hereby are in the context of the great damage, this incident has, and continues to cause damage to the reputation and competence of Kenya in Japan, and directly impacts on the Kenyans living here in Japan, and the effectiveness of the Embassy.

1. Kenya is the number one recipient of ODA (Overseas Development Aid) in Africa from Japan. The Japanese Economy is the number two in size the world and offers great potential as a trade partner, and also as a platform for diplomacy in Asia and Far East. Lack of progress on the resolution of this issue, and the apparent inability of the mission and the government to take decisive action to hold people accountable has severely damaged the reputation of the Embassy and Kenya, and makes Kenya to be viewed as tolerant and complaisant with corruption and incompetency. Those under investigation, should be removed from active duty, to smoothen ties and restore trust with the Japanese, and then they can be restored if proved innocent.
2. Lack of firm action on resolving this incident, and the delay in appointing an Ambassador to Japan is in Japan interpreted as Kenya considering the relationship between Kenya and Japan as not important enough to warrant serious and planned action.
3. Kenyans here in Japan are very disappointed and very hurt by this incident, and the management of the same. We have never been formally informed of the details of the purchase, never told what burnt, what was left, or even that there are investigations going on. We read the papers, surf the internet, and fill in the blanks. This is not what we expect of our Embassy.
4. The current location has always been a great inconvenience by its location and the size of the facilities. It is hard and time consuming to get to from central Tokyo, the size is not big enough to hold formal parties, making it necessary for the Embassy to hire alternative venues. And lastly the current location is in a residential area with construction limitations. The current site is not ideal, and we believe that the government should continue looking for a better site for the embassy to remove the disadvantages.
5. Information pertaining to these transactions are well kept by the various institutions, be they banks, tax offices, registrars. We believe that the government can get access to this information.
6. Lastly, and most important, this is Kenya tax payers money, and money that could be used to fund development in Kenya. The government should use whatever legal means they have to recover the money.

Kenyans In Japan Association

2010.07.21

KENNETH KAUNDA

KEVIN KIBE

KAILEMIA MWONGELA

STEPHEN MUYAKI

LUCY KOTAMA

Lubanga Makinji

Tim Kamau

ole Sami

Qand Valued

不動産取引価格情報(地区単位)

平成19年第4四半期～平成21年第4四半期・東京都目黒区八雲・住宅地・土地全ての取引件数 256 件>

事例件数:22 件中 1 件目 ～ 20 件目を表示中(1/2 ページ目)

過去1年間の取引価格(㎡単価)帯別の事例件数

No.	住所	取引時期	取引価格 (総額)	取引価格 (㎡単価)	面積 (㎡)	土地の形状	前面道路 幅員(m)・方位・種類	最寄駅 名称・距離(分)	用途 地目・割合	建ぺい率 (%)	容積率 (%)	地区 区分
1	目黒区八雲	H21/10-12月	¥120,000,000	¥740,000	165	長方形	5.5北西 区道	都立大学	14 1低専	60	100	A
2	目黒区八雲	H21/10-12月	¥51,000,000	¥540,000	95	長方形	4.4北東 区道	都立大学	13 1低専	60	150	A
3	目黒区八雲	H21/07-09月	¥120,000,000	¥580,000	210	ほぼ長方形	5.4西 区道	都立大学	15 1低専	60	100	A
4	目黒区八雲	H21/07-09月	¥85,000,000	¥510,000	165	不整形	4西 区道	都立大学	13 1低専	50	100	A
5	目黒区八雲	H21/07-09月	¥45,000,000	¥470,000	95	不整形	6南 区道	都立大学	12 1低専	60	150	A
6	目黒区八雲	H21/04-06月	¥110,000,000	¥650,000	165	長方形	4西 区道	都立大学	12 1低専	60	100	A
7	目黒区八雲	H21/04-06月	¥95,000,000	¥570,000	165	不整形	4西 区道	都立大学	12 1低専	60	100	A
8	目黒区八雲	H20/10-12月	¥52,000,000	¥810,000	65	ほぼ長方形	6北 区道	都立大学	12 1低専	60	100	A
9	目黒区八雲	H20/07-09月	¥270,000,000	¥550,000	490	長方形	3.6南西 私道	都立大学	11 1低専	60	150	A
10	目黒区八雲	H20/07-09月	¥110,000,000	¥730,000	145	ほぼ長方形	6北 区道	都立大学	15 1低専	80	100	A
11	目黒区八雲	H20/07-09月	¥80,000,000	¥820,000	85	ほぼ長方形	5西 区道	都立大学	14 1低専	80	150	A
12	目黒区八雲	H20/07-09月	¥70,000,000	¥800,000	85	ほぼ長方形	5.5西 区道	駒沢大学	15 1低専	60	100	A
13	目黒区八雲	H20/04-06月	¥86,000,000	¥750,000	115	ほぼ長方形	11南東 区道	都立大学	15 1低専	80	150	A
14	目黒区八雲	H20/04-06月	¥110,000,000	¥660,000	125	不整形	4.5北東 区道	都立大学	5 1住居	60	200	A
15	目黒区八雲	H20/04-06月	¥83,000,000	¥690,000	90	長方形	11南東 区道	都立大学	14 1低専	60	150	A
16	目黒区八雲	H20/01-03月	¥350,000,000	¥740,000	470	ほぼ長方形	6東 区道	自由が丘(東京)	13 1低専	60	150	A
17	目黒区八雲	H20/01-03月	¥180,000,000	¥920,000	170	ほぼ長方形	4西 私道	都立大学	10 1低専	60	150	A
18	目黒区八雲	H20/01-03月	¥270,000,000	¥730,000	370	ほぼ長方形	11南 区道	都立大学	14 1低専	60	100	A
19	目黒区八雲	H20/01-03月	¥98,000,000	¥560,000	175	不整形	5.5南西 区道	都立大学	13 1低専	60	100	A
20	目黒区八雲	H19/10-12月	¥100,000,000	¥790,000	125	ほぼ長方形	3.6南西 私道	都立大学	5 1住居	80	200	A

12 次の20件>>

新築

Handwritten signatures and notes.

Full

全国地価マップ

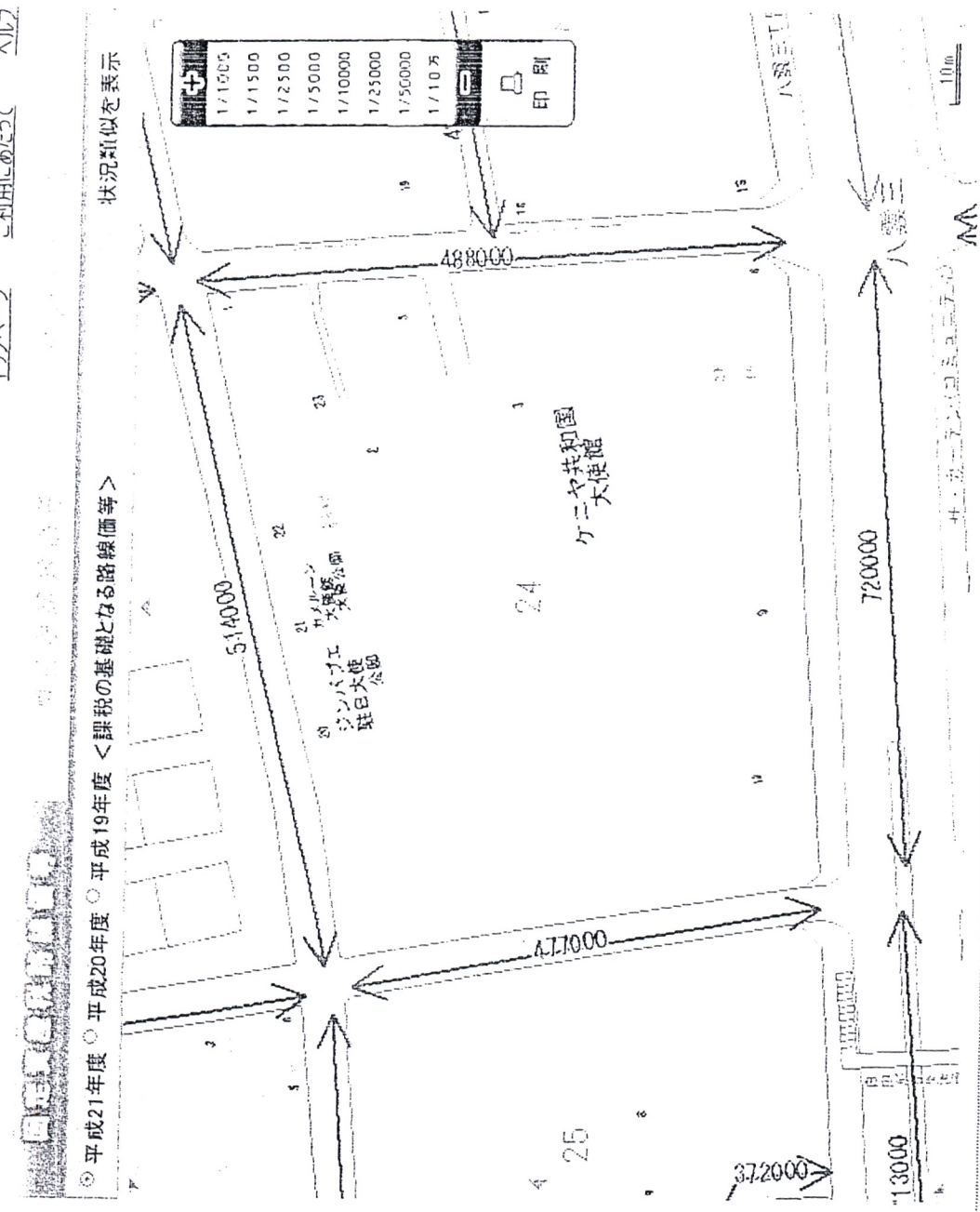
表示位置設定 > 東京都 > 八雲 > 目黒区 > 三丁目 (価格調査基準日(平成20年1月1日)の価格を表示)

トップページ ご利用にあたって ヘルプ

住所入力
住所を入力して検索をクリックすると、表示位置を移動します。
都道府県で絞り込む場合は、都道府県を選択して検索をクリックしてください。

価格設定
基準・標準宅地または路線をクリックすると属性情報が表示されます。

- 価格設定**
- 基準・標準宅地 円/㎡ ①
 - 5000 基準・標準宅地価格 ②
 - ← 路線(主要な街路)
 - ← 路線(その他の街路)
 - 3000 路線価 円/㎡ ③
- 用途地区凡例



Land Value

From: foxx jango (foxxjango@gmail.com)
To: pkmoser@kenyarep-jp.com;
Date: Tue, July 20, 2010 4:00:06 PM
Cc: ochieng7@hotmail.com; macodiyo@gmail.com; csaruni@yahoo.com;
Subject: Open letter to the Paliamenterians

~~Greetings to you all~~

Please find a draft of what we would like the PG to attend to.

Kind regards
Francis for Kenyans in the Kansai region

An open later to the Parliamentarian group on the Embassy issues.
Kenyans in Japan (Osaka, Kyoto, Kobe, Nara, Shiga regions)

After enjoying years of good reputa in Japan in terms of sports and politically stability, the after math of the 2008 elections greatly distorted our image and in the face of Japanese and we were put together with the likes of Nigeria who have a huge population here that always cause problems for the Japanese administration.

Talking for most of us who are working with reputable companies, and those of us struggling to run their private businesses, it was such an uphill trying to restore our image and at the same time building relationships all over again with our Japanese counterparts. Luck for us wind fall prevailed after Obama was elected in President of the USA. We were lucky to ride the waves of "change" and things smoothened out and even more Japanese tourist started enquiring how to visit Kenya to see the wild animals & President Obama's ancestral home.

But as luck would have it, last year, for some unknown circumstances the residence of the Kenyan Embassy went up in flames under unknown circumstances, of course this made new and it was headlined in the Japanese media, making history as the first foreign embassy to burn down in Japan.

The incidents lead to a lot of questions being asked and this spiraled into issues to do with **land deals gone wrong and inappropriate purchase of land and/or purchase in the wrong location**. A talk with the local Real Estate Agents have proved to us that there was some actual irregularities in the price the Land was acquired by the Kenyan government representatives. The figures we are ready to divulge but which I believe the Parliamentarian group already have.

This in the span of 2 years has again dented our reputation in Japan and in the international arena as a whole. The actions, whether true or not, has taken us 2-stepd back into dark side of a transparent society. As we Kenyans in Japan know, Japanese business relationships are build on Trust. It is the same reason why Japanese are known to write poor contracts while dealing with foreign firms, because they have unwritten agreements that are stronger than what goes down in black and white. This unwritten agreement, once broken may never be restored and conducting businesses or relationships are not quite the same.

We Kenyans in Japan feel that we are short-changed. We work very hard to build the image, create opportunities of tourism and trade, networks for employment and even further training to fellow Kenyans in and outside Japan. Events such as research opportunities, initiated by Kenyans through recommendations of the Japanese Professors (who are so powerful in this society), are being shuttered by the fading trust. We live in a society where when one does wrong, others are classified to be the same. This is the true Japanese thinking.

The degree of trust cannot be explained in writing, it is something that one has to live in Japan to understand. However, Japanese being the human we are also make mistakes, but in Japan once trust is broken, or once news leaks that there have been illegal undertakings under one's watch, then the person in charge is left with no otherwise than;

- (1) to resign immediately awaiting investigations
- (2) to take up their life before arraigned in court.

It is in the same vain that you as the parliamentarians must recognize what you are dealing with. We would not be over exaggerating by saying that the Japanese are waiting for the peoples concerned in the Embassy with the leaked news to the media to step aside, resign or show some form of remorse. The Japanese will always view us in light of corruption, and we are getting tired to build while others destroy. Let justice prevail and in the meantime, our message to the two principals, President Kibaki & Prime Minister Raila (if the backs stops at them), we need non-corrupt government officials in Japan.

It may sound very strong in the language used in this open letter. But after living and working in Japan for over 10 years, there is no other way to put it. We have faced our own tribulations and managed to take full responsibility in the context of society we find ourselves in and so we demand the same integrity from those who represent as in official capacities as the same integrity that has been expected of us here in Japan.

The corrupt land deal that is currently the focus of attention is continuing to cause us undue damage, whether the officers involved are innocent until found guilty, there should be some form of visible action and this involves the person in charge while the transaction was taking place to step down and pave way for investigations.

Apart from damage control, we would like to see the embassy take a more proactive role in building diplomatic relations that translate into business opportunities, technology transfer activities that would benefit our society as we still have a lot to learn from the Japanese. Since the departure of Ambassador Dennis Awori, we have seen little in terms of tangible efforts in the promotion of Kenya. A point in case is the international exhibitions held across Japan and we find the Kenyan stand has only teabags, coffee beans and DVD running the whole day advertising Kenya. This happens in the same venue with Tanzanian who bring in actual craftsmen, Botswana who bring in actual business leaders to talk to the Japanese, the Koreans who have the whole place buzzing you would think it was a small Seoul. We are ready to assist, but we need more proactive people at the embassy as this is a reflection of what we offer.

It would be a great idea to have embassies present milestones on the achievements they undertake, they use tax payers money and we Kenyans here are the watchdogs to ensure that our fellow citizens

money is not going to waste. There has to be win win situation for the people of Kenya and Japan through the people selected to craft the diplomatic transactions.

FRANCIS CRICNO

FRANCIS

Aug

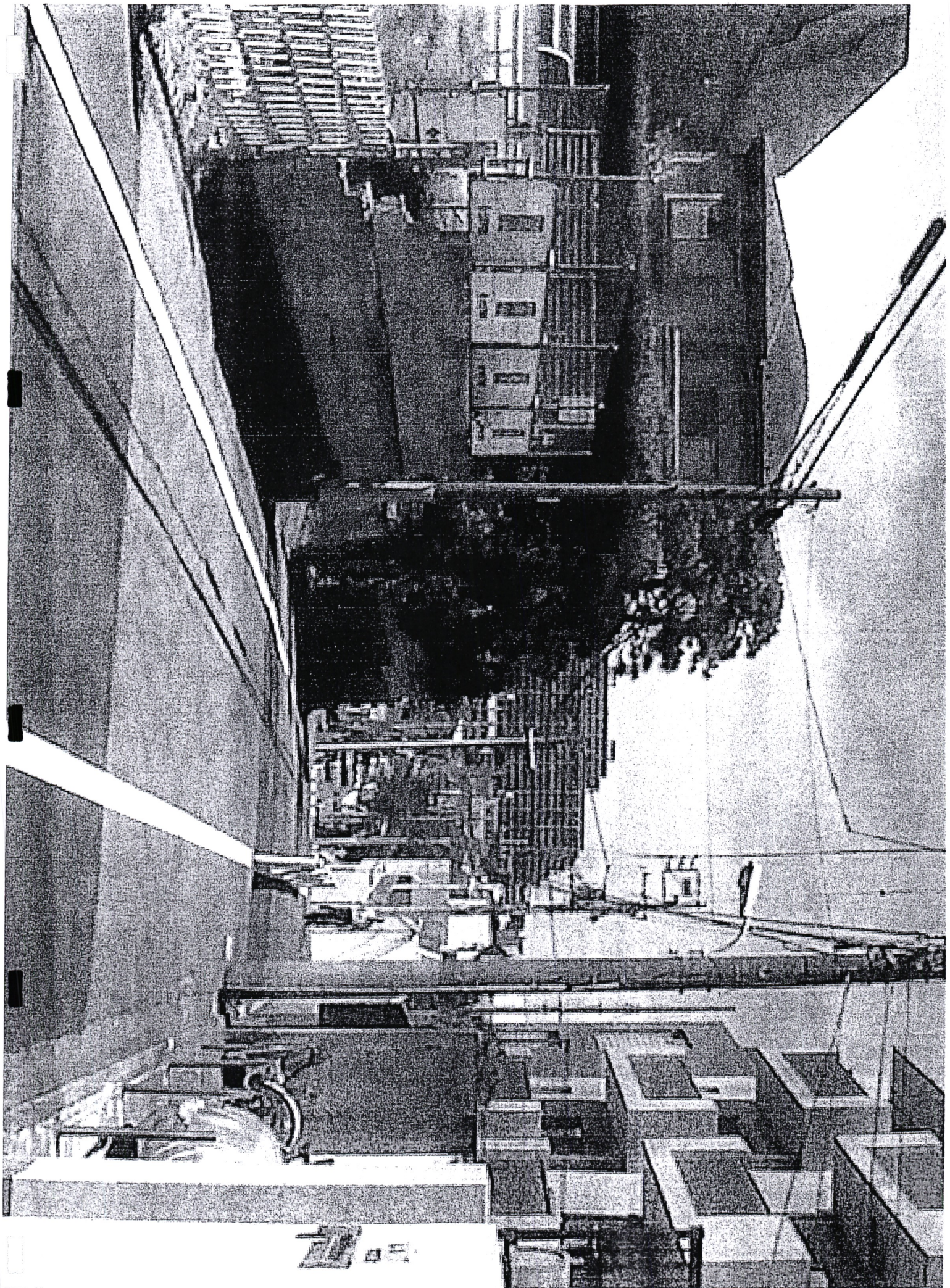
ANNEX

DFR 27

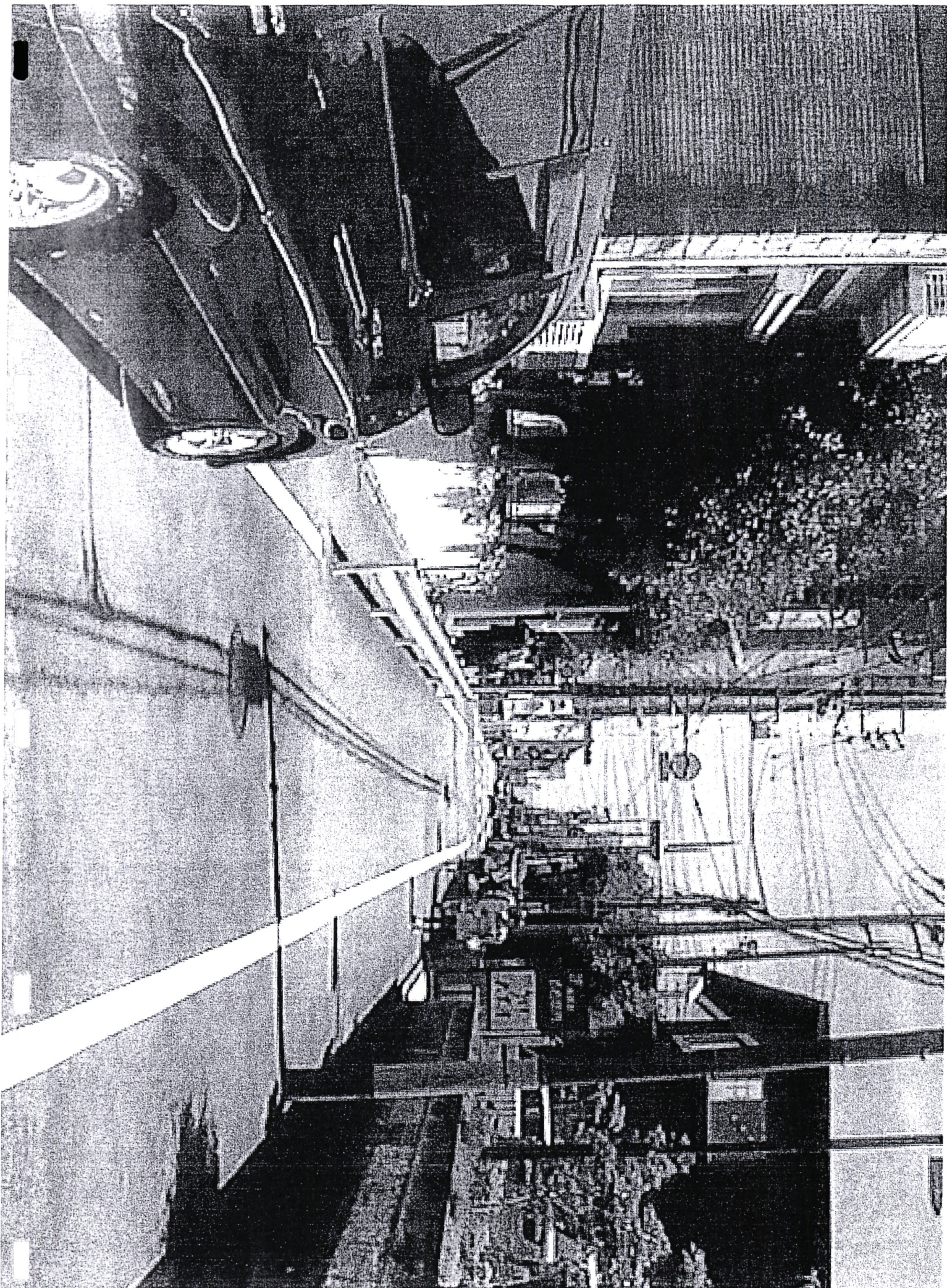


ケニヤ共和国大使館

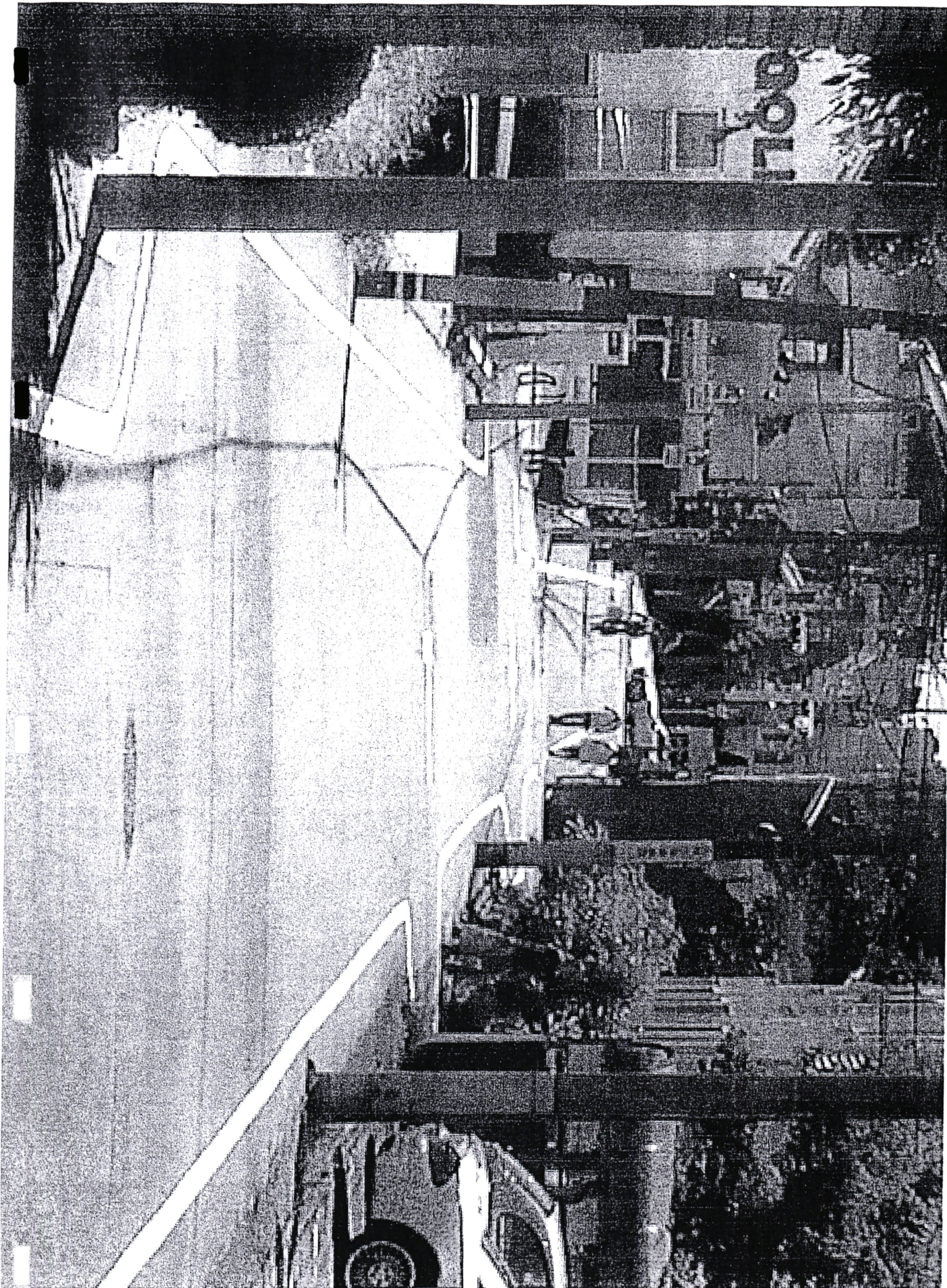
Embassy of the Republic of Kenya



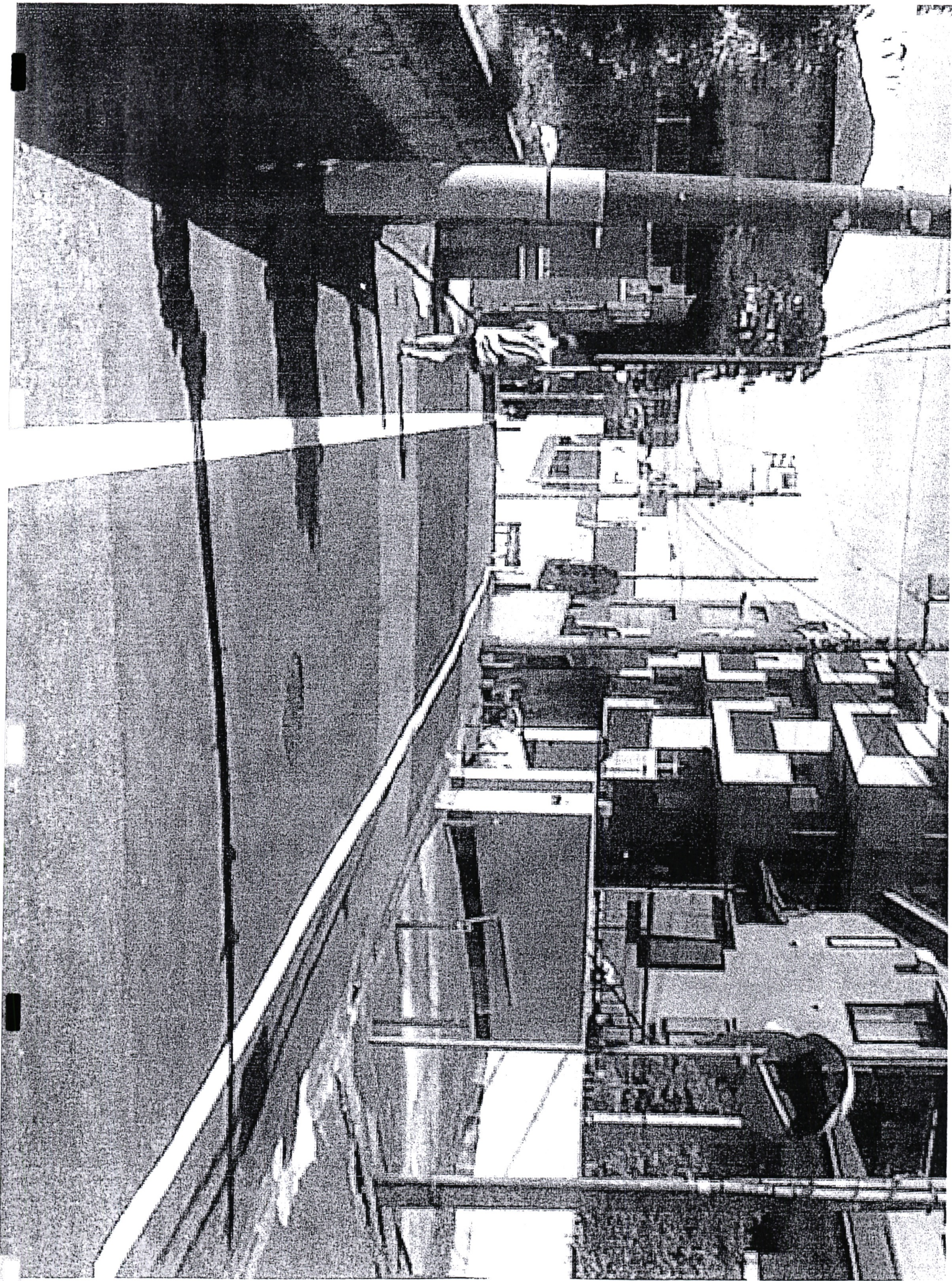
NARROW STREETS IN MFGURU-KII



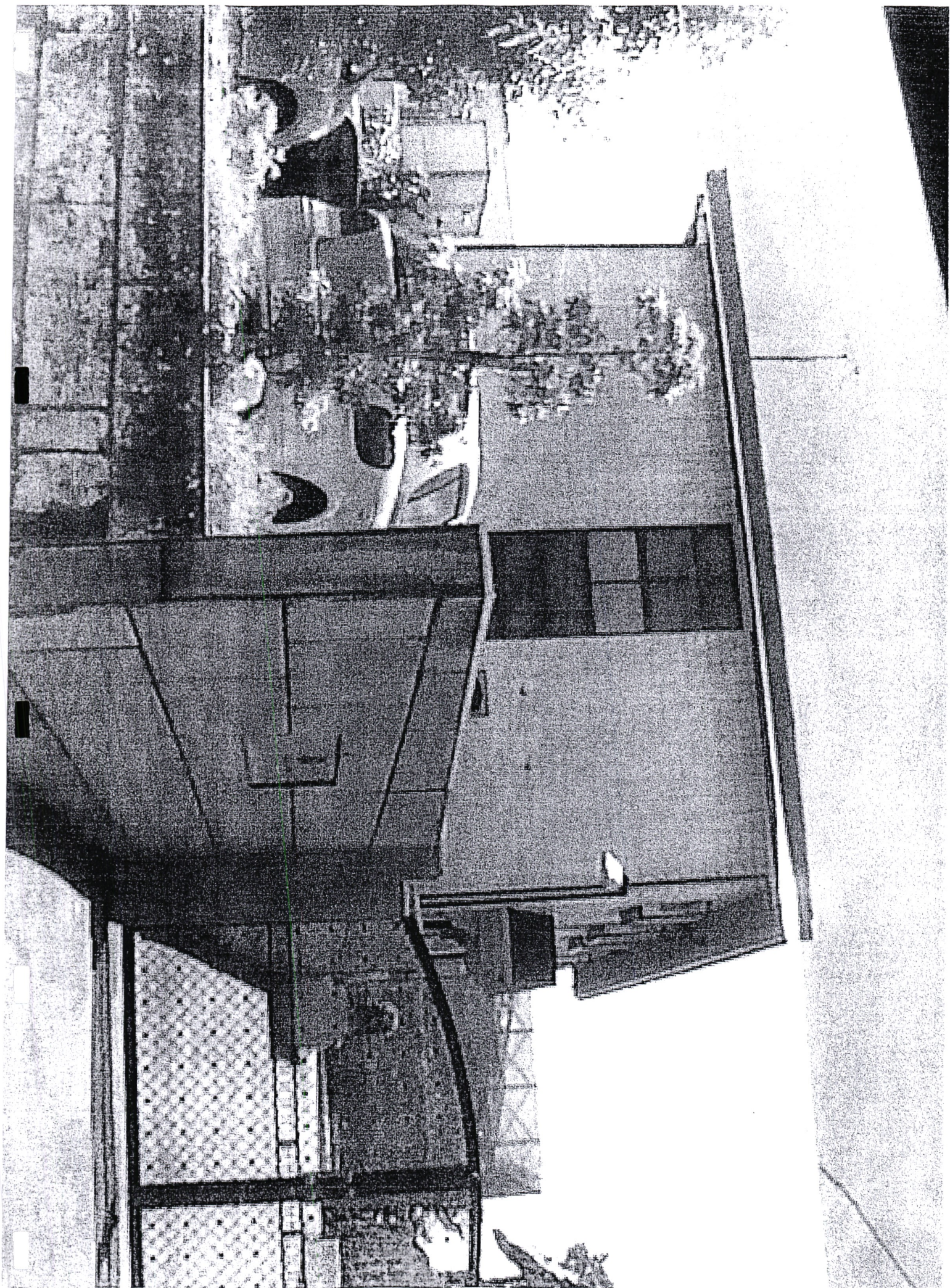
NARROW STREETS - NEGURO-KU



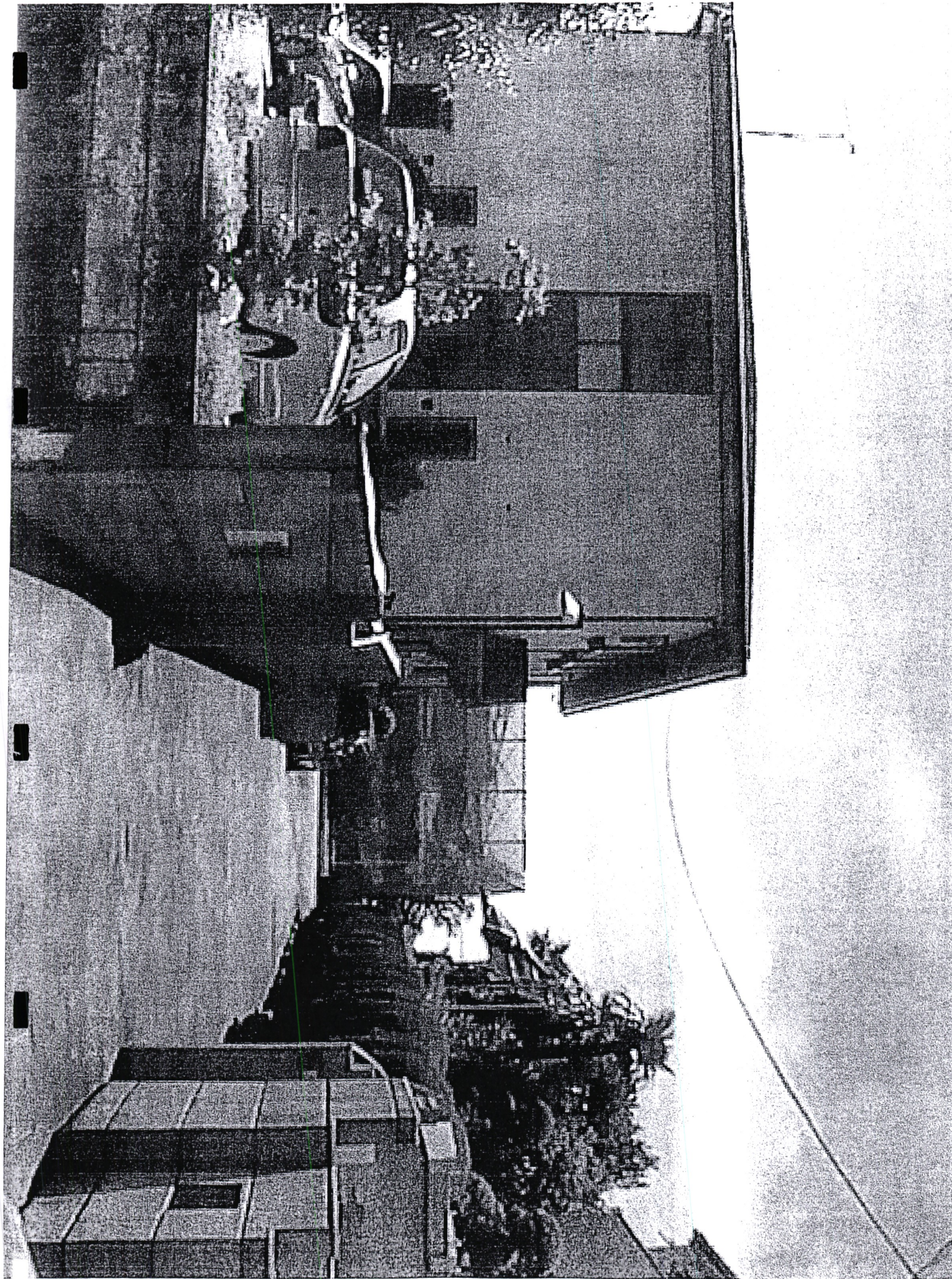
NARROW STREET IN MEGURO-KU



NARROW STREETS IN MEGURO-KU



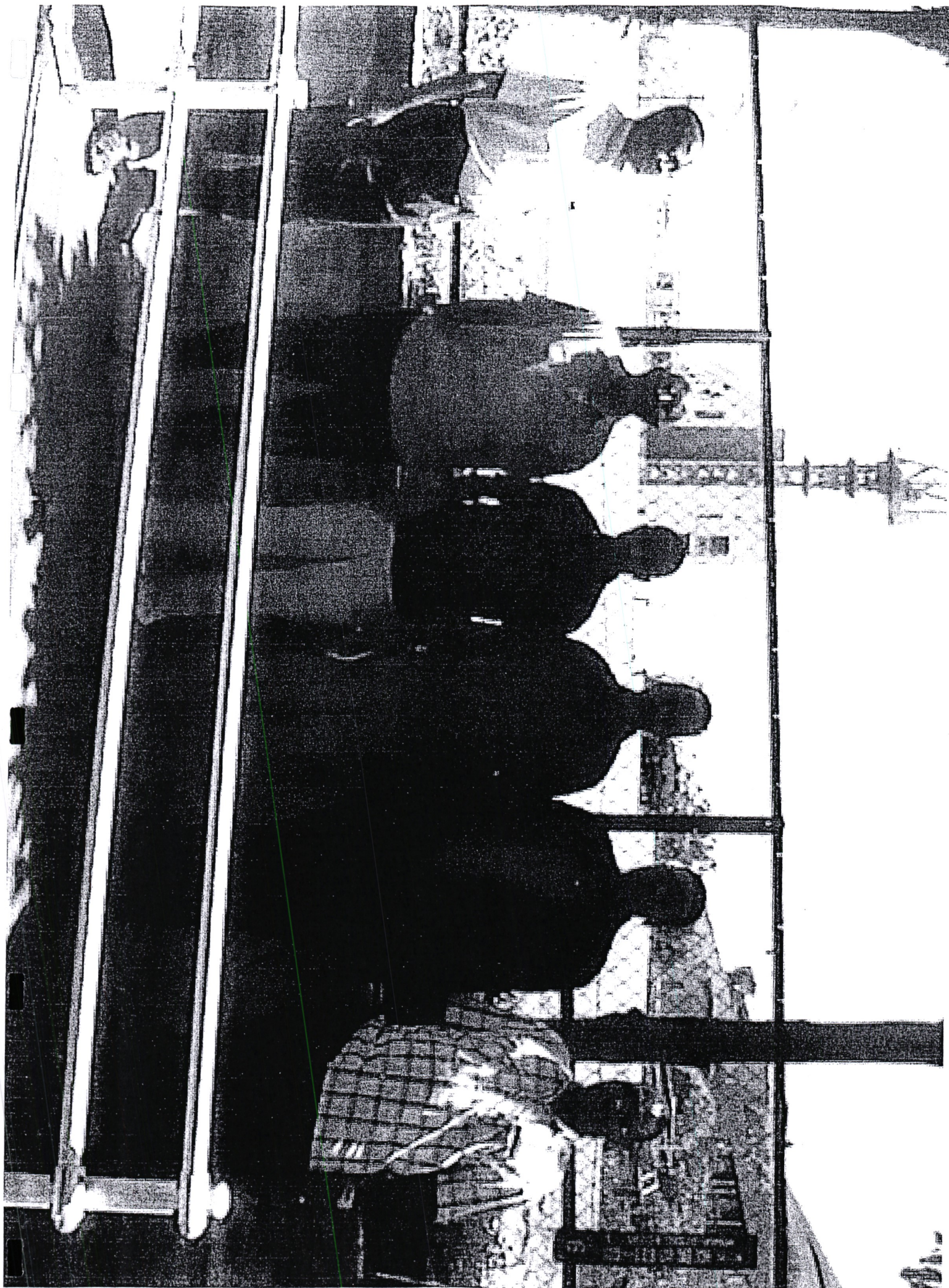
EMBASSY OF THE REPUBLIC OF KENYA



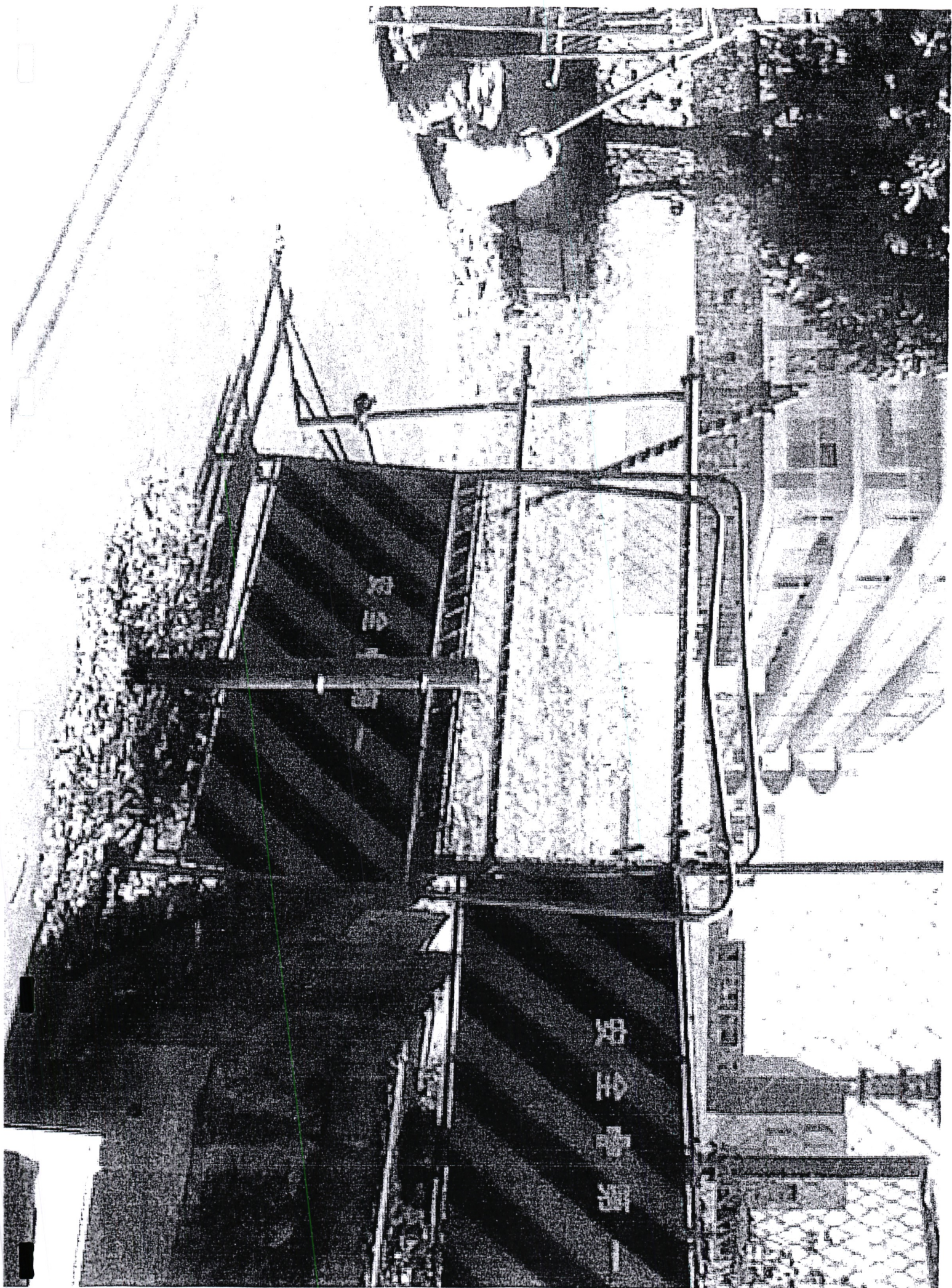
ENTRY TO EMBASSY - (MECHURO-KU)
ROAD IF ROUT USED AS DASH

ANNEX

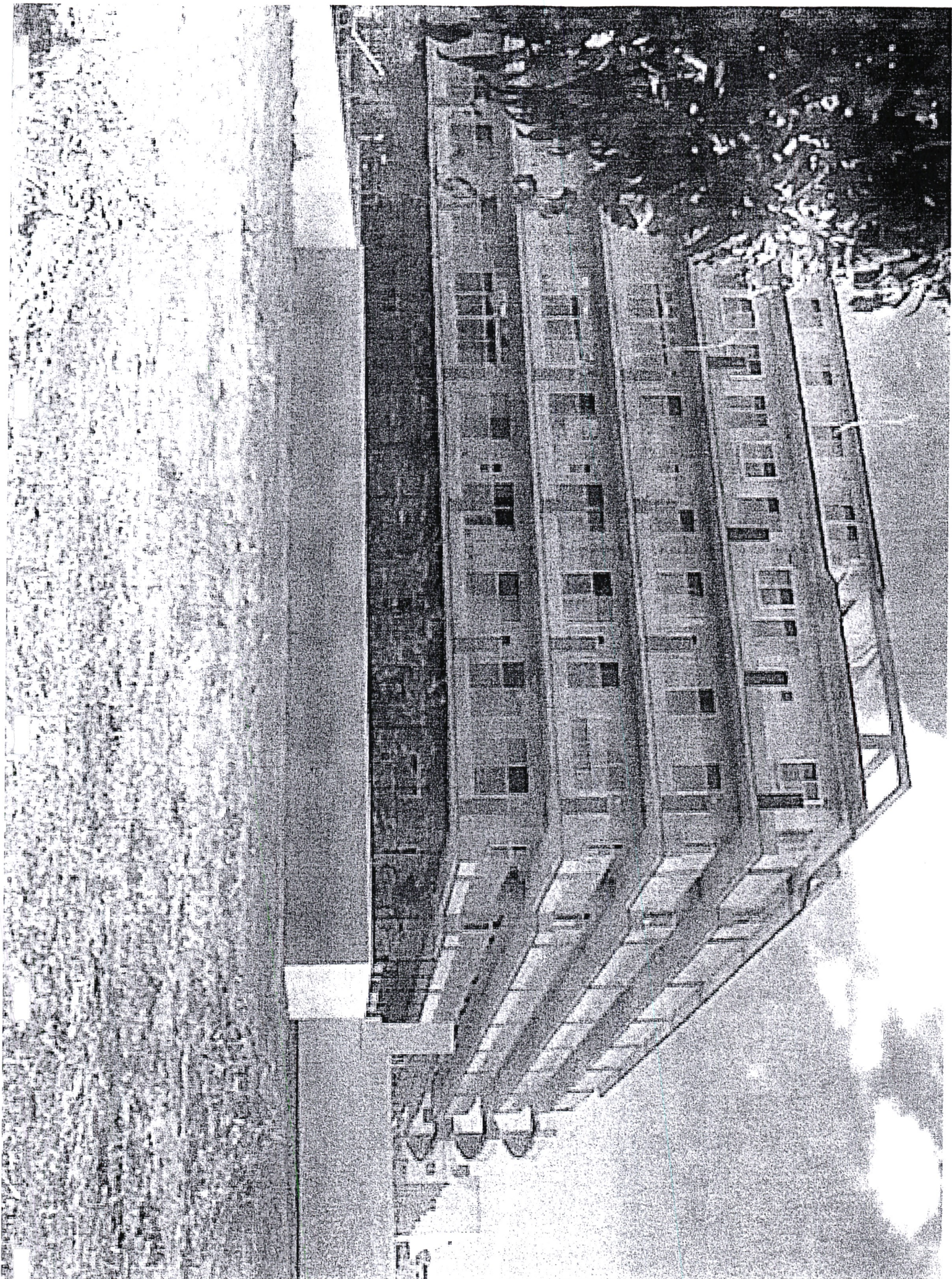
DFR 28



GAT OFFERED PLOT WITH EU CONSTRUCTION IN TIT



GOVERNMENT OF JAPAN OFFERED PLOT.



GOVERNMENT OF JAPAN OFFERED PLOT

ANNEX

DFR 29

Field to be used

現況図

Dr. S. Kawaguchi Memorial Park
有栖川宮記念公園



Property of
the Institute of Statistics
Medford, N.J.

Dr. S. Kawaguchi
Memorial Park
有栖川宮記念公園

港区南麻布4丁目1番5

700.39m²

港区所有地

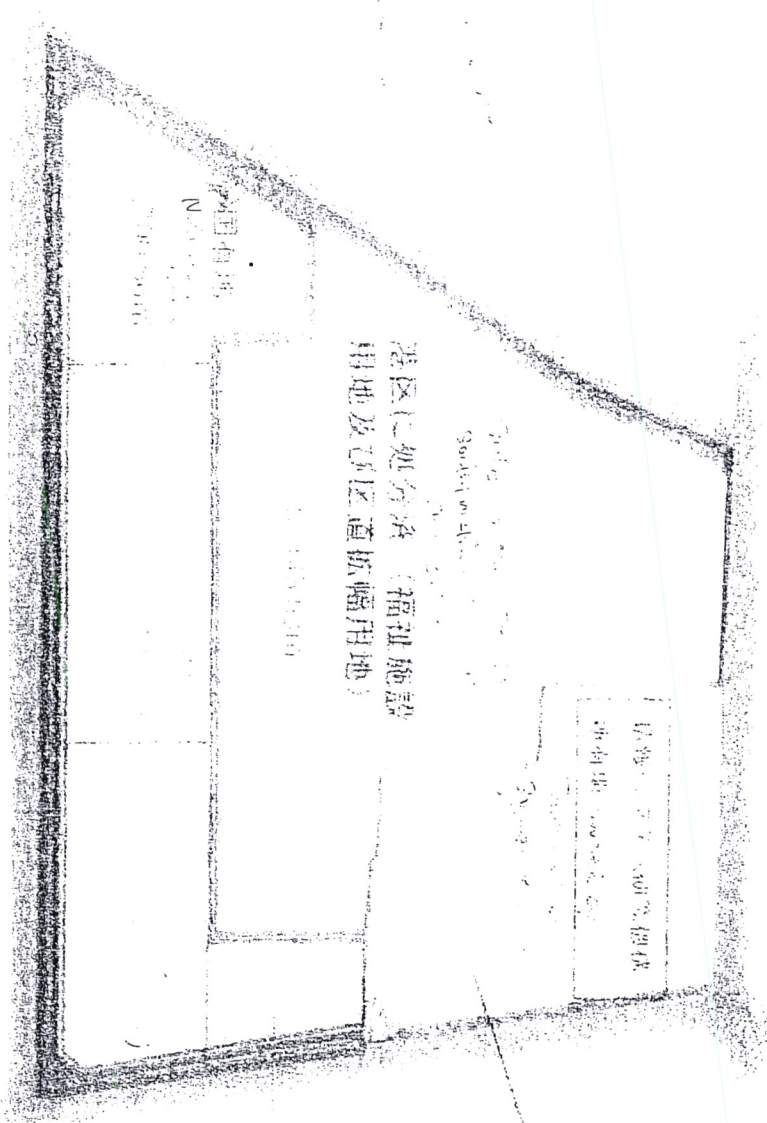
Minato-ku
港区

統計数理研究所
所有地



現況図

恒徳川宮記念公園 図



港区において、郷土資料館及び児童館等敷地として利用予定

恒徳川宮記念公園

区道

公園用地

港区(処分場) 福徳施設 用地及び区道幅用地

恒徳川宮記念公園

恒徳川宮記念公園 図

恒徳川宮記念公園 図

ANNEX

DFR 30

MEMO NOTE

MEETING: MEGURO TAX & PLANNING OFFICE

DATE: 21st JULY 2009

PARLIAMENTARY COMMITTEE APPOINTMENT

ISSUES:

1. Planning Regulations for Meguro Ward – Yakumo
2. Plot Ratio
3. Site Coverage
4. Permissible height where Chancery and Residence are located in Yakumo
5. Value per Tsubo or Square meter 2009 and 2010 in Yakumo

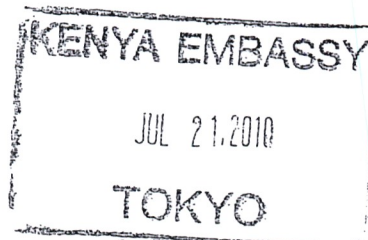
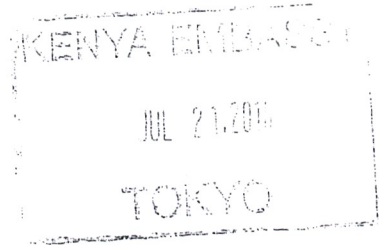
Planning Regulations for Meguro Ward – Yakumo

The Meguro Planning Section must be consulted or their website for guidance on regulations governing development from time to time as issues to be considered are diverse from one location to the other.

Plot Ratio and site coverage were not addressed at this meeting.

Permissible height for Yakumo 3-24-3 Chome where the chancery and Embassy are located.

1. The height of structures to be developed is calculated at a radius of 20 meters from the main road and is applicable on either side of the road.
2. Areas within 20 meters from the main road have a slight flexibility in height than those outside the 20 meter area.
3. The Location of the current Embassy property is outside the 20 meters and is located in a restricted residential area and therefore the maximum height is 10 meters.
4. The building structure must be not more than 5 meters to the northside so as to allow an amount of sunlight per day on the northern side.
5. This restriction is supposed to protect the neighbours' amount of sunlight per day.

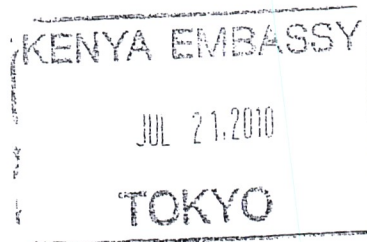


6. People living on the northern side of the area are protected on a number of hours of sunlight and shadow from buildings and therefore structures built close to the northern side must slant from 10 meters to 5 meters.
7. The current location where the Embassy is situated is a restricted residential area and Embassy requires a special permit from Meguro planning office to construct an Embassy chancery or convert it into office use. The presence of the residence is the only guarantee at the moment that enables the buildings to be used for office use.
8. The height is the same (10 meters) only even after the special permit has been issued for demolition and rebuilding a new structure for office use. The permit can be granted after application and takes time to grant. See attached planning chart and document.

Value per Tsubo or Square meter 2009 and 2010 in Yakumo

1. The Ward tax officials observed that since 2006 to 2009 property prices in Japan have fallen drastically and in 2009 to 2010 the prices per square meter fell by 16%.
2. The price per square meter for 2009 at the current location where the Embassy chancery and residence are located was 488,000 Japanese yen per square meter and in 2010 this price has fallen by 16%. See attached price assessment chart from the tax office.

Signed in Tokyo, Kenya Embassy Japan this day 21st July 2010.



ANNEX

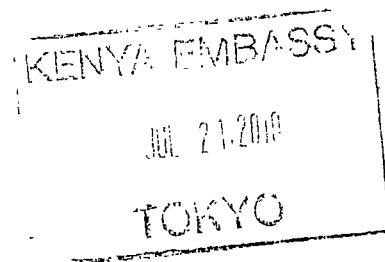
DFR 31

UNOFFICIAL TRANSLATION of Public Notice of Land Prices

This is an unofficial translation of Public Notice of Land Prices which is provided by Ministry of Land, Infrastructure, Transport and Tourism website (<http://tochi.mlit.go.jp/>)

3-24-3, Yakumo, Meguro-ku is not on the list because the standard lands are selected by Land Appraisal Committee of Ministry of Land, Infrastructure, Transport and Tourism.

Ref No.	Meguro 1
Date of Survey	1st January, 2010
Address	2-189-9, Kakinokizaka, Meguro-ku
Price (Yen)	675,000/m ²
Transportation	Toritsu Daigaku 840m
Acreage	193m ²
Classification	Land of wooden building
Shape	1.0 : 1.5



Ref No.	Meguro 2
Date of Survey	1st January, 2010
Address	3-10-4, Gohongi, Meguro-ku
Price (Yen)	582,000/m ²
Transportation	Gakugei Daigaku 550m
Acreage	128m ²
Classification	Land of 2F concrete building
Shape	1.0 : 1.0

Ref No.	Meguro 3
Date of Survey	1st January, 2010
Address	3-535-28, Naka-Meguro, Meguro-ku
Price (Yen)	686,000/m ²
Transportation	Naka Meguro 760m
Acreage	330m ²
Classification	Land of 2F concrete building
Shape	1.0 : 2.0

Ref No.	Meguro 4
Date of Survey	1st January, 2010
Address	5-105-1, Meguro Honcho, Meguro-ku
Price (Yen)	509,000/m ²
Transportation	Musashi Koyama 600m
Acreage	111m ²
Classification	Land of light steel framed building
Shape	1.0 : 1.5

Ref No.	Meguro 5
Date of Survey	1st January, 2010
Address	1-25-1, Tairamachi, Meguro-ku
Price (Yen)	715,000/m ²
Transportation	Toritsu Daigaku 300m
Acreage	338m ²
Classification	Land of light steel framed 2F building
Shape	1.0 : 1.5

Ref No.	Meguro 6
Date of Survey	1st January, 2010
Address	2-123-8, Jiyugaoka, Meguro-ku
Price (Yen)	905,000/m ²
Transportation	Jiyugaoka 550m
Acreage	308m ²
Classification	Land of 2F concrete building
Shape	1.0 : 1.0

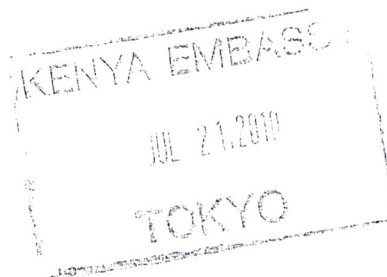
Ref No.	Meguro 7
Date of Survey	1st January, 2010
Address	2-522-59, Aobadai, Meguro-ku
Price (Yen)	1,170,000/m ²
Transportation	Shinsen 720m
Acreage	346m ²
Classification	Land of 3F and 1B concrete building
Shape	1.0 : 1.0

Ref No.	Meguro 8
Date of Survey	1st January, 2010
Address	1-32-21, Azumagaoka, Meguro-ku
Price (Yen)	620,000/m ²
Transportation	Komazawa Daigaku 900m
Acreage	298m ²
Classification	Land of 2F wooden building
Shape	1.0 : 1.2

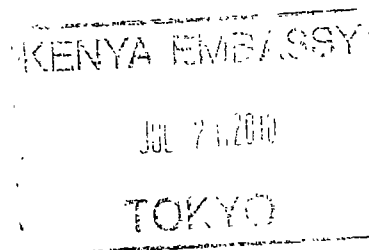
Ref No.	Meguro 26
Date of Survey	1st January, 2010
Address	4-8-2, Yakumo, Meguro-ku
Price (Yen)	690,000/m ²
Transportation	Toritsu Daigaku 1,100m
Acreage	243m ²
Classification	Land of concrete 3F building
Shape	1.0 : 1.5

Ref No.	Meguro 27
Date of Survey	1st January, 2010
Address	2-71-3, Tairamachi, Meguro-ku
Price (Yen)	583,000/m ²
Transportation	Toritsu Daigaku 650m
Acreage	326m ²
Classification	Land of concrete 3F building
Shape	1.2 : 1.0

Ref No.	Meguro 29
Date of Survey	1st January, 2010
Address	2-19-9, Nakane, Meguro-ku
Price (Yen)	665,000/m ²
Transportation	Toritsu Daigaku 500m
Acreage	330m ²
Classification	Land of concrete 4F building
Shape	1.2 : 1.0



Ref No.	Meguro 5-1
Date of Survey	1st January, 2010
Address	1-7-13, Jiyugaoka, Meguro-ku
Price (Yen)	2,230,000/m ²
Transportation	Jiyugaoka 100m
Acreage	418m ²
Classification	Land of concrete 7F building
Shape	1.0 : 1.2



Ref No.	Meguro 5-10
Date of Survey	1st January, 2010
Address	1-24-5, Jiyugaoka, Meguro-ku
Price (Yen)	934,000/m ²
Transportation	Jiyugaoka 300m
Acreage	162m ²
Classification	Land of concrete 3F building
Shape	1.0 : 1.2

Ref No.	Meguro 5-15
Date of Survey	1st January, 2010
Address	1-61-4, Jiyugaoka, Meguro-ku
Price (Yen)	3,500,000/m ²
Transportation	In front of Jiyugaoka
Acreage	511m ²
Classification	Land of RC 4F and B1 building
Shape	1.0 : 3.5

Ref No.	Meguro 1
Date of Survey	1st January, 2009
Address	4-99-5, Yakumo, Meguro-ku
Price (Yen)	756,000/m ²
Transportation	Toritsu Daigaku 750m
Acreage	423m ²
Classification	Land of SRC 3F
Shape	1.0 : 1.2

Ref No.	Meguro 5
Date of Survey	1st January, 2009
Address	1-25-1, Tairamachi, Meguro-ku
Price (Yen)	813,000/m ²
Transportation	Toritsu Daigaku 750m
Acreage	338m ²
Classification	Land of 2F Bldg.
Shape	1.0 : 1.5

Ref No.	Meguro 26
Date of Survey	1st January, 2009
Address	4-8-2, Yakumo, Meguro-ku
Price (Yen)	761,000/m ²
Transportation	Toritsu Daigaku 550m
Acreage	243m ²
Classification	Land of 3F Concrete Bldg.
Shape	1.0 : 1.5

Ref No.	Meguro 27
Date of Survey	1st January, 2009
Address	2-71-3, Tairamachi, Meguro-ku
Price (Yen)	643,000/m ²
Transportation	Toritsu Daigaku 850m
Acreage	326m ²
Classification	Land of 3F Concrete Bldg.
Shape	1.2 : 1.0

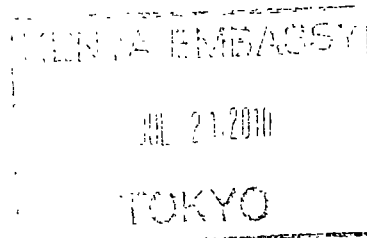
Ref No.	Meguro 29
Date of Survey	1st January, 2009
Address	2-109-9, Nakane, Meguro-ku
Price (Yen)	725,000/m ²
Transportation	Toritsu Daigaku 500m
Acreage	330m ²
Classification	Land of 4F Concrete Bldg.
Shape	1.2 : 1.0

Ref No.	Meguro 5-1
Date of Survey	1st January, 2009
Address	1-7-7, Jiyugaoka, Meguro-ku
Price (Yen)	2,480,000/m ²
Transportation	Jiyugaoka 100m
Acreage	418m ²
Classification	Land of 7F Concrete Bldg.
Shape	1.0 : 1.2

Ref No.	Meguro 5-10
Date of Survey	1st January, 2009
Address	1-147-10, Jiyugaoka, Meguro-ku
Price (Yen)	1,00,000/m ²
Transportation	Jiyugaoka 300m
Acreage	162m ²
Classification	Land of 3F Concrete Bldg.
Shape	1.0 : 1.2

Ref No.	Meguro 5-15
Date of Survey	1st January, 2009
Address	1-51-4, Jiyugaoka, Meguro-ku
Price (Yen)	3,880,000/m ²
Transportation	In front of Jiyugaoka
Acreage	511m ²
Classification	Land of SRC 4F and B1 Bldg.
Shape	1.0 : 3.5

Ref No.	Meguro 5-16
Date of Survey	1st January, 2009
Address	1-215-21, Tairamachi, Meguro-ku
Price (Yen)	1,450,000/m ²
Transportation	Near Toritsu Daigaku
Acreage	200m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 2.0



Ref No.	Meguro 1
Date of Survey	1st January, 2008
Address	4-99-5, Yakumo, Meguro-ku
Price (Yen)	855,000/m ²
Transportation	Toritsu Daigaku 750m
Acreage	423m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 1.5

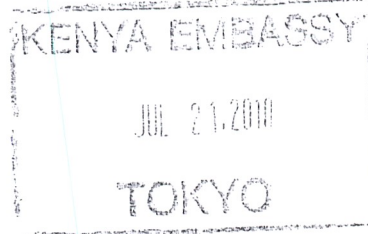
Ref No.	Meguro 5
Date of Survey	1st January, 2008
Address	1-26-1, Tairamachi, Meguro-ku
Price (Yen)	905,000/m ²
Transportation	Toritsu Daigaku 300m
Acreage	338m ²
Classification	Land of 2F concrete Bldg.
Shape	1.0 : 1.5

Ref No.	Meguro 23
Date of Survey	1st January, 2008
Address	2-35-21, Yakumo, Meguro-ku
Price (Yen)	814,000/m ²
Transportation	Toritsu Daigaku 800m
Acreage	175m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 1.5

Ref No.	Meguro 26
Date of Survey	1st January, 2008
Address	4-8-2, Yakumo, Meguro-ku
Price (Yen)	866,000/m ²
Transportation	Toritsu Daigaku 1,100m
Acreage	400m ²
Classification	Land of 8F concrete Bldg.
Shape	1.5 : 1.0

Ref No.	Meguro 27
Date of Survey	1st January, 2008
Address	2-71-3, Tairamachi, Meguro-ku
Price (Yen)	770,000/m ²
Transportation	Toritsu Daigaku 650m
Acreage	326m ²
Classification	Land of 8F concrete Bldg.
Shape	1.2 : 1.0

Ref No.	Meguro 29
Date of Survey	1st January, 2008
Address	2-109-9, Nakane, Meguro-ku
Price (Yen)	827,000/m ²
Transportation	Toritsu Daigaku 500m
Acreage	330m ²
Classification	Land of 4F concrete Bldg.
Shape	1.2 : 1.0 trapezoidal shape

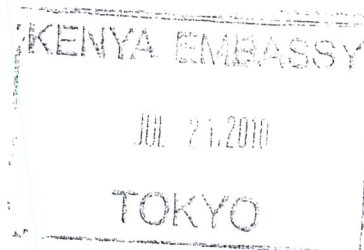


Ref No.	Meguro 5-1
Date of Survey	1st January, 2008
Address	1-7-7, Jiyugaoka, Meguro-ku
Price (Yen)	2,720,000/m ²
Transportation	Jiyugaoka 100m
Acreage	418m ²
Classification	Land of 7F concrete Bldg.
Shape	1.0 : 1.2

Ref No.	Meguro 5-10
Date of Survey	1st January, 2008
Address	1-147-10, Jiyugaoka, Meguro-ku
Price (Yen)	1,070,000/m ²
Transportation	Jiyugaoka 300m
Acreage	162m ²
Classification	Land of 3F concrete Bldg.
Shape	1.2 : 1.0

Ref No.	Meguro 5-15
Date of Survey	1st January, 2008
Address	1-51-4, Jiyugaoka, Meguro-ku
Price (Yen)	4,330,000/m ²
Transportation	In front of Jiyugaoka
Acreage	511m ²
Classification	Land of 4F and B1 oncrete Bldg.
Shape	1.0 : 3.5

Ref No.	Meguro 5-17
Date of Survey	1st January, 2008
Address	1-215-21, Tairamachi, Meguro-ku
Price (Yen)	1,580,000/m ²
Transportation	Near Toritsu Daigaku
Acreage	511m ²
Classification	Land of 4F and B1 oncrete Bldg.
Shape	1.0 : 2.0



Ref No.	Minato 5
Date of Survey	1st January, 2010
Address	1-1-35, Nishi-Azabu, Minato-ku
Price (Yen)	1,110,000/m ²
Transportation	Roppongi 450m
Acreage	197m ²
Classification	Land of 2F wooden Bldg.
Shape	1.0 : 2.0

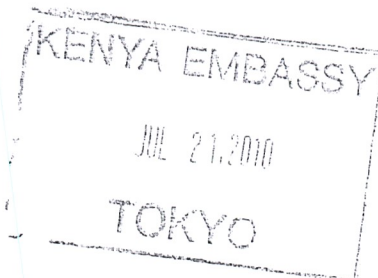
Ref No.	Minato 6
Date of Survey	1st January, 2010
Address	1-225-48, Minami-Azabu, Minato-ku
Price (Yen)	1,190,000/m ²
Transportation	Azabu Juban 840m
Acreage	380m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 1.5

Ref No.	Minato 7
Date of Survey	1st January, 2010
Address	5-18-17, Minami-Azabu, Minato-ku
Price (Yen)	1,400,000/m ²
Transportation	Hiroo 250m
Acreage	163m ²
Classification	Land of 3F and B1 concrete Bldg.
Shape	1.0 : 1.5

Ref No.	Minato 13
Date of Survey	1st January, 2010
Address	2-138-9, Moto-Azabu, Minato-ku
Price (Yen)	1,730,000/m ²
Transportation	Hiroo 700m
Acreage	633m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 2.0

Ref No.	Minato 14
Date of Survey	1st January, 2010
Address	3-242-30, Moto-Azabu, Minato-ku
Price (Yen)	1,300,000/m ²
Transportation	Roppongi 800m
Acreage	278m ²
Classification	Land of 3F concrete Bldg.
Shape	1.0 : 2.0

Ref No.	Minato 20
Date of Survey	1st January, 2010
Address	4-9-18, Minami-Azabu, Minato-ku
Price (Yen)	1,040,000/m ²
Transportation	Hiroo 480m
Acreage	188m ²
Classification	Land of 3F concrete Bldg.
Shape	1.5 : 1.0



ANNEX

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MFA.231/15/262/VOL.XXIII/(37)

23rd July, 2008

H.E. The Ambassador,
Embassy of the Republic of Kenya,
TOKYO.

MEETING BETWEEN HON. TETSURO YANO AND H.E. THE PRESIDENT

Hon. Tetsuro Yano, the Chairman Research Committee on National Life and Economy, and Member of the House of Councillors in Japan met His Excellency the President on 18th July, 2008.

They discussed several bilateral issues of mutual interest to the two countries.

During the discussion, H.E. the President raised the following issues that need your attention and appropriate follow-up:-

Requested the Japanese Government to help Kenya to identify a plot where it would construct a Chancery and the Ambassador's residence.

Raised the issue of market entry barriers imposed on the grounds of health and safety standards. He requested the Japanese Government to consider providing assistance in form of training Inspectors of KEPHIS and constructing a Plant Inspection Unit at J.K.I.A. This would ensure that Exporters meet the Japanese standards and safety requirements before the goods are shipped to Japan.

Appealed to the Japanese Government to grant landing rights to Kenya Airways to start flying and landing in either Tokyo or Osaka. If this was granted, the President noted that it would

greatly boost the freighting of perishable products within the shortest period possible.

Please make a follow-up of the above issues with the Japanese Authorities and keep us posted on the progress.

N. Ndirangu

FOR: PERMANENT SECRETARY

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MINISTRY OF FOREIGN AFFAIRS
(Asia and Australasia Division)

MEMO

TO: PERMANENT SECRETARY

THRO: DIRECTOR FOR POLITICAL AFFAIRS

FROM: HEAD/ASIA AND AUSTRALASIA DIVISION

DATE: 18TH JULY, 2008

**COURTESY CALL BY HON. TETSURO YANO ON H.E. THE
PRESIDENT OF THE REPUBLIC OF KENYA, HON. MWAI KIBAKI**

On 18th July, 2008 the Chairman Research Committee on National Life and Economy, and a Member of the House of Councillors, Hon. Tetsuro Yano paid a courtesy call on His Excellency the President, Hon. Mwai Kibaki at his Harambee Office.

Hon. Yano was in the country to express Japan's appreciation for the President's recent visit to Japan to attend TICAD IV. Hon. Yano thanked the President for restoring peace in Kenya and expressed Japan's continued assistance in the development projects in Kenya.

On the recently concluded TICAD IV Hon. Yano noted that the "Yokohama Action Plan" was a very ambitious plan and Japan would mobilize resources to actualize the programmes and projects contained therein.

While welcoming Kenya's interest in hydro and geothermal power, Hon. Yano informed the President that Japan had advanced technology in solar power which Kenya may wish to exploit. He

expressed Japan's concern on main water catchment area and hoped that Kenya would come up with a long term solution.

Hon. Yano informed the President that he had met the Minister for Environment and Wildlife, Hon. John Michuki who sought Japanese assistance in cleaning Nairobi River.

Hon. Yano informed the President that the Japanese Cabinet had agreed to approve assistance to Kenya for the supply of fertilizers valued at J¥ 7M.

In response, the President welcomed Hon. Yano and his team. He hoped they would get time to visit Mombasa and see the wonderful work that had been accomplished to expand the container terminal at the Port of Mombasa through the Japanese assistance. The President thanked Japan for organizing a very successful TICAD IV meeting and hoped that some of the issues proposed by Kenya would be given priority in the Action Plan.

Regarding main water catchment area, the President informed Hon. Yano that he had appointed 10 ministers led by the Prime Minister to relocate 2,000 families so that the area is restored to its original status. He noted that the water levels of the 20 rivers depending on the catchment area had fallen to the extent that the Sondu Miriu project could not get adequate water to generate substantial amount of electricity.

On the request for Japanese assistance to clean Nairobi River, the President said that his government takes the project very seriously as the river needed to be cleared of the pollution and enhance the beautification of Nairobi. He therefore concurred with his Minister and asked the Japan to provide both technical and financial assistance to implement the project.

The President noted that Export of Kenyan Flowers to Japan could be enhanced if Japan procured the product direct from Kenya rather than the current arrangement where the flowers go through a third country in Europe. While the Dubai route will definitely enhance exports of flowers to Japan, a more direct route from Kenya to Japan would be

ideal. The President appealed to Japan to consider providing assistance to construct an inspection unit at JKIA where flowers would be inspected before being exported direct to Japan. The Unit would ensure flowers meet the Japanese standards and would therefore not need to be inspected again upon reaching Japan.

The President raised the issue of granting Kenya Airways landing rights in a major Japanese city as one of the ways of enhancing trade and tourism. He stated that Kenya was committed to strengthening bilateral relations with Japan and was exploring the possibility of constructing a chancery and the Ambassador residence. He appealed to Japanese Government to assist in identifying a suitable plot for that purpose.

Hon. Yano promised to take up the issues that the President raised with the relevant Government authorities in Japan upon return. Hon. Yano said that he was deeply saddened to learn the death of the late Kipkalyia Kones, the Minister for Roads who had given a keynote address on Africa's infrastructure during TICAD IV. The President responded by saying that he had lost a good and capable Minister whose death shocked the whole country.

His Excellency and Hon. Yano acknowledged the good work that their respective Ambassadors were doing. In this regard the President invited the Ambassador of Japan to a luncheon on a date to be confirmed.

Hon. Yano later proceeded to inspect Sondu Miru project which is complete and awaiting commissioning.

N. Ndirangu
HEAD/ASIA AND AUSTRALASIA DIVISION

ANNEX

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KENYA EMBASSY-TOKYO

CALL REPORT	
DATE	10 th June, 2009
OFFICERS	Charge D'affaires a.i First Secretary-Consular First Secretary-Administration Second Secretary-Finance Third Secretary-Political
PERSONS MET	Mr. Yoshito Kijima Kijima International Legal Office
AGENDA	Acquisition of Property- Hiring of a lawyer
RESULTS	✧ It was informed that the Mission was recommended to Mr. Kijima by the Tanzanian Embassy who made use of his services to purchase their Chancery and Ambassador's Residence ✧ C.D.A informed that the Mission was at an advanced stage of purchasing the property and were now at the stage of hiring a lawyer to draft the sale agreement and conclude the transaction ✧ C.D.A informed that the property in question comprised of a plot with two buildings in it, the Chancery and Ambassador's residence ✧ Mr. Kijima informed that it was not possible to conclude the transfer and registration of the property by end of June, 2009 ✧ Mr. Kijima expressed his reservation on the Mission paying 80% of the sale price before transfer of the property. He held that this was not the practice in Japan and considering that the plot is under a revolving

Shiny
21/07/10

	mortgage, the Mission was taking a great risk ✧ Mr. Kijima advised that once payments are made, the bank will need to give a letter of assurance on the clearance of the mortgage ✧ C.D.A informed that the Permanent Secretary Ministry of Foreign Affairs Nairobi had asked Mr. Kuriyama to give a <i>Letter of Comfort</i> stating that he will ensure that the property is detached from the mortgage ✧ He went further to inform that the Mission had negotiated to pay the 80% as down payment in line with the government regulations and since money had been allocated for this financial year, the same amount must be utilized before closure of the year ✧ Mr. Kijima expressed fear that after such a payment, and registration not been done for the new owner and the documents still reading Mr. Kuriyama, then Mr. Kuriyama could be tempted to sell the land to another party or even get a new mortgage ✧ C.D.A informed that the government was aware of the danger involved and was ready to take the risk. He emphasized the mutual trust between the Mission and Mr. Kuriyama considering that the Mission has been a tenant for 20 years ✧ Mr. Kijima said he was casting doubt because of the high price quoted for the land, the kind of rent being paid and the concerned why Mr. Kuriyama did not want to use a lawyer ✧ C.D.A gave a brief background of the negotiations to buy this land which goes back to 2006 and informed that the Mission was not going to renegotiate on the sale price as the deal had already been sealed ✧ Mr. Kijima asked for a letter from the Mission stating that we are going to take the risk in case of any eventuality ✧ He said this is necessitated by the fact that the sum involved is huge and not covered by any insurance
--	--

Signature
21/07/10

- ✧ Mr. Kijima informed that it was impossible to secure ownership rights by end of June because of tax exemption
- ✧ C.D.A informed that Ministry of Foreign Affairs of Japan (MOFA) had indicated that once the agreement has been signed, then it will take up the tax exemption task on behalf of the Embassy
- ✧ It was further informed that MOFA had advised that we hire a lawyer or shihoushoshi to draw the sale agreement
- ✧ It was further informed that the Mission had met with the landlord and his shihoushoshi
- ✧ C.D.A informed that the Mission was expecting Kijima to draw a sale agreement in our favor which will be shared with the landlord and the capital to arrive at a consensus
- ✧ Mr. Kijima said his firm can draw the agreement and secure ownership rights
- ✧ He said that this is an unusual transaction and the sale agreement has to be handmade(tailor made) as the prototype contracts available involve the standard Japanese practice of paying 10% as down payment and the lawyers having a say in the sale price negotiations
- ✧ He said he has done sale agreements for the Tanzanian Embassy and another Embassy
- ✧ Mr. Kijima was requested to forward his C.V so it can be shared with the capital
- ✧ C.D.A sought clarification on the fee and work breakdown submitted by Kijima earlier
- ✧ It was clarified that he Mr. Kijima, as a lawyer will be drawing the agreement but will need to work with the company's shihoushoshi who is competent in property acquisition, searches and registration of property
- ✧ It was informed that the agreement done by a shihoushoshi is permissible in law
- ✧ Mr. Kijima after studying the *Letter of Comfort* from

[Signature]
21/07/16

	Mr. Kuriyama agreed to it but said there was a need to involve the consent of a third person who is a debtor of Mr. Kuriyama ✧ Mr. Kijima brushed out the letter from the bank manager of Mr. Kuriyama and pointed out it was not on a letter head and the seal was personal and not official ✧ C.D.A inquired on the percentage one is allowed to take as loan based on the value of a given property ✧ Kijima indicated that one can get 70 -80% loan on the total value of property given as collateral. This it was informed is flexible ✧ C.D.A took Mr. Kijima to task on the percentage of the total value of a property one can get as a loan from a bank. He held that the percentage advanced was above the usual amount of a maximum of 50% of the value of property given as collateral ✧ Kijima said there was need to look at the contract between the bank and Mr. Kuriyama on the loan to establish what conditions have been placed on it ✧ C.D.A informed that a recommendation will be made to the capital to make use of both Kijima as a lawyer and Mr. Kuriyama's shihoushoshi ✧ Mr. Kijima was informed that he will be advised accordingly ones the Mission receive a consensus from the capital ✧ SSF asked whether the bank will influence the drafting of the contract ✧ Mr. Kijima informed that they will need to consult the bank first to determine the status of the mortgage ✧ C.D.A inquired whether he will mind working with the shihoushoshi of Mr. Kuriyama ✧ Mr. Kijima said that it was fine ✧ It was informed that Mr. Kijima and the shihoushoshi can witness to the agreement
WAY	✧ Mission to officially write to Kijima one concurrence

Aug
21/07/10

FORWARD

has been received from Nairobi

- ◇ Mr. Kijima to forward a breakdown of work and fee to the Mission
- ◇ Draft agreement in English and Japanese by Kijima

ANNEX

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Kenya Legal & Real Estate Consultants Ltd.

2F, 5-15, Sendagaya, Shibuya-ku, Tokyo 150-0045, Japan

Disclosure of our Fees for Contracting for Acquisition of the Embassy Property

Kenya Legal & Real Estate Consultants Ltd.

Brief Summary of the Report

1.1 The government of Republic of Kenya (hereinafter referred to as "government") has faced to the serious risks through the transaction between Mr. and Mrs. Kuriyama to purchase the lands and building where the Embassy of Republic of Kenya (hereinafter referred to as "Embassy") currently locates.

1.2 As the legal adviser for the Embassy, I strongly do not recommend to step into such a transaction and hereby advice the Embassy officially for reconsideration. However, throughout many meetings with the Embassy, I found that it is the strong will of the government to complete the transaction by end of June, 2009 including the payment. Therefore, I believe what I have to do as a professional is to minimize the risks which might be occurring in this transaction. I would like to list up the risks in the transaction below since I cannot accept to draft the contract without informed consent of the risks.

2 The risks in the transaction

2.1 Brief overview of the transaction.

2.1.1 The government and the owners of the lands and the building have been mutually agreed as follows;

2.1.2 The owners offered selling the lands and the building for 1,750,000,000JPY and the government of Kenya accepted to buy at the said price.

2.1.3 The both parties agreed that the government will pay 80% of the said price by end of June, 2009 and the balance will be paid by the end of September, 2009.

2.1.4 The owners stated in their proposal that they would clear the revolving mortgages on the lands and the building once they confirmed the remittance of the payments and submitted the had-writing memo from the bank as the evidence to prove the clearance of the mortgage. In addition, the owners stated that they will process changing the registration of the ownerships on end of June, 2009.

2.2 The risks in the above transaction

2.2.1 The transaction above has faced to three major risks. Those are the risk that the government will not be able to obtain free ownership, the risk that the government will





芝罘綜合法律事務所

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2.2.1 About the risk of not obtaining the ownership right

2.2.1.1 As there is no basic research of the bank's rating, the reputation, there is no guarantee that the bank will agree to clear the mortgage for the mortgage, the government has not even the intention of setting the revolving mortgage between the debtor and the bank yet which states the conditions of the clearance of the mortgages. The Embassy showed me the memo from the manager of the bank though it cannot be used as a guarantee at all since there is no official letter head, no official seal and no date of letter. Furthermore, the government has not confirmed if the manager has the right to make the decision to clear the mortgage as the creditor and it doesn't indicate "when" they are going to clear the mortgage. It is very difficult for me to understand why the government trusted that memo.

2.2.1.2 Therefore, there is no guarantee at all at this moment that the mortgage will be cleared when the government pays the 50% of the said price.

2.2.2 About the risk of losing the ownership itself and 1.5 billion Japanese Yen

X 2.2.2.1 In Japan, we do not pay 80% of the price up front. We usually pay 10%-20% of the price and pay the balance on the day of changing the registration. This is historically common methods of transaction. This is to avoid all the risks arising from the real estate transaction. However, in this case, this method was not taken and therefore the government shall face with the huge risk. Also, the government is not going to negotiate to change the methods into the way which commonly taken.

X 2.2.2.2 In Japan, to obtain and to claim the ownership of the real estate is to have the proper registration indicating the ownerships. Also, if the foreign government is one of the parties of the transaction, the process to change the registration will take more than one month. This means that the embassy cannot process the change of registration at the end of June but the government shall pay 1.5 billion Japanese Yen. Then at the end of June, the registration indicates that the owners remain as same and the embassy cannot claim their ownership to the third party.

2.2.2.3 The government informed me that they trust the owners based on the long term relationships. However, if the owners haven't paid the tax, the National Tax Agency or the local government will enforce the lands and the building into the public auction to sell them. There is no way to avoid this event as the government cannot claim the ownership because of the lack of the registration. This means that even if the owners were reliable people, there is a very high risk of losing the ownership. And as the basic research of the owners haven't made yet, there is no guarantee that





they have already paid the tax already.

2.2.3 As you can see from the registration of the properties, Mr. Hidaki Kuriyama, Mr. Tokeo Kuriyama and Mr. Hidaki Kuriyama has been increasing the bid of the revolving mortgage four times in the past few years and the amount of increase is 1.6 billion Japanese Yen. This means that they currently were in need of finance. When the people are in such a situation, the possibility of behind of law exists.

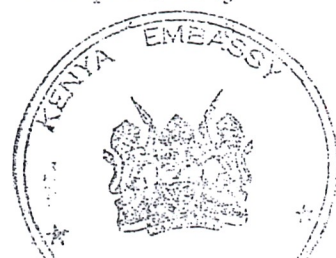
2.2.4 Also, if the owners sell the properties to another party and changed the registration of ownership to the party, the government cannot claim the ownerships to the new owner of the properties. This means the embassy will lose the ownership of the properties. In this event, it is difficult to recover the money because that event likely to happen when the owner is in the need of finance. Therefore, there is risk that the government loses both the lands and the building and the money by not following the basic behaviors in dealing with real estate in Japan.

2.2.4 The price that was offered and agreed here is extremely higher than the true values of the properties. The government should buy these properties in a not fair price because the lack of research and lack of the "tools" to win the negotiation. One of our brief research indicated that the reasonable price of the properties are 1 billion Japanese Yen. The value was calculated including the fact that the Embassy has been paying the rent for almost 20 years and the rent was relatively higher than the rent around the area where the Embassy locates. As Mr. Kuriyama is from the family where owns a lot of real estate around the area and knows about real estates and we believe that he knows the true price of the properties where the Embassy locates. To deal with such a person, the government should negotiate with him with the certificate of the values which is currently issued.

2.2.5 Please be kindly informed again that the scheme that the government agreed above is very unusual and we barely could see such a transaction in Japan. This is not recommended scheme at all. The lack of the basic research is fatal. So the government should purchase the properties not in the reasonable price. I believe that this could be avoided by involving the experts into the negotiations with the owners. It is very difficult for us to understand why the government wants to take this kind of risk and why they stepped into the negotiation without basic research required in Japanese deal. I believe that the process is totally different in the usual real estate transaction in Japan. Frankly speaking, these risks are now a hinder for processing the drafting the contracts and complete the transaction safely.

2.3 How to avoid the risks

Whatever the risk is, as long as the client wants to step into the transaction comprehending





the risks, our job is not limited to these risks. There are finally note that it is not possible to clear the risks except taking the project as a completed house. The other is giving the solution that can be think as follows;

2.3.1 Push the Minister of Foreign Affairs of Japan to foster the issuance of the Certificate of the Tax Exemption by the last day of June, 2009.

If we can get the Certificate of Tax Exemption by end of June, we can process the change of the registration of the ownership on the same day the government pays payments (still the issue of the clearance of the mortgage remains.) This is most recommended since the government can save the registration tax.

2.3.2 Change the registration at the last day of June, 2009 without the Certificate of Tax Exemption

It is possible to change the registration without the Certificate of Tax Exemption. If the government is ready to pay the registration tax, then the government will be able to register its ownership. Please note that the tax is 2% of the value of the building and 1 % of the value of the land. The value we use for this calculation is the value estimated by the local government and we need certain letter of powers from the parties to find the value.

2.3.3 Register the preservation of the ownership and register it temporary before changing registration of the ownership without the Certificate of Tax Exemption.

As you can see from above, the registration tax is very expensive in real estate transaction. However, the government can register preservation of the ownership before the change the registration. It is not a strong registration, however, the registration tax will be also levied on it such as 1% of the value of the properties.

2.3.4 Set the mortgage onto the properties that the owners owns

As Kuriyama family is the family owns many lands and building around the area where the Embassy locates, we can set the mortgage unto their properties to secure the refund whenever the ownership can't be able to transfer. However, setting the mortgage will also cost the registration tax.

2.3.5 Change the payment methods.

I understand that the reason that the Embassy doesn't want to change the payment method is because of the fiscal year of the budgets. If there is any way to transfer the money to the reliable third party including lawyers, they can keep the money until the Certificate of Tax Exemption will be issued.

2.3.6 Find other solution

If we can process the basic research, we might find another risk. We will try to avoid each risk by establishing the best solution.





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 4F, 3-6-15 Sendagaya, Shibuya-ku, Tokyo 100-0001, Japan
 Tel: (81) 3 3351-8965 Fax: (81) 3 3351-8964 Email: kijima@ijl.law.jp

2. Notice of risks and about the professionals

Please note that the risk is not limited to the terms mentioned here-onwards. And this is one of the biggest risk in this transaction. This transaction is very irregular and no experts will work to stop these processes. Also, please be noted that the said agreement between the government and the owners made the transaction more complicated and hinder the completion of the transaction and therefore we need to organize the team of experts with particular practices of areas. The government seems to think that there is no need of negotiations, but to confirm the details, the negotiations are still in need.

3. The Professional Fee for Yoshito Kijima:

Administrative Scrivener (GYOSEISHOSHI) from Kijima International Legal Office

Basic Research Fee:	60,000JPY
Fee for drafting the contract:	3,694,000JPY
This fee includes:	
(1) Drafting the contract in Japanese	
(2) Translation of the contract into English	
(3) Verification of the process of clearing the mortgage on the properties with bank and the owners (including the request of the issuance the official letter from the bank)	
(4) Verification of the conditions of the transaction with the parties	
(5) Attending the meetings with the owner, bank and/or debtor	
(6) Instructing the Embassy of the process of the transaction	
(7) Drafting necessary contracts to preserve the ownerships	
(8) Expenses for interpret and translation of any kind of necessary documents except the contract	
(9) Legal Consultant	
(10) Expenses	
(11) Consumption Tax	

4. Daisuke Negishi:

Legal Scrivener(SHIHOSHOSHI) from First Partners Legal Scrivener Office

4.1 The fee to change the registration of the ownership

Basic Research Fee	55,000JPY
Drafting and the application of changing the registration	693,250JPY
This fee includes:	





KIJIMA INTERNATIONAL LEGAL OFFICE

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(1) Registration Fee for the lands	¥40,000
(2) Registration Fee for the building	¥40,000
(3) Drafting the documents for the application	¥5,000
(4) Expenses to Acquire the registration	¥5,000
(5) Daily Expense (to attend the meeting)	¥30,000/time
(Per time (3 hours). One hour 10,000JPY per additional one hour)	
(6) Transportation Fee	¥16,750
(7) Consumption Tax	¥29,750

4.2 The fee to preserve the ownership before changing the registration of the ownership, the following fees will be additionally billed.

Drafting and the application of changing the registration	340,000JPY
This fee includes:	
(1) Drafting the application for preservation of the ownership of the land	¥200,000
(2) Drafting the application for preservation of the ownership of the building	¥50,000
(3) Expenses to acquire the registration (when the registration completed)	¥5,000
(4) Daily expenses to attend the meeting of signing the contracts	¥30,000/time
(Per time (3 hours). One hour 10,000JPY per additional one hour)	
(5) Drafting the necessary documents for the applications	¥50,000
(6) Consumption Tax	¥16,750
(7) Expenses	¥5,000

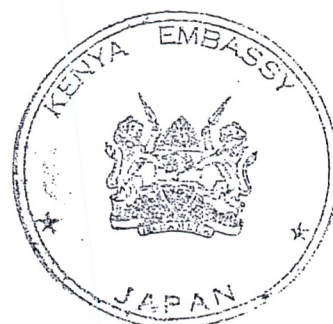
Please note that:-

the registration of preservation of the ownership of the lands and the building before changing the registration of ownership will be done to secure the ownerships before the changing the registration of ownership. It is not yet decided to take this action however, this is one of the ways to protect the safe transaction.

if the certificate of tax exemption is not issued by the date of changing the registration, the tax will be levied which will be 1% of the value of the lands and the building. We use the value of them determined by the local government. This tax will not be return even you obtain the certificate of the tax exemption.

the final bill for Mr. Daisuke Negishi will be determined before the closing the case. Especially the daily expenses (30,000JPY per time, 10,000JPY per additional one hour) will be calculated when the case is closed. Mr. Daisuke Negishi will send you the bill as quick as possible

5 The payment days





KIJIMA & CO., LTD. KIJIMA INTERNATIONAL, INCORPORATED, JAPAN

本島綜合法律事務所

2F, 5-6-15, Sendagaya, Shibuya-Ku, Tokyo 151-0051 Japan
Tel: (81) 3-3351-8965, Fax: (81) 3-3351-8964, Email: kijima@ipc.legal.tor

1. Yoshito Kijima and Laisuke Negishi offer the same payment days as follows.

Basic Research Fee	As soon as possible
On the day of the application of the registration	On the last day of time

Please note that we can not process the basic research without the payment of the time research fee. It is highly expected if this is paid as quick as possible so that we can process the research.

2. The methods of payments

Bank remittance is the most preferable way.

Yoshito Kijima	Name of Bank:	Bank of Tokyo-Mitsubishi UFJ
	Name of Branch:	Shibuya-Meiji-Dori Branch
	Type of Account:	Deposit
	Account Number:	3893918
Laisuke Negishi	Name of Bank:	Bank of Tokyo-Mitsubishi UFJ
	Name of Branch:	Muromachi
	Type of Account:	Deposit
	Account Number:	4623385

3. The end

I know that I stated that the decision of the government is not totally recommended. Please accept my apologies opposing to the decision. It is because I respect the government of the Kenya and the Embassy, so that I want to protect the properties in Japan. Since I have been dealing with the Embassy, I always thinking of helping the government and the Kenyan people, I thought I should be frankly and honest.

Thank you very much in advance.

Yours Sincerely,

Yoshito Kijima

-End of Page-



ANNEX

DFR 35

Telephone +254 20 318888
Fax +254 20 310066/310033
E-mail communication@mfa.go.ke
Website www.mfa.go.ke
When replying please quote Ref No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI KENYA

MINISTRY OF FOREIGN AFFAIRS

KENYA EMBASSY

MFA. HSE 9/56A

Ref No

APR 21, 2009

TOKYO

20th April, 2009

The Ambassador
Kenya Embassy
TOKYO

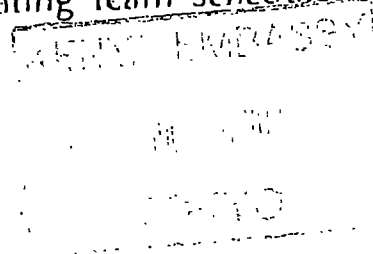
PURCHASE OF PROPERTY IN TOKYO ON WHICH THE CHANCERY
AND RESIDENCE OF THE AMBASSADOR ARE LOCATED

Reference is made to your letter Ref No. KET/ADM/1/11A/VOL.II/ (24)
dated 1st April, 2009 on the captioned subject.

You will recall that the matrix send to you by the undersigned was merely
a guideline based on our Kenyan practices to enable you draw a
programme of action towards acquiring the chancery and residence in
tandem with practices in Tokyo.

It is noted that the property in question is under mortgage or is charged as
per your minutes of meeting held on 31st March, 2009. This makes it
imperatively necessary that the mission engages a lawyer cum a licenced
real Estate Agent to safeguard the interest of the mission in the entire
transaction.

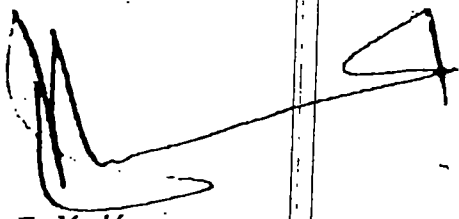
Towards this end, you are advised to urgently source for this service to
enable the consultant join the negotiating team scheduled to visit the
mission shortly.



Aug 24/04

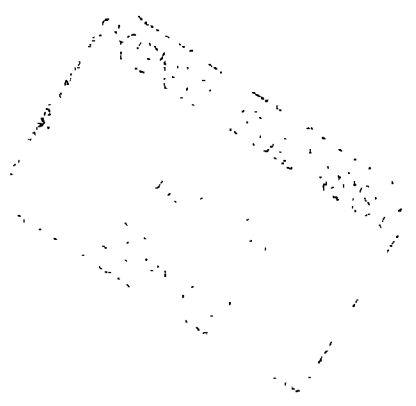
Same 24/04

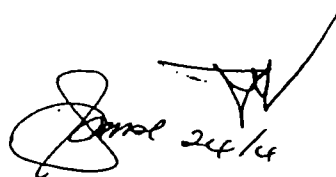
In sourcing for this service, due care should be taken to ensure that the firm/persons recommended by the mission is licensed and has previously handled similar assignments and be of good repute to handle diplomatic transactions.



E. K. Korir

FOR: PERMANENT SECRETARY



 24/4

ANNEX

DFR 36

Telephone: +254 20 195888
Fax: +254 20 240066/241235/244133
Email: information@mfk.go.ke
www.mfk.go.ke

When replying, please quote Ref. No. and date.



HARARIE AVENUE
P.O. BOX 30551 00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

1688/2007

REF: MFA

MFA.397/168/001A/Vol.IV/(54)

2nd April 2007

RECEIVED

APR 3 2007

TOKYO



The Ambassador
Kenya Embassy
TOKYO.

ACQUISITION OF PROPERTY

This is further to our letter Ref. MFA 397/168/001A/Vol iv/(53) dated 21st February 2007 in which you were informed of the outcome of the meeting between the Permanent Secretary and Mr Yosuke Watanabe of Bank of Tokyo-Mitsubishi UFJ.

The Treasury has since informed the Ministry that it will not be possible to enter into any negotiations in order to secure a commercial loan due to the likely negative effects that such a loan would have on the external debt situation of the country. The Ministry was therefore advised to factor the entire cost of acquiring the property into the budget.

The Embassy had been cautioned that the property that is proposed for acquisition may have been overvalued at ¥ 2 billion. You are hereby requested to **urgently** revalue the property and revert.

A.A. MUSASIA

FOR: PERMANENT SECRETARY

ANNEX

DFR 37

PAYMENT VOUCHER

(VOTED PROVISION)

Payee's Name and Address Ms. Taeko Kuriyama, Tokyo

Particulars	LPO/LSO No.	Invoice No.	AMOUNT	
			Sh.	Cts.
To: Purchase of Embassy property (land and buildings) where the Embassy is currently situated as per the attached sale agreement, contract, bank transfer slip, and other relevant documents.			¥1,477,634,381	
Rate: ¥100 = KSh 81.00				

Amount payable (in words) TOTAL Sh. ¥1,477,634,381
 Shillings Yen One Billion Four Hundred Seventy Seven Million
Six Hundred Thirty Four Thousand Three Hundred Eighty One only.

Authority Reference No. _____

EXAMINATION	Internal Audit
Voucher Examined by _____ Date _____	
VBC CERTIFICATE	AIE HOLDER CERTIFICATE
I certify that the expenditure has been entered in the Vote Book and that adequate funds to cover it are available against the chargeable Item as shown here below. Approved Estimates/Allocation— Item No. _____ KSh. _____ Less: Total expenditure plus commitments KSh. _____ Balance — KSh. _____ Less: This ENTRY—Vch. No. _____ KSh. _____ Balance — KSh. _____ Date _____ Signature _____ Accountant i/c VBC	I certify that the expenditure detailed above has been incurred for the authorized purpose and should be charged to the Item shown here below. Signature _____ Designation of AIE Holder _____ Date _____
AUTHORIZATION	
I certify that the rate/price charged is/are according to regulation/contract, fair and reasonable, that the expenditure has been incurred on proper authority and should be charged as under. Where appropriate a certificate overleaf has been completed. I hereby AUTHORIZE payment of the amount shown above without any alteration. Signature _____ Accounting Officer / District Accountant* _____ Date _____	

Vote	Head	Sub-Head	Item
MFA	TOKYO		3110100 Purchase of Non-Resi Buildings

A.I.E. No.	Account No.	Dept. Vch. No.	Station	CASH BOOK		AMOUNT	
				Vch. No.	Date	Sh.	cts.

日 月 年
2017 07 01

振込金受取書(兼手数料受取書)

三菱東京UFJ銀行

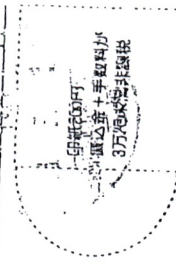
お振込先	銀行名 カナなど	支店名 カタカナ	振込金額	振込手数料	振込口座	振込種別	振込日
お受取先	銀行名 漢字など	支店名 漢字など	振込金額	振込手数料	振込口座	振込日	
お振込先	銀行名 カナなど	支店名 カタカナ	振込金額	振込手数料	振込口座	振込日	
お受取先	銀行名 漢字など	支店名 漢字など	振込金額	振込手数料	振込口座	振込日	
ご依頼人	銀行名 カナなど	支店名 カタカナ	振込金額	振込手数料	振込口座	振込日	

ご利用くださいましてありがとうございました。

(ご注意)

この振込金受取書はお手紙に保管ください

お振込を訂正・組戻される場合には別途所定の訂正組戻手数料がかかります



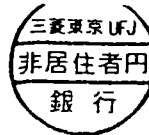
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DUUS/00

CHEQUE



Minato-ku, Tokyo
The Bank of Tokyo-Mitsubishi UFJ, Ltd



1.7.09

(Date)

東京 1301
0905-433
三井東京UFJ新橋
21.7.1
三井・三井・三井・三井
三井・三井・三井・三井

Shimbashi Branch

Shimbashi 2-chome, Minato-ku, Tokyo

Pay Against This Cheque to cash

or Bearer

Yen One Billion Four Hundred Seventy Seven Million

Six Hundred Thirty Four Thousand Three Hundred Eighty One only.

No Protest ALLAN WALTERY NDIRA (Signature)

SECOND SECRETARY

¥ 1,477,634,381.- COUNSELLOR

JOHN KENETH NJERU NYAGA

EMBASSY OF THE REPUBLIC OF

5" 1:13010005: 433 0895954 5788

汎用記録票(S)

検
印

1-013-579605 照 H21-07-01 39 H21-07-01 27
013 09-07-01 EMBASSYOFHER
013 09-07-01 振 EPUBLICOFKEN* *1,477,634,381 *1,480,976,198 04

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1. 本表は、通関手等の記録票として通用される。
2. 本表の用紙は、取引金額によりそれぞれ規定されている保存年限と同一とする。

PAYMENT VOUCHER

(VOTED PROVISION)

Payee's Name and Address

Particulars	LPO/LSO No.	Invoice No.	Amount	
			Sh.	Cts.
Purchase of Immovable Property (land & buildings) where the library is currently situated in per attached sale agreement, containing both transfer slip and ...			K175,173,315	
Price: K175,173,315				

Amount payable (in words) TOTAL Sh. K175,173,315
 Shillings ^{ten} One Hundred Seventy Nine Million, One Hundred Seventy Eight ...
 ... and Fifteen only. Cts.

Authority Reference No.

EXAMINATION

Voucher Examined by
 Date

VBC CERTIFICATE

I certify that the expenditure has been entered in the Vote Book and that adequate funds to cover it are available against the chargeable item as shown here below.

Approved Estimates/Allocation—

Item No.	KSh.
Less: Total expenditure plus commitments	KSh.
Balance —	KSh.
Less: This ENTRY—Vch.	
No.	KSh.
Balance —	KSh.

Date Signature
 Accountant i/c VBC

Internal Audit

AIE HOLDER CERTIFICATE

I certify that the expenditure detailed above has been incurred for the authorized purpose and should be charged to the item shown here below.

Signature Designation of AIE Holder
 Date

AUTHORIZATION

I certify that the rate/price charged is/are according to regulation/contract, fair and reasonable, that the expenditure has been incurred on proper authority and should be charged as under. Where appropriate a certificate overleaf has been completed. I hereby AUTHORIZE payment of the amount shown above without any alteration.

Signature
 Accounting Officer / District Accountant*
 Date

Vote		Head		Sub-Head		Item	
1000		TOKYO				3110102	
						VERG. 1000 1000 1000	
						1000 1000	
A.I.E. No.	Account No.	Dept. Vch. No.	Station	CASH BOOK		AMOUNT	
				Vch. No.	Date	Sh.	cts.
1	001-000-3110102	000309	0010				

日 月 年

銀行名 カナナ	シ ヨ ナ シ	支店名 カタカナ	ヒ 7 " ス マ	預金 種目	☐ 普通 ☒ 当座	☐ 貯蓄 ☐ その他
銀行名 漢字など	式南信用金庫	☒ 支店名 漢字など	5791605	支店 番号	5791605	5791605
カタカナ	ワリヤマ	☐ 銀行 普通	5791605	支店 番号	5791605	5791605
(おなまえ)						
銀行名 カナナ	カ ナ ナ	支店名 カタカナ	1079178515	預金 種目	☐ 普通 ☐ 当座	☐ 貯蓄 ☒ その他
銀行名 漢字など	カ ナ ナ	☐ 支店名 漢字など	1079178515	支店 番号	1079178515	1079178515
(おなまえ)						
銀行名 カナナ	E N E A S Y	支店名 カタカナ	14E111111111	預金 種目	☐ 普通 ☐ 当座	☐ 貯蓄 ☐ その他
銀行名 漢字など	E N E A S Y	☐ 支店名 漢字など	14E111111111	支店 番号	14E111111111	14E111111111
(おなまえ)						

サシシメヤ
様
期金
このお振込みは、
學費、生活費、送金と
させていただきます。
ご了承ください。

(ご注意)

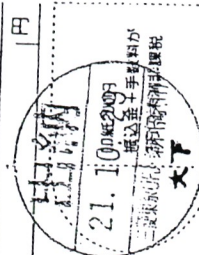
この繰入金受取書はお手許に保管ください

が振込を訂正、相戻される場合には別途所定の訂正相戻手数料がかかります

☐ 1. 番 ☐ 2. 当

手続料自動引落しのご契約があるお客様のみに記入ください

手数料区分	
消資料	手数料
現金振込	1 振込 2 当座 3 現金
後払い	



0005925

CHEQUE

Minato-ku, Tokyo



The Bank of Tokyo-Mitsubishi U.F.J. Ltd



27 Oct 2009
(Date)

東京 301
0015 433

Shimbashi Branch

Shimbashi 2-chome, Minato-ku, Tokyo

Pay Against This Cheque to Cash of Bearer No

Yen One Hundred Seventy Nine Million One Hundred

Seventy Eight Thousand Five Hundred Fifteen only.

No Protest

(Signature)

KENYA EMBASSY

¥ 179,178,515.-

EMBASSY OF THE REPUBLIC OF

50 1130100051 433 0895954 5825

PAYMENT VOUCHER

(VOTED PROVISION)

Payee's Name and Address Mrs. Mabel Kurimura, Tokyo

Particulars	LPO/LSO No.	Invoice No.	AMOUNT	
			Sh.	Cts
landed in Japan. Property land in Japan. There the property is only situated as per attached sale agreement, contract, bill of sale for ship and other property documents.			202,285,508	
Total: 1100 = KSh 81.40				

Amount payable (in words)

TOTAL

Sh.

202,285,508

Shillings. Yen. Ninety Two Million Two Hundred Eighty Five Thousand

Five Hundred Eight only.

Cts.

Authority Reference No.

EXAMINATION Voucher Examined by Date VBC CERTIFICATE I certify that the expenditure has been entered in the Vote Book and that adequate funds to cover it are available against the chargeable item as shown here below. Approved Estimates/Allocation— Item No. KSh. Less: Total expenditure plus commitments KSh. Balance — KSh. Less: This ENTRY—Vch. No. KSh. Balance — KSh. Date Signature Accountant i/c VBC	Internal Audit AIE HOLDER CERTIFICATE I certify that the expenditure detailed above has been incurred for the authorized purpose and should be charged to the item shown here below. Signature Designation of AIE Holder Date AUTHORIZATION I certify that the rate/price charged is/are according to regulation/contract, fair and reasonable, that the expenditure has been incurred on proper authority and should be charged as under. Where appropriate a certificate overleaf has been completed. I hereby AUTHORIZE payment of the amount shown above without any alteration. Signature Accounting Officer / District Accountant* Date
--	---

Vote	Head	Sub-Head		Item			
100	TOKYO			Purchase of Non-Voluntary Buildings			
A.I.E. No.	Account No.	Dept. Vch. No.	Station	CASH BOOK		AMOUNT	
				Vch. No.	Date	Sh.	cts.
1-	61-000-3110102	000443	0013			75,100,403	50

BD05846

CHEQUE



Minato-ku, Tokyo
The Bank of Tokyo-Mitsubishi UFJ, Ltd.



17 DEC 2009
(Date)

東京 1301
0005-433

Shimbashi Branch

Shimbashi 2-chome, Minato-ku, Tokyo

Pay Against This Cheque to Taeko Kuriyama

or Bearer No.

Yen Ninety Two Million Two Hundred Eighty Five

Thousand Five Hundred Eight only.

No Protest

(Signature)

¥ 92,285,508-

ALLAH WAKELI MABRU - CONFIDENTIAL
EMBASSY OF THE REPUBLIC OF

OFFICER IN CHARGE - SECOND SECRETARY

5" 13010005: 433" 0895954" 5846

BD05868

CHEQUE

Minato-ku, Tokyo



The Bank of Tokyo-Mitsubishi UFJ Ltd



05 FEB. 2010
(Date)

東京 1301
0005-433

Shimbashi Branch

Shimbashi 2-chome, Minato-ku, Tokyo

Pay Against This Cheque to Taeko Kuriyama

or Bearer No

Yen Nine Hundred One Thousand Five Hundred Ninety Six

only.

No Protest

(Signature)

¥ 901,596-

EMBASSY OF THE REPUBLIC OF

5" 1:130100051: 433" 0895954" 5868

ANNEX

DFR 38

Certificate

30th June, 2009

Mr. Allan W. Mburu, Charge d'Affaires is entrusted by Republic of Kenya in this real estate transaction including signing Purchase and Sale Contract, payment, transferring of ownership between Republic of Kenya and Nobuo Kuriyama and Taeko Kuriyama.



Allan W. Mburu

Charge d'Affaires

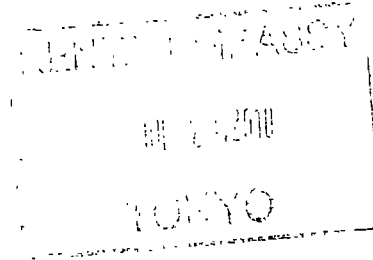
Embassy of the Republic of Kenya

*Paper Land by Akigoshi
to take on 28/7/2010 before
the committee on defense &
foreign relations during
inspection visit to Kenya
by Japan 28/7/2010*

Power of Attorney

Date:

Mandator: Allan W. Mburu
Charge d'Affaires
Republic of Kenya



6-14, Udagawa-cho, Shibuya-ku, Tokyo

I delegate all responsibility related to application and registration of below mentioned real estate to Mr. Akiyoshi Otake and Mr. Shuji Otake as attorneys.

Purpose of registration: Hand over of ownership

Reason: Purchase and Sale on 30th June, 2009

Registration Right Holder: Republic of Kenya

A person who is obliged to register: Mr. Nobuo Kuriyama

1. Receipt of Information on Registered Identification

Indication of Real Estates

1. Land of 135-3, Yakumo 3-chome, Meguro-ku
1. Building of 135-3 and 137-2, Yakumo 3-chome, Meguro-ku

Residential Number: Building of 135-2

Power of Attorney

Date:

Mandator: Allan W. Mburu
Charge d'Affaires
Republic of Kenya

6-14, Udagawa-cho, Shibuya-ku, Tokyo

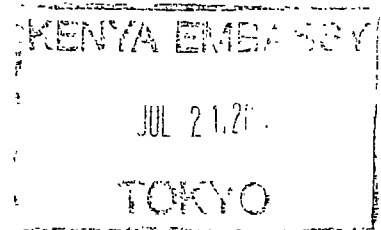
I delegate all responsibility related to application and registration of below mentioned real estate to Mr. Akiyoshi Otake and Mr. Shuji Otake as attorneys.

Purpose of registration: Hand over of ownership

Reason: Purchase and Sale on 30th June, 2009

Registration Right Holder: Republic of Kenya

A person who is obliged to register: Ms. Taeko Kuriyama



1. Receipt of Information on Registered Identification

Indication of Real Estates

1. Land of 135-2, Yakumo 3-chome, Meguro-ku
1. Land of 137-3, Yakumo 3-chome, Meguro-ku
1. Land of 137-10, Yakumo 3-chome, Meguro-ku

Information on Certification of Cause of Registration

1 Essential Points of Cause of Registration

- (1) Purpose of Registration: Hand over of ownership
- (2) Cause of Registration Purchase and Sale on 30th June, 2009
- (3) Parties Concerned Right holder (Buyer) Republic of Kenya
 Seller: Nobuo Kuriyama
 12-15, Yakumo 3-chome, Meguro-ku, Tokyo
 Taeko Kuriyama
 12-15, Yakumo 3-chome, Meguro-ku, Tokyo
- (4) Real Estate: Indicated below

2 Cause of Registration and Act of Law

(1) Purchase and Sale Contract

Taeko and Nobuo Kuriyama and Republic of Kenya has concluded Purchase and Sale Contract of these real estates on 30th June, 2009.

(2) Special Agreement on Hand Over of Ownership

The above mentioned contract (1) has a special agreement that as soon as the seller receives the part of the payment, the seller shall handover the ownership of the land and the building immediately in this transaction.

(3) Payment of Purchase Price

Republic of Kenya paid part of purchase price and Taeko and Nobuo Kuriyama received the payment. The remaining purchase price will be paid by 30th September, 2009.

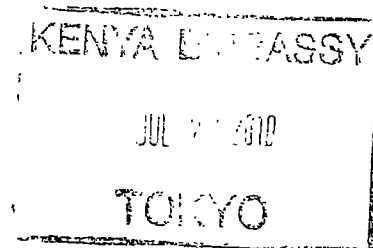
(4) Hand Over of Ownership

Therefore, the ownership of the land and buildings is handed over to Republic of Kenya from Taeko and Nobuo Kuriyama.

This document is addressed to Tokyo Legal Affairs Bureau Meguro Branch.

I hereby certify that the matters noted above are all true.

Buyer: Republic of Kenya
Allan W. Mburu
Charge d'Affaires



List of Real Estate

Real Estate No.: 0132000135386

Address: 135-2, Yakumo 3-chome, Meguro-ku

Type of Real Estate: Residence

Acreage: 782.68 square meter

Owner: Taeko Kuriyama

Real Estate No.: 0132001165647

Address: 135-3, Yakumo 3-chome, Meguro-ku

Type of Real Estate: Residence

Acreage: 223.16 square meter

Owner: Nobuo Kuriyama

Real Estate No.: 0132000135393

Address: 137-3, Yakumo 3-chome, Meguro-ku

Type of Real Estate: Residence

Acreage: 135.53 square meter

Owner: Taeko Kuriyama

Real Estate No.: 0132001165666

Address: 137-10, Yakumo 3-chome, Meguro-ku

Type of Real Estate: Residence

Acreage: 290.40 square meter

Owner: Taeko Kuriyama

Real Estate No.: 0132000138412

Address: 135-2, Yakumo 3-chome, Meguro-ku

Residential No.: 135-2

Type of Building: Office

Structure of the Building: Steel framed, armored concrete, slate roofed two storied and one basement

Acreage of the building: 1st level 303.44 square meter

2nd level 296.09 square meter

Basement 99.00 square meter

Additional building

Code No.: 1

Type of Building: Residence

Structure of the Building: Timber construction two storied, roof with slate

Acreage of the building: 1st level 244.97 square meter

2nd level 167.71 square meter

ANNEX

DFR 39



EMBASSY OF THE REPUBLIC OF KENYA

Telegraphic Address : KENREP J

Telex No. : 2422378-KENREP J

http://www.kenyarep-jp.com

E-mail : kenrep@kenyarep-jp.com

info@kenyarep-jp.com

3-24-3, Yakumo Meguro-ku,

Tokyo 152-0023, JAPAN

Telephone : 03-3723-4006/7

Facsimile : 03-3723-4488/4546

REF . No...KET/ADM/1/11A/ (112)

23rd January, 2009

The permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Attn: Mr. A.M. Muchiri
Deputy Director of Administration

Dear Sir,

RE: REPORT ON THE INSPECTION AND VALIDATION OF PLOTS IN
TOKYO FOR CONSIDERATION OF PURCHASE

Enclosed herein please find the report emanating from the Inspection Mission of plots in Tokyo held between 15th and 16th January, 2009. Attached please also find a matrix showing the plots inspected and a valuation report from the Ministry of Finance of Japan of the plot offered by the government of Japan for information, consideration and advice to the Mission on the way forward.

Yours Sincerely

Allan W. Mburu

CHARGE D'AFFAIRES, A.I.

REPORT ON THE INSPECTION AND VALIDATION OF PLOTS IN TOKYO FOR CONSIDERATION OF PURCHASE.

INTRODUCTION

In keeping with the ongoing restructuring and rationalization of the Ministry of Foreign Affairs, Kenya Missions have been encouraged to acquire properties in terms of Chancery and Residences both for the Heads of Mission and the Home Based Officers.

The Kenya Embassy in Tokyo did initiate the process of locating a suitable piece of land for the construction of both the Chancery and Ambassador's Residence in 2006. The process involved negotiations with the government of Japan as well as private sector land agents. An offer was made to the government of Kenya on 24th December, 2008 for a plot measuring 700.39m² at the cost of one billion, three hundred and seven million Yen (JPY 1,307,000,000)

In line with Government Procurement Regulations the following team carried out an inspection on potential plots for purchase from 15th to 16th January 2009.

- | | |
|------------------------------|---|
| 1. Amb. Dennis N.O Awori | Head of Mission |
| 2. Mr. A.M. Muchiri | Deputy Director of
Administration- MFA |
| 3. Mr. Allan W. Mburu | Head of Chancery |
| 4. Mrs. Teresia W. Kimondiu | Assistant Commissioner of
Lands Valuation Min. of Lands |
| 5. Mr. Joseph K. Kimemia | Finance Officer, Budgetary
Supply Department,
Ministry of Finance |
| 6. Mr. Peter K. Mose | First Secretary-Consular |
| 7. Ms. Catherine M. Muraguri | First Secretary-Administration |
| 8. Ms. Dorothy K. Nthiwa | Third Secretary-Political |

PROPERTY IN JAPAN

Japan is considered one of the most expensive nations of the world. Property prices in Japan are quite high when compared to other nations. There are indications that the current global economic meltdown may see a fall in property prices. This possibility has to wait until March, 2009 according to Ministry of Finance officials in Japan.

The following is the outcome of the inspection:

Land Regulations in Japan

- ✧ There are no restrictions on land use but different areas of the city have specification of how many floors a building can go
- ✧ In Japan it is common for residential and commercial premises to be located within the same locality making it difficult to distinguish at face value the difference between commercial and residential areas
- ✧ The Ministry of Finance of Japan is the custodian of government land while the Ministry of lands deals with the technical aspect such as valuations
- ✧ The life span of a wooden building in Japan is 10 years whereas that of a concrete one is 20 years after which it is considered risky to continue using it and therefore becomes valueless
- ✧ The current premises of the Mission is noted to have out lived its lifespan hence if valuation was to be done then it is the land alone that is valued

Rationale for buying plot for construction

The Mission has been paying huge amounts of money (4.7 Million Yen per month) in terms of rents for the current premises and thus it is prudent if a plot could be purchased to construct a Chancery and Residence. This is also in line with the current restructuring at the Ministry of Foreign Affairs.

Mandate of the team from Headquarters

- ✧ To evaluate the identified plots then recommend to the Government of Kenya the most suitable to be considered for purchase
- ✧ Justify to the government of Kenya the need to acquire the recommended piece of land at the Japan market prices and construct
- ✧ Recommend to the government an allocation of funds to the Mission for construction
- ✧ Safe guard the funds allocated to the Mission for purchase from being reallocated by treasury
- ✧ To further negotiate with the government of Japan to seek further discounts on prices quoted
- ✧ To fast track the process of plot acquisition
- ✧ To inquire and establish the estimated cost of construction in Japan

Plot 4-1-5, Minami Azabu, Minato-Ku

- ✧ His Excellency informed that the plot which is government owned is the most suitable because:-
 - It is next to the Central Ward of Tokyo
 - The plot is near the Palace, DIET (parliament) and government offices
 - It is strategically placed for economic activities
 - It is within a prime residential area
 - It is next to many embassies
- ✧ It was further informed that the plot which measures 700.39m² has been negotiated for, for the last two years
- ✧ His Excellency further informed that the Government of Japan through political and diplomatic pressure agreed to waive the requirement of competitive bidding through auctioning of the plot as is the regulation for the disposal of government property and instead offered it to the Government of Kenya at the current market rate
- ✧ It was informed that the selling price of the plot was within the budget but due to the fluctuation of world currencies the price had gone up by over 10%
- ✧ His Excellency reiterated that pressure was still on for the Government of Japan to review the offer price downwards

- ✧ The plot was pointed out to have been the better option after comparing it with other potential plots

Rationale of moving out of the current premises

- ✧ The team from headquarters sought to clarify whether the dynamics of relocating from the current premises far outweighs the option of purchasing it
- ✧ His Excellency stated that the proposed plot at Minami Azabu was nearer to government offices and other offices
- ✧ It was further stated that lots of time was being wasted in travelling from the current premises to meetings at government offices

FIELD SURVEY OF POTENTIAL PLOTS FOR CONSIDERATION OF PURCHASE

The team conducted an inspection of seven (7) plots namely:-

- 4-1-5, Minami Azabu Mimato-Ku
 - 3-17-26, Nishi Azabu
 - 2-4-11 Minami Aoyama
 - 3-3-5 Kita Aoyama
 - 6-19-23, Akasaka
 - 2-15 Aobadai
 - 336-3 Shirokane 6-Chome Minato-Ku
- ✧ The first five plots are government owned. The sixth and seventh plots are privately owned
 - ✧ The team was informed that plot 3-17-26, Nishi Azabu and plot 2-4-11 Minami Aoyama had been sold out
 - ✧ It was further informed that the remaining plots were subject to auctioning process apart from plot 4-1-5 Minami Azabu

NB: see attached annex for plot details

MEETING AT LOCAL FINANCE OFFICE

The team met the following Government of Japan Officials at the Tokyo Local Finance Office which is charged with the disposal of plot 4-1-5, Minami Azabu

- | | |
|----------------------|---|
| 1. Yasuhiro Ihara | Chief-Ministry of Finance of Japan |
| 2. Masahiko Yamakami | Deputy Director Tokyo Local Finance
Office-Ministry of Finance |
| 3. Norio Nagai | Deputy Director of the Office for
Consolidation of specific National
Property |
| 4. Hideki Yamada | Official, Ministry of Finance |
| 5. Hiroki Fukumoto | Ministry of Foreign Affairs-Japan |

Ministry of Finance Comments

- ✧ The Officials commented that the Embassy has had the liberty of accessing some confidential information but they will go ahead to state the Ministry's report on plot 4-1-5, Minami Azabu
- ✧ It was stated that the price offered was final and it was informed by the following:-
 - 1. A survey conducted by two real estate valuers who were chosen through competitive tendering by the Ministry of Finance
 - 2. The current market/ economic trends
- ✧ It was informed that it was not possible to meet the valuers commissioned by government of Japan (GOJ) as it was against government regulation to reveal their identities
- ✧ As to why the particular plot was fetching a higher price when compared to other neighboring plots, GOJ said that every plot is evaluated individually
- ✧ The GOJ wasn't keen in revealing the cost of other plots within the same site
- ✧ The team was presented with a document explaining how the GOJ arrived at the price of the land (*see attached Translation*)
- ✧ It was informed that once the Government of Kenya (GOK) settles on the piece of land and a contract is entered into, the GOJ would have to

excavate the piece of land for archeological studies. If any cultural artifact is found then the GOJ would repossess the land and refund GOK its money

Process of Purchase of land

- ✧ GOJ informed that the application deadline expressing interest of purchase is 27th February, 2009
- ✧ GOK will have to indicate the mode of payment either upfront or through installment. This will inform the contract document which the GOJ will prepare
- ✧ Within a week of receipt of application from GOK expressing interest to purchase the land, the GOJ would prepare a contract document whose deadline of implementation will be 29th May, 2009
- ✧ Tax exemption for the purchase would be dealt with after the finalization of the purchase contract

Kenya Budget Cycle

- ✧ The meeting was briefed on Kenya's budget cycle. It was informed that the current financial year will come to end on 30th June 2009 and any money not spent by then reverts back to treasury

Payments

- ✧ GOJ was keen to know how soon GOK would transfer money once the contract is signed
- ✧ GOK informed that there is a process which has to be followed when acquiring property. Once a property has been identified, it has to be valued by GOK to ensure that it conforms to specified GOK regulations. Further, once a decision has been made to acquire land, Treasury Nairobi submits funds to MFA then MFA forwards the funds to Kenya Embassy Tokyo which will in turn pay Ministry of Finance of Japan.

MEETING WITH HON. SENATOR T. YANO

The following held a meeting with Senator Yano at New Otani Hotel over lunch to exchange views regarding the offer of Plot No. 4-1-5, Minami Azabu, Minato-Ku

1. H.E. Amb Dennis N.O. Awori
 2. Mr. A.M. Muchiri
 3. Mrs. Teresia W. Kimondiu
 4. Mr. Joseph K. Kimemia
 5. Mr. Allan W. Mburu
- ✧ The team from Nairobi thanked GOJ for the offer but stated the offer price was too high and the Local Finance Office had categorically stated that the price was final
 - ✧ Sen. Yano concurred with the team and promised to hold discussions with the Head of the Bureau of the Local Finance Office to establish whether a discount could be given
 - ✧ Sen. Yano offered to visit the Ministry of Foreign Affairs of Japan to seek any other form of assistance to buy the plot including the possibility of Overseas Development Assistance (ODA)
 - ✧ The head of the team from Nairobi informed that given the time constraints and restrictions contained in the Internal Borrowing Act, GOK cannot get a loan to purchase land neither can it buy through installments
 - ✧ It was resolved that Sen. Yano and the team from Nairobi will make their final submissions within a week

MEETING WITH THE OWNER OF PROPERTY 3-24-3 YAKUMO MEGURO-KU

- ✧ The team held a meeting with Mr. Nobuo Kuriyama the owner of the property currently housing the Chancery to revive and review talks on the current status of the property with a view to have the Government of Kenya start negotiations for its purchase.

- ✧ The team sought to know the current status of the property in view of the past evaluations carried out and quotations obtained under the prevailing market rates applicable at the time.
- ✧ Mr. Kuriyama informed that he requires time to consult his family and bank over the new request before he can give an informed answer
- ✧ Mr. Kuriyama spelt out conditions of sale of the property which requires lump sum cash payment upon conclusion of transaction and not through installments or loan arrangement.
- ✧ Other terms include, the property owner to clear any property related issues with relevant authorities before sale in order to make it a clean sale to the Government of Kenya.
- ✧ The team asked the property owner to provide the current value at the prevailing market circumstances as well as taking into consideration Government regulations that govern structures and building standards in Japan owing to the fact that the property is already over 20 years old which is the maximum period for buildings under the 1982 Construction and Earthquake law governing building standards.
- ✧ The team further reminded Mr. Kuriyama to consider the goodwill fact that the Chancery has been a very faithful tenant on the property for the last 20 years.
- ✧ The team was also informed of the suitability of using the facility from its current location without violating the City by-laws.
- ✧ Mr. Kuriyama promised to consult and inform the Mission within three (3) days on this offer

CONCLUSION

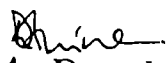
- ✧ The team from headquarters informed that they could not give a definite answer since they had a lot of raw information that required analysis and had also not consulted one another
- ✧ The team promised to share their findings on the plots viewed after obtaining further information from the Mission and have had their own consultations
- ✧ The team questioned the authenticity of the report from the Local Finance Office giving the value of the plot since it didn't have a letter head or an official stamp

- ✧ The team engaged the services of a private valuer and architect to advice on land rates and regulations in Japan and report back. The architect was also requested to prepare a sketch for the construction of both the Chancery and Residence and provide an estimated cost of putting up the buildings.
- ✧ The team also questioned the huge difference in price between the recommended government plot and Plot No. 336-3, Shirokane 6-Chome Minato-Ku viewed by the team and which was 5 minutes away and was much bigger at half the price of the government one
- ✧ Mr. Dick Olango a Kenyan architectural consultant was tasked to give a status report of the current Embassy Premises and its conformity with regard to Japanese laws and building specifications.
- ✧ It was recommended that an advertisement be placed on the local dailies requesting for purchase of a plot in given localities in Tokyo so as to get an average rate of property prices in Japan.
- ✧ A final decision on the purchase is yet to be arrived at and this will be communicated after consultation with the Minister and Permanent Secretary, Ministry of Foreign Affairs.

SIGNED:

1. Mr. Allan W. Mburu
CHARGE D'AFFAIRES, A.I




2. Ms. Dorothy K. Nthiwa
SECRETARY

Friday, January 23, 2009

ANNEX

DFR 40

Nthiwa

From: ISHIHARA KEIKO [keiko.ishihara@mofa.go.jp]
Sent: 2010年7月20日火曜日 20:30
To: 'Nthiwa'
Cc: FUKUMOTO HIROKI; IDA TOSHIO
Subject: RE: LAW ON THE EXCAVATION OF LAND FOR ARCHEOLOGICAL REASONS

Dear Ms. Nthiwa,

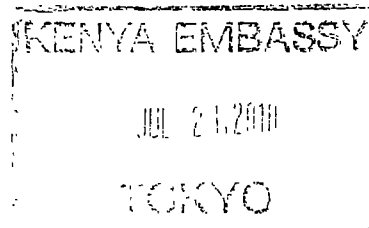
I sent you English translation of the article of Law for the Protection of Cultural Property related what to do in case of dug-up for civil engineering (by the owner of the land) the site where that is recognized as land of Treasure Trove

In case of the land of MINAMI AZABU, the owner of the land, KANTO-Zaimukyoku, a branch office of Ministry of Finance asked on the treatment of the treasure trove of the land to the local authority of the protection of cultural property, Committee of Education of Minato City, a kind of branch office of Ministry of Education, Culture in this material. The Secretary of the Committee did a trial of excavation and found treasure trove and the Ministry of Finance informed formally of it to the Ministry of Education according to the Article 97 1 (special rules for discovery of remains by national agencies)

The next stage is that the new owner (purchaser) is to excavate it under instruction of the Committee. The cost of excavation is not charged from the owner, the sale price is the one after deduction of the cost
The excavation is instructed and usually done by a team selected Committee

In case of diplomatic missions who purchase the above-mentioned land, the Ministry of Finance explain the diplomatic missions of the procedure and related things to be observed under the law. Till now all the delegations accepted and respected the law and regulations of local city under the law.

From: Nthiwa [mailto:dnthiwa@kenyarep-jp.com]
Sent: Tuesday, July 20, 2010 5:39 PM
To: ISHIHARA KEIKO; FUKUMOTO HIROKI
Cc: benogutu@kenyarep-jp.com; 'Allan Mburu'; 'Kenya Embassy'
Subject: LAW ON THE EXCAVATION OF LAND FOR ARCHEOLOGICAL REASONS
Importance: High

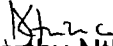


Dear Ms. Ishihara

Thank you for your kind response to our inquiry about land rates in Meguro-ku.

On our second question about the right for the government of Japan to excavate a land that is deemed to have some archeological materials, kindly also clarify to us whether the same law would apply to a diplomatic entity.

Thank you for your kind cooperation


Dorothy Nthiwa
FOR: AMBASSADOR

Embassy of the Republic of KENYA Ms. Dorothy Nithewa ← Keiko Ishihara

3723-4485

5 pages

Protocol office

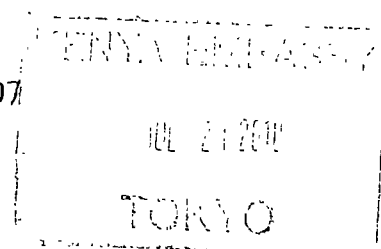
This Law is has been applied to the land from 文化財保護法 (東京文化財研究所)

Jan. 2006

Law for the Protection of Cultural Property

(Law No. 214, May 30, 1950)

Last Amendment: Law No. 7, March 30, 2007



CHAPTER I General Rules

(Articles 1 to 4)

CHAPTER II —deleted—

CHAPTER III Tangible Cultural Property

Section 1. Important Cultural Property

Subsection 1. Designation

(Articles 27 to 29)

Subsection 2. Custody

(Articles 30 to 34)

Subsection 3. Protection

(Articles 34 bis to 47)

Subsection 4. Public Display

(Articles 47 bis to 53)

Subsection 5. Investigation

(Articles 54 to 55)

Subsection 6. Miscellaneous Provisions

(Article 56)

Section 2. Registered Tangible Cultural Property

(Articles 57 to 69)

Section 3. Tangible Cultural Property Other Than Important Cultural Property and Registered Tangible Cultural Property

(Article 70)

CHAPTER IV Intangible Cultural Property

(Articles 71 to 77)

CHAPTER V Folk Cultural Property

(Articles 78 to 91)

CHAPTER VI Treasure Trove

(Articles 92 to 108)

CHAPTER VII Historic Sites, Places of Scenic Beauty and Natural Monuments

(Articles 109 to 133)

CHAPTER VIII Important Cultural Landscape

(Articles 134 to 141)

CHAPTER IX Preserved District for a Group of Traditional Buildings

(Articles 142 to 146)

CHAPTER X Protection of Conservation Techniques for Cultural Property

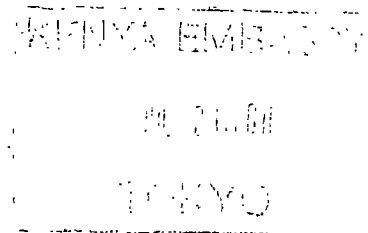
(Articles 147 to 152)

CHAPTER XI Consultation with the Council for Cultural Affairs

(Article 153)

文化財保護法 (東京文化財研究所蔵)

CHAPTER VI TREASURE TROVE



Article 92: Information-documents, Instructions and Orders on Excavation for Investigation

Any person who intends to excavate the land for investigation of an object of cultural property which is buried (hereinafter referred to as a "Treasure Trove") shall inform the Commissioner for Cultural Affairs thereof in writing, at least thirty days prior to the date on which the excavation is to be embarked upon, stating the matters stipulated by a MEXT ordinance. However, the present provision does not apply to cases stipulated by a MEXT ordinance.

2. Where the Commissioner for Cultural Affairs deems it especially necessary for the protection of Treasure Trove, he may instruct the submission of necessary matters and a report regarding the excavation for which notification has been filed under the preceding paragraph and order the prohibition, suspension, or discontinuance of that excavation.

⑥ Article 93: Information-documents and Instructions on Excavation for Civil Engineering Work

The provision of the preceding Article paragraph 1 shall apply *mutatis mutandis* where a site that is well-known as a shell mound, a tumulus, or any other land containing Treasure Trove (hereinafter referred to as "the Well-Known Land of Treasure Trove") is to be dug up for civil engineering work or any purpose other than investigation of Treasure Trove. In this case, the "thirty days" described in the same paragraph shall be read as "sixty days."

2. Regarding the digging for which an information-document has been filed under the preceding Article paragraph 1 applied *mutatis mutandis* in the preceding paragraph, in cases where the Commissioner for Cultural Affairs deems it especially necessary for the

protection of Treasure Trove, he may give instructions on the implementation of an excavation investigation and any other necessary matters, to produce the record of Treasure Trove prior to such digging.

Article 94: Special Rules on an Excavation Conducted by National Agencies

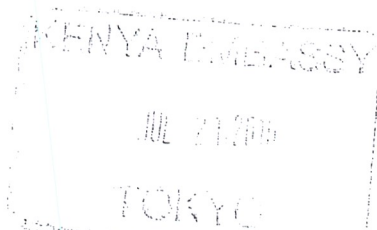
The provision of the preceding Article shall not apply where a national organ, a local government, or a juridical person established by the State or a local government and prescribed by a cabinet order (hereinafter generically referred to as "national agencies" in the present Article and in Article 97) intends to excavate the well-known land of Treasure Trove for the purpose prescribed in the preceding Article paragraph 1; where such national organs formulate a project document regarding such an excavation, they shall inform the Commissioner for Cultural Affairs to that effect in advance.

2. Where the Commissioner for Cultural Affairs receives an information-document under the preceding paragraph and deems it especially necessary for the protection of Treasure Trove, he may inform national agencies to the effect that the latter shall consult him about the formulation of such a project document and its implementation.

3. Upon receiving an information-document under the preceding paragraph, the national agencies shall consult the Commissioner for Cultural Affairs about the formulation of their project document and its implementation.

4. Where the Commissioner for Cultural Affairs has received an information-document under paragraph 1, except for cases under the preceding two paragraphs, he may give the advice necessary for the protection of Treasure Trove regarding the implementation of such a project document for which an information-document has been filed.

5. In cases under the preceding four paragraphs, if such national agencies are the heads of Ministries and/or Agencies (i.e. the heads of the Ministries and/or Agencies prescribed in Article 4 paragraph 2 of the State Property Law (Law No. 73 of 1948);



第四章 埋蔵文化財

(調査のために発掘する届出、指示及び命令)

第九十二条 土地に埋蔵されている文化財（以下「埋蔵文化財」という。）について、その調査のために土地を発掘しようとする者は、文部省の定める事項を記載した書面をもって、発掘に着手しようとする30日前までに文化庁長官に届け出なければならない。ただし、文部省令の定める場合は、この限りではない。

2 埋蔵文化財の保護上特に必要があると認めるときは、文化庁長官は、前項の届出に係る発掘に関し必要な事項及び報告書の提出を指示し、又はその発掘の禁止、停止若しくは中止を命ずることができる。

(土木工事等のための発掘に関する届出及び指示)

第九十三条 土木工事その他埋蔵文化財の調査以外の目的で、貝塚、古墳その他埋蔵文化財を包蔵する土地として周知されている土地（以下「周知の埋蔵文化財包蔵地」という。）を発掘しようとする場合には、前条第1項の規定を準用する。この場合において、同項中「30日前」とあるのは、「60日前」と読み替えるものとする。

2 埋蔵文化財の保護上戸国必要があると認めるときは、文化庁長官は、前項で準用する前条第1項の届出に係る発掘に関し、当該発掘前における埋蔵文化財の記録の作成のための発掘調査の実施その他の必要な事項を指示することができる。

(国の機関等が行う発掘に関する特例)

第九十四条 国の機関、地方公共団体又は国若しくは地方公共団体の設立に係る法人で政令の定めるもの（以下この条及び第九十七条において「国の機関等」と称する。）が、前条第1項に規定する目的で周知の埋蔵文化財包蔵地を発掘しようとする場合においては、同条の規定を準用しないものとし、当該国の機関等は、当該発掘に係る事業策定に当たって、あらかじめ、文化庁長官にその旨を通知しなければならない。

2 文化庁長官は、前項の通知を受けた場合において、埋蔵文化財の保護上特に必要があると認めるときは、当該国の機関等に対し、当該事業計画の策定及びその実施について協議を求めるべき旨の通知をすることができる。

3 前項の通知を受けた国の機関等は、当該事業計画の策定及びその実施について、文化庁長官に協議しなければならない。

4 文化庁長官は、前2項の場合を除き、前1項の通知があった場合において、当該通知に係る事業計画の実施に関し、埋蔵文化財の保護上必要な勧告をすることができる。

5 前各項の場合において、当該国の機関等が各省各庁の長（国有財産法（昭和二十三年法律第七十三号）第四条第二項に規定する各省各庁の長をいう。以下同じ。）であるときは、これらの規定に規定する通知、協議又は勧告は、文部大臣を通じて行うものとする。

(埋蔵文化財包蔵地の周知)

第九十五条 国及び地方公共団体は、周知の埋蔵文化財包蔵地について、資料の整備その他その周知の徹底を図るために必要な措置の実施に努めねばならない。

2 国は、地方公共団体が行う前項の措置に関し、指導、助言その他の必要と認められる援助をすることができる。

(遺跡の発見に関する届出、停止命令等)

第九十六条 土地の所有者又は占有者が出土品の出土等により貝塚、住居跡、古墳その他遺跡と認められるものを発見したときは、第九十二条第一項の規定による調査に当たって発見した場合を除き、

港区埋蔵文化財取扱要綱

(Regulation of Minato City
on the treatment of Hidden Treasure) [平成14年12月17日
14港教文第240号]
no English Version is not available

(目的)

第1条 この要綱は、文化財保護法（昭和25年法律第214号、以下「法」という。）に基づく埋蔵文化財に関する取扱いを明示し、埋蔵文化財に関する事務を円滑に進め、港区内における埋蔵文化財の保存及び活用を図ることで区民の文化の向上と発展に貢献することを目的とする。

(対象)

第2条 港区教育委員会（以下「教育委員会」という。）が埋蔵文化財の発掘調査対象とするものは、次の各号のとおりとする。

- (1) 原始・古代から近世までに属する遺跡とする。
- (2) 近代・現代に属する遺跡は、地域の歴史の理解に欠くことのできない遺跡等特に定めるものは対象とすることができる。

(試掘確認調査の実施等)

第3条 教育委員会は、次の各号のいずれかに該当する土地において、開発等の事業を行おうとする者（以下「開発者」という。）に対して、試掘・確認調査の実施を指導する。

- (1) 計画地が周知の埋蔵文化財包蔵地（遺跡）に該当している場合、
- (2) 計画地が周知の埋蔵文化財包蔵地（遺跡）に隣接または近接している場合、
- (3) 建築面積が1,000㎡以上の建築計画となっている場合。

2 試掘・確認調査の計画及び実施に当たっては、十分な理解と協力を求めるものとする。

(指導及び助言)

第4条 教育委員会は、試掘・確認調査等により遺跡が確認された場合においては、開発者に対して埋蔵文化財保護措置のための必要な指導及び助言を行う。

(発掘調査)

第5条 教育委員会は、文化財保護法第93条第1項、第94条第1項、第96条第1項及び第97条第1項の規定により届出または通知の提出があったときは、当該埋蔵文化財包蔵地（遺跡）の保護措置について、開発者と十分な協議を行う。

2 教育委員会は、前項の規定に基づく協議の結果、当該埋蔵文化財包蔵地（遺跡）の一部または全ての現状保存が困難な場合は、開発者と工事計画等を調整の上、調査の規模・期間・内容・方法等を決定し、発掘調査の実施を指導する。

3 教育委員会は、前項の規定に基づく発掘調査に関する指導及び監督を行う。

4 教育委員会は、港区教育委員会教育長（以下「教育長」という。）が必要と認める場合は、第1項の規定に基づく届出または通知にかかわらず、法第99条の規定に基づく発掘調査を実施することができる。

(出土品の取扱い)

第6条 前条の発掘調査による出土品の保存及び活用に関する取扱基準は、教育長が別に定める。

2 教育委員会は、出土品の保存等に際して、必要な協力を開発者に求めることができる。

(その他)

第7条 この要綱に定めるもののほか必要な事項は、教育長が別に定めるものとする。

付 則

この要綱は、平成14年12月17日から施行する。

付 則

この要綱は、平成18年3月31日から施行する。

ANNEX

DFR 41

Part 1. Purchase and Sale of Land and Building

On the 13th June 2009, the Government of Kenya and the Republic of Kenya have agreed on the following terms and conditions for Purchase and Sale of Land and Building

1.1. Summary of Purchase and Sales (Based on the registration records)

Address	Number of lot	Category of Land	Dimensions
① Yakumo 3 chome, Meguro-ku	135-2	Residential	762.68 m ²
② Yakumo 3 chome, Meguro-ku	135-3	Residential	223.16 m ²
③ Yakumo 3 chome, Meguro-ku	137-3	Residential	135.53 m ²
④ Yakumo 3 chome, Meguro-ku	137-10	Residential	290.40 m ²
Total Four (4) Lands			1,431.77 m ²

P	Address	① 135-2 and 137-2, Yakumo 3-chome, Meguro-ku		House Number	135-2
R	Residential Address	24-3, Yakumo 3-chome, Meguro-ku			
C	Category	Office	Structure	Steel framed, armored concrete, slate roofed two storied one	
L		Resident	basement		
F	Floor space	① Basement 99.00 m ² Level One 303.44 m ² Level Two 296.09 m ²			
G		② Level One 244.97 m ² Level Two 167.71 m ²			
	Remarks	N/A			

(B) Total amount of Trading Value and Deposit and Maturity Date (Article 1) (Article 2)(Article 3)

Trading Value (B1)	Total amount		Yen 1,750,000,000
	(Land)		Yen 1,500,000,000
	(Buildings)		Yen 250,000,000
Deposit (B2)	30 th June, 2009		Yen 1,477,634,381
Remaining Amount (B3)	30 th September, 2009		Yen 272,365,619

However, in the event of a fire or other act of God, the balance of the subject matter shall be paid by Buyer after the date of handover.

Article 6 (Ownership of Earnings and Burden Bearing of Various Usages of Charge)

1. Earnings from these subject matters shall belong to Vendor before the date of handover and shall belong to Buyer after the date of handover.
2. The usages of charge of utility, gas, water supply etc. shall be paid by Vendor before the date of handover and paid by Buyer after the date of handover.
3. The balance of earnings and usages of charge are paid on the pay day of remaining balance.

Article 7 (Assassination before Handover)

1. Buyer can cancel this contract if the subject matters are destroyed by natural disaster or act of God which is not responsible of both Vendor and Buyer.
2. In case the level of damage of above paragraph is recoverable, Vendor shall recover this subject matter on his cost and handover to Buyer. In this case, recovery construction period is reasonable. Vendor can not claim compensation for damage if the date of handover is postponed.
3. If the recovery is applicable but recovery is extremely difficult or cost too much, Vendor can cancel the contract.
4. According to Paragraph 1 or Paragraph 3, if the contract is canceled, Vendor shall return received payment to Buyer without any interest. In this case, both Vendor and Buyer shall not be able to claim any compensation for damage.

Article 8 (Cost Burden of Documentary Stamp)

1. Cost Burden of Documentary Stamps to be attached on this contract are covered by Vendor but Buyer is exempted from this requirement.

Article 9 (Rules Succession)

1. Vendor shall succeed all rules and regulations under environment control to Buyer. Buyer shall inherit the rules and conditions from Vendor.

Article 10 (Court of Jurisdiction)

1. Court of jurisdiction for this contract shall be the court which covers the subject matters are located.

Article 11 (Matters of Consultation)

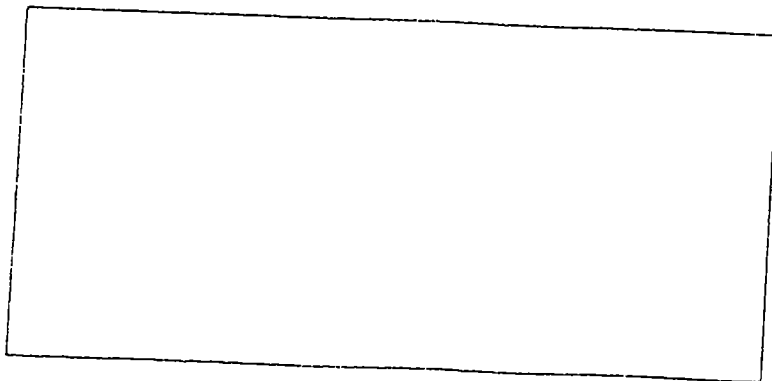
1. Any question arising out of, or in connection with, this Contract or any matter not stipulated herein shall be settled each time upon consultation between both parties.



土地・建物売買契約書

ケニア共和国

様



(E~I)その他約定事項

(F) 所有権移転 引渡し・登記手続の日 (第7条)(第8条)	平成	21	年	6	月	30	日
(F) 年度公租・公課分拒の起算日 (第10条)	平成	21	年	1	月	1	日

特約事項

- ① 本物件契約は平成21年6月30日までに、売買価格のうち15億円を買主が売主に支払い後銀行の抵当権解除と同時に所有権を移転する。
- ② 上記売買価格について為替の変動により15億円下回った場合、買主は、平成21年9月30日の残代金支払時に、相殺するものとする。
- ③ 売買代金の振込先として以下の口座とする。

城南信用金庫 碑谷支店 普通 579605 栗山妙子

この契約を証するため契約書正本を2通作成して当事者各自が保管しその写しをこの契約を
媒介した宅地建物取引業者各自が保管する。

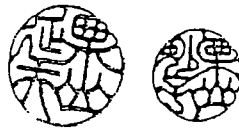
平成 27 年 6 月 21 日

売 主

住 所 目黒区八雲3-12-15

氏 名 栗山 延夫・栗山妙子

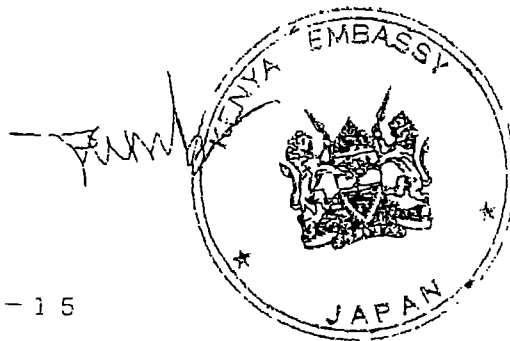
栗山延夫 栗山妙子



買 主

住 所 目黒区八雲3-24-3

氏 名 ケニア共和国



宅地建物取引業者

住 所 目黒区八雲3-12-15

商 号 株式会社 けやき弥

代 表 者 代表取締役 栗山 延夫



免 許 番 号 東京都知事 (4) 第 70559 号

宅地建物取引主任者 登録番号 東京都知事第 103861 号

氏 名 栗山 延夫



証人

住 所 東京都渋谷区宇田川町6番14号司法書士合同事務所 2階

商 号 大竹司法書士事務所

代 表 者 大竹 章喜



大竹 章喜

ANNEX

DFR 42



31

PURCHASE AND SALES CONTRACT OF LAND AND BUILDING

Vendor, Nobuo Kuriyama and Taeko Kuriyama and Buyer, Republic of Kenya, have agreed on the following articles and conclude this Purchase and Sales Contract of Land and Building

(A) Subject Matters of Purchase and Sales (Based on the registration records)

L A N D	Address	Number of lot	Category of land	Dimensions
	1) Yakumo choem, Meguro ku	3 135.2	Residential	782.68 m ²
	2) Yakumo chome, Meguro ku	3 135.3	Residential	223.16 m ²
	3) Yakumo chome, Meguro ku	3 137.3	Residential	135.53 m ²
	4) Yakumo chome, Meguro ku	3 137.10	Residential	290.40 m ²
	Total Four (4) Lands			1,431.77m ²



B U I L D I N G	Address	1) 135-2 and 137-2, Yakumo 3 chome, Meguro ku		House Number	135-2
	Residential Address		24-3, Yakumo 3 chome, Meguro ku		
	Category	Office Resident	Structure	Steel framed, armored concrete, slate roofed two storied one basement	
	Floor Space	1) Basement 99.00 m2 Level one 303.44m ² Level Two 296.09m ² 2) Level One 244.97m ² Level Two 167.71m ²			
	Remarks	N/A			

(B) Total amount of Trading Value and Deposit and Maturity Date (Article 1)
(Article 2) (Article 3)

Trading Value (B1)		Total amount	Yen 1,750,000,000
		(Land)	Yen 1,500,000,000
		(Buildings)	Yen 250,000,000
Deposit (B2)	30 th June, 2009		Yen 1,477,634,381
Remaining Amount (B3)	30 th September, 2009		Yen 272,365,619



(E-1) Other Agreed Terms and Conditions

(E) Change of Ownership, handover, date of registration (Article 7 and 8)	
30th June, 2009	
(F) Starting Date of Burden Share of Public Tax and Dues (Article 10)	1st
January, 2009	

Special Agreements

- 1) In this transaction, as soon as the Buyer pays ¥ 1,500,000,000 to Vendor by 30th June, 2009, Vendor shall handover the ownership of the land and building immediately after discharge of mortgage.
- 2) In case the amount of the deposit is less than ¥ 1,500,000,000 due to the currency exchange rate between Kenya Shilling and Japanese Yen, the balance amount shall be paid by Buyer on second payment on 30th September, 2009.
- 3) Payment shall be made to the bank account as requested by Nobuo and Taeko Kuriyama Jonan Shinyo Kinko Bank
Hibusuma Branch Account No. 579605
Account Holder: Taeko Kuriyama

Contract Clause

Article 1 (Purchase Price and Subject Matter)

1. The Vendor sells captioned subject matters (A) to Buyer with captioned purchase price (B1) and buyer purchases.

Article 2 (Timing of Payment and Purchase Price)

1. Buyer shall pay Purchase Price on captioned date (B2) and (B3) to Vendor.



Article 3 (Manifestation of Borders and Development of Measured Drawing)

1. Vendor shall give clear manifestation of borders of neighbouring houses by the date of handover
2. Vendor is responsible for the cost of hiring registered land surveyors or registered land and building investigators to measure land (C) dimension in the presence of neighbouring land owners. The measured drawing shall be presented to Buyer by the date of handover.

Article 4 (Acreage Reclamation Registration)

1. As a result of measurement of above Article 3 Paragraph 2, the difference is found between registered land dimension and actual land dimension, Vendor is obliged to conduct acreage reclamation registration.

Article 5 (Burden Share of Public Tax and Dues)

1. Burden of public tax and dues before the date of handover is covered by Vendor and covered by Buyer after the date of handover.
2. Starting Date of Burden Share of Public Tax and Dues shall be 1st January, 2009.
3. Balance of public tax and dues shall be paid on the day of remaining payment.

However, in the fiscal year of re-evaluation of fixed asset tax, balance payment of public tax and dues shall be paid as soon as Vendor receives notice of fixed asset tax.

Article 6 (Belongingness of Earnings and Burden Sharing of Various Usages of Charge)

1. Earnings from these subject matters shall belong to Vendor before the date of handover and shall belong to Buyer after the date of handover.
2. The usages of charge of utility, gas, water supply etc shall be paid by Vendor before the date of handover and paid by Buyer after the date of handover.
3. The balance of earnings and usages of charge are paid on the pay day of remaining balance.

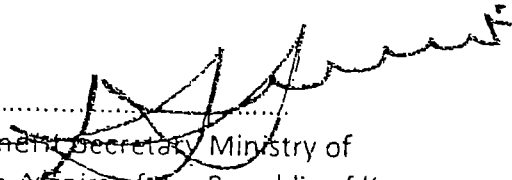


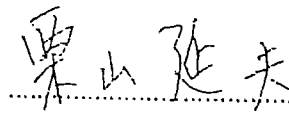
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in duplicate by placing their signatures and seals thereon, and each party shall keep one copy of the originals

Done at TOKYO this 30TH Day of JUNE, 2009

MR. THUITA MWANGI, CBS

NOBUO KURIYAMA

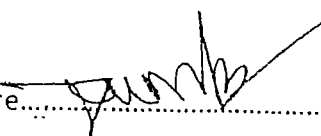

.....
Permanent Secretary Ministry of
Foreign Affairs of the Republic of Kenya
For the Government of Kenya.

 
.....
Property Seller

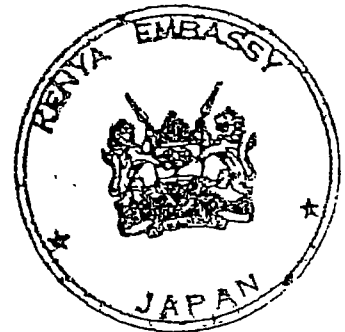
Witnessed by:

Name AZKAN W. MBURU

Address CHARGE D'AFFAIRES A.I.

Signature 

Date 30TH JUNE, 2009



ANNEX

DFR 43



EMBASSY OF THE REPUBLIC OF KENYA

Telegraphic Address KENREP J

Telex No 2422378-KENREP J

http://www.kenyarep-jp.com

E-mail kenrep@kenyarep-jp.com
info@kenyarep-jp.com

3-24-3, Yukumo Meguro-ku,

Tokyo 152-0023, JAPAN

Telephone 03-3723-4006/7

Facsimile 03-3723-4488/4546

REF. No **KET/ADM/1/11A/VOL.II/(14)**

4th March, 2009

The Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

(Attention: Mr. E. Korir, Head of Procurement)

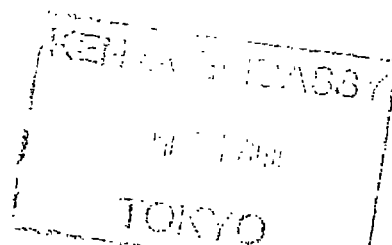
**RE: STEPS/PROCESSES TOWARDS ACQUISITION OF TOKYO CHANCERY
AND AMBASSADOR'S RESIDENCE**

This is to confirm receipt of the matrix indicating tentative dates on the steps and processes set in place to enable the government acquire the property on which the Chancery and the Residence of the Ambassador are located. The Financial Attache visited the local office of the Ministry of Justice to conduct a search on the property. The document is currently being translated from Japanese.

The Mission has also made enquiries regarding the time taken to transfer any real estate from one party to the other. The shortest it can take is one week whereas the longest would be two weeks as long as the property has no dispute.

Meanwhile, the Mission would like to be advised on what to communicate to the landlord based on the offer which lapsed on 2nd March, 2009.


ALLAN W. MBURU
FOR: AMBASSADOR



AS Alan Mburu II *add to the register of the Tokyo Chantry*

STEPS/PROCESSES TOWARDS ACQUISITION OF TOKYO CHANDERY

Request and Valuation report from Tokyo	MTC deliberation on procurement method to be used	Consultation with PPOA/Treasury on Specially permitted procurement procedure	Public works inspection report of the building. Appointment of negotiation team to Tokyo.	Negotiation and feedback report from team.	MTC deliberation/Approval/rejection	Letter of acceptance
26 th Feb. 09	2 nd Mar-6 th Mar	9 th Mar-20 th Mar	23 rd March.	6 th April 09	14 th April	20 th April
Appointment of Attorneys to the sale. Verification of status of property and Preparation of sale agreements seller/MFA/Treasury.		Signing of sale agreement. Payment of 10% deposit	Registration and transfer of title (up to 6 weeks)	Final Payment and settlement of transaction.		
2 nd May 30 th May		Up to 15 th June 09	30 th July 09	August 09		

from

E. Kona

11 procurement

II FS(A)

Re file and

bring up.

03/03

ANNEX

DFR 44

12/08-13:46:49

RECEIVED-4282-397739

1

----- Instance Type and Transmission -----

Original received from SWIFT

Priority : Normal

Message Output Reference : 1340 081224CBKEKENXXXX0724602886

Correspondent Input Reference : 1540 081224BKENGB2LAXXX8375146535

----- Message Header -----

Swift Output : FIN 910 Confirmation of Credit

Sender : BKENGB2LXXX

BANK OF ENGLAND

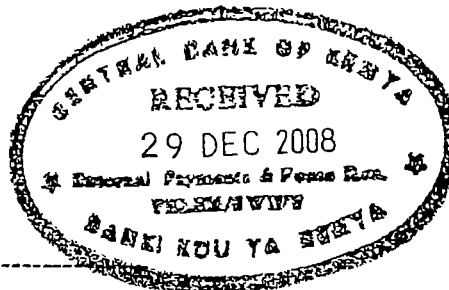
LONDON GB

Receiver : CBKEKENXXXX

CENTRAL BANK OF KENYA

NAIROBI KE

MUR : 07050167



----- Message Text -----

20: Transaction Reference Number

FT0835902087

21: Related Reference

FT0835902087

25: Account Identification

41810007

32A: Value Date, Currency Code, Amt

Date : 24 December 2008

Currency : GBP (POUND STERLING)

Amount : #8,730,805.#

50K: Ordering Customer-Name & Address

/00100001600

KENYA HIGH COMMISSION

NIGERIA, LAGOS, 52, OYTINKA ABAYOMI DR

IVE, P.M.B. 40016, FALOMO, LAGOS

----- Message Trailer -----

{CHK:497B646FB662}

Mr Abdinas

Qua

Amochade

30/12/08

6000 112 7056

52643

ANNEX

DFR 45

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL CO-OPERATION

Telegrams "FOREIGN AFFAIRS", Nairobi

Telephone Nairobi 334433

Telex Nairobi 22003

Fax 335494

When replying please quote

MFA.302/212/72

Ref No
and date



HARAMBEE AVENUE

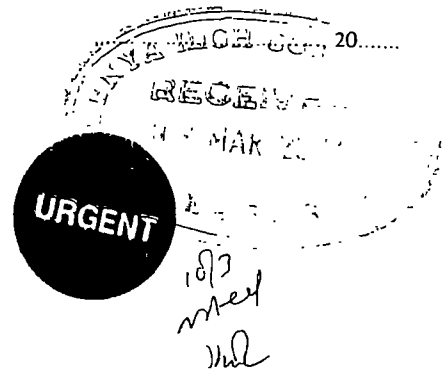
P.O. Box 30551

NAIROBI

KENYA

28th February, 2003

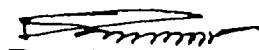
The High Commissioner
Kenya High Commission
LAGOS



SALE OF KENYA HIGH COMMISSION PROPERTIES – LAGOS

The above subject refers.

I have been instructed to inform you that the sale of the above properties should be suspended till further notice.


F. ESIPILA

FOR: PERMANENT SECRETARY

ANNEX

DFR 46

KHN/ADM/DEV/6A

7th September, 2009

Mr. Thuita Mwangi, CBS
Permanent Secretary,
Ministry of Foreign Affairs,
Harambee Avenue
NAIROBI – KENYA



Dear

OUTSTANDING CLAIMS ON THE SALE OF GOVERNMENT PROPERTY IN
LAGOS- LEGAL FEES FOR M/S CHUMA ANOSIKE & CO.

When I arrived at this station, I found a handing over report from my predecessor on outstanding claims from the sale of Government property in Lagos. There were three attempts to sell the above property; in 1998 the sale aborted, in 2002 it also aborted and 2008 it succeeded. I have also perused and noted that there have been detailed communications between the Mission and the Ministry Headquarters on the matter. One major outstanding case is that of the above lawyer and whose case is analysed here below:-

Legal fees for M/S. Chuma Anosike & Co. Barristers and Solicitors.

M/S Chuma Anosike & Co. Barristers and Solicitors are quoted to have offered professional services to the High Commission in the matter of sale of former Government property in Ikoyi, Lagos. The company claims to have offered services in 1998, 2002 and 2008.

Indeed the company is on record to have been single sourced and hired in 1998 by letter of award at a cost of 7.5% of selling price as professional fee. The sale aborted and no fee note was written to the Mission. In 2002, the then High Commissioner wrote to Nairobi seeking authority to hire a reputable firm to carry out the sale and after sale transactions on behalf of the High Commission. Authority was granted and quotations were floated for the firm to offer the legal services and this particular company was offered the job for reasons that first, it had quoted cheapest (6% of purchasing price) and second, that the company had earlier dealt with the matter. Meanwhile, the firm provided services on the request of the Mission. A letter of 27th February, 2003 to the Permanent Secretary recommended the hire of firm at a professional fee of 4.5% of purchase price, however, prior to response from Nairobi, a letter written by the



[Signature]
19/8/2010.

Permanent Secretary informed of the suspension of sale of the property. No fee note or claim was received by the Mission.

In January, 2008 the then High Commissioner wrote to the Permanent Secretary informing about his having spoken to "the lawyer who has acted for the High Commission for a number of years on the sale of the Lagos plot," seeking advice on the sub-division of the plots. From the Lawyer's letter of 29th January, 2008 it is evident that the lawyer had been given verbal instructions, he advised on the results of the search and informed that the plots were demarcated and therefore there was no need for their sub-division prior to sale. By letter dated 11th April, 2008, the then High Commissioner informs the lawyer that his services had been retained in respect of the sale of Kenya Government Property. In response, the lawyer writes to the Mission and among other issues raises the issue of his professional fees which had neither been offered nor discussed.

In his letter to the Permanent Secretary dated 17th March, 2008 the then High Commissioner gives a history of the law firm and Valuers in the sale of Government Property and forwards the drafts of adverts and bid document for approval. He also informs the Permanent Secretary about the lawyer's request for a professional fee rate of 12.5% of purchasing price. The lawyer later writes a letter dated 28th April, 2008 requesting for a professional fee rate of 10% of final sale price of property.

On forwarding the information to the Ministry Headquarters, you directed that the Mission engages the law firm with a view to reviewing its role in the entire transaction and negotiate a professional fee that is commensurate with the services rendered. He proposed a rate of 1/3 of the minimum fee payable under the rules and professional conduct for legal practitioners in Nigeria as appropriate and that previous services rendered by the firm are charged separately.

The proposal was communicated to the lawyer who rejected it in total and gave his breakdown of services and total charge of **£745,870.00**. It is indicated that the then High Commissioner; on negotiating with the lawyer as advised by the Permanent Secretary; had verbally proposed a figure of £150,000 and to which the lawyer also verbally rejected.

The communications that followed between the Mission and the Lawyer after the sale of property are rather harsh but at no time did the Mission officially or formally withdraw the lawyer's services. The lawyer has moved further and reported the matter to the Federal Ministry of Foreign Affairs which called the Mission to explain the circumstances under which the conflict arose and the Ministry instructed that the Government of Kenya considers compensating the lawyer.


HC 19/8/2010

The Mission observes that:-

1. Procurement procedures were flouted in the method of hire of the firm.
2. The lawyer is owed because the High Commission engaged him by letter but did not write to terminate his services.
3. The biggest anomaly in the letter of offer was that no fee was offered and agreed upon, therefore exposing the Mission to be charged exorbitantly.
4. The lawyer agreed that he did not do all the work as had been earlier tabulated as part of it was done by the High Commission and the Purchaser of property.
5. In his letter to you dated 25th February, 2009 the then High Commissioner proposed a lower figure of £58,300 against the earlier one of £150,000 which the lawyer had declined to accept.
6. There is need for the official interpretation of the Nigerian Legal Practitioners' Act to get a basis from which to negotiate.
7. The lawyer was offered the job and this makes the government liable to pay a fee.

The Mission recommends that due to the exorbitant fees claimed by the lawyer, there is need for negotiation. Prior to that, it is recommended that the Legal Division of the Ministry interprets the Nigerian Legal Practitioners' Act (copy hereto attached) in order to provide a working figure that the Ministerial Tender Committee could endorse and which would provide a base for negotiation and final payment.

We are in a dilemma as a Mission because in the above case, the Kenya Government was committed and I strongly recommend that a team of technical experts preferably from the legal division of the Ministry meet and deliberate on the matter in order to advise in the finalization of the outstanding case.

You will certainly agree with me that further delay in decision making on these case may cause embarrassment to the Government especially that the lawyer has already taken the matter to the attention of the host Government and more importantly; that he may take it to a court of law as he has already indicated to this office.

Yours

FRANCIS K. A. SIGEI, EBS
HIGH COMMISSIONER



Hc 19/8/2016 ³

KHN/MOW/PUM/7A

15th June 2010



Mr. Thuita Mwangi, CBS
Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Dear

**OUTSTANDING CLAIMS ON THE SALE OF GOVERNMENT
PROPERTY IN LAGOS**

Reference is made to my letter Ref. No. KHN/ADM/DEV/6A of 17th December, 2009 and other previous correspondences on the above subject.

I wish to inform you that the Ministry of Foreign Affairs of the Federal Republic of Nigeria has once again written to this Mission vide Note Verbale No. 612/2010 of 10th June 2010 (a copy of which is enclosed) specifically on the Chuma Anosike and Co. case.

While awaiting for your response on my earlier recommendations, I would point out that this matter requires your personal attention for it to be put to rest once and for all.

Yours sincerely

FRANCIS K. A. SIGEI, EBS
HIGH COMMISSIONER

ANNEX

DFR 47

NOTE NO.

B 612/2010



The Ministry of Foreign Affairs of the Federal Republic of Nigeria, Protocol, Legal and Consular Department presents its compliments to the High Commission of the Republic of Kenya and with reference to the latter's Note No. 23A/2009 dated 12th March 2009 has the honour to request that the matter be resolved amicably through the payment of the agency fees being claimed by Chuma Anosike & Co. for the services it rendered to the High Commission in the sale of the property formerly owned by the Government of the Republic of Kenya in Ikoyi, Lagos.

The Ministry wishes to reiterate its earlier advise:

- i. That the outcome of the sale of the property purchased at a sum of £(N)210,000.00 in 1972 and sold for £8,800,000.00 in 2008 present a fair deal and therefore requires that those who have contributed in one way or the other to the transaction be compensated
- ii. That Chuma Anosike & Co. having been engaged as agent on this matter since 1998 and has been consistent in all attempt to sell the property deserves to be paid the agency fee demanded.
- iii. That an amicable resolution of the matter would not only be in the best interest of the existing cordial relations between Nigeria and Kenya but would prevent any unpleasant irritant.

The Ministry of Foreign Affairs of the Federal Republic of Nigeria, Protocol, Legal and Consular Department, avails itself of this opportunity to renew to the High Commission of the Republic of Kenya the assurances of its highest consideration.

High Commission of Kenya,
18 Yedseram Street,
Off IBB Way, Maitama,
Abuja.



ANNEX

DFR 48

Asset Management Unit

Memo

TO: PS
Thro': Director of Administration
FROM: Head, Asset Management Unit
DATE: March 20, 2008

26 MAR 2008

4 DUJA

**REPORT ON THE TEAM VISIT TO LAGOS TO IMPLEMENT THE
DECISION TO CLOSE THE LAGOS OFFICE: 11TH - 14TH MARCH 2008**

A team comprising Amb. A. A. Musasia (DA/Head of Delegation); Ms. T. Kimondiu (Asst. Commissioner Lands - Valuation); Mr. N. Wambugu (Head/CPU); Mr. M. Ogot (Head/AMU) and Ms. C Kerich (Procurement) visited the KHC, Lagos office for three (3) days from 11th - 14th March 2008. The Key objective of the visit was to implement the decision to close the Lagos office.

The Teams report including findings and recommendations are attached for your consideration and approval.

Mark O. Ogot

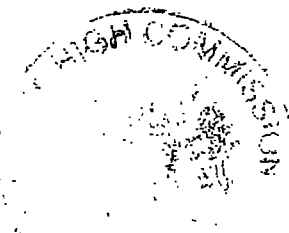
HEAD, ASSET MANAGEMENT UNIT

CC: H. E. Daniel Kokal -
High Commissioner, KHC, Nigeria

DA
Please blu in
file.

W

31-03-08



- 5.5. There are no significant financial implications of relocating consular services to Abuja. It costs KSh 6.3m p.a to run the Lagos office and it would cost an estimated KSh 6.0m p.a to house the Immigration attaché in Abuja and meet the costs of his air and taxi transport expenses and per diem while travelling to Abuja twice a week to issue visa.

6. Modalities of future visa applications: Consultation between KQ Lagos Office and the Team

The Team visited the KQ Lagos office to discuss the intended closure of the Lagos Office with KQ Lagos office and to explore partnership arrangements that would be mutually beneficial. According to KQ officials, KQ business would be adversely affected if KHC, Nigeria completely relocated to Abuja and that they are willing to provide office space for the purposes of visa applicants especially those who intend to travel by KQ. He said a partnership between KQ and KHC, Abuja to provide seamless service to its customers may boost KQ sales. The KQ Lagos Office in principle agreed to provide office space for KHC for purposes of issuing visas subject to approval by the KQ HQs; (It was indicated that it may take 2 weeks to get KQ headquarter approval). Other modalities of sharing utility costs, if any, to be worked latter between KHC and KQ Lagos Office.

7. Engagement and Role of the Law Firm

The Team consulted with the Law firm (Chuma Anoiike & Co). The Team noted that the KHC, Lagos vide letter KHN/MOW/PUM/VOL.III/(138) dated 9th November, 1998 appointed the Chuma Anoiike & Co as an agent of the Kenya Government in respect of the disposal of plots 52 and 53. The Firm has been involved in the subsequent attempts by the Government to sell the plots. No payment has ever been made to the Law firm. In 2001, the Firm acted as a consultant to handle the sale of property for the Namibian High Commission in Lagos. While in 2003, the firm acted on behalf of Netherlands Ministry of Foreign Affairs to sale a prime property in Ikoyi area. Having considered the firm's professionalism experience and institutional memory on this matter, the Team decided to retain the same Law Firm to facilitate the sale.

8. Redeployment of the Administrative and Immigration attaches and security of Assets;

The Immigration Attache to relocate to Abuja after a smooth transition of visa issuance from the current location to KQ Lagos office. While The Administrative Attache to relocate to Abuja after disposal of all movable assets and the sale of Plots 51, 52 and 53 concluded. Until then he will be responsible for the safe custody of all movable assets and the security of the fixed assets.

9. Recommendations

- 9.1. KHC maintain a minimal presence in Lagos – Visas to be issued at least twice a week.
- 9.2. The Immigration Attache to relocate to Abuja after a smooth transition of visa issuance from the current location to KQ Lagos office but travel to Lagos to issue Visa;
- 9.3. The local staff to continue with her duties and man the Lagos office on a daily basis
- 9.4. KHC to purchase a suitable safe and other furniture but to KQ standards estimated to cost KSh 1 million;
- 9.5. The Administrative Attache to relocate to Abuja after disposal of all movable assets and the sale of Plots 51, 52 and 53 concluded. Until then he will be responsible for the safe custody of all movable assets and the security of the fixed assets.

Tendering Procedures

- 9.6. Procurement Unit to finalize advert profile and other tender documents
- 9.7. Sale process to start on 1st April 2008 by way of advertisement
- 9.8. Bid forms made available at KHC Abuja and Lagos offices
- 9.9. Sale to be advertised by KHC in 3 national dailies on different dates; bidding within 14 days from date of the First advertisement ;
- 9.10. Bidders will be invited to bid for each plot separately or jointly. An evaluation will be done to ascertain which bid type results in optimal value;
- 9.11. Tender box to be opened in the presence of bidders who chose to attend or their representatives ;
- 9.12. Bidders must meet special conditions as specified in bidding documents;
- 9.13. KHC, Abuja to evaluate tender bids and forward recommendations to Nairobi for consideration and approval.
- 9.14. Sale subject to reserve price

Role of the Law Firm

- 9.15. The Firm to ensure the Title is authentic and no outstanding payments to the State Government;

ANNEX

DFR 49



BEN CHIKA & CO.

Estate Surveyors & Valuers

1st Floor, 5 Ribadu Road, South West Ikoyi Lagos, Tel: 7414616, 4824918, 4347770, 4185897, 2691210
Mobile: 0803 571 7733 e-mail: benchikaco@yahoo.com

File

9th May 2008

The High Commissioner,
Kenya High Commission,
18, Yedseram Street,
Off IBB Way, Maitama,
Abuja.



Dear Sir,

**RE: VALUATION / OTHER SERVICES RENDERED ON NO. 52 AND 53
OYINKAN ABAYOMI STREET, IKOYI.**

We refer to our various discussions / meetings concerning the works / services we carried out on the above named property, namely producing valuation reports November 1998 and 2005, amongst advisory / consultation services rendered to the various Government officials from Nairobi.

In-view of the fact that the sale of the subject property has been concluded, we consequently demand for your consideration and settlement our fee for the sum of N11,760,000 (Eleven million seven hundred and sixty thousand Naira) only.

We would be grateful if the said fee together with that stated in our earlier letter of 13th March 2008 totaling N31, 010,000.00 (Thirty one million ten thousand Naira) be settled to bring to an end this transaction that started over ten years ago.

Thank you.

Yours faithfully,
For: BEN CHIKA & CO

Benjamin Chika





BEN CHIKA & CO.

Estate Surveyors & Valuers

1st Floor, 5 Ribadu Road, South West Ikoyi Lagos, Tel: 7414616, 4824918, 4347770, 4185897, 2691210
Mobile: 0803 571 7733 e-mail: benchikaco@yahoo.com

Demand for Payment

30 APR 2008

40011

17th April, 2008.

His Excellency

The Ambassador

Kenya High Commission

52/53, Oyinkan Abayomi Street

Ikoyi, Lagos.

Your Excellency.

REMINDER

RE: DEMAND FOR PAYMENT OF PROFESSIONAL FEES.

IN RE: VALUATION OF PROPERTY AT NOS. 51, 52 AND 53 OYINKAN ABAYOMI STREET, IKOYI, LAGOS.

Please refer to the above subject matter.

As you will recall we were instructed by your Embassy sometime in 1998 to value the aforecaptioned properties with a view to selling them, which we did and held several meetings and discussion with your predecessor, subsequently your goodself and various interest groups, inclusive attending press conference etc.

Further to the above we also met with the Kenyan Government delegation to Nigeria with respect to the property in the year 2005, to brief them on the value of the aforecaptioned property, the basis of our valuation submitted to the Kenyan Government and the dynamics of the Nigeria real Estate sector vis-a-vis the value of properties in Lagos with particular emphasis on the old Ikoyi Area where the aforecaptioned properties are situated.

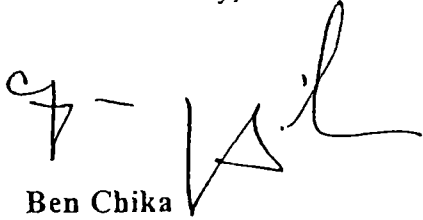
In view of the foregoing by virtue of our letter dated the 13th day of March 2008, we forwarded our bill in the sum of ₦ 19,250,000:00 (Nineteen Million, Two Hundred and Fifty Thousand Naira) only to you, which bill you are yet to settle.



We therefore gratefully acknowledge with delight the advertisement for sale of the aforesaid properties in This day Newspaper of Saturday 12th April, 2008, Punch Newspaper of Monday the 14th day of April 2008, and Guardian Newspaper of Tuesday the 15th day of April 2008, thereby bringing to fruition the process we commenced in the year 1998.

We expect your Cheque in return for our professional fees.

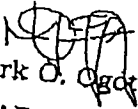
Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ben Chika', with a stylized flourish extending to the right.

Ben Chika

PP: BEN CHIKA & CO

- 9.16. The Law firm to carry out due diligence to make sure bidders' source of funds are transparent is no money laundering that would tarnish the image of Kenya Government.
- 9.17. The Firm to facilitate the transfer of Title to the successful bidder ONLY once the agreed sale amount is in Kenya Government Bank Account, in Abuja.
- 9.18. Buyer takes vacant possession of the property immediately after sale procedures and documents are completed.


Mark O. Ogden

HEAD, ASSET MANAGEMENT UNIT

ANNEX

DFR 50

Telephone: +254-20-318888
Fax: +254-20-240066/341953/344333
E-mail: communication@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

RE: **MFA.212/320A/VOL.III**

MTC Approval for Payment
to Valuer.
19th May, 2008

Action already
taken

D

23-05-08



The High Commissioner,
Kenya High Commission,
ABUJA.

**RE: VALUATION SERVICES - SALE OF PLOT NO. 51, 52 AND 53
OYINKAN ABAYOMI DRIVE, LAGOS.**

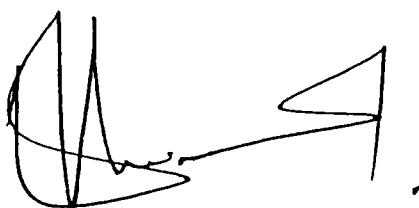
Reference is made to your letter KNH/MOW/PUM 7A of 8th May, 2008 forwarding minutes of the Missions procurement committee and specifically touching on the captioned matter Min.04/04/2008.

The Ministerial Tender Committee in its meeting MFA/MTC/13/2007 – 08 held on 15th May, 2008 discussed this matter and approved payment of fee up to Naira 376, 000 being the professional fee payable to M/s Ben Chika and Co. and consistent with the scale of professional charges as stipulated by The Nigerian Institution of estate surveyors and valuers (3rd Edition)

The Committee further directed that previous valuation reports and services done by the firm should be submitted for consideration and payment.



Signed copies of the Ministerial Tender Committee minutes will be made available to you shortly.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

E. K. KORIR

PRINCIPAL PROCUREMENT OFFICER.



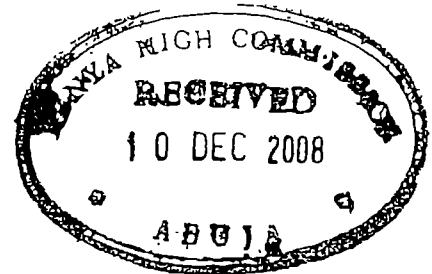
ANNEX

DFR 51

MINISTRY OF FOREIGN RELATIONS
MFA. 212/320/001A VOL. II

8th December, 2008

The High Commissioner
Kenya High Commission
ABUJA



SALE OF KENYA GOVERNMENT LAND – LAGOS

This is in respect of the above subject.

Please make arrangements to remit the entire proceeds from the sale of the Kenya Government Property in Lagos to the following account number and details:

Bank:	Bank of England London
Swift Code:	BKENG2L
Account No:	GB11BKEN10000041810007
Recipient Ministry Account:	D04

Ensure that the Government gets a competitive quote on the cost involved to wire the funds and advise accordingly and prior to wiring.

You are also requested to quote the above details while instructing your bank of the remittance.


A.M. MUCHIRI
FOR: PERMANENT SECRETARY

1/2

MINISTRY OF FOREIGN AFFAIRS

Telephone +254-20-318888
Fax +254 20-240066/341935/344333
e-mail communication@mfa.go.ke
Website www.mfa.go.ke
When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI KENYA

Ref No MFA. 212/320/001A VOL. II

16th December, 2008

The High Commissioner
Kenya High Commission
ABUJA

Mr. Muthini

*Please follow up
to see if the
funds have come.*

*Nyagah 16/12/08
this is for you
17/12/1*

SALE OF KENYA GOVERNMENT LAND - LAGOS *17/12*

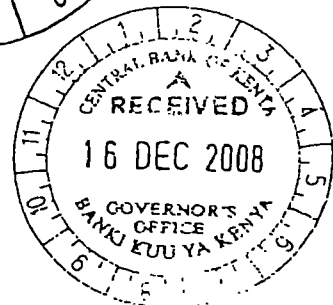
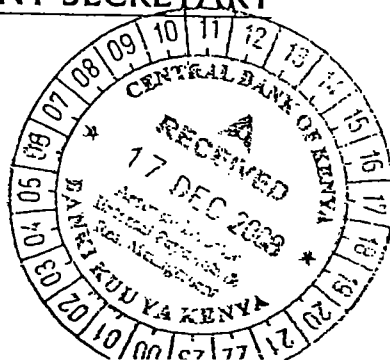
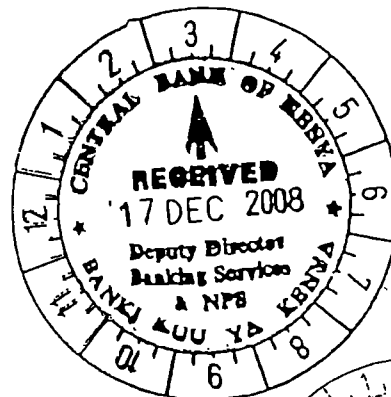
Please refer to our letter Ref. MFA.212/320/001A Vol. II dated 8th December, 2008 and subsequent tele-conversation regarding the above subject.

Please make arrangements to transfer the ENTIRE proceeds of BF8,815,000 from the sale of the Government of Kenya property in Lagos to the account indicated in our letter under reference by close of business today, 16th December, 2008.

It is noted that the Bank transaction related to wiring the funds will attract a fee of BF14000.

Advise accordingly.

A.M. MUCHIRI
FOR: PERMANENT SECRETARY



60(2)

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Fax: +254 20 319300
Email: communications@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



HARARIE AVENUE
P.O. BOX 30574-00100
NAIROBI, KENYA

106

MINISTRY OF FOREIGN AFFAIRS

Ref: MFA. 212/320/001A VOL. II

16th December, 2008



The High Commissioner
Kenya High Commission
ABUJA

FA
urgently deal
as discussed.
D

SALE OF KENYA GOVERNMENT LAND - LAGOS

16-12-08

Please refer to our letter Ref. MFA.212/320/001A Vol. II dated 8th December, 2008 and subsequent tele-conversation regarding the above subject.

Please make arrangements to transfer the ENTIRE proceeds of B£8,815,000 from the sale of the Government of Kenya property in Lagos to the account indicated in our letter under reference by close of business today, 16th December, 2008.

It is noted that the Bank transaction related to wiring the funds will attract a fee of B£14000.

Advise accordingly.

A.M. MUCHIRI
FOR: PERMANENT SECRETARY



P5. 1 of 2

ANNEX

DFR 52

KHN/MOW/PUM/7A

16th December 2008

Mr. Thuita Mwangi
Permanent Secretary
Ministry of Foreign Affairs
NAIROBI



Dear PS,

SALE OF KENYA GOVERNMENT PROPERTY IN LAGOS

I refer to letter Ref. MFA. 212/320/001A/ VOL.II dated 16th December, 2008 and confirm to you that the amount of approximately £8,744,820 has today been remitted as instructed in your letter. The amount is less than the £8,815,000 that was to be remitted by £70,180 which was used to pay rent for one year including service charge, legal and agency fees for the Immigration Attaché's house in Lagos.

The High Commission had to use the money as there was no other alternative due to the fact that the Immigration Attaché was occupying the house vacated by the Administrative Attaché who relocated to Abuja and we had already given notice to the landlord not to renew the lease and he was insisting that the Immigration Attaché and his family had to leave his house by beginning of December 2008. This expenditure had not been budgeted for when the remittance for the current quarter was sent.

In Nigeria rent is paid two years in advance and the High Commission was required to pay a total of – N – 18,200,000 which we did not have. The Mission therefore paid rent for one year and the other charges amounting to – N- 11,300,000. There is still a balance of – N – 6,900,000 to be paid for another year and this will be paid when we receive the next quarterly remittance as we did not want to use too much money from the amount realized from the sale of the Lagos property.

The other major reason we had to use the money was that the value of the British Pound, which is the currency used by the Mission in Abuja, has depreciated so

much that when we convert British Pounds to Nigerian Naira to meet our obligations the amount realized is much less compared to three months ago when the last remittance was sent. When the last remittance of £235,616 was sent the bank exchange rate was – N – 237 to 1 British Pound. Now the rate is – N – 165. The High Commission experienced a shortfall and due to the pressure the Immigration Attaché was facing I had to make a quick decision to save him and his family from the agony of searching for accommodation which can be a tiresome and frustrating exercise in Lagos.

I propose that the amount which was spent on the Immigration Attaché's house be recovered from the remittance for the third quarter.

The High Commission's bank has written a letter dated December 15, 2008 confirming that they will charge £14,000 to remit the money to London. A copy of the letter is dispatched herewith for your information. The Bank will also charge £26.00 for swift charges bringing the total amount to £14,026.

I will inform you the total charges once the bank confirms that the transfer of the funds has been effected and credited into the account in London specified in the Ministry's letter Ref. MF A. 212/320/001A/VOL.II dated 8th December, 2008.

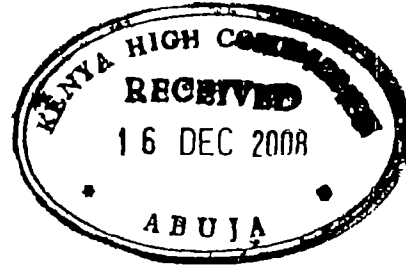
Yours sincerely,

DANIEL M. KOIKAI
HIGH COMMISSIONER

ANNEX

DFR 53

December 15, 2008



The High Commissioner
Kenya High Commission
18 Yedseram Street
Off IBB Way
Maitama
Abuja

Dear Sir,

**RE: REQUEST FOR INFORMATION ON BANK CHARGES FOR TRANSFER OF
GBP8, 815, 000.00**

Further to our recent correspondences on subject, we are pleased to inform you that Standard Chartered Bank is willing to effect your transfer of GBP8, 815, 000.00 for a one-off fee of GBP14, 000.00.

We are glad to be your preferred bankers and we hope have met your expectations.

We thank you for your continued patronage and restate our commitment to excellent customer service.

Yours faithfully,
For: Standard Chartered Bank


Bolanle Igure
Client Services Manager


Henry Akhile
Regional Manager
Abuja and North

Standard Chartered Bank Nigeria Limited
142, Ahmadu Bello Way,
Victoria Island,
Lagos, Nigeria
www.standardchartered.com

RC: 356853

Board of Directors :

HRM Oba Oladele Olashore (Nigerian) Chairman, Christopher R. Knight (American) Managing Director & Chief Executive Officer
Douglas Stoneham (British), Alhaji Shehu Malami (Nigerian), Ebenezer Essoka (Camerounian), Ann Grant (British), Caroline Bagshaw (British),
Chief Joseph Sanusi (Nigerian), Mrs. Yemi Owolabi (Nigerian).

Tel +234(0) 1-2700025
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+234(0) 1-2707150-2
+234(0) 1-2702156
Fax +234(0) 1-2702148-9
+234(0) 1-2719319
+234(0) 1-2702157
+234(0) 1-4616891

ANNEX

DFR 54

(31)

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Website: www.mfa.go.ke
When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

MFA 212/320A

Ref No

17th July, 2008



*Noted. This
had come
earlier.*

D

28-07-08

The High Commissioner
Kenya High Commission
ABUJA



**RE: SALE OF KENYA GOVERNMENT PROPERTY IN LAGOS –
ADVOCATE'S FEES**

Your letter Ref. KHN/MOW/PUM/74 dated 7th July, 2008 refers.

Given the circumstances of the sale transaction so far, we fail to understand your request to retain the services of a lawyer. As your letter has suggested the lawyer has not participated in the initial critical stages of the transaction. Besides, in ordinary circumstances, the legal costs in transactions of this nature, are in general terms borne by the purchasers.

We would therefore suggest that the legal costs be borne by the purchaser.

James Kihwaga

**JAMES KIHWAGA
FOR: PERMANENT SECRETARY**



54

ANNEX

DFR 55

1

Q Proposed retention of 13 of
Lagos property

Ac.

KHN/MOW/PUM/7A

3rd April 2008

Hon. Moses Wetangu'la
Minister for Foreign Affairs
NAIROBI

Dear

BRIEF ON KENYA GOVERNMENT PROPERTY IN LAGOS

Following our telephone conversation on Tuesday April 1, 2008 in which you requested a written report on the Kenya Government property in Lagos, here below is a summary of the main issues.

The Kenya Government bought property in Lagos, Nigeria, in the early 1970's where the Kenya High Commission was located.

The address of the property is 52 Oyinkan Obayemi Drive (formerly Queen's Drive), Ikoyi Lagos.

When the Nigerian Government decided to relocate the capital from Lagos to Abuja in 1976 most Federal Government offices and diplomatic missions were expected to move to Abuja.

Almost all diplomatic Missions formally located in Lagos have relocated to Abuja.



The High Commission of Kenya was relocated in January 2004 when High Commissioner David Mutemi was Head of Mission.

Due to the pending relocation a decision was made to sell the property as there was excess capacity. On the Lagos plot there are three main buildings on three distinct plots of almost equal size. The recommendation, when the decision to sell was taken, was that two thirds of the plot could be sold and the Kenya Government could retain one third.

Various attempts to sell the Lagos property were made in the past on various occasions without being concluded successfully. The last attempt was in 2003 but the sale was cancelled for unexplained reasons after the Procurement Committee in the High Commission had identified the highest bidder.

The latest attempt to sell the property is the current process and an inter-ministerial Valuation Team visited Lagos from 11th – 14th March, 2008. A report by the team has already been submitted and is in the Ministry.

There have been previous visits of Inspection Teams to the property in Lagos. In October 2005 an Inspection Team visited the property and also presented a report on it. The report should also be in the relevant file. This was the last visit by an Inspection Team before the visit of the Valuation Team.

The pertinent issues which have always arisen with regard to the sale of the land are the following:-

1. Sale of part of the property and retention of a portion of the plot for consular purposes. A decision has already been taken to sell the entire plot;

2. Relocation of consular affairs office to Abuja. It has been decided the office be situated at the Kenya Airways Office in Lagos. Kenya Airways Office Area Manager has agreed to this arrangement in principle but he has to get authority from Kenya Airways Headquarters in Nairobi. I have proposed the Ministry approach Kenya Airways in Nairobi about this proposal. The Immigration Attaché will relocate to Abuja and be traveling to Lagos about twice a week to issue visas;
3. The Administrative Attaché to relocate to Abuja after completion of the sale;
4. Disposal or transfer to Abuja of moveable Kenya Government property in Lagos. Unserviceable property to be destroyed. Others to be sold by auction if they cannot be used in Abuja. Serviceable stores to be transferred to Abuja.

The report prepared by the Valuation Team has recorded all the decisions in detail.

From what I was informed the sale of the property in Lagos is meant to raise funds to construct the Chancery and High Commission in Abuja. There is a deadline of December 2009 for diplomatic Missions to construct their plots or risk forfeiting them. The High Commission has written to the Ministry on this.

The proposed approximate cost of constructing a chancery, and staff quarters as well as High Commissioner's Residence in Abuja is: -

Chancery and Staff quarters - -N-567,024,439.95 equivalent to Ksh. 340,214,663 (exchange rate of Ksh.1 = -N- 0.60).



For the High Commissioner's Residence is approximately –N-269,699,291.40 equivalent to Ksh. 161,819,574.

The valuation done by the Assistant Commissioner for Lands who was in the Valuation Team for the sale of the Lagos property is US\$6,022,000 equivalent to Ksh. 391,430,000.

Construction costs in Abuja will be more than the reserved sale price of the Lagos plot by approximately Ksh. 110,604,237.

In the 2007/2008 the High Commission had been allocated Ksh.200,000,000 for development. In the revised Estimates this has been slashed to Ksh.50,000,000.

The money raised from the sale of the Lagos property will be captured in the 2008/2009 budget of the Ministry of Foreign Affairs and my understanding is that the money will be for constructing the Chancery and High Commissioner's Residence as the Ministry does not expect any funding from Treasury on capital projects following the economic and other challenges which ensued after the December 2007 elections.

There is a Nigerian Lawyer and a Valuer who have been involved in attempts to sell the plot for about ten years and met with the Valuation Team who benefited immensely from their professional advise and long association with efforts to sell the property.

Yours

DANIEL M. KOIKAI
HIGH COMMISSIONER

ANNEX

DFR 56

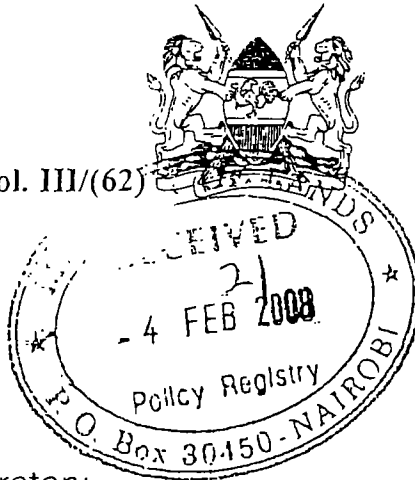
MINISTRY OF FOREIGN AFFAIRS

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Fax: +254 20 240066/31937/311333
e-mail: communications@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date

HARAMBEE AVENUE
P.O. Box 30551-00100
NAIROBI, KENYA

Ref No: MFA.212/320A/Vol. III/(62)

30th January, 2008



The Permanent Secretary
Ministry of Lands
Ardhi House
NAIROBI.

DECL - KC
Deal with
pe p's.
3.2.8

PROPOSED VISIT BY TECHNICAL TEAM TO LAGOS & ABUJA, NIGERIA

As you may recall, your Ministry was part of a team that visited Lagos, Nigeria in 2006 to value government-owned plots to facilitate disposal. Subsequently the Ministry was granted authority by Treasury to dispose the plot, but the sale never materialized. Additionally, it was found prudent to sub-divide the plot so as to retain a third of the plot while disposing the rest.

In this regard, the Ministry intends to dispatch a technical team to Lagos and Abuja to re-value the sub-divided plot to enable disposal. The visit will be expected to take place in early February, 2008.

We therefore request that you nominate an Officer from your Ministry to be part of the team. This Ministry will take care of travel and accommodation expenses.

Amb. A. A. MUSASIA
FOR: PERMANENT SECRETARY

3(b)

ANNEX

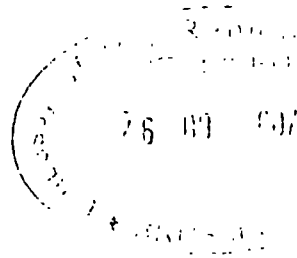
DFR 57



MFA 212/03A

18th September, 2007

Amb. Marx Gad Kahende,
Ambassador,
Kenya Embassy,
BRUSSELS



Dear Balozi,

PROPOSED PURCHASE OF CHANCERY BUILDING

I refer to your letter dated 31st August, 2007 on the above matter, together with the enclosure communicating the landlord's willingness to commence renovations and repairs identified by the inspection team.

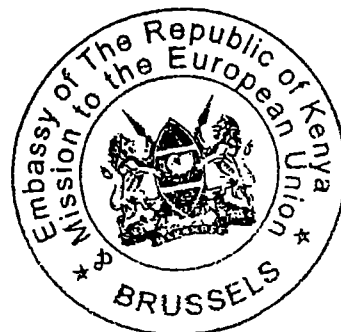
I have noted that during the inspection, the Nairobi team concurred with the recommendations by **S.A. Atisreal Belgium Vaiuers** to have the entire roof and electrical wiring overhauled. In addition, they identified other minor repairs, such as cracks, leaks, roof gutters etc.

Bearing in mind the foregoing, and the indication made that the landlord is willing to undertake all renovations in accordance with the above mentioned independent valuation report, I am persuaded to prefer the option of purchasing the property as per the **offer** made, subject to all repairs and renovations be carried out to our satisfaction.

Accordingly, please ensure that the work is done and completed satisfactorily. On the question of furniture and fittings, of which, the landlord insists on disposing off together with the building, please try to negotiate the price with a view to adjusting it downwards.

Yours Sincerely,

THUITA MWANGI
PERMANENT SECRETARY



ANNEX

DFR 58



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REF. No. KET/ADM/1/11A/VOL.III/(35)

23rd February, 2010

Mr. Thuita Mwangi, CBS
Permanent Secretary
Ministry of Foreign Affairs
NAIROBI

Dear Sir,

RE: INSURANCE COVER FOR THE PROPERTY RECENTLY ACQUIRED IN TOKYO

Following the fire outbreak that gutted the official Residence of the Ambassador in Tokyo on 13th February, 2010, the Mission contacted Mr. Nobuo Kuriyama immediately after the fire outbreak and held a meeting with him on Monday, 22nd February, 2010. I therefore wish to report the following:

1. The last payment due to the Kuriyama family had not been received by the day he attended the meeting on 22nd February, 2010 from 2.30 p.m. in spite of the cheque having been signed on 5th February, 2010. When I sought for an explanation as to why the cheque was not given, the Financial Attache told the meeting that he had left the cheque with the Accounts Assistant to forward to Mr. Kuriyama. It appears no follow up was made and neither was this reported by the Financial Attache to me.
2. The property had insurance cover up to 30th June, 2009 since it was mutually agreed that upon payment of the first instalment, the property would be transferred to the Government of Kenya. However, the Mission did not have funds factored for insuring the property and given that clearance of the balance was a challenge, the funds for insuring the property could only be obtained in the following financial year. The Mission was unaware that the vendors had terminated the insurance policy upon the change of ownership. This only came out during the meeting with the vendor.

3. It is also important to note that I advised the Financial Attache in December to clear the entire outstanding balance using funds saved under the recurrent expenditure items. However, in spite of instructions received from Nairobi to the Financial Attache to clear the balance he reported that this could not happen as recurrent and development items could not be mixed. Instructions to this effect and his response are in our records.
4. The government property that was burnt during the fire was insured for a sum of ten million Japanese yen but in the name of the previous occupant since the laws in Japan do not permit insurance cover for unoccupied house. In this case, the insurance cover is still under the name of Amb. Dennis Awori. However, the insurance firm has assured the Mission that our claim will be settled up to ten million Japanese Yen (¥ 10 million). The only concern to the Mission is that in case the insurance firm contacts the investigating agencies it will be established that the fire was caused by sheer negligence.

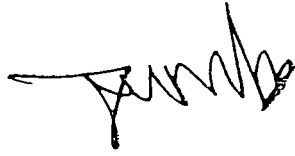
Based on the above therefore, we have agreed on the following:-

1. Suspend the Ambassador's chef pending further investigations.
2. Insure the Chancery that was not touched by the fire.
3. Request for authority to either install CCTV security system or hire a security firm to guard the property at night, over the weekends and public holidays. This is necessitated by the fact that the housekeeper, who was on leave by the time of the fire no longer lives within the Mission compound. The Ambassador's chef was taking care of the Residence while the Housekeeper was on leave.

Meanwhile, the Mission cannot remove the debris on site until advised by Nairobi. In this regard therefore, I wish to request for a team from Nairobi to come and carry out independent investigations in order to ascertain the real cause of the fire at the same time give authority for removal of debris from the compound. This will bring to end speculation on the cause of this fire.

I would also request the investigations to start from Nairobi by interviewing Amb. Ruth Solitei, Director of Protocol at the Right Honourable Prime Minister's office in Nairobi, who had been sleeping in the house earlier on the day the fire broke out.

I strongly appeal for due consideration of the requests I have made and more so an investigation team to interview all those who were attending the meeting at the Embassy on the day of the fire.



ALLAN W. MBURU
CHARGE D'AFFAIRES, A.I.

