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NATIONAL ASSEMBLY

THIRTEENTH REPORT

OF THE

PUBLIC INVESTMENTS COMMITTEE

ON THE ACCOUNTS OF

STATE CORPORATIONS

VOLUME I

2006

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NATIONAL ASSEMBLY

THIRTEENTH REPORT

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STATE CORPORATIONS

VOLUME I

2006

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PREFACE

Mr. Speaker Sir,

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

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

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

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

(2) The Public Investments Committee shall elect its own Chairman.

(3) The Chairman and four other Members of the Public Investments Committee shall constitute a quorum.

(4) In the absence of the Chairman, a Member designated by him shall take the Chair and in their absence, the Members present shall elect one of them to act in his stead.

(5) The functions of the Public Investments Committee shall be:

(a) to examine the reports and accounts of the public investments;

(b) to examine the reports, if any, of the Controller Auditor General on the public investments; and

(c) to examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound business principles and prudent commercial practices;

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

(i) matters of major Government policy as distinct from business or commercial functions of the public investments;

(ii) matters of day-to-day administration; and

(iii) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

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

The Committee consisted of the following Members:

(i) The Hon. J.B.N. Muturi, MP - **Chairman**
(ii) The Hon. Wafula Wamunyinyi, M.P.
(iii) The Hon. Joseph Kahindi Kingi, M.P.*
(iv) The Hon. Jimmy Angwenyi, MP
(v) The Hon. Peter G. Munya, M.P.
(vi) The Hon. K.M. Sang, M.P.
(vii) The Hon. Wycliffe A. Oparanya, M.P.
(viii) The Hon. Geoffrey Gachara Muchiri, M.P.
(ix) The Hon. Gitau Kabogo, MP
(x) The Hon. Abdirahman Ali Hassan, MP
(xi) The Hon. Ali Bahari, MP

* The Hon. Joseph Kahindi Kingi, M.P., ceased being a Member of the Committee on May 25, 2005 upon being appointed an Assistant Minister.

PROCEEDINGS

The Committee held ninety three (93) sittings in which it closely examined the audited accounts of forty five (45) State Corporations and the Reports thereon by the Controller and Auditor General. The Committee also undertook Site inspection tours of the Kenya Ports Authority, Telkom (K) Ltd's Coast Headquarters, Kenya Ferry Services, Kenya Electricity Generating Company's Kipevu Power Plant, Coast Development Authority, Kenya Wildlife Services parcels of land at Kisite & Malindi and Kenya National Trading Company's Loita street parcel of land in Nairobi. These inspection visits were necessitated by the need to ascertain various issues arising from audit reports. The proceedings of the site visits are recorded in the Minutes of the Committee contained in this Report.

The minutes of the Committee are hereto annexed (annex**) and copies of the HANSARD REPORT have been place in the Parliament Library.

The Implementation Status of the Twelfth Report has been printed separately as a Treasury Memorandum, which will be discussed together with this Report and is attached hereto as Volume II.

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

These observations and recommendations, if taken into account and implemented will enhance accountability, effectiveness, transparency, efficiency, prudent management and profitability in state corporations and the public investments sector as a whole.

OBSERVATIONS.

In examining the audited accounts of State Corporations, the Committee's primary approach was to elicit background information as to why particular course of actions were or were not taken, keeping in mind the relevant financial management principles and regulations.

This is the foundation of the Committee's observations and recommendations.

The Committee was appalled to observe that several state corporations continued to operate under financial constraints occasioned by mismanagement and/or imprudent commercial arrangements. In addition, the Committee observed that some parent Ministries constantly engaged in micro-managing state corporations under them and severally undermined decisions made by boards of such corporations, even where such boards were carrying out their statutory duties. The Committee abhors this tendency, which dilutes the principles underpinned in establishing state corporations as well as the much hyped about Performance Contracting concept.

Further, the Committee has continually taken great exception on the slow pace at which the government has implemented the recommendations of this House arising from the previous reports. In this regard, the Committee abhorred the apparent lackluster approach employed by the offices of the Attorney General and that of the Director of Criminal Investigations Department in implementing the recommendations of the House, particularly where the Committee recommends for *"investigation and/or possible prosecution"*.

In addition, the Committee expressed great concern on the manner in which the government handled and executed the importation of 180,000 Metric Tones of White Maize through the National Cereals and Produce Board in the year 2004/2005. Whilst observing that the justification for zero-rating import duties and taxes was to urgently replenish the Strategic Grain Reserve due to then famine which had been declared a national disaster, the Committee observed that the process failed to meet its intended purpose as only 39.5% of the intended grain was eventually imported even after the Corporation opened Letters of Credit for five firms to undertake the importation. The 39.5 % was brought into the country after expiry of the initial duty-free period and long after the drought/famine had considerably reduced. A further weakness was noted to be failure by the government to declare the end of the drought/famine period.

It is also noteworthy that most audit reservations relate to; non-adherence to the procurement procedures; payment of Board allowances; irregular allocation of land; budgetary control; bad and doubtful debts; abandoned projects and pension schemes especially in relation to Kenya National Assurance Company.

MEETINGS WITH THE ATTORNEY GENERAL, PERMANENT SECRETARY, SECRETARY TO THE CABINET AND HEAD OF PUBLIC SERVICE, THE PERMANENT SECRETARY, MINISTRY OF FINANCE AND THE CONTROLLER AND AUDITOR-GENERAL ("BIG FIVE").

1. As a watchdog of the public on the management of State Corporations, the role of this Committee is to ensure that integrity; high standards of ethics and productive efficiency are collectively maintained in all public investments. It is on this premise that towards the end of its sittings, the Committee held meetings with the Attorney General, Permanent Secretary, Secretary to the Cabinet and Head of Public Service, the Permanent Secretary, Ministry of Finance and the Controller and Auditor-General, normally and hereinafter referred to as "Big Five" to share and exchange views on matters of public investments which the Committee viewed as requiring critical address. The meetings deliberated on matters which were recurrent and outstanding in the Reports of the Controller and Auditor General on the various state corporations under review. These matters were: -

State Corporations Enabling Acts vis-à-vis the State Corporations Act (Cap 446).

2. While deliberating on the Report of the Controller and Auditor General on various State corporations, the Committee at several instances heard that managements and Boards of some State Corporations passed and implemented specific decisions "according to enabling acts" even though these decisions contravened the State Corporations Act (Cap 446). Instances include:-

   (a) National Hospital Insurance Fund (NHIF) has continued to pay allowances to its Board members at rates higher than those set by the Government and contrary to Section 10 of Cap 446. The Fund explains that the Board according to the NHIF Act approved the allowances. The issue has been captured by the Controller and Auditor General in paragraph 6 of the 2002/2003 Report.

   (b) Export Processing Zone Authority (EPZA) since 1996 has been paying revised personal emoluments and Board allowances without obtaining the authority of the Office of the President as required by State Corporations Act, (Cap 446). The Authority argues that it has been approving and paying salaries and allowances to its staff and Board members in accordance with Section 7 (2) of Cap 517 that establishes the EPZA

(c) Electricity Regulatory Board (ERB) in the year 2000 paid its Board members allowances in contravention of Section 10 of State Corporations Act, Cap 446. The Board argues that it acted in accordance with Section 3 of the schedule to Electric Power Act, 1997.

Some of the Enabling Acts came after State Corporations Act and are specific to their respective State Corporations.

The Committee therefore: -

(i) sought advice on which law should prevail in case of conflict between the State Corporations Act, (Cap 446) and state corporations' Enabling Acts; and

(ii) sought advice whether it would therefore be prudent for the government to introduce miscellaneous amendments to the affected statutes and/or establish a policy on which law prevails.

The Meeting with the "Big Five" affirmed that:-

(i) the State Corporations Act, (Cap 446), applies to every body corporate falling within the definition of "state corporation" irrespective of whether a corporation could have been established before or after commencement of Cap 446, unless a specific provision gives precedence to the Act or written law establishing state corporations as exemplified in Section 6(1) of Cap 446;

(ii) as stipulated in Section 5A, Cap 446 allows for partial exemption of a state corporation except from Sections 5, 11, 13, 14, 18, 19, 20, 21, 22, 23,24,25,26,27,28, and 29. State Corporations previously granted total exemption fall under this category;

(iii) in the event of conflict, the State Corporations Act, Cap 446 supercedes the Acts or other written laws establishing state corporations, except where the Act Specifically provides (as in I and ii above) or where the corporation is exempt under Section 5A ;

The Committee therefore recommends that all State Corporations:-

(i) **should adhere to the provisions of the State Corporations Act, (Cap 446) in the manner provided in (i) and (iii) above; and**

(ii) **accordingly, the excess allowances paid to Members of the National Hospital Insurance Fund Board be recovered immediately from the recipients by way of surcharge (see Paragraph 5 of 2002/2003 Accounts of NHIF).**

State Corporations Advisory Committee

3. The Committee observed that Terms and Conditions of Service of several State Corporations including sitting allowance for Board members and house allowance for staff were being reviewed without recourse to the State Corporations' Advisory Committee contrary to the State Corporations Act (Cap 446).

Further, where revisions had been forwarded to the State Corporations Advisory Committee, such revisions were sanctioned by the Permanent Secretary, Secretary to the Cabinet and Head of Public Services purporting to act on behalf of the Committee.

The Committee sought to be apprised on:-

(i) whether currently the State Corporations Advisory Committee is properly established and is operational;

(ii) the legal status of sanctions signed by the Permanent Secretary and Head of Public Service on behalf of the State Corporations Advisory Committee Secretary; and

(iii) government's position on Terms and Conditions of the State Corporations reviewed without recourse to the State Corporations Advisory Committee.

The Meeting with the "Big Five" affirmed that:-

(i) even though the State Corporations Advisory Committee (SCAC) has existed in law since 1986, it was constituted on November 6, 2003 under Section 26 of the State Corporations Act by H. E. the President and became operational from January 28 2004. The State Corporations Advisory Committee is a statutory body with defined membership and **anything required by law to be**

done by the Committee must be done by the Committee as properly constituted, or otherwise as the Committee may direct or approve;

(ii) under Section (5)(3) of Cap 446, a state corporation is allowed to employ such number of staff, including the chief executive, on such terms and conditions of service as the Minister (in the parent Ministry) may, in consultation with the SCAC, approve. As section 5 is a compulsory provisions listed under Section 5A, it applies to all state corporations. The SCAC **must** therefore be consulted in determination of the terms and conditions of service of every state corporation, including any revision thereof. **Any revision done without consulting the SCAC is illegal;**

(iii) as of allowances of board members as provided in section 10, sitting allowances or other remuneration payable should be within prescribed scales of remuneration specified from time to time by the Board with approval of the SCAC. Therefore any payment outside the prescribed scale is illegal. **Consequently, unless a state corporation is exempt from Section 10 in manner exemplified in Section 6 of Cap 446, allowances and other remunerations payable to board members must be approved by the SCAC. The same applies for revisions thereof;**

Further, Head of Public Service and Secretary to the Cabinet informed the Committee that prior to January 2004, in carrying out his duties that fall within public service, he approved terms and conditions of service for state corporation's staff and directors to enable the respective corporations operate. This was regularized by a circular on Terms of Conditions of Service for Chief Executive Officers, Board Members and Chairmen, management and unionizable Staff of state corporations. The Guidelines were released after full advice and approval by SCAC in accordance with Cap 446.

The Committee recommends that chief executives should ensure:-

(i) that they have recourse to the State Corporations Advisory Committee (SCAC) as provided for under Section 27 of Cap 446 when revising personal emoluments, acquiring interests in any business proposal, entering into joint ventures with other bodies

or persons and/or making management or consultancy agreements with other persons; and

(ii) that unless a state corporation is exempt from Section 10 of State Corporations Act, Cap 446 in manner exemplified in section 6 of the Act, approval of State Corporations Advisory Committee should be sought before implementing allowances and other remunerations for board's members and chairmen. The same should apply for revisions thereof. Where such revisions were made without recourse to SCAC and/or prior to its operationalisation, chief executives should seek advice from SCAC on how to regularize such allowances and remuneration (See Recommendation on Paragraph 1 of 1999/2000 accounts of Electricity Regulatory Board)

Action on cases recommended by the House

4. Noting that it had constantly expressed concern on the delays and slow pace at which the Office of the Attorney-General had implemented its previous recommendations, particularly where it recommends for "*investigation and possible prosecution*" in its Reports, the Committee sought to know what occasioned the delays. The following examples were cited:-

(a) **Teacher Service Commission (TSC)** - Criminal case No. 2713 of 1994 (Nairobi): Republic Vs Peter Maingi Gateri and others, where Kshs 21,600,682.90 was fraudulently paid to M/s. Kenya Trust Investments and which an amount of Kshs. 2,590,805.70 was recovered, leaving a balance of Kshs. 19,110,857.20. The TSC, vide its letters referenced TSC/CONF/39 VOL. IX/69 and TSC/CONF/39/VOL. IX/100 dated 21st February and 18th July, 2002 requested the AG's office to institute civil proceedings against the convicted persons with a view to recovering the losses;

(i) Case of theft of teachers' salary where Kshs. 164,356.75 is still outstanding from Mr. A.K Riungu, TSC: 600227 and Mr. J.N Karema TSC: 500984 of Murang'a D.E.O's office. The case was entered in OB as 20/13/8/99. The case is still pending. The Teachers Service Commission vide its letters Ref. No. TSC/CONF/145 VOL. II/34 and

TSC/CONF/145 VOL.II/35 had reminded the Office of the AG to expedite the cases;

(b) **Kenya National Trading Corporation (KNTC)**- case involving loss of Kshs. 500 million due to theft in 1993 where on 2nd August 2000, Mr. David K. Tirop, the then Managing Director of KNTC was charged in court with the offence of abuse of office. The Committee heard that on request of the accused, the High Court ruled that the offence had taken place a long time ago, such that the accused could not defend himself, and as such, the hearing was terminated at the lower court. The office of the AG then represented by two counsels, Messrs Momanyi Bonwonga and Dorcas Oduor, undertook to file an appeal. *The Committee was concerned that the appeal was yet to be lodged and no satisfactory explanation had been given to that effect;*

(c) Case involving loss of Kshs. 7 million, where Messrs: Philip Kiplelei Magut; Joseph Manga Mugwe; Pascal Kiragu Mugwe and Rapsel Limited, were accused. The above matter was reported to the Criminal Investigations Department (CID) on 2nd February 1998. Investigations were instituted and on completion, the file was forwarded to the Attorney-General for consent and advice. On January 12, 1999, the Attorney-General gave consent for the suspects to be charged in court. On March 29th, 1999 the accused persons were arrested with an aim of arraigning them in court following the AG's directives. However, on the same day, the Attorney-General ordered that the suspects be released and the files be re-forwarded to him. On January 2000 the files were returned to the office of the Director of CID with directives that it should be closed. In the month of October 2004, the suspects were summoned again to Criminal Investigations Department headquarters with an aim of charging them in court with the prevailing offence. However, the Criminal Investigations Department was again instructed by the Attorney-General to re-forward the file to him so that he could advise them on when they could charge the suspects. *The file had not been received back yet as at July, 2005 and the suspects were released;*

(d) Case of KNTC's Plot No. 209/10343 fraudulently surrendered to the Commissioner of Lands and sold to Savings and Loans (K) Ltd. The case involves Messrs; Philip Kiplelei Magut, Joseph Manga Mugwe, Grace Manyina Adera, Wilson Gachanja and Pascal Kiragu Mugwe. The issue has been outstanding. It came to the attention of the Committee that each time the Director of

Criminal Investigations Department commences investigations and possible prosecution, the Attorney-General withdrew the file; for instance, in October 2004 the accused persons were summoned to the CID Headquarters with a view to preparing them to appear in court on charges of Abuse of Office and Conspiracy. However, before their fingerprints could be taken, the Attorney-General directed that the file be forwarded to him for perusal and advice;

(e) Case involving loss of Kshs. 14 million by Messrs; Reuben Ole Nakuo, Mary Nasieku Nakuo and Kimani Mbugua (deceased). The case has been outstanding for long. The Committee had been informed that Mr. Ole Nakuo who oversaw the transaction has been apprehended and charged before the Anti-Corruption Court for abuse of office.

The Committee therefore: -

(i) requested for a progress report from the Attorney-General on the cases in respect of the accounts of Teachers Service Commission and KNTC; and,

(ii) sought explanation from the Attorney-General on the inordinate delays in expediting the cases in respect of losses at KNTC and constant withdrawal of files by the himself in cases involving Mr. Joseph Manga Mugwe;

The Attorney-General informed the Committee that:

(i) quite often, some state corporations fail to seek legal remedy timely and as such they find themselves time barred under the Limitations of Actions Act, (Cap 22). The case of Maina Gateri and others of Teachers Service Commission (TSC) falls in this category. The case of A.K. Riungu is with the Police who are yet to complete investigations (See recommendation in Paragraph 1 of 1999/2000 Accounts of TSC). Further in the case of Mr. Davis Tirop, a Notice of Appeal has since been filed;

(ii) in February 1999, he directed and sanctioned prosecution of four suspects in the case of Philip Magut, Joseph Mugwe, Pascal Mugwe and M/s. Rapsel Ltd. In August 2000, the Director of Criminal Investigations Department resubmitted the file to him

(Attorney-General) on the basis that KNTC wanted the matter settled through the civil process. Two cases had been filed on the same subject matter i.e. HCCC No. 284 of 1999 KNTC Vs Rapsel Ltd and others claiming Ksh. 7 million and Nairobi HCCC No. 648 of 1999 Rapsel Vs KNTC seeking specific performance and damages. Acting from precedence and in light of the views of the complainant and the two cases, the Attorney-General forebore prosecution. The file was resubmitted to the him four years later whence he on September 13, 2005 wrote to the Director of Criminal Investigations requesting for status of the two civil cases and information whether KNTC is still keen on pressing the charges;

(iii) having perused the file relating to KNTC's Plot No. 209/10343, he wrote to the Director of Criminal Investigations on August 22, 2005 pointing out areas of further investigation subsequent to which he will give further directions. On the case of Reuben Ole Nakuo and Mary Nasieku, he has since directed prosecution and indeed Mr. Ole Nakuo was arraigned before court;

(iv) generally and in some instances, state corporations have lost cases due to what may appear to be lack of diligence by corporations' lawyers to effectively pursue cases, particularly where they are required to pursue civil suits to recover lost funds; and,

(v) the Office of the Attorney General is under-staffed and lacks adequate capacity to prosecute.

The Committee took great exception to the delays and slow pace at which the Attorney General continues to implement its recommendations, particularly, on the cases involving Mr. Joseph Manga Mugwe citing that the inordinate delay may appear to be intentional.

The Committee recommends that:

(i) the Attorney General should expendite on all cases referred to the holder of the Office by the House in the Committee's recommendations;

(ii) **chief executives of state corporations should ensure that they seek timely legal remedy to avoid situations where such legal redress would be time barred under the law; and,**

(iii) **the Office of the Attorney General should be strengthened by recruiting more lawyers and remunerating them at competitive rates.**

Local Authorities Provident Fund Act and the Kenya Post Office Savings Bank Act and the Postal Corporation of Kenya

5. While taking evidence from managements of various state corporations, it became apparent that state corporations need to constantly seek advice and move the Attorney-General to propose amendments in their respective enabling statutes so as to not only conform with the State Corporations Act but also to safeguard the principles and objectives behind each corporation's establishment;

The meeting with the Big Five shared the same view.

The Committee therefore recommends that: -

(i) **chief executives of each State Corporation should, with the concurrence of the Office of the Attorney-General, ensure constant review of their respective enabling Act and move the Attorney-General to propose amendments to the House in the enabling statutes where necessary. This should be driven by need to conform with the State Corporations Act and safeguarding the inherent principles and objectives behind each corporation; and,**

(ii) **in addition to (i) above, the government should, without further delay, propose amendments for consideration by this House on the following:-**

(a) **Section 21(2) of the Postal Corporation of Kenya Act, so as to conform with Section 16 of the State Corporation Act on placement/investment of surplus funds;**

(b) **Local Authorities Provident Fund Act (Cap 272), to provide for meeting of its administrative expenses from its investments income; appropriate reduction of**

its Board members; specification of the powers and tenure of office of board members and specification of liability and method of contribution by local authorities;

(c) **Kenya Post Office Savings Bank Act to reflect the views of the Treasury such that the Bank is not guaranteed from the consolidated Fund on occasions where it makes losses due to imprudent or non-commercial arrangements;**

(d) **relevant statute(s) to ensure that local authorities receive disbursements from the Local Authorities Transfer Fund (LATF) net of their respective financial obligations to the National Housing Corporation;**

Irregular allocation of State Corporations land

6. While examining reservations raised by the Controller and Auditor General on the accounts of various State Corporations, it constantly emerged that most State Corporations had been losing land through irregular allocations. This tendency has greatly impacted on the operations of the affected Corporations as land forms a major part of their fixed assets.

Such affected Corporations included: - Kenya National Trading Corporation, Kenya Airports Authority, Kenya Wildlife Service, Nyayo Tea Zones Development Corporation, Kenya Industrial Research & Development Institute and Kenya Agricultural Research Institute. Further, some of the areas under Kenya Wildlife Service, which have been encroached, include those classified as Riparian land and Ramsar Sites, which are protected or restricted under international conventions.

The Committee noted with concern that some third parties who were irregularly allocated such land have since been issued with Letters of Allotment and others Title Deeds.

In this respect, the Committee sought to know the government's position on Title Deeds issued to third parties on lands hived off from State Corporations and its position on encroachment of Riparian land.

The meeting with the "Big Five" assured the Committee that: -

(i) the government has since decided that all illegally/irregularly acquired parcels of land would be recovered and that a Land Titles Tribunal would be established to facilitate the cancellation of the affected title deeds;

(ii) for cases involving the Kenya Wildlife Services, the Commissioner of Lands has revoked the Letters of Allotment with a view to having the parcels of land reverted to the Service, while for some cases the Commissioner awaits the Attorney General to move the court with a view to having the said parcels re-allocated to the Corporation (See paragraph 1 of 1999/2000 Accounts of the Service);

(iii) with regard to Kenya Airports Authority (KAA), the following nine (9) parcels of land have since been recovered and reverted to KAA; L.R. Nos. 209/25469, 209/25470; 209/25471; 209/25472; 209/25473; 209/25474; 209/25475; 209/25476 and 209/25477

The Committee recommends that: -

(i) chief executives should ensure that they obtain Title Deeds in respect of all parcels of land belonging to their state corporations and always safeguard the parcels and endeavours to dispose them off should be done in accordance with the law;

(ii) where such parcels of land have been irregularly allocated to third parties, chief executives of state corporations should move with speed to ensure recovery at the best interest of respective corporations;

(iii) the government should, without delay, give a clear direction on the sanctity of Title Deeds in respect of irregularly acquired parcels of land. Further the government should, as a matter of urgency, implement the report of the Ndung'u Commission on Irregular Allocation of Land; and

(iv) the National Environment Management Authority should, pursuant to its statutory mandate, ensure that parcels of land of environmental significance like

***Riparian Lands* and *Ramsar Sites* are safeguarded. Where necessary, this should be done in conjunction with other statutory conservationists like the Kenya Wildlife Service.**

Dormant/abandoned projects

7. While taking evidence on the Reports of the Controller and Auditor General, the Committee was concerned by recurrent issues on dormant projects in various State Corporations. Cases were given of National Social Security Fund's Nyayo Estate, Embakasi, where 85% of contract fee was paid to a construction company, while only 24.2% of the works had been completed; Kenya Tourist Development Corporation's dormant Watalii Street Project, where Kshs. 34,193,888 was irregularly spent on consultancy on Travel-cum-Tourist Centre Project on Plot LR. NO. 209/9733 Nairobi; Postal Corporation of Kenya's (PCK) Kericho Post Office for which Kshs. 258,113,480 was paid as professional fees for a 12-floor building which was later scaled down to four floors and re-valued at Kshs. 88,700,000; PCK also inherited five other projects from the defunct Kenya Post & Telecommunications Corporation where it spent a total of Kshs. 347,847,298 mainly as professional fees in building plans; and Catering Levy Trustees had by 1997/98 financial year spent a total of Kshs. 32,282,276 on a proposed office block, a project which has since been abandoned following a change of policy by the government.

   Considering that huge amounts of money were spent at the initial stages of most of these abandoned projects, the Committee sought to know from the "Big Five" what the Government's position on abandoned projects is.

   The Committee was informed that the government is on the threshold of appointing an Inter-Ministerial Committee (akin to one formed in 2004 on revival of stalled projects), to address and handle the problem of stalled projects in state corporations. Further, the Treasury had reiterated through its annual circular on budget that no new projects by all state corporations should be implemented until the respective parent ministry has formally approved them with the concurrence of the Treasury.

   The Committee recommends that Chief Executives of state corporations should ensure that government guidelines, rules and regulations governing state corporations' projects are adhered to. Chief Executives who commit a state corporation to

loss of funds due to mismanagement, non-adherence to government guidelines and/or non-carrying out of prior study(ies) pertinent to such projects should be dismissed from service forthright and appropriate legal charges be preferred against them by the affected corporation's Board or parent Ministry. Further, such officer(s) should not hold any public office conferred by the Republic of Kenya.

The Committee also recommends:-

(i) that, chief executives of state corporations should always safeguard the interests of their employing-corporation when hiring and paying professional fees to consultants and contractors. State corporations should not hire consultants or contractors to carry out works or provide services for which works or services its own employees could carry out or provide. Chief executive(s) of state corporations found culpable of such act(s) should be dismissed from service immediately; and,

(ii) that, any Chief Executive of a state corporation who is found culpable of sourcing for goods or services in contravention of the Public Procurement and Disposal Act, 2005 should be dismissed from service and be barred from holding a public office conferred by the Republic of Kenya.

Contract price variations

8. While executing its mandate, it came to the notice of the Committee that State Corporations have continued to lose huge amounts of money through contracts which are initially awarded at low prices and which contracts are gradually revised upwards after award. Cases in point is the National Hospital Insurance Fund's Medicare Plaza project, which was awarded to a contractor at a contract sum of Kshs 1,483,000,030.65 and which had consumed a total of Kshs 4.4 billion as at April, 2005 and the account had not been closed; Further, the National Social Security Fund in 1999/2000 awarded a computer conversion contract to a consultant at a cost of Kshs 14.5 million, a figure which was later varied to Kshs. 73.4 million and spent.

The meeting with the Big Five observed that some contract price variations would appear to be done by contractors in cohort with officers and/or Board members of affected state corporations and

that in such instances, low quotations by subsequently successful bidder(s) would purely be for the fraudulent purpose of qualifying the bid during tender evaluation.

The Committee therefore recommends that Chief Executives of state corporations should desist from varying contract prices upwards after award of such contracts. Further, after award of tender(s), fresh tenders should be floated in case any additional or separate works or services on the same project become indispensable in course of implementation.

Running of State Corporations by Parent Ministries

9. While observing that the role of parent Ministries in the running of State Corporations is not always specified in their enabling Acts or the State Corporations Act Cap 446, the Committee abhorred the manner in which some Ministry officials had influenced decisions made by Board of Directors of some State Corporations. For example, Section 10 of the Sugar Act vests the powers of appointing and dismissing a Chief Executive on the Board. On the contrary, the Ministry of Agriculture in mid 2005 re-called a chief executive to the Kenya Sugar Board (KSB) who had been suspended by the KSB Board on allegation of mismanagement.

Asserting that the role of the Parent Ministry is chiefly advisory and as provided for in various statutes establishing corporations, the meeting with the "Big Five" affirmed that parent Ministry are normally adequately represented in Board(s) of state corporation(s) under them and as such should ventilate their views in board meetings.

The Committee recommends that:-

(i) parent Ministries should refrain from micromanaging state corporations under them, particularly where such boards would be acting within their statutory powers; and,

(ii) where a parent Ministry has, in the past, irregularly negated administrative decision(s) made by a state corporation like in the case of Kenya Sugar Board, the Board should, in exercise of its statutory powers, be at liberty to revisit the matter(s) and make an appropriate decision(s).

Government investment and establishment of the New Kenya Cooperative Creameries Ltd. as a State Corporation

10. While executing its mandate, came to the attention of the Committee that the Government had invested over Kshs. 547 million in the New KCC Ltd. However, the Gazette Notice No. 1175 of February 19, 2005 by the Minister for Cooperative Development and Marketing purported to appoint the Chairman and members of New KCC's Board. The Gazette Notice was in clear violation of the State Corporations Act, which vests the powers of appointing a State Corporation's Chairman on the President.

During the meeting with the "Big Five" the Committee observed that the Ministry of Co-operative Development and Marketing had noted the irregularity and has since corrected the anomaly through another Gazette Notice signed by the appointing authority on October 6, 2005.

Privatisation and insolvency of some State Corporations

11. The Committee has continued to note that some state corporations have, over time, run as going-concerns purely because of the mercy of their creditors and the Exchequer yet they are financially insolvent. A case in point is the Kenya National Trading Corporation which has continued to draw ex-chequer issues and whose winding up is unclear to the Committee.

The Committee recommends that the Government should endevour to privatize ailing state corporations and those whose objectives have since been overtaken by events and economic realities like market liberalization.

Performance Contracts

12. The Committee requested to be apprised on the implication of the newly introduced Performance Contract on the overall operations and financial performance of State Corporations.

The Committee was informed that:-

(i) in 2003, the Government made a commitment to introduce Performance contracts as management tools to ensure accountability for results and transparency in the management of public resources;

(ii) a performance contract being an agreement between the government, acting as the owner of an agency and the agency, it specifies and clarifies the intentions, powers and responsibilities of each, rationale of the agreements is to: improve accountability for results, improve efficiency levels and ensure that public resources are focused on attainment of the key National Policy priorities of the government, institutionalize performance oriented culture in the public service, relate remuneration to measurable performance;

(iii) the performance contracting concept is essentially instrumental for improving managerial and operational efficiency while at the same time allowing Boards and Management the requisite autonomy to carry out managerial functions; and

(iv) the introduction of performance contracts is bearing the expected outcomes and will go a long way in ensuring that State Corporations justify their existence and do not become a burden to the tax payer by relying on the exchequer;

While applauding the decision of the government in introducing performance-contract concept in state corporations, the Committee noted that in some instances, a Performance Contracting Regulations conflict with some State Corporations' enabling statutes. A case in point is that of Regulation 2 (d) of the Performance Contracting Regulations and Kenya Tourist Development Corporation's enabling statute where the latter empowers the Minister to hire and dismiss a Chief Executive. This is in conflict with Regulation 2(d) which vests the powers of hiring and dismissing the Corporation's Chief Executive on the Board.

The Committee recommends that the Government should ensure that Performance Contracts are in line with existing laws and further that contracting parties adhere to the duly signed Performance Contracts.

Kenyatta University Land

13. While examining report of the Controller and Auditor General on the Accounts of Kenyatta University (KU), it emerged that the issue of 30.82 acres of land which was hived off and donated to residents of Kamae Village who had been squatters on University land, has been outstanding for long. The Committee has previously recommended that the issue be resolved expeditiously as it poses a security threat

to the University. On November 25, 2004, the Committee advised that a committee/team be formed to address the matter.

The meeting with the "Big Five" confirmed that a committee chaired by the Permanent Secretary, Office of the President, (Provincial Administration and Internal Security), and comprising of, senior officials from Kenyatta University, Ministry of Roads and Public Works, Ministry of Lands, Nairobi City Council, National Environment Management Authority, Ministry of Education and representatives of the squatters was formed which recommended that: -

(i) the genuine squatters occupying KU land at old Kamae village be moved to a new site which had been agreed on as soon as was practicable.

(ii) letters of allotment issued to genuine squatters be formalized.

(iii) those issued to illegal squatters including those for Riparian reserve be cancelled.

(iv) plots that had discrepancies in terms of ground ownership and name confusion to be cancelled and reissued as appropriate.

(v) Kenyatta University be advised to fence off their land to stop further encroachment.

Noting that Kamae village has been a security threat to the University, the Committee recommends that the report of the above-mentioned committee be implemented immediately. (See Paragraph 2 of 1997/98 accounts of Kenyatta University)

Surplus Funds

14. Having observed with concern that contrary to section 16 of the State Corporations Act, some State Corporations which appear to have outstanding surplus funds do not remit the same to the Treasury for onward payment into the Consolidated Fund, the Committee requested to be apprised on the position of the Government on non-remittance of surplus moneys by State Corporations into the Consolidated Fund. Further, the Committee sought to know the role of the Deposit Protection Fund on cases

where state corporations have previously invested in financial institutions, which have since gone under.

During the meeting with the "Big Five", the Committee was informed that it is a government policy that any surplus funds be invested in Treasury securities and that state corporations must seek Treasury approval for investment of surplus funds in commercial banks and other financial institutions. The Treasury is supposed to monitor adherence to these regulations through the periodic returns submitted by State Corporations. The Committee also heard that:-

(i) state corporations are required to pay regular dividends to the Government; and

(ii) the Deposit Protection Fund Board acting under the Banking Act, is only limited to payment of the insured sum of a maximum of Kshs. 100, 000 per depositor to all depositors, realization of assets including outstanding loans and distribution of proceeds thereof as dividends to all classes of creditors.

The Committee recommends that Chief Executives of state corporations should: -

(i) ensure adherence to Treasury Circulars in respect of investment of surplus funds. Any Chief Executive who flouts Treasury Circulars in this regard should be dismissed from service forthright and surcharged all costs and incidentals thereof, subsequent to which such person(s) should not hold any public office conferred by the Republic of Kenya; and,

(ii) ensure that state corporations pay dividends to the Government from their surplus funds. In this regard, the Treasury should ensure adherence and regularly report to Parliament in this regard.

ACKNOWLEDGEMENT

The Committee wishes to record it appreciation to the various witnesses who appeared and adduced evidence before it.

Further, a plethora of thanks goes to the staff of the National Assembly, Kenya National Audit Office, the Inspectorate of State Corporations and the Department of Government Investments & Public Enterprises for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

HON. JUSTIN B. N. MUTURI, MP
(CHAIRMAN)

SIGNED.....

DATE..2nd May, 2006.

HIGHLIGHTED CASES

The following sampled cases exemplify the findings of the Committee:

(I) Sampled Cases related to capital projects

State Corporation	Year of Accounts	Project	Amounts Involved (Ksh.)	
			Initial	Spent
National Hospital Insurance Fund	1998/99 up to 2002/2003	Construction of Medicare Plaza	1.5 billion	4.2 billion
National Hospital Insurance Fund	2002/03	Construction of Multi-Storey Car Park	909 million	1.2 Billion (Account not closed as only 52% is complete)
Communication Commission of Kenya	2000/20001	Refurbishing minister's office.		1,000,000
Catering Levy Trustees	1998/1999	Abandoned project at consultancy stage		32,288,076
Kenya Tourist Development Corporation	1995/1996	Abandoned Watalii Street Project		38,549,827
Postal Corporation of Kenya	1999/2000	Dormant Project-		347,847,298

(II) Sampled Cases of related to land as fixed asset

State Corporation	Year of Accounts	Parcels of land lost	Comments
Kenya National Trading Corporation	1997/99	No. 209/1034	Parcel irregularly surrendered to the Commissioner of Land
Communication Commission of Kenya	1996 /97	LR. Nos. 12445 and 12550	Purchase of encumbered plots
Nyayo Tea Zones	1995/96	LR. No. 20629; LR. No. 20597 LR. No. 20630	Sale of land and tea bushes
National Social Security Fund	1999/00	LR No. 209/11314	Land overvalued
Postal Corporation of Kenya	1999/00	LR. No 37/272 /5	Allocated to private developer
Kenya Wildlife Service	1999/00	21 parcels of land	Allocated to private developers.

(III) Cases related to Board Allowances

State Corporation	Year of Accounts	Irregularly paid allowances/remuneration to board members
Kenya Dairy Board	1996/97	164,988
Electricity Regulatory Board	1999/00	4,043,242
Electricity Regulatory Board	1999/00	7,800,000- irregular tax equalization fee
National Hospital Insurance Fund	2002 /03	1,335,000
Catering And Tourism Development Levy	1998/99	10,000
Investments Promotion Centre	1997/98	465,360
Investments Promotion Centre	1997/98	250,000
Export Processing Zones Authority	1996/97	2,154,347

(IV) Cases related to procurement of goods and services

State Corporation	Year of Accounts	Comment	Amount involved
National Social Security Fund	1999/2000	Irregularities in tendering	14,581,190
Kenya Airports Authority	1997/1998	irregularities in tendering for fire fighting equipment	59,742,338
Kenya Airports Authority	1997/1998	Contract not awarded to the lowest bidder	5,186,972 (possible savings)
Kenya Dairy Board	1996/97	Irregularities in tendering	3,023,613.00
Kenya Literature Bureau	1998/1999	Contract not awarded to the lowest bidder	4,023,525 (possible savings)
Kenya National Housing Corporation	1999/2000	Possible savings after irregular award of contract	10,788,257
Nyayo Tea Zones	1995/96	Irregular tendering	2,230,512
Kenya Post Office Savings Bank	1999/2000	irregular acquisition of DEC alpha server	46,201,218
Kenya Post Office Savings Bank	1999/2000	Irregularities in tendering	55,537,000
Kenya Post Office Savings Bank	1999/2000	Tender not given to lowest bidder	1,318,037
Kenya Post Office Savings Bank	1999/2000	Possible Saving	2,113,108
Ewaso Ngiro South Development Authority	1994/95	Single sourcing	1,568,321
Kenya Ferry Services	1997/98	Single sourcing	9,245,000

(V) Cases related to non-recovery of Imprests and staff advances

State Corporation	Year of Accounts	Amounts in question
Kenya Dairy Board	1995/96	150649
Teachers Service Commission	1999/00	232, 330.85
Kenya Air Ports Authority	1997/98	2,140,439

(VI) Sampled Cases related to recovery of loans/debts

State Corporation	Year of Accounts	Amounts in question
Kenya National Trading Corporation	1996/97	8,950,283.88
Kenya National Trading Corporation	1997/98	2,187,939
Communication Commission of Kenya	2000/01	31,000,000 –owed by Royal Media Services

(VII) Cases related to staff pension

State Corporation	Year of Accounts	Amounts involved
Kenya National Trading Corporation	1996/97	13,118,478.90
Kenya Literature Bureau	1995/96	9,664,529.75

(VIII) Cases related to Stock/Cash Theft

Corporation	Year	Stock/ cash	Amount
Kenya National Trading Corporation	1996/97	Stock	13,807,746.65.
Teachers Service Commission	1999/00	Cash	19,110,857
Teachers Service Commission	1999/00	Cash	518, 330

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA NATIONAL TRADING CORPORATION FOR THE YEAR ENDED 30TH JUNE 1997.

1. FINANCIAL POSITION

During the year 1996/97 the Corporation incurred a loss of Kshs. **153,535,660** before crediting an extra ordinary item of Kshs. **305,458,260**, which brought the Corporation's cumulative deficits to Kshs. **747,300,560** as at 30 June 1997. The Balance Sheet as at 30 June 1997 also reflects negative working capital of Kshs. **97,993,280** contributed to mainly by creditors totalling Kshs **377,791,460** and a bank overdraft, which had increased to Kshs. **39,284,200** from Kshs. **1,844,720** as at 30 June 1996 and which had attracted interest amounting to Kshs. **67,674,180** during the year 1996/97. Quite clearly therefore, the Corporation is technically insolvent and its continued operation as a going concern will depend on the support of its creditors and bankers.

The Committee heard the evidence given by the Chief Executive that during the Financial Year 1996/97 the Corporation incurred a loss of Kshs. 153,535,660 and that as at the same period operated on a negative working capital of Kshs. 97,993,280.

The Committee was informed that: -

(i) **the insolvency and the negative working capital were principally caused by the Corporation's indebtedness to the Commissioner of Customs and Excise Duty and Kenya Commercial Bank who were owed Kshs. 257 million and Kshs. 94 million respectively;**

(ii) **the obligation to the Commissioner of Customs and Excise Duty and to that of the Government were extinguished by settling them off against what the government owed the Corporation and that as a result the Corporation was refunded Kshs 148.5 million and that;**

(iii) **the Corporation has taken several steps including closure of 10 loss-making depots, staff rationalization exercise and renting out its properties leading to a marked improvement in the overall trading performance and reduction of net loss to Kshs 63 million in 2002.**

The Committee noted that a Cabinet Memorandum, which had been presented to the Cabinet, approved the winding up of the Corporation, as it is no longer sustainable.

The Committee recommends that in view of the fact that the Corporation is commercially unviable and technically insolvent, the Corporation be wound up.

2. UNDERSTATEMENT OF DEBTORS

2.1 The Balance Sheet Debtors figure of Kshs. **270,334,320** as at June, 1997 excludes a debt of Kshs. **250,456,000** due from the Ministry of Finance in respect of sugar importation loss which the parent Ministry and the Ministry of Finance undertook to compensate the Corporation for. It has not, however, been explained why the debt was excluded from the debtors account for the year 1996/97 particularly when the same had not been collected.

In addition, the Balance Sheet debtors figure includes debts totalling Kshs. **180,127,578** in respect of goods which were either not supplied or were stolen while in transit made up of the following: -

	Kshs.
Insurance Claims – Loss of stock	863,590
Loss of stock through misappropriation	12,425,604
Loss of cement and hardware at various depots	35,445,707
Coffee losses at Coffee Board of Kenya	31,392,677
Total Losses	**180,127,578**

The Corporation has not availed any information to show action taken to recover the above losses from those involved.

2.2 The Debtors figure further includes other trade debtors totalling Kshs. **15,511,858** comprising mainly of bounced cheques and prepaid expenses of Kshs. **10,302,377** and Kshs. **5,041,028** respectively. Action taken to recover these amounts from the individuals involved has also not been indicated.

2.3 The Debtors also include an amount of Kshs. **243,322** outstanding against an employee who is no longer in the service of the Corporation. The corporation has, however, not given any indication as to how it intends to recover the amount from the ex-staff member.

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

(i) the debt of Kshs. 250,456,000 due from the Ministry of Finance was in respect of losses suffered by the Corporation on sugar importation, a sum which the parent Ministry and the Ministry of Finance undertook to compensate the Corporation and that the Corporation could not incorporate the same in its accounts for the year under review as it was still reconciling the figures with the two debtors, and therefore the item was treated as a contingent gain.

(ii) having reconciled the figures and the indebtedness of the two Ministries, the Corporation was paid a sum of Kshs. 148,500,000 which has since been reflected in the books of accounts for the year 2001/2002 thereby resolving the issue;

(iii) out of the losses of Kshs. 863,590 in respect of insurance claim, an amount of Kshs. 413,674.60 has been paid leaving a balance of Kshs 449,915.40 which has since been provided for as bad debt and is being considered for write-off;

(iv) stock losses worth Kshs. 12,425,604 has been provided for as bad debts while an amount of Kshs. 94,249,110.65 in respect of losses of cement and hardware has been recovered leaving a balance of Kshs. 41,196,528.45 which is being pursued. One of the debtors, M/s. Rapsel Ltd, whose directors were Mr. Joseph Manga Mugwe and Mr. Pascal Kiragu Mugwe failed to supply fertilizer worth Kshs. 7 million;

(v) out of the amount of Kshs. 31,392,677 being coffee losses at the Coffee Board of Kenya, an amount of Kshs. 22,442,393.65 was recovered leaving an outstanding balance of Kshs. 9,937,717.93 from M/s. Rejitek Coffee Co. Ltd (Kshs. 583,390.10), M/s. Davco Enterprises (Kshs. 3,934,216.17) and M/s. Less-Gestions Hilarae, Canada (Kshs. 4,432,677.08);

(vi) the amount of Kshs. 243,322 included in the debtors account was in respect of a car loan to an ex-staff Mr. Eric Kipkoech Bett for which an amount of Kshs.

18,871.50 had been recovered leaving a balance of Kshs. 224,450.50

The Committee observed with concern that one of the debtors, M/s. Rapsel Ltd whose directors are Mr. Joseph Manga Mugwe and Mr. Pascal Kiragu Mugwe have not been taken to Court by the Attorney General for obtaining money by false pretence contrary to section 313 of the Penal code due to their failure to supply fertilizer worth Kshs. 7 million to the Corporation even though the Criminal Investigations Department had re-instituted investigations.

The Committee expressed grave concern that the Attorney General failed without reasonable course to file an appeal in the case in respect of theft of stock worth Kshs. 500 million by the former Chief Executive, Mr. David K. Tirop.

On a similar matter, the Committee noted that pursuant to its recommendation in its 8th and 9th Reports (that, *the Attorney General institute full investigations into the activities of the then Managing Director, Mr. D.K Tirop and the then Chairman of the Board of Directors Mr. Kuria Kanyingi with a view to instituting civil and criminal proceedings against them if there was a prima facie evidence of fraud),* the Attorney General had carried out investigations and found no evidence to link Mr. Kanyingi with the losses.

Further, the Director of Criminal Investigations Department vide his letter Ref. CID/IB/SEC/4/4/1/VOL.X/C 171 of 14th June 2005 informed the Committee that upon investigations, *'Mr. Kanyingi was not found with anything criminal'.*

Accordingly, the Committee recommends that in view of the latest development, the matter in question touching on Hon. Kuria Kanyingi and as deliberated in its 8th & 9th Reports, rests and be treated as closed.

The Committee further recommends that: -

(i) the Attorney-General should, without further delay, prefer criminal charges against the Directors of M/s. Rapsel Ltd, Messrs. Joseph Manga Mugwe and Mr. Pascal Kiragu Mugwe for obtaining money by false pretence in respect of non-deliverance of fertilizers worth Kshs. 7 million;

(ii) **the outstanding amount from the following companies in respect of coffee transferred to them be recovered forthwith:-**

M/s. Rejitek Coffee Co. Ltd	**Kshs. 583,390.10**
M/s. Davco Enterprises	**Kshs. 3,934,216.70**
M/s. Less-Gestions Hilarae, Canada	**Kshs. 4,432,677.08**

(iii) **the Corporation should find ways of recovering the Kshs. 500 million being losses of stock occasioned by Mr. David K. Tirop, without further delay.**

(iv) **the amount of Kshs. 224,450.50 in respect of a car loan be recovered from Mr. Eric Kipkoech Bett.**

3. STOCK LOSSES

The Stock figure of Kshs. 62,348,600 shown on the balance Sheet as at 30 June 1997 excludes stocks of coffee valued at Kshs. **14,357,82** which have been treated as obsolete stocks and a provision for obsolescence made in the Accounts. Although it has again been explained that the coffee was stolen while stored by the Coffee Board of Kenya on behalf of the Corporation, correspondence between the Corporation and the Coffee Board of Kenya setting out the terms under which the coffee was stored was not seen nor has any indication been given as to why the Coffee Board of Kenya cannot be held responsible for the loss, if the Board's custody of the coffee at the time of the loss was under a properly executed agreement.

The Committee heard the evidence given by the Chief Executive that stocks of coffee worth Kshs. 13,807,746.60 out of stock losses of Kshs. 14,357,802 were released from the Coffee Board warehouse to the following customers and the requisite warrants executed:

Customer	Amount in Kshs.
M/s. Davco Enterprises	7,973,212.40
M/s. Cargil E.A Ltd	928,022.90
M/s. Rejitek Coffee Co. Ltd	583,290.10
M/s. Murayama Trading Co. Ltd	835,099.75
TOTAL	13,807,746.65

The Committee was informed hat the transfers were irregular and that the then Coffee Mar ger Mr. Reuben Sarun Ole Nakuo who oversaw the transaction s been apprehended and charged before the Anti-Corruption Co t for abuse of office.

The Committee was further informed that the fraudulent transactions were effected through companies associated with Mr. Ole Nakuo and his wife, Mrs. Mary Nasieku.

The Committee observed with concern that although Mr. Ole Nakuo had been charged with abuse of office contrary to Section 101(1) of the Penal Code, there is enough evidence to sustain a charge against him and his wife for theft.

The Committee recommends that the Director of the Kenya Anti-Corruption Commission prefers charges of theft against Mr. Reuben Sarun Ole Nakuo and his wife Mrs. Mary Nasieku for theft of coffee worth Kshs. 13,807,746.65.

4. STAFF PENSION SCHEME

For a number of years, the Corporation has been running a Staff Pension Fund Scheme which was initially managed by Kenya National Assurance Company (now in liquidation) and which as at 30 June 1997 stood at Kshs. **34,172,137.** After the Kenya National Assurance was placed under receivership, the Corporation transferred the management of the pension fund to another Insurance company which now manages the Staff Pension Scheme. The liquidators of Kenya National Assurance Company have, however, neither transferred the balance of Kshs. **34,172,137** held by them to the new managers of the Scheme nor has any indication been provided as to the fate of that amount. Further, the Corporation did not charge or even include in its Accounts for 1996/97 pension contributions due to pensioners but not remitted to the Insurance Company. Consequently, it was not possible to confirm that the pensioners' funds are secure and will be available as and when the employees retire.

The Committee heard the evidence given by the Chief Executive that at the time the Kenya National Assurance was placed under receivership, the Staff Pension Fund stood at Kshs. 39,355,436.70, and that the Kenya National Assurance Company 2001 has since paid Kshs. 26,236,957.00 leaving a balance of Kshs. 13,118,478.90.

The Committee recommends that the Chief Executive should ensure that the balance of Kshs. 13,118,478.90 is recovered from Kenya National Assurance Company 2001 and directed to the pensioners Fund.

5. FIXED ASSETS

As was the case in the previous year the Corporation's fixed assets of Kshs. **556,433,980** as at 30 June, 1997 include land at Loita Street LR No. 209/10343, valued at Kshs. **30,462,540** which was surrendered to the Commissioner of Lands without the approval of the Board. Although it has been indicated that the plot was surrendered back to the Commissioner of Lands because the Corporation was unable to develop it, available information, however, shows that the plot was passed on to a private firm, which in turn sold it to a financial institution. As far as it has been possible to ascertain the Corporation has to date not been able to obtain compensation in the amount of the plots valuation of Kshs. **30,462,540** from the Commissioner of Lands. There is also no information to support any likely recovery of the amount. Consequently the plot's value of Kshs. **30,462,540** included in these Accounts under Fixed Assets may not be realizable. In addition, the Corporation has not obtained title deed for its land at Iten Plot number 109437/5 and has not renewed the lease for its land at Karatina. In the circumstances, the ownership and security of the Corporation's land cannot be confirmed.

The Committee heard the evidence given by the Chief Executive that land L.R No. 209/10343 (Loita Street) valued at Kshs. 30,462,540 was surrendered back to the Commissioner of Lands by the then Chief Executive, Mr. Paul K. Arap Magut allegedly due to the failure by the Corporation to develop it within the stipulated time.

The Committee further heard that: -

(i) the land, which was surrendered without the approval of the Board, was later allocated to M/s. Rapsel Ltd whose directors include Mr. Pascal Kiragu Mugwe and Joseph Manga Magwe;

(ii) a then member of the Board Mr. Joseph Manga Mugwe used his influence to have the plot transferred to him and which he later sold to Savings and Loan (Kenya) Ltd for Kshs. 110 million;

(iii) by the time the Commissioner of Lands irregularly withdrew the offer of allocation made in 1985 vide letter ref. No. 111101/29 of 25th April 1985, the land was valued at Kshs. 30,462,540, which

included the value of the plot, cost of developing the parking and consultancy fees;

(iv) no authority was obtained from the Board, the parent Ministry, nor the Treasury for disposal of the property;

(v) following the Committee's recommendation that criminal charges be preferred against the persons involved in the fraudulent transfer of the property, the suspects recorded statements with the Criminal Investigations Department and that before they were taken to court, the Attorney General called for the file and has not returned it.

The Committee noted that the police are of the firm view that there is sufficient evidence to sustain a prosecution case against the suspects namely Joseph Manga Mugwe, Philip Kiplelei Magut, Grace Munyina Adera, Wilson Gachanja and Pascal Kiragu Mugwe over the irregular transfer of the plot.

The Committee was informed that the Corporation is pursuing the matter and that a legal suit had been instituted against the Commissioner of Lands, Mr. P.K Magut, and M/s. Raspel Ltd vide Civil Suit No. HCCC. 153 of 1999, with a view to repossessing the plot.

The Committee was informed that the Corporation had obtained title deed for plot No. Karatina/Block/1/71, and that it had paid all the outstanding rates in respect of Iten Town plot and has applied for a title.

The Committee observed that the surrender of the land plot L.R No. 209/10343 by the then Managing Director and the then Company Secretary who jointly signed the Deed of Renunciation was irregular and unlawful as it was never approved by the Board.

The Committee further observed that the Attorney General would appear to be hampering the efforts of the corporation on the matter by constant withdrawal and retention of the file and yet there is sufficient evidence to prosecute the five suspects.

The Committee therefore recommends that the Chief Executive should follow up the court case in respect of LR No. 209/10343 to its finalization.

The Committee further recommends that: -

(i) **the Chief Executive should liaise with the Attorney General with a view to preferring criminal charges against Mr. Joseph Manga Mugwe, Wilson Gachanja (former Commissioner of Lands), Pascal Kiragu Mugwe, Mr. Paul Kiplelei Magut, the then Managing Director and Mrs. Grace Adera, the then Company Secretary for surrendering and transferring plot no. 209/10343 without the Boards' approval in clear violation of the provisions of Section 13 of the State Corporation Act (Cap 446);**

(ii) **the Commissioner of Lands should liaise with the Attorney General with a view to moving the High Court for orders of cancellation of title deed L.R No. 209/10343 fraudulently issued to Savings and Loan Kenya Ltd and have it allocated to Kenya National Trading Company Ltd or its successor(s); and**

(iii) **the Chief Executive should pursue issuance of title deed for its plot in Iten.**

6. LONG TERM INVESTMENTS

Between 13 May 1995 and 11 March 1998, the Corporation sold a total of **7,375,400** Uchumi Supermarket shares for a total of Kshs. **320,735,150** while leaving a balance of Kshs. **154,130** shares still held in Uchumi Super Market. Out of the total sale proceeds of Kshs. **320,735,150** the Corporation paid an amount of Kshs. **10,511,628** to the two (2) stockbrokers who handled the sale. The payment also included Kshs. **5,125,650** paid to one of the stock brokers (who handled sale of 475,000 shares) in form of sales commission, Kshs. **576,422**, purchases' commission Kshs. **576,422** and consultancy fees of Kshs. **3,972,806.** While it is not clear why the Stock-broker was paid both the Sales and Purchases commissions instead of only one of the commissions, the management has also not explained how the stock broker was identified or how the consultancy fee of Kshs. 3,972,806 paid to him was agreed. In the absence of any satisfactory explanation regarding the apparent payment of double commission and also on consultancy fees, the amount of Kshs. **4,549,228** paid to the stock broker who handled the sale of **6,900,400** shares, was paid a total of Kshs. **5,385,978**, which represented about **1.81%** of sale proceeds compared to the rate of 2.20% for the first stockbroker.

The Committee heard the evidence given by the Chief Executive that the Board approved sale of its 7.5 million Uchumi Supermarket shares in order to offset its debt obligation to Kenya Commercial Bank and that M/s. Dyer and Blair were appointed as Consultants as well as stock brokers for the sale of the shares.

The Committee further heard that:

(i) **m/s. Dyer and Blair were paid a total of Kshs. 5,125,650.10 as sales and purchase commissions and consultation fees and that the Capital Market Authority approved the payment of the two commissions;**

(ii) **the difference in the commissions charged by the Brokers was in accordance with the then regulated rate for commission before July, 1995 which was 2.5% and 1.8% thereafter;**

(iii) **m/s. Dyer and Blair prepared a brochure for sale of the shares;**

The committee observed with concern that the Stock Brokers M/s. Dyer and Blair were single-sourced by the Corporation as no evidence of submission of bids was seen.

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

7. IRREGULAR TRANSFER OF SHARES

The Investments balance of Kshs. **770,660** shown on the Balance Sheet as at 30 June 1997 comprises of the value of the balance of the Uchumi Super Market **154,130** shares, which in turn include **124,600** shares that were transferred to ICDC without the approval of the Board of Directors. Although the Corporation has explained that the shares were irregularly transferred by the parent corporation (ICDC) to itself to compensate ICDC for unpaid rent, KNTC has disputed the rent payable and until such dispute is resolved, it is not possible to confirm the propriety of the transfer of the **124,600** shares by ICDC to itself reportedly in settlement of outstanding rent recoverable from the Corporation.

The Committee heard the evidence given by the Chief Executive that the transfer of 124,600 shares to ICDC was meant to offset

rent arrears of Kshs. 3,951,950 and that reconciliation of the rent outstanding has been done thereby resolving the audit query.

8. CASH AND BANK BALANCES

8.1 Bank Overdraft

The Balance Sheet overdraft figure of Kshs. **39,284,200** comprises of the following: -

			Kshs
Cash at bank	-	KCB Moi Avenue	(98,258,030)
Cash at bank	-	National Bank	58,668,089
Cash on Hand	-	Head Office	305,741
Balance Sheet Overdraft amount			**(39,284,200)**

However, the reconciled bank balance for KCB Moi Avenue Account as per Cash Book (ledger) was an overdraft of Kshs. **39,031,122** while that shown in the reconciliation total was, as indicated above, Kshs.**98, 258,030** thereby resulting in an unexplained difference of Kshs. **59,226,908**. The reconciled bank balance as per Cash Book for National Bank is Kshs. **116,856** while that shown in the reconciliation is Kshs. **58,668,089**, again resulting in another unexplained difference of Kshs. **58,551,233**. There was also an unexplained difference of Kshs. **675,674** that was included in the KCB-Moi Avenue Reconciliation, which dates as far back as 1995. The Corporation has not been able to explain the nature of these differences.

8.2 Further, the Trial Balance and the composition of the Balance Sheet Cash at Bank figure of Kshs. 5,782,440 revealed that there were other bank accounts with debit and credit balances while the bank statements show nil balances as follows: -

			Kshs
Cash at bank	-	KCB Coffee	12,287,140 Dr
Cash at bank	-	GBI Coffee	13,260,107 Dr.
Fixed Deposit	-	Grindlays	14,955,606 Cr.
Cash at bank	-	Moi Avenue	9,323,560 Cr.

The Corporation has not explained how cash held by the two bank accounts totalling Kshs. **25,547,247** was utilized to nil balances or even explained the circumstances under which the overdrawn cash account of Kshs. **9,323,560** arose. It is also not clear how the Fixed Deposit Account reflects a credit balance of Kshs. **14,955,606**

instead of the normal debit balance. Arising from the foregoing, it is not possible to confirm that the Balance sheet Cash at Bank of Kshs. **5,782,440** as well as the Bank overdraft of Kshs. **39,284,200** are correctly stated.

The Committee heard the evidence given by the Chief Executive that the unexplained difference of Kshs. 59,226,908 existed in the books and that the necessary corrections have been made and effected in the books.

The Committee further heard that: -

(i) **the Accounts with debit and credit balances, which were not reconciling with bank statements have been reconciled and necessary accounting corrections effected; and**

(ii) **the sum of Kshs. 149,955,606, being credit balance in M/s. Grindlays Bank fixed deposit ledger account was due to mispostings which have since been corrected thereby resolving the audit query.**

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

1. FINANCIAL POSITION

During the year 1997/98, the Corporation incurred a loss of Kshs **306,337,320** which together with a prior period adjustment of Kshs 5,041,020 brought its cumulative deficits to Kshs 1,058,678,900 as at 30 June 1998. The Corporation's Balance sheet as at 30 June 1998 also reflects negative working capital of Kshs 361,984,220. Evidently, therefore, the Corporation was technically insolvent and its continued operation as a going concern will depend on the support of its lenders, other creditors and bankers.

The Committee heard the evidence given by the Chief Executive that the Corporation incurred a loss of Kshs.306,337,320 during the year 1997/98 and that the Corporation's Balance Sheet reflected negative working Capital of Kshs.361,984,220 as at 30th June, 1998.

The Committee further heard that:

(i) the insolvency and the negative working capital were principally caused by the Corporation's indebtedness to the Commissioner of Customs and Excise Duty and Kenya Commercial Bank who were owed Kshs.257 million and Kshs.94 million respectively.

(ii) the obligation to the Commissioner of Customers and Excise Duty and to that of the Government was extinguished by netting them off against what the government owed the Corporation and that as a result the Corporation was refunded Kshs.148.5 million.

(iii) the Corporation and the KCB have agreed to meet and resolve the dispute out of court; and

(iv) the Corporation has taken several steps including closure of 10 loss making depots, staff rationalization exercise and renting out its properties leading to a marked improvement in the overall trading performance and reduction of net loss to Kshs.63 million in 2002.

The Committee noted that a Cabinet Memorandum has been presented to the Cabinet and which approved the winding up of the Corporation, as it is no longer sustainable.

The Committee recommends that in view of the fact that the Corporation is commercially unviable and technically insolvent, the Corporation be wound up.

2. **BANK AND CASH BALANCES**

The accounts for the year 1997/98 reflect Kshs 584,880, Kshs 4,668,920 and Kshs 45,250,600 as Cash in Hand, Cash at Bank and Bank overdraft respectively as at 30 June 1998. The Bank and Overdraft balances of Kshs 4,688,920 and Kshs 45,250,600 however differed from the Trial Balance figures of Kshs 85,075,396 and Kshs 125,637,073 respectively as at the same time. In addition, the Bank reconciliation statement reflects Kshs 2,187,939 and Kshs 1,242,000 as Miscellaneous Debits and Cash-in-transit, amounts which have been outstanding since 1994 and 1995 respectively. In view of the foregoing and also on account of the materiality of the variances, it has not been possible to confirm the accuracy

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

(i) the correct Trial Balance figure for cash at Bank was Kshs.4,688,920 and not Kshs.4,668,920.

(ii) the figure of Kshs.85,075,396 comprised only the debit balances in the Trial Balance which did not take into account the credit balances as at 30th June 1998, while the figure of Kshs.125,637,073 was exclusive of similar debit balances.

(iii) the figure of Kshs.45,250,600 on the Balance Sheet did not take into consideration the bank reconciliation which reduced the figure of Kshs.43,097,479 and subsequently the Balance Sheet figure was overstated by Kshs.2,153,120.

(iv) the figures have been adjusted for the subsequent years.

(v) the figure of Kshs.2,187,939 represents an amount which the bank debited on the Corporation's account and that the Corporation had instituted counterclaim against Kenya Commercial Bank.

The Committee also heard that the issue of Cash and Bank Balances had been settled.

The Committee recommends that the Chief Executive should nsure that the amount of Kshs. 2,187,939 is recovered from Kenya Commercial Bank of Kenya.

3. **STOCKS LOSSES**

The Balance Sheet Debtors figure of Kshs 65,387,900 as at 30 June 1998 is stated net of provisions of Kshs 290,470,280 for bad debts as of the same date. Included in these provisions for bad debts is Kshs 16,685,700 being the value of sewing machines and bicycles stock reportedly stolen from Homa Bay Road Depot after the covering Insurance Policy had lapsed and, therefore, made the loss unclaimable. The Corporation is yet to explain satisfactorily why the Insurance Policy was allowed to lapse, thus resulting in such large losses. In addition, coffee stocks valued at Kshs 7,263,847 were irregularly transferred from the Coffee Board of Kenya to third parties between 10 January 1993 and 13 March 1995 but which still continued to be reflected as held by the Board as at 30 June 1998, even when records at the Coffee Board of Kenya confirm non-existence of the stocks. In the circumstances, it has not been possible to confirm the accuracy of the Balance Sheet Stocks figure of Kshs 34,145,100 as at 30 June 1998

The Committee heard the evidence given by the Chief Executive that stock worth Kshs.16,685,700 was lost due to burglary in the Homa Bay Road depot where sewing machines and bicycles were stolen and that the loss was unclaimable as insurance policies had lapsed due to non-payment of insurance premiums.

The Committee further heard that a reconciliation exercise between the records at Coffee Board of Kenya and those kept by the Corporation in respect of Coffee Stock losses of Kshs.7,263,847 had established that the coffee was sold by the Corporation to the following companies:

Cargill E.A. Ltd	**928,022.90**
Bahari Transport Co. Ltd	**835,099.75**
Maruyama Trading Co. Ltd	**2,641,407.15**
Rejitek Coffee Co. Ltd	**583,390.10**
Davco Enterprises Ltd	**2,275,927.55**
	7,263,847.00

These excludes amount transferred to M/s. Davco Enterprises of Kshs. 7,973,212.

The Committee was informed that the transfers were irregular and that the then Coffee Manager Mr. Reuben Sarun Ole Nakuo who oversaw the transaction had since been apprehended and charged before the Anti-Corruption Court for abuse of office.

The Committee was further informed that the fraudulent transactions were effected through companies associated with Mr. Ole Nakuo and his wife, Mrs. Mary Nasieku.

The Committee observed with concern that although Mr. Ole Nakuo had been charged with abuse of office contrary to Section 101(1) of the Penal Code, there is enough evidence to sustain a charge against him and his wife for theft.

The Committee recommends that the Director of the Kenya Anti-corruption Commission prefers charges of theft against Mr. Reuben Sarun Ole Nakuo and his wife Mrs. Mary Nasieku for theft of coffee worth Kshs. 13,807,746.65.

The Committee further recommends that the corporation should ensure that all its Assets, Properties and Stocks are insured.

4. **FIXED ASSETS**

The Corporation's fixed assets figure of Kshs 855,626,780 reflected on the Balance Sheet as at 30 June 1998 and as previously reported includes land at Loita Street L.R. No 209/10343, valued at 30,462,540 which was surrendered to the Commissioner of lands without the approval of the Board. As far as it has been possible to ascertain, the Corporation has, to date not been compensated for the surrendered plot by the Commissioner of Lands. Consequently, the Plot's value of Kshs 30,462,540 included in these accounts under fixed assets may not be realizable.

The Committee heard the evidence given by the Chief Executive that land L.R No.209/10343 (Loita Street) valued at Kshs. 30,462,540 was surrendered back to the Commissioner of lands by the then Chief Executive, Mr. Paul Kiplelei Arap Magut allegedly due to the failure by the Corporation to develop it within the stipulated time.

The Committee further heard that:-

(i) the land, which was surrendered without the approval of the Board, was later allocated to M/s. Rapsel Ltd whose directors include Messrs Pascal Kiragu Mugwe and Joseph Manga Magwe;

(ii) the then member of the Board Mr. Joseph Manga Mugwe used his influence to have the plot transferred to him and which he later sold to Savings and Loan Kenya Ltd for Kshs.110 million;

(iii) by the time the Commissioner of Lands irregularly withdrew the offer of allocation made in 1985 vide letter ref. No. 111101/29 of 25th April 1985, the land was valued at Kshs. 30,462,540, which included the value of the plot, cost of developing the parking and consultancy fees;

(iv) no authority was obtained from the Board, the parent Ministry nor the Treasury for disposal of the property;

(v) following the Committee's recommendation that criminal charges be preferred against the persons involved in the fraudulent transfer of the property, the suspects had recorded statements with the CID and that before they were taken to Court, the Attorney General called for the file and has not returned it.

The Committee noted that the police are of the firm view that there is sufficient evidence to sustain a prosecution case against the suspects namely Joseph Manga Mugwe, Philip Kiplelei Magut, Grace Munyina Adera, Wilson Gachanja and Pascal Kiragu Mugwe for irregular transfer of the plot.

The Committee was informed that the Corporation is pursuing the matter and that a legal suit had been instituted against the Commissioner of Lands, Mr. P.K. Magut, and M/s. Rapsel Ltd vide Civil Suit No. HCCC. 153 of 1999, with a view to repossessing the plot.

The Committee was informed that the Corporation had obtained title deed for plot No. Karatina/Block/1/71, and that it had paid all the outstanding rates in respect of Iten Town plot and has applied for a title

The Committee observed that the surrender of the land plot L.R. No. 209/10343 by the then Managing Director and the then

Company Secretary who jointly signed the Deed of Renunciation was irregular and unlawful as it was never approved by the Board.

The Committee further observed that the Attorney General would appear to be hampering the efforts of the Corporation on the matter by constant withdrawal and retention of the file and yet there is sufficient evidence to prosecute the five suspects.

The Committee recommends that:-

(i) the Chief Executive should liaise with the Attorney General with a view to preferring criminal charges against Mr. Joseph Manga Mugwe, Wilson Gachanja, former commissioner of Lands, Pascal Kiragu Mugwe, Mr. P.K. Magut, the then Managing Director and Mrs. Grace Adera, the then Company Secretary for surrendering and transferring plot No. 209/10343 without Board's approval in clear violation of the provisions of Section 13 of the State Corporation Act (Cap 446);

(ii) the Commissioner of Lands should liaise with the Attorney General with a view to moving the High Court for orders of cancellation of title deed L.R No. 209/10343 fraudulently issued to Savings and Loan Kenya Ltd and have it allocated to Kenya National Trading Company Ltd;

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE COMMUNICATIONS COMMISSION OF KENYA FOR THE YEAR ENDED 30TH JUNE 2001

1. KAREN PLOTS LR. 12445 AND 12550

As reported in the previous year, the Commission (CCK) inherited under Legal Notice 155 of 1998 (Transfer and Vesting of Assets and Liabilities Order) two parcels of land located in Karen, Nairobi land reference Nos. LR. 12445 and LR. 12550 from the now defunct Kenya Post and Telecommunications Corporation. The two (2) plots had previously been acquired in a very irregular manner by the former Kenya Posts and Telecommunications Corporation at a total cost of Kshs. 62,764,141 which included penalties of Kshs. 4,716,471 imposed by the vendor who also acted as advocate for the purchaser but without disclosing his interest in the ownership of the two properties. The defunct corporation had, in addition, incurred expenditure amounting to Kshs. 196,761,385 in respect of professional fees in relation to a project which was intended to be undertaken on the plots. A review of the position during the year 2000/ 2001 showed that the title documents for the properties were still held by the Kenya Commercial Bank (KCB) where they are presently held as security for close to Kshs. 100 million in respect of a loan taken by the advocate who also acted as a vendor. It would, therefore, appear that the transfer of ownership for these properties in favour of CCK cannot be effected unless the title deeds are redeemed from the KCB, an option which the Commission does not consider financially prudent, particularly in view of the expenditure involved as well as the amount already spent on the plots. Although it is now understood that the Commission is pursuing refund of the sums of money paid to the vendor for the plots through legal action taken under HCC No. 943 of 1999 the outcome of the subject suit, which is still being awaited, may quite likely not address the very substantial expenditure of Kshs. 196,761,385 irregularly incurred as professional fees for a project intended on the plots and which evidently may never take off.

The Committee heard the evidence given by the Chief Executive that land parcels, Karen plots LR. 12445 and LR. 12550 were inherited from the defunct Kenya Posts and Telecommunications Corporation and that their titles have not been transferred to the Corporation as the title documents were held by the Kenya Commercial Bank (KCB) as security for a loan and interest totalling Kshs. 100 million taken by the then

Corporation's lawyer Mr. Chege Kirundi who also acted as a vendor.

The Committee was informed that: -

(i) the Corporation purchased two plots at Karen at a cost of Kshs. 58,047,670 from the Benja Investments Ltd and that the Sale Agreement failed to materialise when the plots could not be transferred to the Corporation because the plots were owned by the Vendor and had been charged by Benja Investments Ltd, whose owners were M/s. Chege Kirundi and his wife Mrs. Lucy Wamaitha Chege;

(ii) the properties were charged for a loan of Kshs. 27 million with the Kenya Commercial Bank Ltd. by the vendors Mr. Chege Kirundi and Benja Ltd. on the day the transfer was to be made knowing that there was an existing sale agreement;

(iii) the properties are currently encumbered for over Kshs. 100 million and that the Corporation does not consider it value for money to redeem them; and

(iv) an amount of Kshs. 196,761,385 had been paid out to various consultants as professional fees for the proposed construction of the Headquarters for the African Advanced Level Telecommunications Institute (AFRALTI).

The Committee observed that although the sale agreement between Benja Investments Ltd. (vendor) and the then Kenya Posts and Telecommunications Corporation was clearly fraudulent, KPTC entered into an agreement with the vendor for the repayment of Kshs. 62,000,000 which was not honoured except for Kshs. 1,000,000.

The Committee observed with concern that Mr. Chege Kirundi betrayed the trust placed on him by Kenya Posts and Telecommunications Corporation as its advocate, breached his professional duty and acted fraudulently.

The Committee was concerned that an amount of Kshs. 196,761,385 was incurred in respect of professional fees on the drawings when it was apparent that the project would not materialize.

The Committee noted that the Corporation has instituted civil suit against Mr. Chege Kirundi vide HCC No. 943 of 1999 to recover the amount spent to purchase the plots.

The Committee recommends that: -

(i) **the then Chief Executive and Board of Directors of Kenya Posts and Telecommunications Corporation, during whose tenure an amount of Kshs. 196,761,385 was irregularly spent on the project should be surcharged by the Inspector General (State Corporations);**

(ii) **the Director of Criminal Investigations Department should expedite the case of Mr. Chege Kirundi of Benja Investments Ltd, with a view to prosecuting them for obtaining money by false pretences; and**

(iii) **the Corporation should follow up the civil suit HCC No. 943 of 1999 to its soonest conclusion.**

2. DEBTORS

The debtors balance increased from Kshs. 427,934,000 in the previous year to Kshs. 581,604,000 as at 30th June 2001. Included in the debtors figure of Kshs. 581,604,000 is a net trade debtors balance of Kshs. 532,984,000 after making a provision of Kshs. 50,091,000 up from Kshs. 25,844,000 the previous year. Most of the trade debtors were inherited from the defunct Kenya Posts and Telecommunications Corporation (KPTC), and the increased provision for bad and doubtful debtors suggests that the commission considers recoverability of such debtors slim. The Commission has, however, not provided the reason for arriving at the conclusion that the amount is irrecoverable even though a majority of the debtors are still in business regulated by the Commission

The Committee heard the evidence given by the Chief Executive that included in the Debtors figure of Kshs. 581,604,000 is a net trade debtors balance of Kshs. 532,984,000 most of which were inherited from the defunct Kenya Posts and Telecommunications Corporation.

The Committee was informed that approximately Kshs. 300 million had been recovered and a provision for Kshs. 61,993,000 made as doubtful debts as follows:

(a) **m/s. Royal Media Services owes the Corporation Kshs. 31 million in which the case for recovery vide HCC 316/2002/Nairobi, has been filed;**

(b) **amount of Kshs. 12 million of trade debtors have been reconciled and resolved between customers and the Corporation; and**

(c) **kshs. 18 million from the defunct Kenya Posts and Telecommunications Corporation whose documented proof is not available, and therefore recoverability is doubtful.**

The Committee noted that an internal Debt Collection Task Force has been formed to pursue the debts.

The Committee recommends that the Corporation should use all means possible to recover debts from customers and other indebted institutions.

3. NATIONAL COMMUNICATIONS SECRETARIAT

The National Communication Secretariat, was created under Section 84 of the Kenya Communications Act 1998 to advise Government on the adoption of a communication policy. The secretariat which currently operates under the Ministry of Transport and Communications is financed by both the Ministry and the Communications Commission of Kenya. The Commission which is required to finance the Secretariat under Section 19 of the Kenya Communications Act has, so far, spent Kshs. 29,933,452.05 from 1999/2000 to 2001/ 2002 financial years, in addition, to funds released to the secretariat by the Ministry of Transport and Communications. However, it is not clear why the secretariat which is not a body corporate and is directly under the Ministry of Transport and Communications should be funded by the Commission.

The Committee heard the evidence given by the Chief Executive and was informed that the Secretariat is still directly under the Ministry of Transport and Communications even though it is supposed to be a body corporate and funded by the Corporation.

The Committee observed with concern that there is no justification for the secretariat to continue operating directly under the Ministry of Transport and Communications and getting partly funded by the Ministry.

The Committee recommends that, pursuant to the Kenya Communications Act 1998, the Corporation should fund the National Communications Secretariat, which should exist independently.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE COMMUNICATIONS COMMISSION OF KENYA FOR THE YEAR ENDED 30TH JUNE 2002

1. KAREN PLOTS LR. 12445 AND 12550

As reported in the previous year, the Commission inherited under Legal Notice 155 of 1998 (Transfer and Vesting of Assets and Liabilities Order) two parcels of land located in Karen, Nairobi land reference Nos. LR. 12445 and LR. 12550 from the now defunct Kenya Post and Telecommunications Corporation. The two (2) plots had previously been acquired in a very irregular manner by the former Kenya Posts and Telecommunications Corporation at a total cost of Kshs. 62,764,141 which included penalties of Kshs. 4,716,471 imposed by the vendor who also acted advocate for the purchaser but without disclosing his interest in the ownership of the two properties. The defunct corporation had, in addition, incurred expenditure amounting to Kshs. 196,761,385 in respect of professional fees in relation to a project which was intended to be undertaken on the plots. A review of the position during the year 2000/ 2001 showed that the title documents for the properties were still held by the Kenya Commercial Bank where they are presently held as security for close to Kshs. 100 million in respect of a loan taken by the advocate who also acted as a vendor. It would, therefore, appear that the transfer of ownership for these properties in favour of CCK cannot be effected unless the title deeds are redeemed from the KCB, an option which the Commission does not consider financially prudent, particularly in view of the expenditure involved as well as the amount already spent on the plots. Although it is now understood that the Commission is pursuing refund of the sums of money paid to the vendor for the plots through legal action taken under High Court Case HCC No. 943 of 1999 the outcome of the subject suit, which is still being awaited, will not adequately address the very substantial expenditure of Kshs. 196,761,385 irregularly incurred as professional fees for a project intended on the plots and which evidently may never take off.

The Committee heard the evidence given by the Chief Executive that land parcels, Karen plots LR. 12445 and LR. 12550 were inherited from the defunct Kenya Posts and Telecommunications Corporation and that their titles have not been transferred to the Corporation as the title documents were held by the Kenya Commercial Bank (KCB) as security for a loan and interest totalling Kshs. 100 million taken by the Corporation's lawyer Mr. Chege Kirundi who also acted as a vendor.

The Committee was informed that: -

(i) the Corporation purchased two plots at Karen at a cost of Kshs. 58,047,670 from the Benja Investments Ltd and that the Sale Agreement failed to materialise when the plots could not be transferred to the Corporation because the plots were owned by the Vendor and had been charged by Benja Investments Ltd, whose owners were M/s. Chege Kirundi and his wife Mrs. Lucy Wamaitha Chege;

(ii) the properties were charged for a loan of Kshs. 27 million with the Kenya Commercial Bank Ltd. by the vendors Mr. Chege Kirundi and Benja Investments Ltd. on the day the transfer was to be made knowing that there was an existing sale agreement;

(iii) the properties are currently encumbered for over Kshs. 100 million and that the Corporation does not consider it value for money to redeem them; and

(iv) an amount of Kshs. 196,761,385 had been paid out to various consultants as professional fees for the proposed construction of the Headquarters for the African Advanced Level Telecommunications Institute (AFRALTI).

The Committee observed that although the sale agreement between Benja Investments Ltd. (vendor) and the then Kenya Posts and Telecommunications Corporation was clearly fraudulent, KPTC entered into an agreement with the vendor for the repayment of Kshs. 62,000,000 which was not honoured except for Kshs. 1,000,000.

The Committee observed with concern that Mr. Chege Kirundi betrayed the trust placed on him by Kenya Posts and Telecommunications Corporation as its advocate, breached his professional duty and acted fraudulently.

The Committee was concerned that an amount of Kshs. 196,761,385 was incurred in respect of professional fees on the drawings when it was apparent that the project would not materialize.

The Committee noted that the Corporation has instituted civil suit against Mr. Chege Kirundi vide HCC No. 943 of 1999 to recover the amount spent to purchase the plots.

The Committee recommends that: -

(i) the then Chief Executive and Board of Directors of Kenya Posts and Telecommunications Corporation, during whose tenure an amount of Kshs. 196,761,385 was irregularly spent on the project should be surcharged by the Inspector General (State Corporations);

(ii) the Director of Criminal Investigations Department should expedite the case of Mr. Chege Kirundi of Benja Investments Ltd., with a view to prosecuting them for obtaining money by false pretences; and

(iii) the Corporation should follow up the civil suit HCC No. 943 of 1999 to its soonest conclusion.

2. SHORT TERM DEPOSITS

The Balance Sheet Cash and Cash Equivalents of Kshs. 909,615,000 includes cash at bank of Kshs. 540,715,000 with deposits of Kshs. 51,166,913.50 placed in Industrial Development Bank and another deposit of Kshs. 316,364,170.05 at City Bank. The deposits were placed with the Banks at rates ranging between 5% and 7% as compared to Treasury Bills interest rates during the same period of between 8.46% and 9.6%. Apart from the fact that interest rates offered by two commercial banks were lower than those offered for Treasury bills, the Commission has not produced evidence to show that authority was sought and obtained from the Treasury before placement of the deposits in accordance with the Treasury Circular No. 10 of 15 July 1992. In the circumstances therefore the Commission lost interest which would have been earned had the money been invested in Treasury Bills as required by the regulations.

The Committee heard the evidence given by the Chief Executive that the Corporation invested Kshs. 51,166,913.52 and Kshs. 316,364,170.05 in Industrial Development Bank and City Bank respectively.

The Committee was informed that the Corporation realised all its deposits and the same utilized in the construction of the Headquarters building and to procure the RSMS equipment.

The Committee was concerned that the Corporation flouted the rules pertaining to investments of surplus funds.

The Committee recommends that, in future, any officer of the Commission who disregards Treasury's Circulars on investment of surplus funds should be held responsible and dismissed from service

3. DEBTORS

The debtors balance increased by 136,578,000 from Kshs. 581,603,000 in the previous year to Kshs. 718,282,000 as at 30 June 2002. The debtors figure included trade debtors of Kshs. 572,940,000 for which the Commission has made a provision for bad and doubtful debts of Kshs. 61,933,000 an indication that recoverability of such debts is doubtful. Despite the fact that most of the trade debtors were inherited from the defunct Kenya Posts and Telecommunications Corporation, and for which the Commission claims to have put in place recovery measures, no evidence of recovery has been seen, particularly from debtors still in business and regulated by the Commission.

The Committee heard the evidence given by the Chief Executive that included in the Debtors figure of Kshs. 581,604,000 is a net trade debtors balance of Kshs. 532,984,000 most of which were inherited from the defunct Kenya Posts and Telecommunications Corporation.

The Committee was informed that approximately Kshs. 300 million had been recovered and a provision for Kshs. 61,993,000 made as doubtful debts as follows:

(a) m/s. Royal Media Services owes the Corporation Kshs. 31 million in which the case for recovery vide HCC 316/2002/ Nairobi, has been filed;

(b) amount of Kshs. 12 million of trade debtors have been reconciled and resolved between customers and the Corporation; and

(c) kshs. 18 million from the defunct Kenya Posts and Telecommunications Corporation whose documented proof is not available, and therefore recoverability is doubtful.

The Committee noted that an internal Debt Collection Task Force has been.formed to pursue the debts.

The Committee recommends that the Corporation should use all means possible to recover debts from customers and other indebted institutions.

4. NATIONAL COMMUNICATIONS SECRETARIAT EXPENDITURE

The Commission made total payments of Kshs. 17,198,176 to the National Communications Secretariat during the year 2001/2002, which included Kshs. 3,967,462 described as donations for use by the parent Ministry of Transport and Communications to refurbish the Minister's and Permanent Secretary's offices. Although the Board of Directors approved the expenditure budgeted for under Communications Appeal Tribunal it is not clear and management has not explained why. the Minister's and Permanent Secretary's offices should have been refurbished using the Commission's funds instead of the voted provision under the Ministry. Although the Commission is required under section 19 of the Kenya Communications Act 1998 to finance the National Communications secretariat, which was created to advise the Government on the adoption of a communication policy, refurbishment of the Ministry's offices does not appear to be covered by the Kenya Communication Act, 1998. In the circumstances, therefore the propriety of the expenditure of Kshs. 3,367,462 by the Commission could not be confirmed.

The Committee heard the evidence given by the Chief Executive that the Corporation expended Kshs. 3,967,462 comprising of Kshs. 2,967,462 for purchase of office equipment, computers and office furniture for use by the Secretariat and Kshs. 1,000,000 for use by the Ministry, to renovate the Minister's office.

The Committee further heard that the Board of the Corporation approved the requests for assistance from the Ministry during its sittings held on 16th and 24th May, 2002.

The Committee was concerned that an amount of Kshs 1,000,000 was used to renovate the Minister's office instead of using funds voted under the Ministry.

The Committee recommends that in view of fact that the expenditure was irregular and unauthorised, the Ministry should reimburse the Commission Kshs. 1,000,000 spent on refurbishing the Minister's office.

5. IRREGULAR PAYMENT OF EX-GRATIA AND HONORARIA

During the year under review, the Commission made irregular payments of ex-gratia and honoraria amounting to Kshs. 1,270,000, contrary to the provisions of section 10 (1) of the State Corporation's Act (Cap 446). The Commission paid ex-gratia of Kshs. 750,000 to three members of the Board of Directors who are public officers in receipt of a salary and also paid honoraria of Kshs. 520,000 to the Director General of the Commission and four other public officers. Although approval from the Minister was sought and obtained the approval did not indicate that public servants were also to be paid ex-gratia. Under the circumstances, the payment of ex-gratia and honoraria to public servants is irregular, and it was not therefore possible to confirm that the total expenditure of Kshs. 1,270,000 was a proper charge to public funds.

The Committee heard the evidence given by the Chief Executive that the Corporation paid ex-gratia and Honoraria amounting to Kshs 1,270,000 to three members of the Board, the Director-General of the Corporation and other public officers in concurrence with the Minister for Transport and Communications pursuant to section 10 of the Kenya Communications Act.

The Committee observed that the approval by the Minister could not have covered the public officers.

The Committee recommends that the Director-General of the Commission should seek *post-facto* authority for the payment of honoraria to the staff amounting to Kshs. 520,000.

6. USE OF CREDIT CARD BY CHIEF EXECUTIVE

In May and June 2002 the Commission advanced to the Director-General Kshs. 430,786 for issue of a credit card to enable him make certain transactions. This practice is contrary to Office of the President Circular No.9/21/2A Vol. XXXVII/(52) of April, 1993 which stipulates that subscription to and use of credit card or charge cards, besides portraying conspicuous consumption, constitutes irregular and unauthorized expenditure and should stop forthwith. Although the Commission claims that the credit card was issued after approval by the Board of Directors, no such approval was produced for audit review. Under the circumstances, the propriety of the expenditure incurred on the credit card could not be confirmed.

The Committee heard the evidence given by the Chief Executive that the Board of Directors authorized the use of credit card by the Director-General during its meeting of 20th December 2001 in lieu of travelling allowance and that the Corporation realized a saving of Kshs. 62,464.31.

The Committee noted that the Corporation has since discontinued issuance of a credit card to its Chief executive thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND FOR THE YEAR ENDED 30TH JUNE, 2000

1. FINANCIAL PERFORMANCE

In the year 1999/2000 the Fund incurred a net loss of Kshs.1,571,413,000 which brought its accumulated losses to Kshs.7,951,471,000 as at 30 June 2000. As was the case in the previous year, the unfavourable results realized by the Fund in 1999/2000 were mainly as a result of various provisions charged to the Accounts to cater for possible non-realization of investments totalling Kshs.439,647,000 which were apparently made against imprudent past investment decisions.

The Committee heard the evidence given by the Chief Executive that the Fund realized a loss of Kshs. 1,571,413,000 which comprised of deficit for the year 1999/2000 of Kshs. 395,971,000, and provision for interests on Members funds amounting to Kshs. 1,175,442,000.

The Committee further heard that: -

(i) the deficit for the year 1999/2000 was as follows: -

Total Incomes		**1,952,948,000**
Expenditure		
Staff Costs	-	**Kshs. 1,225,665,000**
Administrative Expenses	-	**Kshs. 878,884,000**
Depreciation	-	**Kshs. 44,873,000**
Write-offs equipment, etc	-	**Kshs. 31,083,000**
Provisions - various	-	**Kshs. 168,414,000**
Total	-	**Kshs 2,348,919,000**
Deficit for the year		**Kshs. 395,971,000**

(ii) the deficit/losses arose from imprudent past investments in purchase of land at inflated prices and investing some funds at questionable financial institutions which appeared irredeemable and exaggerated legal and professional fees.

The Committee noted that the Fund has since taken appropriate measures to ensure that investments are made prudently to avoid future losses.

The Committee observed with concern that in the past, the Fund had engaged services of Managing Agents to manage its properties, some of whom were not registered as per Estate Agent Act (Cap 533) and therefore were not competent to transact any Estate Agency business. In particular, the Committee noted that M/s. Regent Management Ltd who had been contracted to manage properties of the Fund had only one out of its four directors registered as an Estate Agent contrary to the law.

The Committee reiterates its earlier recommendations on the 12th report, page 89, that: -

(i) the Fund should invest only in its core business;

(ii) the Managing Trustee should ensure that surplus funds are prudently invested in accordance with Treasury circulars, as may be issued from time to time.

The Committee further recommends that: -

(i) the Fund should rationalize its administration costs to be commensurate with its income;

(ii) the Fund should only utilize the services of registered Estate Agents to manage and/or let its properties and in future, any officer(s) involved in transacting and/or contracting any firm to provide such service with a firm(s) which is not registered should be dismissed from service;

(iii) the Attorney-General should take action against the directors of M/s. Regent Management Ltd., who are not registered Estate Agents, for transacting Estate Agent business while they are not registered, contrary to the Estate Agents Act (Cap 533); and

(iv) the Corporation should institute legal proceedings to recover the amounts paid to M/s. Regent Management Ltd.

2. YEAR 2000 COMPUTER CONVERSION CONTRACT

In December 1998 and evidently without invitation of open competitive tenders, the Fund awarded a contract to a consulting firm, which also doubled up as the Fund's IT Consultant, to acquire and install Parallel Computer Program (CFMS) at a cost of Kshs. 14,581,190. The contract included specification for computer equipment, and other hardware required for installation and testing of the equipment, overseeing the process of procurement, development of application software and training of Fund's staff. The Parallel System was delivered to NSSF in November 1998 but went into parallel operation in January 1999. Between June and July 1999, the System which appears to have been designed as a stop gap measure instead of a long term operational one, was tested three times by CFMS Committee and was found to contain serious deficiencies. The Committee particularly noted

(i) the developer did not provide the source code used to develop the CFMS;
(ii) accuracy of processed data was not apparent;
(iii) there lacked consistency in data handling;
(iv) the efficiency of the system was wanting,
(v) completeness of the service could not be ascertain and;
(vi) stress resistance was not tested due to the hurried manner in which the implementation was carried out.

Consequently the System failed to function, as the main frame did not provide explanations for rejections to enable users understand and take corrective action. Between September 1998 and July 2000 and despite the fact that the System had failed to function or produce accurate data, the Fund paid the Consultant a total Kshs 73,769,676, an amount which was far in excess of the agreed contract price of Kshs.14,581,190 for the job. Apart from the fact that it is not clear why the Fund paid such an excessive sum of money to the Consultants for installing a system which did not function, the justification for the contract overrun of Kshs.59,188,486 has not been provided. Consequently, it has not been possible to confirm the propriety of the total expenditure of Kshs.73,769,676 reportedly incurred to provide a computer parallel system the usefulness for which could not be confirmed.

The Committee heard the evidence given by the Chief Executive that the Fund, without open competitive tenders awarded a contract to M/s. Tandam Park Consultants to acquire and install Parallel Computer Program (CFMS) at a cost of Kshs. 14,581,190 and that the system which was delivered in November 1998 was

found to contain serious deficiencies after it was tested and sufficiently failed to function.

The Committee further heard that: -

(i) despite failure by the system to function, the then management of the Fund made several contract variations and paid the Consultant a total of Kshs. 73,769,676, leading to a contract overrun of Kshs. 59,188,486;

(ii) the Fund has since sued M/s. Tandam Park Consultants for recovery of Kshs. 73,769,676 considered to be the amount the Fund lost in the transaction of the system which never worked;

(iii) the directorship of M/s. Tandam Park Consultants, between 1997 and 2000 had comprised of:

(a) Highway Nominees and Appointees Ltd
(b) Mr. M. Njagi
(c) Mr. Priscal Mutei Nzwili
(d) Mr. Anthony Muiruri Gachoka

(iv) the Fund's staff has since taken over and fixed the system to working condition.

The Committee observed with concern that the then Management of the Fund single sourced M/s. Tandam Park Consultants to provide the CFMS Service, and made exorbitant payments to the Consultant for a contract that never worked.

The Committee recommends that: -

(i) the then Managing Trustee Mr. David Masika be held responsible for irregular award of the year 2000 computer conversion contract and be surcharged for improper expenditure of Kshs. 73,769,676;

(ii) the then directors of M/s. Tandam Park Consultants who knowingly received payments for delivery and supply of a non-working system, be investigated by the Director of Criminal Investigations Department with a view to preferring criminal charges against them;

(iii) **the directors of M/s. Tandam Park Consultants and companies associated with them be blacklisted and precluded from award of government tenders for abetting irregularities in tendering procedures and receiving money by false pretence; and**

(iv) **the then Managing Trustee be barred from holding public office conferred by the Republic of Kenya for abuse of office.**

3. PAYMENT OF LEGAL FEES

The legal fees expenditure of Kshs.293,530,000 shown in the Accounts for 1999/2000 includes an amount of Kshs.278,712,167 payable as legal fees to a firm of advocates in respect of the Sololo Outlets court case against which the Fund had, in 1994 paid the same firm Kshs.294 million. Apart from the fact that it has not been possible to establish the extent of services provided to the Fund by these lawyers in respect of the court case, the value of the subject suit must have been quite big to attract a total charge of over Kshs.057 billion. Consequently, it has not been possible to confirm the propriety of the expenditure of Kshs.278,712,167 accrued in the Trustees' Accounts for 1999/2000, particularly in view of the earlier payment of Kshs.294 million to the same lawyers for the same case.

The Committee heard the evidence given by the Chief Executive and was informed that a sum of Kshs. 278,712,167 being claimed as legal fees by M/s. Kilonzo and Co. Advocates arose from a court case HCC No. 957/2000 where S.K Jirongo and M/s. Sololo Outlets are claiming a sum of Kshs. 4.9 billion in respect of the Hazina (South 'B') Housing Project.

The Committee was further informed that: -

(i) **the legal fee claimed by M/s. Kilonzo and Co. Advocates has not been paid and the Fund has instructed M/s. Mereka and Co. Advocates to handle taxation aspect of the fees;**

(ii) **m/s. Kilonzo and Co. Advocates had been paid approximately Kshs. 252 million in legal fees for another case HCC No. 914/94 filed by Mr. S.K Jirongo and M/s. Sololo Outlets who were claiming Kshs. 2.5 billion.**

The Committee noted with concern that the Managing Trustee has not moved expeditiously to conclude the matter of taxation

of the fees charged and paid to M/s. Kilonzo & Company Advocates.

The Committee recommends that: -

(i) **the Managing Trustee should ensure that the previous payment of Kshs. 291,782.673.30 made to M/s. Kilonzo and Co. Advocates and others be referred to the High Court for taxation without further delay;**

(ii) **the Commissioner of V.A.T and the Director of the Kenya Anti-Corruption Commission should investigate whether VAT was remitted for the amount of Kshs. 291,782,673.30 as per the law and if not, demand the same immediately from the concerned firms; and**

(iii) **the fund should not pay the amount of Kshs. 278,712,167 being claimed by M/s. Kilonzo and Co. Advocates and should employ all possible measures to ensure that the interest of the Fund are safeguarded in this respect.**

4. **MOKTAR DADDAH STREET PROJECT**

In September 1997 the Fund, without proper feasibility studies and without adequate financial provision, commissioned a building firm to construct a 33 Storey commercial building at Moktar Daddah Street-Nairobi for a contract sum of Kshs.3,181,468,427. About a year later, in August 1998 the Fund reviewed and approved the scaling down of the Project by about 30% from the original contract but after the contractor had done five mezzanine floors at a cost of Kshs.1,925,000,000 or about 61% of the total original contract price. Following the scaling down of the Project the contractor demanded compensation of Kshs.408,542,191 for breach of contract which if paid, would bring total expenditure on the contract to Kshs.2,333,542,191 or about 73% of the original contract sum of Kshs.3,181,468,427.

It would appear, therefore that the Fund's handling of this Project was quite unsatisfactory as it clearly reflects poor planning and execution of the Project.

The Committee heard the evidence given by the Chief Executive that the Fund, in 1997 and without proper feasibility studies and adequate financial provision, awarded tender to M/s. Mavji Construction Company for construction of a 33-storey

Commercial Building at Moktar Daddah Street, Nairobi at a contract sum of Kshs. 3,181,468,427.10.

The Committee was informed that: -

(i) **the project was restructured in 1999 due to cash flow problems and the restructured contract came to Kshs. 2,340,012,139 which consisted of four (4) parking basements and three (3) shopping floors;**

(ii) **upon scaling down of the project, the contractor claimed Kshs. 408,542,191.35 for breach of contract;**

(iii) **the construction of the scaled down building is practically complete with lifts being installed.**

The Committee expressed concern that the project was handled in an improper manner reflecting poor planning by the management of the Fund.

The Committee further expressed concern that the contractor is making a claim for breach of contract, ostensibly for scaling down the project even when there was no material loss.

The Committee recommends that since the claim by the contractor is unrealistic and outrageous bearing in mind that the project was reduced by a mere 30%, which the Fund substantially performed in the contract, the issue be handled in a manner that the interests of the Fund are safeguarded.

5. **NYAYO ESTATE, EMBAKASI**

In 1995 and as previously reported, the Fund entered into a contract with a construction company to build 4,774 units of houses at Embakasi Nyayo Estate at a cost of Kshs.14.18 billion. The Project, which should have been fully completed by 30 April 1999, however, had only 696 units completed and handed over to the Fund as at 30 June 2000 at a total cost of Kshs.14,198,000,000 out of which Kshs.12.3 billion(88%) has already been paid to the contractor. Additional 460 units have been completed and the Project, which is three years behind schedule, is presently only 24.2% complete while the rate of construction work has decreased to a level of near abandonment. Its completion within the original cost parameters is, therefore, highly uncertain. In addition, the Fund has not indicated how the remaining 3,618 units are to be completed within the 13% balance of the contract price. The Fund also expects to realize

Kshs.11,609,000,000 on disposal of all the housing units when completed, thereby realizing a possible loss of Kshs.2,589,000,000 on such disposal.

The Committee heard the evidence given by the Chief Executive that in 1995, the Fund entered into a contract with M/s. Mugoya Construction and Engineering Ltd. whose owner is Mr. James Isabirye, a Uganda national, to build 4,774 units of residential houses at Embakasi Nyayo Estate at a cost of Kshs. 10,691,943,932.25 and that the costs have escalated as a result of price fluctuations and variations.

The Committee further heard that: -

(i) the contractor who should have completed the works by April, 1999, handed over a total of 1,156 units, where 2,036 are approximately 65% complete while 1,582 are 45% complete and that to date, the contractor has been paid a total of Kshs. 12.7 billion which is approximately 89% of the initial cost of the contract;

(ii) it appears that the contractor would not complete the project within the stipulated contract time and a notice has been given by the Fund to terminate the contract;

(iii) certificates of work done were issued by the architect, M/s. Symbion International and certified by:

a) **Quantity surveyor**	-	**Miguna and later M/s. Davidson and Ward**
b) **Structural Engineers**	-	**Otieno Odengo and Partners**
c) **Civil Engineers**	-	**M/s. Johy Keynan**
d) **Electrical Engineers**	-	**M/s. Kisa and Partners**

The Committee made the following observations: -

(i) it appears that the then Managing Trustee Mr. Samuel Muindi was not giving accurate and honest information to the Board as payments were authorised and made and yet no commensurate work was evident on the ground leading to overpayments;

(ii) the architects and other consultants mentioned above wilfully and knowingly colluded with the then Chief Executive Mr. Samuel Muindi to defraud the Fund of colossal sums of money by issuing questionable

certificates of work, whose claim was not proportional to the works on the ground;

(iii) even though the work done was 24.2% of the contract work, the Architects M/s. Symbion International certified and issued certificates of up to 89% of the contract sum.

The Committee reiterates its earlier recommendation in its 10th report page 5 that:-

(i) the former Managing Trustee Mr. Samuel Muindi be investigated by the Director of Criminal Investigations Department and the Attorney-General for possible abuse of office and fraud with a view to being prosecuted and surcharged for recovery of the losses;

(ii) the Fund should institute civil suit against M/s. Mugoya Constructions and Engineering Company with a view to recovering the overpayments made and losses occasioned by breach of contract;

(iii) the then Managing Trustee, Mr. Samuel Muindi, the Architects and Consultants mentioned should be investigated by the Kenya Anti-Corruption Commission on their roles on the issuance of questionable certificates of works on the project which led to overpayments with a view to recovering the losses incurred.

The Committee recommends that:-

(i) m/s. Mugoya Construction and Engineering Company and its directors should be prohibited from ever participating and/or award of contracts by the government of Kenya and /or its related agencies;

(ii) the Fund should conduct an evaluation of the project to determine its viability and proceed prudently;

(iii) the Fund should lodge a formal complaint with the Architects and Quantity Surveyors Board for professional misconduct by M/s. Symbion International Architects and its directors.

6. OUTER RING ROAD PLOT

On 25 January 1995, the Fund purchased land plot LR 209/11314 along Outer-ring Road, on Jogoo Road Junction, Nairobi measuring 4.581 hectares (appro.11.31 acres) at a total cost of Kshs.124,500,000 or about Kshs.11,000,000 per acre. However, when account is taken of the location and the general environment of the property, the land appears grossly over-priced. The land also encroaches portions of both Jogoo Road and Outer-ring Road reserves. In addition, the Fund contracted a private company to prepare a layout plan for development of housing units and to obtain approval for such project from the City Council of Nairobi at a cost of Kshs.1,518,000. There was, however, no budgetary provision made in the Fund's Estimates for 1999/2000 to cater for the development of the Project. In addition no satisfactory justification for the undertaking of such a project has been provided.

The Committee heard the evidence given by the Chief Executive that the Fund purchased land plot LR 209/11314 situated along Outer-ring Road, on Jogoo Road Junction at Kshs. 124,500,000 from M/s. Multipurpose Co-operative Development Centre Ltd, whose registration file has since been missing from the records of the Registrar of Companies, and that the price was based on a valuation by M/s. Milligan and Company.

The Committee was informed that: -

(i) the payment was made by the vendor through M/s. Ismael and Ismael Advocates on behalf of M/s. Multi-purpose Co-operative Development Centre;

(ii) the plot did not encroach on Jogoo Road and the Fund subdivided the land for a possible sale of the plots in smaller units to obtain better prices;

The Committee observed with concern that: -

(i) the value of the land was grossly overpriced with the intention of defrauding the Fund given that an acre was purchased at approximately 11 million at the time;

(ii) while noting that the purchase of land is not a core business of the Fund, the whole project would appear to have been initiated to defraud the Fund;

(iii) **in view of the fact that the file for M/s. Multipurpose Cooperative Development Centre Ltd. has since disappeared from the Registrar of Companies, it would appear that the Firm was a conduit intended to defraud the Fund, and the whole project would have been an alter ego of the Company/Firm and others in the Fund; and**

(iv) **the valuers, M/s. Milligan overvalued the land, which led to the losses.**

The Committee recommends that:

(i) **the Chief Executive should report the matter of over-valuation of the land by M/s. Milligan and Company to the Valuers Registration Board for professional misconduct and negligence with a view to recovering the losses through their insurance.**

(ii) **in view of the fact that the file for M/s. Multipurpose Cooperative Development Centre Ltd. has since disappeared from the Registrar of Companies, the Fund should report the matter to the Kenya Anti-Corruption Commission with a view to obtaining identifying the directors of the firm for possible prosecution if found culpable.**

7. INVESTMENT IN PROPERTIES

The Fund developed the following projects which are going to the market for sale as indicated below:

Project	**Number of Houses**	**Anticipated**		
		Cost	**Price**	**Loss**
Hazina Estate	375	2,175,287,000	1,118,000,000	1,057,287,000
Kitisuru	96	950,867,000	859,000,000	91,867,000
Kangemi	104	1,318,000,000	919,400,000	337,800,000
Total		**4,444,154,000**	**2,896,400,000**	**1,547,754,000**

The above analysis indicates that the Fund stands to lose Kshs.1,547,754,000 on the anticipated sale of the above projects, a loss which would have been avoided had proper planning and feasibility studies been carried out before the Fund invested heavily on the projects. In addition the Fund paid a contractor Kshs.6,769,475 to clear bushes for the Kitisuru Housing Project in

1996. During the year under review, the main Project contractor was awarded a variation for site bush/plants clearance for the same property for a total amount of Kshs.6,300,000 which therefore, brought total expenditure on same site clearance to Kshs.13,069,475. The Fund has not provided adequate justification for the double job and the related payment on site clearance and as a result, it has not been possible to confirm the propriety of the total expenditure of Kshs.13,069,475 incurred on site clearance for this Project.

The Committee heard the evidence given by the Chief Executive that the Fund is anticipating losses on the sale of Hazina Estate, Kitisuru and Kangemi housing schemes due to lack of proper planning and feasibility studies before the projects were initiated and implemented.

The Committee further heard that: -

(i) the Kangemi project had to be changed after initial expenditure on the initial project as intended apartments were converted to town houses while Kitisuru Housing project had to be restructured due to cash flow problems;

(ii) the Fund paid M/s. S.S Mehta and Sons, Kshs. 6,900,000 for site clearance necessitated by the need for topographical survey for use in civil engineering design and that a further Kshs. 6,300,000 was spent to clear overgrown plants and bushes before the construction work started;

(iii) all the three projects had been completed and sold except for Mountain View Housing, where three units remained.

The Committee observed with concern that the irregular manner in which the plots were valued, bought, contractors identified and contract sums varied contributed significantly to the anticipated loss of Kshs. 1,547,754,000.

The Committee recommends that:-

(i) the Chief Executive should ensure that a qualified valuer/property manager is always engaged to avoid such occurrences.; and

(ii) **the Chief Executive Officer should always identify source of funding before commencement of feasibility studies in any project to avoid wastage of public funds.**

8. LOANS AND DEPOSITS IN NATIONAL BANK OF KENYA LTD

During the year 1999/2000 the Fund converted its deposits in National Bank of Kenya Ltd amounting to Kshs.1,100,000,000 into an unsecured long term loan to the Bank repayable in equal semi annual instalments of Kshs.84,600,000 with interest payable on a monthly basis. Although the Bank paid interest totalling Kshs 94,399,890 up to 06 July 2000, it defaulted in payment of the first instalment and interest from 08 July 2000. Since then the Bank has not been servicing the loan as per the agreement.

The Committee heard the evidence given by the Chief Executive that the Fund converted its deposit in National Bank of Kenya Ltd amounting to Kshs. 1.1 billion into long term loan repayable in semi-annual instalment of Kshs. 84.6 million with interest payable on monthly basis and that the Bank paid interest amounting to Kshs. 94,399,890.30 and since then the Bank has not been servicing the loan.

The Committee heard that: -

i.) **the Bank, which the Fund owns 48% ordinary shares, defaulted in payment of interest from July, 2000 together with the first instalment of Kshs. 84.6 million due to financial constraints;**

ii.) **on 22nd September, 2003 the Fund converted its long-term loan of Kshs. 1.1 billion and interest of kshs.75 million into non-cumulative preference shares of kshs. 500 thus acquiring 235 million shares in the Bank; and**

iii.) **the conversion of the long-term loans into non-cumulative preference shares was meant to improve the capitalisation of the Bank to save it from collapsing.**

The Committee recommends that the Fund should review its investment policy at the National Bank of Kenya including redemption of all the deposits being held at the Bank.

9. MEMBERS CONTRIBUTIONS

The members' Fund Account for the year 1999/2000 reflects contributions totalling Kshs. 21,415,8[illegible]000 as at 30th June 2000 which included contributions totalling Kshs. 7,300,000,000 held in a Suspense Account. These balances were brought forward from previous years but could not be allocated to members' accounts, as the individual members' accounts were unknown. As was the case in previous years there was no significant action taken to clear the suspense accounts, particularly in view of the magnitude of the balances involved The Fund is presently unable to identify the members accounts into which these suspense accounts would be posted and as a result it is not possible to confirm that pensioners funds totalling Kshs 7,300,000,000 held in the suspense accounts are secure and will eventually benefit the relevant contributors.

The Committee heard the evidence given by the Chief Executive and was informed that an amount of Kshs. 7.3 billion was held in suspense account by the Fund as at 30th June, 2000 and that this is largely attributed to submission of contributions by employers without complete returns.

The Committee was informed that the amount held in the suspense Account had been reduced to Kshs. 6.9 billion as at 21st September, 2004.

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

The Committee further recommends that the Chief Executive should ensure that the Pensioners Fund is secure and benefits the contributors.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA WILDLIFE SERVICE FOR THE YEAR ENDED 30TH JUNE, 2000

1 FIXED ASSETS

The Balance Sheet fixed assets figure of Kshs.7,712,870,000 as at 30th June 2000 excludes land held by the Kenya Wildlife Service, comprising of 26 Parks, measuring 29,368 sq km, 33 National Reserves, measuring 15,723 sq. km but includes 101 parcels of land outside the protected areas valued at Kshs.325,018,000. Assets records for the KWS, however, show that except for Boundary plans and the related Kenya Gazette Notices, Kenya Wildlife Service does not hold title deeds for National Parks and Game Reserves, measuring 31,616 sq. km and also for some eighty four (84) parcels of land outside the protected areas It has, therefore, not been possible to confirm the ownership and security of the land, particularly that held outside the protected areas or even to confirm correctness of the value of Kshs.325,018,000 reflected in these Accounts against such land

The Committee heard the evidence given by the Chief executive that the fixed assets figure of Kshs. 7,712,870,000 as at 30th June 2000 excludes land held by the Service under protected areas but includes 101 parcels of land outside protected areas valued at Kshs. 325,018,000.00

The Committee further heard that: -

(i) the Service did not hold title deeds for National Parks and Game Reserves measuring 31,616 square kilometres and also for some eighty-four parcels of land outside the protected areas;

(ii) by October 2004, the Service had obtained title deeds for fifty three (53) and twenty-four (24) parcels of land outside protected areas and under protected areas, respectively;

(iii) the Service is in the process of acquiring title deeds for the remaining parcels;

(iv) some of the land had been irregularly allocated to private developers, as shown below:-

	LAND DESCRIPTION	NAME OF ALLOTTEE
1.	- Kisite Marine National Park Legal notice no. 216 of 25/10/1973, 0.8 HA excised as per land title No. Kwale/Shimoni/496 prepared in 1994	Original allottees: (i) Sophia Rahim (ii) Sophie Nzuguka Kilei Transferred to: M/s. Panco Ltd, P.O Box 838 Mombasa associated to a Mr. Torriana.
2.	Mpunguti Marine National Reserve Legal Notice No. 91 of 10/5/1978 excised as per land title No. Kwale/Shimoni/493 Title No Kwale/Shimoni/493 Title No Kwale/Shimoni/494	Original Allotees: (a) Kwale/Shimoni/493 (i) Mwanasiti Muhamed Chamamba (ii) Chrisitine M. Mwakudu (iii) Sally Florence (b) Kwale/Shimoni/494 (i) Boy Juma Boy (ii) Shee Hamisi Mwamwindi (iii) Bakari Ali Kasiri (c) Kwale/Shimoni/495 (i) Mwamzandi Kasim Bakari (ii) Mohamed Mshee Mwinyamiri (iii) Nasoro Juma Transferred to: M/s. Pwani Holdings Resort Ltd P.O Box 838 Mombasa Directors: (i) Peter Kamau Kimondo (ii) Fredrick Odongo Omondi M/s. Bantus Investments Limited P.O Box 838 Mombasa

	Title No Kwale/Shimoni/495	Directors: (i) Peter Kamau Kimondo (ii) Fredrick Odongo Omondi M/s. Serious Holdings Ltd P.O Box 838 Mombasa
3.	Staff Quarters Malindi N. Park Plot No. 514/41	M/S. Match Designer Ltd P.O Box 1060 Nairobi
4.	Kiunga National Reserve Legal Notice No 291 of 4/10/1979:Kiwayu – LR Nos. 13557, 17938 and 13546	Part of the Reserve given to Mr. Kassim Shahare Ali
5.	Mombasa Marine National Park Headquarters	The proposed sub-division approved by Mombasa Municipal council
6.	Watamu Marine National Reserve Legal Notice No. 99 of 26/03/1968	Part of it by letter of allotment Ref 35336/XII/22 of 5/08/199 allocated to M/s. Villas Watamu Ltd
7.	Mkokoni Outpost (Lamu District)	- The 6.0 HA allocated to Mohamed Aboud Badi P.O Box 41 Hola - The 3.0 HA allocated to KWS through letter Ref: 202021/11of 11/08/1998 and the remainder allocated to Mr. Bwana Tora P.O Box 41 Hola
8.	Naivasha Wildlife and Training Institute Farm Sanctuary Legal Notice No. 84 of 6/06/2000 portion of 30.62 HA excised and title issued	Naivasha Kanu Youth
9.	Ivory Room-Mombasa Plot No. MSA/ISLAND/XXV/38	M/s. Josgid Ltd, P.O Box 51990 Nairobi Directors: (i) Gideon Moi (ii) Joshua Chelelgo Kulei
10.	Malindi-District Warden's Office/Staff Houses	Part of it allocated to: (i) Mwalimu K. Ngandu P.O Box 371 Malindi (ii) Benjamin Rondo P.O Box 371, Malindi

		(iii) Godfrey Mjomba P.O Box 371 Malindi (iv) Z.A Mabea P.O Box 30089, Nairobi (v) Amiani S.N P.O Box 371, Malindi (vi) Bahati Temo P.O Box 371 Malindi (vii) John Thoya P.O Box 371 Malindi (viii) Francis B. Diwani P.O Box 5184, Malindi (ix) Josephine Wanjiku Kariuki P.O Box 371 Malindi (x) Martin Saro P.O Box 371 Malindi (xi) Francis Maritim P.O Box 30089, Nairobi (xii) Esther W. Maina P.O Box 30089, Nairobi (xiii) M/s. Salem Investments P.O Box 30089, Nairobi
11.	Embu District Warden's House	Mr. Eustice Njehi
12.	Garissa Station Excised, as plots with one plots title issued on parcel no. 154 title No. Garissa Township/Block 11/154 on 29/5/1998	Mohammed Abdi Ogle P.O Box 327 Garissa
13.	Nanyuki station (i) Letter of Allotment Ref: 25859/XXXIII of 28/11/95 (ii) Letter of Allotment Ref: 258559/XXXVII I of 28/11/95 (iii) Letter of Allotment Ref: 35869/XXXIII of 28/11/95	C.M. Muigo c/o P.O Box 1356, Nairobi (i) D. Gitau P.O Box 420 Nanyuki (ii) D.N. Gethi P.O Box 420 Nairobi (iii) James Gichuhi Wachira P.O Box 331 Nanyuki

	(iv) Letter of Allotment Ref: 25859/XXXIII of 28/11/95	
14.	Kericho station staff quarters area of 1.15 HA remain under KWS vide letter of allotment Ref: 192234 on 15/07/1997	Mr. Ajiwa Shamji
15.	Watamu Marine N. Park plot No. 810 Legal Notice 98 of 26/03/1968	Pierre Le'Porte Limited Directors: (i) Roberto Lenzi (ii) Remo Lenzi
16.	Naivasha Fisheries Annex letter of allotment issued to KWS for part of the whole area initially occupied	Portion allocated to a private developer part of which is a RAMSAR site and a riparian land
17.	Ras Tenewiki National Park.	- Area of 0.5083 HA excised and allocated to Private Developer
18.	- Kakamega Office Site and senior staff houses. - Kakamega Mun/B1/255	- Part allocated to the following private developers:- (i) Hilary Konyi and M. Nyamumbo P.O. Box 16, Kakamega – Parcel No. 746/Kakamega. (ii) Praxedes Nasimiyu Wasike of Box 1885, Kakamega - Parcel No. 733/Kakamega. (iii) Kennedy Kubasu, P. O. Box 5598, Eldore - Parcel No. 736/Kakamega. (iv) Henry Murwa, P. O. Box 66985 Nairobi - Parcel No. 738/Kakamega.

		(v) Stephen Odinga P.O. Box 852, Bungoma - Parcel No. 739Kakamega. (vi) Praxedes A. N. Wasike of P. O. Box 1885, Kakamega - Parcel No. 743/Kakamega.
19.	Kitengela Wildlife Corridor	M/s. Maasailand Impex Company Directors: (i) Philip Lampat Ole Singaru (ii) David Ole Sankori (iii) . Daniel Kasirimo Ole Muyaa (iv) Geoge Mepukori Ole Pertet
20.	L.R No. 10815 within Malindi National Reserve	Part allocated to private developers

The Committee was informed by the Commissioner of Lands that the following actions have been taken on the said irregular allocations:-

(i) on L.R. No. 10815 – 0.017 ha within Malindi National Reserve, a caveat has been put on the title and the allottee M/s. Franci Ltd directed to surrender the title;

(ii) on Kakamega Mun/B1/255, all illegal allocations have been cancelled and letters of allotment issued to the Service;

(iii) on Kisite Marine National Park, which had been gazetted as a National Park vide gazette notice No. 216 of 25th October 1973 and later illegally allocated to private developers who transferred to M/s. Panco Ltd, the title has been restricted and recommended for cancellation;

(iv) on Mpunguti Marine National Reserve, which was irregularly alienated to individuals under a purported Squatter Settlement Scheme who later sold it to a Mr. A. Torriani of Funzi Keys and Tatlers U.K. Hotel Ltd, the titles have been restricted and instructions have been given for nullification of the allocation;

(v) on Watamu Marine National Reserve, where a part measuring 0.3716 ha was irregularly allocated to M/s. Villas Watamu Ltd, caveats have been entered into the title deeds pending cancellations;

(vi) on Naivasha Wildlife and Training Institute, where a portion of land measuring 30.62 Ha was exercised and allocated to KANU Youth for quarrying purposes, the title has since been surrendered;

(vii) on Ivory Room – Mombasa, Plot No. Msa/ Island / XXU / 38, which had been allocated to M/s. Josgid Ltd, surrender documents have been voluntarily given to the Service for onward cancellation and repossession of the plot by the Service;

(viii) on Malindi District Warden's Office / Staff Houses, all the thirteen (13) allocations have been cancelled and a title to be issued to the Service;

(ix) on Ras Tenewiki National Park, where allocation of L.R. 22664 to M/s. Eco Marine (K) Ltd was falling within a Marine Park has since been cancelled and process of repossession by the Service initiated.

The Committee expressed concern that part of the Kitengela Sheep and Goat Farm which is a wildlife corridor vital for conservation of Nairobi National Park had been sub-divided and allocated to the following private developers:

(i) 250 acres - Masailand Impex Company
(ii) 125 acres - an individual under T.O.L, a Mr. Francis Mayaka (deceased).

The Committee further expressed concern that:-

(i) the Kisite Marine National Park and Mpunguti Marine National Reserve, which are islands whose ecosystem is fragile; breeding ground for birds and of cultural significance to the inhabitants (Kayas) and which are of security importance due to their proximity to Tanzania, were irregularly allocated to private developers through conduit by the following officers without due regard to matters mentioned above and in disregard of the caveat placed by the Service; Mr. Francis Baya, the then P.S.,

Ministry of Lands, Mr. S. K. Mwaita and Suleiman M. B. Kamoleh, the then Commissioner of Lands and the then Matuga M.P. respectively;

(ii) some officers from the Ministry of Lands and Provincial Administration abetted the illegal allocations;

The Committee was dismayed that some of the areas, which have been encroached on, include those classified as Riparian land and Ramsar Sites, which are protected or restricted under international conventions. Further, the Committee noted that private developers had illegally established temporary and semi-permanent commercial structures along the Indian Ocean/Malindi area blocking access along the beach contrary to the Law.

The Committee recommends that:-

(i) the Commissioner of Lands should cancel all title deeds/revoke title documents irregularly allocated to the following persons, with immediate effect, with a view to having the same parcels revert to the Service:

	LAND DESCRIPTION	NAME OF ALLOTTEE (S)
1.	- Kisite Marine National Park Legal notice no. 216 of 25/10/1973, 0.8 HA excised as per land title No. Kwale/Shimoni/496 prepared in 1994	Original allottees: (i) Sophia Rahim (ii) Sophie Nzuguka Kilei Transferred to: M/s. Panco Ltd, P.O Box 838 Mombasa associated to a Mr. Toilana.
2.	Mpunguti Marine National Reserve Legal Notice No. 91 of 10/5/1978 excised as per land title No. Kwale/Shimoni/493	Original Allotees: (a) Kwale/Shimoni/493 (i) Mwanasiti Muhamed Chamamba (ii) Chrisitine M. Mwakudu (iii) Sally Florence

		(iv) Kwale/Shimoni/494 (v) Boy Juma Boy (vi) Shee Hamisi Mwamwindi (vii) Bakari Ali Kasiri (c) Kwale/Shimoni/495 (i) Mwamzandi K.B (ii) Mohamed Mshee Mwinyamiri (iii) Nasoro Juma
	Title No Kwale/Shimoni/493	Transferred to: M/s. Pwani Holdings Resort Ltd P.O Box 838 Mombasa Directors: (i) Peter Kamau Kimondo (ii) Fredrick Odongo Omondi
	Title No Kwale/Shimoni/494	M/s. Bantus Investments Limited P.O Box 838 Mombasa Directors: (i) Peter Kamau Kimondo (ii) Fredrick Odongo Omondi
	Title No Kwale/Shimoni/495	M/s. Serious Holdings Ltd P.O Box 838 Mombasa
3.	Staff Quarters Malindi N. Park Plot No. 514/41	M/S. Match Designer Ltd P.O Box 1060 Nairobi
4.	Kiunga National Reserve Legal Notice No 291 of 4/10/1979:Kiwayu – LR Nos. 13557, 17938 and 13546	Part of the Reserve given to Mr. Kassim Shahare Ali
5.	Mombasa Marine National Park Headquarters	

6.	Watamu Marine National Reserve Legal Notice No. 99 of 26/03/1968	Part of it vide letter of allotment Ref 35336/XII/22 of 5/08/199 allocated to M/s. Villas Watamu Ltd
7.	Mkokoni Outpost (Lamu District)	- The 6.0 HA allocated to Mohamed Aboud Badi P.O Box 41 Hola - the 3.0 HA allocated to KWS through letter Ref: 202021/11of 11/08/1998 and the remainder allocated to Mr. Bwana Tora P.O Box 41 Hola
8.	Naivasha Wildlife and Training Institute Farm Sanctuary Legal Notice No. 84 of 6/06/2000 portion of 30.62 HA excised and title issued	Naivasha Kanu Youth
9.	Ivory Room-Mombasa Plot No. MSA/ISLAND/XXV/38	M/s. Josgid Ltd, P.O Box 51990 Nairobi
10.	Malindi-District Warden's Office/Staff Houses	Parts of it allocated to: (i) Mwalimu K. Ngandu P.O Box 371 Malindi (ii) Benjamin Rondo P.O Box 371, Malindi (iii) Godfrey Mjomba P.O Box 371 Malindi (iv) Z.A Mabea P.O Box 30089, Nairobi (v) Amiani S.N P.O Box 371, Malindi (vi) Bahati Temo P.O Box 371 Malindi (vii) John Thoya P.O Box 371 Malindi (viii) Francis B. Diwani P.O Box 5184, Malindi (ix) Josephine Wanjiku Kariuki P.O Box 371 Malindi (x) Martin Saro P.O Box 371

		Malindi (xi) Francis Maritim P.O Box 30089, Nairobi (xii) Esther W. Maina P.O Box 30089, Nairobi M/s. Salem Investments P.O Box 30089, Nairobi
11.	Embu District Warden's House L.R. No. Embu / Mun/Parcel 1360	Mr. Eustace Njeru.
12.	Garissa Station - Excised, as plots with one plots title issued on parcel no. 154 title No. Garissa Township/Block 11/154 on 29/5/1998	Mohammed Abdi Ogle P.O Box 327 Garissa
13.	Nanyuki station (v) Letter of Allotment Ref: 25859/XXXIII of 28/11/95 (vi) Letter of Allotment Ref: 258559/XXXVIII of 28/11/95 (vii) Letter of Allotment Ref: 35869/XXXIII of 28/11/95 (viii) Letter of Allotment Ref: 25859/XXXIII of 28/11/95	C.M. Muigo c/o P.O Box 1356, Nairobi (i) D. Gitau P.O Box 420 Nanyuki (ii) D.N Gethi P.O Box 420 Nairobi (iii) James Gichuhi Wachira P.O Box 331 Nanyuki
14.	Kericho Station staff quarters area of 1.15HA remain under KWS vide letter of allotment Ref: 192234 on 15/07/1997	Mr. Ajiwa Shamji

15.	Watamu Marine N. Park plot No. 810 Legal Notice 98 of 26/03/1968	Pierre Le'Porte Limited Directors: (i) Roberto Lenzi (ii) Remo Lenzi
16.	Naivasha Fisheries Annex letter of allotment issued to KWS for part of the whole area initially occupied	Portion allocated to a private developer part of which is a RAMSAR site and a riparian land
17.	Ras Tanewiki National Park.	- Area of 0.5083 HA excised and allocated to Private Developer
18.	- Kakamega Office Site and senior staff houses. - Kakamega Mun/B1/255	- Part allocated to the following private developers:- (iii) Hilary Konyi and M. Nyamumbo P.O. Box 16, Kakamega. (iv) Praxedes Nasimiyu Wasike of Box 1885, Kakamega. (v) Kennedy Kubasu, P. O. Box 5598, Eldoret. (vi) Henry Murwa, P. O. Box 66985 Nairobi. (vii) Stephen Odinga P.O. Box 852, Bungoma. (viii) Praxedes A. N. Wasike of P. O. Box 1885, Kakamega.
19.	Kitengela Wildlife Corridor	M/s. Maasailand Impex Company Directors: (i) Philip Lampat Ole Singaru (ii) David Ole Sankori (iii) Daniel Kasirimo Ole Muyaa (iv) Geoge Mepukori Ole Pertet
20.	L.R No. 10815 within Malindi National Reserve 0.017 ha.	M/s. Franci Ltd.

(ii) **the Director of the Service should survey all the pieces of land belonging to the Service with a view to facilitating issuance of title deeds for the same; and**

(iii) **all structures that have been developed on the buffer zone *(30 metres stretch after the high tide zone)* along the Indian Ocean coastline be demolished with immediate effect;**

(iv) **that the following persons who abetted illegal allocation of a part of Kisite Marine National Park and Mpunguti Marine National Reserve be investigated and charged with the appropriate offence by the Attorney General and be barred from holding public office conferred by the Republic of Kenya:-**

- **Mr. Francis Baya, the then Permanent Secretary, Ministry of Lands;**
- **Mr. S. K. Mwaita, the then Commissioner of Lands; and**
- **Mr. Suleiman M. B. Kamoleh, the then Matuga M.P.**

2. **STAFF ADVANCES**

The Balance Sheet Debtors figure of Kshs.57,470,000 as at 30 June 2000 includes medical and other staff advances totalling Kshs.7,838,851 held by ex-staff who are either deceased or are no longer in the employment of the Kenya Wildlife Services. Recoverability of these debts is, therefore, considered highly doubtful.

The Committee heard the evidence given by the Chief Executive that the Balance Sheet debtors figure of Kshs. 57,470,000.00 included medical and other staff advances totalling Kshs. 7,838,851 held by ex-staff who were either deceased or were no longer in service.

The Committee was informed that an amount of Kshs. 1,905,650.00 had been recovered, leaving a balance of Kshs. 5,933,201 due from ex-staff who were either deceased or could not be traced and that the Board of Trustees had written off the amount.

The Committee recommends that the Chief Executive Officer should ensure that imprests are surrendered in accordance with Government Regulations.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE TEACHERS SERVICE COMMISSION FOR THE YEAR ENDED 30TH JUNE, 2000

1. DEBTORS

The Balance Sheet Debtors figure of Kshs.284,555,812 as at 30 June 2000 includes losses of cash totalling Kshs.26,469,158 out of which Kshs.21,600,693 relates to cash losses which occurred at the Commission's Headquarters in 1993/94 on account of fraudulent payment of bogus TSC rent. Although the Commission took legal action vide High Court Case No.2713/94, the case has dragged on for over seven (7) years. Also included in debtors is an amount of Kshs.2,232,364 being teachers salaries reportedly stolen as far back as November 1992. The reported thefts were perpetrated by the Commission's own staff and although the Commission has severally sought Police assistance in the matter, as far as it has been possible to ascertain, no suspects have so far been arrested or charged in court for the thefts. Under the circumstances, it would appear that the total debtors of Kshs.23,833,057 may represent debtors that are in effect irrecoverable and as a result it has not been possible to confirm the correctness of the Balance Sheet Debtors figure of Kshs.284,555,812 as at 30 June 2000.

The Committee heard the evidence given by the Chief Executive that an amount of Kshs. 21,600,682.90 represented money that was fraudulently paid to Kenya Trust Company as rent and that the anomaly was discovered a year later.

The Committee further heard that: -

(i) the Commission took legal action vide HCC No. 2713/94 and six persons were charged on 19 counts of forgery and stealing contrary to sections 349 and 275 of the Penal Code. The suspects were fined Kshs. 10,000 on each count while recoveries were ordered on their frozen accounts;

(ii) this judgement was delivered in January 2002 and the Commission recovered Kshs. 12,919.65 and Kshs. 2,477,886 from Trust Bank (in liquidation) and Giro Bank respectively leaving a balance of Kshs. 19,110,857.20;

(iii) the Commission has since written off the balance in its Accounts for the year 2002/2003 while it has

requested the Attorney-General to institute legal proceedings with a view to recovering the total loss, from the property acquired by the convicts by use of the ill-gotten wealth;

(iv) out of the Kshs. 2,232,363.90 being teachers' salaries stolen from four districts from 1992, Kshs. 919,184.45 has been recovered leaving a balance of Kshs. 1,313,179.55 of which Kshs. 7,310.15 is owed by the Ministry of Education, Science and Technology as a repayment balance of the amount stolen from the District Education Office, Machakos;

(v) the Commission has requested the Attorney General and the Director of Criminal Investigations Department to assist in recovering the balance of Kshs. 1,305,534.90 from former teachers; and

(vi) in the case of Alfred Zawadi Ogeto TSC No. 500919, where Ksh. 933,067.65 was stolen from teachers' salary , the Criminal Case No. 125 of 1998 (Homabay) was completed on November 18,2002 and the accused was found guilty and placed on probation for two years. The Service is yet to institute recovery.

The Committee expressed concern that the Commission was reluctant in pursuing the cases of the recovery of the stolen cash.

The Committee recommends that: -

(i) the Attorney-General institutes legal proceedings against Mr. Maingi Gateri and others with a view to recovering the Kshs. 19,110,857 being money lost by the Commission through fraud. This should include attaching properties bought using the stolen money;

(ii) the Director of Criminal Investigations should with immediate effect investigate, and where plausible arrest and prosecute Messrs: Kenneth Bunyali, A.K Riungu, and J.N Karema for loss of cash amounting to Kshs. 518, 330.30 from District Education Officer in Vihiga and Murang'a;

(iii) the Chief Executive should report the case of loss of cash through fraud by Mr. Peter Maingi Gateri and

others to he Kenya Anti-Corruption Commission for necessary action; and

(iv) the Chief Executive should follow these cases expeditiously to their conclusive end and ensure that the funds are recovered.

2. OVERPAYMENT OF SALARIES AND ALLOWANCES

During the year 1999/2000 the Commission overpaid certain of its teachers by Kshs.464,841,170 in form of non-entitled hardship allowances in July, August and September 1999. Although Kshs.264,596,792 was subsequently recovered in the year under review the irregular manner in which the overpayment of Kshs.464,841,170 occurred is still a matter of considerable concern as it apparently reflects existence of inadequate system of internal control with regard to financial management. The Commission also overpaid nine (9) Commission's teachers by Kshs.3,613,878 reportedly due to wrong calculations and computations of salaries and other allowances with such individual overpayments ranging between Kshs 205,000 and Kshs.835,000.

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

(i) the Commission overpaid certain teachers who were outside the hardship zones by Kshs. 464,821,170 in form of non-entitled hardship allowances;

(ii) the Commission also overpaid nine teachers by Kshs. 2,519,978 as a result of transfers, wrong appointments, desertions and study leaves, and that a total of Kshs. 932,806.30 had been recovered, out of which five teachers have fully paid their dues while: -

(a) the case of Anastasia Nandwa involving overpayment of Kshs. 256,789.40 has been forwarded to the Attorney General;

(b) out of Kshs. 215,924.40 overpaid to Muindi Mary Munoti, some of the amount has been recovered at a third of the teacher's basic salary, leaving a balance of Kshs. 119,000.20 as at August,2004;

(c) out of the Kshs. 205,391.00 overpaid to Katumanga K. Silba, recoveries have been made at a third of the

basic salary leaving a balance of Kshs. 40,879.00 as at August 2004;

(d) out of the Kshs. 308,688 overpaid to Kimingich R. N, some of the money has been paid leaving a balance of Kshs. 238,642.55 as at August 2004.

The Commission has continued to recover the overpayment from the concerned teachers.

The Committee observed with concern that the Commission, to date, has continued to overpay some teachers on grounds of transfers, hardship allowances, desertion, etc, an anomaly which would reflect that the Commission does not have effective control on its finances.

The Committee recommends that: -

(i) the Chief Executive executes full recovery of the outstanding overpayments;

(ii) the Attorney General expedites the case against Anastasia Nandwa for recovery of Kshs. 232, 330.85;

(iii) the Commission puts in place effective internal controls to stem overpayment and other financial losses

3. CASH ON HAND AND BANK

The Balance Sheet Cash on Hand and in Bank Figure of Kshs.1,632,406,777 as at 30 June 2000, includes stale cheques amounting to Kshs.28,558,781 out of which a cheque for Kshs 4,079,502 was payable to Standard Chartered Bank, presumably in respect of salary payments. There is no indication, however, that the Commission ever investigated and ascertained why a cheque for such a large amount would not be presented and therefore, became stale or even confirmed whether and how the intended salary beneficiaries were finally paid.

The Committee heard the evidence given by the Chief Executive that the balance sheet cash on hand and in bank figure of Kshs. 1,632,406,777 included stale cheques amounting to Kshs. 28,558,781.55 out of which Kshs. 4,079,502 was payable to Kakamega Teachers Sacco Society Ltd. through the Standard Chartered Bank accounts vide cheque No. 187792.

The Committee further heard that the cheque became statutory barred on 24th April, 2003, after seven years and was removed from the Creditors Account to Teachers Service Commission Accumulated Fund vide JE 6354/02/03 dated 30th June, 2003.

The Committee observed with concern that there was delay in accounting for stale cheques contrary to International Accounting standards.

The Committee reiterates its earlier recommendation on the 12th report that stale cheques are brought to account as required by Commission's accounting regulations.

4. **PROMOTION ON MERIT**

The Commission is empowered under Section 4(1) (a) of the Teachers Service Commission Act. Cap 212 to recruit and employ registered teachers, to assign teachers employed by the Commission for service in any public school, to promote or transfer any such teacher and to terminate the employment of any such teacher. Records of the Commission show that 1,114 teachers were promoted on merit by officers of the Ministry of Education contrary to the provisions of the basic TSC law. The Commission has not provided satisfactory explanation as to why it abdicated its powers and responsibility with regard to promotions on merit. Under the circumstances, it has not been possible to confirm that the responsibility for promotion of teachers as bestowed on the Commission by the TSC Act was properly exercised and that the same was free of abuse.

The Committee heard the evidence given by the Chief Executive that Teachers Service Commission Act Cap 212 Section 4 (1)(a) empowers the Commission to register, recruit and promote teachers among others and that 1,114 teachers were promoted on merit by the Director of Education pursuant to paragraphs 40-42 of TSC Code of Regulations for teachers.

The Committee was informed that the Code of Regulations for teachers has since been amended to clearly indicate that promotion of teachers at all levels is the prerogative of the Commission.

The Committee observed with concern that the Director of Education had usurped the powers of the Commission to recruit and promote teachers contrary to the law.

The Committee recommends that the Commission must exercise its responsibility of promoting teachers as bestowed upon it by the Act.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA AIRPORTS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1998.

1. PURCHASE OF FIRE FIGHTING EQUIPMENT

In September 1997, the Authority ordered for supply of fire fighting equipment from an overseas firm against that firm's quotation of Kshs. 270,040,725 (NLG 84,012,070) dated 28 August 1997. The fire fighting equipment package comprised of a truck, five ambulances, spare parts and other rescue equipment and was to be supplied in complete form comprising of duly completed Bill Quantities. On receipt of the Bill of Quantities on 1 September 1997, the Authority, and apparently without supporting justification, varied the amount in the quotation by adding a new figure of Kshs. 14,672,147 described as "omissions" which, accordingly, increased the quoted supply amount to Kshs. 284,712,922. In the letter of offer to the contractor dated 29 October 1997, the Authority's Chief Executive again varied the contract price by Kshs. 42,706,930 (NLG 1,330,052) to Kshs. 327,419,000 (NLG 10,197,067) being an amount described as a "contingency sum" but whose nature and purpose was not indicated in the letter under reference. Between the period 26 November 1997 and January 1998, the Authority paid the supplier a total of Kshs. 329,783,063 which included the above contingency sum of Kshs. 42,706,930 and which also exceeded revised price of Kshs. 327,417,000 by an unexplained amount of Kshs. 2,364,063. Apart from the fact that the Authority has not justified the total variation of Kshs. 59,742,338 to contract that was supposed to be supplied in complete form, it is also not clear how the contingency sum of Kshs. 42,706,930 paid to the suppliers was utilized, particularly in view of the straight forward nature of this supply contract. Arising from the selective sourcing nature of this procurement it is not possible to confirm the competitiveness of the original supply price of Kshs. 270,040,725 or even to confirm the propriety of the very substantial additional expenditure of Kshs. 59,742,338 on the procurement of the fire fighting equipment.

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

(i) the Authority sought fire fighting equipment from internationally reputable firms namely:- M/s. S.K. Fire Pte; M/s. Rosenbauer (ATS) Reynolds; M/s. R. Boughton; M/s. Kronenburg (NLG) and M/s. Zeigler (who did not submit a tender), and that M/s.

Kronenburg (NLG) which quoted Kshs.327,419,000 was the best evaluated and the lowest tenderer.

(ii) m/s. Kronenburg (NLG) was hence awarded the tender at the quoted sum of Kshs.10,197,967.00 Dutch Guilders i.e. Kshs.327,419,000;

(iii) the Kenya Airports Authority Board on 16th October, 1997 approved the supply of the equipments at tender sum of Kshs.327,419,060;

(iv) the equipments were delivered and are still operational but with difficulties;

(v) most supporting documents for the contract have since disappeared from the offices of the Authority and that of Kenya National Audit office;

(vi) the then Chief Executive officer of the Authority when the equipment was bought was Mr. Peter Lagat.

The Committee observed with concern that in absence of any supporting documents on the tender in respect of tendering procedures, bills of quantities etc, which appear to have been deliberately misplaced to conceal information, it would be difficult to confirm the propriety of the total sum of Kshs. 327,419,060 .

The Committee recommends that:-

(i) the Director of Criminal Investigations Department should immediately commence investigations into the procurement of the fire fighting equipment and the circumstances under which documents relating to the adjudication and award of the tender disappeared from the Authority with view to preferring appropriate criminal charges to any person(s) found culpable in connection with the matter.

(ii) the Authority must adhere to procurement procedures and regulations currently in force in acquisition of goods and services.

2. REPAIR OF LEAKING ROOFS

During the year 1997/98, the Authority awarded a contract for repairs of leaking roofs of various buildings and other associated works at Malindi and Moi International Airport, Mombasa to a firm whose bid was second lowest at Kshs 19,768,305 The lowest bidder had quoted an amount of Kshs. 13,906,385 for the job but was reportedly rejected on account of lack of tender sufficiency, a reason which is not considered satisfactory. The contract price of Kshs 19,768,305 was also later varied upward to Kshs. 24,411,655 Had this contract been awarded to the lowest bidder, the Authority would have made a possible saving of Kshs. 10,505,270 A review of the Bills of Quantities relating to the same contract indicates that an amount of Kshs. 1,620,000 was included as "Supervisory fees" by the representatives of the Authority Although I have been advised that the amounts were progressively paid to the contractor I have not, however, been convinced as to why the contractor would be paid money which, according to contract specifications, he was not entitled to.

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

(i) m/s. J.O. Waudi Contractors was the lowest tenderer at Kshs. 13,906,385 which was below the pre-tender cost estimate of Kshs.19 million and was therefore considered unrealistic as he would have compromised the quality of the work, to make up for the apparent loss;

(ii) m/s. Dickways Construction Company, whose directors are Mr. J. Kariuki and Ms. A. Wanjiru Gicheru were awarded the tender, at the second lowest quotation of Kshs. 19,768,305;

(iii) as adopted by the management, supervision fee of Kshs. 1,620,000 was included in the Bills of Quantities and paid to the contractor, M/s. Dickways Construction Company for accommodation and transport for the departmental representatives while supervising the implementation of the project for the six months;

(iv) the variation of Kshs. 4,643,350 arose from the need to waterproof the Central Terminal Building flat roof

of the First Class lounge at JKIA due to damage caused by the 'El-Nino' rains;

(v) m/s. Dickways Construction Company, who was already on site undertaking similar works at Malindi Airport was awarded the tender at the contract rates similar to that of the initial projects totalling Kshs. 4,643,350.

The Committee was further informed that no authority was sought to award the additional project to M/s. Dickways Construction Company.

The Committee, while observing that irregular tendering for contracts and tender price variations was a common practice at the Authority, and that the practice is prone to abuse, recommends that where there are additional works to be undertaken after awarding a tender, such works should be deemed to be fresh works and procurement regulations should be adhered to in awarding contracts for such additional works.

3. REHABILITATION OF UNIT 3 AND STATE PAVILION APRONS AT JKIA-CONTRACT- NO KAA/JKA/363/C

On 26 October 1997 eight (8) tenders were opened in respect of quotations for the rehabilitation of Unit Three and the State Pavilion Apron at the JKIA. A construction firm, which eventually won the contract on 5 December 1997 bidded second lowest at a price of Kshs. 147,233,232 while the lowest bid of Kshs. 111,283,440 was rejected without adequate reasons being recorded except for the indication that the quotations was only slightly above the initial pre-tender cost estimate of Kshs. 105,000,000 and that it was also about 25% below the Engineer's revised cost estimate of Kshs. 147,736,440. This reasoning does not, however, appear to outweigh the possible saving of a total of Kshs. 35,949,792 (net of any variations granted) on the quotation of Kshs. 111,283,440, had the contract been awarded to the lowest bidder. The successful bidder was also awarded the contract for the Resealing and Recarpeting of Airport Roads at the JKIA at a further contract sum of Kshs. 37,345,601 while the Company's quotation was third lowest with the lowest bid being Kshs. 32,158,628. The Authority would similarly have realized a possible saving of Kshs. 5,186,972 had this second contract been awarded to the lowest bidder.

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

(i) **m/s. S.S Mehta & Sons, the lowest tenderer was 25% below the engineers' pre-tender cost estimate of Kshs. 147,736,440 in addition to unrealistically low quoted price of one bill item (Geogrid membrane) which was considered crucial in the pavement performance after rehabilitation;**

(ii) **m/s. Crescent Construction Company was awarded the tender at Kshs. 147,233,232;**

The Committee further heard that in respect to recarpeting of service road and car park at Jomo Kenyatta International Airports, M/s. Kay Construction Company Ltd tender was the lowest ranked, at Kshs. 32,158,628. However, he did not meet the engineers' pre-tender cost estimates for certain petroleum products and therefore the quoted prices were considered too low for the tender. As a result, M/s. Crescent Construction co. Ltd was awarded the tender at Kshs. 37,345,601.00 as bidded.

The Committee also heard that the first Pre-tender Estimate on the project was prepared in April 1997 when the exchange rate was Kshs. 52.00 to the dollar and that by the Second Estimate of November 1997, the exchange rate was Kshs. 65 to the dollar.

The Committee observed that there appears to be a general tendency at the Authority to award tenders to bidders other than the lowest bidders, thereby occasioning losses on tenders.

The Committee recommends that the Authority should initiate projects only when there is adequate budgetary allocation. The Committee further recommends that procurement procedures should be followed.

4. AIRFIELD LIGHTING LAMPS

During the year under review the Authority purchased airfield lighting lamps from a supplier at a cost of Kshs. 4,370,077. Records, however, show that the company had quoted for the same lamps at Kshs. 3,593,391. As there is no information regarding any price variation the resulting difference of Kshs. 776,686 constitutes excess payment which the Authority has not justified. The price of the lamps was again revised by Kshs. 699,214 which was described as compensation for Value Added Tax not included in the earlier price of

Kshs. 4,370,077 and also by a further sum of Kshs 10,014 indicated as unspecified additional charges, thus giving a total variation of Kshs. 829,228. The already revised price of these lamps of Kshs 5,199,305 was again revised by an additional payment of Kshs 686,216 made by the Authority to Kenya Revenue Authority without giving details of the nature of the payment. In this transaction, the Authority, therefore, appears to have spent without justification a total of Kshs. 2,292,130 being the difference between the total payments of Kshs. 5,885,521 and the price of Kshs. 3,593,391 originally quoted for Airfield Lighting lamps. Accordingly, the propriety of the extra expenditure of Kshs 2,292,130 cannot be confirmed.

The Committee heard the evidence given by the Chief Executive that the amount of order to M/s. Multi Logistics Company was initially Kshs. 3,593,391.00. Further, the Authority adopted the prevailing exchange rates at the time of delivery which had risen to Kshs. 105.72 from Kshs. 86.50 to the Sterling Pound and therefore the variation to the total invoice figure of Kshs. 4,370,077, which was finally paid, thereby resolving the audit query.

5. LOSS OF REVENUE ON CREDIT NOTES

According to the Authority's Financial Regulations all Credit Notes must be fully supported by relevant bills that are in dispute together with supporting documents which clearly show the errors made earlier as well as the amounts involved The Credit Notes must be initiated by the Revenue Accountant and then authorized by the Airport Manager. During the year 1997/98, the General Manager, Finance and Commercial Activities, apparently in contravention of these Regulations, raised Credit Notes amounting to Kshs 39,404,869 for nineteen firms for Jomo Kenyatta and Wilson Airports. The Credit Notes were, however, neither supported by copies of bills under dispute, nor were they supported by documents showing the make up of the errors of the amounts being claimed It is also not clear why the Revenue Accountant did not initiate the Credit Notes as required. Arising from the foregoing and in the absence of documentary evidence in support of any errors, it has not been possible to confirm the genuineness of the amount of Kshs 39,404,869 issued to debtors in form of Credit Notes It is also not clear how the Authority made errors of such a big magnitude when billing its customers. Consequently, it has not been possible to confirm that these adjustments, which are likely to result in substantial loss of funds, were genuine and were correctly made

The Committee heard the evidence given by the Chief Executive that current credit notes procedure was not followed, as they were not supported by the relevant bills that are in dispute and which had clear evidence of errors made earlier.

The Committee was also informed that the Authority has since ensured that proper credit note procedures are followed and that the amount in question has since been reconciled.

The Committee recommends that the Chief Executive should ensure that proper credit note procedures are followed in all transactions of the Authority before being handed over to debtors.

6. AIRPORT CONCESSION FEES AND RENT INCOME

According to Airport Trade Concession Agreements, concessionaires are charged concession fees based on turnover figure provided by the companies themselves. Without the audited Accounts for these companies it was not possible to confirm the correctness of concession fees totalling Kshs. 194,02,124 included in these Accounts as at 30 June 1998. In addition, although trade concession fees were chargeable at the rate of 50% of gross turnover on advertising bill boards as per **Legal Notice Number, 189 of 5 July 1996**, a firm whose gross turnover totalled Kshs 6,553,710 was, however, only charged a fixed rate of Kshs. 3,276,855. The Authority has not indicated why the correct procedure was not followed when charging this company, an omission, which resulted in revenue loss of Kshs. 2,076,855.

The Committee heard the evidence given by the Chief Executive that four companies namely Grant Holdings Ltd, Eurocraft Agencies, Kenya Aerotech Ltd and Kenya Duty Free did not submit audited accounts and that their concession fees were based on their turnover figures.

The Committee observed with concern that the current procedure for charging concession fees was not followed resulting in a loss of Kshs.2,076,855.

The Committee noted that a credit department has been set up to address the anomaly and that a company, M/s. Giant Holdings Ltd which had been undercharged has had its contract terminated and has since filed a case in Court against the Authority.

The Committee recommends that the Authority should obtain certified accounts from the four companies with a view to establishing the correct concession fees payable and demand the difference.

7. RENT INCOME

Under tenancy agreements signed between the Authority and it tenants, the tenants are required to pay a security deposit equivalent to six months rent before they occupy any rented premises and thereafter rent becomes payable quarterly in advance. During the year 1997/98, thirty nine (39) out of the one hundred and fifty four (154) tenants at JKIA Nairobi and seven (7) out of seventy five (75) at the Moi International Airport, Mombasa did not pay the security deposits even though they were allowed to occupy their rented premises. Due to the Authority's failure to require and to hold security deposits from some of its tenants some 14 tenants at Moi International Airport vacated their premises without paying rent totalling Kshs. 4,516,181, the recovery of which is highly doubtful. The Authority did not also appear to have a proper policy and system of invoicing its tenants while the details of tenants in the Tenancy Directory did not agree with those in the Ledger due to missing names. Out of eighteen (18) land tenants at Jomo Kenyatta International Airport only eight (8) had been invoiced while seven (7) land tenants at Wilson Airport were not being invoiced at all. There were also eighteen (18) tenants in the Directory but not in the Ledger, which was an indication that their payments were not received or if received the same were not recorded. Consequently, it is not possible to confirm the correctness of the land rent income of Kshs. 157,977,587 reflected in these Accounts as at 30 June 1998.

The Committee heard the evidence given by the Chief Executive that all tenants of the Authority are now required to pay security deposit equivalent to six months before occupying any premises and they are invoiced quarterly in advance by the credit control department.

The Committee further heard that out of Kshs.4,516,181.40 owing from defaulting tenants, an amount of Kshs.116,050.20 has been recovered from M/s. Air Europe and M/s. EL-AL while the balance is being pursued in Court.

The Committee recommends that the Chief Executive should ensure that security deposit is always paid and proper invoicing done.

The Committee further recommends that the cases regarding the balance of Kshs.4,400,131.20 are followed to their conclusion.

8. PURCHASE OF BROCHURES FOR ELDORET AIRPORT

Between the period 01 October 1997 and 28 November 1997, the Authority invited quotations for the procurement of Brochures for the marketing of Eldoret Airport in response to which only two firms quoted. However, and despite the fact that the Authority Procurement Regulations require that fresh quotations be obtained in the event of poor response, the Authority went ahead and awarded the contract to the firm which had quoted higher at Kshs. 1,099,145 against the second firm's lower quotation of Kshs. 445,000 which was rejected on the grounds that the quotation did not include photography work. Available records indicated that the Authority eventually paid the selected company a total of Kshs. 1,302,960 for the service. The Authority has neither explained why the extra cost of Kshs. 203,815 was incurred nor has it given a satisfactory explanation as to why the contract was not given to the lower bidder, which would have saved the Authority a total of Kshs. 857, 960 being the difference between the lower bid of Kshs. 445,000 and the amount finally spent of Kshs. 1,302,960.

The Committee heard the evidence given by the Chief Executive that out of the four firms invited to quote for the supply and delivery of brochures for Eldoret Airport, only M/s. Bush-Drum responded at a quotation of Kshs.1,099,145 and as a result the Authority sought more quotations from four other companies, from which M/s. Reata printers Ltd quoted the lowest figure of Kshs. 445,000.

The Committee further heard that though M/s. Reata Printers was the lowest bidder, it was not responsive on technical evaluation leading to M/s. Bush Drum being awarded the tender which was later revised to Kshs.1,302,960, without justification.

The Committee recommends that the Chief Executive should ensure that officer(s) who authorised and made the payments of Kshs.1,302,960 to M/s. Bush Drum should be surcharged the difference of Kshs. 203,815 by the Inspector General (State Corporations).

9. PURCHASE OF TYRES AND TUBES

On 20 March 1998, the Authority ordered for supply of four tyres and tubes for its Mercedes Benz vehicle registration number KAH 098F

under Local Purchase Order number C 793770 of the same date. The tyres and tubes were supplied and subsequently paid for at Kshs. 104,878. About a month later on 23 April 1998, the Authority again incurred a total expenditure of Kshs. 205,899 on the importation of other five tyres for the same vehicle. The importation of these other tyres was undertaken reportedly because the locally purchased tyres and tubes had been rejected by the Managing Director, who, thereafter, ordered the importation of the second lot of tyres at the above cost of Kshs. 205, 899. Importation of tyres for vehicle that had already been fitted with locally manufactured ones hardly a month earlier, has not been justified.

The Committee heard the evidence given by the Chief Executive that the Authority purchased new tyres and tubes from abroad hardly a month after locally manufactured tyres had been bought and fitted, because the latter had made the vehicle unstable.

The Committee further heard that investigation revealed that the cause of the instability was the low suspension which has since been rectified and the locally manufactured tyres and tubes fitted thereby resolving the audit query.

10. DEBTORS AND RECEIVABLES

The Balance Sheet Debtors figure of Kshs. 897,943,967 as at 30 June 1998 includes imprests totalling Kshs. 3,898,073 which in turn include imprests of Kshs. 2,140,439 outstanding against some five (5) ex-employees who are no longer in the service of the Authority. The Authority has not given satisfactory explanation as to how the outstanding imprests are to be recovered from the ex-employees. In addition, the Debtors figure includes a Suspense Account figure of Kshs. 12,103,980 whose nature was not explained. Arising from the foregoing it has not been possible to confirm the correctness of the Debtors figure of Kshs. 897,943,967

The Committee heard the evidence given by the Chief Executive that the Authority has since recovered imprest from some of the officers including Monica Mburu, S.B. Rotich, R. Kemoli and that the Suspense Accounts has been cleared and necessary adjustments made in the 2000/2001 Accounts.

The Committee recommends that the Chief Executive should ensure that all outstanding imprest is recovered from the holders without further delay.

11. CASH AND BANK BALANCES

The Balance Sheet as at 30 June 1998 reflects Cash and Bank balance figure of Kshs 154,597,004 while the Cash-books show cash and bank balance overdraft of Kshs. 49,083,825.45, thereby resulting in a difference of Kshs. 209,365,640 whose nature was not explained. In addition, there were Receipts in the Cash-book totalling Kshs. 41,703,56 but not entered in the Bank Statements for periods ranging from two to six years. There were also Cash book adjustments indicated as transfer payments totalling Kshs 210,000,000 whose details as to the nature of the payments were not seen. The Authority has also not produced proper bank reconciliation in support of the Balance Sheet figure for the year ending 30 June 1998. Arising from the foregoing, it has not been possible to confirm the correctness of the Balance Sheet Cash and Bank figure of Kshs 154,597,004 as at 30 June 1998.

The Committee heard the evidence given by the Chief Executive that the Management has instituted adjustments dating back from 1992 and that the figures have been reconciled and incorporated in the 2000/2001 Accounts of the Authority and subsequently submitted for audit thereby resolving the audit query.

The Committee reiterates its recommendation in the 12th Report, that the Authority should prepare reconciliation statement on monthly basis and reconcile their accounts at the close of every financial year.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA TOURIST DEVELOPMENT CORPORATION FOR THE YEAR ENDED 30 JUNE 1996

1. REVOLVING FUND LOANS

An audit review of the Revolving Fund Loans Programme revealed poor rate of loan recovery resulting in large sums of money remaining outstanding. Out of the principal sum of Kshs. 28,780,503 expected during the year, only Kshs. 1,565,334 or 5 6% was recovered and of the expected interest amount of Kshs 18,896,730 only Kshs. 4,394,995 or 23 2% was received. At this slow rate of recovery, it is doubtful whether the Corporation will ever realise the whole loan portfolio and the accruing interest.

The Committee heard the evidence given by the Chief Executive that the rate of loan recovery for the revolving fund loans was poor in the year under review and that this was mainly due to a slump in the Tourism Industry which resulted in closures, receiverships and prejudiced abilities to service loan obligations.

The Committee further heard that: -

i.) **out of 44 loan beneficiaries, 16 have since repaid their loans while the remaining are either servicing the loans or have obtained injunctions restraining the Corporation from realizing the securities;**

ii.) **the rate of loan recoveries has been enhanced from Kshs. 5,960,329 in 1995/96 to over Kshs. 17,694,940 in the 1997/98 financial year;**

iii.) **the Corporation fund loans are now secured and insured.**

The Committee recommends that the Corporation should expeditiously pursue and continue to redeem the loans and the cases pending in court should be concluded.

2. INVESTMENTS AND LOANS

The Investment and Loans Balance Sheet figure of Kshs. 313,961,879 includes, among others, equity investments of Kshs. 147,306,618 and loans of Kshs. 58,140,462 in hotels and lodges all over the country. Several of the hotels and lodges listed in note 2 to these accounts, have not been performing well and have not declared

dividend in recent years. In the circumstances, it is doubtful whether the equity investments and loans totalling Kshs. 205,447,080 are fairly stated. In spite of poor performance of investments and loans portfolios, no provision has been made in these accounts for the possibility of diminution in value in equity investments and non-realisation of loans.

The Committee heard the evidence given by the Chief Executive that hotels and lodges where the Corporation has equity investments and loans amounting to Kshs. 205,447,080 were not performing well due to a tourism slump resulting in non-payment of dividends.

The Committee was informed that: -

(i) the rate of loan recovery has improved with some investments declaring dividends in the subsequent years;

(ii) provisions will be made in the accounts for possible diminution in value of equity investments and non-performing loans.

The Committee recommends that the Corporation should strive to redeem all its loans including those extended to the following hotels and lodges:

LOANEE	AMOUNT OWING in Kshs.
1. Tsavo Motel Ltd	357,505.00
2. Ikolomani Enterprises Ltd	2,807,706.00
3. Kibo Safaris Ltd	3,151,852.00
4. Milima Agencies Ltd	342,380.45
5. Jomima Tours and Travels Ltd	3,331,174.00
6. Lake Turkana El-Molo Lodges	7,014,238.00
7. Naivasha Hillpark Ltd	5,983,826.00
8. Wandune Holdings Ltd	6,952,929.00
9. Top in One Co. Ltd	671,262.00
10. Delight Dreamland Hotel	5,147,684.25
11. Wajir Tourist Hotel Ltd	5,363,223.00
12. New Garden Hotel, Bondo	1,467,257.00
13. Githuku Investments Ltd	5,538,010.00
14. Kenya Agro Business Ltd	3,543,518.00
15. Miseru Investments Ltd	2,867,157.00
16. Mt. Elgon Agencies Ltd	4,390,510.00

17. Gasden Company Ltd	**5,219,303.00**
18. Narokville Enterprises Ltd	**956,493.00**
19. Alnasi Tours and Travels Ltd	**2,065,250.00**
20. Kitui Tourist Hotel Ltd	**3,284,964.00**
21. Farmview Hotel Ltd	**4,417,781.00**
22. Motto Tours and Travel Ltd	**17,435.50**
23. Kisumu Tourist Hotel	**26,730.00**
24. Kendu Bay Country Hotel Ltd	**500,000.00**

3. WATALII STREET PROJECT

The Investments and Loans figure further includes, an expenditure of Kshs. 34,193,888 incurred by the Corporation during the year on consultancy services on a proposed Travel-cum-Tourist centre project on plot no. L.R 209/9733 in Watalii Street. The expenditure is in addition to Kshs. 3,918,939 paid as Value Added Tax.

The amount for architectural designs was paid to a consortium of 4 professional firms, who initiated the project in 1993. A feasibility study carried out later in June 1996 by a firm of Accountants, at cost of Kshs. 546,250 indicated that the project was not commercially viable. Although the Corporation has recently explained that it is looking for partners to finance the project, the realisation of the project is doubtful. The Corporation has not received value for the money spent on the project and it stands to lose the whole amount due to what appears to be total disregard of the laid down financial regulations and procedures by the Corporation's employees.

The Committee heard the evidence given by the Chief Executive that the Corporation incurred an expenditure of Kshs. 34,193,888 on consultancy services paid to four professional firms on Watalii Street Project, Kshs. 3,918,939 as Value Added Tax and Kshs. 46,250 for a feasibility study.

The Committee further heard that: -

(i) the Corporation was expected to identify investors and undertake a feasibility study to ascertain the project viability before commissioning consultants;

(ii) the Corporation failed to get an investor.

The Committee was informed that the necessary Council approvals have been obtained and that the Corporation is negotiating with a number of investors to undertake the project.

The Committee observed with concern that laid down financial regulations were disregarded in the initiation of the project, leading to a possible loss of public funds amounting to Kshs. 38,549,827.

The Committee recommends that the Corporation, in concurrence with the parent ministry and the Treasury, should continue to look for investors to undertake the project and ensure that it recovers the amount of Kshs. 38,549,827 already spent on it.

ACCOUNTS OF KENYA TOURIST DEVELOPMENT CORPORATION FOR THE YEAR ENDED 30TH JUNE, 1997

1. REVOLVING FUND LOANS

In the report for the year 1995/96 reference was made of the fact that the Corporation's recovery of Revolving Fund Loans was poor. A review of the position of the during the year 1996/97 showed no improvement in that out of the total loan and accrued interest totalling Kshs.136,592,972 outstanding during the year 1996/97 only Kshs.6,172,074, made up of principal and accrued interest, had been recovered as at 30 June 1997. Further the Corporation was unable to recover principal loan instalments and interest repayments totalling Kshs.89,296,064 that had fallen due as at 30 June 1997. At this very low rate of loan recovery it is not clear when the Corporation will realise recovery of the whole loan and the accrued interest thereon.

The Committee heard the evidence given by the Chief Executive that the rate of loan recovery for the revolving fund loans was poor in the year under review and that this was mainly due to a slump in the Tourism Industry which resulted in closures, receiverships and prejudiced abilities to service loan obligations.

The Committee further heard that: -

(i) out of 44 loan beneficiaries, 16 have since repaid their loans while the remaining are either servicing the loans or have obtained injunctions restraining the Corporation from realizing the securities;

(ii) the rate of loan recoveries has been enhanced from Kshs. 5,960,329 in 1995/96 to over Kshs. 17,694,940 in the 1997/98 financial year;

(iii) the Corporation loans funds are now secured and insured.

The Committee recommends that the Corporation should continue to redeem the loans and the cases in respect of the following loanees should be followed up with the lawyers:

	AMOUNT OWING IN KSHS.
Tsavo Motel Ltd	357,505.00
Ikolomani Enterprises Ltd	2,807,706.00
Kibo Safaris Ltd	3,151,852.00
Milima Agencies Ltd	342,380.45
Jomima Tours and Travels Ltd	3,331,174.00
Lake Turkana El-Molo Lodges	7,014,238.00
Naivasha Hillpark Ltd	5,983,826.00
Wandune Holdings Ltd	6,952,929.00
Top in One Co. Ltd	671,262.00
Delight Dreamland Hotel	5,147,684.25
Wajir Tourist Hotel Ltd	5,363,223.00
New Garden Hotel, Bondo	1,467,257.00
Githuku Investments Ltd	5,538,010.00
Kenya Agro Business Ltd	3,543,518.00
Miseru Investments Ltd	2,867,157.00
Mt. Elgon Agencies Ltd	4,390,510.00
Gasden Company Ltd	5,219,303.00
Narokville Enterprises Ltd	956,493.00
Alnasi Tours and Travels Ltd	2,065,250.00
Kitui Tourist Hotel Ltd	3,284,964.00
Farmview Hotel Ltd	4,417,781.00
Motto Tours and Travel Ltd	17,435.50
Kisumu Tourist Hotel	26,730.00
Kendu Bay Country Hotel Ltd	500,000.00

2. **INVESTMENTS**

The Balance Sheet Investment and loan balance figure of Kshs.429,331,279 includes equity investment of Kshs.234,949,637 and loan of Kshs. 58,181,758 in hotels and lodges. Most of the hotels have not, however, performed well as a result of which they have not paid dividends to the Corporation in respect of their investments. As was the case in previous years, the Corporation has invested a lot of money in hotels and lodges all over the country. In view of the prevailing poor performance of the organizations where these investments are held, it is doubtful whether the equity investments and loans are fairly stated. Further, there was no provision made in the accounts for possible diminution in the value of equity and for possible non-recovery of the loans.

The Committee heard the evidence given by the Chief Executive that that hotels and lodges where the Corporation has equity investments and loans amounting to Kshs. 205,447,080 were

not performing well due to a tourism slump resulting in non-payment of dividends.

The Committee was informed that: -

(i) **the rate of loan recovery has improved with some investments declaring dividends in the subsequent years;**

(ii) **provisions will be made in the accounts for possible diminution in value of equity investments and non-performing loans.**

The Committee recommends that the Corporation should strive to redeem the loans it extended to the hotels and lodges.

3. DORMANT WATALII STREET PROJECT

In the report for the year 1995/96, concern was expressed on investment of Kshs. 34,193,888 in Watalii Project, an investment which had been made by the Corporation apparently in disregard of laid down financial regulations. The expenditure was incurred on consultancy services on a proposed Travel - Cum - Tourist Centre Project on Plot No. LR 209/9733 along Utalii Street in Nairobi before any feasibility study was done. During the year under review additional expenditure of Kshs.3,918,939 for Value Added Tax and Kshs.437,000 for feasibility study done after the project had been started were incurred, thereby increasing total investment in this project to Kshs. 38,549,827. As this Project has now been abandoned, the Corporation evidently stands to lose the amount of Kshs. 38,549,827 already spent as it is not clear as to how this expenditure will be recouped.

The Committee heard the evidence given by the Chief Executive that the Corporation incurred an expenditure of Kshs. 34,193,888 on consultancy services to four professional firms on Watalii Street Project, Kshs. 3,918,939 as Value Added Tax and Kshs. 46,250 for a feasibility study.

The Committee further heard that: -

(i) **the Corporation was expected to identify investors and undertake a feasibility study to ascertain the project viability before commissioning consultants;**

(ii) **the Corporation failed to get an investor.**

The Committee was informed that the necessary Council approvals have been obtained and that the Corporation is negotiating with a number of investors to undertake the project.

The Committee observed with concern that laid down financial regulations were disregarded in the initiation of the project, leading to a possible loss of public funds amounting to Kshs. 38,549,827.

The Committee recommends that the corporation should continue to look for investors to undertake the project and ensure that it recovers the amount of Kshs. 38,549,827 already spent on it.

4. **FIXED DEPOSITS**

The Balance Sheet Deposits and Treasury Bills figure of Kshs.421,237,688 is part of proceeds from sale of shares in nine companies sold under the Parastatal Reform and Privatization programme. The amount was, however, placed in four banking institutions and none of the balances was held in form of Treasury Bills. In addition and contrary to the requirements of Treasury Circular No. 351/03 of 26 April 1993, the Corporation did not place the sale proceeds in bank accounts operated jointly by the Chief Executive and the Permanent Secretary of the Treasury. Further, the deposits were placed at fairly low interest rates at a time when rates for Treasury Bills ranged between 24 - 26%. It has not been possible to ascertain whether or not the Corporation made any attempts to obtain competitive rates from the market or even to establish the tract record of the recipient banks before placing the deposits. Consequently, it was not possible to confirm that the Corporation complied with the Parastatal Reform and Privatization policy on handling of sale proceeds of privatization or even confirm the security and realizability of the deposits

The Committee heard the evidence given by the Chief Executive that the proceeds of sale of shares in nine Companies amounting to Kshs.421,237,688 were placed in Kenya Commercial Bank (60 Million), Prime Bank (94 Million), Daima Bank (61 Million) and ABC Ltd (240 Million) contrary to the requirements of Treasury Circular on placement of sale proceeds and surplus funds.

The Committee further heard that the interest rates obtaining in the said banks were lower than the Treasury bills rates and that banks' rates ranged from 17% to 23%.

The Committee was informed that the sale proceeds have since been placed in bank accounts operated jointly by the Chief Executive and the Permanent Secretary of the Treasury and that all the deposits in the four banks were realized on maturity.

The Committee was concerned that the then Chief Executive Mr. William Chelashaw placed the sale proceeds in banks which had not been authorised by the Treasury risking their security and realizability and that the rates obtained in the banks were lower than the Treasury Bills rates leading to loss of earning to the Corporation.

The Committee recommends that the Chief Executive should ensure that requirements of the Treasury and other government circulars are adhered to without exception.

5. DEBTORS AND PREPAYMENTS

The Balance Sheet Debtors and Prepayments figure of Kshs.106, 157,037 includes accounts totalling Kshs.77,945,373 that have remained dormant for several years. Also included in the above debtors and prepayments balances of Kshs.106, 157,037 is Kshs.12, 409,630 being expected dividends from Kenya Hotel Properties and International Hotel Kenya Ltd which were never declared. Other four accounts totalling Kshs.1, 753,440 are under dispute and in a court of law.

In the circumstances, it is not possible to confirm the collectability of some of the Corporation's debts as at 30 June 1997. The Debtors and Prepayments balance reflected on the Balance Sheet as at 30 June 1997 may, therefore, be overstated by an undetermined amount representing any unrealizable debts thereof.

The Committee was informed that:

(i) the dividends expected from Kenya Hotel properties and International Hotel properties amounting to Kshs.12,409,630 were never declared and the accrued dividend income reversed in the following year.

(ii) the debtors amounting to Kshs.1,753,440 held by ex-tenants is part of the Kshs.20,575,092 covered under dormant accounts.

The Committee recommends that the Chief Executive should provide for the doubtful debts and continue efforts to recover the debts.

6. IRREGULAR PAYMENTS OF HOUSE RENT

The Corporation's Chief Executive occupies his own house with has been rented from him by the Corporation at a monthly rental of Kshs. 65,000. According to the Corporation's terms and conditions of service, the Chief Executive is entitled to provision of accommodation by the Corporation or in case such accommodation is not provided and where the Chief Executive decides to reside in his own house, as is the case presently, the Corporation should pay owner occupier house allowance calculated on the basis of the Corporation's regulations. Although it has not been ascertained how the monthly rent of Kshs. 65,000 approved and paid by the Board was determined and had the Corporation abided by its regulations on the matter the owner occupier house allowance payable would have been Kshs. 62,500.

The Committee heard the evidence given by the Chief Executive that the then Chief Executive of the Corporation Mr. William Arap Chelashaw was paid owner-occupier amount of Kshs. 65,000.00 instead of Kshs. 62,500 contrary to his terms and conditions of service resulting in overpayment of Kshs. 196,972.95.

The Committee, while noting that the Board approved the payment asserted that the approval was null and void as it violated the rules and regulations of the Corporation pertaining to chief executive officer's Terms and Conditions of Service.

The Committee recommends that the Chief Executive should recover the amount of Kshs. 196,972.95 from the then Chief Executive Mr. William Arap Chelashaw on account of rent overpayment in disregard of his terms and conditions of service at the Corporation.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE POSTAL CORPORATION OF KENYA FOR THE YEAR ENDED 30TH JUNE, 2000

1. LAND AND BUILDINGS

The Land and Buildings figure of Kshs.2,837,756,068 as at 30 June, 2000 includes total value of Kshs.10,584,286 in respect of four (4) land parcels and buildings which were vested in the Corporation with effect from 1 July 1999 but for which the Corporation does not hold documents of ownership. In addition, land and buildings valued at Kshs.16,050,000, eleven parcels of land and motor vehicles valued at Kshs.13,235,000 were not vested in the Corporation. Further, there were double vesting of land and buildings and motor vehicles amounting to Kshs.1,200,000 and Kshs.1,720,000 respectively in Telkom (K) and Postal Corporation. The Corporation also have a claim on land and buildings valued at Kshs.217,750,000 but for which no evidence of ownership was seen. In view of the above, it was not possible to confirm that the assets and liabilities of the Corporation are fairly stated.

The Committee heard the evidence given by the Chief Executive that the Corporation's land and buildings figure of Kshs. 2,837,756,068 includes total value of Kshs. 10,584,286 in respect of four land parcels and buildings vested to the Corporation in July 1999 but for which it does not hold ownership documents; and land and buildings valued at Kshs. 16,050,000, eleven parcels of land and vehicles valued at Kshs. 13,235,000 not vested in the Corporation.

The Committee also heard that a Committee named Transitional Management Committee (TMC) was established in June 1999 to assist in winding up the defunct Kenya Posts and Telecommunications Corporation and its membership included; Permanent Secretaries, Ministries of Information and Communication (Chairman) and Finance, Solicitor General; Director-General Communications Commission of Kenya; Managing Director, Telkom (K) Ltd and Postmaster General, Postal Corporation of Kenya.

The Committee was informed that: -

(i) **there was double vesting of land and buildings and motor vehicles amounting to Kshs. 1.2 million and Kshs. 1.725 million respectively, in Telkom and Postal Corporation and also has a claim on land and Buildings valued at**

217,750,000 but for which no ownership documents are available;

(ii) **out of the four parcels of land vested to the Corporation in 1999, the Corporation has commissioned surveyors and are in the process of obtaining title deeds, while one parcel, Mganga Post office belongs to the government and the Corporation is looking for an alternative site for the Post office;**

(iii) **the Corporation has forwarded a case regarding eleven (11) parcels of land and thirty motor vehicles to the Transitional Management Committee (TMC) for deliberation and vesting;**

(iv) **some of the parcels of land formerly owned by Kenya Posts and Telecommunications Corporation and not vested to either Postal Corporation of Kenya or Telkom have been irregularly allocated to third parties. A case in point is that of plot LOA Ref. No. 37/272/5, Nairobi west, measuring 0.459 acres which was irregularly allocated to Mr and Mrs. Njoroge Keru and of which Postal Corporation of Kenya has sought litigation.**

The Committee observed with concern that the Transitional Management Committee (TMC) has taken inordinately long to conclude the separation and vesting of the assets of the defunct Kenya Posts and Telecommunications Corporation (KP&TC) to Postal Corporation of Kenya (PCK), Telkom and other corporations formed from the defunct KPTC. Further, and as a result, some of the properties/assets have been irregularly allocated to third parties as their ownership is vague.

The Committee also expressed concern that movable assets like motor vehicles have continued to depreciate in value, while their vesting is still undetermined.

The Committee recommends that: -

(i) **the Transitional Management Committee should, within a period of one year, finalize its pending work, which includes vesting of securities, properties and court cases (legal suits) and staff matters (gratuity and pension);**

(ii) **the Commissioner of Lands should revoke the irregular allocation of plot LOA Ref. No. 37/272/5 irregularly**

allocated to Mr. and Mrs. Njoroge Keru while the Chief Executive should pursue the matter to its conclusion; and

(iii) the Post-Master General should place a caveat on Land LOA. Ref. No. 37/272/5 while pursuing repossession of the parcel.

2. WORK IN PROGRESS

The work in progress balance of Kshs. 141,920,617 is made up of Kshs.88,700,000 being revaluation of the construction of Kericho Post Office and additional works of Kshs.53,220,617 carried out during the year 1999/2000. The opening balance of Work-in-Progress of Kshs.346,813,480 was revalued at Kshs.88,700,000 and the difference of Kshs.258,113,480 between the two figures was written off against the Corporation's revaluation reserves. The lower revaluation of Kshs.88,700,000 for a project which had cost Kshs.346,813,480 and writing off the difference of Kshs.258,113,480 which mostly comprised professional services paid by the defunct KP&TC towards the project indicates that the cost of such professional services may have been exaggerated and not commensurate with the value of the work done on the project resulting in waste of public funds. No action appears to have taken to investigate and determine who should bear such apparent loss of public funds.

The Committee heard the evidence given by the Chief Executive that the extension of Kericho Post Office project was initially designed for 12 floors at an estimated total cost of 1.3 billion and that based on this project sum, an amount of Kshs. 258,113,480 was paid for professional services, to the following firms: -

Consultant	Amount (Kshs)
M/s. Emie Compel	113,697,521.60
M/s. ArckConsult	48,918,271.55
M/s. Utilities Engineering	35,069,114.40
M/s. P.G Ndarua	15,422,570.30
M/s. Mwirotsi and partners	48,455,264.40
M/s. Abdul Malik	20,248,874.00

The Committee was informed that, at the time of valuation in 1999, the defunct KPTC had only managed to construct the

structures of basement, ground and two floors leading to a lower valuation of Kshs. 88,700,000. Further, upon vesting of the asset, the Corporation scaled it down to four floors and completed it in the year 2001.

The Committee was concerned that the professional fees paid was not commensurate to the value of the work done on the project and thus was a waste of public funds.

The Committee recommends that, prior to commencement of any projects, the Corporation should ensure that there is adequate funding and feasibility study conducted to avoid abandonment and/or scaling down of projects, and so as to realize the intended objectives for its projects.

3. **DORMANT PROJECTS**

The Corporation inherited five (5) projects from the defunct Kenya Posts and Telecommunications Corporation on which the defunct Corporation had incurred total capital expenditure of Kshs.347,847,298 mainly on professional services and building plans. The expenditure was charged in the accounts of the defunct Kenya Posts and Telecommunications Corporation. However, available information shows that the Corporation does not have funds to continue with the projects and the amount of Kshs.347,847,298 so far expended may therefore result into waste. No action appears to have been taken to investigate and apportion responsibility for this waste. It is further noted that although the Corporation took over the Eldoret and Tom Mboya Head Post Offices, the two dormant projects were not vested in any of the three successor Corporations and it is therefore not clear to which of the three Corporations these two dormant projects were vested

The Committee heard the evidence given by the Chief Executive that the Corporation inherited five (5) projects from the defunct KPTC on which a Capital expenditure of Kshs.347,847,298 had been incurred mainly on professional services and building plans, and that the Corporation does not intend to revive the projects due to lack of funds.

The Committee further heard that the vesting of Eldoret and Tom Mboya Head Post offices had not been finalised by the Transitional Management Committee.

The Committee expressed concern that the defunct KPTC wasted a lot of public funds on projects whose initiation and implementation was in doubt.

The Committee recommends that before any project is commenced, the Corporation should ensure that there is adequate funding to avoid colossal sums of money in dormant projects.

The Committee further recommends that the respective Board Members and Managements who made the decisions to initiate the project that have resulted in waste of public funds be investigated by the Kenya Anti Corruption Commission with a view to recovering the amounts spent.

4. IRREGULAR PROCUREMENT OF GOODS AND SERVICES

During the year under review, the Corporation procured goods/services worth Kshs. 9,767,893 without calling for open tenders. The Corporation also issued (confirmatory) Local Purchase Orders for goods worth Kshs. 4,982,699 after such goods had been received and used. In addition, a senior Corporation Manager unprocedurally approved the repair of 37 vehicles at a cost of Kshs. 3,174,617. Examination of relevant invoices revealed that repair costs of some of the vehicles were exorbitant and no justification was provided for such exorbitant costs. No explanation had been provided by management for the breach of procurement procedures.

The Committee heard the evidence given by the Chief Executive that the Corporation in 1999/2000 procured goods and services through either selective tendering or without calling for open tenders in repairs of motor vehicles, as the models of vehicles could only be repaired by specific dealers.

The Committee further heard that upon the establishment of Postal Corporation of Kenya, there were no documents for procurement of goods and services and thereby, procurement was done unprocedurally.

The Committee noted that the Assistant General Manager for Procurement and Fleet had since been dismissed for abetting irregularities in the procurement of goods and services.

The Committee recommends that the Corporation must adhere to laid down procurement procedures in procurement of goods and services.

5. REVALUATION RESERVE AND GENERAL RESERVE ACCOUNT

The General and Revaluation Reserve Account of Kshs.714,738,266 and Kshs.1,966,076,533 respectively as at 30th June 2000 are net of prior years adjustment figures of Kshs.209,386,797 and Kshs.1,311,784,817 respectively totalling Kshs.1,521,171,614. The prior year adjustment figure of Kshs.1,521,171,614 in turn includes the following amounts for which no explanation and/or supporting documents were provided for audit review to ascertain the nature and accuracy of the adjustments.

Item	Amount (Kshs.)
Assets not vested	216,397,417
Short term deposits	143,389,550
Cash and Bank Balances	68,895,627
Bank over-draft	205,428,588
Total	**634,111,182**

In the absence of explanation and/or supporting documents for these prior year adjustments, it was not possible to ascertain the propriety of the general and revaluation accounts as at 30 June 2000 or their effect on the Balance Sheet.

The Committee heard the evidence given by the Chief Executive and expressed concern that it was difficult to establish the reasons and values of the difference arising from the prior years' adjustments in the General and Revaluation accounts of Postal Corporation of Kenya (PCK) as at 30th June 2000, due to absence of an Assets Register to ascertain the properties from the defunct KPTC.

The Committee recommends that the Chief Executive should provide supporting documents for these prior year adjustments including the whereabouts of the short-term deposits of Kshs. 143,389,550 to the Controller and Auditor General for verification.

The Committee further recommends that the Corporation should identify all its assets and maintain an updated register of all its assets and associated values.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA DAIRY BOARD FOR THE YEAR ENDED 30TH JUNE 1996

1. SUBMISSION OF ACCOUNTS

According to Section 31 of the Exchequer and Audit Act (Cap 412), the accounts of the Board for the year ended 30 June 1996 should have been submitted for audit on or before 31 October 1996. The accounts were, however, submitted on 14 May 1997 six months after the statutory deadline. No evidence was made available to confirm that the Board sought permission from the National Assembly to extend the date of submission of the accounts as required by the law.

The Committee heard the evidence given by the Chief Executive that during the year under review, the accounts for the Board for the year 30th June 1996 were submitted six months late in violation of Section 31 of the Exchequer and Audit Act (Cap 412).

The Committee further heard that the delay was due to the back log of three (3) years financial accounts, which were to be manned by a limited number of staff.

The Committee also heard that the Board has since fully computerized its accounting system to avoid the delays.

The Committee recommends that the Corporation should always submit its accounts for audit as per statutory period and that any officer who causes delay should be dismissed from service.

2. FINANCIAL POSITION

The Balance Sheet as at 30 June 1996 reflects a negative working capital of Kshs.7,783,735 (1995, negative Kshs.8,392,586). The Board's overdraft increased from Kshs.193,073 as at 30 June 1995 to Kshs.692,482 as at 30 June 1996, while the creditors as at 30 June 1996 totalled Kshs.9,899,708. The Board was, therefore, technically insolvent and its continued operation as a going concern will depend on the support from its creditors, bankers and the Government.

The Committee heard the evidence given by the Chief Executive that the Board's Balance Sheet as at 30th June 1996 reflected a negative working capital of Kshs.7,783,735 and the overdraft increased from Kshs.193,073 to Kshs.692,482 as at 30th June, 1996.

The Committee was informed that the negative working capital was caused by general increased on prices of goods and services due to inflation, inadequate budgetary provisions of grants, non-remission of cess by Kenya Co-operative Creameries (K.C.C.) and delay in review of cess and other levies by the parent Ministry.

The Committee noted that the Board's financial position has since improved following review of cess upwards from 0.2 cts per litre to 20 cts per litre and that KCC and all other milk processors are paying cess as required by the Dairy Industry Act.

The Committee also noted that the Board's assets currently amounts to Kshs.70,597,094 against liabilities of Kshs.6,194,460.

The Committee recommends that the Chief Executive should continue exploring other avenues of generating revenue for the Board.

3. CASH AND BANK BALANCES

3.1 The Cash and Bank Balance figure of Kshs.652,069 includes savings account balance of Kshs.463,304 which does not agree with the cash book credit balance figure of Kshs.290,725. The Bank reconciliation statement prepared was noted to be incorrect in that it did not show vital items such as transactions in the cash book not in bank statement and those in bank statement but not in the cash book.

3.2 A scrutiny of the bank reconciliation statement for all savings accounts revealed that receipts in the cash book not entered in the bank statement amounted to Kshs.365,152. The Board has not indicated how this amount was accounted for.

3.3 A further scrutiny of the Bank reconciliation statement of the current account revealed that payments in the bank statement not entered in the cash book amounted to Kshs.159,941. Similarly, the Board has not explained the nature of these payments.

Arising from the foregoing, it was not possible to confirm that the cash and bank balance and the overdraft figures reflected in the Balance Sheet are correct.

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

(i) **the anomaly was due to unqualified accounts staff who were not able to prepare proper books of accounts with the corresponding reconciliation.**

(ii) **the department has since been staffed with qualified personnel.**

The Committee recommends that the Board should maintain proper books of Accounts in accordance with International Accounting Standards.

4. QUESTIONABLE EXPENDITURE KSHS.255,000

During the year under review, the Board appointed a firm of Accountants to prepare the Board's Accounts for 1995/96 at an agreed fee of Kshs.130,000. However, in the letter of appointment dated 5 August 1996 the Board did not set out in details, the terms of engagement and in particular the scope of work. As a result, the firm of accountants varied the fees to Kshs.255,000 which the Board subsequently paid. It is also not clear why the Board needed to hire the services of this firm to prepare the Board's 1995/96 accounts when there was an accounting unit with full time accountants headed by the Chief Accountant. In the circumstances, the board is unable to confirm the propriety of the expenditure of Kshs.255,000 paid to the firm.

The Committee heard the evidence given by the Chief Executive that the Board agreed to hire M/s. Mugo Waweru to prepare the Board's Accounts for the year under review in order to minimize the back-log of un-audited accounts and that the fee was increased from the agreed Kshs.130,000 to Kshs.250,000 after the firm appealed for additional fees as a result of increased scope of work.

The Committee noted that the accounting department unit of the Board has since been staffed with qualified staff and that they have been preparing the annual accounts therefore resolving the audit query.

5. UNBANKED REVENUE KSHS.1,219,172

5.1 A review of revenue collections during the year under review indicated that revenue collected at various stations amounting

to Kshs.1,219,172 was not banked. The Board has not indicated how this revenue which was collected as shown below was accounted for:

	Amount not banked (Kshs.)
1992/1993	92,468
1993/1994	323,421
1994/1995	438,131
1995/1996	365,152
Total	1,219,172

The Board's cash and bank balance sheet figure of Kshs.652,069 is, therefore, understated to the extent of the revenue collected but not banked amounting to Kshs.1,219,172.

5.2 Out of this amount a total of Kshs.13,711 was shown in the balance sheet under a suspense account. The suspense account, however, excludes revenue collections amounting to Kshs.800,000 that has been misappropriated by staff and transferred from the Board's cash book as indicated below:

Period	Amount transferred from cash Book (Kshs)
1992/1993	323,421
1994/1995	392,850
Total transferred	809,739
1995/1996 ledger difference	4,032
	813,771
Amount Omitted	800,000
Balance Sheet Amount	13,771

The Board, like in the previous year, has neither satisfactorily explained why this amount was excluded from its accounts for the year under review nor indicated how it was accounted for. Consequently, the Board is unable to confirm the accuracy of the Board's balance sheet as at 30 June 1996.

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

(i) **the Board undertook a thorough accounting exercise on its cashbook for the year 1996/97 and the correct position of amounts not banked was a total of Kshs.742,766.80 as follows:**

Year	Amount
1993/94	57,593.55
1994/95	442,240.00
1995/96	242,925.30
Total	742,766.80

(ii) **disciplinary action was taken against the staff concerned. Two of the staff were dismissed and surcharges were effected for the rest, and that it was intended that the terminal dues of the ones dismissed (Mr. Stephen Kenteiya and Leilakin Mohammed) would be used to offset the revenue misappropriated;**

(iii) **the bank suspense accounts was cleared and the amounts therein properly allocated and that the amount of Kshs.800,000 posted to the bank suspense was not a misappropriation but outstanding receipt received at the end of the year under review but banked in subsequent financial year. This anomaly has since been reconciled when reworking the cash accounts.**

The Committee noted with concern that there does not exist terminal benefits to the dismissed staff as the figure exceeded their terminal benefits and therefore the Board stands to lose the misappropriated amount.

The Committee recommends that the Chief Executive should report the matter of misappropriation of revenue to the police and liaise with the Director of Criminal Investigations Department to ensure that the money is recovered from the dismissed members of staff.

6. STAFF PENSION FUND

6.1 The Board, for a number of years, has been operating a Staff Pension Scheme, which was being managed by Kenya National Assurance Company (now in liquidation). As at 30th June 1996, the Pension fund balance with the Insurance

Company stood at Kshs. 1,402,653. I have also not seen correspondence indicating when this balance will either be paid to the Board or transferred to the Insurance Company now managing the Board's Pension Scheme.

6.2 Further, the creditors figure of Kshs. 9,899,708 includes staff pension fund amounting to Kshs. 3,203,416 that the Board was holding on account of past staff pension contributions. It is not clear why the Board was holding the amount instead of investing it to earn interest for the pensioner. I am, therefore, not in a position to confirm that pension funds are secure.

The Committee heard the evidence given by the Chief Executive that the Board operated a pension scheme with the defunct Kenya National Assurance Company and that the Company has already paid Kshs.4,135,270.40 leaving a balance of Kshs.963,360.00.

The Committee further heard that the Board's pension funds is currently administered by American Life Assurance Company and that staff pension contributions amounting to Kshs.3,023,416 has been invested with American Life Assurance Company

The Committee recommends that the Board should ensure that the balance of Kshs.963,360.00 is recovered.

7. LAND AND BUILDINGS

As reported in the previous years, a total of Kshs.2,795,443 out of the amount of Kshs.4,828,144 shown in the Balance Sheet for land and buildings is composed of the Board's office Block which was constructed and handed over to the Board on 19 November 1991. The Board has not moved into the premises but continues to rent offices at an annual rent of Kshs.1,200,000 as shown in the accounts for the year under review. The Management claims that they could not move into the premises due to uncompleted facilities such as sewerage system, electricity supply, telephone services and roofing. It is still, however, not clear how the building was handed over as complete without these vital components or why no action has been taken to complete it since 1991.

During the year under review, the Board incurred an additional expenditure of Kshs.2,032,700 in extending the building. It is not clear why priority was not given to completing the incomplete

facilities which have hindered occupation of the completed offices since 1991. The expenditure of Kshs.2,032,700 should have been classified as work in progress as required by Accounting Standards.

The Board has no title documents for this property and the amount of Kshs.4,828,144 excludes the value of land as no valuation has been undertaken by the Board. Further, the Board has not provided for depreciation on the completed Building as required by Kenya Accounting Standards Number 5.

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

(i) the board's office block in Nairobi South 'C' was handed over in November 1991 on completion of the main contract job by the sub contractor M/s. Miira Construction.

(ii) due to lack of funds, essential facilities such as sewerage system, supply of electricity, telephone connection, roofing and landscaping were not completed.

(iii) the Board took over the building upon satisfactory advice of the Ministry of Public Works.

(iv) the Board utilized its meagre savings for the extension of the building in anticipation of additional funding from the parent ministry.

The Committee noted that the Board has acquired a title deed for the property, valuation done and incorporated in the Board's accounts, and the amount incurred on extension of the properly accounted for as work in progress.

The Committee expressed concern that:-

(i) the Board would have spent its savings on finishing up the building rather than providing for an extension;

(ii) the property continued to be vandalized by the public since it had not been secured until late last year;

(iii) the Board pays about Kshs.5,000,000 per year on rent, while the building requires about Kshs. 20 million to be completed, therefore the Board loses so much on rent while the building is still vacant; and,

(iv) **the Board had not provided for depreciation of the building.**

The Committee recommends that the Board, in conjunction with the parent Ministry should seek the permission of the Treasury to spend the Appropriation-in-Aid to complete the building so as to save the Board from spending on rent while the building is in existence.

8. DEBTORS AND PREPAYMENTS - KSHS.2,142,615

The debtors and prepayments figure of Kshs.2,142,615 excludes staff imprests and advances amounting to Kshs.150,649 written off without the approval of the Board of Directors. The management has not produced any evidence to show that efforts to recover the outstanding amount from the staff concerned were made before the write off option was taken. Further, the above figure of debtors includes an amount of Kshs.224,000 for fuel deposits, some of which is not likely to be recovered. The debtors and prepayments figure is, therefore, overstated to the extent of the amount not likely to be recovered.

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

(i) **the then Managing Director acted *ultra vires* to effect the write off of the imprests and advances amounting to Kshs.150,649 and that at that time there was no properly constituted Board of Directors and that it never met; and,**

(ii) **the amount of Kshs.224,000 was provided for as bad and doubtful debts in the accounts of the subsequent year.**

The Committee observed that:-

(i) **it appears that there was mismanagement of the Board during the year under review;**

(ii) **it was irregular to advance funds to petrol stations for fuel;**

(iii) the Board failed to institute proper follow-up mechanisms to ensure recovery of the money deposited in the petrol stations.

The Committee recommends that the management should expeditiously institute proper measures to recover the money and put in place mechanisms to ensure that imprest facility is not misused.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA DAIRY BOARD FOR THE YEAR ENDED 30TH JUNE 1997

1. SUBMISSION OF ACCOUNTS

According to Section 31 of the Exchequer and Audit Act (Cap 412), the accounts of the Board for the year ended 30 June 1997 should gave been submitted for audit on or before 31 October 1997. The Accounts were however, submitted on 14 August 1998, ten months after the statutory deadline. No evidence was made available to confirm that the Board sought permission from the National Assembly to extend the date of submission of the Accounts as required by the law.

The Committee heard the evidence given by the Chief Executive that during the year under review, the accounts for the Board for the year 30th June 1996 were submitted six months late in violation of Section 31 of the Exchequer and Audit Act (Cap 412).

The Committee further heard that the delay was due to the then backlog of three (3) years financial accounts, which were being addressed by a limited number of staff.

The Committee also heard that the Board has since fully computerized its accounting system to avoid the delays.

2. FINANCIAL POSITION

The Balance Sheet as at 30 June 1997 reflects a negative working capital of Kshs. 7,726,758 (1998 negative 7,783,735). The Board's overdraft increased from Kshs. 1,021,180 as at June 1997 while the creditors as at 30 June 1997 totalled Kshs. 10,579,670. The Board was, therefore, technically insolvent and it could not meet its commitments as they fell due. Its continued operation as a going concern will, therefore, depend on the support from its creditors, bankers and the Government.

The Committee heard the evidence given by the Chief Executive that the Board's Balance Sheet as at 30th June 1996 reflected a negative working capital of Kshs.7,783,735 and the overdraft increased from Kshs.193,073 to Kshs.9,899,708 as at 30th June, 1996.

The Committee was informed that the negative working capital was caused by general increased on prices of goods and services due to inflation, inadequate budgetary provisions of grants, non-remission of cess by Kenya Co-operative Creameries and delay in review of cess and other levies by the parent Ministry.

The Committee noted that the Board's financial position has improved following review of cess upwards from 0.2 cts per litre to 20 cts per litre and that Kenya Co-operative Creameries and all other milk processors are paying cess as required by the Dairy Industry Act.

The Committee also noted that the Board's assets currently amounts to Kshs.70,597,094 against liabilities of Kshs.6,194,460.

The Committee recommends that the Chief Executive should continue exploring and employing other avenues of generating revenue.

3. LAND AND BUILDINGS

As reported in the previous years, the Balance Sheet figure for land and buildings includes Kshs. 2,795,444 in respect of the Board's office block which was constructed and handed over to the Board on 19 November 1991. The Board has not moved into the premises but continues to rent offices at an annual rent of Kshs. 1,332,454 as shown in the accounts for the year under review. The management claims that they could not move into the premises due to uncompleted facilities such as sewerage system, electricity supply, telephone services and roofing. It is still however, not clear how the building was handed over as complete without these vital components or why no action has been taken to complete the building since 1991. During 1995/96 and the year under review, the Board incurred an additional expenditure of Kshs. 5,017,287 in extending the building. These payments were based on the contractor's statement instead of basing them on the architect's certified bills as required in the building industry. A visit to the site shows that the extension work has stalled and the site neglected. It is not clear why priority was not given to completing the incomplete facilities which have hindered the occupation of completed offices since 1991. Further, the Board has no title documents for its two parcels of land LR No. 209/21701 situated at Lower Kabete and the amount of Kshs. 7,812,731 excludes the value of the pieces of land as no valuation has been undertaken by the Board.

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

(i) **the board's office block in Nairobi South 'C' was handed over in November 1991 on completion of the main contract job by the sub contractor M/s. Miira Construction.**

(ii) **due to lack of funds, essential facilities were not completed including sewerage system, Supply of electricity, telephone connection, roofing and landscaping.**

(iii) **the Board took over the building upon satisfactory advice of the Ministry of Public Works.**

(iv) **the Board utilized its meagre savings for the extension of the building in anticipation of additional funding from the parent ministry.**

The Board has acquired a title deed for the property, valuation done and incorporated in the Board's accounts and the amount incurred on extension property accounted for as work in progress.

The Committee expressed concern that:

(i) **the Board would have spent its savings on finishing up the building rather than providing for an extension;**

(ii) **the property continued to be vandalized by the public since it had not been secured until late last year;**

(iii) **the Board pays about Kshs.5,000,000 per year on rent, while the building requires about Kshs. 20 million to be completed, therefore the Board loses so much on rent while the building is still vacant; and,**

(iv) **the Board had not provided for depreciation of the building.**

The Committee recommends that the parent Ministry should seek the permission of the Treasury to spend the Appropriation-in-Aid to complete the building.

4. DEBTORS AND PREPAYMENTS

The net debtor's figure of Kshs. 2,898,374 includes staff debtors totalling Kshs. 834,287 out of which Kshs. 767,567 is cash misappropriated by the employees of the Board between 1993 and 1997. Out of this amount, cash totalling Kshs. 651,668 was misappropriated by four employees who are no longer in the service of the Board and the recoverability of the amount is doubtful. The Board has inadequate internal controls on cash handling. Further, the debtors figure includes imprests totalling Kshs. 274,918 outstanding against eight employees and a former Chairman of the Board. The Board has not indicated how it intends to recover this amount from the ex-staff.

The Committee heard the evidence given by the Chief Executive that the Board has since taken disciplinary action against employees who were still in service while it has used the terminal dues to offset some for the imprests for the eight employees whose services were terminated.

The Committee also heard that recoveries were made against officers who were in the service of the Board while the amount of Kshs. 88,150 owed by the former chairman of the Board Eng. Andrew Kiptoon is still outstanding.

The Committee recommends that the Board should employ all means possible to recover the amount of Kshs. 651, 688 owed by four ex-employees of the Board.

The Committee further recommends that the Chief Executive should institute measures to recover the amount of Kshs. 88,150 owed by Eng. Andrew Kiptoon, a former Chairman of the Board, without further delay.

5. PROCUREMENT PROCEDURES

During the year under review, the Board spent a total of Kshs. 3,023,613 in procuring goods and services without following the proper procuring procedures in that no tenders were invited as analysed: -

Item	Expenditure (Kshs.)
Repair of motor vehicles	2,381,175.00
Purchase of uniforms	123, 200.00
Purchase of stationery and printing file folders	171, 861.00
Alteration/renovation of show stand in Jamhuri Park	265, 042.00
Maintenance of stations	82, 335.00
	3,023,613.00

It is not clear how the firms that provided the services or supplied the goods were identified and I am, therefore, unable to confirm that such goods and services were obtained at the most competitive prices.

The Committee heard the evidence given by the Chief Executive that during the year under review the Board, without inviting tenders, expended a total of Kshs. 3,023,613.00 on procurement of goods and services.

The Committee also heard that four companies/firms were single-sourced for repair of motor vehicles, maintenance of several stations and supply of stationery and printing file folders and renovation of its stand at the years' ASK show.

The Committee noted with concern that the Corporation flouted tendering procedures in procuring for the goods and services.

The Committee recommends that the Chief Executive should ensure that government procedures on procurement of goods and services are adhered to.

6. DONATIONS

During the year under review, the Board made 36 donations totalling Kshs. 212, 442 which were noted to have been frequently given out at the courtesy of a few individuals and which do not appear to have been in the interest of the Board. No evidence was produced to show that these harambee donations were issued, an indication of misuse of public funds.

The Committee heard the evidence given by the Chief Executive that during the year under review, the management made 36 donations totalling Kshs. 212,442 without the approval of the Board.

The Committee also heard that the expenditure has been limited to relevant needs and geared towards the promotion of the Board's public image and fulfilment of corporate social responsibility.

The Committee recommends that instead of harambee donations, an appropriate item be created in the budget to support the dairy industry.

7. COMMUTED LEAVE FOR CASH

During the year under review, the Board paid its' staff Kshs. 131,020 in respect of leave that was commuted for cash at the request of the staff members concerned contrary to Section 24 of the terms and conditions of service of the Board employees which require such leave to be taken except in very special circumstances. There was no evidence to show that the officers who commuted their leave for cash were unable to take leave due to exigencies of service.

The Committee heard the evidence given by the Chief Executive that the Board paid its staff Kshs. 131,020 for commuted leave contrary to Section 24 of the terms and conditions of service of the Board employees.

The Committee observed with concern that the Staff whose leave was commuted to cash had no reason not to proceed on leave.

The Committee recommends that commutation of leave is administered strictly on exigencies of duty and strictly in accordance with the Board's regulations.

8. STAFF PENSION FUND

8.1 As reported in the previous years, the Board for a number of years has been operating a Staff Pension Scheme which was being managed by Kenya National Assurance Company (now in liquidation). As at 30 June 1997 the pension fund balance with the Insurance Company stood at Kshs. 1,402,653.

I have, however, not seen evidence from the liquidators confirming the pension fund balance. I have also not seen correspondence indicating when this balance will either be paid to the Board or transferred to the Insurance Company now managing the Board's Pension Scheme.

8.2 Further, the creditors figure of Kshs. 10,579,670 includes staff Pension Fund amounting to Kshs. 4,042,816 that the Board was holding on account of past staff pension contributions. It is not clear why the Board was holding the amount instead of investing it to earn interest for the pensioners. I am, therefore, not in a position to confirm that pension funds are secure and will be available as and when employees retire.

The Committee heard the evidence given by the Chief Executive that the Board operated a pension scheme with the defunct Kenya National Assurance Company and that the company has already paid Kshs.4,135,270.40 leaving a balance of Kshs.963,360.00.

The Committee further heard that the Board's pension fund is currently administered by American Life Assurance Company and that staff pension contributions amounting to Kshs.4,042,816 has been invested with the Company.

The Committee recommends that the Board should ensure that the balance of Kshs.963,360.05 is recovered.

9. PAYMENT OF ALLOWANCES TO BOARD MEMBERS

The Board allowances expenditure of Kshs. 578,285 shown in the Income and expenditure account includes unauthorized payments totalling Kshs. 164,988 in respect of transport, sitting, and accommodation allowances paid to the Board's Board members in excess of those approved by the Office of the President. The examination of the Board's records indicated that the maximum rate for accommodation was Kshs. 1,250 while that paid was Kshs. 1,500 per day. Although transport was to be based on rates between Kshs. 2.40 and Kshs. 5.00 per kilometre, rates of Kshs. 5.00 and Kshs. 11.70 were paid for various categories of motor vehicles. Out of the total authorized payment of Kshs. 164,988 paid to the Board members, a sitting allowance of Kshs. 10,000 was paid to the Managing Director of the Board contrary to Section 10 (1) of the State Corporations' Act.

The Committee heard the evidence given by the Chief Executive that the Board expended a total of Kshs. 164,988 in respect of payments of unauthorised transport, sitting and accommodation allowances made to its Board members in excess of those approved by the Office of the President, and that the amount

included Kshs. 10,000 paid to the Chief Executive as sitting allowance.

The Committee was informed that: -

(i) **the Board irregularly paid honoraria to its Board members who were public officers in order to motivate them to carry out their duties;**

(ii) **the Board revised upwards mileage and subsistence allowances payable to its Board members, approved the same and applied the rates to pay its members without seeking the authority of the office of the President; and,**

(iii) **the anomaly has since been corrected in the subsequent years and Board of Directors are currently paid in accordance with the State Corporations Act and rates approved by the Office of the President.**

The Committee observed with concern that the Board failed to seek the sanction of the Office of the President on the revised rates prior to implementing them and that the Corporation paid sitting allowances to Public Servants in receipt of salary and its Managing Director in contravention of Section 10 of the State Corporations Act.

The Committee recommends that: -

(i) **the Inspector General (State Corporations) identifies the names of the Board members who were paid the irregular allowances totalling Kshs. 164,988 and recovers the same from them; and,**

(ii) **the Inspector-General (State Corporations) should institute recovery of the Kshs. 10,000 that was irregularly paid to the then Managing Director Mr. Bernard Saidimu Lenaronkoito as sitting allowance.**

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA DAIRY BOARD FOR THE YEAR ENDED 30TH JUNE 1998

1. WORK IN PROGRESS

Just as was the case in the previous year, the Board's Balance Sheet fixed assets figure of Kshs. 10,673,401 as at 30th June 1998 includes Work-in-Progress valued at Kshs. 5,017,287 in respect of the Board's office block, the phase 1 of which was, as previously reported, constructed and handed over to the Board on 19th November 1991. To-date, the Board has not moved into the premises but continues to rent offices at an annual rent of Kshs. 1,332,454. In the meantime, the condition of the office block continues to deteriorate due to non-use. Although it has been explained that the board could not move into the premises due to incomplete facilities which included electricity supply, sewerage systems, telephone services and roofing, it is still not clear why such facilities were excluded from phase 1 of the project, or why up to now no action has been taken to fully complete the project, more than nine (9) years after completion of phase 1.

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

(i) the Board's office block in Nairobi South 'C' was handed over in November 1991 on completion the main contract job by the sub contractor M/s. Miira Construction;

(ii) due to lack of funds, essential facilities were not completed including sewerage system, Supply of electricity, telephone connection, roofing and landscaping;

(iii) the Board took over the building upon satisfactory advice of the Ministry of Public Works; and,

(iv) the Board utilized its meagre savings for the extension of the buildings in anticipation of additional funding from the parent ministry.

The Board has acquired a title deed for the property, valuation done and incorporated in the Board's accounts, and the amount incurred on extension property accounted for as work in progress.

The Committee expressed concern that:

(i) **the Board would have spent its savings on finishing up the building rather than providing for an extension;**

(ii) **the property continued to be vandalized by the public since it has been secured until late last year;**

(iii) **currently, the Board pays about Kshs.5,000,000 per year on rent, while the building requires about Kshs. 20 million to be completed, therefore the Board loses so much on rent while the building is still vacant; and,**

(iv) **the Board had not provided for depreciation of the building.**

The Committee recommends that the parent Ministry should seek the permission of the Treasury to spend the Appropriations-in-Aid to complete the building so as to save the Board from spending on rent while the building is in existence.

2. DEBTORS AND PREPAYMENTS

The Debtors figure of Kshs. 3,141,436 reflected in the accounts for 1997/98 includes cash totalling Kshs. 648,347 previously misappropriated by four (4) employees who are no longer in service of the Board and whose recoverability is doubtful. The debtors also include imprests totalling Kshs. 264,763. outstanding against eight employees and former Chairman of the Board who are no longer in service. The Board has not, however, given satisfactory explanation as to how it intends to recover these debts.

The Committee heard the evidence given by the Chief Executive that the Board has since taken disciplinary action against those employees who were still in service while it has used the terminal dues to offset some of the imprests for the eight employees whose services were terminated.

The Committee also heard that recoveries were made against officers who were in the service of the Board while the amount of Kshs. 88,150 owed by the former chairman of the Board Eng. Andrew Kiptoon is still outstanding.

The Chairman recommends that the Board should employ all means possible to recover the amount of Kshs. 651, 688 owed by four ex-employees of the Board.

The Committee further recommends that the Chief Executive should institute recovery measures to recover the amount of Kshs. 88,150 owed by Eng. Andrew Kiptoon, a former Chairman of the Board, without further delay.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL CEREALS AND PRODUCE BOARD FOR THE YEAR ENDED 30TH JUNE 1999

1. OPERATING RESULTS

The Board's Accounts for the year 1998/99 show that the Board realized a net loss of Kshs. 605,748,783, which together with a prior year's adjustment of Kshs.541,403,770 reduced its accumulated surplus from Kshs.859,157,950 as at 30 June 1998 to Kshs.794,812,937 as at 30 June 1999. The Board's adverse financial performance is still attributed to, among other factors, its inability to sustain itself in a grain liberalized market and also high staff costs which, after the retrenchment action taken in the previous years, only reduced slightly by about Kshs.9,874,597 or 3.5% as at 30 June 1999. The Board also continues to rely heavily on expensive loan and overdraft facilities which during the year under review cost it Kshs.140,750,440 on interest charges.

The Committee heard the evidence given by the Chief Executive that the Board posted a net operating loss of Kshs.605,748,783.00 which with its prior year's adjustment, reduced the accumulated surplus by Kshs.64,345,013 from Kshs.859,157,950 as at 30th June 1997/98 to Kshs.794,812,937 as at 30th June 1999.

The Committee heard that the adverse financial performance was attributed to the delay in implementation of agreed reform actions with regard to restoration of working capital and cost reduction initiatives. This was to be addressed through settlement of past shortfalls in Government of Kenya Subvention Grants and other unpaid obligations which stood at Kshs.390,816,829 as at 30th June, 2004 and non-implementation of disposal of surplus depots and other properties through assets divestiture programme expected to generate Kshs.926,986,233.00.

The Committee was informed that the Board relied on the normal stand-by overdraft facility of Kshs.400 million maintained with Kenya Commercial Bank Ltd and received a short-term loan facility of Kshs.400 million with the same bank to meet a shortfall in working capital.

The Committee noted that a Cabinet Memorandum had been prepared which would facilitate downsizing of network, disposal of some 37 depots and other properties to generate Kshs.540

million, shedding off about Kshs.114 million operational costs and settling of arrears of Kshs.710.02 million by the Government.

The Committee observed with concern that the Government has taken inordinately long to address the issue of settlement of past shortfalls in GOK subvention grants and other unpaid obligations and disposal of surplus depots and other properties.

The Committee recommends that the Government should approve the divesture of the Board's assets in order to transform it into a self-sustaining commercial entity.

2 OTHER DEBTORS

The Balance Sheet other debtors figure of Kshs 411,742,744 as at 30 June 1999 is net of cumulative provision for bad and doubtful debts of Kshs 725,522,982 or about 64% of the total other debtors of Kshs 1,137,265,726. To explain this extremely high level of provision, the Board has indicated that its effort to pursue recovery of the debts has proved difficult due to the age and effects of Limitation of Actions Act, lack of supporting documents and general inability to trace the origin of some of the debts. This explanation is, however, at variance with the Board's other action to appoint and pay a consultant to verify and evaluate such debts and to recommend appropriate action for collection When source or supporting documents for any of the debts are not available, it is clearly not possible for the consultant to come up with any effective recovery programme for the outstanding debtors' balances The Board has, therefore, not fully justified its action to hire consultants for the exercise

The Committee heard the evidence given by the Chief Executive that the figure of Kshs.411,742,744 as at June 1999 is net of cumulative provision for bad and doubtful debts of Kshs.725,522,982 representing 64% of the total other debtors of Kshs.1,137,265,726.

The Committee further heard that:

(i) the debts comprised of provisions of two (2) levels i.e. 100% special provision and 7.5% general provision;

(ii) the Board of directors contracted the services of an external consultant to provide independent professional advice and guidance on the matter;

(iii) the Corporation encountered problems in debt recovery among them; Limitations of Actions Act (Cap 22), inability to trace the origin of some debts, supporting documents and whereabouts of some of the debtors, and dismissal of Court cases in favour of some debtors;

(iv) an amount of Kshs.160,077.50 balance was owed by Kenya Peanuts Ltd which is dormant and insolvent, and that the Company's assets have fetched only Kshs.300,000 against the accumulated debt of Kshs.1.5 million;

(v) debts owed by staff of Kshs.136,776,596.00 had been subsequently reduced to Kshs.48,154,679.10 as at June 2004;

(vi) out of Kshs.245,481,914.45 owed by other Trade Debtors, an amount of Kshs.62,374,167.55 was written off, and subsequent recoveries amounting to Kshs.8,566,009.75 were achieved while internal adjustments of Kshs.82,657,438.05 were made;

(vii) an amount of Kshs.23,714,858.00 was inherited from former Wheat Board of Kenya and in absence of supplying documents for subsequent recovery, this debt was written off in 1999/2000 Financial Year;

(viii) the Gunny Bags debtors amount of Kshs.133,877,201.00 was reduced by Kshs.6,631,758.00 and that a case is pending in Court vide H.C.C. No. 176 of 1994 against four persons in relation with the debts, and further that some employees were involved in this case to defraud the Corporation;

(ix) the balance of kshs.420,113,494.00 due to Swap Debtors had been reduced to Kshs.360,345,782.00 as at June 2003; and

(x) out of Kshs. 57,921,865.00 in respect of export debtors, Kshs. 4,258,502.00 was written off and the rest of the balance is owed by Indu Farm (Kshs.21,371,088.20) and Corrigrain (U.K) Ltd. (Kshs.32,292,275.05) totalling Kshs.53,663,363.25.

The Committee further heard that an amount of Kshs.75,150,468.00 owed by M/s. Corrigrain (U.K) Ltd was fraudulently diverted to a secret account in Switzerland belonging to the then employee of the Board, Mr. Alfred Kiptanui Keter. The Committee was informed that M/s. Corrigrain's employees could not be brought under the jurisdiction of Kenyan courts in the absence of an extradition between Kenya and Switzerland, thereby making it difficult to charge Mr. Keter with theft by servant due to lack of collaborating evidence.

The Committee observed with concern that:-

(i) **it was unnecessary to hire an external consultant on the collecting of debts as the Corporation had an Accounting department, which could have handled it and the terms of reference were too detailed to the point that it appears the Corporation knew its problems;**

(ii) **large amount of money was written off without convincing reasons making the Corporation to lose huge amount of money;**

(iii) **the matter with Corrigrain (UK) Ltd which owes an amount of Kshs.32,292,275.00 had persisted for so long without being resolved, dating back from the 6th report of the Committee (of 1995).**

The Committee recommends that: -

(i) **the Chief Executive should use all means at his disposal including litigation to ensure that the amounts owed are recovered in full;**

(ii) **the Director of Criminal Investigations Department should investigate the losses in respect of gunny bags with a view to recovering the money lost; and**

(iii) **the Director of Criminal Investigation Department should institute immediate investigations with a view to apprehending the culprits and recovering the losses from Messrs Alfred Kiptanui Keter and M/s. Corigrain.**

3. **CONSULTANCY FEES**

During the year 1998/99 the Board engaged a consultant at an agreed cost of Kshs.3.3 million to carry out a detailed verification and evaluation of its outstanding debtors and creditors and to provide recommendations for action on the matter. It was, however, noted that except, possibly, for review and advice on the personal ledger system and on viable preventive measures or strategies for effective address of future management of debt portfolio and risk exposure, the contract related to recovery of debts and settlement of creditors but without relevant source or supporting documents being available. In previous years and whenever the matter of huge uncollected debts or unsettled creditors had been raised with the Board, the Board had always given lack of such source documents as the main reason for its failure to analyse and reconcile such accounts and, therefore its inability to take effective action on the debtors or creditors accounts. When engaging the consultant for this job, the Board has not, however, satisfactorily explained how the problem of the previously unavailable records for such accounts would be handled, particularly in view that the consultant could not be expected to verify or evaluate and advise on balances for which the Board was, in the first place, unable to confirm or avail supporting documentation thereof.

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

(i) the Board contracted M/s. Githongo and Company during the year 1998/99 to carry out verification and evaluation of outstanding creditors accounts so as to provide recommendations for its consideration at a contract fee of Kshs.3.3. million;

(ii) other firms that had tendered their bids included M/s. Deloitte and Touché, Kenya Peat Marwick and Kassim Lakha Abdulla & Co. and that the normal procedures of tendering were followed; and

(iii) the Board realised the full value for its money used as the consultant provided all the services as per the terms of reference.

The Committee expressed concern that:

(i) the Board had declined to avail to the auditors, pertinent information on creditors and debtors; and

(ii) **the terms of reference for the consultants were too detailed that it appears the Board was aware of the problem and possible solutions and in the circumstances, the consultancy would appear to have been unnecessary.**

The Committee recommends that the Chief Executive should ensure that the Board equips itself with up-to-date information on debtors and creditors including having a computerized data storage system on the same.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF INVESTMENTS PROMOTION CENTRE FOR THE YEAR ENDED 30TH JUNE, 1998

1. BOARD MEETING

During the year 1997/98 the Board held only one meeting, contrary to the provisions of Sections 8(a) of the State Corporations Act, (Cap 446) Consequently, all policy decisions of the Centre were made by the Executive Chairman, a situation which similarly contravened the provisions of Section 15 (1)of the State Corporations Act

The Committee heard the evidence given by the Chief Executive that the Board of the Centre held only one meeting in the year under review contrary to the provisions of Section 8 (a) of the State Corporations Act, (Cap 446).

The Committee observed with concern that this was an anomaly and for which the parent Ministry and the Investment Secretary is liable as they failed to discharge their duty of supervising the Centre.

The Committee recommends that the Board should meet as required by the law and that any decision made without the Board's approval is null and void and any officer implementing such decision should be dismissed from the service of the Centre

2. IRREGULAR DISPOSAL OF MOTOR VEHICLE

During the year under review, the Centre disposed of a motor vehicle Peugeot 504 saloon car, to one of its employees at an apparently low price of Kshs 105,260 and without any competitive bidding. In addition, no valuation report was seen for this motor vehicle and as a result it was not clear how the sale price of Kshs 105,260 was determined. Apart from this low price obtained for the vehicle is the fact that before its disposal, the vehicle had been repaired by the Centre at a cost of Kshs. 140,000 just before the sale

The Committee heard the evidence given by the Chief Executive that the vehicle registration No. KAA 493D, a Peugeot 504, was valued at Kshs. 105,260.00 by the Ministry of Public Works, and later sold to a Mr. Richard K. Soi, a staff member of the Centre, who is still in service, at Kshs.105,560.00.

The Committee expressed concern that: -

(i) **the vehicle was repaired at a cost of Kshs. 140,000 without valuation;**

(ii) **the vehicle was sold without competitive bidding, thus flouting procedures on disposal of assets;**

(iii) **Mr. Richard Soi was advanced a salary of Kshs. 50,000 to enable him "purchase" the vehicle and repay in 24 month instalments, instead of the 12 months appreciable time;**

(iv) **the Centre, despite being aware of the anomaly, has not initiated any efforts towards recovering the vehicle or recovering the loss from the then Executive Chairman, or from Mr. Richard Soi, the purchaser, who is still in the service of the Centre; and**

(v) **it was alleged that the vehicle had been valued by the Ministry of Public Works.**

The Committee recommends that the then Executive Chairman of the Board should be surcharged the amount of Kshs. 34,740 being the difference between the disposal price and the repair costs of the vehicle.

3. MISUSE OF SALARY ADVANCE FACILITY

During the year 1997/98, the Executive Chairman granted substantial salary advances totalling Kshs.4,627,755 to five employees of the Centre, himself included to be recovered in periods of between 30 and 36 months contrary to the Center's Rule and Regulations which require such advances to be recovered within twelve (12) months.

Apart from the fact that only two of the advances were being recovered, the recovery periods indicated above suggest that the officers were in effect advanced interest free loans by the Centre as salary advances are normally recoverable within twelve (12) months.

The Committee heard the evidence given by the Chief Executive that the then Executive Chairman granted salary advances totalling Kshs. 4,627,755 to five employees of the Centre to be recovered in periods of between 30 and 36 months contrary to regulations which require recovery in twelve months.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA LITERATURE BUREAU FOR THE YEAR ENDED 30 JUNE 1998

STAFF PENSION FUND

As reported in the previous year, the Bureau, for a number of years, has been running a staff pension scheme, which was being managed by the Kenya National Assurance Company (now in liquidation). As at 30 June, 1998 the pension fund stood at Kshs.26,992,193. On liquidation of Kenya National Assurance Company, the Bureau transferred the pension scheme to another insurance company. I have however, not seen any evidence to confirm when the balance of Kshs.26,992,193 will either be paid to the Bureau or transferred to the insurance company how managing the pension scheme. I cannot, therefore, confirm that pensioners funds are secure and will be available as and when employees retire.

The Committee was informed that: -

(i) on June 12th, 2003, the Kenya National Assurance Company (2001) confirmed and undertook to pay the Fund's balance of Kshs. 28,993,589.20 (plus interest) in three months' instalment; and,

(ii) the Bureau has since received two instalments totalling Kshs. 19,329,059.50 leaving a balance of Kshs 9,664,529.75 for which the Surrender Discharge Forms have been finalized and submitted to the Kenya National Assurance Company (2001) Ltd to facilitate payments.

The Committee noted that the Pension Scheme is currently being managed by the Insurance Company of East Africa (ICEA) while the administration of the scheme is by M/s. Sapon Insurance Brokers.

The Committee recommends that the Chief Executive pursues the payment of the balance of Kshs. 9,664,529.75 with M/s. Kenya National Assurance Company (2001) Ltd and ensures that the same is settled by December 2005 and credited to the Pension Scheme.

(ii) the Bureau has since received two instalments totalling Kshs. 19,329,059.50 leaving a balance of Kshs 9,664,529.75 for which the Surrender Discharge Forms have been finalized and submitted to the Kenya National Assurance Company (2001) Ltd to facilitate payments.

The Committee noted that the Pension Scheme is currently being managed by the Insurance Company of East Africa (ICEA) while the administration of the scheme is by M/s. Sapon Insurance brokers.

The committee recommends that the Chief Executive pursues the payment of the balance of Kshs. 9,664,529.75 with M/s. Kenya National Assurance Company (2001) Ltd and ensures that the same is settled by December 2005 and credited to the Pension Scheme.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA LITERATURE BUREAU FOR THE YEAR ENDED 30TH JUNE, 1997

1. DEBTORS AND PREPAYMENTS KSHS.73,054,386

As reported in the previous year, an amount of Kshs.20,531,264 which is included n the Balance Sheet debtors and prepayments figure of Kshs.73,054,386 is owed by the Project Implementation Unit of the Ministry of Education for more than two years. I am informed that the debt arose as a result of some services by the Bureau to the project's donor funded work for which the project management could not get the funds from the donor. Further that the management has taken up the matter with the Ministry of Education with a view to having this debt settled. but the results have not bee seen.

The Committee heard the evidence given by the Chief Executive that a debt of Kshs. 22,812,522 was owed by the Ministry of Education for supply of books.

The Committee was informed that the Ministry settled the debt in July 1998 thereby resolving the audit query.

2. STAFF PENSION FUND

As reported in the previous year, the Bureau for a number of years, has been running a staff pension scheme which was being managed by Kenya National Assurance Company now in liquidation. As at 30th June 1996 the pension fund stood at Kshs.26,992,193.

On liquidation of the Kenya National Assurance Company, the Bureau transferred the management of the pension scheme to another Insurance Company. However, I have not seen any evidence to indicate when the balance held in the former Company will either be paid back to the Bureau or transferred to the latter Company now managing the Bureau's pension scheme. I am therefore, not in a position to confirm that pensioners funds are secure and that they will be available as and when the employees retire.

The Committee was informed that: -

(i) on June 12th, 2003, the Kenya National Assurance Company (2001) confirmed and undertook to pay the Fund's balance of Kshs. 28,993,589.20 (plus interest) in three months' instalment;

The Committee was informed that: -

(i) **on June 12th, 2003, the Kenya National Assurance Company (2001) confirmed and undertook to pay the Fund's balance of Kshs. 28,993,589.20 (plus interest) in three months' instalment; and,**

(ii) **the Bureau has since received two instalments totalling Kshs. 19,329,059.50 leaving a balance of Kshs 9,664,529.75 for which Surrender Discharge Forms have been finalized and submitted to the Kenya National Assurance Company (2001) Ltd to facilitate payments.**

The Committee noted that the Pension Scheme is currently being managed by the Insurance Company of East Africa (ICEA) while the administration of the scheme is by M/s. Sapon Insurance brokers.

The Committee recommends that the Chief Executive pursues the payment of the balance of Kshs. 9,664,529.75 with M/s. Kenya National Assurance Company (2001) Ltd and ensures that the same is settled by December 2005 and credited to the Pension Scheme.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA LITERATURE BUREAU FOR THE YEAR ENDED 30TH JUNE, 1996

1. DEBTORS AND PREPAYMENTS

As reported in the previous years, an amount of Kshs.20,531,264 which is included in the Balance Sheet debtors and prepayments figure of Kshs.73,054,386 is owed by the Project Implementation Unit of the Ministry of Education for more than two yeas. I am informed that the debt arose as a result of some services by the Bureau to the project's donor funded work for which the project management could not get the funds from the donor. I have further been informed that the management has taken up the matter with the Ministry of Education with a view to having this debt settled, but I have not seen the results of this action.

The Committee heard the evidence given by the Chief Executive that included in the debtors and prepayments figure of Kshs.73, 054,386 was an amount of Kshs. 22,812,533 owed by the Project Implementation Unit of Ministry of Education and which has since been paid vide cheque No. 003247 on 3rd July, 1998 thereby resolving the audit query.

2. STAFF PENSION SCHEME

As reported in the previous year, the Bureau, for a number of year, has been running a staff pension scheme which was being managed by Kenya National Assurance Company now in liquidation. As at 30 June 1996 the pension fund stood at Kshs.26,992,193.

On liquidation of the Kenya National Assurance Company, the Bureau transferred the management of the pension scheme to another Insurance Company. However, I have not seen any evidence to indicate when the balance held in the former Company will either be paid back to the Bureau's pension scheme or transferred to the latter company now managing the Bureau's Pension Scheme. I am, therefore, not in a position to confirm that pensioners' funds are secure and that they will be available as and when the employees retire.

The Committee heard the evidence given by the Chief Executive that prior to July 1996, the Bureau was operating a staff pension scheme which was being managed by the Kenya National Assurance Company (under liquidation).

4. BUDGETARY CONTROL

During the year 1999/2000, the Board spent a total of Kshs.76, 949,623 to finance its various operations as at 30 June 2000. Although Section 11(1) of the State Corporations Act (Cap 446) requires State Corporations to submit their Estimates of revenue and expenditure to the Treasury for prior approval, there is no evidence that such approval was ever sought or obtained. Accordingly and in the absence of any such evidence, it has not been possible to confirm the propriety of the total expenditure of Kshs.76,949,623 reflected in these Accounts.

The Committee heard the evidence given by the Chief Executive that contrary to the State Corporations Act (Cap 446), the Board spent a total of Kshs. 76,949,623 to finance its operations without approval of the parent Ministry and the Treasury.

The Committee recommends that in future, the Board should prepare its budget and submit the same to the parent Ministry and the Treasury for approval pursuant to Section 11 of the State Corporations Act, failure to which the Chief Executive will be held responsible and dismissed from the service.

(iii) **the government authorized the payments of the same to the Chairman vide letter ref. OP.9/179/A of 11th December 2000 provided that tax was to be assessed on the full package and that this be paid from the same as a deduction.**

The Committee observed with concern that: -

(i) **there was no evidence to show that the rate paid to the Chairman was comparable to the rates paid in other public sector institutions as required by the Electric Power Act;**

(ii) **the then Chairman purported to clothe himself with executive authority in excess of the provisions of the Act;**

(iii) **the Electric Power Act is inadequate in that it mandates the Board to pay its members and staff allowances and salaries and it is silent on the fact that such allowances are subject to approval by the State Corporations Advisory Committee as provided by the State Corporations Act (Cap 446).**

The Committee recommends that the Chief Executive of the Board should ensure that the Board meets its tax obligations.

The Committee further recommends that the Board should recover the differential amounts from the officers concerned and that the Chief Executive should seek advice of the State Corporations Advisory Committee (SCAC) on how to proceed in respect of the salary and other allowances paid to the Board's non-executive Chairman without recourse to SCAC in contravention of Section 10 of State Corporations Act, Cap 446.

2. OTHER BOARD MEMBERS

Members of the Board other than the Chairman, were paid a total of Kshs.7,800,000 net of tax during the year 1999/2000. The tax that ought to have been deducted from each Board member's monthly and other taxable allowances including sitting allowances was not so deducted but was instead directly borne and paid by the Board and amounted to Kshs.2,879,068 as at 30 June 2000. Each Board member was paid a monthly allowance of Kshs.50,000 in addition to travelling and sitting allowances of Kshs.10,000 and Kshs.25,000 respectively. Out of the Board members' expenditure of

Kshs.7,800,000 reflected on these Accounts, a total of Kshs.3,930,000 was incurred on travelling and accommodation allowances for Board members who reside in Nairobi even when there was no information to confirm that such Board members travelled or were accommodated in relation to the Board meetings for which the claims were made. Accordingly and in view of the foregoing, it has not been possible to confirm the propriety of most of the expenditure of Kshs.7,800,000 incurred in connection with members of the Board during the year under review. Moreover, the Board paid three public officers sitting, travelling and accommodation allowances totalling Kshs.1,890,000 contrary to provisions of Section 10(1) of the State Corporations Act (Cap 446).

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

(i) **the members of the Board were paid a total of Kshs. 7,800,000 net of tax as monthly fees and allowances, while the tax due amounting to Kshs. 2,879,068 was directly borne by the Board;**

(ii) **except for the Permanent Secretary, Ministry of Energy, the other two members represented their employers in the Board, and not their public offices and therefore the term "public officer" could not apply.**

The Committee observed that no authority for tax equalization payment was obtained by the Board, and further that there was no evidence to confirm that Board members residing in Nairobi travelled and were accommodated in relation to the Board meetings.

The Committee noted that the Executive Chairman had forwarded the matter to the Commissioner of Income Tax for reconciliation and resolution. Further, the Inspector of State Corporations has been requested to deal with the matter for possible surcharge.

However, the Committee observed that this was a matter of recovery and not surcharge.

The Committee recommends that: -

(i) **the Board should honour its tax obligations according to the law and that no tax equalization payment is ever made on behalf of the Board members or employees;**

Hon. Moses Wetangula, had interest in respect of organizing media advertising.

The Committee observed with concern that: -

(i) the Board failed to employ the government procurement procedures while identifying the two firms; and

(ii) the two members of the Board failed to declare their interests in the two firms respectively, thereby breaching the provisions of the Electric Power Act (No. 11 of 1997) which require Board members to declare their interest. The two Board members insolently withheld information regarding to their respective interests in the two firms and proceeded to conduct business with the Board.

The Committee expressed displeasure at the manner in which the Board flouted with impunity procurement procedures and awarded contracts to firms associated to members of the Board.

The Committee recommends that:-

(i) the Chief Executive should employ all means possible and ensure that the then Chairman of the Board Hon. Moses Wetangula pays the amount of Kshs. 115,621 being the amount which the Corporation would have saved had it directly procured for the media service;

(ii) the Chief Executive should employ all means possible and ensure that the then member of the Board, Mr. Dalmas A. Otieno pays the differential amount, which amount was the commission that the company associated with him received from the Board with respect to the Insurance Brokerage, and

(iii) the Chief Executive should ensure that government procurement regulations are followed when procuring for goods and services and any officer or member of the Board who contravenes government procurement procedures should be held responsible, dismissed from service and surcharged of all costs and incidentals thereof.

(ii) **the Board should recover the tax due from the officers concerned; and**

(iii) **the Board should ensure that before paying travelling and accommodation allowances to its members, mechanisms are put in place to confirm that the members travelled and were accommodated as claimed.**

3. PROCUREMENT OF GOODS AND SERVICES

During the year 1999/2000, the Board irregularly procured insurance and other services through single sourcing and without specific approval of Government as required by Government policy guidelines. The Board spent a total amount of Kshs.1,089,006 on insurance for its assets during the year under review, an amount which was paid to a brokerage firm, in which according to available information, a member of the Board had ownership interest. The broker firm subsequently paid the insurance premiums to the Insurance Company but after deducting its commission. It is not, however, clear as to how the brokerage firm was identified for contracting in the absence of any open competitive tendering. The Board has also not explained why it could not obtain insurance services directly so as to avoid payment of brokerage fees. The Board also spent a total of Kshs.2,547,454 on media advertising which was organized through an agent firm which was also similarly connected to a Board member. A Commission of Kshs.115,621 was paid to the agent. Had the Board dealt directly with the media companies, a saving of the amount of Kshs.115,621 paid to the agent, may possibly have been made.

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

(i) **the Board, through single sourcing procured insurance brokerage services from M/s. Thabiti Insurance Brokers, in which a then member of the Board, Mr. Dalmas Otieno had interest which he failed to disclose to the Board and disqualify himself from the matter. The Firm deducted its commission before making onward payment to the insurance firm;**

(ii) **the Board also through single sourcing contracted and paid a commission of Kshs. 115,621 to M/s. Asis Promotions, a firm in which the Chairman of the Board,**

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF ELECTRICITY REGULATORY BOARD FOR THE YEAR ENDED 30TH JUNE, 2000

1. IRREGULAR PAYMENT OF SALARY AND ALLOWANCES TO THE BOARD CHAIRMAN

During the year 1999/2000, the Board paid its non-executive Chairman a salary and other allowances including house, security, domestic help, entertainment, medical and sitting allowances, all totalling Kshs.4,043,242 as at 30 June 2000. The Board also paid a tax equalization allowance to the Chairman totalling Kshs.577,800 as of the same date. In addition, the Board spent a total of Kshs.173,000 on a mobile telephone for the Chairman for which no expenditure limit had been set while the Chairman was also provided with official transport for daily use at the expense of the Board. Except for honorarium of Kshs 40,000 per month, a sitting allowance of Kshs.10,000 per sitting, no specific Government approval for payment of the other emoluments was seen. Further, and apart from the fact that the non-taxation of the benefits paid to the Chairman clearly represents a breach of the Income Tax law, the payment of a monthly salary to a non-executive Chairman together with other allowances not specifically approved by Government is considered highly irregular.

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

(i) the Board paid its non-executive Chairman a salary and other allowances including house, security, domestic help, medical and sitting allowances all totalling Kshs. 4,043,242 and also paid a tax equalization allowance to the Chairman totalling Kshs. 577,800 without specific government approval, except for honorarium of Kshs 40,000 per month and a sitting allowance of Kshs. 10,000 per sitting;

(ii) the Board made the payments to the Chairman pursuant to section 3 of the schedule of the Electric Power Act (No. 11 of 1997), which inter-alia states that: - *"the Board shall pay to its members and staff salaries and allowances at rates comparable to those obtaining in other public sector institutions performing similar regulatory functions";*

Accordingly, it has not been possible to confirm the recoverability of the advance in the amount of Kshs. 277,835.

The Committee heard the evidence given by the Chief Executive that during the period under review, the Centre's books of accounts recorded debts amounting to Kshs. 2,353,312 in respect of salary advances, car loans and imprests against the former Executive Chairman of the Centre and a former employee Hon. Soita Shitanda.

The Committee further heard that Hon. Shitanda owed the Centre a total of Kshs. 680,487.50 and that he had made a commitment to clear the same at a rate of Kshs. 15,000 per month commencing April 2005, and that to date, the balance stands at Ksh. 620,487.50, while the debts owed by a former Executive Chairman of the Centre Dr. J. Ng'ok and was still outstanding, as Dr. Ng'ok had sued the Centre for wrongful termination of contract.

The Committee was informed that the amount of Kshs. 277,835 which was advanced to the Centre's Staff Housing Society for purchase of a plot, has since been recovered.

The Committee recommends that the money owed by Hon. Soita Shitanda and Dr. Joseph Ng'ok should be recovered with immediate effect.

The Committee observed with concern that the then Executive Chairman employed persons to grades above grade 7 without the posts being advertised nor interviews conducted and without approval of the board.

The Committee was dismayed by the laxity exhibited by the Coffee Board of Kenya who continued to pay salary to Mr. David Sonoiya for 19 months while he was out of service of the Board.

The Committee recommends that: -

(i) the Managing Director of Coffee Board of Kenya should recover the irregular payment of Kshs. 481,012.20 from Mr. David Sonoiya, which was paid to him while out of the service of the Board;

(ii) the Managing Director of Coffee Board of Kenya should institute investigation to determine who was responsible for the irregular payment with a view to taking disciplinary action, including surcharge;

(iii) the Director of Criminal Investigations Department should immediately institute investigations into the circumstance under which Mr. D. Sonoiya claimed double salaries with view to preferring criminal charges against any person(s) culpable; and

(iv) the two recommendations in (i) and (ii) above be acted upon and concluded by 31st December, 2006 and Committee notified accordingly.

5. DEBTORS

The Balance Sheet Debtor's figure of Kshs.4,799,975 as at 30 June 1998 includes debts totalling Kshs.2,453,312 outstanding in form of salary advances, car loans and imprests against two employees who are no longer in the service of the Centre. The Centre has not indicated the effort made to recover these huge debts from the ex-employees. It has also not been explained why the outstanding debts were not recovered from the terminal dues of the ex-employees after termination of their services with the Centre. In addition, the above debtors balance includes an amount of Kshs.277,835 paid by the Centre on behalf of the Centre's staff Housing Society for the purchase of a plot of land Ref. No. LR KAJIADO/KISAJU/1200 measuring 4 05 hectares. Details of the terms under which the amount was advances to the Society have not, however, been seen.

The Committee further heard that by the time the then Executive Chairman Dr. Joseph N. K. Ng'ok was retired on 4th June 2001, he had a salary advance of Kshs. 250,000, which has not been cleared to date.

The Committee expressed concern that Dr. Ng'ok violated the Centre's rules and regulations on salary advance to staff.

The Committee recommends that the Managing Director of the Centre should adhere to Rules and Regulations pertaining to salary advances to staff and that the irregular salary advance to Dr. Joseph N. K. Ng'ok of Kshs. 250,000 be recovered without further delay.

4. APPOINTMENT OF NEW EMPLOYEES

In 1997/98 four new appointments were made to fill posts in grade seven within the Centre's establishment. Records, however, show that apart from the fact that the posts were not advertised and no interviews were conducted when filling the posts, the appointments were not approved by the Board as required under Section 4 of the Centre's Rules and Regulations. In addition, one of the newly employed persons who was employed as Executive Officer II and who had also been employed by the Coffee Board of Kenya continued his full employment with the Board where he was also earning a regular salary. A basic salary of Kshs.13,120.00 per month was paid to the officer during the first six months of his service with the Centre before moving to a basic salary of Kshs.22,390.00 per month with effect from March, 1998. Consequently, the total salaries and allowances paid to this employee by the Centre during the period September, 1997 to March 1999 amounting to Kshs.465,360.00 when he was also in receipt of full time salary from the Coffee Board of Kenya is considered irregular and therefore, not a proper charge to public funds.

The Committee heard the evidence given by the Chief Executive that the then Executive Chairman recruited three officers Messrs R. Amisi, H. Chemuren and E. Chelule without the approval of the Board and that the Board later ratified the appointments.

The Committee further heard that Mr. David Sonoiya who was employed as Executive Officer II continued drawing salary from his former employer, Coffee Board of Kenya, for nineteen months, thus earning double salary.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA LITERATURE BUREAU FOR THE YEAR ENDED 30TH JUNE, 1999

1. DEBTORS

The Balance Sheet Debtors and Prepayments figure of Kshs.44,190,165, as at 30 June 1999 includes cash advances totalling Kshs.4,111,425 made to some 26 retirees of the Bureau during the year 1998/99 reportedly because the retirees pension funds were held by Kenya National Assurance Company, now in liquidation. However, and apart from the fact no written acknowledgement of the liability for holding staff pension funds was seen from the liquidators, the Bureau has also not explained how the above advances of Kshs.4,111,425 will be recovered from the staff Pension Fund now held by the liquidators of the Kenya National Assurance Company. In the absence of such explanation the full recoverability of the advances of Kshs.4,111,425 cannot be confirmed.

In addition, the Debtors and Prepayments balance includes an amount of Kshs.229,859 paid by the Bureau to the National Bank of Kenya on account of a car loan and interest thereof that the Bureau had guaranteed in respect of an employee who left its services before full repayment of the loan had been made. Besides the fact that it is not clear why the log book was not jointly registered in the names of the ex-staff and the Bureau to safeguard the Bureau's interest, it is also not understood why the Bureau did not pay the principal amount of Kshs.84,451 outstanding at the time the ex-employee left its employment so as to avoid the interest surcharge of Kshs.145,405 resulting from delayed loan settlement. The recovery of the amount of Kshs.229,859 from the ex-employee does not also appear likely.

The Committee heard the evidence given by the Chief Executive that as at 30th June, the Bureau had advanced Kshs. 4,111,425.00 to its 26 retirees, which has since been recovered from their benefits.

The Committee also heard that: -

(i) in respect of staff pension, the Bureau has since received Kshs. 19,329,05950 from M/s. Kenya National Assurance Company (2001) while Kshs. 9,664,529.75 is outstanding;

(ii) **the Bureau had guaranteed a car loan to a Mrs. Mithamo who resigned from the Bureau in 1992 while the balance then was 84,451.00 and the Bureau took her to court to pay the balance;**

(iii) **the court awarded judgement in favour of the Bureau for an amount of Kshs. 348,701.25;**

(iv) **Mrs. Mithamo passed on in the year 2004 when she had only paid Kshs. 218,845.25, leaving a balance of Kshs 129,856.00, which the Bureau is considering for write-off, as it is unrecoverable.**

The Committee recommends that: -

(i) **the Chief Executive should ensure that the interests of the Bureau are safeguarded when offering car loans to its staff; and**

(ii) **the Chief Executive pursues the payment of the balance of Kshs. 9,664,529.75 with M/s. Kenya National Assurance Company (2001) Ltd and ensures that the same is settled by December 2005 or earlier and credited to the Pension Scheme.**

2. PROCUREMENT PROCEDURES

During the year 1998/99 and at different times, the Bureau appointed a printing firm to print a number of books on its behalf at a total cost of Kshs.18,193,635. A review of the quotations for these tenders indicated that the printing firm quoted Kshs.36.80 for printing a copy of Commerce books, Kshs.41.60 for Kiswahili books and Kshs.38.20 for Biology books while the lowest tenderers quoted Kshs.32.00, Kshs.19.75 and Kshs.21.70respectively per copy for the same books. Had the books been printed by the lowest bidders the Bureau would have made a possible saving of Kshs.4,023,525, being the difference between the total expenditure of Kshs.18,193,635 incurred in printing the books and Kshs.14,140,109 that would have been paid at the lowest quoted prices.

The Committee heard the evidence given by the Chief Executive that the Bureau awarded the highest bidder, English Press of Enterprise Road, Nairobi, a tender for supply of books at Kshs. 18,193,635 allegedly for assured quality and timely delivery.

The Committee noted that had the lowest bidder been awarded the tender, the Bureau would have made a possible saving of Kshs. 4,023,525.

The Committee observed with concern that the then management of the Bureau flouted the procurement procedures leading to a possible loss of Kshs 4,023,525.

The Committee recommends that the Bureau must comply with the government procurement regulations without exception and that, in future, any officer of the Bureau who disregard the regulations should be dismissed from the Service and surcharge action taken.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA LITERATURE BUREAU FOR THE YEAR ENDED 30TH JUNE, 2000

1. DEBTORS AND PREPAYMENTS

The Balance Sheet Debtors and Prepayments balance of Kshs. 64,013,923 as at 30 June 2000 includes cash advances totalling Kshs.5,837,481 issued to some forty four (44) employees of the Bureau who have since retired from its service. Although the advances were made on the grounds that the retirees' pension funds were held by the Kenya National Assurance Company (in liquidation) and that the advances would be recovered from the liquidators of the former Assurance Company, no information is however, available to confirm that the liquidators of the Kenya National Assurance Company have undertaken to repay the Bureau the amounts advanced to the ex-staff. In the meantime and in the absence of any written confirmation for settlement of the advances by the liquidators, it has not been possible to establish the recoverability of these advances or even to ascertain the adequacy of the provision made in these Accounts to cover bad and doubtful debts.

The Committee heard the evidence given by the Chief Executive that as at 30th June, the Bureau had advanced Kshs. 5,837,481 to its 44 retirees, which has since been recovered from their benefits.

The Committee also heard that: -

(i) **the Bureau had guaranteed a car loan to a Mrs. Mithamo who resigned from the Bureau in 1992 while the balance then was 84,451.00 and the Bureau took her to court to pay the balance;**

(ii) **the court awarded judgement in favour of the Bureau for an amount of Kshs. 348,701.25; and,**

(iii) **Mrs. Mithamo passed on in the year 2004 when she had paid Kshs. 218,845.25, leaving a balance of Kshs 129,856.00, which the Bureau is considering for write-off, as it is uncollectable.**

The Committee recommends that the Chief Executive should ensure that the interests of the bureau are safeguarded when offering car loans to its staff.

2. SHORT TERM DEPOSITS

During the year 1999/2000, the Bureau placed deposits totalling Kshs.270,404, 304 with two commercial banks at interest rates ranging between 7% p.a. and 16% p.a. against which interest income amounting to Kshs.21,925,956 was earned. During the same period interest rates offered by the Central Bank through Treasury Bills ranged between 11% and 20% p.a. Had the Bureau deposited these funds in Treasury Bills, the Bureau would, no doubt have earned higher interest income.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Bureau deposited Kshs. 21,925,956 at the Kenya commercial Bank and the National Bank of Kenya at interest rates ranging between 7% and 16% p.a.

The Committee noted that had the Bureau deposited the amounts in Treasury Bills and Bonds, it would have earned higher interest.

The Committee also observed that the Bureau has since been investing its surplus funds in Treasury Bills and Bonds.

The Committee recommends that the Bureau should always invest its surplus funds in Treasury Bonds/Bills where it would earn more interest and in accordance with government circulars.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOUSING CORPORATION FOR THE YEAR ENDED 30TH JUNE, 2000

1. OUTSTANDING LOAN ARREARS

The loan arrears balance of Kshs.1,903,327,747 as at 30th June 2000 includes Local Authorities and Rural Housing Loans balances of Kshs 1,810,108,999 and Kshs 91,817,143 respectively. The local authorities loans which were issued between 1967 and 1991 include loan arrears of Kshs.61,006,682 due from Eldoret Municipal Council in respect of the Kapsoya Site and Service Scheme which was disposed off by the Council but without the loan arrears having been cleared. Further and as previously reported, the net Rural Housing Loan arrears of Kshs 91,817,143 are mainly composed of unsecured loans which the Corporation had advanced to individuals in the early 1970s. The Corporation has still not yet put in place an effective loan recovery programme to ensure loan recovery with minimum loss to the Corporation.

The Committee heard the evidence given by the Chief Executive that the Corporation was owed Kshs. 1,810,108,909 by local authorities and a further Kshs. 91,817,143 by Rural Housing loanees as at 30th June 2000.

The Committee was informed that: -

(i) the Corporation has taken over direct management of estates in 14 local authorities, resulting in a collection of Kshs.691,313,563 as at 30th October 2004;

(ii) the Corporation has been encouraging local authorities to agree to sell a few estates to redeem the debts, however, the Ministry of Local Government has not given approval;

(iii) the loan arrears of Kshs. 61,006,682 due from Eldoret Municipal Council have not been realised, as approval for disposal of two estates has not been given by the Ministry of Local Government.

The Committee recommends that the Chief Executive should, in liaison with the parent Ministry, ensure that approval is obtained from the Ministry of Local Government to sell off houses in respect of owing local authorities to redeem the debts due.

2. GOVERNMENT OF KENYA LOANS

The Principal amount and interests in respect of loans owing to the Government of Kenya by the Corporation stood at Kshs.2,045,991,517 as at 30 June 2000. The Corporation attributes the massive accumulation of these loans to inadequate collection of on-lent loans from its debtors, who are mainly Local Authorities as well as on yearly interest accruals. This scenario does not augur well for the Corporation as it is likely to lead to a total inability by the Corporation to service the loans altogether. Further, the Corporation has a very weak capital base as its entire operating capital is based on debt financing which has continued to attract heavy interest charged thus placing the Corporation at risk of failing to discharge it statutory objectives. Although the Corporation has explained that negotiations are underway to address its weak capital base, the outcome of such negotiations is not known.

The Committee heard the evidence given by the Chief Executive and was informed that the Corporation has been unable to service the Government of Kenya loans due to unfavourable capital structure and the fact that the exchequer issues received was in form of loan, thus attracting high interest charges.

The Committee further heard that the government further approved a restructuring of the Corporation resulting in conversion of all Government of Kenya loans to equity, thus offsetting all debt obligations to the Government.

The Committee recommends that the Chief Executive should obtain the necessary approval for disposal of some housing estates in order to offset debts from the local authorities.

3. IRREGULAR AWARD OF CONTRACTS

In the report for the year 1998/99 concern was expressed over the unsatisfactory manner in which in May and August 1999 the Corporation entered into two contracts for the provision of computer services. The first contract was designed to upgrade and make computer application programme "year 2000 Compliant" at a contract price of US$ 68,250 (Kshs.4896,937) while the second contract was to supply computer hardware, software and networking at a contract price of US$.100,759.81 (Kshs.7,229,516). The contractor did not however supply the Corporation with the software, hardware and networking as a specified in the second agreement but instead, in June 1999 again without open tendering the corporation

allowed the same computer firm to alter the initial contract and to split it so that the supply of hardware equipment was retained by the computer firm at a cost of Kshs.8,227,037 while a different firm was contracted, without open tendering and without Board's approval, to develop the software at a cost of Kshs.1,802,335. It was however, not clear why the core component contained in the original contract for a total of Kshs.7,229,516 were later split and substituted with separate loose contracts, resulting in the Corporation committing to incur expenditure of Kshs.21,025,426 thus resulting in an additional expenditure of Kshs.13,795,910 being the difference between the original contract sum of Kshs.7,229,516 and split contract sum of Kshs. 21,025,426. In addition, the cost of the split contract together with the cost of training of Kshs.1,477,865 and Recurrent Cost of Kshs.1,706,435 brought the total cost of the computerization to Kshs.24,209,777. Had the contract been awarded to the firm which had quoted Kshs.13,421,520 for all inclusive hardware, software and training, the Corporation would have made a possible saving of Kshs. 10,788,257. Under the circumstances, it was not possible to confirm that the Corporation received value commensurate with the money spent. It was further noted that no budgetary provision had been made for this expenditure during the year under review.

The Committee heard the evidence given by the Chief Executive that M/s. Modern Business Communications, which had been awarded a contract of Kshs. 7,229,517 to supply computer hardware, software and networking were later discovered not to have total solutions, as the software specification was not on Relational Database Management System, network capacity was not clear and lacked Technical Department, Hardware and Software, among others.

The Committee further heard that: -

(i) in June 1999, the Corporation, through selective tendering negotiated with the firm to alter the contract and split it into three such that M/s. Modern Business Communications retained the supply of the hardware at Kshs. 8,227,037, while two other firms, M/s. Software Company Tech Ltd. and M/s. LanTech Ltd. were contracted to develop software at a cost of Kshs. 10,996,054, and to offer cabling system cum networking at a cost of Kshs. 1,802,335 respectively; and

(ii) the Board on June 23, 1999 ratified the expenses;

The Committee observed with concern that: -

(i) **the Corporation's Board approved the expenditure after the previous implementation had taken off; and**

(ii) **the Corporation over-expended on the year's approved estimates as it had been allocated Kshs. 11,500,000 for the project, while it spent Kshs. 24,200,000 on the whole project.**

The Committee recommends that the Chief Executive should always ensure that the Corporation runs its' financial obligations within the approved budget and adheres to procurement procedures.

4. REPAIR OF LORRY - KTP 268

Records show that after the Corporation obtained quotations for the repair of its lorry KTP 268 from four (4) bidders, the repair order was given to the lowest bidder who quoted Kshs.139,476. However, the order was later cancelled reportedly on instructions from the former Managing Director, who ordered that the vehicle be taken to a garage which had not quoted for the job. The garage was not issued with an LPO but was subsequently paid Kshs.384,352 an amount which was Kshs.244,476 higher than it would have cost the Corporation had the repairs been undertaken by the lowest bidder who had quoted Kshs.139,476 for the job. Under the circumstances it is not possible to confirm the propriety of the expenditure.

The Committee heard the evidence given by the Chief Executive that the then Chief Executive of the Corporation authorized repair of a lorry KTP 268 without following the laid down procedures on procurement.

The Committee observed with concern that the repair works were given to a firm without obtaining fresh quotations, and as a result the Corporation did not get competitive prices.

The Committee recommends that the then Chief Executive Mr. Lawi Kiplagat be surcharged for disregarding procurement regulations thus occasioning the Corporation a loss of Kshs. 244,476.

5. PAYMENT OF ADVERTISEMENT

As was the case in the year 1998/99 when the Corporation paid a total of UD$ 63,400 (Kshs.2,778,686.30) to two foreign firms for advertisements whose purported objective was to sell Kenya's image to outside investors, during the year 1999/2000, the Corporation again incurred advertising costs totalling US$.19,440 (Kshs1,500,000) in a similar manner. The payments were made to a foreign firm without Board approval for external advertising. As indicated in the previous report even if these foreign payments were authorized by the Parent Ministry, considering the core business of the Corporation as spelt out by the National Housing Corporation Act, such authority would neither legitimize or validate the expenditure as the advertisement was, at best, a public relations exercise which normally would not fall within the purview of the Corporation's mandate.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Corporation, through the parent Ministry and the Ministry of Finance, entered into and paid for an advertising contract with M/s. Publex plc of Paris and M/s. Universal News Inc. of New York for quarter page advertisements at a cost of Kshs. 2,778,686.30 (US$ 63,400).

The Committee also heard that, on recommendation of the government, and without approval of the Board, the Corporation again in September 1999, expended a total of Kshs. 1,496,463.10 (US$ 19,440) for a similar advertisement through M/s. Inter-France Media.

The Committee observed with concern that:-

(i) the Corporation, without the approval of the Board, continued to expend on international advertisements, an exercise that does not fall within its purview, and whose charges were exorbitant;

(ii) the parent Ministry acted ultra vires by encouraging the Corporation to pay for the advertisements, which were not beneficial or relevant to the Corporation.

The Committee recommends that:-

(i) the then Chief Executive be surcharged the amounts involved in the advertisements by the Inspector General (State Corporation) for acting imprudently in

the transaction, which was not approved by the Board; and

(ii) the Corporation stops engaging in such activities, as public relations exercise is not one of its core functions.

6. IRREGULAR EXPENDITURE

The Corporation awarded the following two construction contracts works without calling for open tenders and without obtaining approval from the Board and/or Government.

PROJECT	CONTRACTOR	COST Kshs.
Nyayo (Kibera) Highrise Perimeter wall	Ladhani Builders Ltd	9,805,350
Kibera Highrise Phase II Extension	Bomco Building Contractors Ltd.	92,240,863

In addition, two firms were commissioned by the Managing Director as Structural Consultants/ Supervisors and Quantity Surveyors respectively without the approval of the Board The two firms, were contracted at an additional costs of Kshs. 2,333,829 and Kshs. 37,914,917 respectively. The Corporation's own staff, however, originally prepared Architectural, Civil and Structural Engineering designs for the two projects.

The Committee heard the evidence given by the Chief Executive that the Corporation awarded two construction contracts to M/s. Ladhani Builders Ltd and M/s. Bomco Building Contractors Ltd to build perimeter wall and Kibera Highrise Phase II extension respectively at Kshs. 9,805,350, and Kshs. 92,240,863 without open tenders and approval from the Board.

The Committee further heard that: -

(i) the Corporation invited five quotations to bid for the perimeter wall and the contract awarded to the lowest bidder, M/s. Ladhani Builders Ltd. In November, 1998;

(ii) the construction of Kibera Highrise Phase II extension was awarded to a contractor who had constructed 120

No. Flats, as the contractor was already on site, as he had finished the initial 53 flats.

The Committee observed with concern that: -

(i) the Corporation flouted tendering procedures in the award of the above contracts;

(ii) the Corporation employed the services of Consultants and expended a total of Kshs. 40,248,746 for services that the Corporations' own could have staff carried out; and

(iii) the contractors for the construction and consultation were commissioned without the approval of the Board.

The Committee recommends that: -

(i) the Corporation should always adhere to government procurement procedures in procurement of goods and services;

(ii) the Corporation should stop expending on activities where its' own staff can carry out satisfactorily; and

(iii) the then Chief Executive Mr. Lawi Kiplagat be surcharged for committing the Corporation to the irregular expenditure and be barred from holding public office conferred by the Republic of Kenya.

7. IRREGULAR PAYMENT FOR TITLE DEEDS

In August 1997 the Corporation engaged the services of consultants, to procure title deeds for 2133 Kibera Highrise flats at a cost of Kshs. 15,000 per flat and as at 30 June 1998 a total of Kshs. 1,710,599 had been paid to the Consultants. At the same time, the Corporation, in a letter dated September 1997 assigned an officer in its Land/Survey Department, to do same job. It has not been possible to establish the justification for the payment of Kshs. 1,710,599 to the consultants particularly in view of the fact that the plans for the Estate's Block of flats had not been approved to facilitate issuance of title deeds for them. As at the date of this report the Corporation has not secured title deeds for the property despite the payment to consultants. Further, the basis for charge of Kshs. 15,000 per flat for sectional titles has not been explained.

The Committee heard the evidence given by the Chief Executive that the Corporation engaged the services of Consultants, M/s. Housing and Valuation Consultants to prepare title deeds for 2133 Kibera Highrise flats at a cost of Kshs. 15,000 per flat, even though they were not qualified to do survey works for the purpose of presentation to the Director of Survey and in pursuit of title deeds.

The Committee also heard that: -

(i) the Consultants were decommissioned on 7th June 2002 on recommendation of the Corporations' Chief Land surveyor-that the continued existence of the Consultants would have costed the Corporation a total of Kshs. 31,995,000, an expenditure part of which it stood to save if the Consultants were decommissioned;

(ii) by the time the Consultants were decommissioned, they had been paid an amount of Kshs. 1,710,599 for Cadastral and Topographical survey works, and that to date the title deeds have not been obtained.

The Committee observed with concern that the Corporation irregularly sourced and employed services of Consultants for survey works, an exercise that would have been carried out by Lands and Survey Department of the Corporation

The Committee recommends that: -

(i) the then Chief Executive, Mr Lawi Kiplagat should be surcharged for the losses amounting to Kshs. 1,710,599 irregularly incurred in hiring of M/s. Housing and Valuation Consultants to carry out survey works, an exercise that could have been carried out by the Corporation's own staff;

(ii) the consultants M/s. Housing and Valuation Consultants should be pursued with a view to repaying the illegal amounts paid to them; and

(iii) the Chief executive should ensure that the Corporation does not expend on activities and/or exercises that can be carried out by its own staff.

8. LOSS OF CASH

The Bank Reconciliation Statement as at 30 June, 2000 reflected receipts amounting to Kshs 823,407 as recorded in the Corporation's Cash Book but not appearing in the Bank Statement which in turn included a sum of Kshs 451,121 which was stolen in November 1995 by robbers while in transit before it could be banked The cash lost while in Transit was insured, and it has not been explained why the loss was not recovered from the Insurers.

The Committee heard the evidence given by the Chief Executive that the figure of Kshs. 451,121 represents an amount that was stolen in November 1995 while in transit before it could be banked and that the amount was insured with Kenya National Assurance Company (under liquidation).

The Committee also heard that before the Insurance Company went under liquidation, the Corporation had launched a claim which the former paid vide a cheque Number 42041 in favour of the Corporation for which the receiver stopped payments.

The Committee was informed that: -

(i) to date the Corporation is yet to be compensated on the loss; and,

(ii) the issue of the difference between Kshs. 823,407 recorded in the Corporation cash book, but not appearing in the Bank statements has since been reconciled as at July 1 2002.

The Committee recommends that the Chief Executive should use all possible means including litigation to recover the amount of Kshs. 451,121 and interest from Kenya National Assurance Company (2001 Ltd) without further delay.

9. SHORT-TERM DEPOSITS

According to a footnote to the accounts the Corporation held Kshs. 112,317,098 in Short Term Deposits out of which Kshs. 69,355,592 was deposited between April and June, 1998 in a private financial institution which has since been placed under statutory management by the Central Bank of Kenya. Although provision for doubtful debts totalling Kshs. 29, 439,952 has been made in the 1999/2000 Accounts to cover eventual non-recovery of this amount, no

information was made available to confirm Government authority for placement of these funds in private bank.

The Committee heard the evidence given by the Chief Executive that during the period April and June 1998, the then Chief Executive Mr. Lawi Kiplagat authorized deposit of Kshs. 73,499,878.65 in Prudential Bank which was later put under receivership.

The Committee also heard that: -

(i) **out of this amount, a total of Kshs. 7,077,900.20 was repaid to the Corporation by the Deposit Protection Fund; and**

(ii) **the then Chief Executive has since been surcharged Kshs. 6,935,556.00 vide surcharge certificate number 008 for investing funds contrary to Treasury circulars, and that he has since filed a bankruptcy order.**

The Committee recommends that:-

(i) **the Chief Executive should pursue the recovery of the outstanding amount from the Deposit Protection Fund of the Central Bank of Kenya; and**

(ii) **the Corporation and the Inspectorate of State Corporations should pursue and counter the bankruptcy order obtained by the former Chief Executive, Mr. Lawi Kiplagat, with view to recovering the losses occasioned by him through irregular transactions at the Corporation.**

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL IRRIGATION BOARD FOR THE YEAR ENDED 30TH JUNE, 1996

1. DEBTORS - NATIONAL CEREALS AND PRODUCE BOARD

As previously reported, the debtors figure includes Kshs.22,170,128 owed by National Cereals and Produce Board since 1992/93 financial year. The debt has not been confirmed by NCPB but the National Irrigation Board has maintained that reconciliation is being carried out by both institutions. Further, in view of the long time the debt has been outstanding, its realization is in doubt and the current assets may be overstated by the amount.

The Committee heard the evidence given by the Chief Executive that the reconciliation of the debtors figure of Kshs. 22,170,128 by the Board showed that the National Cereals and Produce Board owed the Corporation Kshs. 11,874,149.05 for account of Shidano Rice, an amount which the NCPB is disputing.

The Committee recommends that the two Corporations in consultation with their respective Ministries should reconcile their records and have their debtors figure confirmed by Controller and Auditor General.

2. IRRIGATION SCHEMES

Over the years, the Board's six irrigation schemes have reflected poor operational results. Most of them continue to suffer losses, which are a drain to the exchequer. The schemes have been operating for several years and with the exception of Mwea, all of them are not self sustaining yet. The Board has explained that the pilot schemes are not viable in their present small sizes. The initial intention was to expand them with further capital injection from the Government but the funds have not been forthcoming due to lack of budgetary provision. The losses suffered by the schemes indicate that the intended objectives may never be realized and in these circumstances, the Board has not justified the continued operation of the schemes.

The Committee heard the evidence given by the Chief Executive that except for Mwea Irrigation Scheme, five other irrigation schemes namely Ahero, west Kano, Bunyala, Perkerra and Hola have continued to make losses due to unforeseen high operational and overhead costs.

The Committee also heard that the Board has since presented a draft policy paper to the government, which will involve the restructuring of the Board with a view to redefining its role, and mandate in terms of core and non-core functions.

The Committee also noted that the Board has since undertaken certain measures in furtherance to the proposals made to the government, which involves retrenching a bulk of its staff to reduce overhead costs and enhanced in partnership with Kenya Seed Company in Perkerra Scheme.

The Committee recommends that the government should, as a matter of urgency, restructure the Corporation with a view to employing a turnaround strategy and incorporating the proposals submitted to it in order to return it to financial sustainability and profit-making.

3. PROJECT VEHICLES

In July 1995, Mwea Irrigation Agricultural Development Project consulting engineers, handed over to the Board seven vehicles used in the project, in compliance with the project agreement. The seven vehicles are in private number plates apparently because the Board cannot pay customs duty and have neither been registered in the Board's name nor taken on charge in the assets register. Further, the value of the vehicles has not been determined for inclusion in the Board's Balance Sheet figure of fixed assets In the circumstances, the vehicles now owned by the Board are not adequately safeguarded and controlled.

The Committee heard the evidence given by the Chief Executive that seven vehicles were transferred to the Board in 1995 by the Dutch Embassy, JICA and Nippon Koei and that their duty had not been paid, while their insurance has been paid.

The Committee further heard that the Board has since written to the Minister for Finance to have duty payable on the vehicles waived.

The Committee recommends that the Board should pursue the matter of having the Duty payable on the vehicles waived by the Minister for Finance and have the vehicles transferred to the Board and their values included in the Board's Books of Accounts.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL IRRIGATION BOARD FOR THE YEAR ENDED 30TH JUNE, 1997

1. FINANCIAL POSITION

The Board's Consolidated income and Expenditure Account for the year 1996/97 reflects a deficit of Kshs.91,906,414 which after applying Government grants of Kshs.46,278,121 bring actual net deficit to Kshs.45,628,293 (1995/96 deficit Kshs.35,425,917). Without reliance on the Exchequer, the Board is clearly unable to generate sufficient revenue to sustain its operational expenditure. Apart from the Mwea Scheme which had an operational surplus of Kshs.76,483,506, all the other Schemes and the Head-office ended the year with deficits. The Board has not justified the continued poor performance of these Schemes.

The Committee heard the evidence given by the Chief Executive that the Board had a deficit of Kshs. 45,628,293 due to the fact that five irrigation schemes namely Perkerra, Ahero West, Kano, Bunyala and Hola were making losses due to unforeseen overhead and operational costs.

The Committee also heard that the Board has since presented a policy proposal to the government that would determine its role and mandate in terms of core and non-core functions as this would safeguard against funding such schemes by the Board and reduce its financial obligations.

The Committee recommends that the government should, as a matter of urgency, restructure the Corporation with a view to employing a turnaround strategy and incorporating the proposals submitted to it in order to return it to financial sustainability and profit-making.

2. CREDITORS

The Balance Sheet creditors figure of Kshs. 258,900,800 includes Kshs.27,154,956 owed to Bura Settlement Scheme and Kshs.267,225 owed to the Dutch Embassy. Both the amounts have been appearing in the Board's Accounts for several years but without any details regarding the nature of the origin of the creditors.

The Committee heard the evidence given by the Chief Executive that the Board opened a current account for Bura irrigation scheme in its book for all transactions relating to Bura and that

as at 30th June 1996, the unspent amount in the account stood at Kshs. 27,154,956.

The Committee was informed that: -

(i) **the unspent amount now stands at Kshs. 22,315,034; and**

(ii) **the advances of Kshs. 267,225 from the Dutch Embassy was a grant to the Board for Operational Research and Training project.**

The Committee recommends that the Board should refund Bura Irrigation Scheme the unspent amount of Kshs. 22,315,034.

3. DEBTORS

Included in the Balance Sheet debtors balance of Kshs.322,119,974 is an amount of kshs.697,632 being value of Sugar cane deliveries by Board farmers to the then Miwani Sugar Mills Limited between April and September, 1987. Also included in Perkerra and Tana Irrigation Scheme's debtors is an amount of Kshs.1,055,216 reportedly owed by M/s. Cotton Lint and Seed Marketing Board which ceased its operation some years back. In view of the fact that M/s. Miwani Sugar Mills limited also disputed receipt of the Sugar cane deliveries, I am under the circumstances, unable to confirm the recoverability of these debts.

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 697,632.90 arose from a debt that the Board paid to cane farmers on behalf of Miwani Sugar Mills Ltd (under receivership) and which the Ministry of Agriculture on 3rd August 1998 made a commitment to offset, subject to cash flow at the Ministry.

The Committee further heard that the amount to date is still outstanding and that the Board intends to write it off as it is irrecoverable.

The Committee was further informed that the amount of Kshs. 1,055,215.60, which was owed by Cotton Lint and Seed Marketing Board for supply of cotton, is still outstanding as the Company ceased operations in the 1990's.

The Committee noted that the Board intends to write off the amount as its recoverability has been difficult over the years.

The Committee observed with concern that the Board would appear to be reluctant in pursuing the recovery of the amount of Kshs. 697,632.90 with the then Ministry of Agriculture and subsequently with its current parent Ministry.

The Committee recommends that the Board should concentrate on its core functions and cease directing its funds and committing itself in transactions where its interests are not safeguarded.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NYAYO TEA ZONES DEVELOPMENT CORPORATION FOR THE YEAR ENDED 30TH JUNE 1996

1. FINANCIAL POSITION

The Corporation's financial performance continued to deteriorate during the year under audit and it incurred a deficit of Kshs.22,595,991 compared to a deficit of Kshs.2,093,638 in 1994/95. Income increased by Kshs.2,736,298 while expenditure increased by Kshs.32,993,629. Comparison of the budgeted amounts against actual expenditure showed that budgetary allocations were exceeded in a number of items and particularly notable were five (5) items whose excess totalled Kshs.25,212,440 over the budgeted figure of Kshs.3,838,360. No evidence has been produced to the effect that the over expenditure had been approved by the parent Ministry and Treasury as required by Section 12 of State Corporations Act.

The Committee heard the evidence given by the Chief Executive that the financial performance of the Corporation continued to deteriorate in the year under review and that budget allocations were exceeded in five items leading to an excess of Kshs. 25,212,440 against a budgeted figure of Kshs. 3,838,360.

The Committee was informed that the deficit was attributable to decline in tea prices, increase in costs of production and non-receipt of government grants while over-expenditure was caused by insurance cover for 15 new pickups, rent and rates in respect of a house for a new Managing Director.

The Committee observed with concern that the Corporation did not obtain approval for the over expenditure from the relevant authorities.

The Committee recommends that the Chief Executive should seek post facto approval for the over expenditure from the Ministry of Finance.

2. APPROPRIATION OF LOAN PROCEEDS KSHS.223,356,690

During the year under review, the Corporation received an African Development Fund on-lent loan of Kshs.143,356,710, (1994/95) received Kshs.79,999,980 towards Nyayo Tea Zones Development and Forest Conservation Project. Verification as to whether the loan was used according to the agreement revealed cases of

misapplication of funds and other discrepancies of which the following are significant:

2.1 Management Consultancy Fees

In January 1995, the Corporation hired the services of consultant to undertake consultancy services in Agronomy, Forestry, Management, Planning and Budget, Soil Conservation, Monitoring and Evaluation and Management Information Systems. The Agreement does not quote the contract sum except for a summary of annual costs appended on the agreement totalling US dollars 1,491,619 or Kshs.81,889,883 against which a total of Kshs. 21,598,205 had been paid as at 30th June 1996. In addition, the post Balance Sheet audit revealed that Kshs.42,454,296.85 had been paid to the Consultant as at 30 June, 1997. Additional information received indicates that the consultant who was expected to advise as per the contract arrived much later when the Corporation had already procured and used the projects inputs, equipment and tools. Consequently the Consultant's advise was not of much use to the Corporation and the fees would appear exorbitant. I am, therefore, unable to confirm the propriety of Kshs.42,454,296 (19% of loan proceeds) incurred on a management consultancy.

2.2 Supply of Fertilizers

It was observed that the delivery of fertilizers of various types to zones were done in unsatisfactory manner resulting into the following unexplained discrepancies:-

(a) 702 bags of NPK fertilizers which had been issued to Kericho Tea zones were not accounted for.

(b) No information was provided to account for 30 bags of NPK fertilizer purportedly issued to an individual.

(c) 62 bags of DAP - 18-46-0 fertilizers which is used in tree seedling Nurseries was instead issued to Nyangores Tea Zones for tea top dressing.

(d) 10 bags of DAP - 18-46-0 issued to Kakamega Tea Zones from Kericho Regional Office appear not to have been received.

The Committee heard the evidence given by the Chief Executive and was informed that the Corporation signed an agreement with a consulting firm, Kamfor Company and Deloitte Haskins and Sells, to provide consulting services on Agronomy, Forestry, Soil

Conservation and Management Information systems among others and that by the time consultants arrived the Corporation was receiving farm inputs and equipment and the consultants were therefore able to advise on their application.

The Committee heard that: -

(i) **the contract sum for the consultancy was US dollars 1,364,327 quoted on the first page of the contract documents;**

(ii) **702 bags of fertilizers delivered to Kericho Tea Zone could not be accounted for and that the matter has been reported to DCIO Kericho, for investigation;**

(iii) **30 bags of NPK fertilizer issued to a Mr. David Korir, could not be accounted for and the case has been reported to the police.**

The Committee expressed grave concern that the Management of the Corporation had shown laxity in handling the cases of bags of fertilizers, which could not be accounted for, to date.

The Committee recommends that the Chief Executive should follow up the cases in respect of lost fertilizers with the police and ensure that the culprits are arrested and arraigned in court.

3. PURCHASE OF FURNITURE AND FITTINGS FOR THE MANAGING DIRECTOR'S HOUSE

The Corporation purchased 3 items of furniture and fittings for the Managing Director's House for 430,500.00. Subsequent Audit Verification revealed the cost should have been Kshs. 109,000 thereby occasioning an apparent discrepancy of Kshs. 321,500, which has not been explained.

The Committee heard the evidence given by the Chief Executive that on 22nd January 1996, the Corporation bought furniture and fittings for the Managing Director's house from M/s. Victoria Furniture and M/s. Kurji Karsanji at a cost of Kshs. 430,500 and received in stores through counter receipt vouchers No. 07753 and No. 0775 respectively.

The Committee noted that the stores were taken on charge thereby resolving the audit query.

4. SUPPLY OF DIAL WEIGHING SCALES

The Corporation invited tenders for supply of 162 Dial Weighing Scales and ten (10) firms responded The Technical Evaluation Committee recommended the lowest tenderer at Kshs 9,056 per unit subject to calibration of the sample by the Department of Weights and Measures. However, the management reclassified four firms, short listed three and awarded the tender to a different company to supply 162 scales at Kshs. 16,250 each Later, citing the period of supply, the Board in their meeting of 20th December, 1995 re-awarded the tender to yet a third company to supply 102 scales at Kshs 16,250 each. However, when LPOs were issued, one was issued to the second company to supply 60 scales at Kshs 16,250 each while the other was issued to the third company to supply 102 scales at Kshs. 26,692.25. Had the scales been supplied by the lowest bidder as recommended by the Technical Evaluation Committee, the Corporation would have saved Kshs 2,230,512 on this deal. In the circumstances, I am unable to confirm that the Corporation received value for the money spent.

The Committee heard the evidence given by the Chief Executive that the Corporation purchased 162 Dial weighing Scales from two firms, and that the lowest tenderer M/s. Faceline Investment was rejected as it presented non-calibrated and non-commercial samples.

The Committee was informed that:-

(i) m/s. Salbrave scales was awarded tender to supply 102 Dial Weighing Scales at Kshs. 16,250 each but only supplied 60 when some of the scales become faulty;

(ii) m/s. Univa Agencies was to supply 102 weighing scales of 100kg capacity at Kshs. 26,692.65 (5% discount).

The Committee expressed concern that the procurement of the dial weighing scales was done in a most dissatisfactory manner.

The Committee recommends that the Chief Executive should carry out a thorough investigation as to why M/s. Univa Agencies was awarded tender to supply 102 dial weighing scales at Kshs. 26,692.65 instead of M/s. Salbrave scales at Kshs. 16,250 per unit and disciplinary action meted against the officers who breached procurement procedures.

5. MANAGEMENT CONTRACT

The Corporation entered into management contract with a Company in similar line of business carried out by the Corporation, to act as Managing Agent of the tea zones in Nandi and Kakamega districts from 1st April, 1993 to 31st March 1996 at a monthly fee of Kshs 46,666 and thereafter at a management fee calculated at 2 1/2% of gross turnover from the plantations. It was noted from the accounts for the year under review that transport operating and security attributable to the managing Agent were 46% and 73% respectively of the total expenditure for the Corporation.

The cost of the two items would therefore, appear exorbitant and under the circumstances, I am unable to confirm the propriety of the expenditure.

The Committee heard the evidence given by the Chief Executive that the Corporation entered into a management contract with M/s. George Williamson Ltd to manage Nandi and parts of Kakamega tea zones and the Agent charged higher security rates as it had to provide security surveillance to nurseries and planted sites.

The Committee further heard that the Agent charged costs that covered both green leaf transport and supervision costs.

The Committee noted that the contract had since been terminated.

6. SALE OF LAND AND TEA BUSHES

During the year under review the Corporation disposed of part of its land together with the bushes in Kericho measuring 372.83 hectares to a Co-operative Society in the same district in what the Board describes as privatisation of the area.

However, information available indicates that the Corporation was not listed by Parastatal Reform Programme Committee for privatisation during the year. Further, the sale was effected prior to the government approval. In addition, although it was indicated that the disposal had a Board of Directors approval, examination of Board minutes revealed that the Board was informed of the intention to dispose of land and then asked to pass a resolution to dispose. Moreover, documents made available for audit verification indicate that the Ministry of Lands valuation of the Land/Tea bushes was

Kshs. 66,400,000 whereas the Corporation disposed of the property at Kshs. 38,438,000.

In view of the above, I am unable to confirm that the sale of the Land/Tea Bushes was done in accordance with either the State Corporations Act or the guidelines and that the Corporation received fair value for the property.

The Committee heard the evidence given by the Chief Executive that the Corporation disposed of part of its land together with tea bushes at Saosa, LR. No. 20629; Tentwet LR. No. 20597 and Cheronget/Marmar LR. No. 20630 in Kericho District to M/s. Kericho Multipurpose Co-operative Society for Kshs. 38,438,000.

The Committee further heard that: -

(i) before the three parcels of land were sold, the Chief Government valuer had valued it at Kshs. 66,400,000 for both land and tea bushes, and that on 13th July, 1995 the parcels were transferred to the settlement trustees on freehold tenure;

(ii) the three parcels of land which were hitherto in the forest were degazetted by the Ministry of Environment and Natural Resources vide the Kenya Gazette Notice No. 867 dated 24th February, 1995;

(iii) the sale was effected before approval of government was obtained.

The Committee expressed concern that the Corporation did not receive a fair value for the property.

The Committee recommends that the Corporation should demand an amount of Kshs. 27,962,000 being the value of land from M/s. Kericho Multipurpose Cooperative Society, failure to which the land should revert to the Corporation by December 31st, 2006.

7. CASH AND BANK BALANCES

a. Accuracy of Bank Balances

Included in the Balance Sheet Cash and Bank Balances amount of Kshs. 72,231,068 is a favourable Current Account Balance figure of Kshs. 853,611. However, the available Bank Reconciliation Statement

indicates an overdrawn cashbook balance of Kshs. 7,289,846. There is, therefore, an unexplained difference of Kshs. 8,143,457 between the two figures, which should normally agree. Consequently I am unable to form an opinion as to what the difference represents and the effect it may have on the accuracy of the financial statements.

b. Unsupported Payments

Further examination of the Bank Reconciliation Statement figure of Kshs. 7,289,846 showed an added back figure of Kshs. 3,022,030 which in turn included payments totalling Kshs. 2,866,044.15 which were neither reflected in the cash book nor supported by any documents. In addition the Corporation has not been able to explain the nature of payments totalling Kshs. 1,271,306 appearing in the Bank Statement and unsupported by any voucher. In the circumstance, I am unable to confirm the propriety of such payments.

The Committee heard the evidence given by the Chief Executive that the difference of Kshs. 8,143,457 between the Bank and Cash Book Balance was due to uncleared effects which were addressed in the 1996/97 Accounts and necessary adjustments made.

The Committee was informed that the added back figure of Kshs. 3,022,030 included payments totalling Kshs. 2,866,444.15 which had not been reflected in the cash book and that the unsupported amount of Kshs. 1,114,627.25 was recovered in September 1999 and necessary adjustments made thereby resolving the audit query.

8. WORK IN PROGRESS

In the report for 1994/95 reference was made to expenditure against work in progress of Kshs. 3,771,141 which represented payments made to a contractor to erect 15 office blocks and 30 category "G" timber prefabricated units at a contract sum of Kshs. 8,283,500. Information made available indicate that the contract was later terminated and that the amount included payment for materials not delivered by the contractor. A review of the position during the year ended 30 June, 1996 indicates un changed situation in that the expenditure against work in progress of Kshs. 23,771,141 is still reflected in the Balance Sheet Fixed Assets figure of Kshs. 27,442,470. Documents to show the proportionate recovery of the amount paid to the contractor for materials not delivered/work not done, have not been produced for audit examination.

The Committee heard the evidence given by the Chief Executive that the Corporation during the year under review, the Corporation's Fixed Assets figure of Kshs. 27,442,470 included an amount of Kshs. 23,771,141 as work in progress for which Kshs. 3,771,141 had been paid to a contractor, M/s. Muturi Construction Company for works not done.

The Committee also heard that the amount arose from a construction contract with the company, at contract fee of Kshs. 8,283,500 out of which materials worth Kshs. 3,771,141 were not delivered by the time the contract was terminated, and the Corporation won a case against the company in the High Court, which ruled that the company be wound up.

The Committee was informed that the Corporation has since engaged the services of a private investigator to conduct a second investigation on the assets of the company before going into its winding up process as decided by the court.

The Committee reiterates its earlier recommendation in the 11th report, page 68, that the Chief Executive should pursue the recovery of the money, using the most cost-effective way.

9. ESTABLISHMENT COST - KSHS. 247,497,100

As highlighted in the previous years' reports, the establishment cost of Kshs. 247,497,100 shown in the Balance Sheet as at 30th June 1996 does not include the value of land on which the tea is established. Although the tea is grown on government land, I have no information as to the understanding between the Corporation and the Government over the land. In the circumstances, I am unable to express an opinion as to whether or not the balance of Kshs. 247,497,100 establishment cost shown in the Balance Sheet after amortization of Kshs. 13,026,200 is a fair value of the tea farms established by the Corporation.

The Committee heard the evidence given by the Chief Executive that the value of land is not included in the establishment cost as the land the Corporation operates on is still part of the government gazetted forests and that following legal No. 30 of 2002 the Corporation could now acquire title deeds.

The Committee noted that the Corporation is liaising with the relevant government departments with a view to getting title deeds.

The Committee reiterates its earlier recommendation in the 11th Report page 67 that the Chief Executive should move expeditiously to obtain title deeds for the land where tea is planted.

10. UNSUPPORTED EXPENDITURE

In the reports for the years 1993/94 and 1994/95 reference was made to Kshs. 7,907,601 being part of the Establishment cost of Kshs. 80,695,112, which had not been accounted for. A review of the position in 1995/96 revealed that no action was taken to recover the unaccounted for amount of Kshs. 7,9077,601 from the officers responsible for the expenditure at the material time as recommended by the Public Investment Committee in its 5th report.

The Committee heard the evidence given by the Chief Executive that an amount of Kshs. 7,907,601 reflected expenditure that was still unaccounted for.

The Committee also heard that the Corporation has since handed over the matter to the Office of the President, as officers concerned were District commissioners.

The Committee reiterates its earlier recommendation in the 11th Report page 68 that the following then District Commissioners Messrs; Joel Waupari, Anthony Oyier, John Anguka, John Sala, P.K .Muruatetu, Francis Tilitei, S.K Limo and Paul Genga should be investigated by the Director of Criminal Investigations Department with a view to prosecuting them for misappropriation of public funds and recover the outstanding amounts.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOSPITAL INSURANCE FUND (NHIF) FOR THE YEAR ENDED 30 JUNE 1999

1. LONG-TERM INVESTMENTS

The financial statements reflect long term investments amounting to Kshs.54,200,000.00 consisting of 2,120,000 4% non cumulative preference share of Kshs.20 each and 590,000 ordinary shares of Kshs.20 each in the Consolidated Bank. As in the previous years, this investment yielded no returns during 1998/99 year as the bank reportedly did not make any profits. Under the circumstances, the stated value and the viability of the investment is doubtful.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Fund's Balance Sheet reflected long-term investments amounting to Kshs. 54.2 million held in Consolidated Bank of Kenya since 1990 consisting of non-cumulative and ordinary shares which had not yielded any returns and that the Fund anticipates receiving the funds in the future.

The Committee also heard that the Fund made an investment of Kshs. 600,000,000 in the same bank for which the Fund has received Kshs. 404,000,000 together with its interest income of Kshs. 12,373,465.75.

The Committee was also informed that since the Bank could not honour its obligations to redeem the investments, the Fund had since commenced acquisition of Contrust House from the Bank at a cost of Kshs. 150 million in a bid to offset the debt.

While noting that acquisition of Contrust House was made to safeguard the interest of the Fund, the Committee observed with concern that the cost of the building would appear to have been inflated so as to cover a large proportion of the Funds' balance with the Bank.

The Committee recommends that the Chief Executive should ensure that the balance of Kshs. 196 million continues earning interest at the 7.5 % as offered by the bank until the transfer of the building is concluded.

The Committee further recommends that the Chief Executive should ensure that any future investments of the Fund are made

in accordance with Treasury circulars and are based on prudent commercial practices.

2. SUNDRY DEBTORS AND PREPAYMENTS

The Sundry Debtors and Prepayments figure of Kshs.473,016,496 includes Kshs.174,359,634.00 in respect of interest receivable from investments in non performing financial institutions. The recoverability of this amount is doubtful and a provision for bad and doubtful debts should have been made in the financial statements.

The Committee heard the evidence given by the Chief Executive that the interest receivable of Kshs. 174,359,634 was from non-performing financial institutions and whose recoverability was doubtful and that the Fund has since written off the amount and provided for the same as bad and doubtful debts in the Accounts of 1999/2000.

The Committee recommends that the Fund should always prepare its accounts in accordance with International Accounting Standards.

3. CONSTRUCTION OF MEDICARE PLAZA

In 1997, NHIF entered into an agreement with a contractor who was second lowest tenderer for the erection and completion of Medicare Centre at a total contract sum of Kshs.1,483,000,030.65. The project commenced on 25 September 1997 and was to be completed by 14 April 2001. However, the original contract sum was revised from Kshs.1,483,000,030.65 to Kshs.1,798,821.20 as at 30 June 1999 and has since continued to be varied upwards to stand at Kshs.2,796,510.30 as at 30 June 2002 even though the building has not been completed to date. It is not clear why the contractor has delayed to complete the project while costs continue to escalate. Further, no action appears to have been taken by the NHIF despite apparently flagrant breach of contract terms by the contractor.

The Committee heard the evidence given by the Chief Executive that the Fund awarded tender for erection and completion of Medicare Centre to N.K. Brothers Ltd at a total contract sum of Kshs. 1,483,000,030.65 after a competitive bidding process and that the contractor was commissioned on 18th September 1997 and expected completion time was 15th April, 2001.

The Committee was informed that: -

(i) **the project cost was estimated at Kshs. 1,762,000,000 and that the successful bidder, N.K. Brothers Ltd was 15.83% below the engineers' estimate;**

(ii) **the original contract sum was revised through financial appraisals prepared by consultants and the Ministry of Roads and Public Works and approved by the Board;**

(iii) **the variations of the contract sum were occasioned by:**

(a) **Statutory and contractual obligations – Kshs. 356,554.30 (or 24% of the original contract sum) which includes among others – 'el-nino' weather phenomenon Kshs. 36,994,723.28.**

(b) **Contractual claims for losses and expenses –Kshs. 697,837,684.90 (or 21% of the original contract sum).**

(c) **Changes due to new proposals and additional operational requirements – Kshs. 342,997,025.75 or 23% o the original contract sum.**

(d) **Design and specification changes occasioned by technological advancements – Kshs. 408,379,322.40 (or 27 1/2 % of the original contract sum.**

(iv) **the delay in completion time was caused by extremely hard rock, El-Nino and La-Nina weather phenomenon, additional works, delayed approval of work and delayed payments on the contract;**

(v) **to date, an amount of Kshs. 4,280,438,740 has been spent on the contract, being Kshs. 3,279,226,690 to the contractor and Kshs. 1,001,212,050 to the following consultants respectively;**

(a) **Womi Associates – Kshs. 258,239,750.36;**

(b) **Design (interior designs) – Kshs. 84,456,567.40;**

(c) **Ujenzi Consultants – Kshs. 196,364,622.22;**

(d) **Kaigutha, Chepkwony & Partners – Kshs. 45,606,945.70;**

(e) **Kinyua Koech Agencies – Kshs. 7,800,000.00;**

(f) **Friscan Management Project Managers - Kshs. 168,617,186.71.**

(vi) **the Ministry of Roads and Public Works is preparing the relevant completion documentation including final accounts;**

(vii) **the Ministry of Roads and Public Works engineers, project architects, M/s. Womi Associates and Quantity Surveyors, M/s. Ujenzi Consultants provided technical expertise while S.R. Manga and Associates were structural and Civil Engineers;**

(viii) **some of the consultants were appointed in disregard of legal stipulations as agreed between the Chief Architect and the Lead Consultant, M/s. Womi Associates while some payments were made prior to certificates being signed by the lead architect;**

(ix) **at some point the lead consultant failed to discharge his duty forcing the client to issue instructions on site and that in the course of the project the Ministry of Roads and Public Works were not consulted in a number of decisions made on the project**

The Committee expressed concern that: -

(i) **the cost of the project which was estimated at Kshs. 1,762,000,000 had almost tripled in the cost, with the contractor who had quoted Kshs. 1,483,000,030.65 having been paid Kshs. 3,279,226,690 by 6th May 2005;**

(ii) **the justification for some of the reasons for variation of contract sum are unconvincing as they were foreseeable particularly the hard rock and price escalations due to economic factors;**

(iii) **the project was handled in most unsatisfactorily manner and this was the most imprudent investment ever made;**

(iv) the parent Ministry and the Ministry of Finance failed in their fiduciary duty to control and supervise the Fund in the implementation of the project. The Committee noted that the parent Ministry was represented in all the meetings where variations were approved while Treasury continued approving the budget without questioning the excessive expenditure on the project;

(v) the Lead Consultants, M/s. Womi Consultants were hired despite their past poor record, exhibited difficulties in their dealings with the Fund, had no office and appears to have been a "brief-case consultant". In the sixth Report of the PIC, the M/s. Womi Associates had been accused of conspiracy and fraud, by participating in irregular variation of a contract to partition offices of the National Council for Science and Technology from Kshs. 5,388,520 to Kshs. 26,946,467 in 1993;

(vi) blasting of the hard rock could not have been a factor for delay, and/or contract price variation as the contractor was not limited to drill and blast more than ten pits in a day and in any case by the time the Commissioner of Mines and Geology restricted blasting, most of the hard rock had been removed.

The Committee also expressed concern that:-

(i) the Ministry of Roads & Public Works were excluded from the project for a period of over one year and as a result the project was poorly executed as instructions were issued directly to the contractors by the Fund, sub-contractors appointed and valuation and certification of the works done without involving the Ministry.

(ii) the parent Ministry and the Treasury continued to approve budget of the Fund, which contained exaggerated variations without questioning the rationale behind them.

The Committee recommends that:-

(i) the Ministry of Roads and Public Works should carry out a technical audit on the whole project and evaluate the variations undertaken with a view to determining the reasons for the huge escalation of the project cost;

(ii) **the Director of Criminal Investigations Department should institute immediate investigations into the conduct and the manner in which the lead Consultant in the Medicare Project, M/s. Womi Associates conducted his duties with respect to the project with view to preferring criminal charges against Mr. Wanyonyi Muchanga and M/s. Womi Associates if found culpable;**

(iii) **M/s. Womi Associates and its Directors be prohibited from participating in and/or being awarded contracts by the government and its agencies; and**

(iv) **the Fund should, with immediate effect, refrain from contract price variations and where necessary, must obtain prior approval from the parent Ministry and the Treasury.**

4. FIXED DEPOSITS

During the year ended 30 June 1999 NHIF held fixed deposits totalling Kshs.63,000,000.00 in nine (9) non-performing financial institutions which were subsequently placed under receivership. Of this amount, NHIF has only managed to recover an amount of Kshs.8,590,778.00 from four (4) institutions in the form of dividends thereby casting doubt on the full recoverability of the outstanding deposits.

The Committee heard the evidence given by the Chief Executive that the Fund held fixed Deposits totalling Kshs. 63 million in 9 (nine) non-performing financial institutions, which were subsequently placed under receivership, and that it has since recovered a total of Kshs. 8,590,778 from M/s. Thabiti Insurance (1.8M), M/s. Ari Credit Finance (2.5M), M/s. Kenya Finance Bank (Kshs. 2.4M) and Pioneer Building Society (Kshs. 1.8M), while Kshs. 54,409,221 is still outstanding.

The Committee observed with concern that the investments were made in contravention of Treasury Circular No. 10 of July 15th 1992.

The Committee recommends that the Chief Executive should ensure that all future investments of the Fund are made in accordance with Treasury Circulars.

The Committee further recommends that the Chief Executive should follow up the recovery of the outstanding deposits with the respective liquidators and receivers.

5. IRREGULAR PROCUREMENT OF GOODS AND SERVICES

During the year 1998/99, the Fund made irregular procurement of goods and services as follows:

(a) On 19 October 1998 the Fund raised an LPO for the purchase of 13 Land Rovers all valued at Kshs.42,601,000.00 and paid the entire amount in advance. The Land Rovers were delivered in the months of March, April and May 1999 eight (8) months after the order and payments were made. The log books of the vehicles show two (2) vehicles as 1997 models and eight (8) vehicles as 1998 models while the delivery/acceptance certificate shows that all the vehicles were 1999 models. No satisfactory explanation has been given as to why the purchase price was paid up front before delivery and why there was discrepancy in the models.

(b) The Ministry of Health through the Permanent Secretary requested the Fund Management to contribute to an advertisement in the New York Times in July 1998 which was to carry a special supplement on Kenya of which a sizeable part of the supplement was to feature the Ministry of Health. As a result NHIF incurred expenditure of Kshs.2,596,135.00. However, the direct benefit to NHIF and its members could not be ascertained. Further there was no Board approval for the expenditure.

(c) Under the procurement regulations purchases of Kshs.2,000,000 and above should be sourced through open tendering method. NHIF however, awarded the contract for printing 2000 reams of NHIF 2 Forms at Kshs.2,810.00 per ream and 4000 reams of NHIF 25 Forms at Kshs.1,795.00 per ream all totaling to Kshs.12,800,000.00 through quotations. However,, forms valued at Kshs.8,423,000.00 appear not to have been delivered as they were not accounted for in Funds Stationery records. Although it has been indicated that the matter is under investigation by the Criminal Investigation Department the outcome of the investigation is not known. Under the circumstances, it has not been possible to confirm the propriety of the expenditure.

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

(i) the Fund purchased thirteen Land Rovers for a total of Kshs. 42,601,000 and paid the entire amount up front and that the vehicles were delivered 8 months later due

to delay in registration logistics occasioned by lack of Certificate of Incorporation and Pin Number, as the Fund had just turned into a parastatal;

(ii) inconsistency in their year of manufacture arose due to varied documentation at the Registrar of Motor vehicles and the fact that the vehicles were imported as CKD Kits and assembled (in bond) in 1999 by Kenya Vehicle Manufacturers and cleared from the bond a year later;

(iii) the Fund incurred a total of Kshs. 2,596,135 to contribute to an advertisement on the New York Times for which a sizable amount was devoted to the activities of the Ministry of Health, and that this was done after request by the parent Ministry on 12th June 1999 vide letter reference MIS/17/2/3 Vol. III (119).

(iv) during this time the Fund was partly being run by the Ministry of Health and that the Funds' Board did not approve the expenditure;

(v) the Fund, through inviting quotations and with recommendation of the Ministerial Tender Board contracted M/s. Derrtel Enterprises to print 2000 reams of NHIF 2 Forms and 2000 reams of NHIF 25 Forms at a total cost of Kshs. 12,800,000, and that only forms valued at Kshs. 8,423,000 were delivered, and that the Fund has since referred the matter to the Director of Criminal Investigations Department for investigation.

The Committee observed with concern that the Ministry of Health would appear to have compelled the Fund to sponsor the advertisement, which was not a core function of the Fund.

The Committee recommends that: -

(i) the Chief Executive should ensure that rules and regulations governing procurement of goods and services are adhered to; and

(ii) the Chief Executive should pursue the case of undelivered forms worth Kshs. 8,423,00 with the Director of Criminal Investigations Department to its conclusive end.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOSPITAL INSURANCE FUND FOR THE YEAR ENDED 30TH JUNE, 2000

1. ACCURACY OF THE ACCOUNTS - KSHS.29,762,019

The Fund's Balance Sheet as at 30 June 2000 did not balance and the resultant difference of Kshs. 29,762,019 was posted to a suspense account. The difference has not been fully identified and adjustment effected in the financial statements. Consequently it was not possible to determine the effect it may have on the accuracy of the financial statements.

The Committee heard the evidence given by the Chief Executive that the suspense account of Kshs.29,762,019 arose due to non-bringing forward of RD cheques amounting to Kshs.24,583,058 in 1999/2000 and the understating of Kshs.3,230,952 which represents interest on a contingent asset made to Standard Chartered Bank following dispute between the Fund and Shiv Construction Company.

The Committee further heard that the case in respect of the dispute, HCCC No. 193 of 1999 is pending in Court.

The Committee noted that prior year adjustments have been done in the subsequent financial years.

The Committee expressed concern that the case had taken inordinarily long to be concluded thereby affecting the operations of the Fund in respect of the same.

The Committee recommends that the Chief Executive should follow case HCCC No. 193 of 1999 to its conclusive end.

The Committee further recommends that the Fund should maintain proper books of accounts and reconcile its financial statements as provided for by Law.

2. LONG TERM AND SHORT-TERM INVESTMENTS KSHS.54,200,000

The Balance Sheet as at 30 June 2000 reflects Kshs. 5,200,000.00 in respect of long-term investments consisting of 2,120,000 4% non-cumulative preference shares of Kshs. 20.00 each, which were invested in Consolidated Bank in 1990. As previously reported these shares did not yield any returns reportedly because the Bank has not

made any profits or declared dividends. Under the circumstances the viability of these investments is in doubt.

2.1 SHORT TERM INVESTMENTS

The balance Sheet figure of Kshs 3,614,985,399 in respect of short-term investments does not tally with the supporting schedule figure of Kshs. 4,289,542,626 resulting in a difference of Kshs. 674,557,227. Although it has been explained that an amount of Kshs. 563,437,500 out of the difference relates to a provision for deposits in non-performing financial institutions, the remaining balance of Kshs. 111,119,727 has not been explained. Consequently, it has not been possible to confirm the correctness of the balance of Kshs. 3,614,985,399 short term investments as at 30 June, 2000.

The Committee heard the evidence given by the Chief Executive that the Fund's Balance Sheet reflect long-term investment amounting to Kshs.54,200,000 held in Consolidated Bank of Kenya since 1990 as both non-cumulative preference shares and ordinary shares.

The Committee was informed that the investments were not directly made in the Consolidated Bank of Kenya but were as a result of conversion of investments in five financial institutions, which were later merged to form Consolidated Bank of Kenya

The Committee was also informed that the balance of Kshs.111,119,717 in the short term investments was as a result of an error in the schedule presented in the accounts as the net investments in National Bank of Kenya was Kshs.830,855,899 and not Kshs.941,975,616 as reflected in the schedule.

The Committee reiterates its earlier recommendation in the 12th Report that :-

(i) the Chief Executive should ensure that any future investments of the Fund are based on prudent commercial practices; and

(ii) the Chief executive should continue to pursue the deposits until all the balance is recovered.

3. DEBTORS

The debtors figure of Kshs. 283,702,532.00 as at 30 June, 2000 includes interest receivable amounting to Kshs. 164,229,726.00 from sixteen (16) non-performing financial institutions as indicated below: -

Financial Institution	Interest Receivable Kshs.
Equity Building Society	1,390,105.00
Home Loan Building Society	1,254,863.00
Family Finance Building Society	13,182,290.00
Middle Africa Finance	7,860,274.00
Thabiti Finance	54,998,650.00
Trade Bank	1,181,584.00
Country Building Society	3,021,497.00
Rural Urban credit	771,892.00
Continental Credit Finance	3,693,204.00
Intra Africa Finance	1,983,970.00
Indo Africa Finance	14,170,410.00
Nairobi Finance Corporation	4,225,391.00
Trade Finance Limited	8,920,349.00
Ari Credit Finance	12,310,000.00
Kenya Finance Bank	8,897,534.00
Heritage Bank	26,376,712.00
Total	**Kshs. 164,229,726.00**

These financial institutions have been ailing for many years and the recovery of above amounts remains doubtful. Consequently a provision for bad and doubtful debts ought to have been made in the financial statements.

The Committee heard the evidence given by the Chief Executive that the debtors figure of Kshs.283,702,532 includes interests receivable amounting to Kshs.164,229,726 from non-performing financial institutions and that recoveries of interest remains doubtful.

The Committee was informed that the Fund provided for the doubtful debt.

The Committee recommends that the Chief Executive should pursue the recovery of the Kshs. 164,229,726 from the liquidators of the collapsed financial institutions.

4. MISSING PAYMENT VOUCHERS - KSHS.86,810,410.80

During the year under review, the Fund did not produce payment vouchers totalling Kshs. 86,810,410.80 for audit review. In absence of the original vouchers, the propriety of the expenditure of Kshs. 86,810,410 80 could not be determined.

The Committee heard the evidence given by the Chief Executive that the Fund did not produce payment vouchers totalling Kshs.86,810,410.80 as the vouchers had been collected by the then Kenya Anti-Corruption Authority and had not been returned by the time of Audit.

The Committee recommends that the Chief Executive should retrieve the missing payment vouchers from the Kenya Anti-Corruption Commission and have the vouchers forwarded to the Controller and Auditor General for reconciliation by 30th September 2006.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL HOSPITAL INSURANCE FUND (NHIF) FOR THE YEAR ENDED 30 JUNE 2001

1. LONG TERM INVESTMENTS

The Balance Sheet as at 30 June 2001 reflects investments in equity of Kshs. 54,200,000 consisting of 2,120,000 – 4% non cumulative shares of Kshs. 20 each and 590,000 ordinary shares of Kshs. 20 each held at the Consolidated Bank, which have not yielded any returns since they were acquired in 1990. Further, included in the current investments balance of Kshs. 3,007,246,039 is a short term investment of Kshs. 600,000,000 placed with the same bank in 2000/2001 notwithstanding the fact that the investments in equity referred to above had not realised any returns since 1990. Information available indicates that Kshs. 402,000,000 with an interest income of Kshs. 12,373,465.75 has been redeemed and has been received and that the Fund has been offered one building, Contrust House to offset the outstanding deposits. However, this process has not been completed. Consequently it was not possible to confirm the fate of the investments and deposits at the Consolidated Bank.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Fund's Balance Sheet reflected long-term investments amounting to Kshs. 54.2 million held in Consolidated Bank of Kenya since 1990 consisting of non-cumulative and ordinary shares which had not yielded any returns.

The Committee also heard that the Fund made an investment of Kshs. 600,000,000 in the same bank for which the Fund has received Kshs. 404,000,000 together with its interest income of Kshs. 12,373,465.75.

The Committee was informed that the investments were as a result of conversion of investments in five financial institutions that were merged under government directive into the Consolidated Bank of Kenya for which the Fund is a shareholder and anticipates receiving funds in future.

The Committee was also informed that since the Bank could not honour its obligations to redeem the investments, the Fund had since commenced acquisition of Contrust House from the Bank at a cost of Kshs. 150 million in a bid to offset the debt.

While noting that acquisition of Contrust House was made to safeguard the interest of the Fund, the Committee observed with concern that the cost of the building would appear to have been inflated so as to cover a large proportion of the Funds' balance with the Bank.

The Committee recommends that Chief Executive should ensure that the balance of Kshs. 196 million continues earning interest at the 7.5 % as offered by the bank until the transfer of the building is concluded.

The Committee further recommends that the Chief Executive should ensure that any future investments of the Fund are made in accordance with Treasury circulars and are based on prudent commercial practices.

2. **PURCHASE OF HOUSING UNITS LR.209/5846**

During the financial year 1998/99, the fund purchased forty three (43) maisonettes and five (5) shops in South "B" Estate from Prudential Society at a cost of Kshs. 228,500,000 and fully paid the purchase price. However, the contractor who was on site refused to hand over the Housing Units to the NHIF on the grounds that a final payment of Kshs. 15,856,517,50 had not been settled by the Society including the cost of security of Kshs. 1,526,000 provided at the site as at the time of purchase. A legal tussle ensued and the NHIF was obliged to deposit Kshs. 20,613,471 in an interest earning Fixed Deposit Account until the suit was determined. The Fund further incurred expenditure of Kshs. 4,059,101 being payment to a firm for providing burglar proof doors and windows to the houses. The burglar proof doors and windows were however procured on single sourcing basis and it was not therefore possible to confirm that the Fund obtained value for money for this purchase. The court case is still pending in court and its outcome is not known. Consequently the effect of the outcome of the case on this particular transaction on the Fund accounts is not known.

The Committee heard the evidence given by the Chief Executive that the Fund, during the Financial year 1998/99 purchased forty three (43) housing maisonettes and five (5) shops in Nairobi's South "B" Estate from Prudential Building Society at a cost of Kshs. 228,500,000 and that the contractor, M/s. Shiv Construction Company declined to hand over the Housing Units as at the time of acquiring the property, Prudential Building Society owed the Contractor a total of Kshs. 17,482,517.50, which he demanded.

The Committee was informed that the Fund filed a suit in the High Court, HCC No. 1937 of 1999 seeking an injunction to compel the contractor to hand over the possession, and therefore the Fund, on order of the court deposited Kshs. 20,613,471 in an interests earning Fixed deposit Account being principle plus interest as security to the contractor's debt. The Fund hence acquired possession of the houses, and the case is still ongoing.

The Committee was also informed that the Fund sourced and contracted M/s. Alson Enterprises, a sub-contractor that was on site at the time of acquiring the property to provide burglar proof facilities at the entire estate at a cost of Kshs. 4,059,101 to avoid further loss as the property was being vandalized.

The Committee noted that:

(i) although it was understandable that the Fund made the expenditure to safeguard its investments in Prudential Building Society, which was facing financial difficulties at the time, the investment was, nevertheless, outside the core business of the Fund; and

(ii) the five shops do not generate income to the Fund

The Committee recommends that: -

(i) the Chief Executive should ensure that future investments of the Fund are conducted in accordance with sound business principles and in accordance with Treasury circulars and that any member of staff or the Board of the Fund who contravenes Treasury circulars on investments should be dismissed from the service and surcharged any costs and incidentals therefrom;

(ii) the Chief Executive should exhaustively pursue the HCC No. 1937 of 1999 against M/s. Shiv Construction Company and ensure that the interests of the Fund are safeguarded.

3. RENOVATION OF STAND AT NAIROBI ASK SHOW

During the year under review, NHIF awarded a contract for the renovation of its stand at Nairobi International Show to the highest bidder at a contract sum of Kshs. 1,600,000. The bidder was amongst the seven firms, which quoted for the job ranging from the lowest at Kshs. 130,000 to the highest at Kshs. 1,600,000.

Although records show that the total contract sum was paid, a visit at the site revealed that some works valued at Kshs. 950,459 had not been done as indicated below:

Filling cracks on the walls of the pavilion	36,000
Painting of Exhibition Stand	475,000
Landscaping and portable chair stand	375,015
Construction of wooden wall	64,404
Total	**950,459**

No explanation has been given for the payment of the full contract sum when works valued at Kshs. 950,459 had not been completed.

Further information indicates that NHIF paid another firm Kshs. 1,321,429.80 for partitioning and burglar proofing of the show stand pavilion offices. The contract between the firm and NHIF was, however, not produced for audit review. It was therefore not possible to confirm the exact nature and value of the work the firm was expected to do so as to match this with the cost of the contract. In view of the above observations, it was not possible to ascertain the propriety of expenditure on the stand at ASK Nairobi Show Ground.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Fund, after inviting quotations and evaluating seven responsive firms, awarded M/s. Marechoge Images, the highest bidder, a contract to renovate its stand at Nairobi ASK Show at a sum of Kshs. 1,600,000.

The Committee also heard that: -

(i) the contractor carried out the works as agreed and that by the time of carrying out the audit, most evidence on the works done had faded while some aspects of the Construction had been modified;

(ii) m/s. Baseline Architects Consultants were identified and commissioned by Ministry of Roads and Public Works, vide

letter ref A6.01 Vol. X/24 dated 24th March 1998, to offer professional service with respect to Design, Tender Documents and Supervision of the Construction of NHIF Show Pavilion at Nairobi Show Ground. This occurred when NHIF was a Department of Ministry of Health.

(iii) baseline Architects sub-contracted M/s. Costwise Associates to provide them with Bills of Quantities for the partitioning, Burglar Proofing, Fittings and Furnishings under their contract. Upon completion and presentation of Bills of Quantities to NHIF, Baseline Architects requested NHIF who agreed to make direct payments of Kshs. 1,323,490.50 to Costwise Associates.

The Committee observed with concern that the Fund flouted procurement procedures while awarding the contracts. The Committee was also dismayed that the Fund did not enter into formal contracts with the two firms prior to commencement of the works.

The Committee recommends that Government procurement procedures should be followed in procurement of goods and services at the Fund.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOSPITAL INSURANCE FUND (NHIF) FOR THE YEAR ENDED 30 JUNE 2002.

1. SHORT TERM INVESTMENTS

Include in the short term investments balance of Kshs. 3,094,475,371.00 as at 30 June 2002 are short term deposits amounting to Kshs. 479,499,755.00 held in a privately owned bank (i.e. M/S. Euro Bank) and Kshs. 600,000,000.00 invested in the Consolidated Bank of Kenya contrary to treasury Circulars and directives which provided that surplus funds be placed in treasury Bills/ Bonds or prior government approval be obtained for investments elsewhere. Further, as reported in the previous year, excluded from the short term investments Balance Sheet figure of Kshs. 3,094,475,371.00 is a provision of Kshs. 750,696,897.00 against investments which were held in non performing financial institutions for which no Treasury authority had been sought. The recoverability of these deposits cannot be ascertained, particularly in the Euro Bank case pending in Court whose outcome has not been determined.

The Committee heard the evidence given by the Chief Executive that the Fund's investments Balance Sheet included an amount of Kshs. 479, 499,755 held in M/s. Euro Bank and Kshs. 750,696.897.00 was a provision for investments held in non-performing financial institutions, which was written off.

The Committee was informed that: -

(i) the figure of Kshs. 479,499,755 represented amounts invested in Euro Bank (under liquidation) and that the Bank collapsed with the Fund's deposits and that a case is in court on the investments;

(ii) the Fund made an investment of Kshs. 600,000,000 in the Consolidated Bank for which the Fund has received Kshs. 404,000,000 together with its interest income of Kshs. 12,373,465.75. The Committee was informed that the investments were as a result of conversion of investments in five financial institutions that were merged under government directive into the Consolidated Bank of Kenya for which the Fund is a shareholder and anticipates receiving funds in future;

(iii) since the Bank could not honour its obligations to redeem the investments, the Fund had since commenced acquisition of Contrust House from the Bank at a cost of Kshs. 150 million in a bid to offset the debt. While noting that acquisition of Contrust House was made to safeguard the interest of the Fund, the Committee observed with concern that the cost of the building would appear to have been inflated so as to cover a large proportion of the Funds' balance with the Bank;

(iv) the then Chief Executive Mr. Ibrahim Hussein and Chairperson Dr. Jennifer Riria allowed and gave a guarantee for an overnight lending of Kshs. 49,500,000 to M/s. Euro Bank from the Consolidated Bank as the former was facing financial difficulties and that Euro Bank failed to honour the same. The Fund had forwarded the case to the Head of Civil Service for necessary action.

The Committee was informed that the Director of the Kenya Anti-Corruption Commission had commenced investigations into the matter of the overnight lending to M/s. Euro Bank Ltd.

The Committee recommends that: -

(i) future investments of the Fund are made in accordance wit Treasury circulars and are based on prudent commercial practices;

(ii) the Chief Executive should pursue the case of the investments made to M/s. Euro Bank (Ltd) to its conclusive end; and

(iii) the Director of Criminal Investigations Department should institute investigations into the manner in which the then Fund's Chairperson and Managing Director Messrs Jennifer Riria and Ibrahim Hussein authorised the overnight lending to M/s. Euro Bank with a view to preferring appropriate criminal charges against them.

2. CONSTRUCTION OF MEDICARE PLAZA

In 1997, NHIF entered into an agreement with a contractor who was second lowest tenderer for the erection and completion of Medicare Centre at a total contract sum of Kshs.1,483,000,030.65. The project commenced on 25 September 1997 and was to be completed by 14 April 2001. However, the original contract sum was revised from Kshs.1,483,000,030.65 to Kshs.1,798,821.20 as at 30 June 1999 and has since continued to be varied upwards to stand at Kshs.2,796,510.30 as at 30 June 2002 even though the building has not been completed to date. It is not clear why the contractor has delayed to complete the project while costs continue to escalate. Further, no action appears to have been taken by the NHIF despite apparently flagrant breach of contract terms by the contractor.

The Committee heard the evidence given by the Chief Executive that the Fund awarded tender for erection and completion of Medicare Centre to N.K. Brothers Ltd at a total contract sum of Kshs. 1,483,000,030.65 after a competitive bidding process and that the contractor was commissioned on 18th September 1997 and expected completion time was 15th April, 2001.

The Committee was informed that: -

(i) the project cost was estimated at Kshs. 1,762,000,000 and that the successful bidder, N.K. Brothers Ltd was 15.83% below the engineers' estimate;

(ii) the original contract sum was revised through financial appraisals prepared by consultants and the Ministry of Roads and Public Works and approved by the Board;

(iii) the variations of the contract sum were occasioned by:

(a) **Statutory and contractual obligations – Kshs.356,554.30 (or 24% of the original contract sum) which includes among others – 'el-nino' weather phenomenon Kshs. 36,994,723.28.**

(b) **Contractual claims for losses and expenses – Kshs.697,837,684.90 (or 21% of the original contract sum).**

(c) **Changes due to new proposals and additional operational requirements – Kshs. 342,997,025.75 or 23% o the original contract sum.**

(d) **Design and specification changes occasioned by technological advancements – Kshs. 408,379,322.40 (or 27 1/2 % of the original contract sum.**

(iv) the delay in completion time was caused by extremely hard rock, El-Nino and La-Nina weather phenomenon, additional works, delayed approval of work and delayed payments on the contract;

(v) to date, an amount of Kshs.4,280,438,740 has been spent on the contract, being Kshs. 3,279,226,690 to the contractor and Kshs.1,001,212,050 to the following consultants respectively;

(a) Womi Associates – Kshs. 258,239,750.36;

(b) Design (interior designs) – Kshs. 84,456,567.40;

(c) Ujenzi Consultants – Kshs. 196,364,622.22;

(d) Kaigutha, Chepkwony & Partners – Kshs. 45,606,945.70;

(e) Kinyua Koech Agencies – Kshs. 7,800,000.00;

(f) Friscan Management Project Managers - Kshs. 168,617,186.71.

(vi) the Ministry of Roads and Public Works is preparing the relevant completion documentation including final accounts;

(vii) the Ministry of Roads and Public Works engineers, project architects, M/s. Womi Associates and Quantity Surveyors, M/s. Ujenzi Consultants provided technical expertise while S.R. Manga and Associates were structural and Civil Engineers;

(viii) some of the consultants were appointed in disregard of legal stipulations as agreed between the Chief Architect and the Lead Consultant, M/s. Womi Associates while some payments were made prior to certificates being signed by the lead architect;

(ix) at some point the lead consultant failed to discharge his duty forcing the client to issue instructions on site and that in the course of the project the Ministry of Roads and Public Works were not consulted in a number of decisions made on the project

The Committee expressed concern that: -

(i) the cost of the project which was estimated at Kshs. 1,762,000,000 had almost tripled in the cost, with the contractor who had quoted Kshs. 1,483,000,030.65 having been paid Kshs. 3,279,226,690 by 6th May 2005;

(ii) the justification for some of the reasons for variation of contract sum are unconvincing as they were foreseeable particularly the hard rock and price escalations due to economic factors;

(iii) the project was handled in most unsatisfactorily manner and would appear to be the most imprudent investment ever made by a state corporation;

(iv) the parent Ministry and the Ministry of Finance failed in their fiduciary duty to control and supervise the Fund in the implementation of the project. The Committee noted that the parent Ministry was represented in all the meetings where variations were approved while Treasury continued approving the budget without questioning the excessive expenditure on the project;

(v) the Lead Consultant, M/s. Womi Associates were hired despite their past poor record, exhibited difficulties in their dealings with the Fund, had no office and appears to have been a "brief-case consultant". In the sixth Report of the PIC, the M/s. Womi Associates had been accused of conspiracy and fraud, by participating in irregular variation of a contract to partition offices of the National Council for Science and Technology from Kshs. 5,388,520 to Kshs. 26,946,467 in 1993;

(vi) blasting of the hard rock could not have been a factor for delay, and/or contract price variation as the contractor was not limited to drill and blast more than ten pits in a day and in any case by the time the Commissioner of Mines and Geology restricted blasting, most of the hard rock had been removed.

The Committee also expressed concern that:-

(i) the Ministry of Roads & Public Works were excluded from the project for a period of over one year and as a result the project was poorly executed as instructions were issued directly to the contractors by the Fund, sub-contractors appointed and valuation and certification of the works done without involving the Ministry; and

(ii) the parent Ministry and the Treasury continued to approve budget of the Fund, which contained exaggerated variations without questioning the rationale behind them.

The Committee recommends that:-

(i) the Ministry of Roads and Public Works should carry out a technical audit on the whole project and evaluate the variations undertaken with a view to determining the reasons for the huge escalation of the project cost.

(ii) the Director of Criminal Investigations Department should institute immediate investigations into the conduct and the manner in which the lead Consultant in the Medicare Project, M/s. Womi Associates conducted his duties with view to preferring criminal charges against Mr. Wanyonyi Muchanga and M/s. Womi Associates if found culpable;

(iii) m/s. Womi Associates and its Directors be prohibited from participating in and/or being awarded contracts by the government and its agencies; and

(iv) the Fund should, with immediate effect, refrain from contract price variations and where necessary, must obtain prior approval from the parent Ministry and the Treasury.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOSPITAL INSURANCE FUND (NHIF) FOR THE YEAR ENDED 30 JUNE 2003.

1. LOSS OF FUNDS

As reported in the previous year the NHIF wrote off short term investments totalling Kshs. 750,696,897.00 which it had invested in non-performing financial institutions. During the year ended 30 June 2003 the Fund wrote off a further Kshs. 274,502,406.00 or 50% of its investments in privately owned Euro Bank which is under receivership, an indication that NHIF stands to loose the entire investment of Kshs. 549,004,911.20 including accrued interest of investment of Kshs. 29,439,851.67 and unbanked cheques of Kshs. 40,065,205.45. NHIF further stands to lose Kshs. 49,500,000.00 guaranteed by the then Chief Executive of NHIF to Consolidated Bank for an overnight lending to Euro Bank which the Euro Bank later failed to honour. NHIF is also likely to lose Kshs. 61,000,000.00 which had been invested in various financial institutions that are in the process of being liquidated while NHIF does not hold any original (FDRS) to support the investment. From the foregoing the Fund to date stands to lose a total of Kshs. 1,418,706,865.00.

The Committee heard the evidence given by the Chief Executive that the Fund's investments Balance Sheet included an amount of Kshs. 479, 499,755 held in M/s. Euro Bank, and that an amount of Kshs. 750,696.897.00 was a provision for investments held in non-performing institutions, which was written off.

The Committee was informed that: -

(i) **the figure of Kshs.479,499,755 represented amounts invested in Euro Bank (under liquidation) and that the Bank collapsed with the Fund's deposits and that a case is in court on the investments;**

(ii) **the Fund made an investment of Kshs. 600,000,000 in Consolidated Bank of Kenya, for which the Fund has received Kshs. 404,000,000 together with its interest income of Kshs. 12,373,465.75 and that the investments were as a result of conversion of investments in five financial institutions that were merged under government directive.**

(iii) **since the Consolidated Bank could not honour its obligations to redeem the investments, the Fund had**

since commenced acquisition of Contrust House from the Bank at a cost of Kshs. 150 million in a bid to offset the debt;

(iv) the then Chief Executive Mr. Ibrahim Hussein allowed and gave a guarantee for an overnight lending of Kshs. 49,500,000 to M/s. Euro Bank from the Consolidated Bank as the former was facing financial difficulties and that Euro Bank failed to honour the same. The Fund forwarded the case to the Head of Civil Service for necessary action.

The Committee was informed that the Director of the Kenya Anti-Corruption Commission had commenced investigations into the matter of the overnight lending Kshs. 49,500,000 to M/s. Euro Bank Ltd.

While noting that acquisition of Contrust House was made to safeguard the interest of the Fund, the Committee observed with concern that the cost of the building would appear to have been inflated so as to cover a large proportion of the Funds' balance with the Bank;

The Committee recommends that: -

(i) future investments of the Fund are made in accordance with Treasury circulars and are based on prudent commercial practices; and,

(ii) the Chief Executive should pursue the case of the investments made to M/s. Euro Bank (Ltd) to its conclusive end.

2. CONVERSION OF INVESTMENT INTO REAL ESTATE

During the year ended 30 June 2003, NHIF converted part of its investment held in the Consolidated Bank by acquiring the Construct House Building on Moi Avenue at Kshs. 150,0Q0,000.00 a building that was owned by the Consolidated Bank. The Ministry of Lands and Settlement valued the property at Kshs. 100,000,000.00 while the Bank's valuer valued the same at Kshs. 180,000,000.00. NHIF by acquiring the property at Kshs. 150,000,000.00 therefore paid Kshs. 50 million (50%) more than the Government valuation of Kshs. 100 million. The authority from both the Ministry of Health and Treasury sanctioning the purchase was not produced for audit review.

The Committee heard the evidence given by the Chief Executive that the Fund, in the year ended 30th June 2003, converted its investments held in the Consolidated Bank into real Estate by initiating the process of acquiring Contrust House, a building previously owned by the Bank, at a cost of Kshs. 150,000,000.

The Committee also heard that the Fund had made an investment of Kshs. 600 million in the Bank and that it had received Kshs. 404,000,000 together with its interest income of Kshs. 12,373,465.75 while the balance was outstanding prior to acquiring the building.

The committee was informed that: -

(i) the Ministry of Land and Settlement valued the building at Kshs. 100,000,000 whereas the Banks' agents, M/s. Regent Valuers International valued it at Kshs. 180,000,000 and that the Fund's valuer, M/s. Mwaka Musau consultants valued it at Kshs. 110,000,000;

(ii) due to varied valuations, the Fund bargained with the Bank and settled at Kshs. 150,000,000;

(iii) the Ministry of Finance vide its letter Ref. Conf 39/06 of November 10,2003 granted the Fund the approval to commence the transactions;

(iv) the Fund undertook to acquire the building to safeguard its investments, which the bank had showed inability to honour.

The Committee observed with concern that the value for the Building would appear to have been inflated so as to take up a large proportion of the fund's investment in the Bank.

The Committee recommends that the Chief Executive should ensure that any future investments by the Fund are based on prudent commercial practices and are in accordance with Treasury circulars.

The Committee further recommends that any officer of the Fund or a member of its Board who commits the Fund to any losses arising from non-adherence to Treasury Circulars on investments should be dismissed from service and surcharged the losses arising from such action(s).

3. STOCK AMORTIZATION

It was observed that in 2001/2002 NHIF bought stationary worth Kshs. 158,434,217.00 in excess of its requirement. It was, therefore, not possible to utilize the stationary in one financial year and a decision was made to amortize the stock balance and spread the expenditure into three consecutive years as follows:-

Year	Amount
2001/2002	69,090,000.00
2002/2003	69,090,000.00
2003/2004	20,254,217.00

This is contrary to International Accounting Standard No. 38 which allows only the intangible assets to be amortized. No justification has been provided for this state of affairs.

The Committee heard the evidence given by the Chief Executive that the Fund in the year 2001/2002 bought stationery worth Kshs. 158,434,217.00 in excess of its requirement and amortized the stock balance and spread the expenditure into three consecutive years contrary to International Accounting Standard No. 38.

The Committee was informed that the Management erroneously amortized the stock since its benefits were to be realized beyond one financial year.

The Committee noted that the issue has been corrected and reconciled in the accounts of the Fund for the year 2003/2004 thereby resolving the audit query.

The Committee recommends that the Fund should maintain its books of accounts in accordance with International Accounting Standards.

4. PURCHASE OF MERU MUNICIPALITY PLOT

On 14 August 2002, National Hospital Insurance Fund management entered into a sale agreement with a property owner to purchase plot L.R. No. Meru Municipality/Block II/175 situated in Meru Town measuring 0.0935 hectares together with all and any improvements including a building known as Abby Centre erected on the plot at a sum of Kshs. 28,625,000.00. The Fund paid the full amount of Kshs. 28,625,000.00. However, no valuation was carried out prior to purchase and no approval by the Board was obtained for the purchase. Information available indicates that a private valuation conducted later placed the value at Kshs. 25,000,000. Under the circumstances it was not possible to confirm that the Fund obtained value for money in the transaction.

The Committee heard the evidence given by the Chief Executive that the Fund, in the year 2002/2003 purchase plot LR. No. Meru Municipality/Block II/175 situated in Meru Town measuring 0.0935 Ha at a cost of Kshs. 28,625,000.00

The Committee also heard that: -

(i) the Board approved a budget provision of Kshs. 85,000,000 in the 2002/2003 budget for purchase of properties for area offices;

(ii) the building, Abby Centre, was valued at Kshs. 30,000,000 by M/s. Joe Musyoki Valuers before acquisition where the Fund bargained to a lesser cost of Kshs. 28,625,000.00; and

(iii) the property was later valued at Kshs. 25,000,000 in the Financial year 2004/2005 for insurance purposes.

The Committee also heard that the sale agreement was signed by the Chairman of the Board and that the matter had been referred to the Director of Criminal Investigations Department for investigation.

The Committee took great exception to the fact that the then chairperson of the Fund Dr. Jennifer Riria signed the Sale Agreement on behalf of the Fund.

The Committee observed with concern that the sale would appear to have been hastily executed and that in absence of government valuation, prior to the purchase, the interests of the Fund may not have been safeguarded.

The Committee recommends that the Director of Criminal Investigations Department should investigate the circumstances under which the plot and the building were identified and purchased by the Fund with a view to preferring appropriate criminal charges against any person(s) found culpable in the transaction.

5. EXCESS PAYMENT OF SITTING ALLOWANCE

As in the previous years, NHIF continued to pay sitting allowances to its board members at the rate of Kshs. 25,000.00 contrary to Government instructions, which had set the limit at Kshs. 10,000.00. As a result, there was an irregular overpayment of Kshs. 1,335,000.00.

The Committee heard the evidence given by the Chief Executive that the Fund continued to pay allowances to its Board members at the rate of Kshs. 25,000.00 contrary to government regulations of Kshs. 10,000, thereby occasioning an irregular overpayment of Kshs. 1,335,000.

The Committee was informed that: -

(i) **the Fund's Board under Min. No 13/99 of 20th May 1999 approved sitting allowance to itself at the rate of Kshs. 25,000.00 per sitting and sought concurrence from the office of the president;**

(ii) **while awaiting the advice of the Office of the President, the Board under MIN. No. B/418/2001 resolved to continue paying itself allowances at NHIF rates as per its Enabling Act, NHIF Act of 1998.**

(iii) **the Board in the year 2003 reverted back to the rate of Kshs. 10,000 on advice of the management.**

The Committee observed that the Board contravened Section 10 of the State Corporations Act and its enabling act, by approving allowances to itself without the consent of the parent Ministry, and the Office of the President.

The Committee noted that the matter had been forwarded to the Inspectorate of State Corporations for surcharge.

The Committee recommends that: -

(i) **the Chief Executive should ensure that allowances payable to the Fund's Board members are in accordance with the circulars from the Office of the President while reviews are forwarded to the State Corporations Advisory Committee before implementation, in accordance with the State Corporation Act (Cap 446); and**

(ii) **the Inspector General (State Corporations) should expedite the case of the irregular allowances paid to Board members for recovery of the irregular payment of Kshs. 1,335,000 from the Board members.**

6. CONSTRUCTION OF NHIF BUILDING

In 1997, NHIF entered into an agreement with a contractor who was second lowest tenderer for the erection and completion of Medicare Centre at a total contract sum of Kshs.1,483,000,030.65. The project commenced on 25 September 1997 and was to be completed by 14 April 2001. However, the original contract sum was revised from Kshs.1,483,000,030.65 to Kshs.1,798,821.20 as at 30 June 1999 and has since continued to be varied upwards to stand at Kshs.2,796,510.30 as at 30 June 2002 even though the building has not been completed to date. It is not clear why the contractor has delayed to complete the project while costs continue to escalate. Further, no action appears to have been taken by the NHIF despite apparently flagrant breach of contract terms by the contractor.

The Committee heard the evidence given by the Chief Executive that the Fund awarded tender for erection and completion of Medicare Centre to N.K. Brothers Ltd at a total contract sum of Kshs. 1,483,000,030.65 after a competitive bidding process and that the contractor was commissioned on 18th September 1997 and expected completion time was 15th April, 2001.

The Committee was informed that: -

(i) **the project cost was estimated at Kshs. 1,762,000,000 and that the successful bidder, N.K. Brothers Ltd was 15.83% below the engineers' estimate;**

(ii) the original contract sum was revised through financial appraisals prepared by consultants and the Ministry of Roads and Public Works and approved by the Board;

(iii) the variations of the contract sum were occasioned by:

(a) Statutory and contractual obligations – Kshs. 356,554.30 (or 24% of the original contract sum) which includes among others – 'el-nino' weather phenomenon Kshs. 36,994,723.28,

(b) Contractual claims for losses and expenses –Kshs. 697,837,684.90 (or 21% of the original contract sum),

(c) Changes due to new proposals and additional operational requirements – Kshs. 342,997,025.75 or 23% of the original contract sum,

(d) Design and specification changes occasioned by technological advancements – Kshs. 408,379,322.40 (or 27 1/2 % of the original contract sum.

(iv) the delay in completion time was caused by extremely hard rock, El-Nino and La-Nina weather phenomenon, additional works, delayed approval of work and delayed payments on the contract;

(v) to date, an amount of Kshs. 4,280,438,740 has been spent on the contract, being Kshs. 3,279,226,690 to the contractor and Kshs. 1,001,212,050 to the following consultants respectively;

(a) Womi Associates – Kshs. 258,239,750.36;

(b) Design (interior designs) – Kshs. 84,456,567.40;

(c) Ujenzi Consultants – Kshs. 196,364,622.22;

(d) Kaigutha, Chepkwony & Partners – Kshs. 45,606,945.70;

(e) Kinyua Koech Agencies – Kshs. 7,800,000.00;

(f) Friscan Management Project Managers - Kshs. 168,617,186.71.

(vi) the Ministry of Roads and Public Works is preparing the relevant completion documentation including final accounts;

(vii) the Ministry of Roads and Public Works engineers, project architects, M/s. Womi Associates and Quantity Surveyors, M/s. Ujenzi Consultants provided technical expertise while S.R. Manga and Associates were Structural and Civil Engineers;

(viii) some of the consultants were appointed in disregard of legal stipulations as agreed between the Chief Architect and the Lead Consultant, M/s. Womi Associates while some payments were made prior to certificates being signed by the lead architect;

(ix) at some point the lead consultant failed to discharge his duty forcing the client to issue instructions on site and that in the course of the project the Ministry of Roads and Public Works were not consulted in a number of decisions made on the project

The Committee expressed concern that: -

(i) the cost of the project which was estimated at Kshs. 1,762,000,000 had almost tripled in the cost, with the contractor who had quoted Kshs. 1,483,000,030.65 having been paid Kshs. 3,279,226,690 by 6th May 2005;

(ii) the justification for some of the reasons for variation of contract sum are unconvincing as they were foreseeable particularly the hard rock and price escalations due to economic factors;

(iii) the project was handled in most unsatisfactorily manner and would appear to be the most imprudent investment ever made under a state corporation;

(iv) the parent Ministry and the Ministry of Finance failed in their fiduciary duty to control and supervise the Fund in the implementation of the project. The Committee noted that the parent Ministry was represented in all the meetings where variations were approved while Treasury continued approving the budget without questioning the excessive expenditure on the project;

(v) the Lead Consultants, M/s. Womi Associates were hired despite their past poor record, exhibited difficulties in their dealings with the Fund, had no office and appears to have been a "brief-case consultant". In the sixth Report of the PIC, the M/s. Womi Associates had been accused of conspiracy and fraud, by participating in irregular variation of a contract to partition offices of the National Council for Science and Technology from Kshs. 5,388,520 to Kshs. 26,946,467 in 1993;

(vi) blasting of the hard rock could not have been a factor for delay, and/or contract price variation as the contractor was not limited to drill and blast more than ten pits in a day and in any case by the time the Commissioner of Mines and Geology restricted blasting, most of the hard rock had been removed.

The Committee also expressed concern that:-

(i) the Ministry of Roads & Public Works were excluded from the project for a period of over one year and as a result the project was poorly executed as instructions were issued directly to the contractors by the Fund, sub-contractors appointed and valuation and certification of the works done without involving the Ministry.

(ii) the parent Ministry and the Treasury continued to approve budget of the Fund, which contained exaggerated variations without questioning the rationale behind them.

The Committee recommends that:-

(i) the Ministry of Roads and Public Works should carry out a technical audit on the whole project and evaluate the variations undertaken with a view to determining the reasons for the huge escalation of the project cost;

(ii) the Director of Criminal Investigations Department should institute immediate investigations into the conduct and the manner in which the lead Consultant in the Medicare Project, M/s. Womi Associates conducted his duties with view to preferring criminal charges against Mr. Wanyonyi Muchanga and M/s. Womi Associates if found culpable;

(iii) **m/s. Womi Associates and its Directors be prohibited from participating in and/or being awarded contracts by the government and its agencies; and**

(iv) **the Fund should, with immediate effect, refrain from contract price variations and where necessary, must obtain prior approval from the parent Ministry and the Treasury.**

7. CONSTRUCTION OF MULTI STOREY CAR PARK

The Fund entered into a contract agreement with a firm for erection and completion of a multi storey car park at a contract sum of Kshs. 909,709,305.40 The commencement date was 3 May 2002 and the project was to have been completed by August 2003. During the year under review, the contract amount of Kshs 909,709,305.40 was revised upwards to Kshs. 1,581,213,586.70 to accommodate vehicular lifts at a cost of Kshs 673,465,787.10 the construction costs of which were not in the original designs of the building. As at 30 June 2003, the contractor had been paid Kshs. 401,887,247.80 and the construction consultants Kshs 381,376,272 87 The project was behind schedule and the Board's approval for revised estimates has not been seen to justify the need for the facility and the propriety of the expenditure given the fact that the mandate of the Fund is the provision of health insurance to its contributors.

The Committee heard the evidence given by the Chief Executive that the Fund entered into a contract with M/s. N.K. Brothers for erection and completion of a multi-storey car park at a contract sum of Kshs.909,709,305.40 and the contract period was 65 weeks ending in August 2003. the project was initiated as a complementary to the Medicare Building that has inadequate parking space.

The Committee was informed that: -

(i) **at the documentation stage, the contract did not include provision for vehicular lifts and corresponding space requirements, and that the management thereafter introduced the lifts which led to an increase in surface area at an additional cost of Kshs. 673,465,787.10;**

(ii) **the vehicular lifts were later found to be unreliable, and the contract price was subsequently varied down**

to Kshs. 1,179,611,756 with an adjustment to completion date of December 2005;

(iii) as at 30 June 2004, the Contractor had been paid Kshs. 401,887,247.80 and the construction Consultants Kshs. 381,376,272.87; and

(iv) the expenditure as at 23rd June 2005 on the project was Kshs. 1,253,607,752.55 comprising of Kshs. 815,296,836.55 and Kshs. 438,310,916 paid to the Contractor and Consultants respectively.

The Committee observed with concern that the whole project would appear to be shrouded in a lot of mystery and is intended to be a "cash cow".

The Committee observed with concern that 70% of the contract fee had been paid while only 52% of the works had been done.

The Committee recommends that in view of the unprofessional manner in which the whole process of conceiving and implementing the car park project was conducted, the Controller and Auditor General should carry out a special Audit on the project which report should be handed to the Committee by September 30, 2006.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF EXPORT PROCESSING ZONES AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1997

1. PERSONAL EMOLUMENTS

The personal emoluments figure of Kshs. 21,055,230 includes unauthorised salary increases at the rate of 30% or about Kshs. 6,163,914 paid to the employees of the Authority during the year under review. The salary increases were paid without obtaining authority from the Office of the President as required by law.

The Committee heard the evidence given by the Chief Executive that salary increment at an average rate of 30% was effected in the year under review on approval of the EPZA Board's sitting of 17th December, 1996 and in accordance with the Export Processing Zones Authority Act (Cap 517) Section 7(2).

The Committee further heard that the advances had also been approved by the Minister for Commerce and Industry following which funds were provided for and included in the printed estimates.

The Committee recommends that all future increases in salaries should be done in accordance with Section 27 (1) (c) of State Corporations Act, Cap 446.

2. SALARY ADVANCES

The Authority paid salary advances totalling to Kshs. 2,154,347 to two employees of the Authority in contravention of regulations governing issuance of salary advances. The Authority has not indicated how it intends to recover the amount, out of which Kshs. 1,810,000 is outstanding against the former Chief executive who is no longer an employee of the Authority.

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

(i) the Authority paid an amount of Kshs.1,810,000 and Kshs.344,347 to the then Chief Executive Mr. Silas Ita (deceased) and a then senior manager Mr. James Kigunda respectively, as salary advances.

(ii) Mr. Kigunda who has retired, had initially been advanced Kshs.360,000 on 11th April, 1997 and the amount was to be

recovered on monthly deductions and has since been fully settled as at April 1999.

(iii) **Mr. Silas Ita's salary advance which he took in two instalments of Kshs.600,000 and Kshs.1,210,000 has not been recovered to date, as he left the Authority voluntarily in December, 1997, and efforts to recover the same from his final dues of Kshs.3,600,000 were futile. He later passed away and the Board has since approved to write off the debt.**

The Committee observed with concern that the then Chief Executive Mr. Silas Ita approved payments of advance salary for himself and that of other officers, that exceeded their monthly salaries in contravention of the regulations of the Authority.

The Committee recommends that the Chief Executive should ensure that regulations governing issuance of salary advances are strictly adhered to.

3. BOARD EXPENSES

During the year under review, Board members were paid a total of Kshs. 810,000 in form of monthly allowances at the rate of Kshs. 10,000 per month contrary to the existing regulations governing payment of allowances to the board members of state corporations.

The Committee heard the evidence given by the Chief Executive that the Board was paid monthly allowances following the approval of the Minister for Commerce and Industry and in accordance with the Export processing Zones Authority Act (Cap 517).

The Committee observed with concern that monthly allowances amounted to a salary, which is illegal.

The Committee recommends that all future allowances for the members of the Board should be paid in accordance with the law.

The Committee further recommends that the irregular payments made to the Board members should be recovered without further delay.

4. FIXED ASSETS

4.1 As reported previously, the Authority's Balance Sheet fixed assets excludes the value of land granted to the Authority in 1991 measuring 454.4 hectares situated in Mavoko township and a further piece of land measuring 48.84 hectares allotted to the Authority in 1995 in Kipevu, Mombasa Municipality. However, although the title deed made available for audit shows that the size of the Kipevu piece of land measures 48.84 ha, the allotment letter indicates that the land measures 66 hectares. The difference of 17.16 hectares has not been satisfactorily explained.

4.2 Further, the fixed assets figure excludes infrastructural development done on the land in the Mavoko township which include a five storey office block, a police station, a dispensary, 6 factory sheds which are completed and 6 whose construction is in progress, road works, a water tank and sewage treatment plant. I understand that the construction of these facilities was financed by the World Bank through the Ministry of Finance but the terms of such finance were not made available for audit verification. In the circumstances, I am unable to confirm that the fixed assets shown in the Balance sheet are fairly stated.

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

(i) the Authority's acquired fixed assets as at the end of the year 1996/97 stood at Kshs.32,582,023 which excluded the value of the land allocated to the Authority in 1991 measuring 454.4 hectares in Mavoko Township and 48.84 hectares in Kipevu Mombasa Municipality in 1995;

(ii) the exclusion of infrastructural development from the fixed assets was due to the fact that at the time of audit the project which as then was being financed by the World Bank through the Ministry of Finance, had not been transferred to the Authority from the Ministry;

(iii) the Authority received, from the Ministry of Finance, the values and costs of the same on 20th November, 1998 and subsequently reflected in the Year's Books of Accounts; and

(iv) the Authority was allotted the Kipevu land from 1st January, 1995 measuring 66 hectares. However, after the survey the title deed issued showed that the land measured 48.84 hectares and that the difference of 17.16 hectares

was due to the past survey finding that the area measuring 17.16 was occasionally covered by water due to tidal fluctuations.

The Committee recommends that values of all assets of the corporation are included in the Balance Sheet Fixed Assets register

5. MISCELLANEOUS INCOME

The miscellaneous income includes revenue totalling Kshs. 32,512,569 derived from rent of the facilities constructed in the Mavoko plot owned by the Authority. As reported previously and as stated in paragraph four above, the Authority has not reflected these facilities in its Balance Sheet and the assets have not been depreciated. The net surplus for the year is, as a result, overstated to the extent of the depreciation so omitted from the accounts.

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

(i) **miscellaneous income included revenue amounting to Kshs.32,512,569 derived from rent of the facilities constructed in the Mavoko plot and which was not reflected in the Balance Sheet as the facility was still in the hands of the Ministry of Finance as at the end of 1996/97;**

(ii) **the Authority then treated and held the amount as a liability in favour of the Ministry of Finance;**

(iii) **the Authority has since treated the rents as income from government, and reflected the same on the accounts of the Authority for the 1999/2000.**

The Committee observed with concern that the Authority has been losing tenants in the facilities as the charges of US$5,000 for lease per hectare and rent for the building at US$2.8 per square feet set by the government are the highest in the EPZ.

The Committee recommends that the Chief Executive should ensure that the Authority re-examines the charges on lease and rent with a view to reviewing the same to reflect the prevailing market prices at the Zones.

6. OTHER PERSONAL ALLOWANCES

The "Other Personal Allowances" figure of Kshs. 6,592,498 as shown in the income and expenditure account includes unauthorised payments totalling Kshs. 3,786,148 in respect of car, entertainment, domestic and club allowances irregularly paid to some employees of the Authority. The examination of the Authority's approved terms and conditions of service revealed that the approved rates were Kshs.3,000 and kshs.2,700 per month in respect of car allowances while those paid range between kshs.10,000 and kshs.15,000 per month. The approved rates for entertainment allowance were Kshs.1,100 per month while those paid range between kshs.5,000 and kshs.15,000 per month. Other officers were also paid these allowances while they did not fall within the approved categories while other allowances such as domestic and club were paid although not within those approved in the Authority's terms and conditions of service.

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

(i) the Terms and Conditions of Service were revised for the year 1995/96 and for the year 1997 on 28th March 1995, which increased the allowance payable to staff between Kshs.5,000 and Kshs.15,000 and entitlement for club benefits. The allowances had been budgeted for in the printed estimates for the year 1996/97 and previously approved by the Authority's Board of Directors. Approval was also obtained from the Ministry of Commerce and Industry;

(ii) following these approvals, the Authority was to revise its Terms and Conditions of Service for the officers. However, at the time of audit, this exercise had not been completed and hence the auditors' reservation.

The Committee observed that had the information been given to the auditors, the audit query would not have arisen.

The Committee recommends that the Chief Executive should always avail necessary information to the Controller and Auditor General as and when required.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF EXPORT PROCESSING ZONES AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1998

MISCELLANEOUS INCOME

The Miscellaneous Income figure of Kshs. 58,693,266 shown on the Income and expenditure Statement as at 30 June 1998 includes revenue totalling Kshs. 30,021,841 derived from rent of facilities constructed at the Authority's Mavoko Plot. The assets, which generated this revenue, were, however, neither reflected in the Authority's Accounts for the year 1997/98 nor were they depreciated during the year under reference. The net surplus of Kshs. 1,091,937 for the year 1997/98 is, therefore, overstated to the extent of the depreciation charge omitted from these Accounts while the value of the Authority's assets is also understated to the extent of the omitted assets.

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

(i) the miscellaneous income figure of Kshs.58,693,266 included revenue totalling Kshs.30,021,841 derived from rent of facilities constructed at the Athi River/Mavoko Plot.

(ii) the assets that generated this income were still in the hands of Ministry of Finance, and therefore the cost of the facility could not be included in the fixed assets amount nor depreciated; and

(iii) the Authority was mandated to collect fees charges, and rental as part of it's A-in-A into its general fund out of which it defrayed its day to day expenditure, and therefore considered the rent and charges amounts derived from the facility as miscellaneous income.

The Committee recommends that the Authority should ensure that the assets are reflected in the books of account to avoid overstating the net surplus.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF CATERING AND TOURISM DEVELOPMENT LEVY TRUSTEES FOR THE YEAR ENDED JUNE 30TH, 1999

1. PROPOSED OFFICE BLOCK

Reference was made in the report for the year 1997/98 to the expenditure of Kshs.31,338,076 incurred over the years as consultancy and preliminary fees towards the construction of the proposed office block for the Trustees, a project that was started without Treasury approval. During the year 1998/99 additional expenditure of Kshs.950,000 was incurred on professional fees, towards the same project thereby bringing total expenditure on the project to Kshs.32,288,076 as at 30th June, 1999. As this project is yet to take off to date and in view of the latest Government policy decision to transfer out the revenue collection function of the Trustees effective from 1st January, 2001, it is not clear whether the construction of the Office Block will ever take off. Therefore, and in the event that the Project is totally abandoned, it is not clear what would become of the total expenditure of Kshs.32,288,076 already incurred on the project.

The Committee heard the evidence given by the Chief Executive that in 1988 the Catering and Tourism Development Levy Trustees acquired a prime 3 acre plot at Valley Road, Nairobi with the aim of constructing an office block and that the requisite authority was obtained from the Government for the tendering and construction of the proposed office block.

The Committee further heard that the project was shelved in August 1990, however, the Consultants had commenced work and had reached tendering stage and had to be paid Kshs.31,338,079 for the services rendered.

The Committee was informed that during the year 1998/99, an amount of Kshs.950,000 was incurred being the assessment cost for the rehabilitation of the existing building on the plot for occupation by Nairobi Branch Office.

The Committee abhorred the manner in which the parent Ministry changed priorities and subsequently rescinded the prior approval to construct the building thereby resulting in huge expenditure which could have been avoided.

The Committee recommends that before any project is commenced by the Corporation, there should be proper feasibility studies, planning and availability of funds.

2. SUNDRY DEBTORS

Included in the Balance Sheet Sundry Debtors figure of Kshs.9,735,943 as at 30th June, 1999 is an amount of Kshs.84,830 owed by former staff of the Trustees who are either deceased or whose services were terminated. Also included is an amount of Kshs.7,753,335 representing dishonoured cheques received from various hotels between 1981 and 1998 in favour of the Trustees. Although all these cheques have since become stale and their collectability, is therefore doubtful, no provision has been made in the accounts for possible doubtful debts relating to the cheques. In the circumstances, the Trustees Sundry Debtors may be overstated to the extent of any such debts that are unrecoverable.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Balance Sheet Sundry Debtors figure included an amount of Kshs.84,830 and Kshs.7,753,339 respectively representing money owed by former staff who are either deceased or whose services were terminated and dishonoured cheques, respectively.

The Committee further heard that:

(i) the Hotels and Restaurants Act (Cap 494) has no provision to deal with defaulters and thus limits the power of the Trustees to recovering debts.

(ii) prior to the Year 2000, Levy maintenance was paid through cash individual cheques or money orders and penalties were not punitive enough to the defaulters.

(iii) the total number of dishonoured cheques was 498.

(iv) the Trustees will seek Treasury Authority to write-off some of the dishonoured cheques, due to the following reasons:

- **(a) some proprietors are deceased/have left the country**
- **(b) managements of some of the hotels have changed hands.**
- **(c) in some cases where Court ruling has been made in favour of the Trustees, the proprietors have no assets to be attached.**

(v) **an amount of Kshs. 84,830.00 owed to the Trustees by Members of staff who are either deceased or no longer working for the Trustees was due to general accident claims and has not been recovered from their terminal benefits held by Kenya National Assurance Company Ltd, as earlier envisaged. However, an amount of Kshs.28,285,970 had been received by the Trustees between December 2003 and March 2004 from KNAC and has been used to offset this debt.**

The Committee deplored the excuse that the Trustees could not recover the debts from dishonoured cheques as this amounted to negligence and irresponsibility on the part of the Trustees.

The Committee recommends that the Trustees should immediately proceeds to recover all debts due to them.

3. LOG BOOK VEHICLE REGISTRATION NO. KAD 499M

According to available records, in 1995, the Trustees purchased a motor vehicle Nissan Urvan Registration No. KAD 499M. The registration book of this vehicle was, however, not available for audit verification and in the absence of the log book for the vehicle, the Trustees' ownership of the same could not be ascertained and confirmed.

The Committee heard the evidence given by the Chief Executive that the Corporation was unable to avail a copy of the Logbook for vehicle Nissan Urvan Registration No. KAD 499M as the Registrar of motor vehicles had not processed it and that it was later processed on 25th September 2000 and availed to the auditors thereby resolving the audit query.

4. BOARD OF TRUSTEES AND PAYMENT OF SITTING ALLOWANCES

During the year 1998/99, the Corporation operated without a properly constituted Board after the tenure of office for the previous Board had expired on 30th June, 1998. It has not been clearly explained as to why a new Board was not constituted. In the absence of a properly constituted Board, it was difficult to ascertain whether the functions vested in the Board under Section 15(1) of the State Corporations Act were properly executed. Further a total of Kshs.10,000 was irregularly paid as sitting allowances to public

officers in receipt of salary contrary to provisions of Section 10(1) of the State Corporations Act, (Cap 446).

The Committee heard the evidence given by the Chief Executive that the Corporation operated without a properly constituted Board between 30th June 1998 and 14th April, 2000 when a Board was constituted, even though this was brought to the attention of the parent Ministry in November 1997.

The Committee was informed that the payment of Kshs.10,000 to the public officers was erroneous and that the practice was stopped in September 1999.

The Committee observed with concern that the parent Ministry failed in its statutory duty to appoint a Board to the Corporation thus calling to question whether the Board's functions were properly executed during the hiatus.

The Committee recommends that:-

(i) the parent Ministry must always ensure that a legally constituted Board is in place to ensure that the functions vested in the Board are properly and legally executed; and

(ii) the irregular amounts paid to public officers as sitting allowances should be recovered from the recipients.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA AGRICULTURAL RESEARCH INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1999

1. FINANCIAL POSITION

The Institute's Balance Sheet as at 30 June, 1999 reflects negative working capital of Kshs.3,361,000 while the total Balance Sheet Creditors figure of Kshs.486,779,000 includes statutory deductions totalling Kshs.401,225,000 which the Institute was unable to remit, apparently due to financial constraints.

The Institute is, evidently technically insolvent and the Accounts have, therefore, been prepared on a going concern basis on the assumption that the Institute will continue to receive support from Government, donor and other creditors.

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

(i) the Institute's balance sheet reflected a negative working Capital of Kshs.3,361,000 and creditors' figure of Kshs.401,225,000 which the Institute was unable to remit due to under provision of budgetary allocation over the years since 1986; and

(ii) the liabilities mainly relate to Pension Scheme and statutory payroll deductions which had accumulated over the years to Kshs.401,225,000.

The Committee was further informed that the Institute has requested the Ministry of Agriculture to liquidate the liabilities over the next five years, and discussions are still underway.

The Committee further heard that the Institute has been remitting all its payroll statutory deductions to the relevant authorities since July 1st 2000 while at the same time paying in small portions, prior liabilities on monthly basis. The accumulated pension dues for both employees' and employer deductions stood at Ksh.496.2. million as at 30th June, 2004.

The Committee observed with concern that the Institute had continued to illegally dishonour its financial obligation particularly on P.A.Y.E. and NSSF which had accumulated to

over Kshs.368 million and Kshs.18,549.004 respectively as at June 30th 2004.

The Committee recommends that:

(i) the Chief Executive should ensure that the Institute pays up the principal amount of Kshs.147,853,741 to be able to negotiate with Kenya Revenue Authority to grant amnesty on the accrued interest in respect to the over Kshs. 368 million accumulated as non-remitted P.A.Y.E dues; and

(ii) the Institute should also explore other avenues of funding to meet its financial obligations and control its expenditure.

2. LAND AND BUILDINGS

As earlier reported the Institute did not hold title deeds for a substantial amount of land vested in it. During the year 1998/99 the Institute was only able to acquire title deeds for five (5) pieces of land while survey work was in progress regarding ten (10) others with letters of allotment being held in respect of twenty-three (23) other pieces of land. In the absence of such titles of ownership and as previously reported, it is still not possible to confirm the correctness of the Balance Sheet net fixed assets figure of Kshs.2,600,808,000 as at 30 June 1999 or even the ownership of the land thereof. It is also not possible to confirm the continued future availability of land for research activities particularly in view that alienation of un-titled land is a possibility that cannot be overlooked or ruled out.

The Committee heard the evidence given by the Chief Executive that the Institute did not hold title deeds for a substantial amount of land vested in it and that it acquired five title deeds for some of its pieces of land in the year under review.

The Committee was informed that:

(i) to date the Institute has acquired twenty two title deeds for the bulk parcels of land while survey work is being done on eleven others with letters of allotment being held in respect of 13 pieces of land;

(ii) the institute has documented all its parcels of land irregularly allocated and submitted the Report to the Ndung'u Commission of Inquiry for redress; and

(iii) the Institute has secured the parcels of land by either fencing them or posting guards to guard them.

The Committee recommends that the Chief Executive should obtain title deeds for all its parcels of land.

The Committee further recommends that the Chief Executive should follow up the cases of irregularly allocated land with the Commissioner of Lands with a view to having them annulled and returned to the Institute.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA TRYPANOSOMIASIS RESEARCH INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1997

1. FIXED ASSETS

As was the case in the previous year, the value of the land on which the Institute's buildings stand at both Muguga and Alupe has not been included in the Balance Sheet fixed assets figure of Kshs.112, 730,115. The land at Alupe is also neither valued nor registered. In addition, the figure of Kshs.5,065,146 representing value of motor vehicles may be understated as valuation on most of the Institute's vehicles has not been done. In the circumstances the correctness of the Balance Sheet fixed assets may be subject to adjustment when valued.

The Committee heard the evidence given by the Chief Executive that the value of the land on which the Institute's buildings stand at both Muguga and Alupe was not included in the Balance Sheet fixed asset figure of Kshs.112,730,115 as the assets had not been valued and that the land on which the buildings stand at Muguga headquarters was valued in 1999.

The Committee further heard that the land at Alupe has neither been valued nor registered and that the figure of Kshs.5,065,146 representing value of motor vehicles had been understated as valuation on them had not been done.

The Committee noted that the total value of the Institute's land and building after valuation stands at Kshs.159,968,395 and has since been captured in the books of Accounts.

The Committee further noted that the valuation of motor vehicles was done in the year 2000 at Kshs.15,044,700 and subsequently the adjustments done in the Accounts of the year 2000.

The Committee recommends that the Chief Executive should ensure that title deeds for land at Alupe and any other Institute's land is obtained and valued.

2. DEBTORS

The Balance Sheet debtors figure of Kshs.8,577,914 is mainly comprised of outstanding imprests of Kshs.7,387,976.45 which in turn include an amount of Kshs.2,480,341 against members of staff

who are no longer in the service of KETRI. The management has not given satisfactory explanation as to how it intends to recover the same. In view that some of the imprests have been outstanding for a period of time their recoverability is doubtful and the debtors figure reflected on the Balance Sheet as at 30 June 1997 may, therefore, be overstated to the extent of such unrecoverable debits.

In addition, some Imprest Accounts reflect unusual credit balances totalling Kshs.209,181 which have also not been satisfactorily explained.

The Committee heard the evidence given by the Chief Executive that the balance sheet figure of Kshs.8,577,914.00 comprised of outstanding imprests of Kshs.7,387,976.45 which in turn included an amount of Kshs.2,480,341.00 against members of staff who were no longer in the service of KETRI.

The Committee was informed that the management had made efforts to recover the outstanding imprests and that outstanding imprests from the staff who are in service have been recovered while some cases were filed against the non-staff members in respect of the outstanding figure of 2,480,341.

The Committee further heard that some of the officers retired while still holding imprests and that the Institute has since instituted measures to ensure that imprest facility is not misused.

The Committee also heard that the figure of Kshs.209,181 was a system error, which has since been corrected and reconciled.

The Committee noted with concern that the figure of seven million as imprests outstanding was too high for an organization of such stature, which does not make comparable income.

The Committee recommends that the Chief Executive should ensure that the Institute's laid down procedures and regulations on imprests are adhered to.

3. CREDITORS

The Balance Sheet Creditors figure of Kshs.29,392,244.15 analysed in Note 11 to the Accounts is mainly made up of Kshs.19,094,584.80 due to contractors and Kshs.2,393,140 in respect of accrued expenses. The amount of Kshs.19,094,584 due to contractors still remains outstanding and continues to attract interest thereon.

The Committee heard the evidence given by the Chief Executive that out of the creditors figure of Kshs.29,392,244.15, all accrued expenses which were for staff claims had been paid and other creditors paid except M/s. Sanghani Builders and Contractors who went to Court after turning down the offer made to them.

The Committee was informed that the Contractor declined a government offer of Kshs.15,575,938.

The Committee recommends that the Chief Executive should ensure that the matter is concluded to avoid accrual of interests.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA TRYPANOSOMIASIS RESEARCH INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1998

1. FIXED ASSETS

The Balance Sheet Fixed Assets figure of Kshs.110,211,997 does not still include Kshs.79,540,000 being value of land on which the Institute's buildings stand and while the value of land at Alupe has not been ascertained. Further, twenty-eight of the Institute's running motor vehicles are recorded at nil book value. In the circumstances, I am unable to express an opinion on the correctness of the Fixed Assets figure reflected in the Balance Sheet as at 30 June 1998.

The Committee heard the evidence given by the Chief Executive that the value of the land on which the Institute's buildings stand at both Muguga and Alupe was not included in the Balance Sheet fixed asset figure of Kshs.112,730,115 as the assets had not been valued and that the land on which the buildings stand at Muguga headquarters was valued in 1999.

The Committee further heard that the land at Alupe has neither been valued nor registered and that the figure of Kshs.5,065,146 representing value of motor vehicles had been understated as valuation on them had not been done.

The Committee noted that the total value of the Institute's land and building after valuation now stands at Kshs.159,968,395 and captured in the books of Accounts.

The Committee further noted that the valuation of motor vehicles was done in the year 2000 at the tune of Kshs.15,044,700 and subsequently the adjustments done in the Accounts of the year 2000.

The Committee recommends that the Chief Executive should ensure that title deeds for Alupe and any other Institute's land is obtained and valued.

2. CREDITORS

The Balance Sheet Creditors figure of Kshs.17,742,503 analysed in Note 11 to these Accounts is mainly made up of Kshs.12,043,251 due to contractors and Kshs.2,270, 780 in respect of accrued expenses.

Although the PIC had recommended that the Treasury pays the debts, the amount of Kshs.12, 043,351 is still outstanding and continue to attract interest.

The Committee heard the evidence given by the Chief Executive that out of the creditors figure of Kshs.29, 392,244.15, all accrued expenses which were for staff claims had been paid and other creditors paid except M/s. Sanghani Builders and Contractors who went to Court after turning down the offer made to them.

The Committee recommends that the Chief Executive should pursue the matter in court to ensure expedient resolution so as to avoid accrual of interest on the same.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1995

1. DELAY IN SUBMISSION OF ACCOUNTS

The Institute's 1994/95 accounts were first submitted for audit on 20th November 1995 i.e. about three weeks after the statutory date of 31st October 1995. The accounts so submitted contained such basic accounting date error that no meaningful opinion could be expressed and they had to be revised after the audit. The revised accounts were not received for audit verification until 7th April 1997; consequently I was not able to sign my report by the statutory date of January 1996.

The Committee heard the evidence given by the Chief Executive and was informed that the delay in submission of accounts was attributable to lack of manpower which has since been addressed.

The Committee reiterates its earlier recommendation in the 10th Report paragraph 1 of the 1993/94 Accounts that any Chief Executive of the Institute who, in future, causes delay in the submission of accounts for audit should be dismissed from public service.

2. FIXED ASSETS

As previously reported, the Institute inherited a number of assets from the defunct East Africa Community and other public institutions, whose values have not been determined and incorporated in the institution's accounts. The fixed assets figure of Kshs. 71,919,230 as at 30th June 1995 is therefore understated. Also not incorporated in these account are unvalued properties allocated by the government in Nairobi South 'C' and Kisumu for development of laboratories for incurred capital expenditure to the extent of Kshs. 33,619,160 on the properties, it does not possess title documents and cannot therefore prove legal ownership.

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

(i) all the assets inherited from the defunct East African Community namely; LR. 209/12910 Kapiti Road, Nairobi, LR 209/5811 Dunga Road, Nairobi, LR- 15292 Kibos Road,

Kisumu were revalued in 1995 and their values incorporated in the 1995/96 Accounts of the Institute;

(ii) the Institute has since obtained title deeds for LR - 209/12910 Kapiti Road Nairobi, and LR - 209/5811 Dunga Road, while title deed for LR - 15292 Kibos Road, Kisumu is under process.

The Committee recommends that the Chief Executive should ensure that the Institute obtains title deed for plot LR - 15292 Kibos Road by 30th September 2006.

3. DEBTORS

The Balance sheet Debtors of Kshs. 2,681,681, at 30th June 1995 includes an amount of Kshs. 545,620 in respect of analysis fees, part of which dates back to 1980. In view of the long time it has taken to collect the fees, the realization of the debt in total is in doubt.

The Committee heard the evidence given by the Chief Executive that the Institute's Balance Sheet Debtors figure of Kshs.2,681,681 as at 30th June, 1995 included an amount of Kshs.545,620 which date back to 1980 and that out of this, an amount of Kshs.286,975.15 was written off in October 1997 as bad debts.

The Committee recommends that the Institute should intensify efforts to recover the outstanding debts.

4. ADVANCES AND PAYMENTS

The Institute did not maintain registers in respect of imprests, salary advances and prepayments during the year. Consequently it is not clear who owes amounts shown in notes 4 to the account totalling Kshs. 3,106,253.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Institute did not maintain imprests, salary, advances and prepayments registers due to introduction of a payroll package by the then Information Specialist, who has since left the Institute which resulted in difficulties in reconciliation of such accounts.

The Committee was informed that the Institute has since reconstructed the registers from the available records.

The Committee observed with concern that the Institute took inordinately too long to detect that the system could not work.

The Committee recommends that:

(i) **the registers should be availed to the Controller and Auditor General for verification and reconciliation;**

(ii) **the Chief Executive should ensure that the Institute maintains up-do-date registers for salary advances, imprests and prepayments, and maintain proper books of accounts.**

5. **INVESTMENTS**

The Institute renewed an investment of Kshs. 1,940,500 with a private institution, on 1st September 1994, the same date the Institution was put under liquidation by the Central Bank of Kenya. The Institute has not taken any action against officers who placed the money in a bank which was on the verge of collapsing.

The Committee heard the evidence given by the Chief Executive that the Institute did not place investment at Thabiti Finance Company the same day the institution was put under the management of Central Bank of Kenya and that the Institute has recovered the entire Kshs.1,940,500 from the Deposit Protection Fund earlier held at the Thabiti Finance Company thereby resolving the audit query.

The Committee recommends that the Chief Executive should ensure that surplus funds are invested in accordance with Treasury Circulars.

6. **CASH MISAPPROPRIATION**

Audit inspection carried out in April 1996, at the Institutes Kisumu Sorghum Pilot Plant revealed a cash shortage of Kshs. 110,700 in respect of sale of sorghum proceeds, which was not banked. Although the management has advised that the amount is being recovered, no evidence such as the amount so far recovered, or the names of officers from whom recoveries are being affected has been produced by the Institute in support of the explanation. The incident does not also appear to have been reported to the police for investigation and possible prosecution.

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

(i) **during the year under review, the Institute did not have an accountant, as such a Technologist attached to the Traditional Foods Development Centre (TFDC) at the station, Mr. J. O. Achacha was handling cash from sales proceeds.**

(ii) **the correct figure that was misappropriated was Kshs.60,450.50 as established by a fresh audit by internal auditors and the sum has since been recovered from the officer's salary.**

(iii) **the anomaly was due to the fact that Mr. Achacha, who is still in office, was not an accountant and therefore could not keep cash records.**

The Committee recommends that the Institute should maintain a proper cash handling system and streamline it to avoid loses.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE FOR THE YEAR ENDED 30TH JUNE 1996

1. DEBTORS

The Institutes Balance Sheet Debtors figure of Kshs. 2,863,031 at 30 June 1996 still includes an amount of Kshs. 546,620 in respect of analysis fees, some of which date back to the year 1980. In view of the very considerable long period of time during which these fees have been outstanding, the total realization of the debt is clearly in doubt.

The Committee heard the evidence given by the Chief Executive that the Institute's Balance Sheet Debtors figure of Kshs.2,681,681 as at 30th June, 1995 included an amount of Kshs.545,620 which date back to 1980 and that out of this, an amount of Kshs.286,975.15 was written off in October 1997 as bad debts.

The Committee recommends that the Institute should intensify efforts to recover outstanding debts.

2. ADVANCES AND PREPAYMENTS

Although during the year under review the Institute had started maintaining registers in respect of Imprests, Salary advances and Prepayments, the records were, however, such that no schedules were available containing names and other particulars of those who owed the Institute the amount of Kshs. 4,220,727 reflected as Advances and Prepayments under Note 4 to the Accounts. In the circumstances, it was not possible to ascertain and confirm the correctness of the said balance.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Institute did not maintain imprests, salary, advances and prepayments registers due to introduction of a payroll package by the then Information Specialist who has since left the Institute which resulted in difficulties in reconciliation of such accounts.

The Committee was informed that the Institute has since reconstructed the registers from the available records.

The Committee observed with concern that the Institute took inordinately too long to detect that the system could not work.

The Committee recommends that:

(i) **the registers should be availed to the Auditors for verification and reconciliations; and,**

(ii) **the Chief Executive should ensure that the Institute maintains up-do-date registers for salary advances, imprests and prepayments.**

3. PENSION SCHEME

Although the Institute has invested pension funds totalling Kshs. 22,093,001 with a private insurance company, its Pension Scheme has to date not been registered even though the Institute did apply for registration but without providing the 1997 Scheme Accounts together with the application. In the absence of separate audited Pension Fund Accounts, it is not easy to confirm the correctness of the Pension Fund balance of Kshs. 22,093,001 reflected in these accounts as at 30 June 1996.

The Committee heard the evidence given by the Chief Executive that the Institute had earlier invested its Pension Funds in National Industrial Credit Bank, which was transferred to Madison Insurance Company in July 1995. The registration was granted on 1st January 2000.

The Committee was further informed that the Pension has since been audited.

The Committee recommends that the Chief Executive should ensure that pension funds are administered in accordance with the Retirement Benefits Authority Act.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF EWASO NGIRO SOUTH DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1995

1. FIXED ASSETS

As previously reported, the Balance Sheet fixed assets figure of Kshs.7,950,292 excludes an undetermined value of 25 acres land allocated to the Authority by the Government and for which the Authority has not been issued with title deed. I am now informed that action is being taken to resolve this matter and that the value of the land will be included in the 1995/96 accounts.

The Committee heard the evidence given by the Chief Executive that the Authority has since obtained title deeds Nos. Narok Township/334 (5.147 acres) and Narok Township/335(19.942 acres) and their values of Kshs.50,000,000 incorporated in the accounts for the year 1995/96 thereby resolving the audit query.

2. PURCHASE OF MOTOR VEHICLE

During the year under review, the Authority purchased a second hand reconditioned motor vehicle at Kshs.850, 000. No information has been made available to enable me establish how the supplier was identified and the price determined, and I am, therefore, unable to ascertain that the Authority got the best value for the money paid.

The Committee heard the evidence given by the Chief Executive that the Authority purchased a second hand motor vehicle Toyota Hilux Surf Reg. No. KAE 498G at Kshs.850,000 through single sourcing from M/s. Yorkdale Enterprises.

The Committee further heard that the Authority negotiated the price with the vendor and that no valuation was carried out to determine its value prior to the purchase.

The Committee observed with concern that the Authority flouted procurement procedures in the purchase of the vehicle and that it may not have realised the value for the money paid in the transaction.

The Committee recommends that the Authority must adhere to procurement procedures currently in force in procurement of goods and services.

3. BUDGETS AND BUDGETARY CONTROL

During the year under review, the Authority overspent on 11 items totalling Kshs.4,679,435 or 75.1% of the approved budget of Kshs.6,227,000. No evidence was made available to confirm that Management obtained the necessary approval for the over-expenditure from the Parent Ministry, the Treasury and the Board as required by the State Corporations Act.

The Committee heard the evidence given by the Chief Executive that the Authority over-spent its budgetary allocation by Kshs.4,679,435 on 11 items due to:

(i) addition of senior staff following the Board's approved appointments which varied the budget by Kshs.1,693,914.75;

(ii) architectural fees for the then envisaged Headquarters and other buildings approved by the Board occasioning a variance of Kshs7,116,321;

(iii) insurance expenses, that varied with Kshs.538,123 from the budget;

(iv) over expenditure on supplies for livestock, giving rise to a variance of Kshs.167,450;

The Committee observed with concern that the Authority single sourced and paid exorbitant fees to an Architect for consulting services for a 20 roomed building, and without any approval, thereby necessitating the over expenditure; and

(i) the Authority over expended on its budget by 75.1% without approval of the parent Ministry.

The Committee recommends that the Authority should operate within its approved budget.

4. PROFESSIONAL CHARGES - KSHS.1,568,321

An amount of Kshs.1,568,321 was paid to a firm of Architects contracted to design the proposed physical development plan of the Authority. In the absence of competitive bidding, it is not clear how the firm was identified for the job or how the contract price of Kshs.1,568,321 was arrived at.

The Committee heard the evidence given by the Chief Executive that the Authority, without competitive bidding contracted M/s. Mwacharo and Associates on on-going work for a total sum of Kshs.1,568,321 for consultancy for the headquarter buildings. The Committee further heard that the building is a 20 roomed single floored office block that is currently the Headquarters for the Authority. The finished building costed over Kshs.20,000,000.

The Committee observed with concern that the Architect was single sourced and in addition paid exorbitant consultancy fees to M/s. Mwacharo & Associates.

The Committee recommends that the Chief Executive should ensure that government regulations pertaining to procurement of goods and services are adhered to without exception.

5. SUSPENSE ACCOUNT

The accounts as at 30th June 1995 reflect a suspense account balance of Kshs.182,241 whose nature was not explained to me during the audit.

Further, the cumulative development grant amount of Kshs.6,232,000 shown in the Balance Sheet includes grants totalling Kshs.790,000 received and accounted for in 1991/1992 and 1992/93 but omitted from the Authority's accounts for 1993/94. Although the amount was included in the cumulative figure for the year under review, a corresponding debit in the 1994/1995 accounts has not been identified. In the circumstances, I have not been able to determine to what extent the grant credit of Kshs.790,000 whose debit has been identified as stated above and the suspense account of Kshs.182,2141 have affected the accuracy of the Authority's Balance Sheet as at 30 June 1995.

The Committee heard the evidence given by the Chief Executive and was informed that the Accounts of the Authority for the year under review reflected a suspense Account balance of Kshs.182,241 due to incomplete records and the amount of 790,000 was a development grant received from the Treasury but which was omitted from the Authority's books of Accounts.

The Committee further heard that the amount of Kshs.790,000 was used to acquire assets and fully accounted for.

The Committee recommends that the Chief Executive should avail records in support of the Kshs.187,241 to the Kenya National Audit Office for verification and reconciliation.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF EWASO NGIRO SOUTH DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1996

1. BUDGETARY CONTROL

During the year under review, the Authority did not exercise adequate expenditure control in that it overspent by Kshs.3,482,972 on four of its expenditure items representing an over expenditure of 105% over the approved budget as shown below:

Item	Approved Budget	Actual Expenditure	Over Expenditure
	Kshs.	Kshs.	Kshs.
House Allowance	1,200,000	1,237,179	37,179
Other miscellaneous charges	80,000	120,479	40,479
Medical Expenses (out-patient)	520,000	630,445	110,445
Building-non residential (Work in progress)	1,500,000	4,794,869	3,294,869
	3,300,000	6,782,972	3,482,972

The Authority has not produced any evidence to confirm that the necessary approval was obtained for the over-expenditure from the Parent Ministry, the Treasury and the Board as required by Section 12 of the State Corporations Act.

The Committee heard the evidence given by the Chief Executive that the Authority did not exercise adequate expenditure control and as a result ended over spending by Kshs.3,482,972 without the requisite approval.

The Committee recommends that the Chief Executive should seek post-facto authority for the over expenditure of Kshs.3,482,972, and the Authority should operate within the approved budget.

2. PROFESSIONAL CHARGES

In the report for 1994/95, it was indicated that a firm of Architects was contracted to design the proposed physical development plan for the Authority without inviting competitive tenders and that

Kshs.1,568,321 was paid for the services. During the year under review the Authority paid an additional Kshs.69,000 for the job thus raising the total expenditure paid to the firm of Architects to Kshs.1,637,321 as at 30 June 1996.

The Committee heard the evidence given by the Chief Executive and was informed that the Authority contracted M/s. Mwacharo & Associates for Kshs.1,568,321 to design the proposed physical development plan without competitive bidding.

The Committee expressed concern that the contract was entered into without competitive bidding.

The Committee recommends that the Chief Executive should ensure government regulations pertaining to procurement of goods and services are adhered to without exception.

3. OUTSTANDING IMPREST KSHS.192,311

The debtors figure of Kshs 512,671 includes cash advances totalling Kshs.192,311 to the Chairman of the Authority and an employee of the Parent Ministry which have been outstanding for more than a year. The Authority has not explained the terms under which the advances were made and how they will be recovered.

The Committee heard the evidence given by the Chief Executive and was informed that the outstanding imprest of Kshs.192,311 has since been cleared thereby resolving the audit query.

4. SUSPENSE ACCOUNT

The accounts as at 30 June 1996 reflect a suspense account of Kshs.427,983 (Kshs.182,241 in 1994/95) whose nature was not explained by the Authority during the audit. Further, the cumulative development grant amount of Kshs.20,682,000 shown in the Balance sheet includes grants totalling Kshs.790,000 received and accounted for in 1991/92 and 1992/93 but omitted from the Authority's accounts for 1993/94. Although the amount was included in the cumulative figure for the year under review, a corresponding debit in the 1994/95 and 1995/96 accounts has not been identified. In the circumstances, I have not been able to determine the extent to which the omission of the debit of Kshs.790,000 in respect of the grant and the suspense account of Kshs.427,983 have affected the accuracy of the Authority's Balance Sheet as at 30 June 1996.

The Committee heard the evidence given by the Chief Executive that the amount of Kshs.790,000 was a development grant

received from the Treasury while the suspense of Kshs.427,083 arose due to incomplete records.

The Committee recommends that the Chief Executive should reconcile the Suspense amount of Kshs.427,983 in the Accounts of the Authority.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA FERRY SERVICES FOR THE YEAR ENDED 30TH JUNE, 1997

1. GOING CONCERN

During the year 1996/97, the Kenya Ferry Services Limited made an operating loss of Kshs.234,799,946 which brought its cumulative losses to Kshs.575,713,172 as at 30 June 1997. Out of this total loss, Kshs.300,000,000 was recouped from Government, leaving a balance of Kshs.275,713,172 as still outstanding while Creditors and Accruals totalled Kshs.49,919, 620 as at 30 June 1997. The Company was evidently facing serious financial problems and the Accounts were, therefore, prepared on a going concern basis on the same assumption that the Company will continue to get support from Government and its creditors.

The Committee heard the evidence given by the Chief Executive that the Service made an operating loss of Kshs. 234,799,946 as at 30th June 1997 and that this was attributable to minimal vehicular toll for tariffs charged by the Company, and revaluation of the Company's assets which led to a higher provision of depreciation of Kshs. 63,760,105 compared to Kshs. 20,360,416 in the previous year.

The Committee noted that since the year 2000, the Government has been providing adequate funding to the Company.

The Committee recommends that the Government should continue allocating adequate funding to the Company to ensure it fulfils its mandate.

2. CASH AND BANK BALANCES

According to the Company's Bank and Petty Cash reconciliations, the Cash Book balances amounted to Kshs.2,724,198 and Kshs.1,104,471 (total Kshs.3,828,670) while the total amount entered in the Balance Sheet as at 30 June 1997 was Kshs.6,857,319. The nature of the resulting difference of Kshs.3,028,649 was not explained. Arising from this difference, it was not possible to confirm the correctness of the Balance Sheet Cash and Bank balance figure of Kshs.6,857,319 as at 30 June 1997.

The Committee heard the evidence given by the Chief Executive that the difference resulting from the Cash Book balances and

the total amount entered in the Balance Sheet in the year under review was caused by manual accounting system used by the Company, which was susceptible to posting/costing errors.

The Committee noted that the casting error was detected and reconciled with the accounts thereby resolving the audit query.

3. SUNDRY DEBTORS

The Balance Sheet Sundry Debtors figure of Kshs.7,046,413 includes cash shortage occasioned by former member of staff totalling Kshs.593,649. Although one of the ex-staff has been repaying his portion of the cash shortage, the other portion amounting to Kshs.551,615 is not likely to be recovered as the former member of staff is indicated as being untraceable.

The Committee heard the evidence given by the Chief Executive that the sundry debtors figure of Kshs. 7,046,413 included cash shortage occasioned by two former members of staff of Kshs. 593,649 and that one member of staff has repaid his portion of the shortage while the balance of Kshs. 551,615 has not been recovered from Mr. Said Said Mohammed.

The Committee was informed that the matter has been reported to the Divisional C.I.D, Kilindini for investigation vide RE: CR/021/106/92 and that a warrant for his arrest has since been given.

The Committee observed with concern that the matter has taken inordinately long to be investigated and resolved by the Director of Criminal Investigations Department and the Company.

The Committee recommends that the Director of Criminal Investigations Department and the Chief Executive should ensure that the matter is investigated and resolved not later than December 31, 2006.

4. SERVICE PAY BENEFITS

The Service Pay Benefits balance of Kshs.2,093,480 as at 30 June 1997 comprises of money received on account of pay benefits for staff taken over the Company from the Kenya Bus Service. This money was subsequently invested in a private bank, which was, however, later placed under Central Bank management. Apart from the fact that authority to invest the amount in a private bank was not seen

no evidence was available to confirm recoverability by the Company of the investment from the bank.

The Committee heard the evidence given by the Chief Executive that the figure of Kshs. 2,093,480 included money received on account of pay benefits for staff taken over by the Company from Kenya Bus Services Ltd and the amount which was Kshs. 1,838,281 was subsequently invested in Kenya Finance Bank which was later placed under Central Bank's Management.

The Committee further heard that the Company has since received Kshs. 290,072 from liquidators of Kenya Finance Bank.

The Committee recommends that:

(i) the Chief Executive should liaise with the Deposit Protection Fund with a view to recovering the balance of the amount deposited in the Kenya Finance Bank (under liquidation); and

(ii) the Chief Executive should ensure that the pay Benefits are managed in accordance with the Retirement Benefits Authority Act.

5. ADVANCES FROM KENYA PORTS AUTHORITY

As indicated in the previous year, the advances balance from Kenya Ports Authority includes an amount of Kshs.9,225,000 held as an investment in Suli Suli Cruise Kenya Limited. During the year under review, this position remained the same as the total advances from Kenya Ports Authority figure of Kshs.247,689,861 still included investment of Kshs.9,225,000 in Suli Suli Cruise Company which has since become dormant, thus making the investment valueless.

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 9,225,000 was held as an investment in M/s. Suli Suli African Cruises under Kenya Ferry Services paid as its 30% share contribution in the venture and that the venture later collapsed.

The Committee was informed that the matter had been reported to the Kenya Anti-Corruption Commission for investigation.

The Committee recommends that the Chief Executive should ensure that the full amount of money of Kshs. 9,225,000 with

interest accrued, invested in M/s. Suli Suli African Crisis (K) (Ltd) is recovered.

The Committee further recommends that the Chief Executive should follow up the matter with the Director of Kenya Anti-Corruption Commission, to its expedient and conclusive end.

6. PAYMENT OF PROFESSIONAL FEES

The Company's Accounts for the year 1996/97 also reflect expenditure on professional fees of Kshs 3,572,763 which includes an amount of Kshs.672,000 reimbursed to a firm of valuers in respect of travelling and accommodation expenses and consultancy charges analysed as follows:

	Kshs.
Air ticket - Nairobi - London and back	120,000
Air ticket - Nairobi - Mombasa and back	20,000
Accommodation for two at Kshs.4,000 per day for 14 days	112,000
Consultancy fees at Kshs.30,000 per day for 14 days	420,000
Total	**672,000**

Apart from the fact that the Company has not produced signed contract to support the consultancy fee rate charge of Kshs.30,000 per day, it is also not clear why the consultants had to be reimbursed travel expenses between Nairobi and London amounting to Kshs.120,000, particularly in view of the fact that the assets of the Company were based in Kenya. In the absence of any signed contract between the Company and the consultants and the supporting documentation thereof it has not been possible to confirm the propriety of the above total expenditure of Kshs. 672,000 reimbursed to the private valuers by the Company.

The Committee heard the evidence given by the Chief Executive and was informed that the accounts for the Company for the year 1996/97 reflected expenditure on professional fees of Kshs. 3,572,763 which included an amount of Kshs. 672,000 reimbursed to M/s. Tysons Kenya Limited in respect of travelling and accommodation expenses and consultancy charges.

The Committee was further informed that the fees charged were as per the Valuers Act Cap 532 and that the amount of Kshs. 672,000 queried was inclusive.

The Committee recommends that the Chief Executive should provide a signed contract agreement between the Company and the firm of the Valuers showing consultancy fee rate chargeable and other expenses to the Controller and Auditor General for verification by December 31, 2006.

7. BUDGETARY CONTROL

During the year under review, the Company exercised laxity over its budget control and as a result overspent a total of Kshs.17,699,057 against five of its expenditure items. No information was, however, produced to show that the over expenditure was approved by the Board, the parent ministry and the Treasury as provided for by Section 12 of the State Corporations Act.

The Committee heard the evidence given by the Chief Executive that the Company overspent a total of Kshs. 17,699,057 against five items, which included salaries and wages, overseas ferry insurances, survey fees and cost of spares.

The Committee expressed concern that management of the Company overspent the budget without the approval of the parent Ministry and Treasury.

The Committee recommends that the Company should seek post-facto approval of expenditure of Kshs. 17,699,057 and desist from over incurring expenditures.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA FERRY SERVICES LIMITED FOR THE YEAR ENDED 30 JUNE 1998.

1. INVESTMENTS

The Service pay benefit figure of Kshs. 2,093,480 reflected on the Company's Balance Sheet as at 30 June 1998 represents money received by it on account of pay benefits for staff taken over from Kenya Bus Service which the Company invested in a private Bank that was subsequently placed under Central Bank management. Apart from the fact that no authority to invest the money in a private bank was seen, the possibility of recovering this investment from the bank appears remote. Consequently, it is not possible to confirm that these pensioners' funds are secure and will be available as and when required.

The Committee heard the evidence given by the Chief Executive that the figure of Kshs. 2,093,480 included money receive on account of pay benefits for staff taken over by the Company from Kenya Bus Services Ltd and the amount which was Kshs. 1,838,281 was subsequently invested in Kenya Finance Bank which was later placed under Central Bank's Management.

The Committee further heard that the Company has since received Kshs. 290,072 from liquidators of Kenya Finance Bank.

The Committee recommends that:

(i) the Chief Executive should liaise with the Deposit Protection Fund with a view to recovering the balance of the amount deposited in the Kenya Finance Bank (under liquidation); and

(ii) the Chief Executive should ensure that the Pay Benefits are managed in accordance with the Retirement Benefits Act.

2. FREEHOLD LAND AND BUILDINGS

The Balance Freehold land value of Kshs 22,500,000 represents the original cost of two pieces of land owned by the Company at Kisauni under reference numbers MN/11/232/2 and MN/11/235/2 measuring 31.71 hectares and 1.15 hectares respectively. Although the other assets of the Company were, as previously reported, revalued and the new values incorporated in the Accounts for the

previous year, the Company has still not explained why these two parcels of land were not revalued along with its assets and their valuation incorporated in these Accounts. Accordingly, the Freehold Land and Building figure of Kshs 22,500,000 reflected in the Accounts for 1997/98 is understated to the extent of the under-valuation. In addition, the titles deed in respect of land reference No.MN/11/235/2 has also not been seen.

The Committee heard the evidence given by the Chief executive that the Balance Sheet freehold land value of Kshs. 22,500,000 represents the original cost of two pieces of land owned by the Company at Kisauni under Ref. No MN 11/232/2 and MN/11/235/2 measuring 31.71 hectares; and that the properties were not re-valued in the year under review as the Company was facing financial constraints and did not have immediate use to it. The committee noted that the land has since been transferred to Kenya Ports Authority in order to reduce the advances figure and titles issued to KPA thereby resolving the audit query.

3. STOCKS

The Stocks figure of Kshs 65,602,265 as at 30 June 1998 includes dormant stocks totaling Kshs 9,164,380 which have remained in the Company's Stores for a period of over three years. Apart from the fact that it was not clear why the Company had to buy these apparently excessive stores, the use to which the stores are intended has also not been adequately explained while the risk for such stores to become obsolete is quite real. The stock figure of Kshs 65,602,265 also represents about 78% of the total current assets of the Company. It is therefore, not clear why the Company decided to heavily invest in stocks which apparently were not likely to be utilized in the immediate future.

The Committee heard the evidence given by the Chief Executive that the stocks figure of Kshs. 65,602,265 included stocks worth Kshs. 9,164,380 for the purpose of replacing old and worn out parts during ferry surveys which are done annually.

The Committee noted that new stock, which had remained in the Company stores for a period of three years, was subsequently used in the year 2003 during another ferry survey.

The Committee recommends that the Company procures goods only when it is necessary to avoid stocks becoming obsolete.

4. PROCUREMENT OF PUMP SPARES

Between 09 September 1996 and 24 September 1996, the Company procured pump spares at a total cost of Kshs. 9,245,000 without invitation of open competitive tenders. In the absence of open competitive bids, it was not possible to confirm that the spares were bought at the most competitive prices.

The Committee heard the evidence given by the Chief Executive that the Company floated quotations to six pre-qualified companies on 10th June, 1996 for supply of pump spares and that after evaluation, M/s. Equip Agencies was given the contract to supply the spares at Kshs. 9,245,000.

The Committee took great exception to the manner in which the procurement was conducted.

The Committee expressed concern that the Company may not have obtained value for money in the purchase of the pump spares due to its failure to invite open tenders.

The Committee recommends that the Chief Executive should ensure that procurement procedures are followed.

5. ADVANCES FROM KENYA PORTS AUTHORITY

During the year under review, the Kenya Ports Authority (KPA) advanced the Company an amount of Kshs. 175,132,239 which brought total advances by Kenya Ports Authority to the Company to Kshs. 422,822,100 as at 30 June 1998. The advances include an investment of Kshs. 9,255,00 made by KPA on behalf of the Company in Suli Suli Cruise Company which has since become dormant, thus making the recovery of the investment highly doubtful.

The Committee heard the evidence given by the Chief Executive that the Kenya Ports authority advanced the Company an amount of Kshs. 175,132,239 which brought total advances to Kshs. 422,822,100 as at 30th June 1998 and that included in the figure is Kshs. 9,225,000 made by KPA on behalf of the Company in M/s. Suli Suli African Cruises (K) Ltd.

The Committee recommends that the Chief Executive should ensure that the full amount of money of Kshs. 9,225,000 with interest accrued; invested in M/s. Suli Suli African Cruises (K) Ltd is recovered.

The Committee further recommends that the Chief Executive should expeditiously follow-up the matter with the Director of the Kenya Anti-Corruption Commission.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA FORESTRY RESEARCH INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1998

1. FINANCIAL POSITION

As in the previous year the Institute continued to incur operating deficits with a deficit of Kshs.46,377,300 being realised as at 30 June 1998. This result brought the Institute's cumulative deficit to Kshs.261,922,578 as at 30 June 1998. The Institute has attributed the deficits to depreciation costs relating to its assets and has further explains that the provision is not catered for in the income grants issued to it. This explanation, is however, not fully understood as depreciation is a normal chargeable operating cost.

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

(i) the deficit for the year of Kshs.46,377,000 was created by the depreciation charge of Kshs.55,002,058 in the income and Expenditure Account due to donated fixed assets;

(ii) the Institute accounting policy then did not recognize the benefit of donated assets on their economic life. However, this has since been corrected and the Institute has been posting such assets to the Income and Expenditure Account; and,

(iii) the Institute established a sinking fund in the year 2001 for fixed assets provided by the government for the purpose of replacing depreciated assets;

The Committee recommends that the Institute should liaise with the Controller and Auditor General with a view to verifying and reconciling the provision of a sinking fund for the purposes of providing for its fixed assets.

The Committee further recommends that the Institute should prepare its accounts in accordance with International Accounting Standards.

2. FIXED ASSETS

In the report for the year 1996/97, doubts were expressed regarding the accuracy of the fixed assets Balance Sheet figure, which as at 30 June 1997, totalled Kshs.987,266,072.

It was in particular indicated that the Institute's land at Muguga shown in
the Accounts as Kshs.15,462,024, has not been professionally valued. Although it is now understood that a valuation of that land has been completed the same has not been incorporated in the Institute's Accounts for the year 1997/98 while the value of land outside Muguga has not yet been determined or included in these Accounts The Institute has also not obtained title deed for its other parcel of land at Kitui. Consequently, it is not possible to confirm both the ownership and the value of that land.

The Committee heard the evidence given by the Chief Executive that land in Muguga has since been valued at Kshs.110,842,800 and incorporated in the Accounts of the year 1998/99.

The Committee further heard that the Institute has obtained title deeds for its three parcels of land at Kitui while arrangements are being made to value them.

The Committee recommends that the Institute's parcels of land in Kitui be valued and their value be incorporated in its Accounts.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF PHARMACY AND POISON BOARD FOR THE SIX MONTHS PERIOD ENDED 30TH JUNE, 1994

1. LATE SUBMISSIONS OF ACCOUNTS

Although Section 3 1 of the Exchequer and Audit Act (Cap 412) requires State Corporations to submit their Accounts for audit not more than four months or such longer period as the National Assembly may by resolution appoint after the end of every financial year, the Board's Accounts for the six months' period ended 30 June 1994 which, under the law, should have been submitted for audit by 31 October 1994 were not so submitted. The signed accounts were submitted and received on 13 October 2000, almost six years after the due date. As far as I am aware the Board did not apply to the National Assembly for the extension of time within which to submit its Accounts for audit outside the statutory period as required under the law.

The Committee heard the evidence given by the Chief Executive that the Board failed to submit its accounts for audit within the statutory period and that this was occasioned by lack of qualified personnel hence forcing them to rely on clerical staff from the parent Ministry.

The Committee was informed that qualified staff have since been engaged.

The Committee recommends that the Board must always submit its accounts on time and that any Chief Executive of the Board who, in future, fails to submit accounts within the statutory time provided for in the Public Audit Act, 2003 should be relieved of his/her duties.

2. ACCUMULATED FUND KSHS.10,667,752

The Accumulated Fund of Kshs. 10,667,752 reflected on the Board's Balance Sheet as at 30 June 1994 comprise of Kshs. 9,522,108.55 being balance brought forward from earlier transactions before the Board came into existence on 31 December 1993 and of Kshs. 1,145,643.45 being the surplus for the period under review. Records show that in April 1992, the Board opened an account with a commercial bank, which was operated between the period 25 April 1992 and 31 December 1993. No information was, however, available regarding the operation of that Bank account during the period under reference. Under the circumstances, therefore, the accuracy

and correctness of the Accumulated Fund balance of Kshs. 10,667,752 as at 30 June 1994 cannot be confirmed.

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

(i) **the Board opened a bank account with the National Bank of Kenya (Hill Branch) on 25th April 1992. In January 1994, a new Board was constituted with a new Registrar and that the Registrar of the predecessor Board declined to hand over documents relating to the Account, to the reconstituted Board; and**

(ii) **the reconstituted Board adopted the balance in the NBK (Hill Branch) Account as at 31st December 1993 amounting to Kshs.9, 522,108.55.**

The Committee further heard that the then registrar Dr. Dominic S. Karanja who is currently a lecturer at the University of Nairobi declined to account for the status of the fund amounting to Kshs.9, 522,108.55.

The Committee expressed concern that the current management of the Board failed to act diligently to have the former registrar, Dr. Karanja account for the appropriation of the funds as it did not exhaust all avenues at their disposal including working closely with the Bank towards getting the information and litigation.

The Committee was further concerned that the Board lacked qualified and professional personnel to address accounting and finance issues of the Board.

The Committee recommends that the Registrar liaises with the office of the Controller and Auditor General, and the National Bank of Kenya with a view to obtaining information on the transactions of the Account and the Funds amounting to Kshs.9,522,108.55 and reconcile the Accounts by June 30th 2006.

3. <u>BUDGETARY CONTROL</u>

During the period under review, the Board operated without an approved budget contrary to requirements of Sections 11 and 12 of State Corporations Act (Cap 446).

In the absence of such approved Budget, it has not been possible to confirm the propriety of the total income of Kshs 1,742,893 or the total expenditure of Kshs 597,249.55 reflected in the Board's Accounts for the period under review

The Committee heard the evidence given by the Chief Executive that the Board operated without an approved budget during the year under review due to lack of qualified staff and that the matter has since been addressed.

The Committee observed with concern that the Board operated with un-approved budget contrary to provisions of State Corporation Act (Cap 446).

The Committee recommends that the Board must ensure that it operates an approved budget.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF PHARMACY AND POISON BOARD FOR THE YEAR ENDED 30TH JUNE, 1995

1. LATE SUBMISSION OF ACCOUNTS

Although Section 31 of the exchequer and Audit Act (Cap 412) requires State Corporations to submit their Accounts for audit not more than four months or such longer period as the National Assembly may by resolution appoint after the end of every financial year, the Board's Accounts for the year ended 30 June 1995, which under the law, should have been submitted for audit by 31 October 1995 were not so submitted. Signed Accounts were submitted and received on 7 November 2000, almost five years after the due date. As far as I am aware the Board did not apply to the National Assembly for extension of time within which to submit its Accounts for audit outside the statutory period as required under the law.

The Committee heard the evidence given by the Chief Executive that the Board failed to submit its accounts for audit within the statutory period and that this was occasioned by lack of qualified personnel hence forcing them to rely on clerical staff from the parent Ministry.

The Committee was informed that qualified staff have since been engaged.

The Committee recommends that the Board must submit its accounts on time and that any Chief Executive of the Board who, in future fails to submit accounts within the statutory time provided for in the Public Audit Act, 2003 should be relieved of his/her duties.

2. BUDGETARY CONTROL

During the year 1994/95 the Board operated without an approved budget contrary to provisions of Section 11 of the State Corporations Act (Cap 446). In the absence of such approved budget, it was not possible to confirm the propriety of the total income of Kshs. 6,275,045 or the total expenditure of Kshs. 2,989,901 reflected in these Accounts as at 30 June 1995 or even to confirm the propriety of the surplus arising thereof of Kshs. 3,285,144.

The Committee heard the evidence given by the Chief Executive that the Board operated without an approved budget during the

year under review due to lack of qualified staff and that the matter has since been addressed.

The Committee observed with concern that the Board operated with un-approved budget contrary to provisions of State Corporation Act (Cap 446).

The Committee recommends that the Board must ensure that it operates an approved budget.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY FOR THE YEAR ENDED 30TH JUNE 1998

1. FINANCIAL POSITION

The Income and Executive Accounts reflects a deficits of Kshs.69,845,235.00(1997 Kshs.29,430,795.00) which is said to have resulted mainly from gross under funding by the government. The summary of approved recurrent expenditure statement for the year ended 30th June, 1998, however, indicates that expenditure of Kshs.174,699,939.00 was incurred above the approved estimates amounts of Kshs.267,657,560.00 . The Balance Sheet negative Net Current Assets figure of Kshs 50,392,191.00 indicates that the University was technically insolvent. The University was evidently experiencing financial constraints and unless its funding is improved and expenditure limited to approved budgetary estimates it might be difficult for it to fulfil its mission of pursuing excellence in Education, Training, Research and Scholarship.

The Committee heard the evidence given by the Chief Executive that during the year under review, the University Income and Expenditure Account reflected a deficit of Kshs. 69,845,235.00, which mainly resulted from gross under funding from the Government.

The Committee also heard that: -

(i) the University submitted a budget of Kshs. 494,408,000 to the parent ministry, while it was allocated Kshs. 267,586,160.00 in the approved estimates for the year;

(ii) the under funding resulted in the University over-expending on its approved estimates by Kshs. 170,699,939.00; and

(iii) subsequently, the University financed most of its major operations from creditors and bank overdrafts.

The Committee was concerned that continued under-funding may interfere with the operations of the University and compromise its objectives.

The Committee reiterates its earlier recommendations in the 10th Report that: -

(i) **the Vice-Chancellor and the parent Ministry should review students' per unit cost with a view to increasing the funding level of the University;**

(ii) **the University should pursue other means of generating income to meet its financial obligations; and,**

(iii) **the University should rationalize its expenditures with a view to improving its financial position.**

2. FIXED ASSETS

As indicated in my previous reports, the land on which the University is situated includes some 205 hectares whose value in April 1987 was Kshs. 5,000,000.00 This land has, however, not been transferred from its original owner and registered in the name of the University at the time of signing this report. The correctness of the Balance Sheet Fixed Assets figure of Kshs. 2,335,175,437.00 has, therefore, not been vouched as the formalities regarding the transfer and registration of land have not been completed.

The Committee heard the evidence given by the Chief Executive that the land on which the University is situated included some 205ha, which the University had obtained a title during the year of audit review.

The Committee was informed that the title No. IR 25190/3 has since been transferred to the University since 3rd July 2001 thereby resolving the audit query.

3. SHORT TERM DEPOSITS

In the previous year's report, reference was made to Kshs. 8,953,202.00 in respect of the outstanding deposits and accrued interest thereon, which were previously held in a Commercial Bank. This amount is still outstanding and is included in Debtors and Debit Balances Sundry Debtors figure of Kshs. 21,953,810.00 and Ksh. 1,185,603.00 in respect of short-term deposits and accrued interests thereon, respectively, in a bank which was under receivership. The management has previously indicated that they filed their claims with the receiver but the outcome was still uncertain by the time of the signing of this report. It is also not clear why the University did not invest in Treasury Bills or Bonds as required by the regulations.

The Committee heard the evidence given by the Chief Executive that during the year under review, the university had short term deposits amounting to Kshs. 8,663,201.90 at Trade Bank (under liquidation) and a further Kshs. 21,585,142.50 at Kenya Finance Ltd (under liquidation) as at September 7th 2004.

The Committee was informed that the University has since received Kshs. 1,537,331.40 from the liquidators of Kenya Finance Bank who have pledged to make further payments once they realize the sale of the Assets of the affected banks.

The Committee recommends that the Vice-Chancellor pursues the balances with the receivers of the banks with a view to recovering the said balances with accrued interests.

The Committee further reiterates its earlier recommendation in its 10th report, page 272, that the Chief Executive should ensure that Treasury regulations governing investments of surplus funds are strictly adhered to.

4. AUDIT FEES

The Balance Sheet Creditors and Credit Balances amount of Ksh. 130,352,914.00 includes an amount of Ksh. 2,750,000.00 being the outstanding audit fees for the period 1980/81 to 1996/97 which the University had not paid as at the end of the year under review. Although the University had agreed on 8th July 1998 to settle the outstanding liability in five equal monthly instalments of Ksh. 550,000.00, only 800,000.00 has so far been paid leaving a balance of Ksh. 1,950,000.00. Although Section 14(4) of the State Corporations Act requires that expenses of and incidental to the auditing of the accounts of a State Corporation be borne by the State Corporation, the University has not done so and was, therefore, in breach of the law.

The Committee heard the evidence given by the Chief Executive that the audit fees which the University should have paid for services rendered by the Auditor-General (Corporations) had not been cleared due to financial difficulties and that the outstanding arrears have since been settled thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY FOR THE YEAR ENDED 30TH JUNE, 1999

1. FINANCIAL POSITION

The University's Accounts for the year 1998/99 reflect a deficit of Kshs.57,012,626.05 realised as at 30 June 1999 which brought its accumulated deficit to Kshs.67,192,158.45 as of the same date. Although the deficit is stated to have resulted mainly from gross under funding by Government, records of the University do not, however, confirm this stated position to be the case in that total capitalization grants of Kshs.292.4 million were received during the year 1998/99 compared to grants of Kshs.267.7 million issued for the previous year while tuition fees and other income of Kshs.111.32 million in 1998/99 exceeded the income for 1997/98 of Kshs.104.85 million by Kshs.6.47 million. The University did not also pay statutory deductions totalling Kshs.89,085,048 as at 30th June 1999 while the Balance Sheet reflects negative working capital of Kshs.99,679,587 as of the same date. Evidently,. therefore, the University was technically insolvent and continues to depend heavily on the support of Government, its creditors and bankers.

The Committee heard the evidence given by the Chief Executive that during the year under review, the University Income and Expenditure Account reflected a deficit of Kshs. 69,845,235.00, which mainly resulted from gross under funding from the government.

The Committee also heard that: -

(i) the University submitted a budget of Kshs. 494,408,000 to the parent ministry, while it was allocated Kshs. 267,586,160.00 in the approved estimates for the year;

(ii) the under funding resulted in the University over-expending on its approved estimates by Kshs. 170,699,939.00; and,

(iii) subsequently, the University financed most of its major operations from creditors and bank overdraft;

The Committee was concerned that continued under-funding may interfere with the operations of the University and compromise its objectives.

The Committee reiterates its earlier recommendations that: -

(i) **the Vice-Chancellor and the parent ministry should review students' per unit cost with a view to increasing the funding level of the University; and,**

(ii) **the University should pursue other means of generating income to meet its financial obligations;**

2. FIXED ASSETS

As previously reported, the land on which the University is situated includes some 205 hectares whose value in April, 1987 was Kshs.5,000,000. The ownership of this land has, however, to date not been transferred from its original owner to the University.

The Committee heard the evidence given by the Chief Executive that the land on which the University is situated included some 205ha, which the University had not obtained a title during the year under review.

The Committee was informed that the title No. IR 25190/3 has since been transferred to the University since 3rd July 2001 thereby resolving the audit query.

3. SHORT TERM DEPOSITS

Reference was also made in previous year's report of outstanding deposits and accrued interest thereon of Kshs.8,663,202 held in a Commercial Bank that was under receivership. This amount still remains outstanding and is included in the Debtors and Debit Balance Sundry Debtors figure of Kshs.10,072,143 as at 30th June 1999.

The University further held Kshs.21,953,810 and Kshs.1,168,603 in respect of short term deposits and accrued interest thereon, respectively, in a bank which was also under receivership. Although the University has explained that they filed their claims with receivers of these institutions, the outcome of such claims has not been seen. The more fundamental aspect of this matter is, however, the irregular investment of the funds in the two institutions without prior Treasury approval as required under Treasury Circular No. 10 of 1992.

The Committee heard the evidence given by the Chief Executive that during the year under review, the university had short-term deposits amounting to Kshs. 8,663,201.90 at Trade Bank (under liquidation) and a further Kshs. 21,585,142.50 at Kenya Finance Ltd (under liquidation) as at September 7th 2004.

The Committee was informed that the University has since received Kshs. 1,537,331.40 from the liquidators of Kenya Finance Bank who have pledged to make further payments once they realize the sale of the Assets of the affected banks.

The Committee recommends that the Vice-Chancellor pursues the balances with the receivers of the banks with a view to recovering the said balances with accrued interests.

The Committee further reiterates its earlier recommendation in its 10th report, page 272, that the Chief Executive should ensure that Treasury regulations governing investments of surplus funds are strictly adhered to.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY FOR THE YEAR ENDED 30TH JUNE, 2000

1. FIXED ASSETS

As previously reported, the land on which the University is situated includes some 205 hectares of land previously donated to it and whose value in April 1987 was Kshs.5,000,000. Records held by the University show that the University paid a total of Kshs.15,000,000 in October 2000 reportedly as full compensation for the same land and in order to facilitate the transfer of the title for the said land to itself. To date, the ownership of the land still remains with the original owner as the same has not been transferred to the University. The University however, holds a letter of Allotment No. 86527/14 dated 17 November 2000 in respect of the subject land.

The Committee heard the evidence given by the Chief Executive that the land on which the University is situated included some 205ha, which the University had not obtained a title during the year under review.

The Committee was informed that the title No. LR 25190/3 has since been transferred to the University since 3rd July 2001 thereby resolving the audit query.

2. SHORT TERM DEPOSITS

As was the case in the previous year, outstanding deposits and accrued interest thereon of Kshs.8,664,202 were still held in a commercial bank which was under receivership as at 30th June 2000. The University also held short term deposits and accrued interest thereon of Kshs.19,618,631.50 in another bank which also went into receivership in 1996. Although the University has explained that claims have been filed with Receivers of these Institutions, only a paltry amount of Kshs.1.203,623.65 has been received to date. The more fundamental aspect of this matter, however, is the irregular re-investment on maturity of the deposits in the two Institutions without prior Treasury approval contrary to the requirements of Treasury Circular No. 10 of 1992.

The Committee heard the evidence given by the Chief Executive that during the year under review, the University had short term deposits amounting to Kshs. 8,663,201.90 at Trade Bank (under

liquidation) and a further Kshs. 21,585,142.50 at Kenya Finance Ltd (under liquidation as at September 7th 2004).

The Committee was informed that the University has since received Kshs. 1,537,331.40 from the liquidators of Kenya Finance Bank who have pledged to make further payments once they realize the sale of the Assets of the affected banks.

The Committee recommends that the Vice-Chancellor pursues the balances with the receivers of the banks with a view to recovering the said balances with accrued interests.

The Committee further reiterates its earlier recommendation in its 10th report, page 272, that the Chief Executive should ensure that Treasury regulations governing investments of surplus funds are strictly adhered to.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY FOR THE YEAR ENDED 30TH JUNE, 2001

1. FINANCIAL POSITION

Although the University realized a surplus of Kshs.30,830,368.10 during the year under review, thereby reducing the Reserve Fund from negative balance of Kshs.57,327,849.20 in the previous year to a negative balance of Kshs.33,807,363.20 as at June 2001, the Balance Sheet reflects a negative Working Capital of Kshs.59,242,016.60 (2000 - Kshs.90,424,062.05) as the same date. Further, as stated in note 13 to the accounts, the Sundry Creditors balance of Kshs.188,358,201.90 includes an amount of Kshs.167,461,378.05 in respect of unremitted statutory P.A.Y.E deductions for the period from September 1997 to June 2001 which amount is likely to attract penalties due to continued delayed payment.

Evidently, the University is experiencing financial problems and the accounts, therefore, have been prepared on a going concern basis which assumes continued financial support from the Government and creditors.

Except for the above reservation, the accounts when read together with the notes thereon present fairly the financial state of affairs of the University as at 30th June 2001 and of its surplus and cash flow for the year then ended.

The Committee heard the evidence given by the Chief Executive that during the year under review, the University Income and Expenditure Account reflected a deficit of Kshs. 69,845,235.00, which mainly resulted from gross under funding from the government.

The Committee also heard that: -

(i) the University submitted a budget of Kshs. 494,408,000 to the parent ministry, while it was allocated Kshs. 267,586,160.00 in the approved estimates for the year;

(ii) the under funding resulted in the University over-expending on its approved estimates by Kshs. 170,699,939.00;

(iii) **subsequently, the University financed most of its major operations from creditors and banks' overdrafts;**

The Committee was concerned that continued under funding may interfere with the operations of the University and compromise its objectives.

The Committee reiterates its earlier recommendations in which it reports that: -

(i) **the Vice-Chancellor and the parent ministry should review students' per unit cost with a view to increasing the funding level of the University; and**

(ii) **the University should pursue other means of generating income to meet its financial obligations;**

Further, the Committee noted that the Reports of the Controller and Auditor General on Accounts of the University for the years ended 30th June 2002, 30th June 2003 and 30th June 2004 were clean accounts.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON ACCOUNTS OF EWASO NGIRO NORTH RIVER BASIN DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE 1998

1. FIXED ASSETS

The Balance Sheet Land and Buildings balance of Kshs.14,057,880 as at 30 June 1998 excludes the value of the Authority's land as at 30 June 1998. In addition the Authority does not hold title deeds for the land plots its owns while no charge was made in the Accounts for the year 1997/98 in respect of depreciation on the buildings, an omission which overstated the value of the Authority 's fixed assets to the extent of the depreciation cost not charged and also understated the deficit for the year. Under the circumstances, therefore, it has not been possible to either confirm the Authority's ownership of its land or even the correctness of its fixed assets as reflected on the Balance Sheet as at 30 June, 1998.

The Committee heard the evidence given by the Chief Executive that the Balance Sheet Land and Buildings balance of Kshs.14,057,880 excluded the value of the Authority's three pieces of land for which title deeds had not been obtained.

The Committee further heard that the Part Development Plans had been amended and submitted to the Ministry of Lands and Housing to facilitate issuance of title deeds.

The Committee recommends that the Managing Director should move with speed to obtain title deeds for the Authority's three plots.

2. IRREGULAR PAYMENT OF BOARD ALLOWANCES

During the year 1997/98, the Authority incurred expenditure of Kshs.4,313,948 on payment of Board allowances after the rate of accommodation allowance was revised from Kshs.1,250 to Kshs.2,500 per day without the approval required under Section 10 of the State Corporations Act, Cap 446.

The Committee heard the evidence given by the Chief Executive and was informed that the Board revised accommodation rate from Kshs.1,250 to Kshs.2,500 per day without the approval of the State Corporations Advisory Committee.

The Committee observed with concern that the then Managing Director failed to follow the right mechanism in reviewing the allowances and that the Board sat only three times instead of four times in a year.

The Committee noted that post-facto authority was obtained vide letter OP/CAB/167A dated 11th November, 2004, thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF EWASO NGIRO NORTH RIVER BASIN DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE 1999

1. FIXED ASSETS

The Balance Sheet Land and Buildings balance of Kshs.14,057,880 as at 30 June 1999 still irregularly excludes the value of the Authority's land as at 30 June 1998. In addition the Authority does not hold title deeds for the land plots it owns while no charge was made in the Accounts for the year 1998/99 in respect of depreciation on the buildings, an omission which overstated the value of the Authority 's fixed assets to the extent of the depreciation cost not charged and also understated the deficit for the year. Under the circumstances, therefore, it has not been possible to either confirm the Authority's ownership of its land or even the correctness of its fixed assets as reflected on the Balance Sheet as at 30 June, 1999.

The Committee heard the evidence given by the Chief Executive that the Balance Sheet Land and Buildings balance of Kshs.14,057,880 excluded the value of the Authority's three pieces of land for which title deeds had not been obtained.

The Committee further heard that the Part Development Plans had been amended and submitted to the Ministry of Lands and Housing to facilitate issuance of title deeds.

The Committee recommends that the Managing Director should move with speed to obtain title deeds for the Authority's three plots.

2. BOARD MEETINGS AND IRREGULAR PAYMENT OF ALLOWANCES

Although the Authority's enabling Act and the State Corporations Act both require that a minimum of four (4) Board meetings be held in a year, only three such meetings were held during the year 1998/99. The Authority was, therefore, in breach of the law. Further, the Authority paid its Board members accommodation allowances at the rate of Kshs.2,500 per night instead of the approved rate of Kshs.1,250. As far as it has been possible to ascertain, the Government approval for revision of the rate of accommodation allowance from Kshs.1,250 to Kshs.2,500 per night was not obtained. The Authority also paid 358,740 to ex-official members of its Board

contrary to provisions of Section 4(6) of the Ewaso Ng'iro North Development Authority Act.

The Committee heard the evidence given by the Chief Executive and was informed that the Board revised accommodation rate from Kshs.1,250 to Kshs.2,500 per day without the approval of the State Corporations Advisory Committee.

The Committee observed with concern that the then Managing Director failed to follow the right mechanism in reviewing the allowances and that the Board sat only three times instead of four times in a year.

The Committee noted that a post-facto authority was obtained vide letter OP/CAB/167A dated 11th November, 2004.

The Committee recommend that the Authority should ensure that the terms and conditions of service for the Authority are reviewed with the approval of the State Corporations Advisory Committee.

The Committee further recommends that the Authority's Board meetings are held in accordance with the law.

3. BUDGET AND BUDGETARY CONTROL

During the year 1998/99 the Authority incurred expenditure amounting to Kshs.12,220,005 on 17 items of recurrent expenditure against budgeted provision of only Kshs.5,708,020, thereby occasioning over-expenditure of Kshs.6,511,985. In addition, the Authority's records also show that an amount of Kshs.2,000,000 granted to it to finance development expenditure was utilized to meet recurrent expenditure but without proper approval for such re-allocation. Further Kshs.2,922,910 released by the parent Ministry to clear pending bills for the 1997/98 was also treated as normal allocation for the year and used to finance other recurrent expenditure, again without proper approval.

The Committee heard the evidence given by the Chief Executive that during the year under review the Authority expended a total of Kshs. 6,511,985 on 17 items over the approved budget without proper approval from the parent Ministry and the Ministry of Finance.

The Committee also heard that the Authority mis-allocated an amount of Kshs. 2,922,910 released by the parent Ministry to clear pending bills, to other recurrent expenditure.

The Committee recommends that:

(i) **the Chief Executive should ensure that the Corporation should always run its financial obligations within its approved budget and that amounts allocated by the parent Ministry should be appropriated for the intended purposes; and**

(ii) **the Chief executive should seek post facto authority for the over-expenditure of Kshs. 6,511,985 expended on 17 items.**

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYATTA UNIVERSITY FOR THE YEAR ENDED 30TH JUNE, 1998

1. FIXED ASSETS

During the year 1997/98 the University did not maintain a proper and up-to date Fixed Assets Register. Instead the University maintained an inventory record which only contains descriptions of its assets. In addition, the schedule for Fixed Assets reflected a prior year adjustment of Kshs.10,087,619 which was explained as being correction of an error but without giving further particulars of the corrected error. Consequently, it has not been possible to confirm the correctness of the Balance Sheet Fixed Assets figure of Kshs.337,663,750 as at 30 June 1998.

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

(i) the University fixed assets register had not been maintained due to reconciliation problems resulting from the nature of records maintained in loose papers; and

(ii) the University carried out valuation of its assets in 1994 which resulted in some of the assets value being lower than the book values. Consequently, the adjustments for the various assets were done in 1997/98 financial year.

The Committee was further informed that the University has since computerized and reconciled its Fixed Assets Register and backups are maintained and updated on a weekly basis.

The Committee recommends that the University should always maintain an updated Fixed Assets Register.

2. CEDING OF UNIVERSITY LAND TO OTHER PARTIES

Before the then Kenyatta University College identified their beacons in 1993, and as previously reported, the Department of Defence (DOD) moved in and took over and built upon some 138 acres of land belonging to the University. On 13 October 1993 and after this irregular acquisition had been brought to the attention of the parent Ministry, the University Council resolved to surrender the 138 acres of land back to the Commissioner of Lands and seek compensation of an equal area of land. To date, no compensation has been made and the University evidently stands to lose the land. In 1998, Kenyatta

University also donated 30.82 acres of land to the residents of Kamae Village who had been squatters on University land. However, and apart from correspondence between the University, Government and the squatters, no comprehensive details of this transaction were produced for audit verification and as such, it was not clear what stage the transfer of title of the subject land to the said squatters has now reached.

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

(i) the University in consultations with the Department of Defence and Commissioner of Lands agreed to relinquish 138 acres of land to the Department of Defence with the hope that the University would be compensated with an alternative land;

(ii) however, the University has had various correspondences with the Commissioner of Lands and the Chief Conservator of Forests in the Ministry of Natural Resources and Environment, with a view to being compensated with parcel of land in a different area to be used for carrying out research for the newly created Centre for Complimentary Medicine and Biotechnology (CCMB). The Issue has not been resolved.

(iii) the University with the approval of the Chancellor, in 1988 donated 30.82 acres of land to 670 squatters of Kamae and that in 1992 the Director of Survey in the Ministry of Lands and Housing excised the 30.82 acres on an alternative land and subdivided it into 878 plots. On June 26, 1997, the District Officer, Kasarani submitted a further list of 470 persons.

(iv) the genuine Kamae squatters disputed the subdivision of the 30.82 acres into 878 plots instead of 670 while the addition of 470 persons complicated the matter further as more land was to be hived off from the University.

The Committee made the following observations:-

(i) that the University has not resolved the issue despite its earlier recommendation in the Tenth Report, page 223 and the issue has taken inordinately long to be settled;

(ii) that the allocation done by the Provincial Administration in respect of 470 portions in 1997 was irregular and constituted illegal invasion of University land;

(iii) that the matter poses a security threat to the university as the number of squatters has continued to increase; and,

(iv) despite its earlier recommendations that the matter be resolved expeditiously as it poses a security threat to the University, no efforts had been made in this direction.

Arising from these concerns, the Committee on November 25, 2004, advised that a committee/team chaired by the Permanent Secretary, Office of the President and comprising and not limited to senior officials from Kenyatta University, Ministry of Roads and Public Works, Ministry of Lands, Nairobi City Council, National Environment Management Authority, Ministry of Education and representatives of the squatters, be formed to address the matter and report progress to the Committee.

As evidenced by letter Ref: OP/PA265/008 dated 30th November 2004 from the Permanent Secretary, Office of the President, an Inter-Ministerial Committee was formed to address the matter.

The Committee's meeting with the Permanent Secretary, Head of Public Service, and Secretary to the Cabinet on 25th October, 2005 confirmed that the Inter-Ministerial committee chaired by the Permanent Secretary, Office of the President, (Provincial Administration and Internal Security), and comprising of, senior officials from Kenyatta University, Ministry of Roads and Public Works, Ministry of Lands, Nairobi City Council, National Environment Management Authority, Ministry of Education and representatives of the squatters carried its duty as assigned by the Committee and recommended that: -

(i) the genuine squatters occupying Kenyatta University land at old Kamae village be moved to a new site which had been agreed on, as soon as is practicable;

(ii) letters of allotment issued to genuine squatters be formalized;

(iii) **those letter of allotment irregularly issued to illegal squatters including those for Riparian Reserve be cancelled;**

(iv) **plots that had discrepancies in terms of ground ownership and name(s) confusion to be cancelled and reissued as appropriate; and,**

(v) **Kenyatta University be advised to fence off their land to stop further encroachment.**

Noting that Kamae Village has been a security threat to the University, and that the report of the above-mentioned Inter-Ministerial committee had been forwarded to the government for implementation, the Committee recommends that the report of the Inter-Ministerial committee be implemented by December 31st 2006 and that the government should, in this regard, take cognisance of the Public Investments Committee's recommendation in its 10th report (pages 222 – 223).

3. DEBTORS

The Balance Sheet Debtors figure of Kshs.308,964,155 as at 30 June 1998 includes Kshs.268,314,262 in respect of Recoverable Charges and Sundry amounts which in turn includes a sum of Kshs.205,893,833 whose analysis or details have not been seen for verification. In addition, the following amounts totalling Kshs.65,308,878 as set out in Note 14 to the Accounts, were also not analysed:

Item	Amount(Kshs.)
Retirement Benefits Scheme	10,220,002
USAB Debtors	31,947,144
Students Book Allowance	23,141,732
	65,308,878

In the absence of the analyses and details for the above balance, it was not possible to ascertain the recoverability of some of these debtors.

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

(i) **a schedule analysing the debtors figure of Kshs.308,964,155 has since been provided to the auditors and verified;**

(ii) **the figure of Kshs.31,947,144 represented expenditure by University students Accommodation Board (USAB) which was disbanded on November 14th 1989 by the government and the University has since written off the debt;**

(iii) **the amount of Kshs.23,146,732 represented debts due to text books collected by students from the University bookshop and had not been credited on the bookshop account. The books have since been reconciled and the debt balance reflected in the 1998/99 Accounts; and**

(iv) **the figure of Kshs.10,220,002 represented the amount of contribution by the University (27.5%) to the Retirements Benefits Scheme which had not been transferred to the Income and Expenditure account. The amount has since been transferred to this account.**

The Committee recommends that the Chief Executive should ensure that proper books of Accounts are maintained by the University and that all requisite information on accounts is availed to auditors as and when needed for verification.

4. CREDITORS AND ACCRUED EXPENSES

The University's Balance Sheet as at 30 June 1998 reflects Creditors and Accrued Expenses of Kshs.285,887,490 which includes creditors totalling Kshs.228,595,285 whose analyses the University did not avail for audit review. In the absence of these analyses, it was not possible to confirm the correctness of the Creditors and Accrued Expenses balance of Kshs.285,887,490 reflected on the Balance Sheet as at 30 June 1998. In addition, when the University Students Accommodation Board (USAB) was dissolved in November 1989, it was understood that the parent Ministry was to take over and settle all liabilities of the defunct Board. However, and despite this understanding, USAB creditors of Kshs.2,661,340 are still reflected amongst other creditors of the University. It is, therefore, not clear why former USAB creditors have not been handed over to the parent Ministry for settlement or even why the creditors continued to be reflected in the books of the University. Equally, the documents to support the legitimacy of these creditors may well be non-existent, thus making settlement of the same impossible.

The Committee heard the evidence given by the Chief Executive that the Schedule of creditors has since been availed to the auditors and verified.

The Committee further heard that the creditors figure of Kshs.2,661,340 was in respect of supply of dairy products by Kenya Cooperative Creameries and meat from Kenya Meat Commission of Kshs.1,756,612.40 and Kshs.904,727.60 owed by the defunct USAB. The University has since paid the debts, thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1993

1. FINANCIAL POSITION

During the year under review, the Authority incurred a deficit of Kshs.82,732,360.60 (1992 - Kshs.53,932,041.46) thereby bringing the cumulative deficit to Kshs.501,388,853.20 after taking into account prior period adjustments involving Government grants and depreciation. As in the previous years, the deficit position is attributable mainly to non-receipt by the Authority of revenue in respect of hydroelectric bulk power sold to Kenya Power and Lighting Company and Tana River Development Company, the amount which has accumulated to Kshs.2,152,769.30 as at 30 June 1993. These accounts, as in previous years, have therefore been prepared on a going-concern basis on the assumption that the Government will compensate the Authority for the total deficit and continue to give adequate financial support with a view to strengthening the Authority's financial base.

The Committee heard the evidence given by the Chief Executive that the Authority incurred operation deficit of Kshs. 82,732,361.60 which is attributable mainly to non-receipt by the Authority of revenue in respect of H.E Bulk Power sold to KPLC and Tana River Development Company (TRDC) which had accumulated to Kshs. 2,152,769,493.30 as at 30th June 1993.

The Committee further heard that: -

(i) the non-remittance of revenue to the Authority arose from a government directive vide letter Ref: OP1/64A of August 1, 1988 which required that revenue accruing from Kiambere and Masinga Dams should be directed to the Treasury and TARDA be compensated for loss of the revenue by receiving funding from the Treasury for operational purposes;

(ii) since 1988, TARDA has received a total amount of Kshs. 1,528,000 from the Treasury, KPLC and Ken-Gen (former Kenya Power Company) for its operations and other activities; and

(iii) the under funding arising from the 1988 government policy change on revenue generated from the two dams, has undermined the Authority's mandate of

planning and undertaking development of the Tana River basin.

The Committee noted that Funding to the Authority has been declining over the years as it received Kshs. 67,168,254 in the year 2004/2005 and Kshs. 116,213,803 for the year 2003/2004.

The Committee observed with concern that the government directive of 1988 of remittance of revenue accruing from the Masinga and Kiambere at Hydro-Electric Bulk Power stations instead of channelling it to TARDA has adversely affected development along the Tana River Basin as envisaged in Cap 443 establishing the Authority.

The Committee recommends that the government should increase its funding to TARDA to enable it fulfil its mandate as per its establishing Act Cap 443.

The Committee further recommends that:-

(i) the Authority should identify areas that support the its endeavour to be self-sustaining; and,

(ii) the government immediately honours and implements its recommendation and undertakings as reflected on its Memoranda presented to the Committee vide letter dated February 11, 2005, Ref: OP/CAB/9/161 by the Head of Public Service in respect to the above-reference matter.

2. REVENUE FROM SALE OF HYDRO-ELECTRIC BULK POWER

As was the case in the previous years, the accounts of the Authority for the year ended 30 June 1993 still did not accrue the uncollected Revenue relating to the sale of hydro-electric bulk power from both Masinga and Kiambere Hydro-electric Projects to Tana River Development Company and Kenya Power & Lighting Company, respectively, as was provided for in the relevant agreement of these projects. The uncollected revenue from the two distributing Companies as at 30 June 1993 amounted to Kshs.2,152,769,493.00 arrived at as follows:

Tana River Development Company

Balance B/F	Kshs.393,341,802.00
Amount this year	Kshs. 98,852,852.00
	Ksh. 497,194,654.00

Kenya Power and Lighting Company

Lease charges since May 1988	Kshs.1,576,255,189.00
Interest on delayed repayment	Kshs. 94,535,336.50
Direct Loans repayment	Kshs. (15,215,686.15)
	Kshs.1,655,574,839.00
Total amount	Kshs.2,152,769,493.00

The problem of non remittance of bulk power sales revenue from the two Companies to TARDA was as a result of Government directive that revenue from Masinga and Kiambere hydro-electric bulk power be surrendered direct to Treasury and that TARDA would in turn be compensated by the Treasury for the loss of revenue from the two dams. The Government directive to remit the revenue to Treasury rather than to TARDA is in contravention of the Articles of the Principal Agreement dated 4 June 1978 which incorporated the donors as well as the Kenya Government as signatories. I have not seen any amendment to the agreement changing the original understanding nor have I seen the donor's consent regarding this matter. Further, the loan figures which are reflected in TARDA's books according to the original agreement are not being adjusted to take account of loans repayments as the authority is not given the information by TRDC, KPLC or the Ministry of Finance as and when the money is paid. The loan in TARDA's books show that they were not being serviced and the Authority was therefore unable to express an opinion on the balance of Capital Loan of Kshs.6,207,879,832.80 shown in the Balance Sheet as at 30 June 1993.

The Committee heard the evidence given by the Chief Executive that the accounts of the Authority for the year under review still did not accrue the uncollected revenue related to the sale of hydro-electric bulk projects to Tana River Development Company and Kenya Power and Lighting Company, respectively and that as at the same period, the uncollected revenue amounted to Kshs. 2,152,769,493.00.

The Committee further heard that: -

(i) **the non-remittance arose from a government directive vide Letter Ref. OP1/64A of August 1, 1988 which required that revenue accruing from the two dams be directed to the Treasury;**

(ii) **the relevant agreements for the two projects had not been amended to reflect the government policy on transfer of the two facilities, and that the Attorney General vide his letter CONF/PROJ/100/3 TF of July 18, 1989 had advised that the transfer could only be regularized by getting express consent of the entire original contracting parties through a novation.**

The Committee observed with concern that: -

(i) **the transfer was irregular as it was improper to transfer government's or TARDA's contractual obligations to KPLC or KenGen which were third parties and had no privity of the same contract; and,**

(ii) **the Treasury and KPLC had not provided TARDA with data on payments made by KPLC to Treasury to enable the Authority to incorporate the same in its Books of Accounts.**

The Committee recommends that: -

(i) **the Treasury and KPLC should provide TARDA with data on payments made by KPLC to Treasury to enable the Authority to incorporate the same in its books of Accounts;**

(ii) **the Treasury should take the necessary measures to ensure that the Income Tax Department ceases demanding income tax from the Authority in the income related to the two dams/projects; and**

(iii) **the government should amend the agreement with the contracting parties through a novation to effect the directive that the revenue be remitted to the Treasury.**

3. OUTSTANDING LOAN REPAYMENTS

The loan charges payable to the Government by the Authority in respect of the following projects fell into arrears to the tune of Kshs.1,315,284,358.00 as at 30 June 1993 arrived at as follows:

Project Description	Amount in Arrears Kshs.	Kshs.
Masinga Dam (under on Lending)		
Redemption	120,654,304.00	
	108,952,406.00	229,516,710.00
Kiambere Hydro-electric Project (Under Treasury Guarantee)		
Redemption	378,622,903.00	
Outstanding interest	707,144,655.00	1,315,284,358.00

As stated in the previous report, the Authority attributes its failure to settle its loan obligations to the loss of revenue reported in paragraph 2 above. Although TRDC & KPLC are said to have been paying the loans through Treasury, this information does not seem to reach TARDA.

The Committee heard the evidence given by the Chief Executive that the Authority's projects fell into arrears to the tune of Kshs. 1,315,284,358 as at June 30th 1993 due to the loss of revenue arising from the government directive of 1988 that revenue accruing from the two projects be remitted to Treasury.

The Committee further heard that TARDA's loan obligations including those on-lent to TARDA by the Treasury and those contracted directly by TARDA have been fully paid by both KPLC and KenGen.

The Committee recommends that the Treasury, KPLC and KenGen should furnish TARDA with information on loan repayments relating to the two projects to enable TARDA to reflect the same in its books of account.

4. IRREGULAR USE OF THE AUTHORITY'S FUNDS TO CONSTRUCT A HOUSE: FORMER MANAGING DIRECTOR'S DEBTS

In the report for the previous year I stated that the Authority constructed a private House in Kitengela for its former Chief Executive on contract basis, with the Authority as the contractor and a Company owned by the then Chief Executive and his spouse as a contractee. As previously reported, the construction costs of this project which on completion totalled Kshs.4,348,231 were fraudulently capitalised in the Authority's project item as "The Appropriation Technology" to make it appear as if it was the Authority's own capital expenditure. This in effect cancelled the contract's liability with the authority. The matter eventually became the subject of court litigation whereby criminal charges were preferred against, the then Managing Director, by the state. The case was recently concluded with the imprisonment of former Chief Executive. In the meantime, the Authority filed a Civil Suit against the former Managing Director for the recovery of its construction costs along with interest; and judgement has already been delivered in the Authority's favour. It is understood, however, that the former Managing Director has recently been released by a High Court Judge on condition that he pays the debt by a certain deadline. It is still uncertain as to how soon the Authority will recover the amount of construction costs plus interest.

The Committee heard the evidence given by the Chief Executive that in 1988/89, the Authority constructed a private house for its former Managing Director Mr. Alfrick Birgen (deceased), at a cost of Kshs. 4,348,231.25 and that the issue was taken to court, criminal charges were preferred against him and he was imprisoned.

The Committee further heard the Authority filed a civil suit for recovery of the total cost along with 18% chargeable interest and that judgement was made in favour of TARDA for recovery of Kshs. 6,288,793.

The Committee was informed that the late Mr. Birgen had paid a total of Kshs. 3.4 million and has appealed to the Board for a waiver on interest.

5. DEBTORS AND PREPAYMENTS

Included in the Debtors and Prepayments figure of Kshs.63,198,903,65 shown in the Balance Sheet is an amount of

Kshs.8,181,136.95 indicated as interest due from Consolidated Bank. No confirmation from the Consolidated Bank for this amount has, however, been seen.

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 8,181,136 represented interest due from Consolidated Bank. The Committee further heard that: -

(i) the amount was due to an earlier investment by the Authority of Kshs. 24.5 million in various banks which went under receivership and were later amalgamated into Consolidated Bank. The portfolio was structured as 265,000 ordinary shares at Kshs. 20 each and Kshs. 960,000, 4% preference shares at Kshs. 20 each and that the Bank which reportedly is still under recovery phase has been unable to declare and pay dividends to its preferential and ordinary shareholders; and

(ii) the amount of Kshs. 8,181,136.95 captured as interest earnings has since been removed from the books of the Authority;

The Committee recommends that:

(i) the Chief Executive should ensure that the amounts invested in Consolidated Bank are recovered; and,

(ii) the Authority should take interest in the affairs of the Bank, with view to ensuring that the amounts are recovered.

6. **INVESTMENTS - KSHS. 24,500,000.00**

The Authority was allotted both Ordinary and Preference shares in Consolidated Bank of Kenya amounting to Kshs.24,500,000.00 when the Bank took over the operation of the ailing banks where the authority had fixed deposits. Since the allotment of shares by the bank, the Authority has not received any dividends from the investment and for this reason, I am not able to express an opinion on the worth of the investment.

The Committee heard the evidence given by the Chief Executive that the Authority invested a total of Kshs. 24.5 million in various banks, which went under receivership and were later amalgamated into Consolidated Bank. The portfolio was structured as Kshs. 265,000 ordinary shares at Kshs. 20 each

and Kshs. 960,000, 4% preference shares at Kshs. 20 each and that the Bank which, reportedly, is still under recovery phase and has been unable to declare and pay dividends to its preferential and ordinary shareholders.

The Committee recommends that the Chief Executive should liaise with the Deposit Protection Fund to ensure that the amounts invested in Consolidated Bank are recovered.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30TH JUNE, 1994

1. SUBMISSION OF ACCOUNTS FOR AUDIT

The Authority's accounts were initially submitted for audit on 16 December 1994, but were incorrect and had to be revised by the Authority many times. The accounts now subject to this report were signed by the Authority on 30 January 1997. The submission of incorrect accounts and subsequent withdrawals has not only adversely affected the audit programme but I was unable to sign the report on the accounts by 31 January 1995 as required by the Law. As far as I am aware no extension of the period for submission of accounts was applied for or given as provided for in Section 31 of the Exchequer and Audit Act (Cap 412).

The Committee heard the evidence given by the Chief Executive that the Accounts of the Authority for the year under review were submitted for audit in December 16, 1994 and that the Management kept withdrawing them from the Kenya National Audit Office on various occasions such that the Auditors report was signed four years later contrary to the Exchequer and Audit Act (Cap 412). The Committee also heard that the Authority did not seek approval for extension of the period for submission of accounts from the National Assembly as provided for under Section 31 of Cap 412.

The Committee recommends that:-

(i) the Chief Executive should ensure that the Accounts of the Authority are submitted for audit and forwarded to the National Assembly in accordance with the Public Audit Act, 2003; and,

(ii) the government enforces the provisions of Section 45 of the Anti-Corruption and Economic Crimes Act, 2003 on any person(s) who fails to comply with Section 31 of Cap 412.

2. FINANCIAL POSITION

During the year under review, the Authority incurred a deficit of Kshs.155,012,419 (1994 - Kshs.82,732,361), thereby bringing the adjusted cumulative deficit to Kshs.594,690,637. As in the previous years, the deficit position is attributed mainly to non-receipt by the

Authority of revenue in respect of hydroelectric bulk power sold to Kenya Power and Lighting Company and Tana River Development Company. The amount owed to the Authority by the two institutions was Kshs.2,260,489,860 as at 30 June 1994. These accounts have therefore been prepared on the basis that the Government will adequately compensate the Authority for the deficit and continue to give the necessary financial support with a view to strengthening the Authority's financial base.

The Committee heard the evidence given by the Chief Executive that the Authority incurred operation deficit of Kshs. 82,732,361.60 which is attributable mainly to non-receipt by the Authority of revenue in respect of H.E Bulk power sold to KPLC and Tana River Development Company (TRDC) which had accumulated to Kshs. 2,152,769,493.30 as at 30th June 1993.

The Committee further heard that: -

(i) the non-remittance of revenue to the Authority arose from a government directive vide letter Ref: OP1/64A of August 1, 1988 which required that revenue accruing from Kiambere and Masinga Dams should be directed to the Treasury and TARDA be compensated for loss of the revenue by receiving funding from the Treasury for operational purposes;

(ii) since 1988, TARDA has received a total amount of Kshs. 1,528,000 from the Treasury, KPLC and Ken-Gen (former Kenya Power Company) for its operations and other activities;

(iii) the under funding arising from the 1988 government policy change on revenue generated from the two dams, has undermined the Authority's mandate of planning and undertaking the development of the Tana River basin.

The Committee noted that Funding to the Authority has been declining over the years as it received Kshs. 67,168,254 in the year 2004/2005 and Kshs. 116,213,803 for the year 2003/2004 and Kshs. 88,112,400 in 1993/94.

The Committee observed with concern that the government directive of 1988 of remittance of revenue accruing from the Masinga and Kiambere Hydro-Electric Bulk Power stations instead of channelling it to TARDA has adversely affected

development along the Tana River Basin as envisaged in Cap 443 establishing the Authority.

The Committee recommends that the government should increase its funding to TARDA to enable it fulfil its mandate as per its enabling Act Cap 443.

3. REVENUE FROM SALE OF HYDRO-ELECTRIC BULK POWER

As was the case in the previous years, the accounts of the Authority for the year ended 30 June 1994 still did not accrue the uncollected revenue from sale of hydro-electric bulk power to Tana River Development Company and Kenya Power and Lighting Company, also referred to in note 1 to these accounts.

The uncollected revenue from the two distributing companies as at 30 June 1994 amounted to Kshs.2,620,489,860 arrived at as follows:

Tana River Development Company:

Balance b/f	Kshs.496,194,654	
Amount this year	Kshs.108,553,731	605,748,385

Kenya Power & Lighting Company:

Lease charges since 1988	Kshs.1,912,178,426	
Interest on late payment Surcharge	Kshs. 107,187,257	
Director Loans repayment	Kshs. (4,624,208)	2,014,741,475
		2,620,489,860

The problem of non-remittance of bulk power sales revenue from the two companies to the Authority was as a result of a Government directive in April 1988 to the effect that such accruing revenue from Masinga and Kiambere hydro-electric bulk power stations be surrendered directly to Treasury and that the Authority would in turn be compensated by the Treasury for the loss of revenue from the two dams. The Government directive to remit the revenue to Treasury rather than to the Authority is in contravention to the Articles of the Principal Agreement dated 4 June 1978. I have not seen any amendment to the agreement changing the original understanding nor have I seen the donor's consent regarding this matter.

The Committee further heard that: -

(i) **the non-remittance arose from a government directive vide Letter Ref. OP1/64A of August 1, 1988 which required that revenue accruing from the two dams be directed to the Treasury; and,**

(ii) **the relevant agreements for the two projects had not been amended to reflect the government policy on transfer of the two facilities, and that the Attorney General vide his letter CONF/PROJ/100/3 TF of July 18, 1989 had advised that the transfer could only be regularized by getting express consent of the entire original contracting parties through a novation.**

The Committee observed with concern that: -

(i) **The transfer was irregular as it was improper to transfer government's or TARDA's contractual obligations to KPLC or KenGen which were third parties and had no privity of the contract; and,**

(ii) **Treasury and KPLC had not provided TARDA with data on payments made by KPLC to Treasury to enable the Authority to incorporate the same in its Books of Accounts.**

The Committee recommends that: -

(i) **the Treasury and KPLC should provide TARDA with data on payments made by KPLC to Treasury to enable the Authority to incorporate the same in its books of Accounts;**

(ii) **Treasury should take the necessary measures to ensure that the Income Tax Department ceases demanding income tax from the Authority in the income related to the two dams/projects; and,**

(iii) **the government should amend the agreement with the contracting parties through a novation to effect the directive that the revenue be remitted to the Treasury.**

4. OUTSTANDING LOAN REPAYMENTS

The Balance Sheet figure of Loan capital of Kshs.6,385,222,740 which is analysed in Note 2 to the accounts, includes foreign loan balances relating to the construction of Masinga and Kiambere Power stations which were not verified with lenders as the statements were not made available by the Authority. The same loan balances were at variance with the Appropriation Accounts of the Ministry of Energy. Although it is evident that some loan repayments have been made directly to the Treasury by the Tana River Development Company and Kenya Power and Lighting Company, the loan figures which are reflected in the Authority's Books erroneously, show that the loans were not serviced during the year under review. Further the current loan portion which should be reflected separately in the Balance Sheet under current liabilities is not so reflected. In view of these anomalies I was unable to express an opinion on the balance of Capital Loan of Kshs.6,385,22,740 shown in the Balance Sheet as at 30 June 1994.

The Committee heard the evidence given by the Chief Executive that the Authority's projects fell into arrears to the tune of Kshs. 1,315,284,358 as at June 30th 1993 due to the loss of revenue arising from the government directive of 1988 that revenue accruing from the two projects be remitted to Treasury.

The Committee further heard that TARDA's loan obligations including those on-lent to TARDA by the Treasury and those contracted directly by TARDA have been fully paid by both KPLC and KenGen.

The Committee recommends that the Treasury, KPLC and KenGen should furnish TARDA with information on loan repayments relating to the two projects to enable TARDA to reflect the same in its books of account.

5. IRREGULAR CONSTRUCTION OF A PRIVATE HOUSE BY A FORMER MANAGING DIRECTOR

In the previous years reports, reference was made to a private house constructed in Kitengela for the former Executive at a cost of Kshs.4,343,231 utilizing the Authority resources. Subsequently, on 13 June 1996 the Authority obtained in its favour, a court order for the former Chief Executive's company, to pay to the Authority, a total of Kshs.6,288,793 together with interest at 18%. So far only Kshs.1,800,327 has been paid since the court order was issued. It is

not clear what other arrangements, if any, the Authority has put in place to ensure the debt and the interest accruing are realized soon.

The Committee heard the evidence given by the Chief Executive that in 1988/89, the Authority constructed a house for its former Managing Director Mr. Alfrick Birgen (deceased), a private house at a cost of Kshs. 4,348,231.25 and that the issue was taken to court, criminal charges were preferred against him and he was imprisoned.

The Committee further heard the Authority filed a civil suit for recovery of the total cost along with 18% chargeable interest and that judgement was made in favour of TARDA for recovery of Kshs. 6,288,793.

The Committee was informed that the late Mr. Birgen had paid a total of Kshs. 3.4 million and had appealed to the Board for a waiver of interest.

6. DEBTORS AND PREPAYMENTS

As in the previous year, included in the debtors and prepayments figure of Kshs.43,501,138 shown in the Balance Sheet is an amount of Kshs.8,181,137 indicated as interest due from the Consolidated Bank. The Authority has not seen evidence from the bank confirming this debt and therefore was unable to confirm its recoverability. Further the Balance Sheet figure includes imprest and debtors totalling Kshs.15,110,366 and Kshs.18,822,674 respectively some of which have been brought forward from previous financial years. The realization by the Authority of all the outstanding imprest and the debts referred to in note 9 to these accounts is in doubt and the current assets are therefore overstated by, yet to be determined, un-realizable imprest and debtors.

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 8,181,136 represented interest due from Consolidated Bank.

The Committee further heard that: -

(i) the amount was due to an earlier investment by the Authority of Kshs. 24.5 million in various banks which went under receivership and were later amalgamated into Consolidated Bank. The portfolio was structured as 265,000 ordinary shares at Kshs. 20 each and Kshs. 960,000, 4% preference shares at Kshs. 20 each and that

the Bank which reportedly is still under recovery has been unable to declare and pay dividends to its preferential and ordinary shareholders;

(ii) the amount of Kshs. 8,181,136.95 captured as interest earnings has since been removed from the books of the Authority;

(iii) the figure of Kshs. 15,110,366 which represented imprests advanced to members of Staff has since been written off on approval of the Authorities Board due to problems of recoverability, while the amount of Kshs. 18,822,674.15 reflected as debtors has also been written off due to lack of documentary evidence and recoverability difficulties; and

(iv) the Committee observed with concern that the Corporation continued to advance imprest to its staff before they surrendered the previous ones contrary to laid down procedures.

The Committee recommends that:

(i) the Chief Executive should ensure that the amounts invested in Consolidated Bank are recovered; and

(ii) the Chief Executive should ensure that Authority's rules and regulations pertaining to imprest are followed without exceptions.

7. INVESTMENTS - KSHS.24,500,000

As reported in the previous year, the Authority was allotted both ordinary and preference shares in the Consolidated Bank of Kenya amounting to Kshs.24,500,000 when the Bank took over the operations of the ailing banks where the Authority had fixed deposits. Since the allotment of shares by the bank, the Authority has not received any dividends from the investment and for this reason, I am not able to express an opinion on the value of the investment.

The Committee heard the evidence given by the Chief Executive that the Authority invested a total of Kshs. 24.5 million in various banks, which went under receivership and were later amalgamated into Consolidated Bank. The portfolio was structured as Kshs. 265,000 ordinary shares at Kshs. 20 each and Kshs. 960,000, 4% preference shares at Kshs. 20 each and

that the Bank which, reportedly, is still under recovery has been unable to declare and pay dividends to its preferential and ordinary shareholders.

The Committee recommends that the Chief Executive should liaise with the Deposit Protection Fund to ensure that the amounts invested in Consolidated Bank are recovered.

8. FUNDS (CASH) FLOW STATEMENT

The Authority did not attach to the accounts a correct Cash Flow statement, which helps in reflecting cash flow and outflow during a financial period in conformity with Kenya Accounting Standard No. 7 and Generally Accepted Accounting Practice. Under the circumstances, the Authority's accounts at 30 June 1994 do not provide an insight into the changes in the financial position, which took place during the period under review.

The Committee heard the evidence given by the Chief Executive that the Authority did not attach to its accounts the correct cash flow Statement contrary to the International Accounting Standard No. 7. The Committee observed that the Authority would appear to have been concealing information from the Auditors with respect to its cash flow.

The Committee recommends that the Chief Executive should ensure that the Authority maintains proper and up to date books of accounts in accordance with International Accounting Standards.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE TEA RESEARCH FOUNDATION FOR THE YEAR ENDED 30TH JUNE, 1997

1. LAND OWNERSHIP

In my previous year's reports, it was pointed out that the Foundation did not have a title deed for the land measuring 123 hectares valued at Kshs.140 million allocated to it by the Government. The position had not changed during the year under audit.

In addition, the Foundation has another land at Kangaita measuring 20 acres. Although the survey work for this land has been completed, the land has not been de-gazetted to facilitate the processing of the title deeds. Further, the value of the additional land has not been determined and is, therefore, not included in these accounts. In the circumstances, the ownership of some of the land being utilised by the Foundation has not been confirmed. The Balance Sheet fixed assets figure of Kshs.292,915,126 is understated by the undetermined value of land not included. I have, however, been informed that the Foundation is following up the procurement of title documents with the relevant Government agency.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Foundation did not have a tile deed for its land measuring 123 Ha valued at Kshs. 140 million.

The Committee also heard that as at the same time, the Foundation did not have title documents for its 20 acre land at Kangaita allocated to it by the government through the Nyayo Tea Zones Development Authority even though survey work for the land had been completed.

The Committee was informed that: -

(i) the foundation has since acquired title documents for the 123 Ha of land at Kericho;

(ii) the 20 acres of land at Kangaita was originally owned by the Nyayo Tea Zones Development Authority who did not have title documents even as then, and that the parcel was transferred to the Foundation on request of the latter for tea research purposes; and,

(iii) **the Foundation's efforts to pursue issuance of the documents for the 20 acres have been unsuccessful.**

The Committee observed with concern that the issuance of title deed for the 20 acres at Kangaita had taken inordinately too long and has been compounded by the fact that the government would appear to have been reluctant to issue title deeds to the initial owner of the land (Nyayo Tea Zones Development Authority) for subsequent transfer to the foundation.

The Committee recommends that the parent Ministry facilitates the issuance of title documents for the 20 acres of land at Kangaita, through the Ministry of Lands and Housing and the Ministry of Environment and Natural Resources by 31st December, 2006.

2. STAFF PENSION FUND KSHS.9,496,103

As indicated in my previous year's report, the Foundation has been running a staff pension fund for both the senior and junior staff with the Kenya National Assurance Company (now in liquidation). The liquidator has not yet confirmed this position and therefore, I am still unable to give an opinion on whether the pension fund is available when required by the contributors. The unremitted pension fund contributions as at 30 June 1997 amounting to Kshs.1,101,337, was included in the creditor's and accruals figure of Kshs.11,525,982.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Foundation's staff pension fund was being run by the now defunct Kenya National Assurance Company.

The Committee was informed that on 5th June 2003 the Kenya National Assurance Company (2001) Ltd gave a three-phase instalment repayment plan which it honoured by paying a total of Kshs. 12,947,300 inclusive of interests in December 2004 thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE TEA RESEARCH FOUNDATION FOR THE YEAR ENDED 30TH JUNE, 1998

1. LAND OWNERSHIP

As reported previously, the Foundation's land at Kangaita measuring 20 acres although surveyed, has not been de-gazetted to facilitate the processing of title deed. Further, the value of the land has not been determined and is, therefore, not included in these accounts. In the circumstances, the ownership of this land utilized by the Foundation has not been confirmed although an investment of Kshs.2,009,383 has already been made on it. The Foundation's Balance Sheet fixed assets figure of Kshs.299,479,878 is therefore understated to the extent of the value of land not included.

The Committee heard the evidence given by the Chief Executive that the Foundation did not have title documents for its 20-acre parcel of land at Kangaita allocated to it by the government through the Nyayo Tea Zones Development Authority even though survey work for the land had been completed.

The Committee was informed that: -

(i) the 20 acres of land at Kangaita was originally owned by the Nyayo Tea Zones Development Authority who did not have title documents even as then, and that the parcel was transferred to the Foundation on request of the latter for tea research purposes; and,

(ii) the Foundation's efforts to pursue issuance of the documents for the 20 acres have been unsuccessful.

The Committee observed with concern that the issuance of title deed for the 20 acres at Kangaita had taken inordinately too long and has been compounded by the fact that the government would appear to have been reluctant to issue title deeds to the initial owner of the land (Nyayo Tea Zones Development Authority) or subsequent transfer to the foundation.

The Committee recommends that the parent Ministry facilitates the issuance of title documents for the 20 acres of land at Kangaita, through the Ministry of Lands and Housing and the Ministry of Environment and Natural Resources by 31st December 2006.

2. STAFF PENSION FUND - KSHS.9,496,103

As reported in the previous years, the Foundation had been running a staff pension fund for both senior and junior staff with Kenya National Assurance Company (now in liquidation). The liquidator has not yet confirmed the fund balance of Kshs.9,496,103 and, therefore, I am still unable to give an opinion as to whether the pension funds are available when required by the contributors.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Foundation's staff pension fund was being run by the now defunct Kenya National Assurance Company.

The Committee was informed that on 5th June 2003 the Kenya National Assurance Company (2001) Ltd gave a three-phase instalment repayment plan which it honoured by paying a total of Kshs. 12,947,300 inclusive of interests in December 2004 thereby resolving the audit query.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA MARINE AND FISHERIES INSTITUTE FOR THE YEAR ENDED 30TH JUNE, 1997

1. STAFF PENSION FUND

It was pointed out in my previous year's report that investment of Kshs.42,437,834, in respect of Staff Pension Fund held by Kenya National Assurance (In liquidation), was not in harmony with Kshs.42,069,605 shown in the Kenya National Assurance's records. However, the Institute has since reconciled its fund position with that of KNAC and has confirmed an investment balance of Kshs.42,069,605 with the closed Life Fund of Kenya National Assurance Company. Nevertheless, the availability of the investment for payment of staff pensions, would appear to be uncertain for unforeseeable future due to the process of liquidation which the Kenya National Assurance Company is undergoing. It is not clear what other alternative plans, if any, the Institute has for the payment of pensions.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Institute had its staff Pension Fund held by the Kenya National Assurance Company (under liquidation), and that the Fund stood at Kshs. 42,069,605.

The Committee also heard that in June 2003, the re-established Kenya National Assurance Company (2001) confirmed that the Institutes' Staff Pension Fund stood at Kshs. 45,197,785 including interest and the Company undertook to repay the same in three equal instalments of Kshs. 15,065,928.35.

The Committee was informed that the Institute has since received two instalments totalling Kshs. 30,131,856.70 by December 2004 while the balance of Kshs. 15,065,928.35, which was due by 31st December 2004, was still outstanding.

The Committee noted that the Institute through its Insurance Brokers, M/s. Sapon Ltd. had commenced correspondence for payment of the final instalment, and that the Fund is currently managed by Insurance Company of East Africa.

The Committee recommends that the Chief Executive should pursue the payment of the Kshs. 15,065,928.35 being the final due from the Kenya National Assurance Company (2001) Ltd.

2. FIXED ASSETS

Among the assets of the Institute, are pieces of land in Mombasa and Nyanza Provinces, namely Mtwapa (Sec. 111) MN Mombasa, Kisumu plot L.R. N. 1148/1389, Kisumu TP.S/2/XXXVI)204A and Kegati parcel No. 3055/B/B Boburia Nyaribari Chache. The Institute has not yet obtained title deeds for the properties, hence the ownership has not been confirmed.

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

(i) **the Institutes' efforts to get title documents for the Mtwapa plot which was to be donated by KARI, were fruitless as the latter was reluctant to surrender the parcel, and subsequently, the Institutes Board during its 45th sitting December 18, 2002 endorsed the removal of the value of the plot (Kshs. 24 million) from the Institutes Accounts;**

(ii) **the Institute in March 6th 1996 acquired a title deed No. Kisii/Nyaribari/3055 for 1.8 hectares parcel at Kegati, Parcel No. 3055/B/B Boburia, Nyaribari Chache;**

(iii) **the Institute has acquired title deed No. LR.92162 Plot No. 8/25762 dated July, 1998 for its 1.97 hectares parcel at Kisumu, initially Kisumu TP. 5/2/XXVI/204 A; and**

(iv) **the Institute is yet to obtain title deed for its plot LR No. 1148/189 at Kisumu.**

The Committee observed with concern that it has taken inordinately long for the Corporation to obtain a title deed for its parcel LR. No. 1148/1389 at Kisumu.

The Committee recommends that the Chief Executive pursues the matter of obtaining a title deed for its parcel LR. No. 1148/1389, Kisumu with the Commissioner of Lands and ensures that the same is obtained by 31st December, 2006.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA MARINE AND FISHERIES INSTITUTE FOR THE YEAR ENDED 30 JUNE 1998

1. STAFF PENSION FUND

In the report for the year 1996/97 reference was made of the fact that the Staff Pension Fund held by Kenya National Assurance Company (in liquidation) amounting to Kshs.42,059,605, was apparently not available for payment of Staff Pension in the foreseeable future because the Assurance Company was in the process of being liquidated. The position regarding the Pension Fund has not changed and remained unavailable during the year under review. In addition, the Board of Directors approved, in December 1997, the placing of all the pension funds into a one month call deposit account with National Bank of Kenya, Moi, Avenue, Mombasa with such deposits totalling Kshs.18,692,013 as at 30th June 1998. It was also noted that the Pension Fund is not administered independently and may, therefore, not be secure.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Institute had its staff Pension Fund held by the Kenya National Assurance Company (under liquidation), and that the Fund stood at Kshs. 42,069,605.

The Committee also heard that in June 2003, the re-established Kenya National Assurance Company 2001 confirmed that the Institute's Staff Pension Fund stood at Kshs. 45,197,785 including interest and the Company undertook to repay the same in three equal instalments of Kshs. 15,065,928.35.

The Committee was informed that the Institute has since received two instalments totalling Kshs. 30,131,856.70 by December 2004 while the balance of Kshs. 15,065,928.35, which was due by 31st December 2004, was still outstanding.

The Committee noted that the Institute through its Insurance Brokers, M/s. Sapon Ltd. had commenced correspondence for payment of the final instalment, and that the Fund is currently managed by Insurance Company of East Africa.

The Committee recommends that the Chief Executive should pursue the payment of the Kshs. 15,065,928.35 being the final due from the Kenya National Assurance Company (2001) Ltd.

2. FIXED ASSETS

As indicated in the report for the previous year, the Institute's assets as at 30 June 1997 included four (4) pieces of land in Mombasa and Nyanza Province namely, Mtwapa (Section III) MN Mombasa, Kisumu plot L.L. N. 1148/1389, Kisumu TPS/2/XXXVI/2044 and Kegati Parcel No. 3055/B/B Boboria Nyaribari Chache for which the Institute did not hold title deeds. A review of the position in 1997/98 showed that the Institute has still not yet obtained title deeds for these properties and as a result the ownership of the same has not been confirmed.

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

(i) the Institute's efforts to get title documents for the Mtwapa plot which was to be donated by KARI, were fruitless as the latter was reluctant to surrender the parcel, and subsequently, the Institute's Board during its 45th sitting December 18, 2002 endorsed the removal of the value of the plot (Kshs. 24 million) from the Institute's Accounts;

(ii) t he Institute in March 6th 1996 acquired a title deed No. Kisii/Nyaribari/3055 for 1.8 hectares parcel at Kegati, Parcel No. 3055/B/B Boburia Nyaribari Chache;

(iii) the Institute has acquired title deed No. LR.92162 Plot No. 8/25762 dated July, 1998 for its 1.97 hectares parcel at Kisumu, initially Kisumu TP. 5/2/XXVI/204 A;

(iv) the Institute is yet to obtain title deed for its plot LR No. 1148/189 at Kisumu.

The Committee observed with concern that it has taken inordinately too long for the Corporation to obtain a title deed for its parcel LR. No. 1148/1389 at Kisumu.

The Committee recommends that the Chief Executive pursues the matter of obtaining a title deed for its parcel LR. No. 1148/1389, Kisumu with the Commissioner of Lands and ensures that the same is obtained by 31st December, 2006.

REPORT OF THE CONTROLLER AND AUDITOR ON THE ACCOUNTS OF LOCAL AUTHORITIES PROVIDENT FUND FOR THE YEAR ENDED 30TH JUNE, 1997

1. PAYMENT OF ALLOWANCES TO BOARD MEMBERS

1.1 The Board Allowances expenditure of Kshs.1,442,027 shown in the Income and Expenditure account includes unauthorised payments totalling Kshs.842,674 in respect of transport, sitting, accommodation and lunch allowances paid to the Fund's Board members in excess of those approved by the office of the President. The examination of the Fund's records indicated that the approved rates were Kshs.1,000 per day in respect of sitting allowance while those paid ranged between Kshs.2,400 and Kshs.5,500 per day. The maximum approved rate for accommodation allowance was Kshs.1,250 per day while that paid was Kshs.3,200 per day. Although transport and lunch allowances were supposed to be based on actual cost as per receipts, allowances of Kshs.25 per kilometer and Kshs.1,000 per day, respectively, were paid.

1.2 Further, the Fund Board Secretary who is an employee of the parent Ministry was paid a total of Kshs.40,700 (Kshs.5,500 per month) while another employee of the same Ministry was paid a total of Kshs.29,400 (Kshs.3,000 per month) for signing the Fund's cheques. This is contrary to Section 10(1) of the State Corporations Act and it is not clear why these duties were not performed by the Fund's Chief Administrative Officer and the Accountant who are both full time employees of the Fund.

As payment of these allowances were not approved in accordance with Section 10(1) and 10(2) of the State Corporations Act, the payment of the extra expenditure of Kshs.648,800 paid to the Board members and the Parent Ministry officers is considered irregular.

The Committee heard the evidence given by the Chief Executive that the Fund's Income and Expenditure Account included unauthorised payments totalling Kshs. 578,700 in respect of allowances paid to the Fund's Board members in excess of those approved by the Office of the President. The Committee also heard that the Fund paid two officers from the parent Ministry; Millicah W. Thairu and Anthony Muendo Kshs. 40,700 and 29,400 respectively as allowances for executing duties of the Board Secretary and Accounts Officers.

The Committee was informed that: -

(i) the approved rates for sitting allowance were 1,000 per day and accommodation of Kshs. 1,250 per day while transport and lunch allowances were supposed to be based on actual cost as per receipts;

(ii) the Board Members were paid accommodation, sitting, mileage and lunch allowances in excess of those contained in the Office of the President Circular No. 1/98 Ref. OP.9/21/2A VOL. XXXVII/(52) of April 29 1993, as follows:-

Name of Board member	Number of meetings attended		Unauthorized allowances	
	1996/97	1997/98	1996/97 Kshs	1997/98 Kshs
1. Cllr. Michael C. Rotich	2	-	16,300.00	-
2. Mr. Philip O. Awinyo	15	-	55,700.00	-
3. Mr. Boniface Munyao	15	10	27,500.00	50,000.00
4. Mr. Mr. Joseph P. Ngari	15	-	50,300.00	-
5. Mr. Osili O. Adungo	11	-	27,700.00	-
6. Mr. Peter M.K Kinuthia	7	-	23,900.00	-
7. Mr. Marita Ondaba	9	-	36,900.00	-
8. Late Wasike Ndombi	4	7	7,600.00	34,100.00
9. Mr. Stephen Kibaya	4	4	16,400.00	45,500.00
10. Mr. Charles L. Muiruri	3	-	8,600.00	-
11. Mr. Hussein S. Ahmed	4	-	24,400.00	-
12. Mr. Eliud M. Wari	7	-	24,100.00	-
13. Cllr. Enos S. Orlale	4	-	17,200.00	-
14. Mr. Antony Muendo (co-opted member)	8	1	4,000.00	4,500.00
15. Ms. Millicah Thairu (Board Secretary)	10	6	5,000.00	6,000.00
16. Mrs. Rosalia Nyalle	1	-	-	-
17. Mr. Edgar Kadenyi	2	-	20,810.00	-
18. Mr. Charles K. Kariuki	2	9	3,800.00	40,500.00
19. Mr. Jotham N. Amisi	2	13	8,200.00	130,000.00
20. Cllr. John Kauria	-	8	-	79,200.00
21. Cllr. John Munguti	-	1	-	15,700.00
22. Mr. Samuel Waithaka	-	1	-	4,500.00
23. Mr. Abdallah Adan	-	4	-	39,600.00
24. Mr. Samuel K. Ng'eno	-	2	-	9,000.00
25. Mr. Simon M. Kaburu	-	1	-	9,900.00
26. Mr. David Lang'at	-	7	-	105,100.00
TOTAL			**378,410.00**	**573,600.00**

(iii) the payment of honoraria allowance to the Board Secretary and other officials of the parent Ministry were recommended by the Board vide Minute No. 14/97 of 2nd

July 1997 at the rate of Kshs. 5,500 and 3,000 per month for the two officials respectively. The Office of the President vide its letter Ref. OP. 9/1A of 10th April 2000, declined the Fund's proposal to effect the honorarium;

(iv) the Fund, has been making efforts to have its Act amended to reduce Board membership from 15 to 9; and,

(v) overpayment of Board Allowances has continued such that the Inspector-General (State Corporations) in his Special Audit Report on LAPF of September 28, 2004 reported that as at September, 2004, "through irregular payments of allowance to Board members, the Fund lost a total of sum of Ksh. 3,434,800.00 from:-

Name	Title	Excess amount paid in Ksh.
Samuel K. Ngeno	Board Chairman	230,000.00
Boniface Munyao	Vice Chairman	246,500.00
Mark K. Odungo	Committee Chair	123,200.00
Alfred O. Odero	Member	123,100.00
Josiah Magut	Member	10,100.00
Domiciano L. Maingi	Member	64,100.00
Joan Mjomba	Member	117,100.00
Alex Ole Magelo	Member	77,000.00
Joseph G. Maina	Member	100,300.00
Stephen K. Baituru	Member	149,800.00
Billow Hussein Abdi	Member	78,000.00
Jeremiah Gateri	Member	108,000.00
Abdulahi Mohamed Adan	Member	130,200.00
Fredric K. Tsuma	Member	151,200.00
Philip K. Ouko	C.A.O	27,000.00
Angelina A. Hongo	Board Secretary	335,000.00
Harrison G. Maina	Fund Accountant	26,000.00
Michael Kenga Mure	Board Chairman	296,000.00
Mwangi Njuguna	Vice Chairman	231,200.00
John Mokaya	Committee Chair	217,600.00
Jeremiah Gateri	Member	104,800.00
Geoffrey Ndambuki	Member	104,800.00
Cyprian W. Wekesa	Member	157,200.00
Abdikadir K. Yusuf	Member	91,700.00
Elijah K. Chepkwony	Member	117,900.00
Christine Ndaka	Ag. C.A.O	17,000.00
Total		3,434,800.00

The Committee was concerned that the Fund, which is a body corporate as established by the Local Authorities Provident Act, (Cap 272), operates as a department of the Ministry of Local Government with regard to its administrative and financial aspects.

The Committee also observed with concern that the then Chief Administrative Officer of the Fund paid allowances and honoraria to Board members in excess of the rates approved by the Office of the President, contrary to Circular No. 1/98 Ref. OP/21/2A Vol. XXXVII/(52) and further that the allowances were paid prior to seeking approval of the Office of the President contrary to Section 10 of the State Corporations Act (Cap 446).

The Committee recommends that: -

(i) the Chief Executive, recovers the irregular payments made to the Board members, including the amount of Ksh. 3,434,800.00 from the officers concerned with immediate effect and confirm progress to the Committee by December 31st, 2006; and,

(ii) the Fund should be restructured to operate separately from the parent Ministry and carry out its functions as a corporate body.

The Committee also recommends that the Attorney General without further delay proposes appropriate amendments for consideration by the House on the Local Authorities Provident Fund Act (Cap 272), to provide for meeting of its administrative expenses of from its investments income; appropriate reduction of its Board members; specification of the powers and tenure of office of Board members and specification of liability and method of contributions by local authorities. In this regard, the Chief Executive, in conjunction with the parent Ministry should expeditiously impel upon the Office of the Attorney General to effect the proposal.

2. CONTRIBUTION FOR EXPENSES

The Local Authorities Provident Fund Act (Cap.272) requires the Local Authorities with contributions to the Fund to pay administrative expenses yearly. During the year under review, various Local Authorities had not paid administrative expenses charged to them by the Fund. As at 30th June 1997, the

management of the Fund had not collected a balance of Kshs.8,639,335 (1996 - Kshs.6,632,503).

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 8,639,335.00 represented uncollected balance in respect of administrative expenses paid to various local authorities by the Fund.

The Committee was informed that most local authorities had not reimbursed the administrative expenses as required by the LAPF Act, and that, as at 30th June 2003, 159 Local Authorities had not remitted the same, amounting to Kshs. 62,411,215.6. (See Appendix II)

The Committee noted that, as per the Act, all administrative expenses incurred by the Fund on behalf of Local Authorities are supposed to be refunded to the Fund as soon as practicable after 31 December of each year; each local authority should make re-imbursements by contributing proportionately to the number of contributors in its employment.

The Committee recommends that the Fund should pursue settlement of the outstanding amount of Kshs. 61,691,091.30 from the local authorities listed in Appendix II of this Report and confirm progress to the Committee by December 31st, 2006.

3. NON REMITTANCE OF CONTRIBUTION BY LOCAL AUTHORITIES

As previously reported various local Authorities have not been remitting their members monthly contributions to the Fund. Some Authorities have not submitted such contributions since 1984. During the year under review, some 47 Local Authorities listed in note 2 to the accounts failed to submit their schedules of contributions (P.F.2 form) or the members' contributions. Consequently, the actual outstanding contributions as at 30 June 1997 could not be ascertained.

The Committee heard the evidence given by the Chief Executive that various local authorities had not remitted members' monthly contributions to the Fund and that some 47 local authorities had failed to submit the schedules of contributions (P.F.2 form) or the members' contributions.

The Committee further heard that: -

(i) **all local authorities are supposed to submit their monthly contribution schedules as per the Ministry of Local Government Circular No. 132/CIR/Vol.1/128 of 4th December 1995; and**

(ii) **as at July 30th 2004, the Fund's membership stood at 9849 from 116 Local Authorities and that the Fund was owed a total of Ksh. 481,131,810.00 in form of unremitted contributions as at the same date.**

The Committee observed with concern that the Fund's management would appear to be extremely tepid in pursuing contributions from local authorities, while it continued to issue Debt Clearance Certificates to non-remitting councils for accessing LAPF funds.

The Committee was perturbed that the non-remitting local authorities have continued to default the Retirement Benefits Act (1997) and the Regulations (2000).

The Committee recommends that: -

(i) **the Fund should pursue the balances of Kshs. 481,131,810.00 outstanding from local authorities without further delay;**

(ii) **the Fund should not issue debt clearance certificates to local Authorities which have not submitted their members' contributions, and that any person(s) who contravenes or acts contrary be held responsible and dismissed from the Service; and**

(iii) **the Minister for Local Government ensures that the recommendation in (ii) is adhered to without exception.**

4. SHORT TERM DEPOSITS

4.1 The amount of Kshs.3,704,531 reflected in the Balance Sheet "Deposits under receivership represents the balance of Kshs.13,079,217 earlier placed in private banks and financial institutions which were later placed under receivership, less provision of Kshs.9,374,686 over the years. The Fund has not indicated what action it has taken to recover the amounts. The provision of kshs.9,374,686 made over the years would suggest that the total amount of Kshs.13,079,217 may have to be written off.

4.2. Further, the Fund was not able to produce deposit certificate numbers 0169 and 02008 in support of deposits totalling Kshs.2,650,000 held by Pioneer Building Society. Consequently, I was not able to confirm the existence of this amount which forms part of the Balance Sheet deposit figure of Kshs.3,704,531.

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

(i) **the Funds Balance Sheet reflected a total of Kshs. 13,079,217 earlier placed in private financial institutions that were placed under receivership. The Committee also heard that the investments were made in Industrial Development Bank, Kenya National Capital Corporation (KENYAC), Housing Finance Corporation of Kenya, Pioneer Building Society (under liquidation) and Consolidated Bank;**

(ii) **the liquidator of Pioneer Building Society, in October 1999 confirmed that the outstanding amount was Kshs. 4,697,114.15;**

(iii) **the Fund is pursuing repayment of deposits in other financial institutions in conjunction with Deposit Protection Fund, while it awaits the Consolidated Bank to declare dividends on investment; and,**

(iv) **the Fund has not been able to produce deposit certificate numbers 0169 and 02008 in support of deposits totalling Kshs. 2,650,000 held by Pioneer Building Society.**

The Committee recommends that the Fund should apply all means possible including litigation to recover the deposits held by Consolidated Fund.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF LOCAL AUTHORITIES PROVIDENT FUND FOR THE YEAR ENDED 30TH JUNE, 1998

1. PAYMENT OF ALLOWANCES TO BOARD MEMBERS

The Board Allowances expenditure of Kshs.1,442,027 shown in the Income and Expenditure account includes unauthorised payments totalling Kshs.842,674 in respect of transport, sitting, accommodation and lunch allowances paid to the Fund's Board members in excess of those approved by the office of the President. The examination of the Fund's records indicated that the approved rates were Kshs.1,000 per day in respect of sitting allowance while those paid ranged between Kshs.2,400 and Kshs.5,500 per day. The maximum approved rate for accommodation allowance was Kshs.1,250 per day while that paid was Kshs.3,200 per day. Although transport and lunch allowances were supposed to be based on actual cost as per receipts, allowances of Kshs.25 per kilometer and Kshs.1,000 per day, respectively, were paid.

1.2 Further, the Fund's Board Secretary who is an employee of the parent Ministry was paid a total of Kshs.66,000 (Kshs.5,500 per month) while another employee of the same Ministry was paid Kshs.36,000 (Kshs.3,000 per month) for signing the Fund's cheques. This is contrary to Section 10(1) of the State Corporation's Act and it is not clear why these duties were not performed by the Fund's Chief Administrative Officer and the Accountant who are both full time employees of Fund. As payment of these allowances were not approved in accordance with Section 10(1) and 10(1) of the State Corporations Act, the payment of the extra expenditure of Kshs.944,673 paid to the Board members and the parent Ministry officers is considered irregular.

1.2 In addition, the Fund paid a total of Kshs.84,500 as medical insurance cover for a Board member with a medical insurance company. Payment of medical insurance cover for Board members is not provided for in the terms and conditions of service for Board members and in the circumstances the expenditure of Kshs.84,500 paid by the Fund to meet this cost is considered to be irregular.

The Committee heard the evidence given by the Chief Executive that the Fund's Income and Expenditure Account included unauthorised payments totalling Kshs. 578,700 in respect of allowances paid to the Fund's Board members in excess of those

approved by the Office of the President. The Committee also heard that the Fund paid two officers from the parent Ministry; Millicah W. Thairu and Anthony Muendo Kshs. 40,000 and 29,400 respectively as allowances for executing duties of the Board Secretary and Accounts Officers.

The Committee was informed that: -

(i) the approved rates for sitting allowance were 1,000 per day and accommodation of Kshs. 1,250 per day while transport and lunch allowances were supposed to be based on actual cost as per receipts;

(ii) the Board Members were paid accommodation, sitting, mileage and lunch allowances in excess of those contained in the Office of the President Circular No. 1/98 Ref. OP.9/21/2A VOL. XXXVII/(52) of April 29 1993, as follows:-

Name of Board member	Number of meetings attended		Unauthorized allowances	
	1996/97	1997/98	1996/97 Kshs	1997/98 Kshs
Cllr. Michael C. Rotich	2	-	16,300.00	-
Mr. Philip O. Awinyo	15	-	55,700.00	-
Mr. Boniface Munyao	15	10	27,500.00	50,000.00
Mr. Mr. Joseph P. Ngari	15	-	50,300.00	-
Mr. Osili O. Adungo	11	-	27,700.00	-
Mr. Peter M.K Kinuthia	7	-	23,900.00	-
Mr. Marita Ondaba	9	-	36,900.00	-
Late Wasike Ndombi	4	7	7,600.00	34,100.00
Mr. Stephen Kibaya	4	4	16,400.00	45,500.00
Mr. Charles L. Muiruri	3	-	8,600.00	-
Mr. Hussein S. Ahmed	4	-	24,400.00	-
Mr. Eliud M. Wari	7	-	24,100.00	-
Cllr. Enos S. Orlale	4	-	17,200.00	-
Mr. Antony Muendo (co-opted member)	8	1	4,000.00	4,500.00
Ms. Millicah Thairu (Board Secretary)	10	6	5,000.00	6,000.00
Mrs. Rosalia Nyalle	1	-	-	-
Mr. Edgar Kàdenyi	2	-	20,810.00	-
Mr. Charles K. Kariuki	2	9	3,800.00	40,500.00
Mr. Jotham N. Amisi	2	13	8,200.00	130,000.00
Cllr. John Kauria	-	8	-	79,200.00
Cllr. John Munguti	-	1	-	15,700.00
Mr. Samuel Waithaka	-	1	-	4,500.00

Mr. Abdallah Adan	-	4	-	39,600.00
Mr. Samuel K. Ng'eno	-	2	-	9,000.00
Mr. Simon M. Kaburu	-	1	-	9,900.00
Mr. David Lang'at	-	7	-	105,100.00
TOTAL				**378,410.00 : 573,600.00**

(vi) the payment of honoraria allowance to the Board Secretary and other officials of the parent Ministry were recommended by the Board vide Minute No. 14/97 of 2nd July 1997 at the rate of Kshs. 5,500 and 3,000 per month for the two officials respectively. The Office of the President vide its letter Ref. OP. 9/1A of 10th April 2000, declined the Fund's proposal to effect the honorarium;

(vii) the Fund, has been making efforts to have its Act amended to reduce Board membership from 15 to 9; and,

(viii) overpayment of Board Allowances has continued such that the Inspector-General (State Corporations) in his Special Audit Report on LAPF of September 28, 2004 reported that as at September, 2004, "through irregular payments of allowance to Board members, the Fund lost a total of sum of Ksh. 3,434,800.00 from:-

Name	Title	Excess amount paid in Ksh.
Samuel K. Ngeno	Board Chairman	230,000.00
Boniface Munyao	Vice Chairman	246,500.00
Mark K. Odungo	Committee Chair	123,200.00
Alfred O. Odero	Member	123,100.00
Josiah Magut	Member	10,100.00
Domiciano L. Maingi	Member	64,100.00
Joan Mjomba	Member	117,100.00
Alex Ole Magelo	Member	77,000.00
Joseph G. Maina	Member	100,300.00
Stephen K. Baituru	Member	149,800.00
Billow Hussein Abdi	Member	78,000.00
Jeremiah Gateri	Member	108,000.00
Abdulahi Mohamed Adan	Member	130,200.00
Fredric K. Tsuma	Member	151,200.00
Philip K. Ouko	C.A.O	27,000.00
Angelina A. Hongo	Board Secretary	335,000.00
Harrison G. Maina	Fund Accountant	26,000.00
Michael Kenga Mure	Board Chairman	296,000.00
Mwangi Njuguna	Vice Chairman	231,200.00

John Mokaya	Committee Chair	217,600.00
Jeremiah Gateri	Member	104,800.00
Geoffrey Ndambuki	Member	104,800.00
Cyprian W. Wekesa	Member	157,200.00
Abdikadir K. Yusuf	Member	91,700.00
Elijah K. Chepkwony	Member	117,900.00
Christine Ndaka	Ag. C.A.O	17,000.00
Total		3,434,800.00

The Committee also heard that the amount of Ksh. 84,500.00 which was paid for insurance medical cover was intended for accident cover as supported by circular No.1/91, Ref. No. OP/9/21/2A/XXXVII/(57) of 19th November 1991, for the Board chairman and that the amount was paid to M/s Mecca Insurance Consultants being membership fees for five Board members namely: David K. Lang'at, Jotham N. Amisi, Abdullahi M. Adan, Charles K. Kariuki and Charles I. Muiruri.

The Committee was concerned that the Fund, which is a body corporate as established by the Local Authorities Provident Act, (Cap 272), operates as a department of the Ministry of Local Government with regard to its administrative and financial aspects.

The Committee also observed with concern that the then Chief Administrative Officer of the Fund paid , allowances and honoraria to Board members in excess of the rates approved by the Office of the President, contrary to Circular No. 1/98 Ref. OP/21/2A Vol. XXXVII/(52) and further that the allowances were paid prior to seeking approval of the Office of the President contrary to Section 10 of the State Corporations Act (Cap 446).

The Committee recommends that: -

(i) the Chief Executive, recovers the irregular payments made to the Board members, including the amount of Ksh. 3,434,800.00 from the officers concerned with immediate effect and confirm progress to the Committee by December 31st, 2006;

(ii) the Chief Executive seeks *post facto* authority from the State Corporations Advisory Committee to regularise the expenditure of Ksh 84,500.00 which was paid as medical insurance cover for the five Board members; and,

(iii) **the Fund should be restructured to operate separate from the parent Ministry and carry out its functions as a corporate body.**

The Committee also recommends that the Attorney General without further delay proposes appropriate amendments for consideration by the House on the Local Authorities Provident Fund Act (Cap 272), to provide for meeting of its administrative expenses of from its investments income; appropriate reduction of its Board members; specification of the powers and tenure of office of board members and specification of liability and method of contribution local authorities. In this regard, the Chief Executive, in conjunction with the parent Ministry should expeditiously impel upon the Office of the Attorney General to effect the proposal.

2. SHORT TERM DEPOSITS

As reported previously, the amount of Kshs.2,396,610 reflected in the Balance Sheet Deposits under receivership represents the balance of Kshs.13,079,217, less provision of Kshs.10,682,607 over the years, earlier placed in private banks and financial institutions which were later placed under receivership. The Fund has not indicated what action it has taken to recover the amount. The provision of Kshs.10,682,607 made over the years would suggest that the total amount of Kshs.13,079,217 may have to be written off.

Further the Fund was not able to produce deposit certificate numbers 0169 and 02008 in support of deposits totalling Kshs.2,650,000 held originally by Pioneer Buildings Society. Consequently, I was not able to confirm the existence of this amount which forms part of the Balance Sheet net deposit figure of Kshs.2,396,610.

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

(i) **the Funds Balance Sheet reflected a total of Kshs. 13,079,217 earlier placed in private financial institutions that were placed under receivership. The Committee also heard that the investments were made in industrial Development Bank, Kenya National Capital Corporation (KENYAC), Housing Finance Corporation of Kenya, Pioneer Building Society (under liquidation) and Consolidated Bank;**

(ii) **the liquidator of Pioneer Building Society, in October 1999 confirmed that the outstanding amount was Kshs. 4,697,114.15;**

(iii) **the Fund is pursuing repayment of deposits in other financial institutions in conjunction with Deposit Protection Fund, while it awaits the Consolidated Bank to declare dividends on investment;**

(iv) **the Fund has not been able to produce deposit certificate numbers 0169 and 02008 in support of deposits totalling Kshs. 2,650,000 held by Pioneer Building Society.**

The Committee recommends that the Fund should apply all means possible including litigation to recover the deposits.

3. NON-REMITTANCE OF CONTRIBUTION BY LOCAL AUTHORITIES

As previously reported various local Authorities have not been remitting their members monthly contributions to the Fund. Some Authorities have not submitted such contributions since 1984. During the year under review, some 59 Local Authorities listed in note 2 of the accounts failed to submit their schedule of contributions (PF.2 forms) of the members contributions.

Consequently, the actual outstanding contributions as at 30 June 1998 could not be ascertained.

The Committee heard the evidence given by the Chief Executive that various local authorities had not remitted members' monthly contributions to the Fund and that some 47 local authorities had failed to submit the schedules of contributions (P.F.2 form) or the members' contributions.

The Committee further heard that: -

(i) **all local authorities are supposed to submit their monthly contribution schedules as per the Ministry of Local Government Circular No. 132/CIR/Vol.1/128 of 4th December 1995; and,**

(ii) **as at July 30th 2004, the Fund's membership stood at 9849 from 116 Local Authorities and that the**

Fund was owed a total of Ksh. 481,131,810.00 in form of un-remitted contributions as at the same date.

The Committee observed with concern that the Fund's management would appear to be extremely tepid in pursuing contributions from local authorities, while it continued to issue Debt Clearance Certificates to non-remitting councils/local authorities for accessing LAPF funds.

The Committee was perturbed that the non-remitting local authorities have continued to default the Retirement Benefits Act (1997) and the Regulations (2000).

The Committee recommends that: -

(i) the Fund should pursue the balances of Kshs. 481,131,810.00 outstanding from local authorities without further delay;

(ii) the Fund should not issue debt clearance certificates to local Authorities which have not submitted their members' contributions, and that any person(s) who contravenes or acts contrary be held responsible and dismissed from the Service; and

(iii) the Minister for Local Government ensures that the recommendation in (ii) is adhered to without exemptions.

4. CONTRIBUTION FOR EXPENSES

The Local Authorities Provident Fund Act (Cap.272) requires the Local Authorities with contributions to the Fund to pay administrative expenses yearly. During the year under review, various Local Authorities had not paid administrative expenses charged to them by the Fund. As at 30 June 1998 the management of the Fund had not collected a balance of Kshs.12,791,752(1997 - Kshs.8,638,336)

The Committee heard the evidence given by the Chief Executive that the amount of Kshs. 12,791,752.00 represented uncollected balance in respect of administrative expenses paid to various local authorities by the Fund.

The Committee was informed that most local authorities had not reimbursed the administrative expenses as required by the LAPF Act, and that, as at 30th June 2003, 159 Local Authorities had not remitted the same, amounting to Kshs. 61,691,091.30. (See Appendix II)

The Committee noted that, as per the Act, all administrative expenses incurred by the Fund on behalf of Local Authorities are supposed to be refunded to the Fund as soon as practicable after 31 December of each year; each local authority should make reimbursements by contributing proportionately to the number of contributors in its employment.

The Committee recommends that the Fund should pursue settlement of the outstanding amount of Kshs. 62,411,215.6. from the local authorities listed in Appendix II of this Report and confirm progress to the Committee by December 31st, 2006.

REPORT OF THE CONTROLLER AND AUDITOR ON THE ACCOUNTS OF PYRETHRUM BOARD OF KENYA FOR THE YEAR ENDED 30TH JUNE, 1996

1. LATE SUBMISSION OF THE ACCOUNTS FOR AUDIT

Although Section 31 of the Exchequer and Audit Act, (Cap 412) requires each State Corporation to submit for Audit its accounts within four months after the end of the financial year or such longer period as the National Assembly may by resolution appoint, the Board's accounts for the year 1995/96 which under the law should have been submitted by 31 October 1996 were not submitted until 11 April 1997. By submitting the accounts outside the statutory period the Board is in breach of the law.

The Committee heard the evidence given by the Chief Executive that the Board's accounts for the year ended 30th June 1996 were submitted outside the statutory period due to problems associated with old computer systems which persisted in the year under review.

The Committee noted that the computer systems were upgraded and new software installed which had since facilitated accurate and timely processing of the accounts.

The Committee recommends that the Chief Executive should ensure that the Accounts of the Board are always submitted within the statutory period and that, any officer who contravenes the law be dismissed and be dealt with in accordance with Section 45 of the Anti-Corruption and Economic Crimes Act 2003.

2. DEBTORS AND PREPAYMENTS - KSHS.475,130,400

2.1 The debtors figure includes advances totalling Kshs.1,004,130 made to former employees of the Board. The Board has not indicated how it intends to recover the amount from the employees who are no longer in the service of the Board.

2.2 The debtors also include cash losses totalling Kshs.3,294,626 in respect of cheque payments fraudulently cashed as indicated below:

	Kshs
Kenya Commercial Bank	3,268,246
Cheque lost in transit	26,380
	3,294,626

The provision for bad and doubtful debts of Kshs.3,268,246 made in the accounts would suggest that the recoverability of the Kenya Commercial Bank debt is doubtful.

2.3 The debtors figure further includes outstanding cash advances granted to Board members totalling to Kshs.960,874 some of which have been outstanding for more than two years. The Board has not explained the terms under which these advances were made and how they were to be recovered.

The Committee heard the evidence given by the Chief Executive that the outstanding advances of Kshs. 1,004,130.75 relate to debt owing from former employees and Board members.

The Committee was informed that: -

(i) **the debt in respect of Mr. James K. Muregi, a former chairman of the Board of Kshs. 372,751.25 was being followed up and that the Board has made an application to dismiss application for stay of execution obtained by Mr. Muregi in July 1997;**

(ii) **some debts amounting to Kshs. 623,379.50 had been written-off after unsuccessful efforts to redeem them;**

(iii) **the amount of Kshs. 3,268,246 for which the Board sued Kenya Commercial Bank (KCB) represented cheques drawn by the Board between 23rd August 1984 and 10th April 1985 and which were deposited through the Bank's Nakuru Branch, but the proceeds never reached the payees. Further, the Bank and the Board settled the matter out of court and the bank paid a total of Kshs. 6,473,079.40 on August 2004, an amount which included interests;**

(iv) **the figure of Kshs. 26,380 represented amounts in 12 cheques which were intercepted while in transit to their respective payees and for which the Board granted authority for write-off after unsuccessful investigations; and**

(v) **out of the amount of Kshs. 960,874 owed by eight members of the Board, an amount of Kshs. 250,742.50 has been recovered, leaving an outstanding balance of Kshs. 710,131.79 from Mr. Joseph Tallam (Kshs. 7,762),**

Mr. Henry Kichwen (Kshs. 9,226) and a former Chairman of the Board, Mr. Timothy O. Omato (Kshs. 693,143.79).

The Committee also heard that the Board has since instituted recovery proceedings against Mr. Omato in case Nakuru HCCC No. 516 of 2000 for the balance and that the case is pending in Court.

The Committee observed with concern that most of the debts had been incurred as far back as 1970's and 1980's, an indication that the Board was inept in pursuing debtors.

The Committee recommends that: -

(i) the Chief Executive should pursue the dismissal of the stay orders granted to Mr. Muregi in 1997 with a view to instituting recovery proceeding against him;

(ii) the Chief Executive pursues the Nakuru HCCC No. 516 of 2000 with a view of recovering Kshs. 693,143.79 owed by Mr Timothy O. Omato; and

(iii) the Chief Executive should ensure that the Board pursues its debts on time to avoid situations where it would be time-barred under the Limitation of Actions Act.

3. ENCROACHMENT OF THE BOARD'S LAND

As reported in the previous year, the Board's land at Ol Joro Orok has been encroached by squatters and the Board has been trying to solve the issue for the last six years without success. Although I have been informed that the issue has been reported to Provincial Administration, I have not seen any correspondence to indicate how the problem is going to be solved.

The Committee heard the evidence given by the Chief Executive that the Board's land at Ol Joro Orok has not been encroached and that most of the squatters in the farm were inherited as farm workers when the Board purchased the farm in 1970, measuring 331.1 Hectares.

The Committee was informed that: -

(i) the Board's efforts in the past to evict the squatters has proved unsuccessful and that owing to what it then

considered as commercial unviability of the land, the Pyrethrum Board of Kenya Board, with the approval of the parent Ministry had resolved to sell off the land in 1996 and allocate some portion to the initial 57 squatters at half an acre each;

(ii) the Corporation initially single-sourced M/s. Mugi property consultants to carry out valuation on the land which was valued at Kshs. 42, 177,900 and Kshs. 53,955,779.85 in 1995 and 2002 respectively;

(iii) the farm was sold off in 2002 to M/s. Kitch Agricultural Company Ltd, at Kshs. 30,050,000, who paid Kshs 19,000,000 and defaulted in paying the balance.

(iv) in addition, the purchaser, whose file has since been missing from the Registrar of Societies fraudulently transferred the title documents to itself with the help of his lawyers, M/s. Shako Advocates;

(v) the Corporation has since reviewed its decision to sell off the land and has resolved to refund the Kshs. 19,000,000 to the purchaser and repossess the land as it has established that the interests of the Board were not safeguarded in the initial sale transaction while the land is currently commercially viable and that a provision has been made in the Budget for the year 2004/2005;

(vi) the Corporation has since instituted a civil suit against M/s. Shako Advocates vide civil suit No. 142 of 2004 at the High Court of Nakuru for fraud and subsequently placed a caveat on the land.

The Committee expressed concern over the reluctance by the Corporation to resolve the issue of the land. Further, it would appear that the then Corporation's lawyers M/s. Nancy Njoroge Advocates who held the title documents on behalf of the vendor during the transaction colluded with the purchaser to release the documents.

The Committee recommends that;

(i) the Chief Executive should report the case of fraud by M/s. Kitch Agricultural Company Ltd to the Director of Criminal Investigations Department for investigation and a further appropriate action taken.;

(ii) the Chief Executive should pursue the civil suit HCCC Nakuru No. 142 of 2004 against M/s. Kitch Agricultural Company Ltd and M/s. Shako Advocates with a view to repossessing the land and refund the Kshs 19million paid by the purchaser; and

(iii) the law firms of M/s. Shako Advocates and M/s. Nancy Njoroge Advocates be reported to the Advocates Complaint Commission for professional misconduct.

REPORT OF THE CONTROLLER AND AUDITOR ON THE ACCOUNTS OF PYRETHRUM BOARD OF KENYA FOR THE YEAR ENDED 30TH JUNE, 1997

1. COMPOSITION OF THE BOARD

During the year under review, the Board of Directors comprised fifteen members according to Kenya Gazette number 2732 of 10 May 1996 and a letter MCA/CDM/B.1/1A Vol. X of 4 July 1996 by the Minister contrary to Section 4(2) of the Pyrethrum Act (Cap 340) which allows fourteen Board members. Consequently, the expenditure of Kshs.641,809 in form of allowances paid to the extra Board member up to 13 February 1998 is considered to be irregular.

The Committee heard the evidence given by the Chief Executive that during the year under review, the Corporation's Board comprised of 15 members contrary to section 4 (2) of the Pyrethrum Act (Cap 340);
The Committee was informed that: -

(i) Mr. Wilson K. Chebiegon was ostensibly appointed vide a letter from the then Minister for Agriculture dated July 4, 1996 one month after gazettement of the 14 members of the Board. Subsequently, the additional member was not gazetted;

(ii) the Corporation incurred a total of Kshs. 641,809 in form of allowances paid to the extra member of the Board;

(iii) the Corporation's Board is currently properly constituted

The Committee observed with concern that the Corporation's management allowed and paid allowances to non-gazetted persons in the Board

The Committee further expressed concern that the then Minister for Agriculture acted contrary to section 4 (2) of the Pyrethrum Act (Cap 340) by appointing the additional member into the Board.

The Committee recommends that the then Minister for Agriculture who acted *ultra vires* to the law together with then Chief Executive who authorised the payments to the additional Member who was not gazetted, be held responsible and the

amount of Ksh. 641,809 being the allowances paid to the extra board member, be recovered from them by December 31st, 2006.

2. DEBTORS AND PREPAYMENTS

2.1. The debtors and prepayments figure of Kshs.343,296,300 includes advances to former employees and former Board members totalling to Kshs.1,004,131 arrived at as follows:

Advances to former Board members	Kshs.734,963
Advances to former employees	Kshs.269,168
Total	Kshs.1,004,131

The Board has not indicated how it intends to recover the amount from the employees who are no longer in the service of the Board.

2.2. Further, the debtors also include cash losses totalling to Kshs.3,294,626 in respect of cheque payments fraudulently cashed as indicated below:-

Kenya Commercial Bank	Kshs.3,268,246
Cheques lost in transit	Kshs. 26,380
	3,294,626

The Committee heard the evidence given by the Chief Executive that the outstanding advances of Kshs. 1,004,130.75 relate to debt owing from former employees and Board members.

The Committee was informed that: -

(i) the debt in respect of Mr. James K. Muregi, a former chairman of the Board of Kshs. 372,751.25 was being followed up and that the Board has made an application to dismiss application for stay of execution obtained by Mr. Muregi in July 1997;

(ii) some debts amounting to Kshs. 623,379.50 had been written off after unsuccessful efforts to redeem them;

(iii) the amount of Kshs. 3,268,246 for which the Board sued Kenya Commercial Bank (KCB) represented cheques drawn by the Board between 23rd August 1984 and 10th April 1985 and which were deposited through the Bank's Nakuru Branch, but the

proceeds never reached the payees. Further, the Bank and the Board settled the matter out of court and the bank paid a total of Kshs. 6,473,079.40 on August 2004, an amount which included interest;

(iv) the figure of kshs. 26,380 represented amounts in 12 cheques which were intercepted while in transit to their respective payees and for which the Board granted authority for write-off after unsuccessful investigations;

(v) out of the amount of Kshs. 960,874 owed by eight members of the Board, an amount of Kshs. 250,742.50 has been recovered, leaving an outstanding balance of Kshs. 710,131.79 from Mr. Joseph Tallam (Kshs. 7,762), Mr. Henry Kichwen (Kshs. 9,226) and a former chairman of the Board, Mr. Timothy O. Omato (Kshs. 693,143.79). The Committee also heard that the Board has since instituted recovery proceedings against Mr. Omato in case Nakuru HCCC No. 516 of 2000 for the balance and that the case is pending in court.

The Committee observed with concern that most of the debts had been incurred as far back as 1970's and1980's, an indication that the Board was inept in pursuing debtors.

The Committee recommends that: -

(i) the Chief Executive should pursue the dismissal of the stay orders granted to Mr. James K. Muregi in 1997 with a view to instituting recovery proceeding against him.

(ii) the Chief Executive pursues the Nakuru HCCC No. 516 of 2000 with a view to recovering Kshs. 693,143.79 owed by Mr Timothy O. Omato

The Committee further recommends that the Chief Executive should ensure that the Board pursues its debts on time to avoid situations where it would be time-barred under the Limitation of Actions Act.

3. CREDITORS AND PROVISIONS

The Creditors and provisions figure of Kshs.193,732,214 includes credit balances totalling to Kshs.55,312,888 transferred from the debtors. These debit balances would appear to have arisen due to misposting errors, double posting of individual accounts in the nominal ledger as well as overpayments made during the year and whose detailed analysis was not produced for audit verification. The Board could also not explain the nature of these credit balances and in the circumstances I was not able to confirm the correctness of the creditors figure of Kshs.193,732,214 shown in the Balance Sheet as at 30 June 1997.

The Committee heard the evidence given by the Chief Executive that the Creditors and Provisions figure of Kshs. 193,732,214 included credit balances totalling Kshs. 55,312,888 transferred from the debtors.

The Committee also heard that the credit balance was due to: -

	Amount
Sales commissions payable to 10 distributors	**Kshs. 17,781,721**
Posting errors/advance payments to 26 Companies	**Kshs. 37,199,090**
Overpayments of 7 customers	**Kshs. 282,286.00**
Other small overpayments, credit notes etc	**Kshs. 49,781.00**
Total	**Kshs. 55,312,888**

The Committee was informed that the sales commission of Kshs. 17,781,721 was settled in the subsequent years and that the mis-posted invoices were corrected and reconciled in the year 1996/1997 thereby resolving the audit query.

4. BUDGETARY CONTROL

During the year under review the Board overspent on twenty one expenditure items totalling to Kshs.89,488,324. There is no approval by the Board, the parent Ministry and the Treasury as required by Section 12 of the State Corporations Act.

The Committee heard the evidence given by the Chief Executive that contrary to section 12 of the State Corporations Act, the

Board overspent on twenty-one items totalling to Kshs. 89,488,324 without the approval of the parent Ministry and the Treasury.

The Committee further heard that the over-expenditure was due to imports of pyrethrum extraction and refining inputs and insurance expenses of Kshs. 60.4 million and Kshs 11.6 million respectively and personnel costs of Kshs. 19,488,324, all of which had been under-budgeted during the financial year.

The Committee expressed grave concern at failure by the Corporation to seek approval from its parent Ministry and from the Treasury to exceed its budget.

The Committee recommends that: -

(i) the Chief Executive seeks post-facto approval from the Parent Ministry and the Treasury on the over-expenditure of Kshs. 89,488,324 on the twenty-one items;

(ii) the Chief Executive should ensure that the Corporation is run within its approved budget; and

(iii) the then Chief Executive Officer during whose tenure the Corporation exceeded its budget should be held responsible and be barred from holding public office conferred by the Republic of Kenya for contravening the provisions of Section 12 of the State Corporations Act.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE MEDICAL PRACTITIONERS AND DENTISTS BOARD FOR THE YEAR ENDED 30 JUNE, 1994.

1. NON-SUBMISSION OF ACCOUNTS

The Medical Practitioners and Dentists Board was established under the Medical Practitioners and Dentist Act (Cap 253) whose date of commencement was 01 January 1978. No Accounts of the Board were, however, submitted for audit for the period from inception on 01 January 1978 to 30 June 1993. Although the Board has explained that its operations during that period were accounted for under the Ministry of Health and that it was not funded independently until after 30 June 1993, no indication has, however, been given as to why appropriate action was not taken to enable the Board comply with the provisions of Section 31 of the Exchequer and Audit Act

The Committee heard the evidence given by the Chief Executive that the Board since its inception in 1978 to the period ending 30th June 1993 failed to submit its Accounts for audit as it was still operating as a unit of the Ministry of Health, and its revenue was collected and remitted to the Ministry.

The Committee further heard that the Board is now submitting its Accounts for audit.

The Committee recommends that the Board should be submitting its Accounts for audit according to the law.

2. LATE SUBMISSION OF ACCOUNTS FOR AUDIT

Although Section 31 of the Exchequer and Audit Act (Cap 412) requires State Corporations to submit their Accounts for audit not more than four (4) months or such longer period as the National Assembly may by resolution appoint after the end of every financial year, the Board's Accounts for the year 1993/94 which, under the law should have been submitted for audit by 31 October 1994, were not so submitted. Instead unsigned draft Accounts dated 25 March 1997 were received on 04 August 1998. As far as am aware, the Board did not apply to the National Assembly for the extension of time for submission of these Accounts for audit.

The Committee heard the evidence given by the Chief Executive that the Board submitted its Accounts for the year late due to

assumption that the same would be submitted under the Ministry of Health Accounts.

The Committee recommends that the Board should, in future, present its Accounts for audit and verification on time and in accordance with the law.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE MEDICAL PRACTITIONERS AND DENTISTS BOARD FOR THE YEAR ENDED 30 JUNE, 1995.

1. BUDGETARY CONTROL

During the year 1994/95 the Board operated without an approved budget contrary to the provisions of Section 11 and 12 of the State Corporation Act, (Cap 466). The Board has not, however, given satisfactory explanations as to why it operated without an approved budget and in the absence of any such budget the propriety of the total expenditure of Kshs. 2,351,500 incurred by the Board during 1994/95 and the total income of Kshs. 2,178,900 realized in the year cannot be vouched.

The Committee heard the evidence given by the Chief Executive that the Board during the year under review operated without an approved budget and that it has since been preparing and submitting the budget to the parent Ministry for approval.

The Committee recommends that the Board should in future submit its budget for approval in accordance with Sections 11 and 12 of the State Corporations Act, (Cap 446).

2. CASH AND BANK BALANCE

The Balance Sheet Cash at Bank figure of Kshs. 1,311,996 is stated to be the reconciled Cash Book balance as at 30 June 1995. The Board did not, however, produce a bank reconciliation statement as at 30 June 1995 or even avail bank confirmations to support the balance. In the absence of any such bank reconciliations and confirmations, it has not been possible to confirm the accuracy and correctness of the figure of cash at bank of Kshs. 1,311,996 shown on the Balance Sheet as at 30 June 1995.

The Committee heard the evidence given by the Chief Executive that the Board during the year under review failed to prepare Bank reconciliation statement for its accounts.

The Committee was informed that the Board on 30th June 1995 obtained the statement whose balance was Kshs. 1,792,038.50 and reconciled its books.

The Committee recommends that the Board should maintain proper books of accounts in accordance with International Accounting Standards.

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE MEDICAL PRACTITIONERS AND DENTISTS BOARD FOR THE YEAR ENDED 30 JUNE 1996

1. UNDERSTATEMENT OF CURRENT ASSETS

The Balance Sheet current assets figure of Kshs. 8,876,325 as at 30 June 1996 excludes unknown values of debtors relating to members arrears of licences. The Board does not also maintain an up-dated members' Register, a record which is essential in determining arrears of such members' licences. In the circumstances and as was the case in the previous year it has not been possible to confirm the correctness of the Board Accounts for the year 1995/96.

The Committee heard the evidence given by the Chief Executive that the Board did not prepare a register for doctors in private practice in order to ascertain the arrears that were unpaid in the year under review, and that the Board instead kept the General Register for its medical practitioners

The Committee was further informed that the Board has since separated the list of practitioners from the overall register and has embarked on updating the list of debtors.

The Committee recommends that the Board should maintain an updated list of its members and debtors.

2. CASH AND BANK BALANCES

The correctness of the Balance Sheet Cash and Bank Balances figure of Kshs. 8,876,325 could also not be confirmed, as no Bank reconciliation as at 30 June 1996 was available. A physical cash count certificate was also not seen to support the cash at hand balance of Kshs. 775,428.00 reflected in these Accounts as at 30 June 1996. In the absence of Bank reconciliations and confirmations from the Bank as well as physical cash count certificate it has again not been possible to confirm the accuracy and correctness of the figure of Cash in hand and at Bank reflected on the Balance Sheet as at 30 June 1996.

The Committee heard the evidence given by the Chief Executive that the Board did not prepare Bank Reconciliation Statements and a physical cash count certificate to support cash book balance of Kshs. 8,876,325.00 and cash at hand balance of Kshs. 775,428 respectively

The Committee recommends that the Board should maintain proper books of accounts in accordance with International Accounting Standards.

3. HONORARIA PAYMENTS

During the year under review the Board made honoraria payments to Board members and staff amounting to Kshs. 728,375, which included Christmas bonuses for the year 1995 but without authority and approval of Government. Apart from the fact that it was not explained how the rates used to pay the honoraria were determined, the propriety of the expenditure incurred on payments of the honoraria cannot be confirmed in the absence of Government approval for the payments.

The Committee heard the evidence given by the Chief Executive that the payments were made to doctors on inspection meeting while bonus for Christmas for the staff was approved by the Board.

The Committee recommends that the Chief Executive recovers the irregular payments of 728,375 from the concerned persons.

4. BUDGETARY CONTROL

As was the case in the previous year the Board operated without an approved Budget during the year 1995/96 contrary to the provisions of Sections 11 and 12 of the State Corporations Act, (Cap 446). In the absence of any such Budget it has not been possible to confirm the propriety of the total expenditure of Kshs. 2,572,283 or even review the total income of Kshs. 10,077,481 reflected in the Accounts of the Board for the year 1995/96.

The Committee heard the evidence given by the Chief Executive that the Board during the year under review operated without an approved budget and that it has since been preparing and submitting the budget to the parent Ministry for approval.

The Committee recommends that the Board should always ensure that its budget is submitted for approval pursuant to Sections 11 and 12 of the State Corporations Act (Cap 446).

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE MEDICAL PRACTITIONERS AND DENTISTS BOARD FOR THE YEAR ENDED 30 JUNE, 1997.

1. LATE SUBMISSION OF ACCOUNTS FOR AUDIT

Although Section 31 of the Exchequer and Audit Act required the Board's 1996/97 Accounts to be submitted for audit by 31 October 1997, the Accounts were not submitted until 27 March 2000, some 29 months outside the statutory period while revised Accounts were not submitted until 16 October 2001. As far as it has been possible to ascertain, no resolution by the National Assembly to submit the Accounts for 1996/97 outside the statutory period was obtained. The Board was therefore in breach of the law.

The Committee heard the evidence given by the Chief Executive that the Board submitted its Accounts for the year late due to assumption that the same would be submitted under the Ministry of Health Accounts.

The Committee recommends that the Board should, in future, present its Accounts for audit and verification on time and in accordance with the law.

2. DEBTORS

The Balance Sheet Debtors balance of Kshs. 1,501,000 as at 30 June 1997 relates to imprests taken by a member of staff between July 1996 and May 1997. The Board has not produced evidence to support any effort made to recover the outstanding imprests. Further, the Debtors balance of Kshs. 1,501,000 excludes undermined value of debtors relating to members' arrears of licences, an amount which is difficult to ascertain as the Board did not maintain an up-dated Members' Register, a record which is essential in determining arrears of such members' licences. In the circumstances, it has not been possible to confirm the correctness and accuracy of the Balance Sheet Debtors figure of Kshs. 1,501,000 as at 30 June 1997.

The Committee heard the evidence given by the Chief Executive that the Board did not prepare a register for doctors in private practice in order to ascertain the arrears that were unpaid in the year under review, and that the Board instead kept the General Register for its medical practitioners

The Committee was further informed:-

(i) that, the Imprests held by the former staff member were for meeting Board expenses and has since been surrendered; and,

(ii) that, the Board has since separated the list of practitioners from the overall register and has embarked on updating the list of debtors.

The Committee recommends that the Board should maintain an updated list of its members and debtors.

3. BUDGETARY CONTROL

As was the case in the previous year, the Board operated without an approved budget during the year 1996/97 contrary to the provisions of Sections 11 and 12 of the State Corporations Act, (Cap 446). In the absence of any such approved budget, it has not been possible to confirm the propriety of the total expenditure of Kshs. 4,282,311 or even to review the total income of Kshs. 7,503,290 reflected in the Accounts of the Board for the year 1996/97.

The Committee heard the evidence given by the Chief Executive that the Board during the year under review operated without an approved budget and that it has since been preparing and submitting the budget to the parent Ministry for approval.

The Committee observed with concern that the parent Ministry allowed the Board to run without an approved budget.

The Committee recommends that the Board should in future submit its budget for approval in accordance with Sections 11 and 12 of the State Corporations Act (Cap 446).

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON ACCOUNTS OF THE KENYA POST OFFICE SAVINGS BANK FOR THE YEAR ENDED 31ST DECEMBER, 2000

1. IRREGULAR ACQUISITION OF DEC ALPHA SERVER

During the year 1999, the Bank procured a Dec Alpha Server from a Supplier at a cost of Kshs.24,695,794 without tendering for the supply. The procured Server did not meet the Bank's specifications and as a result the Bank made a further decision to upgrade and modify the equipment at an additional cost of Kshs.21,505,424 which brought total expenditure on the Dec Alpha Server to Kshs.46,201,218. Apart from the fact that it is not clear how the supplier was identified and contracted to supply the Server in the absence of open tendering, it is also not understood how the bank ordered and procured a Server which did not meet its specifications and, therefore, required modification at a further cost of almost 90% of the original price.

The Committee heard the evidence given by the Chief Executive that the Bank procured a DEC-ALPHA Server after a feasibility study for Safe Card project was carried out, specifications drawn and bids sent out to seven prospective vendors out of which four responded.

The Committee was informed that: -

(i) **the tender was awarded to M/s. Matrix Group Ltd to supply the DEC-ALPHA Server at Kshs. 24,695,794 to cater for 500,000 customers; and**

(ii) **the system was later upgraded to cater for an additional 1.5 million customers and to improve its performance at a cost of Kshs. 21,505,424 thereby bringing the total expenditure to Kshs. 46,201,218.**

The Committee was dismayed to learn that the Bank purchased the equipment that did not meet its user requirements including Y2K compliance, while initially the Tender Evaluation Committee had indicated that the supplier had confirmed that the equipment would be Y2K compliant thereby occasioning the additional expenditure to upgrade it to Y2K compliance.

The Committee was concerned that the bank flouted procurement regulations in the procurement of the Server.

The Committee recommends that the Bank's management should adhere to regulations governing procurement of goods and services.

The Committee further recommends that the Bank should identify the person(s) who aided or abetted in the procurement of the Server with view to taking disciplinary action against them including dismissal.

2. PROCUREMENT OF SYMBOLS BANKING SOFTWARE

In January 1999 and without competitive tendering the Bank contracted a local branch of an overseas firm to install and implement a banking software at a contract sum of US$740,000 (Kshs.55,537,000). The contract was to be completed by 31 December 1999. There was, however, no indication as to how the agreed contract price of US$74,000 was arrived at except for the Bank's indication that the supplier was the sole vendor for the Symbols software and that the firm was contracted to supply at their quoted cost. As at 30 June 2001 the Project was still incomplete while total payments of US$1,738,478 or Kshs.130,473,852 had already been made to the contractor thus exceeding the contract sum by US$998,478 or about Kshs.74,936,851. The Bank has attributed the delay in the completion of the project and escalation of costs to the configuration of Symbols Software on the Dec Alpha Server, a server which, as indicated above, was irregularly procured. In addition, it is understood that the Symbols Software included a General Ledger which lacked such vital features as accounts payable, fixed assets and budgetary control, on which the Bank had to incur additional cost of Kshs.14,212,014 to modify and make the software work. Apart from the fact that the Bank flouted proper procurement procedures, it is not clear why it had to overspent by US$998,478 above the amount agreed upon in the contract. There is also no evidence of any feasibility studies having been carried out to determine whether the software was the most suitable and most effective in the market. Evidently, therefore, the Bank may have spent a lot of money on a programme whose usefulness may be doubtful.

The Committee heard the evidence given by the Chief Executive that following the procurement of the DEC-ALPHA Server, the Bank entered into a contract with M/s. Systems Access, the same Symbols Software vendor for the supply of the Symbols Banking Software at a sum of US$ 704,000 (Kshs. 52,835,000).

The Committee was informed that: -

(i) **the contract also included US$ 416,000 (Kshs. 31,220,800) for Baseline Services which brought the total contract sum to US$ 1,120,000 (Kshs. 84,056,000); and**

(ii) **the contract value was exceeded by US$ 582,179.15 (Kshs. 43,692,545.20) and not US$ 998,478 as per the audit report which represented costs on customisation and incidental costs so as to meet user requirements.**

The Committee observed with concern that there was no justification for single sourcing for the Symbols Banking Software, and that the contract could not have been exceeded by Kshs. 43,692,545.20 had feasibility study been carried out to determine the most suitable software.

The Committee recommends that: -

(i) **in future, proper feasibility studies must be conducted prior to implementation of projects and any officer who violates procurement procedure should be held responsible and surcharged for costs and incidentals thereto; and,**

(ii) **the Bank should identify the person(s) who aided or abetted in the irregular procurement and take disciplinary action including dismissal against the person(s).**

3. STRUCTURED CABLING OF POST BANK HOUSE

During the year 1999/2000 the Bank again awarded a contract for structured cabling of Post Bank House worth US$64,618 of Kshs.4,749,483 to the same firm that had supplied the Dec Alpha Server. The firm to whom the contract was awarded did not appear to have quoted for the job at the initial stages. Bank's records show that on 01 July 1999 the chairman of the tender Committee on realizing that the firm had not quoted, prevailed upon the Committee to give the Company specifications and allow time for that firm to quote. Three weeks later on 21 July 1999 the Company quoted US$64,618 or Kshs 4,749,483 which was accepted and subsequently paid even when the lowest tenderer had quoted Kshs.2,636,375 for the same job The Bank has explained that the firm was awarded the

contract because it had earlier installed the Alpha Dec Server which was related to the structured cabling. This justification could, however, only be acceptable if the two supply contracts had not been tendered for separately Accordingly, the Bank realized a possible loss of savings of Kshs 2,113,108 by not giving the tender to the lowest contractor On 06 April 2000 the Bank further awarded to the same firm a contract worth US$75.310 9 (Kshs 5,648,316) to cable (network) the Bank s regional offices again without open tendering. There is no information to indicate why proper procurement procedures were similarly not followed

The Committee heard the evidence given by the Chief Executive that the Bank's Tender Evaluation Committee during its meeting of 21st July 1999 and having being coerced by the then Chairman of Tender Committee awarded M/s. Matrix Group a contract for Structured Cabling of Post Bank House for Kshs. 4,749,483 instead of the lowest tenderer who had quoted Kshs. 2,636,375.

The Committee was informed that: -

(i) **m/s. Matrix Group had not quoted for the works and that the then chairman at the Tender Committee Mr. John K. Sambu irregularly allowed the firm to bring in quotations; and,**

(ii) **the same firm, on April 6, 2000 was awarded a contract worth Kshs. 5,648,316 to cable regional offices, again without open tendering.**

The Committee noted with concern that the Bank Tender Committee irregularly awarded the two tenders to M/s. Matrix Group thereby occasioning the losses associated with the contracts, for which Kshs. 2,113,108 was lost for the first contract on cabling the Post Bank House.

The Committee recommends that the Bank's Tender Committee members who sat and awarded the two tenders mentioned above be identified and their names forwarded to the Inspectorate of State Corporations for surcharge action which surcharge should commence on or before 31st December 2006.

The Committee further recommends that:-

(i) **the Chief Executive of the Bank should use all means possible including litigation to recover the Kshs. 2,113,108 from the then Chairman of the Bank's Tender Committee, an amount that represents the difference between the figure that M/s. Matrix Group quoted in their late presentation of quotations which he irregularly allowed, and the amount that the lowest tenderer had quoted; and,**

(ii) **Mr. John K. Sambu be barred from holding any public office conferred by the Republic of Kenya.**

4. ACQUISITION OF IBM-NET-FINITY FILE SERVERS MODEL 5600 AND 5000

In another related case and for similar grounds as those advanced in paragraph 3 above, the Bank awarded a tender for the supply of 2 IBM Net-Finity Files Servers at Kshs.1,319,578 per Server to the same firm which had again not quoted at the initial stage. The lowest bidder had quoted Kshs.874,800 for the supply of each of the two Servers. In addition and contrary to the tender agreement brought one (1) Net-Finity Server, model 5000 at a cost of Kshs.1,043,181, again from the same firm. Available information indicates that the same type of Server could have been sourced from another supplier who had quoted a price of Kshs.614,700. By not purchasing the Servers from the cheapest bidder, the Bank lost a possible total saving of Kshs.1,318,037.

The Committee heard the evidence given by the Chief Executive that the Bank awarded a tender for the supply of 3 IBM-Net-Finity Servers, two of 5600 series and one of 5000 series to M/s. Matrix Group for Kshs. 1,319,578 each and Kshs. 1,043,181 for the two servers respectively.

The Committee observed that had the Bank bought the servers from the lowest bidders, it would have made a possible saving of Kshs. 1,318,037

The Committee was concerned that the contracts were awarded to a firm which had not quoted initially and that the Tender Committee which sat on 12th January 2000 to adjudicate on the quotations ignored the recommendations of the IT department, which was the user department.

The Committee recommends that the names of the Board of Directors who sat on 20th January, 2000 and the members of the Tender Committee who sat on 13th January 2000 to approve purchase of the server and irregularly awarded the tender to M/s. Matrix Group, should be identified and forwarded to the Inspector-General (State Corporations) for surcharge.

The Committee also recommends that any Board member or member of the Bank's staff who flouts regulations governing procurement of goods and services should be surcharged for the losses and incidentals thereto and dismissed from the service of the Bank.

5. SYMBOLS SOFTWARE– IMPLEMENTATION CONSULTANTS

During the year 1999/2000 the Bank again entered into a contract with a firm of consultants to implement the Symbols Software at a cost of Kshs.9,500,000. Records show that at the expiry of the contract a total amount of Kshs.12,160,865 had been paid to the consultants despite the fact that they had failed to effectively implement the programme. Moreover it could not be established how the excess payment of Kshs.2,660,865 over and above the contract sum of Kshs.9,500,000 was justified, considering the fact that no explanation was given for the overpayment. In view of the foregoing, the propriety of the total expenditure of Kshs.12,160,865 incurred on the programme could not be confirmed.

The Committee heard the evidence given by the Chief Executive that the Bank contracted M/s. DCDM to implement the Symbols Software at a negotiated cost of Kshs. 9,500,000 and that the figure was revised upwards by Kshs. 2,660,865 due to delays in implementation.

The Committee also heard that the Bank took disciplinary action against the officers who occasioned the delay in implementation.

6. IRREGULAR PROCUREMENT OF PERSONAL COMPUTERS

In the year, 2000, the Bank's IT Department and after analysis of quotations for procurement of personal computers, recommended award of the supply contract to a supplier who had quoted a price of Kshs.120,600 per computer for PCs with specification of IBM 300 GL, Pentium III, clock speed 450 Mhz, RAM 64 MB and HD 6.4 GB. For unspecified reasons, however, the specifications were altered to PCs with a Ram of 128 MB which led to the award of the contract by

the Board on 20 January 2000 to the same firm that had irregularly been contracted to supply file servers at a cost of Kshs.162,476.25 per piece. It was not clear, however, why the previous specification for the computers initially quoted for was changed and the supply contract awarded to a firm which quoted Kshs.42,355.25 per PC higher than the lowest bidder. Had the procurement for the PCs made from the lowest bidder, the Bank would have made a possible saving of Kshs.3,721,273.85 on the deal. Available information also indicates that the successful firm was awarded the above tender on the basis of its stated ability to supply the computers within the shortest time. However, and as far as it has been possible to ascertain, full supply of this contract has not been effected as at 30th November 2001, evidently due to financial inability by the contractor to do so. Strangely enough and despite this inability to perform, the same firm was given another LPO No. 15338 for US$ 31,602.00 (Kshs.2,317,730) on the 21 August 2000 to supply 17 additional personal computers even when the firm had not fully supplied the earlier order. This further award was made without competitive tendering for the additional computers. In view of the foregoing irregularities, it has not been possible to confirm the propriety of the related expenditure or even to ascertain whether the Bank obtained value for money in respect of the computers so acquired.

The Committee heard the evidence given by the Chief Executive that a special Board of Directors meeting held on January 20, 2000 awarded the tender for supply of personal computers to M/s. Matrix Group Ltd. at a cost of Kshs 162,476 per piece against the lowest bidder's quote of Kshs. 120,600 per computer.

The Committee further heard that: -

(i) the Board ignored advice from the Information Technology Department, which had recommended that the computers be supplied by the lowest bidder M/s. Amarco Ltd. as they met their user requirements and their price was low;

(ii) the Board, in awarding the tender to M/s. Matrix Group had argued that their delivery period was shorter and that the firm was known to perform as per schedule;

(iii) the Matrix Group later failed to deliver the balance of 17 (seventeen) personal computers as per the original Local Purchase Order and that the Bank was forced to issue another LPO to validate the agreement;

(iv) **the firm was subsequently blacklisted for failure to honour their agreement with the Bank.**

The Committee was concerned that had the bank offered the contract to the lowest bidder, M/s. Amarco Ltd, it would have made a possible saving of Kshs. 3,721,273.85.

The Committee was further concerned that the reasons given by the Board to award the tender to M/s. Matrix Group could not hold water as the firm eventually could not deliver the personal computers on time.

The Committee also expressed concern that the Bank continued to award tenders to the company while it had failed in earlier contracts as expressed in Paragraphs 1,3 an 4 above.

The Committee was further concerned that the firm, whose directors were; Messrs; William Kipchumba Sambu, Bhupendra Chandubhoi Patel and Azim Jamal Virgee between 1997-2001, would appear to have been colluding with the Bank in award of the tenders.

The Committee recommends that the members of the Board which sat on January 20th, 2000, Messrs; J.K Mutinda, John K. Sambu, I. Baringa, D.A Chabeda and A. Amolo, to adjudicate and irregularly awarded the tenders to M/s. Matrix Group Ltd against the lowest bidder's offer, and against the recommendations of the user department, should be held responsible and be surcharged for the loss of Kshs. 3,721,273.83 that the Bank incurred due to their irregular actions.

The Committee further recommends that M/s. Matrix Group Ltd. and their directors should be blacklisted and be precluded from award of government/public tenders and should not hold a public office conferred by the Republic of Kenya.

The Committee also recommends that in future, any Board member or staff of the Bank who flouts government procurement procedures should be held responsible and surcharged for the losses thereto.

7. INVESTMENTS IN UNSTABLE BANKS

During the year under review, the Bank held Kshs.127,576,499 in a bank which has remained under Central Bank of Kenya management owing to its failure to meet customers obligations. The

recoverability of these deposits is, therefore, doubtful. The Bank has, however, made a full provision in the Accounts for bad and doubtful debts against the deposits, an indication that the deposits are now considered irrecoverable. The Bank also held investments amounting to Kshs.267,247,608 in financial institutions which are either under receivership or under liquidation whose recoverability is similarly in doubt. It is, however, not clear whether proper investment appraisals were carried out before the investments were made with each of these institutions

The Committee heard the evidence given by the Chief Executive that the Bank held Kshs. 127,576,499 in Trust Bank Ltd (in liquidation) and a further investment of Kshs. 267,247,508 held in the following ailing institutions:-

Receivership

Continental Bank
Continental Credit
Pioneer Building Society
Rural Urban and Credit

Liquidation

Trade Bank
Middle Africa Finance
International Finance
United Trustee Finance
Inter Africa Finance
Prudential Bank Ltd
Allied Credit Ltd.

The Committee further heard that they there was no formal appraisal carried out on these institutions at the time the funds were placed and that to date, only an amount of Kshs. 43,094,512.75 had been received from the receivers and liquidators.

The Committee recommends the Chief Executive should intensify efforts to redeem the outstanding deposits from the receivers and liquidators of the banks and should always invest surplus funds in accordance with Treasury Circulars.

8. KARURA TRAINING AND SPORTS COMPLEX

The Bank in1995 commissioned a contractor to construct a training school and a sports complex at Karura for a sum of Kshs.53,351,279.85. By 1998 the cost for the Project has escalated to Kshs.117,426,218 or by more than 120%. When the Project was reviewed in April 2001, the Athletics and the Volleyball pitches were incomplete, while the Swimming Pool, Kitchen and the Dinning Hall although complete, were not being used at all. The Bank's records further indicate that in 1999 the Complex Clubhouse was hired out to a firm which did not regularly pay the rent charged and which owed the Bank Kshs.749,360 as at 31 December 2000 in respect of such rent. No feasibility study was carried out to establish the need for or the benefit and justification of this Project. In the meantime, a colossal amount of public funds has been expended on a Project whose usefulness to the Bank seems highly doubtful.

The Committee heard the evidence given by the Chief Executive and was informed that the Bank spent a total of Kshs. 117,426,218 on the Karura Training and Sports Complex against the original contract sum of Kshs. 53,351,279.85 resulting in an additional expenditure of Kshs. 64,074,938.15 arising from contract variations.

The Committee was informed that: -

(i) when the contract was tendered no review of the feasibility study was done on the project;

(ii) a tenant, M/s. Simmers Ltd. who had hired a complex clubhouse failed to pay rent amounting to Kshs. 749,360 resulting in termination of the tenancy and a case filed in court. The court ruled in favour of the Bank and is in the process of executing the judgement.

The Committee observed with concern that there was no justification for starting the project as some facilities like the swimming pool, kitchen and the dining hall were not in use in April 2001 while the clubhouse had been hired out.

The Committee, while noting that the Bank is considering to dispose off the facility, recommends that the disposal be done in a prudent manner and in accordance with government procurement procedures and safeguard the best interests of the Bank.

9. NON-COLLECTION OF RENT

The Balance Sheet Debtors, Prepayments and other Assets figure of Kshs.649,368,860 as at 31 December 2000 includes arrears of rent of Kshs.8,966,263 out of which Kshs.8,566,368 relates to one tenant who occupies the whole of the 10th floor of Post Bank House Although the amount has been outstanding for a period of 46 months, no serious effort appears to have been made against the tenant to recover the outstanding rent. In addition, the recovery of these rent arrears highly doubtful owing to the fact that, for some unspecified reasons, no Lease Agreement was entered into between the Bank and the tenant who has occupied the premises since 01 July 1986.

The Committee heard the evidence given by the Chief Executive and was informed that the outstanding rent of Kshs. 8,566,368 from one tenant has been collected and a lease agreement is under execution.

The Committee recommends that lease agreements with all tenants must be executed without further delay.

KENYA SUGAR BOARD

IMPORTATION OF RAW AND MILL WHITE SUGAR: *GAZETTE NOTICE* NO. 1405 OF FEBRUARY 25, 2005.

While executing its mandate, the Committee examined the execution of sugar imports by the Kenya Sugar Board pursuant to Kenya Gazette Notice No. 1405 of February 25, 2005.

The *Notice* read thus:-

In exercise of the powers conferred by Regulation 6 of the Sugar (Imports, Exports and By-Products) Regulations, 2003 and pursuant to the provisions of Legal Notice No. 12 of 2004, the Kenya Sugar Board notifies the registered importers who wish to import quantities of sugar during the year 2005 under the COMESA safeguard regulation, as specified here below:

a) Raw and mill white sugar:

(i) Registered and operating millers shall import up to a maximum of 30% of 89,000 metric tonnes (mt) i.e. 26,700 metric tones from the COMESA FTA countries, and such imports shall coincide with the annual maintenance periods of the sugar mills.

(ii) Registered importers shall import up to a maximum of 70% of the 89,000 metric tonnes i.e. 62,300 metric tonnes. Quantities imported to cover the shortfall; period: March to July 2005 during which mills will be shut down for annual maintenance.

Imports of any quantities above the total quantity of 89,000 metric tonnes shall be subject to 100% duty.

b) White Refined Sugar (for industrial use):

Registered importers of white refined sugar or industrial use shall import up to a maximum of 111,000 metric tonnes.

The importation thereof shall be subject to the provisions of the Sugar Act, 2001 (No. 10 of 2001), the Sugar (Imports, Exports and By-products) Regulations, 2003, the Customs and Excise Act (Cap. 472) and the Standards Act (Cap 496).

A. O. Otieno
Chief Executive
Kenya Sugar Board

The Committee while noting the contents of the *Gazette Notice*, aware of the problems that a similar notice in the previous year had caused the Kenya Sugar Board (KSB) including litigation by businessmen; taking cognisance of the fact that the free-for-all sugar importation system would create unhealthy competition in the market and while observing that it was the role of the KSB to regulate the sector; further aware of the reports of mismanagement at the Board, the Committee summoned the management of the KSB, the Chairman of the Board, Parent Ministry Officials and the Minister to adduce evidence before it.

The Committee was informed that:-

(i) KSB and the Ministry of Agriculture were taken to court for the second time running by importers when it attempted to regularize the importations. The importers argued that this was against COMESA FTA Regulations;

(ii) the Board sat on 1st February 2005, to deliberate on the matter where it among other issues, resolved that:-

(a) the 89,000 MT be shared out between the millers and the registered importers,

(b) the whole process be subjected to laid down public procurement procedures and be adjudicated by the Tender Committee,

(c) the Tender Committee to develop a criterion for the allocations and a comprehensive sequence of events and modalities for the importation. This was to be made public,

(iii) the *Gazette Notice* came prior to deliberation of the importation criterion by the Tender Committee;

(iv) the *notice* did not reflect the deliberations of the Board which had resolved that quotas be allocated other than allowing the importation and exemption from duty on a first-come, first serve basis;

(v) the *Gazette notice* only came to the Board during a subsequent sitting and was not privy to its contents;

(vi) following the *notice*, 52,030 MT of Sugar was at the Port of Mombasa awaiting clearance, as at March 30th , 2005;

(vii) Kenya is a signatory to the COMESA Free Trade Area Treaty, which is yet to be domesticated and that, allocating or rationing quotas to importers offends articles 49, 55 and 61 of the COMESA FTA Regulations. In this, in view of the above and the then pending court cases on importations of sugar, the substantive Chief Executive, Mr. A. Otieno, prior to making the *Gazette Notice*, consulted the Ministers for Agriculture, Finance and Trade & Industry;

(viii) the Minister for Agriculture, verbally directed the then Chief Executive of KSB to allow a Free-for-All policy and thus the *Gazette Notice;*

(ix) the substantive Chief Executive, Mr. A. Otieno proceeded to a forced leave, which was later extended by thirty days. The leave was in relation to mismanagement issues resulting from findings of the Ad-Hoc Committee that was set up to investigate mismanagement issues in the KSB;

(x) on noting that the *notice* was illegitimate, the Board in its 44th meeting of 25th February, 2005 directed the then Ag. Chief Executive, Mr. Solomon Odera, to annul the *notice* as it did not reflect the resolutions of the Board. The management was directed to issue a fresh one through a special edition of the *Kenya Gazette*, which conformed to the version of the Board;

(xi) the then Ag. Chief Executive, Mr. Solomon Odera, consulted the substantive Chief Executive (then on forced leave), who asserted that the *Gazette notice* was made after consultation with the Ministries of Finance, Trade & Industry and Agriculture and subsequently the *notice* should remain and status quo maintained;

(xii) on noting that the *Notice* was irregular, the Chairman of the Board consulted the Minister for Agriculture who directed that the *notice* should remain and status quo maintained, as altering the *notice* would have had a direct impact on the cases in court. The Minister, ostensibly, acted within the provisions of the State Corporations Act (Cap. 446);

(xiii) following the findings of the Report of the Ad-Hoc Committee on management aspects at the KSB, the Ministry requested the Inspectorate of State Corporations to carry out a special management audit at the Board. The Permanent Secretary, Ministry of Agriculture had written to the Board, extending the leave period on Mr. A. Otieno, to pave way for investigations;

(xiv) the substantive Chief Executive informed the Committee that there were interested parties and beneficiaries within the KSB and the central government, who were involved in and influenced the importations. Further, the substantive Chief Executive was under undue pressure from the same persons;

(xv) as a result of the *Gazette notice,* 60,849 MT of sugar was at the Port of Mombasa awaiting clearance, while 11,945.40 MT was due to the court cases, as at April 13, 2005; and,

(xvi) the shortage of sugar experienced at the time was not as a result of impediments on the importations but could be due to probable hoarding by distributors and major suppliers.

While observing that Section 4 of the Sugar Act, 2001 expressly empowers the Board to carryout function of regulating the industry and section 10 of the Act vest the powers of appointing the Chief Executive on the Board, the Committee observed with concern:-

(i) that, the substantive Chief Executive, Mr. A. Otieno, acted *ultra vires* by making the *Kenya Gazette notice* No. 1405 as he defied the Board's resolution that the importation be regulated by subjecting it to the laid down public procurement procedures which was to be adjudicated by the Tender Committee;

(ii) that, the then Ag. Chief Executive, Mr. S. Odera, disregarded the direction of the Board to annul the notice as he insolently decided to seek advice of the substantive Chief Executive, who had already defied the Board by placing the notice;

(iii) the Ministry would appear to have gone against its own advise by reinstating the substantive Chief Executive. Further, the Ministry had overstepped it roles as it is the mandate of the KSB Board to appoint and dismiss its Chief Executive.

The Committee noted :-

(i) the letter Ref: MOA/S.II/25A/7 VOL.I(34) dated April 6, 2005 from the Permanent Secretary, Ministry of Agriculture to the KSB Board extending the leave of the substantive Chief Executive by one month so as to pave way for investigations by the Inspectorate of State Corporations following the Report of the Ad-Hoc Committee on Some Management Aspects at the Kenya Sugar Board. In this regard, the Committee was informed that the decision to reinstate Mr. Otieno was communicated to him by the Permanent Secretary though not officially through writing; and,

(ii) that, the Minister for Agriculture overstepped the Ministry's mandate by influencing the contents of the Gazette notice to reflect, contrary to the Board's resolutions of its meeting of February 1, 2005.

The Committee recommends that:

(i) since the Free-for-All system is prone to abuse by importers in that it allows a "first-come, first-for-the-tariff" basis, the Board in furtherance to powers vested on it by the Sugar Act 2001, should pursue ways of addressing the anomaly;

(ii) the special audit by the Inspector of State Corporations on some management aspects at the Kenya Sugar Board be concluded and acted upon;

(iii) without compromising the autonomy of the Kenya Sugar Board, and in order to streamline the sector and safeguard national interests in the importation of sugar, an Inter-Ministerial Committee be formed comprising the Kenya Revenue Authority, Ministry of Agriculture, the Kenya Sugar Board and the Ministry of Trade and Industry representatives to set guidelines on importations by 31st December, 2005 and consequently publish the resultant regulations and guidelines; which

would then be employed for the import period up to the year 2008;

(iv) the Minister for Agriculture, Hon. Kipruto Arap Kirwa refrains from interfering with the day-to-day activities of the Board; and,

(v) the Controller and Auditor General conducts a special audit of the Board in view of the mismanagement aspects raised by the Board's report and present it to the Committee by December 31st, 2006.

STATUS OF NEW KENYA CO-OPERATIVE CREAMERIES (KCC) LTD. - KENYA *GAZETTE* NOTICE NO. 1175 OF FEBRUARY 18, 2005

Following a *Kenya Gazette* Notice No. 1175 of February 18, 2005, the Permanent Secretary, Ministry of Co-operative Development and Marketing and the management of the New KCC Ltd, appeared before the Committee on March 17, 2005 and gave evidence on the current status of the New Kenya Co-operative Creameries (KCC) Ltd. in connection with the *Notice* and the government investment in the Co-Operative.

The Committee was informed that:-

(i) Kenya Co-operative Creameries Limited (KCC) was established in 1925 when it was registered as a Company on 22nd August 1925 and later as a Co-operative Society on 8th February 1932, with the objective of promoting the Dairy Industry;

(ii) in the year 1999 due to mismanagement of the business, KCC Ltd. became insolvent and could not pay its farmers and general creditors and was heavily indebted to Kenya Commercial Bank Ltd whose debt was in excess of Kshs. 1.5 Billion;

(iii) in April 2001 KCC Ltd. was sold to Kenya Co-operative Creameries (2000) Limited (KCC 2000 Ltd) and KCC Holdings Limited (KCC H. Ltd) by the receiver/manager for a sum of Kshs. 400 million;

(iv) in an effort to revive and stabilize the dairy sector, the government acquired KCC (2000) limited and KCC H. Ltd on 24th June 2003. New Kenya Co-operative Creameries Limited (NKCC Ltd) was duly registered on 24th June, 2003 as a Co-operative Society under the Ministry of Co-operative Development and Marketing. An interim Board of Directors was appointed on 25th June 2003 and a management team subsequently put in place;

(v) following the acquisition of business by the Government, KCC (2000) and KCC Holdings Ltd. resorted to court action against the Government

demanding compensation for the business at the then value, which was in excess of Kshs. 3.0 billion. The court cases were put on hold as the Government commenced negotiation with KCC (2000) Ltd. and KCC Holdings Ltd. for an appropriate refund of their investment, which culminated in an agreed sum of Kshs. 547,028,870;

(vi) an agreement to this effect was executed by the parties on 16th November 2004. The Government undertook to pay the agreed sum of Kshs. 547,028,870 to KCC (2000) Ltd. and KCC Holding Ltd. upon the actual transfer of all the business, assets and specified liabilities to New KCC Ltd;

(vii) New KCC Ltd was registered as a State Corporation on 19th November 2004 as provided for under the State Corporations Act Section 2 (b) (v). The Minister for Co-operative Development and Marketing duly appointed a Board of Directors as prescribed by the State Corporations Act (Cap 446);

(viii) the said sum of Kshs. 547,028,870 was released to the Ministry of Co-Operative Development and Marketing and directed into an escrow account held between the lawyers of the Government and KCC (2000) Ltd. and KCC Holding Limited awaiting the actual transfer of the assets to New KCC Limited. The purchase price agreed between the government and KCC (2000) Ltd and KCC Holdings Ltd was arrived as follows;

- Kshs. 400,000,000 being the price paid by KCC (2000) Ltd and KCC Holdings to the receiver;
- Kshs. 90,000,000/= being the value of stocks at the time of acquisition of KCC (2000) Ltd by the Government; and
- Kshs. 57,028,870/= being working capital injected into the business by KCC (2000) Ltd.

The amounts were to be released to KCC (2000) Ltd., KCC H. Ltd. and 1,682 small-scale shareholders on conclusion of the assets/property transfer, which was to be accomplished by April 30, 2005; and,

(ix) New KCC Limited has since become a State Corporation with 100% Government shareholding.

Observing with concern that the Gazette Notice No. 1175 of February 18, 2005 purported to appoint a Chairman to the New KCC Board, the Committee noted that the Ministry of Co-operative Development & Marketing had since corrected the anomaly through another Gazette Notice signed by the appointing authority on October 6, 2005.

While noting that the government's move to invest in the New KCC Ltd. and secure the interests of the public was noble a one, the Committee recommends that the government should ensure that its investment in the Co-operative is secure and that the venture is managed in accordance with sound business principles and prudent commercial practices. The Committee further recommends that the Chief Executive should adhere to the laws under which the Co-Operative falls, including and not limited to, the State Corporations Act (Cap 446) and the Public Audit Act, 2003.

TELKOM (K) LTD.

COAST HEADQUARTERS BUILDING NKRUMAH ROAD, MOMBASA/BLOCK XXV/13

Aware that the Corporation had irregularly acquired its Coast Headquarters building at inflated costs. The Committee paid an inspection visit to the building and was informed that:

(i) the Corporation acquired the building from M/s. Stats Investments Ltd after the former expressed interest on leasing the property to Telkom K. Ltd in March, 2000 vide their letter of Ref. XXV/Msa/3/00 addressed to the then Managing Director Mr. Cheserem;

(ii) the then Coast Regional Manager, Mr. Nelson C. Mwanzaje, on 11th April 2000 recommended to the then Managing Director, that the Corporation proceeds with leasing arrangements. After protracted deliberations, the Corporation accepted the offer in June 2000 for a five-year, three months contract at Kshs. 300,000 per month;

(iii) a report and property description by M/s. Lloyd Masika conducted in March 2000 recommended an open market rental value of the building at Kshs. 344,400 per month;

(iv) Telkom accepted to rent the building on the basis of its strategic location within the Mombasa CBD and its competitive rent in relation to what Postal Corporation of Kenya was offering for its premises. The premises were being offered at Kshs. 344,000 per month as opposed to an offer for less space at more than Kshs 1 million per month;

(v) four Board members, Messrs. M. Ayah, M. Manji, D.A. Oyatsi, Eng. John Waweru and the then Chief Executive Mr. A. K. Cheserem undertook a visit to the site in August 2001 to review work progress on the building, and the Board in its 24th sitting of December 6th 2001 approved the use of company seal on the lease agreement;

(vi) as at February 2005, Telkom K. Ltd. had spent Kshs. 19,134,183 on repair and renovation works, which included internal repairs and reorganization (Kshs. 13,118,590.20) and external works (Kshs. 2,908,279) at the building;

(vii) the Corporation intends to develop the Extelcoms and Exchange House plots in Mombasa to accommodate staff upon the expiry of the lease period in November 5, 2005; and,

(viii) the owners of M/s. Stats Investments Ltd were Trans Afrique Trustees Ltd and Union Trustees Ltd. whose directors were Kuldeep Singh Chawla and Masellan Holdings Ltd respectively.

Expressing that the execution of the lease would appear to have been irregular and that the Corporation had unduly lost the lease advantage of one year "rent free" period while it had spent substantial amount of money to irregularly renovate the building, the Committee observed that:-

(i) at the time of executing the transaction, Telkom (K) Ltd. had properties in the region which could have been developed for the same purpose; and

(ii) external and internal works to renovate the building by the Lessee commenced prior to signing of the lease agreement which gave the responsibility of external repairs and renovations to the Lessor, while the Lessee was to undertake any internal repairs and renovations;

The Committee recommends that:-

(i) the Chief Executive ensures that the Corporation recovers the Kshs. 2,908,279, being the amount that the Corporation has expended on external works from M/s. Stats Investments Ltd. and that the Corporation should not move out of the building until this amount has been recovered from M/s. Stats Investments Ltd or the same recovered from rent payable;

(ii) the Chief Executive pursues all means possible including invoking the arbitration clause in the

lease agreement and litigation to ensure that the interests of the Corporation are safeguarded; and

(iii) the Chief Executive should ensure that rules and regulations governing procurement of goods and services are adhered to in the Corporation and that any Board member or staff of the Corporation who contravenes procurement regulations should be held responsible and surcharged for any losses and incidentals thereof and dismissed from the Service.

NATIONAL CEREALS AND PRODUCE BOARD

TENDER FOR IMPORTATION OF WHITE MAIZE FOR THE YEAR 2004/2005

The Committee, while executing its mandate and aware of the declaration of a drought period in the months of July to October 2004 by His Excellency the President and the subsequent government authority to the National Cereals and Produce Board to import two million bags of white maize for the Strategic Grain Reserve and Famine Relief and importation of similar quantity by the private sector; summoned and took evidence from the management of the Board with respect to the importations.

The Committee was informed that:

(i) **the country's' national requirement for maize is 32 million bags per year while it was estimated that 23.6 million bags of (90 Kgs each) was to be harvested in the year 2004/2005, leaving a shortfall of 8.4 million bags which was to be met through importation (6.0 million bags x 90 Kgs) and cross border trade (2.0 million bags x 90 Kgs);**

(ii) **of the 6.0 million bags to be imported, the Board was to import a total of three million bags for which it had awarded tenders for supply of two (2) million bags (180,000 metric tones) to five firms while the balance of one million bags was to be apportioned on pro-rata basis to five firms as the quantities allocated were below their bid quantities;**

(iii) **under a Special Issue, *Kenya Gazette Supplement* No. 50, dated 5th August 2004, the Minister for Finance, Zero rated duties and taxes on imported maize between 1st July, 2004 and 30th September, 2004 to facilitate the importation. The duty was to be reinstated on 1st October, 2004 in order to safeguard the local farmers who were expected to offload their maize into the market in November, 2004;**

(iv) **eighty one (81) firms purchased the tender document and that the tender was closed on 5th August, 2004 at 12.00 noon. Thirty six (36) six firms submitted their bids;**

(v) the main Tender Committee sat on 10th August 2004 to deliberate on the TEC report and that they awarded five (5) firms the tender for the supply of 180,000 metric tons of imported white maize as follows:-

Supplier	Bid Qty	Awarded Qty (in metric tonnes)	Unit Price US$/MT
M/s. Hala General Trading Ltd.	90,000	40,000	229.00
M/s. Euroworld Commodities Limited	90,000	40,000	229.00
M/s. Erad Supplies & General Merchant		40,000	233.00
M/s. Purma Holdings Ltd.	180,000	30,000	189.00
M/s. Freba Investments	180,000	30,000	190.00
Total		180,000	

(vi) the Board issued letters of award based on their bid prices to the successful firms on 12th August 2004. Upon receipt and acceptance of award, two (2) firms M/s. Purma holdings and M/s. Freba Investments appealed for price review, arguing that their bid price was based on their bid quantity of 180,000 metric tons and related to more competitive bulk sources. The Board sought clarification and concurrence of the Director of Public Procurement who advised the Board considers the request of the two companies as they were valid. The Board subsequently acceded to the requests;

(vii) the expected delivery schedule for the importations was as follows : -

Firm	23/8/04 to 12/9/04	13/9/04 to 19/9/04	20/9/04 to 03/10/04	04/10/04 to 17/10/04	Total
Euroworld	0	20,000	20,000	0	40,000

Commodities Ltd					
Hala Gen. Trading	0	25,000	15,000	0	40,000
Erad Supp. & Gen. Contracts	0		20,000	20,000	40,000
Puma Holdings Limited	20,000	10,000	0	0	30,000
Freba Investments	20,000	10,000	10,000	0	30,000
Total	20,000	65,000	75,000	20,000	180,000

(viii) the Board then executed contracts with the successful firms and were followed by issuance of import documents and application for Letters of Credit (LCs). The Ministry of Finance released Ksh. 3.2 billion on diverse dates which was used to open L.Cs for four firms between August 26 and September 24, 2004 as follows: -

Date funds received	Amount (Billion Ksh.)	Date L.C. issued	Funds used to open L.Cs for
05/08/04	1.5	26/08/04	M/s./ Purma Holdings
		26/08/04	M/s. Freba Investments
09/09/04	1.1	14/09/04	M/s. Hala Gen. Trading Ltd,
		15/09/04	M/s. Euroworld Commodities Ltd.
20/09/04	0.6	L.C not issued for M/s. Erad Supplies & Gen. Merchant	
Total	3.2		

(ix) as at March 9, 2005 the deliveries were as follows:-

Firm	Awarded Qty (MT)	Date of delivery	Qty Delivered (MT)
M/s. Euroworld Commodities Ltd	40,000	30/10/2004 6/11/2004	44,700
M/s. Hala Gen. Trading	40,000	18/11/2004	25,776
M/s. Erad Supp. &	40,000		-

Gen. Contracts		N/A	
M/s.. Purma Holdings Limited	30,000	N/A	-
M/s. Freba Investments	30,000	N/A	-
Total	180,000		70,476 (6,343 x 90kg. bags)

(x) the balance of 14, 700 MT. allocated to M/s. Hala General Trading Ltd. was cancelled at the expiry of the contract, while the contract for M/s. Freba Investments was terminated due to non performance. The Letter of Credit for M/s. Erad Supplies & Gen. Contracts was not opened due to lack of adequate funds on the side of the Board and the firm took legal action on breach of contract where the Board resolved to facilitate the firm to import the quantity on duty-free arrangements;

(xi) the Board, as at March 7, 2005 purchased 2,152,623 x 90kg bags, of which 542,647 x 90kg bags were towards Famine Relief and 1,609,976 x 90kg bags were towards SGR, and that in total the stock holding was 3,028,391 x 90kg bags; (SGR – 2,490,064, Famine Relief – 727,461. NCPB Commercial Stocks – 110,866);

(xii) following the Presidential declaration of famine as a National disaster, maize prices in South Africa could not hold. This made it difficult for suppliers to procure and deliver maize at the quoted prices in time;

(xiii) firms that did not perform for various reasons have since requested to be allowed to deliver the contracted quantities at a later time. The Office of the President has written to Treasury asking for duty waiver;

(xiv) the balance of the money initially earmarked for importation program has been channelled to local purchases through the National Cereals and Produce Board

The Committee observed with concern that: -

(i) issuance of L.Cs to firms to import the maize was a imprudent arrangement open to abuse by scrupulous business persons. The Board could neither monitor nor control the firms to deliver the maize. It relied on the firms' goodwill to deliver;

(ii) the reasons given by some of the firms that the price of maize in South Africa had increased could not hold water as the contract between the Board and the firms did not restrict them on where to source the grain;

(iii) the two firms that imported maize i.e. M/s. Euroworld Commodities Ltd and M/s. Hala Gen. Trading, brought in their shipments after the expiry of the duty free period, while the other two did not import at all, even after L.Cs were opened;

(iv) of the intended 180, 000 metric tonnes, only 70,476 tones (39.15%) were eventually imported. The imports would appear not to have met the intended purpose as they came long after the announced drought period was over.

(v) the Board would appear to have replenished the shortage as by March 7, 2005 (from where?); and

(vi) the Board had failed to conform with the NCPB Act (Cap 338) on SGR

The Committee recommends that:-

(i) the Board should always adhere to Section 13 of its establishment Act, Cap 338 by replenishing and maintaining the Strategic Grain Research.

(ii) the government to provide funds to enable the Board comply with Section 13, Cap 338;

(iii) in the event that grain importations are required to comply with Section 13 of the Act, Cap 338, a clear policy be put in place to facilitate and streamline the importation, safeguard the interests of the local farmers and avoid waste of public funds and abuse of duty waived.

(iv) **in view of the fact that the subject emergency period is over, the Treasury should not waive duty for the defaulting importers; and**

(v) **the Board produces regular and up-to-date statistics on its grain reserves and the national requirements to act as early warning systems.**

THE KENYA POWER AND LIGHTING COMPANY LIMITED

SUPPLY OF TREATED POLES FOR THE YEAR 2004

In furtherance to its mandate, the Committee summoned and took evidence from the Chief Executive and the management of the Kenya Power and Lighting Company with regard to importation of poles for the year 2004/2005.

The Committee was informed: -

(i) that, KPLC targets to connect 150,000 new customers per year;

(ii) that, Kenya Power and Lighting Company (KPLC) on 4th November, 2003 invited tenders for the supply of treated wood poles of varying sizes. The tender closed on 31st December 2003. The tenders were evaluated and adjudicated by the Company's Central Tender Committee;

(iii) that, the Company's Central Tender Committee (CTC), approved the award for the supply of the poles to M/s. Treated Timber Products (Pty) of South Africa, at a total cost of US$ 4,486,067.93 FOB. This exercise was to cost KPLC Kshs. 467,607,930 excluding VAT. As this amount exceeded the funds allocated for the item (Kshs. 386 Million, excluding VAT) in the 2003/2004 budget, the CTC on 6th February 2004 on request of the Managing Director, rescind its approval and a revised figure was determined taking into account the funds available.

(iv) that, at the same time, the CTC on March 11, 2004 considered a paper which showed that there was going to be a shortage of poles if the Tender No. KPLC/S/39/2003 was cancelled. Subsequently, the CTC approved purchase of 23,625 of varying sizes from M/s. Treated Timber Products (Pty) at a total cost of ZAR 10,234,998 (Kshs. 142,012,644.24) CIF as a stopgap measure. The process, which was through selective sourcing, was approved by the Ministry of Finance;

(v) that the Company negotiated both quantities and discounts on the prices and awarded M/s. Timber Treated Products (Pty) the tender to supply 45,959 poles

of varying sizes at a total cost of FOB US$ 2,561,121.60 in April 7, 2004;

(vi) that arising from (iii) and (iv) above, KPLC on April 7 2004, signed a contract with M/s. Treated Timber Products (Pty) for delivery of 23,625 poles of varying sizes at a contract fee of ZAR 10,234,998.00, (Kshs. 141,959,422.26) which poles were to be delivered by May 17, 2004; on May 13, 2004 KPLC again signed a contract with M/s. Treated Timber Products (Pty) Ltd. for supply of 45,950 poles of varying sizes at a contract fee of US$ 2,800,361.02 FOB (Approx. Kshs. 218,428,159.56) which poles were to be shipped in the months of May, June, July and August 2004;

(vii) due to difficulties in clearing the poles at the port of Mombasa, which was exposing KPLC to demurrage charges, the supplier was subsequently requested to spread the deliveries to February 2005. As at April 25, 2005the Supplier had not supplied all the poles;

(viii) some of the poles that were delivered by the supplier vide Customs Entry No. 1113, MPRO No. 0531930 through Kilindini, Mombasa, were tested by KEBS against KS02-516: Kenya Standard Specification for wood poles for power and telecommunication lines and found not to comply with length ground line diameter, banding and ultimate load and subsequently on March 7 2005, KEBS vide their letter Ref. BS/IMP/ICDN/M/08/25 instructed KPLC to re-ship the poles to the country of origin within 30 days;

(ix) that KEBS, on March 15 2005 vide their letter Ref: BS/IMP/ICDN/M/09/14 instructed KPLC to "ignore the instructions to re-ship the said consignment";

(x) that, by the time KEBS conducted the tests and disqualified some of the poles, the supplier had already been paid a total of Ksh.41,002,155 vide a letter of credit; and,

(xi) that, for the 6,938 poles delivered by M/s. Treated Timber Products (Pty) as at April 4, 2005 and which failed to meet the KEBS tests for medium size specifications on ground diameter and strength, KPLC had resolved to de-classify the poles to light standard for

use of low voltage distribution lines and demand appropriate refund of the differences in costs between light and medium sized poles from the supplier.

The Committee observed with concern, that:

(i) despite the fact that KPLC uses wooden poles for transmission of power, it does not have the capacity to verify whether poles supplied by any trader meet the user requirements;

(ii) the supplier had failed to deliver all the poles as per the contracts even after extension of time;

(iii) the Corporation would appear to be running short of poles, particularly the ones of higher strength such that it may fail to fulfil its mandate of supplying power to the public; and

(iv) there appears to be a conduit to defraud the Corporation through importation of poles

The Committee recommends that:-

(i) Kenya Power and Lighting Company should demand appropriate refund of the differences in costs between light and medium sized poles from M/s. Treated Timber Products (Pty) Ltd; and

(ii) the Inspector General State Corporations should institute investigations into the poles importation process employed by the Company and report progress to the Committee in three month's time.

APPENDIX I

MINUTES OF THE SITTINGS OF THE PUBLIC INVESTMENTS COMMITTEE

SCHEDULE OF APPEARANCES BY STATE CORPORATIONS AND WITNESSES*

CORPORATION	DATE(S) APPEARED	ACCOUNTS/ISSUES	PARAGRAPHS
Kenya National Trading Cooperation Ltd	Wednesday, September 1st 2004	1997/98	1,2
	Friday, September 17th 2004	1997/98	3, 4
	Wednesday February 16th, 2005	1996/97 1998/99	2, 3, 4, 6, 7, 8
	Monday, April 25, 2005	1996/97 1998/99	6
	Thursday, August 4th 2005	Visit plot No. 209/10343 – Loita Street	
Kenya Dairy Board	Thursday September 2nd, 2004	1995/96	1,2,3,4,5,6, 7,8
	Tuesday, February 15th 2005	1996/97 1997/98	1, 2, 3, 4, 5, 6, 7, 8, 9
	Monday April 11th, 2005	1996/97 1997/98	4, 5, 6
Kenya Trypanosomiasis Research Institute	Thursday September 2nd, 2004	1996/97 1997/8	1, 2, 3, 1
Catering Training and Tourism Development Levy Trustees	Tuesday, September 7th , 2004	1998/99	1, 2, 3, 4
Nyayo Tea Zones Development Corporation	Tuesday, September 7th , 2004	1995/96	1, 2
	Tuesday September 28th, 2004	1995/96	1, 2, 3, 4, 5

	Friday November 19th, 2004	1995/96	6, 7, 8, 9, 10
Pharmacy and Poisons Board	Wednesday, September 8th, 2004	1993/94 1994/95	1, 2, 3 1, 2
Nationals Cereals & Produce Board	Thursday September 9th , 2004	1998/99	1, 2, 3
	Friday October 8th, 2004	- Importation of White maize - Status of the SGR	
Investments Promotion Centre	Thursday September 9th , 2004	1997/98	1, 2, 4, 5
Export Processing Zone Authority	Friday September 10th , 2004	1996/97 1997/98	1, 2, 3, 4, 5, 6 1
Kenya Agricultural Research Institute	Tuesday September 14th 2004	1998/99	1, 2
Kenya Industrial Research and Development Institute	Wednesday September 15, 2004	1994/95 1995/96	1, 2,3, 4, 5, 6 1, 2, 3
Ewaso Ng'iro North River Basin Development Authority	Wednesday September 15th 2004	1997/98	1, 2
	Wednesday, 9th February, 2005	1997/98 1998/99	1, 2 1, 2, 3
Ewaso Ng'iro South River Basin Development Authority	Thursday September 16th 2004	1994/95 1995/96	1, 3, 4, 5
	Thursday, February 10th, 2005	1994/95 1995/96	2 1, 2, 3, 4
Electricity Regulatory Board	Tuesday, September 21st, 2004	1999/2000	1, 2, 3, 4
Kenya Literature Bureau	Tuesday, September 21st, 2004	1995/96	1, 2

	Tuesday, February 15th 2005	1996/97 1997/98 1998/99, 1999/2000	1, 2 1 1, 2 1, 2
Kenya Airports Authority	Wednesday September 22nd, 2004	1997/98	1, 2, 3, 4, 5, 6
	Thursday 24th February, 2005	1997/98	7, 8, 9, 10, 11
Kenyatta University	Wednesday September 22nd, 2004	1997/98	1, 3, 4
	Thursday November 25th, 2004	1997/98	2
Kenya Ferry Services	Thursday September 23rd, 2004	1996/97 1997/98	1, 2, 3, 4, 5, 6, 7
	Thursday, February 17th, 2005	1997/98	1, 2, 3, 4, 5
Kenya Forestry Research Institute	Thursday September 23rd, 2004	1997/98	1, 2
National Social Security Fund	Friday September 24th, 2004	1999/2000	1, 2, 3, 4
	Monday October 29th , 2004	1999/2000	5, 6, 7, 8, 9
Kenya Pipeline Company	Tuesday September 28th, 2004	Loan refinancing and non-submission of accounts	
National Hospital Insurance Fund	Wednesday September 29th 2004	Non-Submission of Accounts, Capital Projects	
	Tuesday, February 22nd, 2005	1999/2000	1, 2, 3, 4
	Thursday, April 28, 2005	1999/2000 Price Variations at the Medicare Centre, Nairobi	1, 2, 3, 4
	Thursday, May 12, 2005	1999/2000 Price Variations At The Medicare Centre, Nairobi	1, 2, 3, 4

	Wednesday, May 18, 2005	1998/99 2000/2001 2001/2002 2002/2003	1, 2, 3, 4, 5 1, 2, 3 1, 2 1, 6
	Thursday June 23rd 2005	2002/2003	Contract Price Variations At The Medicare Centre, Nairobi 3,4,5,7,
Teachers Service Commission	Friday October 22nd , 2004	1999/2000	1, 2, 3, 4
Kenya Wildlife Service	Monday, November 1st, 2004	1999/2000	1, 2
	Thursday, February 17th, 2005	1999/2000	1
Jomo Kenyatta University of Agriculture and Technology	Monday November 8th, 2004	1997/98 1998/99	1, 2, 3, 4 2, 3
	Wednesday February 16th, 2005	1999/2000 2000/2001	1, 2 1
Tana and Athi Rivers Development Authority	Friday November 26th, 2004	1992/93 1993/94	4, 5, 6 5, 6, 7
	Wednesday February 2nd, 2005	1992/93 1993/94	1, 2, 3 2, 3, 4
Communications Commission of Kenya	Tuesday January 25th,. 2005	2000/2001 2001/2002	1, 2, 3, 4 1, 3, 4
	Friday April 15th, 2005	2000/2001 2001/2002	1 1, 2, 5
Telkom Kenya Ltd	Wednesday, January 26, 2005	Capital Projects since July, 2003.	
Tea Research Foundation of Kenya	Wednesday January 26th, 2005	1996/97 1997/98	1, 2 1, 2
Kenya Marine and Fisheries Research Institute	Thursday, January 27th	1996/97 1997/98	1, 2 1, 2

Kenya Post Office Savings Bank	Wednesday February 2nd, 2005	2000/2001	1, 2, 7, 8, 9
	Thursday June 16th 2005	1999/2000	1,2,3,4,5,6
	Friday 17th June 2005		1,2,3,5,6
National Housing Corporation	Thursday February 3rd, 2005	1999/2000	1, 2, 3, 4, 5
	Thursday March 17th, 2005	1999/2000	1, 6, 7, 8, 9
Retirement Benefits Authority	Thursday February 3rd, 2005	1998/99	1
National Irrigation Board	Tuesday, February 8th, 2005	1995/96 1996/97	1, 2, 3 1, 2, 3
Pyrethrum Board of Kenya	Wednesday, 9th February, 2005	1995/96 1996/97	1, 2, 3 1, 2, 3, 4
Kenya Wine Agencies	Tuesday, February 22nd, 2005	Non submission of accounts	
Postal Corporation of Kenya	Wednesday, 23rd February 2005	1999/2000 2000/2001	2, 3, 4, 5
	Friday April 8th, 2005	1999/2000	1
Local Authorities Provident Fund	Wednesday, 23rd February 2005	1996/97 1997/98	1, 2, 3, 4 1, 2, 3, 4
New Kenya Cooperative Creameries	Thursday March 17th 2005	Legality Gazette Notice No. 1175 of February 18, 2005 and government's investment in New KCC Ltd.	
Kenya Sugar Board	Friday April 1st, 2005	Importation of Raw and Mill White Sugar	Gazette notice No. 1405 of February 25, 2005 vis-à-vis the Statutory Role of KSB
	Thursday April 14th 2005	Importation of Raw and Mill White Sugar	Gazette notice No. 1405 of February 25, 2005 vis-à-vis the Statutory Role of KSB

	Thursday, 05 May 2005	Importation of Raw and Mill White Sugar.	Gazette notice No 1405 of February 25, 2005 vis-à-vis the Statutory Role of KSB
	Friday May 13th 2005	Importation of Raw and Mill White Sugar.	Gazette notice No 1405 of February 25, 2005 vis-à-vis the Statutory Role of KSB
	Friday June 17th	Importation Of Raw and Mill White Sugar.	Gazette notice No. 1405 of February 25, 2005 vis-à-vis the Statutory Role of KSB
Kenya Tourism Development Corporation	Monday 4th April, 2005	1995/96 1996/97	1, 2, 3,4,5,6
Medical Practitioners and Dentist Board	Monday, April 18, 2005	1993/94 1994/95 1995/96 1996/97	1, 2 1, 2 1, 2, 3, 4 1, 2 ,3
Kenya Power and Lighting Company	Friday, May 6, 2005	Importation Of Posts for the year 2004/2005.	
Amb. Francis Muthaura Mr. Joseph Kinyua	Tuesday October 25th 2005	Various Issues: Meeting with "Big Five":	
Hon. S. Amos Wako	Wednesday, 9th November 2005	Various Issues: Meeting with "Big Five":	

* Note: the above schedule of appearances does not include Committee meetings in which evidence was not taken or "in-house" sittings of the Committee.

MINUTES OF THE FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, MAIN PARLIAMENT BUILDINGS, ON TUESDAY, AUGUST 17, 2004 AT 3. P.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Joseph Kahindi Kingi, M.P.
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, M.P.
The Hon. K.M. Sang, M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. Geoffrey Gachara Muchiri, M.P.
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY:

The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. P. C. O. Omollo	-	Deputy Clerk, Administration
Mr. M. R. Sialai	-	Senior Clerk Assistant.
Mr. S. J. Njoroge	-	Third Clerk Assistant.
Ms. S. Maritim	-	Parliamentary Intern.
Ms. J. Wanjiku	-	Parliamentary Intern.

KENYA NATIONAL AUDIT OFFICE

Mr. S. M. Muriuki	-	Director of Audit
Mr. Hiram Waciira	-	Assistant Director of Audit

MIN. NO. 01/2004/2005: INTRODUCTORY REMARKS BY THE DEPUTY CLERK (ADMINISTRATION)

The Deputy Clerk welcomed the Members present and congratulated them for being nominated into the Committee. He briefed them on the mandate, functions and the powers of the Committee citing Standing Order No. 148, the Exchequer and Audit Act, (cap. 412), the State Corporations Act (Cap. 466), the Public Audit Act, 2003, and the National Assembly (Powers and Privileges) Act, (Cap. 6). He

informed the Members that the Committee's fundamental role is to examine the working of public investments.

MIN. NO. 02/2004/2005: ELECTION OF CHAIRMAN

Upon advising the Members on the parliamentary procedures and practice that govern the Committee, the Deputy Clerk conducted the proceedings for the Election of Chairman. On calling for nominees, Hon. J. B. N. Muturi, MP was proposed by Hon. Gitau Kabogo, MP and seconded by Hon. Jimmy Angwenyi, MP. In the absence of any other nominee, Hon J. B. N Muturi, MP was declared unanimously elected Chairman.

MIN. NO. 03/2004/2005: REMARKS BY THE CHAIRMAN

Hon. J. B. N. Muturi, MP assumed the Chair and thanked the Members for expressing their faith and confidence in him by electing him the Chairman. He articulated that this was his second consecutive time as a Chairman. The Chairman pledged to serve the Committee with dedication, impartiality and diligence. He called upon Members to serve the Committee with devotion and zeal so as to tackle the exigent task ahead of them.

MIN. NO. 04/2004/2005: ANY OTHER BUSINESS

Programme of Business.

The Committee resolved to constrict its Business within the available time frame so as to clear the backlog of unexamined Accounts and Reports of the Controller and Auditor-General for various State Corporations. Consequently, the Committee resolved to be holding its sittings on Tuesdays, Wednesdays, Thursdays and Fridays (morning).

The Committee further resolved to begin with Accounts and Reports of the Controller and Auditor General for Corporations which have not appeared before the it for a long time and hence commence examining Accounts and taking evidence on 31st August, 2004.

The Chairman informed the Members that the Corporations need to be given sufficient time preferably seven days to draw responses to Audit queries raised by the Controller and Auditor General prior to appearing before the Committee.

The Secretariat was directed to draw up a draft Programme of Business for consideration by the Committee during its next sitting.

MIN. NO. 05/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.05 p.m. until Tuesday, August 24, 2004 at 3.30 p.m

Hon. J B.N. Muturi, MP

Signed:. ....

(Chairman)

24th August 2004

Date:.....

MINUTES OF THE SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, MAIN PARLIAMENT BUILDINGS, ON TUESDAY, AUGUST 24, 2004 AT 3.00 P.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. J.B.N. Muturi, MP - **Chairman**
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Joseph Kingi Kahindi, M.P.
The Hon. K.M. Sang, M.P.
The Hon. Wycliffe A. Oparanya, M.P.
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali A. Bahari, MP

ABSENT WITH APOLOGY:

The Hon. Peter G. Munya, M.P.
The Hon. Geoffrey Gachara Muchiri, M.P.
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clerk Assistant.
Mr. S. J. Njoroge - Third Clerk Assistant.
Ms. J. Wanjiku - Parliamentary Intern.

MIN. NO. 06/2004/2005: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The Minutes of the First Sitting of the Committee were confirmed by the Members present; proposed by Hon. Wycliffe A. Oparanya, M.P, seconded by Hon. Ali Bahari, MP and signed by the Chairman.

The Committee resolved to be confirming its minutes in every subsequent sitting so as to be able to follow up its resolutions and instructions timely.

MIN.NO. 07/2004/2005: CONSIDERATION OF SITTING PROGRAMME

The Committee adopted the Sitting programme of business for the month of September. It was agreed that in addition, Chief Executives

of the following State Corporations should appear before the Committee at a later date on matters related to **late submission of accounts**;

(i) Kenya Wildlife Services
(ii) Coast Development Authority,
(iii) Kenya Railways Corporation
(iv) Communication Commission of Kenya
(v) Telkom Kenya
(vi) National Hospital Insurance Fund
(vii) Kenya Power and Lighting Company
(viii) Kenya Pipeline Company Ltd.
(ix) Kenya Electricity Generating Company
(x) Kenya Wine Agencies

MIN.NO. 08/2004/2005: ORIENTATION WORKSHOP

The Committee expressed need for an orientation workshop where it would hold discussions with the Controller and Auditor General, Investments Secretary, officers from the Treasury and Inspectorate of State Corporations.

The Committee was informed that Suny-Kenya would be approached for funding.

MIN. NO. 09/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.15 p.m. until Tuesday, August 31st, 2004 at 9.30 a.m.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

16th September 2004

Date:.....

MINUTES OF THE THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, AUGUST 31, 2004 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

OFFICERS ATTACHED FROM THE PARLIAMENT OF ZAMBIA

Ms. Sibeso Sianga	-	Assistant Committee Clerk
Mr. Kabwibwi Mubanga	-	Assistant Research Officer

CONTROLLER AND AUDITOR GENERAL

Mr. E. O. Onyango	-	Deputy Director of Audit
Mr. J.J. Ng'ang'a	-	Principal Auditor

TREASURY (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant

MINISTRY OF AGRICULTURE

Mr. J. Oduor - Senior Agricultural Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. P.K. Waweru - Inspector

MIN. NO. 10/2004/2005: EVIDENCE

Report of the Accounts of the National Cereals and Produce Board for the year 1998/99 and Certificate thereon by the Controller and Auditor General.

Mr. Tirop Kosgey, Chief Executive Officer, accompanied by Messrs: Clement S. Khaemba, Chief Accountant, Irene C. Keino, Chief Estate/ Properties, Robert K. Langat, Technical Manager and Anne G. Kamau, Board Secretary, appeared before the Committee and gave evidence on Accounts of 1998/99 of the Board.

MIN. NO. 11/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 1 - OPERATING RESULTS

The Committee noted with concern that the parent Ministry was not adequately represented as the officer present could not address the issues in question. The Committee deferred taking evidence on the paragraph and directed the Ministry to respond to issues raised in the Audit Query and in the parastatal's response. In addition, the Committee directed:

(i) that, the Chief Executive Officer should give justification for increase in staff costs and yet the retrenchment programme had been meant to reduce such costs; and,

(ii) that, the Office of the President be represented in the next meeting to respond to issues touching on it.

MIN. NO. 12/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 2 - OTHER DEBTORS

The Committee noted with concern that huge sums of money were written-off allegedly due to lack of supporting evidence. The Committee deferred taking evidence on the paragraph and directed:

(i) the Chief Executive Officer to provide a list of all court cases in relation to the paragraph;

(ii) that, the Director of Criminal Investigations should appear before it on September 09, 2004, to explain what progress if any has been made on the case against Corigrain (U.K) Ltd and a former employee of National Cereals and Produce Board, Mr. Alfred Keter who fraudulently diverted an amount of Kshs. 75, 140, 468. 00 to a secret account in Switzerland belonging to him.

(iii) that, the Chief Executive to also provide information on:-

- floatation of the maize importation tender
- names of the bidders of the tender and where companies, names of Directors
- Board's technical and financial report on the bids.

The Committee also directed the Inspector General (Corporations) to table a copy of the report of the Inspectorate of State Corporations on the financial and managerial improprieties at the National Cereals and Produce Board.

MIN. NO. 13/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on Paragraph 3 of the 1998/99 Accounts and the 1999/2000 Accounts of the Corporation until a later date.

MIN. NO. 14/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.40 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. A. Waiganjo	-	Principal Auditor

TREASURY (DGIPE)

Mr. C.M. Onchoke	-	Senior Accountant

INSPECTORATE OF STATE CORPORATIONS

Mr. J.N. Magua	-	Inspector I

MIN. NO. 15/2004/2005: EVIDENCE

Report and Accounts of the Export Processing Zone Authority for the year 1996/97 and Certificate thereon by the Controller and Auditor General.

Mr. Albert Gumo, Chief Executive Officer Export Processing Zone Authority, accompanied by Messrs: Anthony Maingi, Finance Manager, and Asha Bashur, Administration Manager; appeared before the Committee and gave evidence on Accounts of 1996/97 of the Authority.

MIN. NO. 16/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 1 - PERSONAL EMOLUMENTS

The Committee noted with concern that the Authority had treated it casually and without due seriousness by not addressing the Audit Queries as raised in the report by the Controller and Auditor General. The Committee also observed that the response was not signed by the Chief Executive Officer.

Consequently, the Committee deferred taking evidence on the Accounts of the Export Processing Zone Authority for the year 1996/97 until Friday, September 10, 2004, at 9.30 A.M, when the management will be required to respond comprehensively on the Audit Queries raised and submit a thorough, well written response to the reservations raised by Controller and Auditor General.

MIN. NO. 17/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 3.40 P.M until Wednesday, September 1, 2004 at 9 30 A M

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

16th September 2004

DATE.....

MINUTES OF THE FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, MAIN PARLIAMENT BUILDINGS, ON WEDNESDAY, SEPTEMBER 1, 2004 AT 10.00 A.M.

MORNING SITTING

PRESENT

The Hon J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. A. Waiganjo	-	Principal Auditor

TREASURY (DGIPE)

Mr. K. Ondieki	-	Deputy Director

MINISTRY OF TRADE AND INDUSTRY

Mrs. M.C. Rotich	-	Director of Industry

INSPECTORATE OF STATE CORPORATIONS

Mr. P. Ochieng	-	Senior Economist

MIN. NO. 18/2004/2005: **EVIDENCE**

Report of the Accounts of the Kenya National Trading Corporation Limited for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. Vincent H.L. Opanga, Chief Executive Officer, Kenya National Trading Corporation, accompanied by Messrs: I.B. Mogaka, Alternate Director – ICDC, Erastus M.S. Mukhebi, Internal Audit Manager, Michael Mubea, Legal Officer, Rimmy Koech, Chief Accountant and Evans O. Oyaro, Senior Accountant, appeared before the Committee and gave evidence on Accounts of 1997/98 of the Corporation.

MIN. NO. 19/2004/2005: **EVIDENCE: PARAGRAPH 1 - FINANCIAL POSITION**

The Committee took evidence on the paragraph and noted with concern that the Corporation had a deficit of Kshs.1,058,678,900 making it technically insolvent.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 20/2004/2005: **EVIDENCE: PARAGRAPH 2 - BANK AND CASH BALANCES**

The Committee heard that the reservation on bank and cash balances had been confirmed and the issue has since been settled. The Committee concluded taking evidence on the paragraph.

MIN. NO. 21/2004/2005: **DEFERRED EVIDENCE: PARAGRAPH 3 - STOCK LOSSES**

The Committee deferred taking evidence on the paragraph and directed:

(i) that, the Corporation meets with the Officers of the Kenya National Audit Office with a view to verifying the Corporations' explanation on the stock losses and carry out reconciliation of their positions.

(ii) that, the Director of the Criminal Investigations should appear alongside the management of the Corporation during its next appearance on Friday, September 17, 2004 at 9.30 A.M to explain why he had not preferred any charges against suspects in respect of stock (coffee) losses.

MIN. NO. 22/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 4 - FIXED ASSETS

The Committee heard that the Corporation had instituted legal proceedings to recover the Corporation's land, which had been surrendered to the Commissioner of Lands without the Board's approval.

The Committee deferred taking evidence on the paragraph until Friday, September 17, 2004 at 9.30 A.M when the Chief Executive Officer will be required to provide the following additional information:-

(i) the current owner of the land and from whom it was acquired;

(ii) the exact location of the site of the plot to enable the Committee to pay a visit to it;

(iii) status of the civil suit; and,

(iv) who valued the plot and for how much

In addition, the Committee directed the Chief Executive to place caveat on the property and resolved that the Registrar of Societies should appear alongside the Corporation to give the names of the Directors of M/S. Rapsel Limited.

MIN. NO. 23/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.47 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Ms. Maritim	-	Parliamentary Intern
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. Z. Onsando	-	Principal Auditor

TREASURY (DGIPE)

Mr. K. Ondieki	-	Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MIN. NO. 24/2004/2005: EVIDENCE

Report of the Accounts of the Electricity Regulatory Board for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mrs. Catherine Kola, Board Secretary, accompanied by Mr. Edward O. Opiayo, Finance Manager, appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Board.

MIN. NO. 25/2004/2005: EVIDENCE: DEFERMENT OF TAKING OF EVIDENCE

The Committee noted that in view of the fact that an Executive Chairman has been appointed, the Board Secretary does not have the mandate to represent the Chief Executive Officer and the Board as provided for in Section 15(2) of the State Corporations Act (Cap 446).

Subsequently, the Committee deferred taking evidence on the Accounts of the Electricity Regulatory Board for the year 1999/2000 until Tuesday, September 21, 2004 at 9.30 A.M when the Executive Chairman will be required to appear on behalf of the Board and bring a copy of the letter appointing him as the Executive Chairman

The Board will also be required to explain its role in ensuring that the interests of power consumers are protected.

The Committee observed that the parent Ministry was not adequately represented and directed that the Ministry be well represented during all appearances of the Board.

MIN. NO. 26/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 3.42 P.M until Thursday, September 02, 2004 at 9 30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

16th September 2004

DATE.....

MINUTES OF THE FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, SEPTEMBER 02, 2004 AT 10.20 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E. O. Onyango	-	Deputy Director of Audit
Mr. J.J. Ng'ang'a	-	Principal Auditor

TREASURY (DGIPE)

Mr. K.O. Ondieki	-	Deputy Director

MINISTRY OF LIVESTOCK AND FISHERIES

Mrs. M. Ngugi	-	Deputy Secretary

INSPECTORATE OF STATE CORPORATIONS

Mrs. T.K. Gichana	-	Inspector I
Mr. G.K. Mwangi	-	Inspector I

MIN. NO. 27/2004/2005: EVIDENCE

Report and Accounts of the Kenya Dairy Board for the year 1995/96 and Certificate thereon by the Controller and Auditor General.

Mr. Machira Gichohi, Chief Executive, Kenya Dairy Board, accompanied by Messrs: Humphrey Maina, Finance Manager and Mary Ngugi, Deputy Secretary and Alternate Director, appeared before the Committee and gave evidence on Accounts of 1995/96 of the Board.

MIN. NO. 28/2004/2005: EVIDENCE: PARAGRAPH 1 - SUBMISSION OF ACCOUNTS

The Committee took evidence on the paragraph and observed that the Board had taken steps to clear the backlog of Accounts that had previously existed and that their submission of Accounts is now up to date.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 29/2004/2005: EVIDENCE: PARAGRAPH 2 - FINANCIAL POSITION

The Committee noted with concern that the financial position of the Board was precarious with the Board being technically insolvent and its operations dependent on support from its creditors, bankers and the government.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 30/2004/2005: EVIDENCE: PARAGRAPH 3 - CASH AND BANK BALANCES

The Committee heard that the issue of unreconciled cash and bank balances was caused by lack of qualified personnel and that measures had been taken to correct the anomaly.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 31/2004/2005: EVIDENCE: PARAGRAPH 4 - QUESTIONABLE EXPENDITURE

The Committee took evidence on the paragraph and was concerned that it appeared that the external accountant M/s. Waweru Accountants was single sourced. It concluded taking evidence on the paragraph.

MIN. NO. 32/2004/2005: EVIDENCE: PARAGRAPH 5 - UNBANKED REVENUE KSHS. 1, 219, 172

The Committee observed that the Board had collected revenue which had not been banked and neither had the Board indicated how it had accounted for the revenue.

The Committee directed:

(i) that, Officers from the Kenya National Audit Office should verify and confirm the correction on the Cash Book Balance of Kshs. 1, 219,172.00 as cash omitted from the balance sheet;

(ii) that, the Chief Executive should provide a list of the staff who were involved in defrauding the Board of an amount of Kshs. 742, 766.80 in two weeks time. In addition, names of the suspects be forwarded to the Committee; and

(iii) that, the Chief Executive Officer should report the case of former employees who defrauded the Board to the police with a view to recovering the money and report the progress to the Committee within two weeks;

The Committee concluded taking evidence on the paragraph.

MIN. NO. 33/2004/2005: EVIDENCE: PARAGRAPH 6 - STAFF PENSION FUND

The Committee concluded taking evidence on the paragraph.

MIN. NO. 34/2004/2005: EVIDENCE: PARAGRAPH 7 - LAND AND BUILDINGS

The Committee observed with concern that the Board was renting premises at Kshs. 1, 200, 000 annually during the year under review which has currently risen to Kshs. 5, 000, 000 annually.

The Committee heard that the Board needed approximately Kshs.20,000,000 to complete the Board's Office Block.

The Committee directed:

(i) that, the Chief Executive Officer should provide a copy of the tender document and contract for the construction of the office block to ascertain whether the uncompleted essential facilities were part of the contract.

(ii) that, a copy of the letter written to the Ministry seeking money to complete the building be provided to the Committee.

Taking of evidence on this paragraph was concluded

MIN. NO. 35/2004/2005: EVIDENCE: PARAGRAPH 8 - DEBTORS AND PREPAYMENTS - KSHS. 2, 142, 615

The Committee expressed concern over the write-off of bad and doubtful debts in the absence of clear indication of the efforts made to recover the debts before writing them off.

The Committee concluded taking evidence on this paragraph

MIN. NO. 36/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.25 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E. O. Onyango	-	Deputy Director of Audit

TREASURY (DGIPE)

Mr. T. C. Mokaya	-	Principal Economist
Mr. L. B. Amoko	-	Senior Economist

MINISTRY OF AGRICULTURE

Mr. K. Karanja	-	Deputy Chief Finance Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. P. Ochieng	-	Senior Economist
Mr. P. Wandaka	-	Senior Economist

MIN. NO. 37/2004/2005: EVIDENCE

Report and Accounts of the Kenya Trypanosomiasis Research Institute for the years 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Mrs. Grace Murilla, Chief Executive Officer, accompanied by Messrs: Dr. Romano M. Kiome, Director, and Ted K. Njagi, Deputy Director appeared before the Committee and gave evidence on Accounts of 1996/97 of the Institute.

MIN. NO. 38/2004/2005: EVIDENCE: PARAGRAPH 1 - FIXED ASSETS

The Committee took evidence on the paragraph and requested the Officers from the Kenya National Audit Office to verify the response given by the Institute concerning understating of the Institute's value of the Motor Vehicles.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 39/2004/2005: EVIDENCE: PARAGRAPH 2 - DEBTORS

The Committee directed the Chief Executive to provide a list of Officers who owe imprest to the Institute up to July 31, 2004 by September 14, 2004.
The Committee concluded taking evidence on the paragraph.

MIN. NO. 40/2004/2005: EVIDENCE: PARAGRAPH 3 - CREDITORS

The Committee directed the Chief Executive to provide the following information by September 14, 2004:-

(i) details of progress made to settle the claim in reference to M/s. Sanghani Builders and Contractors;

(ii) copy of the letter authorising the contractors to borrow money;

(iii) copy of Certificate No. 42 authorising the variation of Kshs. 42 million;

(iv) copy of the Institute's report on the Contract;

(v) copy of the document showing the original contract sum; and,

(vi) names of Directors of M/s. Sanghani Builders.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 41/2004/2005: EVIDENCE: PARAGRAPH 1 of 1997/98 - FIXED ASSETS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 42/2004/2005: DEFERRED EVIDENCE - PARAGRAPH 2: CREDITORS

The Committee deferred taking evidence on the paragraph until September 14, 2004.

MIN. NO. 43/2004/2005: ANY OTHER BUSINESS

The Committee resolved that issues touching on the depreciation rates of fixed assets in the State Corporations and recovery of debts due for employees from their retirement benefits should be raised with the "Big Five" at an appropriate time.

MIN. NO. 44/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 5.05 P.M until Tuesday 07, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

16th September 2004

DATE.....

MINUTES OF THE SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, SEPTEMBER 07, 2004 AT 10.37 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E. O. Onyango	-	Deputy Director of Audit
Mr. R.N. Nyancieo	-	Senior Auditor

TREASURY (DGIPE)

Mrs. M.W. Onyimbo	-	Deputy Secretary

MINISTRY OF TOURISM AND WILDLIFE

Mr. O. Namenya	-	Deputy Chief Finance Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. J. Kiarie	-	Accountant
Mr. J. Biginga	-	Accountant

MIN. NO. 45/2004/2005: EVIDENCE

Report and the Accounts of the Catering Training and Tourism Development Levy Trustees for the year 1998/99 and Certificate thereon by the Controller and Auditor General.

Mrs. Rose Boit, Chief Executive Officer, accompanied by Messrs: George Ng'ang'a, Finance Director, and Mr. Onyango Namenya, Deputy Chief Finance Officer and Alternate Director, appeared before the Committee and gave evidence on Accounts of 1998/99 of the Trustee.

MIN. NO. 46/2004/2005: EVIDENCE: PARAGRAPH 1 - PROPOSED OFFICE BLOCK

The Committee observed that past reports of sittings of the Committee had repeatedly dealt with the issue of the proposed block and made various recommendations in its 4th and 10th reports that the concerned parties be surcharged, to which no action seems to be forthcoming from both the Inspectorate of State Corporations and Treasury.

The Committee therefore directed:-

(i) that, the Inspector of State Corporations provides evidence in writing that action has commenced to effect the recommendation on the 10th Report by September 14, 2004 to the Committee.

(ii) the, Chief Executive to provide a list of the Directors of the Consulting firms and their Directors in respect of the proposed office block;

(iii) the Chief Executive to provide copies of correspondences between the Trustee and the Consultants justifying their fee notes;

(iv) the Chief Executive to provide written evidence that they have pursued the recommendations of the Committee with the Attorney General for him to institute charges against the concerned parties; and,

(v) the Chief Executive to provide evidence that cost estimates were done by Ministry of Public Works.

Taking of evidence on the paragraph was concluded.

MIN. NO. 47/2004/2005: EVIDENCE: PARAGRAPH 2 - SUNDRY DEBTORS

The Committee concluded taking evidence on this paragraph.

MIN. NO. 48/2004/2005: EVIDENCE: PARAGRAPH 3 - LOG BOOK FOR VEHICLE REG. NO. KAD 499M

Taking of evidence on the paragraph was concluded

MIN. NO. 49/2004/2005: EVIDENCE: PARAGRAPH 4 - BOARD OF TRUSTEES AND PAYMENT OF SITTING ALLOWANCES

The Committee directed that there be visible effort at recovery of monies that were irregularly paid to the then Board Members.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 50/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.35 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J.K.M. Karua	-	Deputy Director of Audit
Mr. R.N. Bichanga	-	Principal Auditor

TREASURY (DGIPE)

Mr. L.C. Kollum	-	Deputy Chief Finance Officer
Mr. L. Amoko	-	Senior Economist

MINISTRY OF AGRICULTURE

Mr. J.P. Nduati	-	Deputy Director of Agriculture

INSPECTORATE OF STATE CORPORATIONS

Mr. Ntonjira Mwingirwa	-	Deputy Chief Economist

MIN. NO. 51/2004/2005: EVIDENCE

Report and the Accounts of the Nyayo Tea Zones Development Corporation for the year 1995/96 and Certificate thereon by the Controller and Auditor General.

Dr. Anne Kinyua, Chief Executive Officer, accompanied by Messrs: Julius P. Nduati, Deputy Director of Agriculture, David Malila, Finance Controller, Kibiwott Rutto, Senior Financial Accountant, Simon N. Njeru, Agronomy Officer and David Obwaya, Internal Auditor, appeared before the Committee and gave evidence on Accounts of 1995/96 of the Corporation.

MIN. NO. 52/2004/2005: EVIDENCE: PARAGRAPH 1 – FINANCIAL POSITION

The Committee observed that the paragraph constituted reconciliatory issues that the Corporation and the Office of the Controller and Auditor General could have addressed and resolved at during audit hence no need of an audit query.

The Committee directed that:-

(i) the Chief Executive liaises with the Office of the Controller and Auditor General and gives a report of the reconciliation of the Accounts to the Committee in two weeks time; and,

(ii) the Chief Executive to give the Committee the specific dates of the expenditure in respect of the consultancy services in two week's time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 53/2004/2005: EVIDENCE: PARAGRAPH 2 - APPROPRIATION OF LOAN PROCEEDS - KSHS. 223, 356, 690

The Committee deferred taking evidence on the paragraph until September 28, 2004 at 9.30 A.M. and directed the Chief Executive to:-

(i) provide documentary proof to the office of the Controller and Auditor General showing that the 10 out of 15 bags of fertilizer were left at Olenguruone Tea Zone;

(ii) provide a copy of the letter of dismissal of Mr. David Korir as evidence that part of the reason he was dismissed was for the unaccounted 30 bags of fertilizer;

(iii) provide information on who gave the authorization to hire a management consultant and the names of the consultants;

(iv) give a report on the role of the funding body, ADB in reference to the budget of the Corporation;

(v) make a report to the police on the loss of 702 bags of fertilizers that were destined for Kericho and report back to the Committee during the Corporation's next appearance; and,

(vi) make a report to the police about the loss of the 30 bags of NPK.

MIN. NO. 54/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.43 P.M until Wednesday, September 08, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

30th September 2004

DATE.....

MINUTES OF THE SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON WEDNESDAY, SEPTEMBER 08, 2004 AT 10.20 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. Z. Onsando	-	Principal Auditor

TREASURY (DGIPE)

Mr. K. Ondieki	-	Deputy Director

MIN. NO. 55/2004/2005: EVIDENCE

Report of the Accounts of the Investments Promotion Centre for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. Julius Kipngetich, Chief Executive, Investments Promotion Centre, appeared before the Committee to give evidence on Accounts of 1998/99 of the Centre

MIN. NO. 56/2004/2005: DEFERRED EVIDENCE

The Committee noted with concern that the Centre had treated the Audit Queries casually and without due diligence by not addressing the Audit Queries as raised in the report by the Controller and Auditor General. The Committee also observed that the response was not signed by the Chief Executive and in some cases was hand written which, was demeaning to the Committee.

Consequently, the Committee deferred taking evidence on the Accounts of the Investment Promotion Centre for the year 1997/98 until Thursday, September 09, 2004, at 2.30 P.M, when the Chief Executive will be required to respond clearly on the Audit Queries raised and submit a comprehensive response to the reservations raised by Controller and Auditor General.

MIN. NO. 57/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 10.35 A.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E.O. Onyango	-	Deputy Director of Audit
Mr. C.O. Kiage	-	Principal Auditor

TREASURY (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary
Mr. Jason N. Akoyo	-	Senior Finance Officer

MINISTRY OF HEALTH

Dr. K. Baya	-	Chief Pharmacist

MIN. NO. 58/2004/2005: EVIDENCE

Report of the Accounts of the Pharmacy and Poisons Board for the year 1993/94 and 1994/95 and Certificates thereon by the Controller and Auditor General.

Dr. Kijana Baya, Chief Executive Officer, accompanied by Messrs: Dr. Fred Siyoi, Pharmaceutical Inspector and Dr. H.K. Chepkwony, Director, Quality Control Lab, appeared before the Committee and gave evidence on Accounts of 1993/94 and 1994/95 of the Board.

MIN. NO. 59/2004/2005: EVIDENCE: PARAGRAPH 1 - LATE SUBMISSION OF ACCOUNTS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 60/2004/2005: EVIDENCE: PARAGRAPH 2 - ACCUMULATED FUND KSHS. 10, 667, 752

The Committee observed that the Board was lacking qualified personnel to handle accounting matters. The Committee directed the management of the Board to liaise with the Office of the Controller and Auditor General with a view to reconciling how the amount of Kshs. 9, 522, 108. 55 which was spent in the period between April

25, 1992 and December 31, 1993 and a report be presented to the Committee by the Director of Audit within two weeks.

The Committee resolved that the reconciliation report would determine whether or not the then Registrar, Dr. Dominic Karanja would be appearing before the Committee on the matter.

MIN. NO. 61/2004/2005: EVIDENCE: PARAGRAPH 3 - BUDGETARY CONTROL

The Committee observed that the Board had not adhered to Sections 11 and 12 of the State Corporations Act (Cap 446) and directed the Board to:-

(i) seek post facto approval for late submission of their accounts;

(ii) routinely follow the procedure of budgetary control stipulated under Sections 11 and 12 of the State Corporations Act (Cap 446); and,

(iii) ask the Ministry to be assign them a separate Ministry representative, who is not part of the Board, when they next appear before the Committee.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 62/2004/2005: EVIDENCE: PARAGRAPH 1 of 1994/95 - LATE SUBMISSION OF ACCOUNTS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 63/2004/2005: EVIDENCE: PARAGRAPH 2 - BUDGETARY CONTROL

The Committee concluded taking evidence on the paragraph.

MIN. NO. 64/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.30 P.M until Thursday 09, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

30th September 2004

DATE.....

MINUTES OF THE EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON THURSDAY SEPTEMBER 09, 2004 AT 10.20 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E. O. Onyango	-	Deputy Director of Audit
Mr. J.J. Ng'ang'a	-	Principal Auditor

TREASURY (DGIPE)

Mr. F.W. King'ori	-	Assistant Investments Secretary

MINISTRY OF AGRICULTURE

Mr. W.G. Kerario	-	Deputy Secretary
Mr. J. Oduor	-	Senior Agricultural Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi	-	Senior Inspector

OFFICE OF THE PRESIDENT

Dave M. Mwangi	-	Permanent Secretary
I. A. Maalim	-	Under Secretary
E.L. Namwalo	-	Principal Economist

MIN. NO. 65/2004/2005: EVIDENCE

Report of the Accounts of the National Cereals and Produce Board for the year 1998/99 and Certificate thereon by the Controller and Auditor General.

Mr. Tirop Kosgey, Chief Executive, National Cereals and Produce Board, accompanied by Messrs: Clement S. Khaemba, Chief Accountant, Irene C. Keino, Chief Estate & Properties Manager, Robert K. Langat, Technical Manager and Anne G. Kamau, Board Secretary, appeared before the Committee and gave evidence on Accounts of 1998/99 of the Board.

MIN. NO. 66/2004/2005: EVIDENCE: PARAGRAPH 1 - OPERATING RESULTS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 67/2004/2005: EVIDENCE: PARAGRAPH 2 - OTHER DEBTORS

The Committee directed the Chief Executive to write to the Director of Criminal Investigation Department on the issue of M/s. Corigrain (U.K) and report back in 14 days on the progress of the case.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 68/2004/2005: EVIDENCE: PARAGRAPH 3 – CONSULTANCY FEES

The Committee directed that a copy of the consultant's report be given to the Controller and Auditor General's office to enable the Committee determine if the Board received value for money in the transaction and that this be done by September 16, 2004, and the same forwarded to the Office of the Clerk of the National Assembly.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 69/2004/2005: PAPERS LAID

The following papers were laid before the Committee:-

(i) *A response by Mr. Dave Mwangi, Permanent Secretary Office of the President, in response to outstanding debt owed to the NCPB for services rendered and facilities provided to the Government on social functions and on Strategic Grain Reserve Fund.*

(ii) *A copy of the final report of investigations into financial and managerial improprieties at the NCPB by Inspectorate of State Corporations.*

(iii) *Executive summary in respect of write up for the tender of importation of 180, 000 metric tons of white maize.*

(iv) *A write up on information/clarification as requested by the Committee in MIN NO. 11/2004/2005 and MIN NO. 12/2004/2005.*

MIN. NO. 70/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.40 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. Z. Onsando	-	Principal Auditor

TREASURY (DGIPE)

Mr. Kennedy Ondieki	-	Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. Ntonjira Mwingirwa	-	Deputy Chief Economist

MIN. NO. 71/2004/2005: EVIDENCE

Report of the Accounts of the Investments Promotion Centre for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. Julius Kipngetich, Chief Executive, Investments Promotion Centre, accompanied by Messrs: Fredrick Owiti, Senior Manager, Research & Policy, Luka Obanda, Director of Operations, and Susan Kikwai, Senior Manager, Investments Promotion Department, appeared before the Committee to give evidence on Accounts of 1997/98 of the Centre.

MIN. NO. 72/2004/2005: EVIDENCE: PARAGRAPH 1 - BOARD MEETING

The Committee heard that the Centre had taken corrective measures and now held Board meetings in keeping with Section 8 (a) of the State Corporations Act (Cap 446).

The Committee concluded taking evidence on the paragraph.

MIN. NO. 73/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 2 – IRREGULAR DISPOSAL OF MOTOR VEHICLE

The Committee directed the Chief Executive to provide detailed information on the insurance company and premium cover for the vehicle at the time of sale.

The Committee deferred taking evidence on the paragraph.

MIN. NO. 74/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 3 – MISUSE OF SALARY ADVANCE FACILITY

The Committee deferred taking evidence on the paragraph to September 29, 2004 at 9.30 A.M and directed that the former Chief Executive, Dr. Joseph arap Ng'ok appear before the Committee to respond to Audit Queries raised in the two reports.

In view of the fact that the Chairman had had personal acquaintances with the former Chief Executive, Dr. Joseph arap Ng'ok, the Chairman, without prejudice, delegated chairing of the sitting when the Chief Executive will appear to another Member.

MIN. NO. 75/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on paragraph 4 and 5 of the Accounts of 1997/98 and 1998/1999 Accounts.

MIN. NO. 76/2004/2005: PAPERS LAID

The following papers were laid by the Chief Executive:-

(i) Income and expenditure report

(ii) Strategic Plan 2004 – 2006

(iii) Human Resources Manual

MIN. NO. 77/2004/2005: ANY OTHER BUSINESS

(I) Arising from previous experience when some Members of the Committee visited the Federal Republic of Germany, and found out that investment promotion has not been done adequately, the Committee wished to know what efforts the Chief Executive is employing to address this.

In response, the Chief Executive listed a number of factors that made Kenya a challenging place to invest in, *Viz:-*

(i) lack of sufficient budgetary allocation with the Centre left with only Kshs. 15, 000, 000 with which to work with to promote investment;

(ii) inadequate human resource;

(iii) government bureaucracy and legislation that is unfriendly to investors; for example, the amount of time it takes a person to get a work permit in Kenya (30 days) is too long compared to other competing countries;

(iv) cost of production of promotional material and high operating costs; and,

(v) high insecurity that discourages investors from coming to the country.

Further, the Committee heard that some of Kenya's strengths are that:-

(i) It has the most disciplined work force in Africa;

(ii) It has a rare intertwinement of mountains, the Coast line, the Rift Valley and the Lakes; and,

(iii) It has a very friendly climate that is conducive to most investors.

The Committee also heard that the best way for Kenya to raise its GDP was for the Government to invest in Nairobi and improve the city's condition and marketability.

(II) The Committee resolved that the following corporations should appear before it to explain why some of their accounts have not been tabled and to respond to other commercial management issues:

(i) Kenya Pipeline Corporation to appear on September 28, 2004 at 2.30 P.M.

(ii) National Hospital Insurance Fund to appear on September 29, 2004 at 2.30 P.M.

(iii) Kenya Power Lighting Company to appear on

September 30, 2004 at 9.30 A.M and also to answer on flouting of procurement procedures and past and current inventory of property.

(iv) Communication Commission of Kenya to appear on September 30, 2004 at 2.30 P.M and also to answer on Second Landline Operator.

(v) Telkom and Postal Corporation to appear on September 31, 2004 at 2.30 P.M.

MIN. NO. 78/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.00 P.M until Friday, September 10, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

30th September 2004

DATE.....

MINUTES OF THE NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY SEPTEMBER 10, 2004 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. Jimmy Angwenyi, MP - **(Ag. Chairman)**
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. A. Waiganjo	-	Principal Auditor

TREASURY (DGIPE)

Mr. C.M. Onchoke	-	Senior Accountant

INSPECTORATE OF STATE CORPORATIONS

Mr. J.N. Magua	-	Inspector I

MIN. NO. 79/2004/2005: EVIDENCE

Report and Accounts of the Export Processing Zone Authority for the year 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Mr. Albert Gumo, Chief Executive Officer Export Processing Zone Authority, accompanied by Messrs: Anthony Maingi, Finance Manager, and Asha Bashur, Administration Manager and former Finance Manager; appeared before the Committee and gave evidence on Accounts of 1996/97 and 1997/98 of the Authority.

MIN. NO. 80/2004/2005: EVIDENCE: PARAGRAPH 1 - PERSONAL EMOLUMENTS

The Committee observed that the parent Ministry was not represented despite the Committee having officially invited the representative of the parent Ministry to be present.

The Committee heard that the Authority was not contravening the law as per the Authority's Governing Act Cap 517 Section 7 (2) allowed the Authority to pay the personal emoluments.

The Committee resolved to raise this matter with the Attorney General at a later date.

MIN. NO. 81/2004/2005: EVIDENCE: PARAGRAPH 2 - SALARY ADVANCES

The Committee heard that the Authority had taken measures had put checks to avoid irregular salary advances amongst them, that the Auditor must first go through the application and approve, and that the Finance Manager must first sign the check before any other signatories.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 82/2004/2005: EVIDENCE: PARAGRAPH 3 - BOARD EXPENSES

The Committee observed that the Authority's Act was conflicting with the State Corporations Act in a number of elements and wished to know which Act superseded the other in such a situation.

The Committee directed:-

(i) that, a clarification from the Office of the Attorney General be given to the Committee on how conflict between the

Authority's Act and the State Corporations Act should be resolved and how Cap 517 (6) of the Authority's Act should be interpreted;

(ii) the Chief Executive to continue payment of monthly allowances to Board Members until the issue is resolved through an interpretation of the law from the Attorney General, when the Committee would communicate the correct position to the Authority; and,

(iii) the Chief Executive to provide P39 from 1997 to show that tax was being deducted from the director's fees.

The Committee concluded taking evidence on the paragraph, save for the above-mentioned directives.

MIN. NO. 83/2004/2005: EVIDENCE: PARAGRAPH 4 – FIXED ASSETS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 84/2004/2005: EVIDENCE: PARAGRAPH 5 – MISCELLANEOUS INCOME

The Committee heard that the assets in question had not been transferred to the Authority and hence, any income from the facilities on the land was not going to the Authority at the time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 85/2004/2005: EVIDENCE: PARAGRAPH 6 – OTHER PERSONAL ALLOWANCES

The Committee concluded taking evidence on the paragraph.

MIN. NO. 86/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1997/98- MISCELLANEOUS INCOME

The Committee heard that the assets in question had not yet been transferred to the Authority and hence, any income from the facilities on the land was not going to the Authority at the time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 87/2004/2005: ANY OTHER BUSINESS

The Committee wished to know the role of the Export Processing Zone Authority and what it was doing to improve the country's economic position.

The Committee heard that the Authority was enacted in 1991 and that currently, it has 71 companies in operation, 37 zones around the country with Mombasa having the most zones (almost 20). The Committee further heard that as of December 2003, investments in the export-processing zone stood at Kshs. 12 billion while exports stood at 15.5 billion

The Chief Executive also informed the Committee that currently, the Authority was looking for the best means to take advantage of the market so as to import less and make use of local materials. He further informed the Committee that:

(i) the Companies in the export processing zones do not pay taxes including VAT;

(ii) presently, the government contributes around 45% of the budget of EPZ, which stands at Kshs. 316 million with the government giving Kshs150 million shillings, which is an improvement from previous times when the government used to contribute 100% of the budget;

(iii) the Authority views itself as being independent in terms of the budget in the next three years;

(iv) the Authority had two investors, one from India and the other from China, interested in reviving RIVATEX;

(v) cotton growing in the country has turned out to be very expensive; and,

(vi) labour relations, due to the change of government, had been problematic but that the Authority had attempted to solved this by having unions which a number of employees in different companies had joined and for those without unions were being helped to set up their own.

MIN. NO. 88/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.10 P.M until Tuesday, September 14, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

30th September 2004

DATE.....

MINUTES OF THE TENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY 14, 2004 AT 4.15 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P.M. Njuguna	-	Assistant Director of Audit
Mr. G.O. Nashon	-	Principal Auditor

TREASURY (DGIPE)

Mr. L.B. Amoko	-	Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist
Mr. P.T.O. K'Opiyo	-	Senior Deputy Secretary

MIN. NO. 89/2004/2005: EVIDENCE
Report and Accounts of the Kenya Agricultural Research Institute for the year 1998/99 and Certificate thereon by the Controller and Auditor General.

Dr. Romano M. Kiome, Chief Executive, Kenya Agricultural Research Institute, accompanied by Messrs: Ted K. Njagi, Deputy Director, and A.J.D. Otolo, Chief Accountant; appeared before the Committee and gave evidence on Accounts of 1998/99 of the Institute.

MIN. NO. 90/2004/2005: EVIDENCE: PARAGRAPH 1 – FINANCIAL POSITION

The Committee heard that the Institute had improved its financial position by cutting down on costs of some of its expenditure among them, electricity from Kshs.6,000,000 to Kshs.3,000,000 per month and telephone from Kshs.3,000,000 to Kshs.280,000.

The Committee concluded taking evidence on the paragraph.

MIN. NO.91/2004/2005: EVIDENCE: PARAGRAPH 2 LAND AND BUILDINGS

The Committee took evidence and directed the Chief Executive to:

(i) furnish the Committee with a schedule showing the current status of the Institute's lands; those it owns and their title deeds, those with allotment letters and those that have been alienated and allocated to private developers; and,

(ii) provide a copy of the report that the Institute submitted to the Ndung'u Commission in respect of parcels of land irregularly alienated and allocated to third parties.

The Committee resolved that the Chief Executive jointly with the Commissioner of Lands should appear before the Committee at a later date to explain the status of the Institute's lands and the progress on the revocation of title deeds, in respect of the various parcels of land for the Institute, as stipulated in the 9th and 11th reports of the Committee.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 92/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.10 P.M until Wednesday, September 15, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

5th November 2004

DATE.....

MINUTES OF THE ELEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY SEPTEMBER 15, 2004 AT 10.35 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P.M. Njuguna	-	Assistant Director of Audit
Mr. G.O. Nashon	-	Principal Auditor

TREASURY (DGIPE)

Mrs. M. W. Onyimbo	-	Deputy Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MINISTRY OF TRADE AND INDUSTRY

Mr. I.G. Kamande	-	Deputy Chief Economist

MIN. NO. 93/2004/2005: EVIDENCE

Report and Accounts of the Kenya Industrial Research and Development Institute for the years 1994/95 and 1995/96 Certificates thereon by the Controller and Auditor General.

Dr. Patrick M. Muturi, Chief Executive, Kenya Industrial Research and Development Institute, accompanied by Messrs: John N. Kahura, Internal Auditor, and Joel M. Abere, Senior Accountant and acting Finance Manager; appeared before the Committee and gave evidence on Accounts of 1994/95 and 1995/96 of the Institute.

MIN. NO. 94/2004/2005: EVIDENCE: PARAGRAPH 1 - DELAY IN SUBMISSION OF ACCOUNTS

The Committee heard that the problem had now been corrected and the Institute has been submitting its accounts on time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.95/2004/2005: EVIDENCE: PARAGRAPH 2 - FIXED ASSETS

The Committee took evidence and directed the Chief Executive to obtain a title deed for L.R No. 15292 Kibos Road, Kisumu in the next 30 days and to give a written confirmation on the same to the Office of the Controller and Auditor General.

The Committee concluded taking evidence on the paragraph.

MIN. NO.96/2004/2005: EVIDENCE: PARAGRAPH 3 - DEBTORS

The Committee took evidence and directed that the Institute reconciles the discrepancies between their accounts with the Office of the Controller and Auditor General and a written report on the reconciliation be submitted to the Committee in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.97/2004/2005: EVIDENCE: PARAGRAPH 4 - ADVANCES AND PREPAYMENTS

The Committee took evidence and directed the Chief Executive to:

(i) provide a report on the progress the Institute has made in reconciling the discrepancy in the payroll package.

(ii) provide copies of the registers in respect of imprests, salary advances and prepayments to the Office of the Controller and Auditor General for audit and for the audit report to be presented to the Committee by the Office of the Controller and Auditor General in 14 days time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.98/2004/2005: EVIDENCE: PARAGRAPH 5 - INVESTMENTS

The Committee observed that some of the Audit Queries raised by the Office of the Controller and Auditor General would not have arisen had state corporations made attempts to reconcile the issues arising from the audit with the auditors.

The Committee directed that the Office of the Controller and Auditor General to reconcile the paragraph on investment with Thabiti Finance Company with the Institute and report to the Committee, in writing, in seven days time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.99/2004/2005: EVIDENCE: PARAGRAPH 6 - CASH MISAPPROPRIATION

The Committee concluded taking evidence on the paragraph.

MIN. NO.100/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1995/96 - DEBTORS

The Committee took evidence and directed that the Institute reconciles the discrepancies between their response and that of the Office of the Controller and Auditor General and a written report thereof be submitted to the Committee in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.101/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1995/96 - ADVANCES AND PREPAYMENTS

The Committee took evidence and directed the Chief Executive to:-

(i) furnish the Committee with a report on the progress the Institute has made in reconciling the discrepancy in the payroll package; and,

(ii) provide copies of the registers in respect of imprests, salary advances and prepayments to the Office of the Controller and Auditor General for verification in 14 days' time.

The Committee concluded taking evidence on the paragraph.

MIN. NO.102/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1995/96 – PENSION SCHEMES

The Committee concluded taking evidence on the paragraph.

MIN. NO. 103/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.15 P.M. until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. Jimmy Angwenyi, MP - **(Ag. Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE
NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant
Ms. J. Wanjiku - Parliamentary Intern
Ms. S. Maritim - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mrs. M. M. Muasya	-	Principal Auditor

TREASURY (DGIPE)

Mrs. E. Kigen	-	Deputy Chief Finance Officer

MINISTRY OF REGIONAL DEVELOPMENT

Mr. G. Kamuto	-	Deputy Secretary

MIN. NO. 104/2004/2005: EVIDENCE

Report and Accounts of the Ewaso Ng'iro North River Basin Development Authority for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Eng. A. A. Ali, Chief Executive, Ewaso Ng'iro North River Basin Development Authority, accompanied by Messrs: Hersi H. Bante, Internal Auditor, Abdi Maalim, Senior Accountant, and Paul Ndirima, Chief Personnel and Administration Officer; appeared before the Committee and gave evidence on Accounts of 1997/98 of the Authority.

MIN. NO. 105/2004/2005: EVIDENCE: PARAGRAPH 1 – FIXED ASSETS

The Committee took evidence on the paragraph and directed that the Commissioner of Lands, accompanied by the Permanent Secretary of the parent Ministry, Ministry of Regional Development, would be required to appear before the Committee at a later date to explain why the Authority is yet to be given title deeds for the land in question, if the efforts of the Authority would not bear fruits.

The Committee concluded taking evidence on the paragraph.

MIN. NO.106/2004/2005: EVIDENCE: PARAGRAPH 2 – IRREGULAR PAYMENT OF BOARD ALLOWANCES

The Committee took evidence and was concerned that the Authority has continued to pay increased accommodation to the Board members without requisite authority. The Committee deferred taking evidence and directed the Chief Executive to:

(i) provide a copy of the circular from the Directorate of Personnel Management authorising the Authority to pay the Board Members the said allowances; and,

(ii) seek the approval of the State Corporations Advisory Committee for the increased allowances for Members of the Board and report back to the Committee within a month.

MIN. NO. 107/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.47P.M. until Thursday 16, 2004 at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

5th November 2004

DATE.....

MINUTES OF THE TWELFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, SEPTEMBER 16, 2004 AT 10.40 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant
Ms. J. Wanjiku - Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira - Assistant Director of Audit
Mr. A. Waiganjo - Principal Auditor

TREASURY (DGIPE)

Mr. L.B. Amoko - Senior Economist

MIN. NO. 108/2004/2005: EVIDENCE

Report and Accounts of the Kenya Airports Authority for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. George Muhoho, Chief Executive, Kenya Airports Authority, and John Thumbi, General Manager, Finance; appeared before the Committee and gave evidence on Accounts of 1997/98 of the Authority.

MIN. NO. 109/2004/2005: DEFERRED EVIDENCE

The Chief Executive informed the Committee that he had not received the summon letter to appear before the Committee and therefore, he was not prepared to address the issues in question adequately.

The Committee therefore resolved to defer the appearance of the Management of the Authority to Wednesday, September 22, 2004 at 9.30 A.M.

MIN. NO. 110/2004/2005: MOMBASA WORKSHOP

The Chairman briefed the Members on the joint workshop (PIC/PAC) to be held from Friday, October 1, 2004- Saturday, October 2, 2004 in Mombasa. The aim of the workshop would be to strengthen the two committees in their watchdog role and that various people were to make presentations on varied topics.

MIN. NO. 111/2004/2005: CONFIRMATION OF MINUTES

The Minutes of the Second, Third, Fourth and Fifth Sittings of the Committee were confirmed by the members present and signed by the Chairman as follows:

(i) The Second Sitting held on Tuesday, August 24, 2004 were proposed by Hon. Kingi Kahindi, and seconded by Hon. Abdul Bahari, MP.

(ii) The Third Sitting held on Tuesday, August 31, 2004 were proposed by Hon. Kingi Kahindi, and seconded by Hon. Jimmy Angwenyi, MP.

(iii) The Fourth Sitting held on Wednesday, September 1, 2004 were proposed by Hon. Gachara Muchiri and seconded by Hon. Wafula Wamunyinyi, MP; and

(iv) The Fifth Sitting held on Thursday, September 2, 2004 were proposed by Hon. Gachara Muchiri and seconded by Hon. Wafula Wamunyinyi, MP.

MIN. NO. 112/2004/2005: MATTERS ARISING

The following matters arose and the Committee resolved on them as

follows:

(i) **Min. No. 12/2004 (i) and (ii) of August 31, 2004**

The Committee was informed that the Chief Executive, Kenya National Cereals and Produce Board, had provided the information as directed.

(ii) **Min. No. 22/2004 (ii) of September 1, 2004**

It was agreed that the Committee would pay a visit to the site of the plot that was irregularly surrendered and allocated to a third party in the report of 1997/98 Accounts of Kenya National Trading Corporation.

(iii) **Min. No. 32/2004 (ii) of September 2, 2004**

The Committee was gravely concerned that the Chief Executive, Kenya Dairy Board, has not provided the names of the staff members who had defrauded the Board as directed by the Committee. The Secretariat was directed to write a reminder letter to the Board.

(iv) **Min. No. 39/2004 of September 2, 2004**

The Committee was informed that the Chief Executive, Kenya Trypanosomiasis Research Institute, had provided the list of imprest holders, as earlier directed.

(v) **Min. No. 40/2004 of September 2, 2004**

The Committee was informed that the Chief Executive, Kenya Trypanosomiasis Research Institute, had provided a report on M/S. Sanghani Builders and contractors, and observed with concern that the letter authorising the contractors to borrow money was signed by a secretary of an officer acting on behalf of the Permanent Secretary.

(vi) **Min. No. 43/2004 of September 2, 2004**

The Committee reiterated on its earlier resolution that issues touching on the depreciation rates of fixed assets in the State Corporations and recovery of debts due from their employees from their retirement benefits be raised with the "Big Five" at an appropriate time.

MIN. NO. 113/2004/2005: ANY OTHER BUSINESS

The Secretariat was directed to draw a programme for the month of October to be considered by the Committee after the workshop on Monday, October 4, 2004.

MIN. NO. 114/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.37 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mrs. M. M. Muasya	-	Principal Auditor

TREASURY (DGIPE)

Mr. F.W. King'ori	-	Assistant Investments Secretary

MINISTRY OF REGIONAL DEVELOPMENT

Mr. A.N. Mogere - Under Secretary

MIN. NO. 115/2004/2005: EVIDENCE

Report and Accounts of the Ewaso Ng'iro South River Basin Development Authority for the years 1994/95 and 1995/96 Certificates thereon by the Controller and Auditor General.

Mr. Francis M. Nkako, Chief Executive, Ewaso Ng'iro South River Basin Development Authority, accompanied by Messrs: Shem.O. Okongo, Deputy Managing Director and Kerika Ole Ndere, Chief Accountant appeared before the Committee and gave evidence on Accounts of 1994/95 and 1995/96 of the Authority.

MIN. NO. 116/2004/2005: EVIDENCE: PARAGRAPH 1 – FIXED ASSETS

The Committee concluded taking evidence on the paragraph.

MIN. NO.117/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 2 – PURCHASE OF A MOTOR VEHICLE

The Committee heard that the purchase of the vehicle was single - sourced and no valuation was done at the time of purchase contrary to the Authority's procedures and regulations.

The Committee deferred taking evidence on the paragraph and directed:-

(i) the Chief Executive to give, in writing, the name/s of director(s) of M/S. Yorkdale Enterprises;

(ii) the Chief Executive to furnish the Committee with a copy of the original log book of the vehicle which the Authority had been using to operate between 1995, when the vehicle was purchased, and 1999, when the duplicate log book was issued, failing which, a satisfactory justification should be given to the Committee;

(iii) the former Chief Executive, Dr. Daniel Punyua, and Mr. Mwangi, to appear before the Committee alongside the management of the Authority at their next appearance;

(iv) the Chief Executive to provide copies of the files in respect to ownership of vehicles by the Authority;

(v) the Chief Executive liaise with the Registrar of Motor Vehicles in order to be availed the original file in respect of the Motor Vehicle in question which will show the tax and duty paid on the vehicle. If unable to get the original file, the Chief Executive should request the Registrar of Motor Vehicles to avail a certified copy of the duplicate file.

MIN. NO.118/2004/2005: **EVIDENCE: PARAGRAPH 3 – BUDGET AND BUDGETARY CONTROL**

The Committee concluded taking evidence on the paragraph.

MIN. NO.119/2004/2005: **EVIDENCE: PARAGRAPH 4 – PROFESSIONAL CHARGES – KSHS. 1, 568, 321**

The Committee concluded taking evidence on the paragraph.

MIN. NO.120/2004/2005: **EVIDENCE: PARAGRAPH 5 – SUSPENSE ACCOUNT**

The Committee concluded taking evidence on the paragraph.

MIN. NO.121/2004/2005: **DEFERRED EVIDENCE – 1995/96 ACCOUNTS**

The Committee deferred taking evidence on the 1995/96 Accounts of the Authority.

MIN. NO. 122/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.25P.M. until Friday, September 17, at 9.30 A.M.

Hon. Ali Bahari, MP

SIGNED .....

(Ag. CHAIRMAN)

5th November 2004

DATE.....

MINUTES OF THE THIRTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, SEPTEMBER 17, 2004 AT 10.15 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mrs. M. M. Muasya	-	Principal Auditor

TREASURY (DGIPE)

Mrs. T.N. Gathara	-	Under Secretary

MINISTRY OF TRADE AND INDUSTRY

Mr. S.A. Otieno	-	Director, Internal Trade

OTHER WITNESSES

Mr. J.M. Kamau	-	Director of Criminal Investigations
Mr. K. Wabwoba	-	Chief Investigating Officer

REGISTRAR GENERAL

Mr. F.S.M. Ng'ang'a	-	Deputy Registrar General
Mrs. J. Joram	-	Senior Assistant Registrar

MIN. NO. 123/2004/2005: EVIDENCE

Report and the Accounts of the Kenya National Trading Corporation Limited for the years 1997/98 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Mr. Vincent H.L. Opanga, Chief Executive, Kenya National Trading Corporation, accompanied by Messrs: Isaac .B. Mogaka, Alternate Director - ICDC, Erastus M.S. Mukhebi, Internal Audit Manager, Michael Mubea, Legal Officer, Remmy Koech, Chief Accountant and Evans O. Oyaro, Senior Accountant, appeared before the Committee and gave evidence on Accounts of 1997/98 and 1998/99 of the Corporation.

MIN. NO. 124/2004/2005: EVIDENCE: PARAGRAPH 3 - STOCK LOSSES

The Committee noted that the Corporation had observed its directives and had raised the issue of stock losses with the Criminal Investigations Department. The Committee also heard that the Corporation had met with Officers of the Kenya National Audit Office and reconciled their accounts.

The Committee directed:

(i) the Chief Executive to present a report on the progress the Corporation had made in pursuing its other cases pending with the Criminal Investigations Department concerning Mr. P.K. Magut, Mr. Tirop, a sum of Kshs. 7, 000, 000 in respect of M/s. Rapsel Limited and Kshs. 500, 000, 000 respectively that was defrauded from the Corporation in respect of M/s. Rapsel Ltd in the next seven days and the same given to the Kenya National Audit.

(ii) the Director of Criminal Investigations to provide a report on the progress made to arrest and prosecute Mr. Reuben Ole Nakuo, the then Coffee Manager, in two months time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 125/2004/2005: EVIDENCE: PARAGRAPH 4 - FIXED ASSETS

The Committee took evidence on the paragraph and directed:

(i) the Registrar of Companies to intensify efforts to obtain the details of M/s. Rapsel, which should be presented to the Committee in form of a written report by Wednesday, September 22, 2004; and,

(ii) the Chief Executive to liaise with the Criminal Investigations Department on the progress on investigations concerning an irregular fertiliser transaction with a view to instituting criminal proceedings against M/s. Rapsel limited, and to report to the Committee by Friday, September 24, 2004.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 126/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the accounts of 1998/99 to a later date.

MIN. NO. 127/2004/2005: ANY OTHER BUSINESS

The Committee observed that as part of its watchdog role, it was important for it to address the issues raised in the report of the Inspector General (Corporations) on the financial and management improprieties at the National Cereals and Produce Board. The Committee resolved to invite the Inspector General (Corporations) on Tuesday 21, 2004 at 3.30 P.M, to make a presentation on the special audit report that was made on the Corporation.

MIN. NO. 128/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.45 P.M until Tuesday, September 21, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st February 2005

DATE.....

MINUTES OF THE FOURTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, SEPTEMBER 21, 2004 AT 10.40 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. B. Okondo	-	Senior Auditor

TREASURY (DGIPE)

Mr. K. Ondieki	-	Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MINISTRY OF ENERGY

Mrs. B. Nzioki	-	Senior Deputy Secretary

MIN. NO. 129/2004/2005: EVIDENCE

Report and the Accounts of the Electricity Regulatory Board for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Matere Keriri, Chief Executive, Electricity Regulatory Board, Mrs. Catherine Kola, Board Secretary, accompanied by Mr. Edward O. Opiayo, Finance Manager, appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Board.

MIN. NO. 130/2004/2005: EVIDENCE: PARAGRAPH 1 - IRREGULAR PAYMENT OF SALARY AND ALLOWANCES TO THE BOARD CHAIRMAN

The Committee took evidence on the paragraph and observed that the then chairman of the Board was in breach of the law in receiving allowances and salary payments despite the fact that he was a non-executive chairman and as such, not entitled to the payments, in contravention of the State Corporations Act Section 6 (i) (a), which reserves the prerogative of appointing an executive chairman to the president.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 131/2004/2005: EVIDENCE: PARAGRAPH 2 - OTHER BOARD MEMBERS

The Committee heard that the Board then had flouted the income tax law and paid allowances to Board Members net of tax.

The Committee directed the Executive Chairman to furnish the Committee with a copy of all the payments to each of the Board Members during the period they held office which should include the tax that was supposed to be paid by each member and the tax that was paid by the Board on their behalf and the same given to the office of the Kenya National Audit in a period of two weeks.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 132/2004/2005: EVIDENCE: PARAGRAPH 3 - PROCUREMENT OF GOODS AND SERVICES

The Committee heard that the procurement of goods and services in respect of the audit query was done irregularly; however, the management has now rectified the issue and it no longer happens.

The Committee directed the Executive Chairman to provide the following information in two weeks time and give a copy of the same to the Kenya National Audit Office:-

(i) the name of the Board Member who had ownership interest in the brokerage firm that the Board used;

(ii) the minutes of the Board meeting awarding the tender for the provision of the insurance services;

(iii) the letter forwarding the tender to M/s. Thabiti Insurance Brokers; and,

(iv) the name of the Media Advertising firm used and its director/s.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 133/2004/2005: EVIDENCE: PARAGRAPH 4 - BUDGETARY CONTROL

The Committee heard that the Board acted in contravention of Section 11 (1) of the State Corporations Act (Cap 446) and did not forward its budget to Treasury for approval.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 134/2004/2005: ANY OTHER BUSINESS

The Committee wished to know the Board's position on the recent media reports on increase of electricity charges and how the Board was addressing the situation.

The Executive Chairman furnished the Committee with the following information:

(i) There was no tariff increase.

(ii) Kenya uses a number of sources for electric power among them geothermal and hydroelectric power.

(iii) Usage of geothermal is more expensive in terms of production.

(iv) The country is becoming increasingly dependent on thermal power than hydro power which has led to the current positive adjustment in the cost of electricity

(v) Until recently, the Kenya Power and Lighting Company was about to be declared insolvent but the government intervened by putting in Kshs. 17. 1 billion to make it solvent.

MIN. NO. 135/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 2.00 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. A. Waiganjo	-	Principal Auditor

TREASURY (DGIPE)

Mrs. T.N. Gathara	-	Under Secretary
Mrs. P. Makau	-	Principal Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi	-	Senior Inspector
Mrs. M. Ratemo	-	Inspector 1

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mr. S. Toyya		Under Secretary, Legal Department
Mr. P.K. Njagi	-	Finance Department

MIN. NO. 136/2004/2005: EVIDENCE

Report of the Accounts of the Kenya Literature Bureau for the year 1995/96 and Certificate thereon by the Controller and Auditor General.

Mr. Matthew A. Karauri, Chief Executive, Kenya Literature Bureau, accompanied by Messrs: Francis Mutunga, Ag. Accountant I, and Agnes Minjiru, Ag. Internal Auditor; appeared before the Committee and gave evidence on Accounts of 1995/96 of the Bureau.

MIN. NO. 137/2004/2005: EVIDENCE: PARAGRAPH 1 – DEBTORS AND PREPAYMENTS

The Committee heard that the matter had since been reconciled with the office of the Kenya National Audit.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 138/2004/2005: EVIDENCE: PARAGRAPH 2 – STAFF PENSION SCHEME

The Committee heard that the Bureau had taken measures to ensure the security of the funds of the pension scheme.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 139/2004/2005: ANY OTHER BUSINESS

The Committee wished to know the role the Bureau played. The Chief Executive furnished the Committee with the following information:-

(i) The Bureau was set up by an Act of Parliament in 1980; and,

(ii) The Bureau mainly publishes books.

MIN. NO. 140/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 3.58 P.M until Wednesday, September 22, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

11th February 2005

DATE.....

MINUTES OF THE FIFTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, SEPTEMBER 22, 2004 AT 9. 55 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. A. Waiganjo	-	Principal Auditor

TREASURY (DGIPE)

Mr. L.B. Amoko	-	Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MIN. NO. 141/2004/2005: **EVIDENCE**

Report and Accounts of the Kenya Airports Authority for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. George Muhoho, Chief Executive, Kenya Airports Authority, accompanied by Messrs: John Thumbi, General Manager, Finance, Allan Muturi, Manager (Procurement and Logistics) and Eng. M. Mukhwana, General Manager (Engineering Services) appeared before the Committee and gave evidence on Accounts of 1997/98 of the Authority.

MIN. NO. 142/2004/2005: **EVIDENCE:PARAGRAPH 1 – PURCHASE OF FIRE FIGHTING EQUIPMENTS**

The Committee took evidence on the paragraph and directed the Chief Executive to provide a copy of the Board Minutes awarding the supply tender for the supply of the equipment to the overseas firm.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 143/2004/2005: **EVIDENCE:PARAGRAPH 2 – REPAIR OF LEAKING ROOFS**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 144/2004/2005: **EVIDENCE:PARAGRAPH 3 – REHABILITATION OF UNIT 3 AND STATE PAVILLION APRONS AT JKIA-CONTRACT-NO KAA/JKA/363/C**

The Committee observed that the Authority constantly relied on the engineer's estimates to reject the lowest bidder, if the bidder fell below the pre-tender estimates made by the then engineer. The Committee directed the Chief Executive to provide:

(i) the name of the engineer;

(ii) the document showing the first pre-tender cost estimate made by the engineer;

(iii) the document showing the revised pre-tender cost estimates made by the engineer; and,

The Committee concluded taking evidence on the paragraph.

MIN. NO. 145/2004/2005: EVIDENCE:PARAGRAPH 4 - AIRFIELD LIGHTING LAMPS

The Committee took evidence on the paragraph and directed the management of the Authority to meet with officers of the Kenya National Audit to reconcile the issue and a report be given to the Committee in the next two weeks.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 146/2004/2005: EVIDENCE:PARAGRAPH 5 - LOSS OF REVENUE ON CREDIT NOTES

The Committee heard that the issue of improper procedures in raising of credit notes had now been rectified and that the Authority followed the standard procedures in raising credit notes.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 147/2004/2005: EVIDENCE:PARAGRAPH 6 - AIRPORT CONCESSION FEES AND RENT INCOME

The Committee took evidence on the paragraph and directed the Chief Executive to:

(i) provide the names of the four companies which did not submit their audited accounts and the same be given to the office of the Kenya National Audit in two weeks time; and,

(ii) the name of the director/s of Giant Holders, who had taken the Authority to court over the termination of contract and the same be given to the office of the Kenya National Audit in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 148/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on paragraphs 7,8, 9, 10, and 11 of the 1997/98 Accounts to a later date.

MIN. NO. 149/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.53 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua	-	Assistant Director of Audit
Mr. P.G. Gichuki	-	Principal Auditor

TREASURY (DGIPE)

Mrs. T.N. Gathara	-	Under Secretary
Mrs. K. Khasiani	-	Deputy Director, Budget

INSPECTORATE OF STATE CORPORATIONS

Mr. P.Ochieng	-	Senior Economist
Mrs. M. Ratemo	-	Inspector 1

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mr. C.K. Thuku - Senior Assistant Planning Director

MIN. NO. 150/2004/2005: EVIDENCE

Report and the Accounts of Kenyatta University for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Prof. Everett M. Standa, Vice Chancellor, Kenyatta University, accompanied by Messrs: Prof. O. Mugenda, Deputy Vice Chancellor Finance and Planning, Richard Okeyo, Ag. Finance Officer, Joseph I. Gitahi, Deputy Finance Officer, Peter K. Muiruri, Ag. Deputy Registrar, and Jones K. Wambua, Ag. Deputy Finance Officer; appeared before the Committee and gave evidence on Accounts of 1997/98 of the University.

MIN. NO. 151/2004/2005: EVIDENCE:PARAGRAPH 1 - FIXED ASSETS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 152/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 2 - CEDING OF UNIVERSITY LAND TO OTHER PARTIES

The Committee deferred taking evidence on the paragraph and directed:

(i) that the Permanent Secretary, Ministry of Education, Science and Technology, Permanent Secretary, Ministry of Lands and Housing, Permanent Secretary, Office of the President in charge of Provincial Administration, the Director of Physical Planning, and the Commissioner of Lands should appear before the Committee alongside the University at a later date in a bid to resolve the issue of the squatters residing on the University's land; and,

(ii) the Vice Chancellor to provide the original list of the 670 people who had been allocated the land L.R. No. 11026/2 - Nairobi when the University next appears before the Committee.

MIN. NO. 153/2004/2005: EVIDENCE:PARAGRAPH 3 - DEBTORS ANALYSIS

The Committee concluded taking evidence on the paragraph.

MIN. NO. 154/2004/2005: **EVIDENCE:PARAGRAPH 4 – CREDITORS AND ACCRUED EXPENSES**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 155/2004/2005: **DEFERRED EVIDENCE**

The Committee deferred taking evidence on paragraph 2 of the 1997/98 Accounts of the University.

MIN. NO. 156/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 4.18 P.M until Thursday, September 23, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

11th February 2005

DATE.....

MINUTES OF THE SIXTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, SEPTEMBER 23, 2004 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua - Assistant Director of Audit
Mr. C. Otieno - Auditor I

TREASURY (DGIPE)

Mr. F.W. Kingori - Assistant Investments Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa - Deputy Chief Economist

MINISTRY OF TRANSPORT AND COMMUNICATION

Mr. G.G. Irungu - Ag. Chief Finance Officer
Mr. P.K. Thuo - Ag. Director Shipping

MIN. NO. 157/2004/2005: EVIDENCE

Report and Accounts of the Kenya Ferry Services for the years 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Mr. Alex Ole Leteipan, Chief Executive, Kenya Ferry Services, accompanied by Messrs: S.S. Janoowala, Chief Engineer, Deche Kasherwo, Financial controller, J.J. Ria, Strategy and Corporate Affairs Manager and Charity N. Kinuya, Assistant Accountant; appeared before the Committee and gave evidence on Accounts of 1996/97 and 1997/98 of the Ferry Services.

MIN. NO. 158/2004/2005: EVIDENCE:PARAGRAPH 1 – GOING CONCERN

The Committee heard that the deficit was due to the fact that the government failed to honour a memorandum of understanding signed between the Kenya Ferry Services Limited and the government in October 1997, and also due to a revaluation of Kenya Ferry Services Limited assets which led to a higher provision of depreciation.

The Committee further heard that as of today, the Ferry Services owes Kenya Ports Authority Kshs. 438, 000, 000 which the parent Ministry has requested the government to off set.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 159/2004/2005: EVIDENCE:PARAGRAPH 2 – CASH AND BANK BALANCES

The Committee heard that the difference in figures was due to accounting errors, which have since been reconciled.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 160/2004/2005: EVIDENCE:PARAGRAPH 3 – SUNDRY DEBTORS

The Committee was informed that the case against Mr. Said Soud Mohammed has not been pursued for a long time and Kenya Ferry has since written off the debt. The Committee directed the Chief Executive to reactivate the case, record a statement with the police and report progress in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 161/2004/2005: EVIDENCE:PARAGRAPH 4 – SERVICE PAY BENEFITS

The Committee directed the Chief Executive to provide copies of the minutes of the Board approving the deposit Service Pay Benefits of Kshs. 2, 093, 480 at the Kenya Finance Bank, and names of the Board Members then and the Chief Executive to submit these in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 162/2004/2005: EVIDENCE:PARAGRAPH 5 – ADVANCES FROM KENYA PORTS AUTHORITY

The Committee was informed that the then directors of Kenya Ferry then were Eng. Philip O. Okundi, and S.T. Mwakisha, and the General Manager was the late B.O. Ongola.

The Committee directed the Chief Executive to provide in two weeks:

(i) names of the directors of M/s. Siginon Maritime Limited which had 30% shareholdings of M/s. Suli Suli Cruise Kenya Limited; and,

(ii) evidence of the corporation's efforts to resolve the case with the office of the Attorney General.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 163/2004/2005: EVIDENCE:PARAGRAPH 6 – PAYMENT OF PROFESSIONAL FEES

The Committee directed the Chief Executive to provide:

(i) a copy of the contract with M/s. Tysons Limited, if any, entered between Kenya Ferry Services Limited or Kenya Ports Authority in respect of survey and valuation of the Company's assets;

(ii) a copy of Terms of Reference of the contract;

(iii) evidence/invitation to various firms to quote for the tender either by Kenya Ferry Services Limited or by Kenya Ports Authority;

(iv) a copy of the letter advising M/s. Tysons limited that they had been appointed to undertake the valuation, and instructing them to commence work;

(v) names of the directors of M/s. Tysons Limited then; and,

(vi) other correspondences with the U.K. based professional.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 164/2004/2005: EVIDENCE:PARAGRAPH 7 – BUDGETARY CONTROL

The Committee heard that the approval of the parent Ministry and that of the Treasury was not sought.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 165/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the 1997/98 Accounts to a later date.

MIN. NO. 166/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.40 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr. G. O. Otieno	-	Principal Auditor

TREASURY (DGIPE)

Mr. O. Ontwekwa	-	Deputy Chief Finance Officer

INSPECTORATE OF STATE CORPORATIONS

Mr. P.Ochieng	-	Senior Economist I

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Mr. C.O. Olando	-	Principal Accountant
Mr. J. M. Mwangi	-	Deputy Chief Finance Officer
Mr. N. J. Ondijo	-	Senior Accountant

MIN. NO. 167/2004/2005: EVIDENCE

Report of the Accounts of Kenya Forestry Research Institute for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. Paul K.A. Konuche, Chief Executive, Kenya Forestry Research Institute, accompanied by Mr. Patrick N. Omesa, Deputy Director forestry, appeared before the Committee and gave evidence on Accounts of 1997/98 of the Institute.

MIN. NO. 168/2004/2005: EVIDENCE:PARAGRAPH 1 – FINANCIAL POSITION

The Committee took evidence on the paragraph and directed the management of the Institute to reconcile their positions with the officers of the Kenya National Audit Office and to give a report to the Committee in two weeks time.

The Committee concluded taking evidence on the paragraph

MIN. NO. 169/2004/2005: **EVIDENCE: PARAGRAPH 2 – FIXED ASSETS**

The Committee took evidence on the paragraph and directed the Chief Executive to provide a schedule of all the parcels of land that the Institute owns by Monday, September 27, 2004.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 170/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 4.05 P.M until Thursday, September 23, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th February 2005

DATE.....

MINUTES OF THE SEVENTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, SEPTEMBER 24, 2004 AT 10.35 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. B. Okondo	-	Senior Auditor

TREASURY (DGIPE)

Mr. F.W. Kingori	-	Assistant Investments Secretary

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

Mr. G.G. Irungu	-	Ag. Chief Finance Officer
Mr. P.K. Thuo	-	Ag. Director Shipping

MIN. NO. 171/2004/2005: EVIDENCE

Report and Accounts of the National Social Security Fund for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Naftali Mogere, the Managing Trustee, National Social Security Fund, accompanied by Messrs: Rachel K. Lumbasyo, Deputy Managing Trustee (Finance and Investments), Anderson S. Ndwiga, Estates Manager, F.Z. Muturi, Investments Manager, J. Akoya, Finance Manager, P.M. Weru, Chief Accountant (Income), W. Mutonyi, Information Technology Manager, P. Keitany, Senior Accountant, Said Chitembwe, Company Secretary, Mwashumbe, Chief Legal Officer, and Maina, Information Technology Officer appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Fund.

MIN. NO. 172/2004/2005: EVIDENCE:PARAGRAPH 1 – FINANCIAL PERFORMANCE

The Committee heard that the Fund has taken measures to improve its financial position among them, investing Kshs 1 billion in the Nairobi Stock Exchange.

The Committee directed the Chief Executive to provide:

(i) a copy of the Fund's Strategic Plan;

(ii) a copy of the fictitious bills;

(iii) names of the Director/s of M/s. Regent Management;

(iv) a list of the Fund's stock brokers and the procedure used for selection; and,

(v) A summary of the Fund's properties especially land, which should include the current value of the land and the original cost of the land.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 173/2004/2005: EVIDENCE: PARAGRAPH 2 - YEAR 2000 COMPUTER CONVERSION CONTRACT

The Committee concluded taking evidence on the paragraph.

MIN. NO. 174/2004/2005: EVIDENCE: PARAGRAPH 3 - PAYMENT OF LEGAL FEES

The Committee took evidence and directed the Chief Executive to provide:

(i) information on the progress/status of cases that were referred to the Criminal Investigations Department and the then Kenya Anti Corruption Authority.

(ii) Evidence that action is being taken with regard to the Ninth report recommendations.

MIN. NO. 175/2004/2005: EVIDENCE: PARAGRAPH 4 - MOKTAR DADDAH STREET PROJECT

The Committee was informed that the project is now practically complete with only lifts currently being installed and is expected to be completed by October 2004.

The Committee was further informed that the consultant who is still working for the Fund recommended the contractor.

The Chief Executive was directed to provide the following information in two weeks time:

(i) Information detailing how the consultant and the Contractors were sought;

(ii) List of the consultants who bidded for the project; and,

(iii) Names of the Consultancy firm and the contractors who were awarded the tender and name(s) of the Director of the firms.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 176/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.55 P.M until Tuesday, September 28, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th February 2005

DATE.....

MINUTES OF THE EIGHTEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, SEPTEMBER 28, 2004 AT 11.05 AM.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J.K.M. Karua	-	Deputy Director of Audit
Mr. R.N. Bichanga	-	Principal Auditor

TREASURY (DGIPE)

Mrs. T.N. Gathara	-	Under Secretary

MINISTRY OF AGRICULTURE

Mr. J.P. Nduati	-	Deputy Director of Agriculture

MIN. NO. 177/2004/2005: EVIDENCE

Report of the Accounts of the Nyayo Tea Zones Development Corporation for the year 1995/96 and Certificate thereon by the Controller and Auditor General.

Dr. Anne Kinyua, Chief Executive, Nyayo Tea Zones Development Corporation, accompanied by Messrs: Julius P. Nduati, Deputy Director of Agriculture, David Malila, Finance Controller, Kibiwott Rutto, Senior Financial Accountant, Simon N. Njeru, Agronomy Officer and David Obwaya, Internal Auditor, appeared before the Committee and gave evidence on Accounts of 1995/96 of the Corporation.

MIN. NO. 178/2004/2005: EVIDENCE: PARAGRAPH 1 – FINANCIAL POSITION

The Committee directed the Chief Executive to seek post facto approval from the Parent Ministry for the over Expenditure.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 179/2004/2005: EVIDENCE: PARAGRAPH 2 – APPROPRIATION OF LOAN PROCEEDS – KSHS. 223, 356, 690

The Committee took evidence and directed the Chief Executive to:

(i) make a follow up on the report to the police on the issues raised by the Committee in MIN. NO. 53/2004;

(ii) provide information on the commencement of the process of advertising the tender;

(iii) give evidence that the Board approved the need to hire technical assistance in the form of consultancy.

(iv) give information on the technical evaluation of the bids;

(v) provide information on the final tendering process; and,

(vi) give information on the correspondences between the government and ADB regarding the need for hiring a consultant.

The Committee directed the Chief Executive to provide the above information in writing in the two weeks time and a copy of the same given to the Kenya National Audit Office.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 180/2004/2005: EVIDENCE: PARAGRAPH 3 – PURCHASE OF FURNITURE AND FITTINGS – MD'S HOUSE

The Committee noted that there was a discrepancy between the amount used to purchase the furniture for the Managing Director's house and the actual verification of the cost of the furniture purchased. The Committee directed the Chief Executive to provide the following information in two weeks time:

(i) a copy of the letter from the Provincial Works Officer dated April 11, 1997 to the Chief Supplies Officer, Nyayo Tea Zones Corporation addressing the issue of purchase of furniture;

(ii) a copy of the payment voucher used to pay for the furniture; and

(iii) copies of the original receipts from Victoria Furniture.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 181/2004/2005: EVIDENCE: PARAGRAPH 4 – SUPPLY OF DIAL WEIGHING SCALES

The Committee took evidence on the paragraph and directed the Chief Executive to give the Committee a copy of the advertisement inviting people to tender for supply of the dial weighing scales in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 182/2004/2005: EVIDENCE: PARAGRAPH 5 – MANAGEMENT CONTRACT

The Committee concluded taking evidence on the paragraph.

MIN. NO. 183/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 6 – SALE OF LAND AND TEA BUSHES

The Committee deferred taking evidence on the paragraph and directed :

(i) that the Permanent Secretary, Ministry of Agriculture, Permanent Secretary, Office of the President (Provincial Administration), Permanent Secretary, Ministry of Lands and Housing, the Commissioner of Lands, Mr. T.K. Kipyab, Mr.

J.K. Sigei, the then Managing Director, and Mr. J.S. Sigoria, the then Chief Agriculturalist, should appear alongside the Corporation on its next appearance;

(ii) the Chief Executive should provide a copy of the land valuation done by the Ministry of Lands; and,

(iii) that the Commissioner of Co-operatives appear alongside the Corporation to provide details of Kericho Multi Purpose Co-operative Society among them the nature and membership of the Society.

MIN. NO. 184/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on paragraphs 7, 8, 9, and 10 of the 1995/96 Accounts and 1996/97 to a later date.

MIN. NO. 185/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.47 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr. G. O. Nashon	-	Principal Auditor

TREASURY (DGIPE)

Mr. J.C. Mwangi	-	Director, Investments

INSPECTORATE OF STATE CORPORATIONS

Ms. T.K. Gichana	-	Inspector I
Mr. P. Wandaka	-	Inspector II

MINISTRY OF ENERGY

Mr. K. Guantai	-	Deputy Chief Economist

MIN. NO. 186/2004/2005: EVIDENCE

Mr. George Okungu, Ag. Chief Executive, Kenya Pipeline Corporation, accompanied by Messrs: Mary C. Kiptui, Company Secretary, Caleb Manyaga, Ag. Finance Manager, Elias M Karumi, Chief Projects Engineer, Evans Nyang'aya, Chief Civil Engineer, and Jabes O. Manyala, Engineering Manager; appeared before the Committee and gave evidence.

MIN. NO. 187/2004/2005: EVIDENCE: FAILURE TO TABLE ACCOUNTS FOR THE YEARS 1997 - 2002

The Committee observed that though the Corporation was exempted from the State Corporations Act Cap 446 during the period running from 1997 - 2002, it was not exempt from the Exchequer and Audit Act (Cap 412) which required it to submit its accounts to the then Office of the Controller and Auditor General.

The Committee resolved that in order to get a true picture of the state of affairs of the Corporation during the period it had been exempted, there is need for the Kenya National Audit Office to carry out a special audit on the Corporation's accounts for the years 1997/98, 1998/99, 1999/2000, 2000/01, and 2001/02 and report to the Committee in three months time. The Committee noted that some issues that will be raised in the 2002/03 accounts would have originated from the past years.

The Committee directed the Chief Executive to furnish the Committee with the name of the Chief Executive at the time the Corporation was granted exemption and reasons for seeking such exemption, if any.

The Committee concluded taking evidence on the issue.

MIN. NO. 188/2004/2005: DEFERRED EVIDENCE: LOANS FINANCING ARRANGEMENTS WITH M/S. TRIPLE A CAPITAL LTD AND REFINANCING BY STANDARD CHARTERED BANK

The Committee was informed that:

(i) there was no liability from M/s. Triple A Capital Ltd (TACL) to warrant re-financing by Standard Chartered Bank;

(ii) the Board did not approve the borrowing of Kshs. 2, 000, 000, 000 from M/s. Triple A Ltd; and,

(iii) the borrowings contravened the consent given by Ministry of Finance and Ministry of Energy and breached the provisions of State Corporations Act, Cap 446 and Exchequer and Audit Act, Cap 446.

The Committee observed that the evidence being presented was inadequate due to the fact that not all the parties concerned were present. The Committee directed:-

(i) that, the Permanent Secretary, Ministry of Energy; the then Alternate Director, Mr. Paul G. Ngatia, Mr. Festus King'ori, Alternate Director – Ministry of Finance and Mr. Orata, Finance Manager, Kenya Pipeline Corporation should appear alongside the Corporation on Thursday, October 07, 2004 at 9.30 A.M. Mr. King'ori and Mr. Ngatia will be required to ascertain the authenticity of the Board Minutes allegedly approving the Contract. The Permanent Secretary and Mr. Ngatia will be required to explain why no action was taken to ensure that areas of concern raised in a draft agreement was addressed before the Board gave a go-ahead;

(ii) that, the Chief Executive should provide all documents including all minutes that are relevant to this issue on its next appearance;

(iii) that, the Chief Executive should provide a report on the pursuit and/or progress (if any) on the case against the former Managing Directors Mr. Rao and Mr. Komen as

recommended by the Committee in the 10th Report on page 78.

The Committee deferred taking evidence on the issue.

MIN. NO. 189/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the Tender for Repairs of 9 KM Ngema Access Road and the repair of roads in Bondo District to Thursday, October 07, 2004 at 9.30 A.M.

MIN. NO. 190/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.10 P.M until Wednesday, September 29, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th February 2005

DATE.....

MINUTES OF THE NINETEENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, SEPTEMBER 29, 2004 AT 10.25 AM.

MORNING SITTING

PRESENT

The Hon. Ali Bahari, MP - **(Ag. Chairman)**
The Hon. J.B.N. Muturi, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. B. Okondo	-	Senior Auditor

TREASURY (DGIPE)

Mr. J.G. Kiarie	-	Accountant

OTHER WITNESSES

Dr. J.N.K. Arap Ng'ok	-	Former Chief Executive, Investments Promotion Centre

MIN. NO. 191/2004/2005: EVIDENCE

Report of the Accounts of the Investments Promotion Centre for the year 1997/98 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Mr. Julius Kipngetich, Chief Executive, Investments Promotion Centre, accompanied by Messrs: Fredrick Owiti, Senior Manager, Research and Policy, and Susan Kikwai, Senior Manager, Investments Promotion Department, appeared before the Committee to give evidence on Accounts of 1997/98 and 1998/99 of the Centre.

MIN. NO. 192/2004/2005: DESIGNATION OF THE CHAIR

In view of the fact that the Chairman had in the past had a non-cordial contact with Dr. Ng'ok who had been summoned to give evidence, the Chairman designated Hon. Ali Bahari, MP to chair the Committee Sitting.

MIN. NO. 193/2004/2005: IMPUTING IMPROPER MOTIVES TO COMMITTEE

The Committee noted with grave concern that Dr. Joseph Arap Ng'ok, former Chief Executive Investments Promotion Centre, had imputed improper motives on the part of the Committee by implying that he had been summoned to appear before the Committee because he had taken the Investments Promotion Centre to court.

The Committee directed Dr. Ng'ok to apologise and withdraw his statement to which he declined. The Committee brought to Dr. Ng'ok's attention, the provision of Section 23 of the National Assembly's Powers and Privileges Act. Dr. Ng'ok still declined to apologise and withdraw his statement.

IN the circumstances, the Committee ordered Dr. Ng'ok to withdraw from the Committee and resolved to take up the matter with Mr. Speaker.

MIN. NO. 194/2004/2005: EVIDENCE: PARAGRAPH 2 – IRREGULAR DISPOSAL OF MOTOR VEHICLE

The Committee directed the Chief Executive to provide information on the insurance company and premium cover for the vehicle at the time of sale.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 195/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 3 – MISUSE OF SALARY ADVANCE FACILITY

The Committee concluded taking evidence on the matter.

MIN. NO. 196/2004/2005: EVIDENCE: PARAGRAPH 4 – APPOINTMENT OF NEW EMPLOYEES

The Committee took evidence on the paragraph and directed that the Coffee Board of Kenya should appear before the Committee at a later date to explain why it had not taken any action against Mr. D. Sonoiya, who had drawn salaries, from the Investments Promotion Centre and from the Coffee Board.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 197/2004/2005: EVIDENCE: PARAGRAPH 5 - DEBTORS

The Committee heard that the Centre had taken action to ensure that it did not lose money from bad debts by reviewing staff rules and regulations.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 198/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the Accounts of 1998/1999 Accounts to a later date.

MIN. NO. 199/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.30 P.M until 2.30 P.M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Peter G. Munya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. E.O. Onyang'o	-	Assistant Director of Audit
Mr. C.O. Kiage	-	Principal Auditor

TREASURY (DGIPE)

Mr. F.W. Kingori - Assistant Investments Secretary
Mr. B.O. Omollo - Under Secretary

INSPECTORATE OF STATE CORPORATIONS

Ms. J. M. Weru	-	Inspector II

MINISTRY OF HEALTH

Mr. J. Gakuo	-	SDS IA

MIN. NO. 200/2004/2005: EVIDENCE

NATIONAL HOSPITAL INSURANCE FUND.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Accountant, David Mulli, Accountant, Lawrence N. Ondari, Accountant, and William Mosonik, Manager, Information Technology; appeared before the Committee and gave evidence.

MIN. NO. 201/2004/2005: EVIDENCE: FAILURE TO TABLE ACCOUNTS

The Committee heard that the Kenya National Audit Office had been lacking sufficient resources and staff, which have led to a backlog of unaudited accounts. The Committee further heard that the situation was changing as Parliament had passed an Act giving the Office more resources.

The Committee concluded taking evidence on the issue.

MIN. NO. 202/2004/2005: DEFERRED EVIDENCE: MEDICARE CENTRE PLOT LR. NO. 209/11248

The Committee deferred taking evidence on the matter and directed that the following persons should appear before the Committee at a later date: the then Chief Architect, Ministry of Public Works and Housing, the then Chief Quantity Surveyor, Ministry of Public Works and Housing, the then Chief Electrical and Mechanical Engineer (Building Services), Ministry of Public Works and Housing, the then Chief Structural Engineer, Ministry of Public Works and Housing, the then Principal Architect, M/s. Womi Associates, the then Quantity Surveyor, M/s. Ujenzi Consultants, the then Structural and Civil Engineer, M/s. S.R. Manga and Associates, and the then Electrical and Mechanical Engineer, M/s. Chepkwony, Kaigutha and Partners

MIN. NO. 203/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the **proposed partitioning and furnishing to Medicare Centre**, **Multi-Storey Car Park on plots L.R. No. 209/11140 and L.R. No. 209/12987 Nairobi**; and **Smart Card Project** to a later date.

MIN. NO. 204/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 5.10 P.M until Thursday, September 30, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th February 2005

DATE.....

MINUTES OF THE TWENTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, SEPTEMBER 30, 2004 AT 10.05 AM.

MORNING SITTING

PRESENT

The Hon. Ali Bahari, MP - **(Ag. Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. J.B.N. Muturi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

MIN. NO. 205/2004/2005: CONFIRMATION OF MINUTES

The Minutes of the Sixth, Seventh, Eighth and Ninth Sittings of the Committee were confirmed by the Members present and signed by the Acting Chairman as follows:

(v) The Sixth Sitting held on Tuesday, September 07, 2004 were proposed by Hon. Jimmy Angwenyi, MP and seconded by Hon. Gachara Muchiri MP.

(vi) The Seventh Sitting held on Wednesday, September 08, 2004 were proposed by Hon. Jimmy Angwenyi, MP and seconded by Hon. Gachara Muchiri, MP.

(vii) The Eighth Sitting held on Thursday, September 09, 2004 were proposed by Hon. Gachara Muchiri, MP and seconded by Hon. Jimmy Angwenyi, MP.

(viii) The Ninth Sitting held on Friday, September 10, 2004 were proposed by Hon. Peter Munya, MP and seconded by Hon. Ali Hassan, MP.

MIN. NO. 206/2004/2005: MATTERS ARISING

The following matters arose and the Committee resolved on them as follows:

(i) **Min. No.46/2004 (ii) (iii) (iv) and (v)) of September 07, 2004**

The Committee directed the Secretariat to write a reminder to the Chief Executive, Catering Training and Tourism Development Levy Trustees, to provide the information earlier requested during the Sixth Sitting.

(ii) **Min. No. 60/2004 of September 08, 2004**

The Committee was informed that the Chief Executive, Pharmacy and Poisons Board had not provided the reconciliation report on Accumulated Funds, (Kshs. 10, 667, 752) as earlier directed during the Seventh Sitting of the Committee.

The Secretariat was directed to write a reminder, as the report would determine whether or not the then Registrar, Mr. Dominic Karanja, would be required to appear before the Committee.

(iii) **Min. No. 68/2004 of September 09, 2004**

The Committee was informed that the Chief Executive, National Cereals and Produce Board; had provided a copy of the Consultant's report as requested during the Eighth Sitting.

(iv) **Min. No. 82/2004 of September 10, 2004**

The Committee directed the Secretariat to liaise with the Kenya National Audit Office with a view to obtaining advice on the interpretation in respect of the conflict between the Export Processing Zone Act (Cap 517) and the State Corporations Act (Cap 446).

The Committee further directed the Secretariat to write to the Chief Executive, Export Processing Zone Authority, reminding him to provide copies of P39 form, showing that tax was being deducted from the allowances.

MIN. NO. 207/2004 ANY OTHER BUSINESS

Arising from the deliberations of the Committee during the 19th Sitting when the management of Kenya Pipeline Company Ltd. appeared before the Committee in relation to loans financing arrangements with M/s. Triple A Capital A limited and refinancing by Standard Chartered Bank, Members expressed need to revisit the issue to determine whether the Company should appear again before the Committee as scheduled.

It was resolved that this issue would be discussed in the presence of the substantive Chairman, Officers from the Kenya National Audit Office, and other Members of the Committee who were present during the deliberations of the Morning Session of the 19th Sitting.

MIN. NO. 208/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11.17 A.M until Thursday, October 07, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th February 2005

DATE.....

MINUTES OF THE TWENTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, OCTOBER 07, 2004 AT 10.45 AM.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **Chairman**
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S.Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. G. O. Nashon	-	Principal Auditor

TREASURY (DGIPE)

Mr. J.C. Mwangi	-	Director, Investments Secretary
Mr. F.W. King'ori	-	Alternate Director, KPC

INSPECTORATE OF STATE CORPORATIONS

Ms. T.K. Gichana	-	Inspector I
Mr. P. Wandaka	-	Inspector II

MINISTRY OF ENERGY

Mr. P. Ngatia - Deputy Secretary

MIN. NO. 209/2004/2005: EVIDENCE

Report of the Kenya Pipeline Company.

Mr. George Okungu, Ag. Chief Executive, Kenya Pipeline Company, accompanied by Messrs: Mary C. Kiptui, Company Secretary, Caleb Manyaga, Ag. Finance Manager, Elias M Karumi, Chief Projects Engineer, Evans Nyang'aya, Chief Civil Engineer, Jabes O. Manyala, Engineering Manager, and Orata, the then Finance Manager; appeared before the Committee and gave evidence.

MIN. NO. 210/2004/2005: DEFERREMENT OF TAKING OF EVIDENCE

The Committee observed that the Company had provided a lot of information in response to the Committee's directives and the Committee resolved that no further evidence would be taken on the matter until the following requests/resolutions by the Committee had been effected:

(i) the Kenya National Audit Office carries out a special audit relating to the loans financing arrangements with M/s. Triple A Capital Limited and Refinancing by Standard Chartered Bank and report back to the Committee in one month's time.

(ii) the Kenya National Audit Office carries out another special audit relating to floatation of tender regarding the construction of the 9 KM Ngema Access Road and repairs of roads in Bondo District and report back to the Committee in one month's time.

(iii) the Ministry of Energy tables the reports in the House as soon as it is issued.

MIN. NO. 211/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the **loans financing arrangements with M/s. Triple A Capital Ltd and refinancing by Standard Chartered Bank, tender for repairs of 9 KM Ngema Access Road and the repair of roads in Bondo District** to a later date.

MIN. NO. 212/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11.46 A.M until Friday, October 08, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th February 2005

DATE.....

MINUTES OF THE TWENTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, OCTOBER 08, 2004 AT 10.25 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit

TREASURY (DGIPE)

Mr. P. N. Mbugua	-	Deputy Director, Directorate of Public Procurement

MINISTRY OF AGRICULTURE

Mr. W.G. Kerario	-	Deputy Secretary
Mr. J. Oduor	-	Senior Agricultural Officer

INSPECTORATE OF STATE CORPORATIONS

Mrs. A. Mwalonzi	-	Senior Accountant
Mr. P. Ochieng	-	Senior Economist I

MIN. NO. 213/2004/2005: EVIDENCE

NATIONAL CEREALS AND PRODUCE BOARD

Mr. Tirop Kosgey, Chief Executive, National Cereals and Produce Board, accompanied by Messrs: Clement S. Khaemba, Chief Accountant, S.K. Muhihu, General Manager, Marketing and Operations, Robert K. Langat, Technical Manager, B.O. Umba, Operation Manager, and Anne G. Kamau, Board Secretary; appeared before the Committee and gave evidence.

MIN. NO. 214/2004/2005: EVIDENCE: TENDER FOR THE IMPORTATION OF WHITE MAIZE

The Committee heard that the tendering for the importation of maize was on a restricted tendering and that the supply was distributed to various tenderers so as to distribute risk.

The Committee observed that there were various prices offered by bidders for the tender but that the Board did not take the lowest price offered but instead took the price offered by the five lowest tenderers.

The Committee concluded taking evidence on the issue.

MIN. NO. 215/2004/2005: EVIDENCE: STATUS OF THE STRATEGIC GRAIN RESERVE SINCE THE COMMENCEMENT OF THE IMPORTATION

The Committee heard that the Strategic Grain Reserve amounted to 581, 391 × 90 Kg bags of maize.

The Committee directed that the Chief Executive to report in writing on the progress made on the importation of maize by October 30, 2004 and the same given to the Kenya National Audit Office.

The Committee concluded taking evidence on the issue.

MIN. NO. 216/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on **accounts of the Board for the year 1999/2000** and **progress on the cases deliberated upon by the Committee during the last appearance**.

MIN. NO. 217/2004/2005: ANY OTHER BUSINESS

The Committee considered and approved the Sitting Programme presented by the Secretariat. The Committee resolved that it would be sitting only on Fridays but if need arises, it would also sit on some Mondays.

MIN. NO. 218/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11.35 A.M until Friday, October 08, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

DATE.....

MINUTES OF THE TWENTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, OCTOBER 22, 2004 AT 10.15 AM.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. S. Muriuki	-	Deputy Director of Audit
Mr. R. Bichanga	-	Principal Auditor

TREASURY (DGIPE)

Mrs. K. Khasiani	-	Deputy Director of Audit

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mrs. A. Gichu	-	Chief Finance Officer

MIN. NO. 219/2004/2005: EVIDENCE

Report of the Accounts of the Teachers Service Commission for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Gabriel K. Lengoiboni, Chief Executive, Teachers Service Commission, accompanied by Messrs: Shem Motuka, Senior Deputy Secretary, Patrick G. Muriuki, Deputy Secretary (Accounts), Norbert K. Kangichu, Senior Deputy Secretary (Finance), Simon M. Kavisi, Senior Deputy Secretary (Administration), C.M. Kariuki, Deputy Secretary (Human Resource), H.R. K. Mwangi, Deputy Secretary (Salaries) and C. Ayabei, Assistant Deputy Secretary; appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Commission.

MIN. NO. 220/2004/2005: EVIDENCE: PARAGRAPH 1 – DEBTORS POSITION

The Committee abhorred the manner in which the Commission was handling the matter on the loss of cash and directed that:-

(i) the Chief Executive writes to the Attorney General asking him to file suit for recovery of the sums of money still held in debt by Mr. Peter Maingi and Mr. Sylvester Maranga, the directors of M/s. Kenya Trust Investments Company, and a copy of the same be given to the Kenya National Audit Office and the Committee in two weeks time;

(ii) the Chief Executive to follow up the case of loss of Ksh. 2, 232, 363. 90, which was teachers' salaries with the Director of the Criminal Investigations Department and report progress to the Committee in writing in two weeks time;

(iii) the Chief Executive to write to the Attorney General seeking his assistance in recovering the balance of Ksh. 787, 210. 15 which arose from theft of teachers' salary in December 1997 and report back to the Committee;

(iv) the Chief Executive to provide evidence that the Commission was pursuing Mr. J.W. Karema and Mr. Riungu in a bid to recover the loss of salary arising from theft of teacher' salaries in December 1998; and,

(v) the Ministry of Education to pay the balance of Ksh. 7, 310. 15 outstanding from the loss of Kshs. 204, 918. 35 being cash lost from the District Education Officer's, Machakos Office in 1996.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 221/2004/2005: EVIDENCE: PARAGRAPH 2 – OVERPAYMENT OF SALARIES AND ALLOWANCES

The Committee took evidence and directed the Chief Executive to:

(i) provide, in writing, a total of all the outstanding amounts owed to the Commission as a result of overpayment of salaries and allowances to the Kenya National Audit Office and copy the same to the Committee in two weeks time;

(ii) liase with the Kenya National Audit Office to reconcile the figures of overpayments and confirm the correctness of the figure of Kshs. 3, 613, 878. 30 being amount overpaid to the nine teachers and to give a report to the Committee in two weeks time; and,

(iii) provide detailed information, tabulating how much has been recovered from the teachers and how much is outstanding.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 222/2004/2005: EVIDENCE: PARAGRAPH 3 – CASH ON HAND AND BANK

The Committee heard that the matter had been resolved thereby concluded taking evidence on the paragraph.

MIN. NO. 223/2004/2005: EVIDENCE: PARAGRAPH 4 – PROMOTION ON MERIT

The Committee heard that the Ministry of Education, Science and Technology had acted irregularly by usurping the role of the Commission. However, the Ministry has now re-examined its mandate and left the promotion of teachers at all levels to the Commission.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 224/2004/2005: ANY OTHER BUSINESS

The Committee resolved to scrutinize the following reports:

- The Nyanja Report on KENGEN
- The Report on National Oil Corporation of Kenya (NOCK) and

Kenya Pipeline Company (KPC)

- The report of the Inspectorate of State Corporations on the financial and managerial improprieties at the National Cereals and Produce Board
- The Report of the Inspector General (Corporations) on the Kisumu Molasses Plant

The Committee therefore directed the Secretariat to write to the Inspector of State Corporations asking him to provide it with the report on the Kisumu Molasses Plant. It was also agreed that during their appearance on November 05, 2004, the management of Kenya Airports Authority be asked to also provide the Committee with all documents/information concerning the tender for supply of furniture to the passenger terminal.

The Committee resolved to revisit the Sitting Programme during its next sitting which will be on Monday, October 25, 2004 at 2.30 PM.

MIN. NO. 225/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.31 P.M until Monday, October 25, 2004 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st march 2005

DATE.....

MINUTES OF THE TWENTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, OCTOBER 25, 2004 AT 3.17 PM.

PRESENT

The Hon. Ali Bahari, MP - **(Ag. Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P. Njuguna	-	Deputy Director of Audit
Mr. J. J. Otieno	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi	-	Senior Inspector

MINISTRY OF TOURISM AND WILDLIFE

Mr. J.M.W. Gikuri	-	Under Secretary
Mrs. A.G. Koskey	-	Deputy Chief Finance Officer
Mr. G.S. Sode	-	Principal Accountant

MIN. NO. 226/2004/2005: EVIDENCE

Report and Accounts of the Kenya Wildlife Service for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Evans Mukolwe, Chief Executive, Kenya Wildlife Service, accompanied by Messrs: Paul Gathitu, Assistant Director (Community Wildlife Service); Tom Sipul, Lands Manager; Martin Ngangi, Financial Controller; Arthur O. Osore, Human Resources Manager; Nelson Agina, Chief Accountant; Muthoni Thiongo, Donor Liaison Officer and Mueni Mutung'a, Head of Legal Services; appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Service.

MIN. NO. 227/2004/2005: DEFERRED EVIDENCE

The Committee abhorred the casual manner in which the management of Kenya Wildlife Service had treated its appearance before the Committee by providing an unsigned response which and which failed to address the reservations raised by the Controller and Auditor General. The Committee therefore deferred taking evidence on the accounts and directed the management to appear before it on Monday, November 01, 2004 at 3.00 PM when they will be required to submit revised and signed responses.

MIN. NO. 228/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 3.42 P.M until Friday, October 29, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

DATE.....

MINUTES OF THE TWENTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, OCTOBER 29, 2004 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H. Waciira	-	Assistant Director of Audit
Mr. Z.M. Onsando	-	Principal Auditor

TREASURY (DGIPE)

Mr. K. O. Ondieki	-	Deputy Director

MINISTRY OF LABOUR AND HUMAN RESOURCE DEVELOPMENT

Ambassador N. Kirui	-	Permanent Secretary

MIN. NO. 229/2004/2005: EVIDENCE

Report and Accounts of the National Social Security Fund for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Naftali Mogére, the Managing Trustee, National Social Security Fund, accompanied by Messrs: Rachel K. Lumbasyo, Deputy Managing Trustee (Finance and Investments); Anderson S. Ndwiga, Estates Manager; P.M. Weru, Chief Accountant (Income); P. Keitany, Senior Accountant; Said Chitembwe, Corporation Secretary and K. Maina, Information Technology Officer; appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Fund.

MIN. NO. 230/2004/2005: EVIDENCE: PARAGRAPH 5 - NYAYO ESTATE, EMBAKASI

The Committee heard that the Fund had taken various measures among them reporting the issue to the then Kenya Anti Corruption Authority to recover the money lost to M/s. Mugoya Construction and Engineering Ltd.

The Committee directed:

(i) the Chief Executive to provide, in two weeks time, evidence in writing on the progress concerning his intended meeting with the Director of the Kenya Anti-Corruption Commission;

(ii) the Chief Executive to provide an update of the Fund's intended Civil Suit against M/s. Mugoya Construction & Engineering Ltd and other concerned parties, in two weeks time; and,

(iii) that, the Registration of Valuers Board should appear before the Committee to explain what action it had taken against M/s. Milligan and Lloyd Masika, the Valuers who overstated the value of land at Embakasi;

The Committee concluded taking evidence on the paragraph.

MIN. NO. 231/2004/2005: EVIDENCE: PARAGRAPH 6 - OUTER RING ROAD PLOT

The Committee took evidence and directed:-

(i) the Chief Executive to report the concerned valuers who over

-valued the land in question to the Valuers Registration Board and communication that this has been done be reported to the Committee and the Kenya National Audit Office;

(ii) the Chief Executive to report to the Director of the Kenya Anti-Corruption Commission the issue of plot L.R. 209/11314 and obtain the names of the owners of M/s. Multipurpose Co-operative Development Centre and report back to the Committee and the Kenya National Audit Office in two weeks time; and,

(iii) that, the Registration of Valuers Board should appear alongside the Fund during its next appearance to explain what action it was taking against the concerned Valuers.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 232/2004/2005: EVIDENCE: PARAGRAPH 7 – INVESTMENT IN PROPERTIES

The Committee observed that the prices of the land at the time was grossly overstated and directed the Chief Executive to report M/s. Lloyd Masika and M/s. Milligan to the Kenya Anti Corruption Commission and the Registration of Valuers Board concerning the overvaluing of plots of land at Hazina, Kitsuru and Kangemi.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 233/2004/2005: EVIDENCE: PARAGRAPH 8 – LOANS AND DEPOSITS IN NATIONAL BANK OF KENYA LTD

The Committee concluded taking evidence on the paragraph.

MIN. NO. 234/2004/2005: EVIDENCE: PARAGRAPH 9 – MEMBERS CONTRIBUTION

The Committee heard that the members' contributions are secured and that the Fund has since instituted measures to ensure that the funds were not misappropriated. Among these measures is the decentralization of paying members, which previously could only be done at the Fund's headquarters in Nairobi.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 235/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.32 P.M until Monday, November 01, 2004 at 3.00 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

Date: .....

MINUTES OF THE TWENTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, NOVEMBER 01, 2004 AT 3.41 PM.

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. P. Njuguna	-	Deputy Director of Audit
Mr. J. J. Otieno	-	Principal Auditor

TREASURY (DGIPE)

Mr. K. O. Ondieki	-	Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. T. Muriithi	-	Senior Inspector

MINISTRY OF TOURISM AND WILDLIFE

Amb. J.Mukuriah	-	Under Secretary
Mrs. A.G. Koskey	-	Deputy Chief Finance Officer
Mr. G.S. Sode	-	Principal Accountant

MIN. NO. 236/2004/2005: EVIDENCE

Report and Accounts of the Kenya Wildlife Service for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. Evans Mukolwe, Chief Executive, Kenya Wildlife Service, accompanied by Messrs: Paul Gathitu, Assistant Director (Community Wildlife Service); Tom Sipul, Lands Manager; Martin Ng'ang'a, Financial Controller; Arthur O. Osore, Human Resources Manager; Nelson Agina, Chief Accountant; Muthoni Thiongo, Donor Liaison Officer and Mueni Mutung'a, Head of Legal Services; appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Service.

MIN. NO. 237/2004/2005: EVIDENCE: PARAGRAPH 1 – FIXED ASSETS

The Committee heard that the management of Kenya Wildlife Service was in the process of acquiring title deeds for its parcels of land. The Committee further heard that the management was pursuing the recovery of the 60 acres that it had lost to KANU Youth group in Naivasha and the matter was in court.

The Committee directed:-

(i) the Chief Executive to furnish the Committee with details on M/s. Maasai Impex Company including the names of the owners and directors; the names of the officials in the Ministry of Agriculture who were allocated 168 acres of land and the name of the individual who was allocated 125 acres under T.O.L in two weeks time;

(ii) the Chief Executive to provide information on the name(s) of individual(s) and in the case of companies, the names of owners and directors, who are irregularly possessing parcels of land belonging to the Kenya Wildlife Service;

(iii) the management of the Kenya Wildlife Service to write to the Commissioner of Lands to obtain the latest information on the status and the current ownership of the parcels of land belonging to Kenya Wildlife Services and a report of the same be given to the Committee and the Kenya National Audit Office; and,

(iv) that the Commissioner of Lands should appear before the Committee at a later date to explain what action was being taken against the individuals and companies that had encroached on Kenya Wildlife Service land.

The Committee deferred taking evidence on this paragraph to a later date.

MIN. NO. 238/2004/2005: EVIDENCE: PARAGRAPH 2 - STAFF ADVANCES

The Committee took evidence and directed the Chief Executive to provide a schedule of all the ex-staff debtors of the Kenya Wildlife Service showing the amount each former employee owes and whether he or she is alive or deceased.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 239/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 5.00 P.M until Friday, November 05, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

DATE.....

MINUTES OF THE TWENTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, NOVEMBER 05, 2004 AT 11.06 AM.

PRESENT

The Hon. J.B.N. Muturi, MP
The Hon. Ali Bahari, MP - **(Ag. Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Ms. S. Maritim	-	Parliamentary Intern
Ms. C. Nkamini	-	Parliamentary Intern
Ms. J. Wanjiku	-	Parliamentary Intern

MIN. NO. 240/2004/2005: CONFIRMATION OF MINUTES

The Minutes of the Tenth, Eleventh and Twelfth Sittings of the Committee were confirmed by the Members present and signed by the Acting Chairman as follows:

(i) The Tenth Sitting held on Tuesday, September 14, 2004 were proposed by Hon. Gachara Muchiri, MP and seconded by Hon. Wafula Wamunyinyi, MP.

(ii) The Eleventh Sitting held on Wednesday, September 15, 2004 were proposed by Hon. Gachara Muchiri, MP and seconded by Hon. Kingi Kahindi, MP.

(iii) The Twelfth Sitting held on Thursday, September 16, 2004 were proposed by Hon. Kingi Kahindi, MP and seconded by

Hon. Gachara Muchiri, MP.

MIN. NO. 241/2004/2005: MATTERS ARISING

The following matters arose and the Committee resolved on them as follows:

(i) Min. No. 91/2004 (i) and (ii)) of September 14, 2004

The Committee directed the Secretariat to write a reminder to the Chief Executive, Kenya Agricultural Research Institute to provide the information earlier requested during the Tenth Sitting in seven days time from the time of receiving the letter.

(ii) Min. No.110/2004 of September 16, 2004

The Committee observed that members were greatly inconvenienced during their travel to Mombasa for the joint workshop with PAC on their watchdog roles. The Committee resolved that the matter should be raised with both the travel agents and the relevant departments in parliament.

(iii) Min. No. 112/2004 (ii) of September 16, 2004

The Committee noted that it had as yet not paid its proposed visit to the site of the plot that was irregularly surrendered and allocated to a third party in the report of 1997/98 Accounts of the Kenya National Trading Corporation. The Committee resolved to visit the site and directed the Secretariat to set a date for the visit in consultation with the members.

(iv) Min. No. 115 of September 16, 2004

The Committee directed the Secretariat to write a reminder to the Chief Executive, Ewaso Ng'iro South River Basin Development Authority to provide the information earlier requested during the Twelfth Sitting in respect of the paragraph on purchase of motor vehicle.

MIN. NO. 242/2004/2005: ANY OTHER BUSINESS

The Committee resolved that the Secretariat should occasionally be giving it an update on the status of implementation of the Committee's directions. The Committee further observed that the minutes needed to be a bit more detailed to capture the mood and observations of the Members during the sitting.

The Committee noted with grave concern that the Committee's recommendations were not being implemented as stipulated in the Treasury Memorandum and the Committee resolved to ask the Investments Secretary, the Controller and Auditor General and the Inspector of State Corporations to explain action being taken on the Committee's recommendations.

The Committee considered the letters of Kenya Civil Aviation Authority and the Kenya Railways Corporation seeking extension of time to submit accounts and the Committee acceded to the request.

MIN. NO. 243/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.45 P.M until Monday, November 08, 2004 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

DATE.....

MINUTES OF THE TWENTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, NOVEMBER 08, 2004 AT 3:30 PM

PRESENT

Hon. Abdirahman Ali Hassan, MP - **(Ag. Chairman)**
Hon. Wafula Wamunyinyi, MP
Hon. Joseph Kingi Kahindi, MP
Hon. Wycliffe A. Oparanya, MP
Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

Hon. J.B.N. Muturi, MP
Hon. Jimmy Angwenyi, MP
Hon. Ali Bahari, MP
Hon. Gitau Kabogo, MP
Hon. K.M. Sang, MP
Hon. Peter G. Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. C. Nkamini	-	Parliamentary Intern
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua	-	Deputy Director of Audit
Mr. P.G. Njoroge	-	Principal Auditor

TREASURY (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant
Mr. H.B.M. Githunga	-	Senior Accountant

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mrs. A. Gichu	-	Chief Finance Officer
Mr. C.K. Thuku	-	Senior Assistant Director

INSPECTORATE OF STATE CORPORATIONS

Mr. W. Gumbo	-	Senior Inspector

MIN. NO. 244/2004/2005: EVIDENCE

Report and Accounts of the Jomo Kenyatta University of Agriculture and Technology for the years 1997/98 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Prof. Nick G. Wanjohi, Vice Chancellor, JKUAT, accompanied by Messrs: Stephen A. Agong, Deputy Vice Chancellor (APD); Samuel K. Sinei, Deputy Vice Chancellor (RPD); P.D. Muchai Mbugua, Registrar (AP &D); Vincent Paul Kariuki, Ag. Finance Manager and R.A. Indimuli, Ag. Deputy Finance Officer; appeared before the Committee and gave evidence on Accounts of 1997/98 and 1998/99 of the University.

MIN. NO. 245/2004/2005: EVIDENCE: PARAGRAPH 1 – FINANCIAL POSITION

The Committee heard that the University had a deficit of Kshs. 69, 945, 25.00 which resulted from gross under funding by the Government. The Committee further heard that the parent ministry was making efforts to increase the funding for the University and that it had raised the amount of funding per student from Kshs. 120, 000 to Kshs. 249, 000 due to the consideration that the University was offering science based programs which are more expensive to run.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 246/2004/2005: EVIDENCE: PARAGRAPH 2 – FIXED ASSETS

The Committee heard that the University had acquired a title deed for the 205 hectares which previously had been valued and included in the University's fixed assets but had not yet been registered in the name of the University at the time of the audit.

The issue of loss of land to the Kenyatta family was raised. The Committee observed that it was lacking information on the issue and directed the Secretariat to find out if the issue had ever been discussed by the Committee and to furnish the Members with the information.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 247/2004/2005: EVIDENCE: PARAGRAPH 3 – SHORT TERM DEPOSITS

The Committee heard that the University had deposited Kshs. 8, 663, 202.00, Kshs. 21, 953, 810.oo and Kshs. 1, 168, 603.00 with two

commercial banks, Trade Bank and Kenya Finance Bank, which went under liquidation. The Committee further heard that it was becoming increasingly difficult to recover the money and the University was seeking to have the money written off.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 248/2004/2005: EVIDENCE: PARAGRAPH 4 – AUDIT FEES

The Committee heard that the University had not paid the audit fees amounting to Kshs. 2, 750,000.00 for the period running from 1980/81 to 1996/97 due to financial difficulties which arose from under funding.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 249/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1998/99 – FINANCIAL POSITION

The Committee reflected its earlier observations and recommendations for the same issue in the 1997/98 accounts.
The Committee concluded taking evidence on the paragraph.

MIN. NO. 250/2004/2005: EVIDENCE: PARAGRAPH 2 – FIXED ASSETS

The Committee heard that the University had acquired a title deed for the 205 hectares which previously had been valued and included in the University's fixed assets but had not yet been registered in the name of the University at the time of the audit.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 251/2004/2005: EVIDENCE: PARAGRAPH 3 – SHORT TERM DEPOSITS

The Committee heard that the University had deposited Kshs. 8, 663, 202.00, Kshs. 21, 953, 810.00 and Kshs. 1, 168, 603.00 with two commercial banks, Trade Bank and Kenya Finance Bank, which went under liquidation. The Committee further heard that currently, it was becoming increasingly difficult to recover the money and the University was seeking to have the money written off.

The Committee directed the Chief Executive to reclassify the deposits termed as debts to short term deposits.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 252/2004/2005: DEFERRED EVIDENCE

The Committee deferred taking evidence on the accounts of 1999/2000 and 2000/2001 to a later date.

MIN. NO. 253/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.53 P.M until Friday 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st March 2005

DATE.....

MINUTES OF THE TWENTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, NOVEMBER 12, 2004 AT 10.50 AM.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. C.N. Nkamini	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua	-	Assistant Director of Audit
Mr. P.G. Gichuki	-	Principal Auditor

TREASURY (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant
Mrs. K. Khasiani	-	Deputy Director, Budget

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mr. K. Mutahi	-	Permanent Secretary
Mrs. A. Gichu	-	Chief Finance Officer
Mr. C.K. Thuku	-	Senior Assistant Director of Education

PROVINCIAL COMMISSIONER'S OFFICE

Mr. F.M. Shisia - Senior Administration Officer

MIN. NO. 254/2004/2005: EVIDENCE

Report of the Accounts of Kenyatta University for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Prof. Everett M. Standa, Vice Chancellor, Kenyatta University, accompanied by Messrs: Prof. O. Mugenda, Deputy Vice Chancellor Finance, Planning and Development; Richard K. Okeyo, Ag. Finance Officer; Joseph I. Gitahi, Deputy Finance Officer; Peter Kabuthi Muiruri, Ag. Deputy Registrar (Quantity Surveyor); and Nelson M. Karagu, Ag. Registrar (Finance, Planning and Development); appeared before the Committee and gave evidence on Accounts of 1997/98 of the University.

MIN. NO. 255/2004/2005: EVIDENCE: PARAGRAPH 2 - CEDING OF UNIVERSITY LAND TO OTHER PARTIES

The Committee heard that the Permanent Secretary, Ministry of Education, Science and Technology (MOEST) had met with the management of the University and deliberated on the issue of land and had reached the agreement that the University needed to be compensated the land that it had ceded to the Department of Defence.

The Committee observed with concern that the Permanent Secretary, Ministry of Lands and Housing; Permanent Secretary, Office of the President in charge of Provincial Administration; the Director of Physical Planning and the Commissioner of Lands had not appeared as directed by the Committee.

As a result, the Committee noted that it could not conclusively address the issue and it deferred taking evidence on the paragraph and directed that the Permanent Secretary, Department of Defence; Permanent Secretary, Ministry of Education, Science and Technology, Permanent Secretary, Ministry of Lands and Housing, Permanent Secretary, Office of the President in charge of Provincial Administration, the Director of Physical Planning, Provincial Commissioner, Nairobi and the Commissioner of Lands should appear before the Committee alongside the University on Thursday, November 25, 2004 at 9.30 A.M in a bid to resolve the issue of the squatters residing on the University's land.

MIN. NO. 256/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.05 P.M until Friday, November 19, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

22nd April 2005

DATE.....

MINUTES OF THE THIRTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, NOVEMBER 19, 2004 AT 10.35 AM.

PRESENT

The Hon. Ali Bahari, MP - **(Ag. Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, MP
The Hon. Peter G. Munya, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. C.N. Nkamini	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J.K.M. Karua	-	Deputy Director of Audit
Mr. R.N. Bichanga	-	Principal Auditor

TREASURY (DGIPE)

Mr. L.B. Amoko	-	Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MINISTRY OF AGRICULTURE

Mr. J.E.O. Ongwae	-	Permanent Secretary
Mr. W.G. Kerario	-	Deputy Secretary

Mr. J.S. Sigoria - Senior Agricultural Officer
Mr. J.P. Nduati - Deputy Director

MINISTRY OF LANDS AND HOUSING

Eng. E.K.Mwongera - Permanent Secretary
Mr. L.W. Njenga - Ag. Director Lands/Settlements
Mr. J.M. Okungu - Commissioner of Lands

OFFICE OF THE PRESIDENT - PROVINCIAL ADMINISTRATION)

Mr. D.M. Mwangi - Permanent Secretary

CO-OPERATIVE DEVELOPMENT AND MARKETING

Mr. F.F. Odhiambo - Ag. Commissioner for Co-operative Development

Mr. P.N. Gichuki - Ag. Deputy Commissioner for Co-operatives

OTHER WITNESSES

Mr. T.K. Kipyab - Former Chairman, Nyayo Tea Zones Development Corporation

MIN. NO. 257/2004/2005: EVIDENCE

Report of the Accounts of the Nyayo Tea Zones Development Corporation for the year 1995/96 and Certificate thereon by the Controller and Auditor General.

Dr. Anne Kinyua, Chief Executive, Nyayo Tea Zones Development Corporation, accompanied by Messrs: David Malila, Finance Controller; Kibiwott Rutto, Senior Financial Accountant; Togom, W.K., Personnel Officer; and David Obwaya, Internal Auditor, appeared before the Committee and gave evidence on Accounts of 1995/96 of the Corporation.

MIN. NO. 258/2004/2005: EVIDENCE: PARAGRAPH 6 - SALE OF LAND AND TEA BUSHES

The Committee heard that the Corporation had sold 372.83 hectares of land and tea bushes to a Co-operative society in Kericho District in the name of privatisation yet the Corporation was not among those listed by Parastatal Reform Programme Committee for privatisation and that the sale was effected prior to the government approval. The

Committee further heard that the land was sold for Kshs. 38, 438, 000 and yet it had been valued for Kshs. 66, 400, 000 by the Ministry of Lands valuers.

The Commissioner of Co-operatives informed the Committee that the Kericho Multipurpose society was registered on 26th October 1989 and its main purpose was purchase of tea farms though its activities were not restricted. The current membership of the Society is at 18, 600 members.

While observing that the sale of the land and tea bushes was an illegality, the committee directed:

(i) the Ministry of Lands to place a caveat on the land;

(ii) the Ministry of Agriculture to initiate the process of repossessing the land with ownership reverting back to the Corporation;

(iii) the Commissioner of Co-operatives to furnish the Committee with a list of the membership of the Kericho Multipurpose Society and any other relevant information; and,

(iv) the matter of the sale of land and tea bushes to be reported to the Kenya Anti corruption Commission to instigate investigations as to whether crimes were committed in the sale of the land and tea bushes.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 259/2004/2005: EVIDENCE: PARAGRAPH 7 – CASH AND BANK BALANCES

The Committee noted that there was an unexplained difference of Kshs. 8, 143, 457 between the Balance Sheet Cash and Bank Balances amount. The Committee heard that the issue had now been reconciled and the matter resolved.

The Committee also heard that the Bank Reconciliation Statement reflected an amount of unsupported payments of Kshs. 1, 271,306 and that out of that the Corporation had recovered Kshs. 1, 114, 627.25 and while an amount of Kshs. 156, 678.75. was still un-recovered. The Committee directed the Corporation to meet with the Kenya National Audit Office to reconcile this outstanding amount.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 260/2004/2005: EVIDENCE: PARAGRAPH 8 - WORK IN PROGRESS

The Committee heard that the Corporation had paid Kshs. 3, 771, 141 to a contractor as payment of work in progress at a contract sum of Kshs. 8, 283, 500 and that the contract was later terminated with the contractor for not delivering materials that had been paid for.

The Committee also heard that the Corporation had taken the matter to court and that the ruling was in its favour but that the Contractor did not have assets that could be attached and auctioned.
The Committee directed:

(i) the Chief Executive to provide a list of the name(s) of the Director(s) of M/s Muturi Construction Company that was in charge of the construction and the contractor; and,

(ii) the Chief Executive to work towards bringing the recovery of the Corporation's money to a conclusive end.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 261/2004/2005: EVIDENCE: PARAGRAPH 9 - ESTABLISHMENT COST - KSHS. 247, 497, 100

The Committee heard that at the time, the Corporation had not included the value of the land it was operating on in its establishment cost, as the land was the property of the Government. The Committee further heard that legal notice No. 265 of 1986 was replaced by legal notice No. 30 of 2002 and that the Corporation was now in the process of acquiring title deeds for the land where it was growing its tea.

The Committee directed the Parent Ministry to take up the matter of issuing title deeds to the Corporation with the relevant ministries and to report back to the Committee in three weeks time.

MIN. NO. 262/2004/2005: EVIDENCE: PARAGRAPH 10 - UNSUPPORTED EXPENDITURE

The Committee heard that the Corporation had taken measures to recover the unsupported expenditure of Kshs. 7, 907, 601 among them handing over the matter to the Office of the President which had taken up the matter with the Director of Criminal Investigation Department and that investigations were going on.

The Committee directed the Chief Executive to take up the matter afresh and pursue it expeditiously.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 263/2004/2005: PAPERS LAID

The Chief Executive laid the following papers:

(i) A list of names of former District Officers for those districts that did not account for the money.

(ii) A revised response to the Controller and Auditor General report – on 1995/96 Accounts.

MIN. NO. 264/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.25 P.M until Monday, November 22, 2004 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

22nd April 2005

DATE.....

MINUTES OF THE THIRTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, NOVEMBER 25, 2004 AT 10:23 AM

PRESENT

Hon. J.B.N. Muturi, MP - **(Chairman)**
Hon. K.M. Sang, MP
Hon. Abdirahman Ali Hassan, MP
Hon. Joseph Kingi Kahindi, MP
Hon. Gitau Kabogo, MP
Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

Hon. Wafula Wamunyinyi, MP
Hon. Wycliffe A. Oparanya, MP
Hon. Jimmy Angwenyi, MP
Hon. Ali Bahari, MP
Hon. Peter G. Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. C. Nkamini	-	Parliamentary Intern
Ms. J. Wanjiku	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua	-	Assistant Director of Audit
Mr. P.G. Gichuki	-	Principal Auditor

TREASURY (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant
Mrs. K. Khasiani	-	Deputy Director, Budget

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mr. K. Mutahi	-	Permanent Secretary

DEPARTMENT OF DEFENCE

Mr. S. Kyungu	-Permanent Secretary
Maj. Gen. Mulinge	- ACGS -D & L
Lt. Col. MM Kwonyike -	Colonel- Works

OFFICE OF THE PRESIDENT

Mr. D.M. Mwangi	-	Permanent Secretary, Provincial Administration

MINISTRY OF LANDS AND HOUSING

Eng. E.K.Mwongera	-	Permanent Secretary
Mr. K. Mwero	-	Director of Surveys
Mr. J.M. Okungu	-	Commissioner of Lands
Mr. R.K. Mbwagwa	-	Director of Physical Planning

MIN. NO. 265/2004/2005: EVIDENCE

Report of the Accounts of Kenyatta University for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Prof. Everett M. Standa, Vice Chancellor, Kenyatta University, accompanied by Messrs: Prof. O. Mugenda, Deputy Vice Chancellor Finance, Planning and Development; Joseph I. Gitahi, Deputy Finance Officer and Peter Kabuthi Muiruri, Ag. Deputy Registrar (Quantity Surveyor); appeared before the Committee and gave evidence on Accounts of 1997/98 of the University.

MIN. NO. 266/2004/2005: EVIDENCE: PARAGRAPH 2 - CEDING OF UNIVERSITY LAND TO OTHER PARTIES

The Committee heard that the University had relinquished 138 acres of land to the Department of Defence with the hope of compensation by the Commissioner of Lands but that this had not yet happened to date. The Committee further heard that the Department of Defence was the original owner of the land and it had given the land to the University in the 1960's through a Presidential accord and that it did not have any land to give to the University as of present.

The Permanent Secretary, Provincial Administration, informed the Committee that there had been various efforts to relocate the squatters from the University land to the rightful parcel that they had been allocated. He further told the Committee that there had been some illegal allocations of part of the land to other people who were

not *bona fide* squatters.

The Committee directed:-

i) that a committee be formed to handle and implement the relocation of the squatters to the allocated land and to ensure the problem was solved;

ii) that, the committee in (i) above comprise of the following persons: a Senior representative from the Office of the President who will chair the Committee, senior representatives from the University; Ministry of Education, Science and Technology; Ministry of Lands and Housing; Ministry of Public Works; City Council including the Director of Planning; and representatives from National Environmental Management Authority (NEMA);

iii) the Permanent Secretary Office of the President to provide evidence in two weeks time showing that the committee had been constituted and it had started its work. A plan of work should also be provided in writing;

iv) that, briefings of the committee addressing the matter should be given to the Committee in the form of minutes copied to the Clerk's Chambers and copied to the Kenya National Audit Office; and,

v) the management of the University to liase with the Ministry of Lands and Housing with an aim to be compensated the 138 acres it ceded to the Department of Defence. In this regard, **the Committee recommended that the University should identify appropriate parcels of land suitable for their research purposes and seeks the intervention of the Ministry of Lands and Housing in acquiring the land.**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 267/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.30 P.M until Friday, November 26, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

22nd April 2005

DATE.....

MINUTES OF THE THIRTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, NOVEMBER 26, 2004 AT 10.30 AM.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Peter G. Munya, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. J. Wanjiku	-	Parliamentary Intern
Ms. C.N. Nkamini	-	Parliamentary Intern
Ms. S. Maritim	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. J.K.M. Karua	-	Deputy Director of Audit
Mr. F. Matheka	-	Auditor I

TREASURY (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary
Ms. G.K. Nyarango	-	Senior Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa	-	Deputy Chief Economist

MINISTRY OF REGIONAL DEVELOPMENT

Mr. E.K. Kimari - Chief Finance Officer

MIN. NO. 268/2004/2005: EVIDENCE

Report and Accounts of the Tana and Athi Rivers Development Authority for the years 1992/93 and 1993/94 and Certificates thereon by the Controller and Auditor General.

Mr. Moses K. Changwony, Chief Executive, Tana and Athi Rivers Development Authority, accompanied by Mr. Steven Githaiga, Finance Manager, appeared before the Committee and gave evidence on Accounts of 1993/94 and 1993/94 of the Corporation.

MIN. NO. 269/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 1 OF 1992/93 AND PARAGRAPH 2 OF 1993/94 - FINANCIAL POSITION

The Committee heard that the Authority had an outstanding deficit as a result of non-receipt of revenue in respect of hydro-electric bulk power sold to Kenya Power and Lighting Company and Tana River Development Company which the government was supposed to compensate the Authority but as yet, had not done so.

The Committee deferred taking evidence and directed the Permanent Secretary, Ministry of Finance; the Permanent Secretary, Ministry of Energy; the Head of Civil Service and the Permanent Secretary, Regional Development to appear before the Committee at a later date in a bid to resolve the matter.

MIN. NO. 270/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 2 OF 1992/93 AND PARAGRAPH 3 OF 1993/94 - REVENUE FROM SALE OF HYDRO-ELECTRIC BULK POWER

The Committee heard that the Authority had not accrued uncollected revenue from the sale of Masinga and Kiambere hydro-electric bulk power due to a government directive in April 1988 that the accruing of revenue be surrendered directly to Treasury and the Authority would be compensated by Treasury over the loss of revenue. This directive was in contravention with the principal agreement of the two projects.

The Committee deferred taking evidence and directed the Permanent Secretary, Ministry of Finance; the Permanent Secretary, Ministry of

Energy; the Head of Civil Service, the Managing Director, KENGEN; and the Permanent Secretary, Regional Development to appear before the Committee at a later date in a bid to resolve the matter.

MIN. NO. 271/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 3 OF 1992/93 AND PARAGRAPH 4 OF 1993/94 – OUTSTANDING LOAN PAYMENTS

The Committee heard that the outstanding loans in question were those that the Authority obtained for the construction of the two multipurpose water dams at Kiambere and Masinga sites which the organization had sold to government but had not yet accrued revenue.

The Committee deferred taking evidence and directed:

(i) the Permanent Secretary, Ministry of Finance; the Permanent Secretary, Ministry of Energy; the Permanent Secretary, Treasury; the Head of Civil Service, the Managing Director, KENGEN; the Managing Director, Kenya Power and Lighting; the Investments Secretary; and the Permanent Secretary, Regional Development to appear before the Committee in person in two weeks time in a bid to resolve the matter; and

(ii) that Treasury, when appearing in two weeks time, should provide all the information regarding the two dams, which should include a schedule of all the lenders, and the entire financial transactions relating to the Kiambere and Masinga dams projects.

MIN. NO. 272/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1992/93 AND PARAGRAPH 5 OF 1993/94 – IRREGULAR USE OF THE AUTHORITY'S FUND TO CONSTRUCT A PRIVATE HOUSE BY THE FORMER MANAGING DIRECTOR

The Committee heard that the former managing director had fraudulently used the Authority's Funds to build a private house and that the money had been taken to court and he had been imprisoned. The Committee further heard that the former managing director had been recently released on condition that he pays the debt he owes the Authority by a certain deadline.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 273/2004/2005: **EVIDENCE: PARAGRAPH 5 OF 1992/93 AND PARAGRAPH 6 OF 1993/94 – DEBTORS AND PREPAYMENTS**

The Committee heard that included in the debtors and prepayments figure was an amount of Kshs. 8, 181, 136.95 which is supposed to be interest due from Consolidated Bank but that there was no confirmation from the Consolidated Bank of the amount.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 274/2004/2005: **EVIDENCE: PARAGRAPH 6 OF 1992/93 AND PARAGRAPH 7 OF 1993/94 – INVESTMENTS – KSHS. 24, 500, 000.00**

The Committee heard that the Authority had invested Kshs. 24.5 million in various local banks, which went in receivership and were amalgamated into Consolidated Bank of Kenya.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 275/2004/2005: **DEFERRED EVIDENCE**

The Committee deferred taking evidence on Paragraphs 1, 2 and 3 of 1992/93 accounts and the corresponding paragraphs 2, 3 and 4 of 1993/94; and paragraphs 1 and 8 of 1993/94 to December 10, 2004.

MIN. NO. 276/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 12.00 P.M until Monday, December 10, 2004 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

22nd April 2005

DATE.....

MINUTES OF THE THIRTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, DECEMBER 03, 2004 AT 10.00 AM.

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Ms. S. Maritim	-	Parliamentary Intern
Ms. C. Nkamini	-	Parliamentary Intern
Ms. J. Wanjiku	-	Parliamentary Intern

MIN. NO. 277/2004/2005: CONSIDERATION OF SITTING PROGRAMME

The Committee looked at the proposed Sitting Programme for January and February and made the following amendments:

(i) that the following corporations should be included in the programme: Kenya Wine Agencies Limited (KWAL), National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF), Kenya National Hospital (KNH) and Coffee Board of Kenya; and,

(ii) that the programme should be adjusted to start on the third week of January instead of the fourth week of January.

MIN. NO. 278/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11.00 A.M until Friday, December 10, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

22nd April 2005

DATE.....

MINUTES OF THE THIRTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, DECEMBER 10, 2004 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. C. Nkamini	-	Parliamentary Intern

OFFICE OF THE PRESIDENT

Amb. Francis K. Muthaura, MBS.	-	Permanent Secretary, Secretary to the Cabinet and Head of Public Service.

MINISTRY OF FINANCE

Ms. Catherine N. Kimura	-	Investments Secretary (DGIPE).
Mrs. T. N. Gathaara	-	Under Secretary (DGIPE)
Ms. G. K. Nyarango	-	Senior Deputy Director

MINISTRY OF REGIONAL DEVELOPMENT

Mr. Daniel M. Mule	-	Permanent Secretary

Mr. Gichuhi Kamunto - Deputy Secretary
Mr. Samuel G. Gichere - Deputy Chief Economist

MINISTRY OF ENERGY

Mr. Ng'ang'a Munyu - Principal Economist

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua - Deputy Director of Audit
Mr. Fouris M. Matheka - Auditor I

INSPECTORATE OF STATE CORPORATIONS

Mr. J. M. Otenyo - Inspector-General (State Corporations)
Mr. R. M. Ndubai - Senior Principal Inspector
Mr. N. Mwingirwa - D.C.E

OTHER WITNESSES:

Kenya Electricity Generating Company (Kengen)

Mr. Edward Njoroge - Managing Director
Wycliffe Temesi - Chef Finance Manager
Mrs. Rebecca Miano - Assistant Company Secretary

Kenya Power and Lighting Company

Mr. Lawrence Yego - Manager
Ms. Beatrice Mwendo - Chief Legal Officer

MIN. NO. 279/2004/2005: EVIDENCE

Report and Accounts of the Tana and Athi Rivers Development Authority for the years 1992/93 and 1993/94 and Certificates thereon by the Controller and Auditor General.

Mr. Moses K. Changwony, Chief Executive, Tana and Athi Rivers Development Authority, accompanied by Messrs: Steven Githaiga, Finance Manager, appeared before the Committee and gave evidence on Accounts of 1992/93 and 1993/94 of the Authority.

MIN. NO. 280/2004/2005: DEFERRED EVIDENCE: PARAGRAPHS 1, 2 & 3 OF 1992/93 ACCOUNTS AND 2,3 & 4 OF 1993/94 ACCOUNTS.

While taking evidence on the above paragraphs, which were related to collection of revenue accrued from sale of Hydro Electric Bulk Power generated from Masinga and Kiambere Dams, the Committee noted with concern that the Permanent Secretary, Ministry of Energy had not attended the Sitting despite being personally invited.

The Committee was informed that:-

(i) the then Head of Public Service directed vide his letter of August 1998, that revue accrued from sale of Hydro Electric Bulk Power generated from Masinga and Kiambere Dams, be remitted to the Treasury;

(ii) after the transfer was effected and before the restructuring of the power Sub-Sector, Kenya Power and Lighting Company (KPLC) assumed the role of offsetting the loan obligations;

(iii) around 1988 and at the time of the restructuring of the Sub-Sector, KPLC had paid over Ksh. 8 billion subsequent to which Ken-Gen took over the assets (after a novation) and continued to meet the loan obligations; and,

(iv) to date, the Loan has been fully offset.

Whilst observing that it was not clear whether the Treasury had received any revenue from KPLC for onward remittance to TARDA, the Committee noted with concern that the transfer appeared to have been effected in haste and without proper planning and recourse to TARDA. The Committee also observed that this had negatively impacted on the financial status of the Authority such that it had been unable to meet its primary financial obligations.

In the circumstances, the Committee directed:-

(i) that, Offices of ; Permanent Secretary, Secretary to the Cabinet and Head of Public Service including the Inspectorate to State Corporations; the Permanent Secretary, Ministry of Energy (being the secretariat); the Permanent Secretary, Ministry of Regional Development, the Permanent Secretary, Ministry of Finance, the Kenya National Audit Office; Managing Directors, KPLC and Ken-Gen, to meet as a matter of urgency and deliberate on the issues raised in the meeting and as reflected by the Reports of the Controller and Auditor General on the Accounts of TARDA in relation to collection of revenue accrued from sale of Hydro Electric Bulk Power generated from the two dams, and propose to the Committee, a policy on the way forward in so far as the

issue affect the three parastatal's in particular, TARDA; and,

(ii) that, the Permanent Secretary, Secretary to the Cabinet and Head of Public Service; the Permanent Secretary, Ministry of Energy, the Permanent Secretary, Ministry of Regional Development, the Permanent Secretary, Ministry of Finance, Managing Directors, KPLC and Ken-Gen, alongside the management of TARDA to appear before the Committee again on February 2nd, 2005, when they will be require to give the Committee a policy proposal on the way forward as directed in (i) above.

MIN. NO. 281/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.15 P.M. until Tuesday, January 25, 2005 at 9.30 P. M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE THIRTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, JANUARY 25, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE

Mr. L. Kollum	-	DCFO
Mr. F. W. Kingo'ri	-	Assistant Inspector (DGIPE)

MINISTRY OF INFORMATION AND COMMUNICATION

Mr. H. M. Mung'asia	-	Deputy Secretary

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. H. O. Wanyama	-	Deputy Director of Audit
Mr. J. K. Ongwen	-	Principal Auditor

MIN. NO. 282/2004/2005: EVIDENCE

Reports and Accounts of the Communication Commission of Kenya for the years 2000/2001 and 2001/2002 and Certificates thereon by the Controller and Auditor General.

Eng. Sammy Kirui, Director General, Communication Commission of Kenya accompanied by Messrs: Mr. John Omo, Commission Secretary; Ms. Peris K. Nkonge, Assistant Director of Finance and Mr. J. K. Kandie, appeared before the Committee and gave evidence on the Accounts of the Commission for the years 2000/2001 and 2001/2002.

MIN. NO. 283/2004/2005: PROCEDURE

In view of the fact that the three audit reservations on the Report of the Controller and auditor General on the accounts of the Commission for the year 200/2001 were raised in the subsequent report (2001/2002), the Committee, in concurrence with the Officers from the Kenya National Audit Office, resolved to examine both Reports concurrently.

MIN. NO. 284/2004/2005: EVIDENCE: PARAGRAPHS 1, OF 2000/2001 AND 2001/2002 ACCOUNTS: KAREN PLOTS LR. NO.12445 AND 12550

The Committee was informed that:-

(i) the Commission does not consider the option of redeeming these plots financially prudent;

(ii) the Commission is liaising with its lawyers to fix a hearing for the civil suit, which is anticipated for 7th and 8th February, 2005;

The Committee:-

(i) heard that the Attorney-General vide his letter of January 10, 2001 referenced CONF 18/128/VOL IV, had advised the Commission to pursue recovery of the professional fees amounting Ksh. 196,761,385 and interests accrued, from the then Managing Director and Board Members of KP&TC; to this end the Chief Executive was directed to report and pursue the matter with the Inspectorate of State Corporations, and report progress to the Committee in two weeks time;

(ii) while observing that most of the investigations had been done, directed the Chief Executive to move with speed and report to the Director of Criminal Investigations, the matter of obtaining money by false pretences by Mr. Chege Kirundi, and report progress to in two weeks time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 285/2004/2005: EVIDENCE: PARAGRAPHS 2 AND 3 OF 2000/2001 AND 2001/2002 ACCOUNTS (Respectively): DEBTORS

The Committee heard that:-

(i) most of the debtors were inherited from the defunct Kenya Posts and Telecommunication Corporation while others include the Royal Media Services; and,

(ii) the debtors figure stood at Ksh. 2.3 million as at 30th June, 2003.

Concerned whether the just purchased Radio Frequency Spectrum Management Systems Equipment was functional and could enable the Commission to monitor use of frequency, the Committee was informed that:-

(i) the equipment was purchased in the year 2002, from an Israeli company through international bidding at Ksh. 500 million;

(ii) its warranty was to expire in December 2003. On request, the supplier agreed to extend the warranty until the report 'to evaluate whether the Commission got full value for the money' is concluded; and,

(iii) the equipment is functional and is used for frequency planning, monitoring and determining how much of a particular frequency a customer has used.

The Committee directed the Chief executive to provide the following information and copy to the Kenya National Audit Office:-

(i) a list of Companies/individuals who bidded;

(ii) history of the suppliers and /or the manufacturers;

(iii) evaluat ion process, adjudication and final award;

(iv) copy of contract agreement for the procurements;

(v) up-to-date list of the current debtors of the Commission.

The Committee concluded taking evidence on the paragraphs.

MIN. NO. 286/2004/2005: EVIDENCE: PARAGRAPHS 3 AND 4 OF 2000/2001 AND 2001/2002 ACCOUNTS (Respectively)- NATIONAL COMMUNICATION SECRETARIAT EXPENDITURE

The Committee was informed that the Board approved the expenditures.

The Committee directed the Chief Executive to provide:

(i) the Chief Executive to provide prove of communication from the then Ministry of Transport and Communication requesting for assistance on the funds to refurbish the Offices of the Minister and that of the Permanent Secretary;

(ii) the Chief Executive to provide copy of minutes of the Board, approving the expenditure; and,

(iii) Copies of (i) and (ii) above to be forwarded to the Kenya National Audit Office.

MIN. NO. 287/2004/2005: DEFERRED EVIDENCE: PARAGRAPHS 2, 5 and 6 OF 2001/2002 ACCOUNTS

The Committee deferred taking evidence paragraphs 2, 5 and 6 of 2001/2002 accounts to a later date.

MIN. NO. 288/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.45 P.M until Wednesday, January 26, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE THIRTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, JANUARY 26, 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIE)

Mr. F. W. Kingo'ri	-	Assistant Inspector (DGIPE)

MINISTRY OF INFORMATION AND COMMUNICATION

Mr. F. J. Mugabe	-	Deputy Secretary

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. Paul M. Njuguna	-	Assistant Director of Audit
Mr. J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher Ombaga	-	Inspector I
Mrs. T. K. Gichana	-	Inspector I

MIN. NO. 289/2004/2005: EVIDENCE

Report and Accounts of Kenya Ltd.

Eng. J. N. Waweru, Managing Director, Telkom Kenya Ltd. accompanied by Mr. S. D. Kamau, Chief Finance Officer appeared before the Committee and gave evidence in relation to:-

(i) submission of Accounts of the Corporation; and,

(ii) Capital Projects undertaken by Telkom K. Ltd. since July, 2003.

MIN. NO. 290/2004/2005: EVIDENCE: SUBMISSION OF ACCOUNTS OF THE CORPORATION.

The Committee was informed that the Corporation submitted its audited accounts for the years 1998/99 and 1999/2000 to the parent Ministry in mid January 2005 for onward tabling before the House.

The Committee conclude taking evidence on the matter.

MIN. NO. 291/2004/2005: EVIDENCE: CAPITAL PROJECTS UNDERTAKEN SINCE JULY, 2003.

The Managing Director tabled a list of all Capital projects undertaken by the Corporation since July, 2003.

The Committee was informed that some of the projects were initiated by the defunct Kenya Posts and Telecommunication Corporation.

The Committee directed the Chief Executive to provide the following information in two weeks time and copies forwarded to the Kenya National Audit Office :-

(i) names of directors/owners of:-

(a) M/S. Huawei Technologies,

(b) M/S. Lee Construction Company,

(c) M/S. Kilimanjaro Construction Company,

(d) M/S. Dadar Construction Company,

(e) M/S. Index Construction Company,

(f) M/S. Njarie Agencies,

(g) M/S. ZTE Construction Company.

(ii) details and documentary prove of the tendering process followed in all cases where selective (restricted) tendering was done and justification of the same; and,

(iii) a write-up detailing all projects whose implementation has not commenced and justification for non-commencement.

While expressing concern on verification of collection of revenue accruing for Telkom's International projects/programmes, the Committee directed the Chief Executive to provide a supported schedule [showing bank(s) account(s) details] of all payments/collection made in the last one year in respect of all international projects/programmes and the ITU arrangements undertaken by Telkom.

MIN. NO. 292/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.48 P.M until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIE)

Mr. Evans Maturu	-	Assistant Inspector (DGIPE)

MINISTRY OF AGRICULTURE

Mr. J. P. Nduati	-	Deputy Secretary

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. Humphrey Wanyama	-	Deputy Director of Audit
Mr. Z. M. Onsando	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

MS. Joyce Wesonga	-	Senior Auditor
Mr. G. K. Mwangi	-	Inspector

MIN. NO. 293/2004/2005: EVIDENCE

Reports and Accounts of Tea Research Foundation of Kenya for the years 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Dr. W.K. Ronno, Managing Director, Tea Research Foundation accompanied by Mr. T Kikwai, Finance Manager appeared before the Committee and gave evidence on the accounts of the Foundation for the years 1996/97 and 199/98.

MIN. NO. 294/2004/2005: EVIDENCE: PARAGRAPHS 1 OF 1996/97 AND 1997/98 ACCOUNTS - LAND OWNERSHIP

The Committee was informed that the Foundation has since secured titled documents for the 123 ha. of land.

The Committee directed that the Permanent Secretaries, Ministry of Agriculture and that of Land and Housing pursues a lasting solution on the issue of the 20 acres in Kangaita. Copies of correspondences between the two Ministries towards this end and progress report(s) be

forwarded to the Committee and copied to the Kenya National Audit Office in four weeks time.

The Committee concluded taking evidence on the paragraphs.

MIN. NO. 295/2004/2005: EVIDENCE: PARAGRAPHS 2 OF 1996/97 AND 1997/98 ACCOUNTS - STAFF PENSION

The Committee was informed that the Foundation has since recovered all the remittances made to the Kenya National Assurance Company (under liquidation).

The Committee concluded taking evidence on the accounts of the Foundation for the years 1996/97 and 1997/98.

MIN. NO. 296/2004/2005: CLEAN ACCOUNTS

The Committee noted that the Accounts of the Foundation for the years 1998/99 and 1999/2000 had no audit reservations

MIN. NO. 297/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4 20 P.M until Thursday, January 27, 2005 at 9.30 A.M

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE THIRTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, JANUARY 27,2005 AT 10.45. P.M.

MORNING SITTING

PRESENT

The Hon J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M Sang, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF REGIONAL DEVELOPMENT

Mr. John Sang' - Senior Deputy Secretary
Ms. Dinah Okhoe - Senior Economist I

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua - Deputy Director of Audit
Mr. Joshua M. Kereda - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana - Inspector I
Mr. Patrick Wandaka - Inspector II

MIN. NO. 298/2004/2005: EVIDENCE

Report and Accounts of the Coast Development Authority for the years 1995/96 and 1996/97 and Certificates thereon by the Controller and Auditor General.

Prof. Juma A. Lugogo, Managing Director, Coast Development Authority, accompanied by Messrs. Ngao Mwingi, Finance Manager; Florence T. Birya , Accountant; Zebedeo T. Kanora, Senior Internal Auditor; F. C. Mng'ong'o, Technical Manager and Henry C. Sauri, Senior Administrative Officer, appeared before the Committee and gave evidence on Accounts of 1995/96 and 1996/97 of the Authority.

MIN. NO. 299/2004/2005: EVIDENCE: PARAGRAPHS 1 OF BOTH 1995/96 AND 1996/97 ACCOUNTS- STAFF DEBTORS

The Committee observed with concern that the management, in its response, had not compressively addressed the reservations raised by the Controller and Auditor-General on the accounts of the Authority, for the two years.

In the circumstances, the Committee deferred taking evidence on the Accounts of the Authority for the years 1995/96 and 1996/97 and directed that the management appears before it again at a later date when it will be expected to have prepared comprehensive responses for the Committee's deliberation and copied the same to the Kenya National Audit Office.

MIN. NO. 300/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11.45 A.M until 2.30 P.M.

AFTERNOON SITTING:

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Wafula Wamunyinyi, MP
The Hon Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A Oparanya, MP
The Hon Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J Njoroge	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. Joseph K. M Karua	-	Director of Audit
Mr. Josua M Kereda	-	Senior Auditor

MINISTRY OF FINANCE (DGIPE)

Mrs. Eunice Kigen	-	Deputy Chief Finance Officer
Mr. L. B. Amoko	-	Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mr. G. K. Mwangi	-	Inspector

MINISTRY OF LIVESTOCK AND FISHERIES DEVELOPMENT

Mr. Momata Gichana	-	Chief Finance Officer

MIN. NO. 301/2004/2005: EVIDENCE

Report and Accounts of Kenya Marine and Fisheries Research Institute for the years 1996/97 and 1997/98 and the Certificate thereon by the Controller and Auditor General.

Dr Johnson M. Kazungu, the Managing Director, Kenya Marine and Fisheries Development Institute (KEMFRI), accompanied by Messrs: A.C. Koske, Assistant Director, Finance and Gerald Okumu, Chief Accountant, appeared before the Committee and gave evidence on Accounts of the Institute for the years 1996/97 and 1997/98.

MIN. NO. 302/2004/2005: **EVIDENCE: PARAGRAPHS 1 OF BOTH 1995/96 AND 1996/97 ACCOUNTS –STAFF PENSION FUND**

The Committee heard that: -

i the total amount including interests as at June, 2003 stood at Ksh. 45,197,785;

ii. KEMFRI has received a total of Ksh. 30,131,856.70 as part of instalments in respect of the staff pension fund from Kenya National Assurance Company (2001); and,

iii. the last instalment of Ksh. 15,065,928.35, was due for payment by December, 2005.

The Committee directed the Chief Executive to confirm to it, in two weeks time with a copy to the Kenya National Audit Office, that the Institute has received the last instalment of Ksh. 15,065,928.35. from the Kenya National Assurance Company (2001).

The Committee concluded taking evidence on the paragraph.

MIN. NO. 303/2004/2005: **EVIDENCE: PARAGRAPHS 2 OF BOTH 1995/96 AND 1996/97 ACCOUNTS – FIXED ASSETS.**

The Committee was informed that: -

i. KEMFRI' Board resolved to remove the value of the Mtwapa plot from its Accounts as it had not succeeded in its acquisition; and

ii. the Institute has since acquired title Deeds for Kegati land No. 3055/B/B Boboria, Nyaribari Chache and Kisumu TP.5/2/XXVI/204A, while that of Kisumu Plot L.R. No. 1148/1389 is still pending.

Further, the Chief Executive **laid the following paper** before the Committee:-

a copy of a deed Plan for the Kisumu plot L.R. No. 1148/1389.

The Committee directed the Chief Executive to:-

(i) expeditiously pursue the issue of the Kisumu land Plot L.R. No. 1148/1389 with the Commissioner of Lands

towards ensuring that the Institute is issued with title documents and provide evidence by way of correspondences to the Committee in four weeks time and copied to the Kenya National Audit, and

(ii) provide to it and to the Kenya National Audit Office, copies of Vesting Order and Official Search in respect of the land in (i) above.

The Committee concluded taking evidence on the paragraph and subsequently on the accounts of the Institute for the years 1996/97 and 1997/98.

MIN. NO. 304/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 3.55 P.M until Tuesday, February 1st, 2005, at 9.30 A.M.

Hon. J B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE THIRTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, FEBRUARY 1, 2005 AT 3.55. P. M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 305/2004/2005: CONFIRMATION OF MINUTES OF A PREVIOUS SITTING

The Minutes of the Thirteenth Sitting of the Committee were confirmed by the Members present, proposed by Hon. Kingi Kahindi, M.P, seconded by the Hon. Wafula Wamunyinyi, M.P and signed by the Chairman.

MIN. NO. 306/2004/2005: MATTERS ARISING:

(i) The Committee was informed that the information it had requested from the Chief Executive, Kenya National Trading Corporation (KNTC) under **Min. No. 122/ 2004/2005 (i)** had been received by the Secretariat.

(ii) The Committee observed with concern that the Director of Criminal Investigations Department had not reported progress, as directed by the Committee

under Min. No. 122/ 2004/2005 (ii) pertaining to arrest and prosecution of Mr. Reuben Ole Nakuo, a former Coffee Manager at KNTC. Under the circumstances, the Committee resolved to summon the Director of Criminal Investigations Department to apprise it on the progress he had made on the case.

(iii) **Further, while deliberating on the recommendation of its Eighth Report on Hon. Kanyingi, M.P then a Chairman of the Board of KNTC, the Committee resolved that the office of the Attorney General be represented by an appropriate officer during the Committee's sitting of February 16th, 2004, when the management of KNTC is expected to appear. The officer will be expected to apprise the Committee on the outcome of investigations, if any, as recommended by the Committee on page 101 of its Eight Report.**

MIN. NO. 307/2004/2005: APPEARANCE BY THE MANAGEMENT OF NATIONAL HOSPITAL INSURANCE FUND.

It was agreed that the Management of National Hospital Insurance Fund appears before the Committee in relation to the Accounts of the Fund for the year 1999/2000 in addition to the other issues reflected on the Committee's Programme of Business for the period ending February 25, 2005.

MIN. NO. 308/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.30 P. M. until Wednesday, February 2, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE THIRTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, FEBRUARY 2, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon Wafula Wamunyinyi, MP
The Hon Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K M Sang, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE

Mr. K O. Ondieki	-	Deputy Director
Mr. Gerald Ochieng Ajumbo	-	Principal Economist

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana	-	Inspector I
Mr J.M. Weru	-	Inspector II

MIN. NO. 309/2004/2005 EVIDENCE

Reports and Accounts of the Kenya Post Office Savings Bank for the years ended December 31, 2000 and December 31, 2001 and Certificates thereon by the Controller and Auditor General.

Mrs. Nyambura Koigi, Chief Executive, Kenya Post Office Savings Bank, accompanied by Messrs: Titus Gatumo Senior Manager, Finance and Accounts; Mercy Mbijiwe, Company Secretary and G. G. Mawasha, Senior Manager Administration, appeared before the Committee and gave evidence on Accounts of he Bank for the years ended December 31, 2000 and December 31, 2001.

MIN. NO. 310/2004/2005: EVIDENCE: PARAGRAPH 1 OF YEAR 2000 ACCOUNTS- IRREGULAR ACQUISITION OF DEC ALPHA SERVER.

The Committee was informed that: -

(i) the server was procured in 1998 from M/S. Matrix Group and the necessity to upgrade it occurred due to among other reasons, the Y2K Compliance and to cater for additional 1.5 million customers, and,

(ii) the upgrading was done in the year 2000.

The Committee resolved to raise the matter with the former Chief Executive Officer of the Bank at a later date.

MIN. NO. 311/2004/2005: EVIDENCE: PARAGRAPH 2 OF YEAR 2000 ACCOUNTS- PROCUREMENT OF SYMBOLS BANKING SOFTWARE.

The Committee heard that: -

(i) the Chief Executive then was Mr. I. F. Kiplagat; and,

(ii) the Chairman then was Mr. John Kimanzi Mutinda, who signed a licence agreement between the Bank and M/S. Systems Access PTE Ltd.

The Committee observed that the management had not exhaustively addressed the issues raised by the Controller and Auditor-General. Subsequently, the Committee resolved to defer taking evidence on the 2000 and 2001 accounts of the Bank until Friday, February 18th at 9.30 A.M., when the management will be expected to have submitted

comprehensive and refined responses and appear before the Committee alongside the then Chief Executive Mr. Isaiah. F. Kiplagat and the then Chairman Mr. John Kimanzi Mutinda. Mr. Kiplagat who will be expected to explain on irregularities related to procurement of computer equipments, software and networking in paragraphs 1 to 6 of 2000 Accounts while Mr. Mutinda will be expected to apprise the Committee under which circumstance did he signed a licence agreement with M/S. Access PTE Ltd. on behalf of the Bank while he was not an executive officer.

The Chief Executive was directed to provide:-

(i) name(s) of director(s) of M/S. Systems Access PTE. Ltd.;

(ii) copies of minutes of the Board when it sat to adjudicate and award the tender; and,

(iii) details on how the companies were identified for the same.

The Committee deferred taking evidence on Paragraphs 1, 2,3,4,5 and 6 of the Accounts of the Bank for the year ended December 2000 until February 18, 2005 when the former Chairman and the former Chief Executive of the Bank Mr. John Kimanzi Mutinda and Mr. Kiplagat, respectively, will be required to appear before the Committee.

MIN. NO. 312/2004/2005: EVIDENCE: PARAGRAPH 7 OF 2000 ACCOUNTS- DEBTORS AND PREPAYMENTS.

The Committee was informed that the Bank held a total of Ksh. 127, 576,499 at Trust Bank Ltd (under liquidation).

The Committee directed the Chief Executive to provide:-

(i) copies minutes of the Board resolving to deposit these amounts in Trust Bank. K. Ltd.,

(ii) records of appraisals done, if any,

(iii) details of the banks interests rates then, and,

(iv) the information in (i to iii) above before February 18. 2005 and copied to the Controller and Auditor General.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 313/2004/2005: EVIDENCE: PARAGRAPH 8 OF 2000 ACCOUNTS- KARURA TRAINING AND SPORTS COMPLEX

The Committee was informed that the tenant was M/S. Simmers Ltd., while the Contractor was M/S. K. G. Patel and Sons

The Committee directed the Chief Executive to provide:-

(i) information on when the land on which the facility is built was purchased, from whom, and at how much;

(ii) copies of minutes of the Board approving the facility to be built;

(iii) evidence that the Board discussed the matter to purchase the land;

(iv) a copy of feasibility study, if any, conducted prior to commencement of the projects;

(v) evidence on the need for the variations; and

(vi) information on progress on the facility and whether the various projects on it are completed as at February, 2nd, 2005.

(vii) the information in (i-vii) above, before February 18, 2005 and copied to the Kenya National Audit Office.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 314/2004/2005: EVIDENCE: PARAGRAPH 9 OF 2000 ACCOUNTS- NON COLLECTION OF RENT

The Committee was informed that the Corporation has collected the outstanding rent and a lease agreement is under execution.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 315/2004/2005: DEFERRED EVIDENCE:

The Committee deferred taking evidence on the Accounts of the Bank for the year ended 31st December, 2001 to a later date.

MIN. NO. 316/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon Joseph Kingi Kahindi, MP
The Hon Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J Njoroge	-	Third Clerk Assistant

OFFICE OF THE PRESIDENT

Amb. Francis K. Muthaura, MBS.	-	Permanent Secretary, Secretary to the Cabinet and Head of Public Service.

MINISTRY OF FINANCE

Mrs. T. N. Gathaara	-	Under Secretary (DGIPE)
Ms. G. K. Nyarango	-	Senior Deputy Director
Mr. J. G. Kiarii	-	Accountant

MINISTRY OF REGIONAL DEVELOPMENT

Mr. Daniel M. Mule - Permanent Secretary
Mr. Michael W. Ojiambo - Deputy Secretary

MINISTRY OF ENERGY

Mr. Patrick M. Nyoike - Permanent Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua - Deputy Director of Audit
Mr. Boniface K. Mulli - Auditor I

INSPECTORATE OF STATE CORPORATIONS

Mr. J. M. Otenyo - Inspector-General (State Corporations)

Mr. N. Mwingirwa- D.C.E

OTHER WITNESSES:

Kenya Electricity Generating Company (Kengen)

Mr. Edward Njoroge - Managing Director
Mr. Wycliffe Temesi - Chief Finance Manager
Mr. Richard M. Nderitu - Chief Manager, Operations
Mrs. Rebecca Miano - Assistant Company Secretary

Kenya Power and Lighting Company

Mr. Jasper O. Oduor - Managing Director
Mr. Zachary Ayieko - Chief Manager Finance
Ms. Laurencia Njagi - Company Secretary

MIN. NO. 317/2004/2005: EVIDENCE

Reports and Accounts of the Tana and Athi Rivers Development Authority for the years 1992/93 and 1993/94 and Certificates thereon by the Controller and Auditor General.

Mr. Moses K. Changwony, Chief Executive, Tana and Athi Rivers Development Authority, accompanied by Mr. Steven Githaiga, Finance Manager, appeared before the Committee and gave evidence on Accounts of 1993/94 and 1993/94 of the Authority.

MIN. NO. 318/2004/2005: **EVIDENCE: PARAGRAPHS 1, 2 & 3 OF 1992/93 ACCOUNTS AND 2, 3 & 4 OF 1993/94 ACCOUNTS.**

The Committee received the apologies of the Permanent Secretary, Ministry of Finance and the Investments Secretary who could not attend the meeting.

Collection of revenue accruing from sale of bulk power produced from the Kiambere and Masinga Hydro Electric Projects:

On the way forward and as directed by the Committee on December 10, 2004, under **Min. No. 278/2004/2005**, the Head of Public Service and Secretary to the Cabinet, presented a paper proposing the way forward. He further proposed that the Ministries of Finance, Energy and Regional Development Authorities submit a Cabinet Memorandum on this proposal for onward consideration by the Cabinet.

Further, the **following papers were laid** before the Committee:-

i. *Report of the Technical Committee on the Transfer of Tana and Athi Rivers Development Authority (TARDA) Assets, of 25th January, 2005.*

ii. *Response to Issues raised by the Public Investments Committee relating to Transfer of Tana and Athi Rivers Development Authority (TARDA) Assets,* (laid by the Head of Public Service and Secretary to the Cabinet).

iii. *Response by the Permanent Secretary, Mr. Daniel M. Mule to issues raised by the Public Investments Committee.*

The Committee expressed concern that there is need for further inter-ministerial consultation between the four Ministries, and the three Parastatals with view to coming up with a comprehensive, practical and all-embracing policy proposal.

To this end, the Committee directed that the respective Ministries revisit the issue and present to it a comprehensive and all-inclusive proposal on the way forward on Friday, February 9.30 A.M (to be presented by the Inspector-General, State Corporations).

MIN. NO. 319/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 6.35 P.M. until Thursday, February 3, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, FEBRUARY 3, 2005 AT 11.35 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. Humphrey Wanyama	-	Assistant Director of Audit
Mr. Joash M. Ogutu	-	Principal Senior Auditor

TREASURY (DGIPE)

Mr. Lawrence B. Amoko - Senior Economist

INSPECTORATE OF STATE CORPORATIONS

Mrs. Margaret Ratemo - Inspector

MINISTRY OF LANDS AND HOUSING

Mrs. M.M. Gachagua - Senior Deputy Secretary

MIN. NO. 320/2004/2005: EVIDENCE

Report and Accounts of the National Housing Corporation for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. A. J. Odera, the Managing Director, National Housing Corporation, accompanied by Messrs: B. J. Ogolla, Technical Manager; E. W. Mbugua, Corporation Secretary; M. M. Wandabwa, Ag. Finance Manager and A.N. Nyaga Ag. Chief Accountant appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1999/2000 and 2000/2001.

MIN. NO. 321/2004/2005: EVIDENCE: PARAGRAPH 1 - OUTSTANDING LOAN ARREARS

The Committee heard that: -

(i) the issues has been readdressed through a capital restructuring arrangement that converted all the debt plus arrear owed to the Government, into equity.

(ii) Ksh. 601,313,563 had been recovered as at October, 2004 through take over of assets for direct management,

The Committee directed that:-

(i) within a month from the date of February 3, 2005, the Ministry of Lands and Housing facilitates holding of meetings between it, the Ministry of Local Government and the National Housing Corporation (being the Secretariat) and undertake to resolve the issue of obtaining authority to sell some houses under certain local authorities for redeeming debts. Further, progress on the same be reported to the Committee and copied to the Kenya National Audit Office; and,

(ii) the Chief Executive provides a list of defaulters in respect of Rural Housing Loans, showing how much has been collected from each local authority, and the balance, in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 322/2004/2005: EVIDENCE: PARAGRAPH 2 – GOVERNMENT OF KENYA LOANS.

The Committee heard that the Corporation had cleared its debt obligation to the Government as all GOK loans plus arrears were converted into equity.

The Committee concluded taking evidence on the paragraph.

MIN. NO.323/2004/2005: EVIDENCE: PARAGRAPH 3 – IRREGULAR AWARD OF CONTRACTS

The Committee heard that the award of the contracts was through selective tendering and that there was no Board approval.

The Committee took evidence and directed the Chief Executive to provide:

(i) a copy of the Management paper that was presented to the Board in respect of the projects;

(ii) a copy of Board Minutes approving the proposal of the Management paper and the excess costs over the year's approved budget; and,

(iii) a list of other firms that were involved in the split tender.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 324/2004/2005: EVIDENCE: PARAGRAPH 4 – REPAIR OF LORRY KTP 268

The Committee was informed that the lorry was taken to M/S. Sawa Autos with the direction of the then Managing Director and no Local Purchase Order was raised.

The Committee directed the Chief Executive to provide a copy of the minutes approving the repairs to be done.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 325/2004/2005: EVIDENCE: PARAGRAPH 5 – PAYMENT FOR ADVERTISEMENT

While observing that it had exhaustively deliberated on a similar issue in its 12th Report, the Committee directed the Chief Executive to provide:-

(i) a copy of the letter from the Permanent Secretary, Ministry of Public Works Housing authorising the Corporation to execute the advertisement, and

(ii) a copy of the advertisement.

Taking of evidence on the paragraph was concluded.

MIN. NO. 326/2004/2005: DE FERRED EVIDENCE:

The Committee deferred taking evidence on paragraphs 6, 7, 8 and 9 of the Accounts of the Corporation for the years 1999/2000 and the Accounts of the Corporation for the years 2000/2001 until a later date.

MIN. NO. 327/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1. 30 P.M. until afternoon.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. Joash M. Ogutu	-	Principal Senior Auditor

TREASURY (DGIPE)

Mr. K. Ondieki	-	Deputy Director

INSPECTORATE OF STATE CORPORATIONS

Mr. G.K. Mwangi	-	Inspector I

MIN. NO. 328/2004/2005: EVIDENCE

Report and Accounts of the Retirements Benefits Authority for the years 1998/1999 and Certificate thereon by the Controller and Auditor General.

Mr. E. O, Odundo, the Managing Director, Retirements Benefits Authority accompanied by Mr. Jesse K. Kiptim, Finance Manager appeared before the Committee and gave evidence on Accounts of the Authority for the years 1998/1999.

MIN. NO. 329/2004/2005: EVIDENCE: PARAGRAPH 1 - OUTSTANDING LOAN ARREARS

The Committee noted that the Accounts of the Authority for the Years 199/99, 1999/2000, 2000/2001, 2001/2002 and 2002/2003 were clean accounts.

The Chief Executive, Retirements Benefits Authority, briefed the Committee on the objectives of the Authority and its financial performance.

MIN. NO. 330/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4. P.M. until Tuesday, February 7, 2005, at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, FEBRUARY 8, 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF WATER AND IRRIGATION

Mr. S. O. Olala	-	Chief Finance Officer

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua	-	Director of Audit
Mr. Boniface K. Muli	-	Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Ntojirwa Mwingirwa	-	DCE
Mr. Philip Nyingi	-	Inspector II

MIN. NO. 331/2004/2005: EVIDENCE

Report and Accounts of the National Irrigation Board for the years 1995/96 and 1996/97 and the Certificates thereon by the Controller and Auditor General.

Eng. J. P. Olum, Chief Executive, National Irrigation Board, accompanied by Messrs: J. J. Njokah, Technical Manager; Kisaka W. Sakari, Senior Accountant and Mary M. Chomba Chief Accountant, appeared before the Committee and gave evidence on Accounts of he Board for the years 1995/96 and 1996/97.

MIN. NO. 332/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1995/96 ACCOUNTS- DEBTORS: NATIONAL CEREALS AND PRODUCE BOARD.

The Committee was informed that the office of the Inspector General (Corporations) has received an official request from the Board to intervene in the matter.

The Committee directed that the Permanent Secretaries, Ministry of Water and Irrigation and Ministry of Agriculture convene a meeting within seven days from the date of February 8, 2005, with a representative from the Inspectorate of State Corporations, to review the matter and report progress and a proposal on the way forward, signed by the four parties be presented to the Committee in three weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 333/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1995/96 ACCOUNTS- IRRIGATION SCHEMES

The committee heard that most of these schemes collapsed after financial difficulties in the Board and further that it would require a minimum of three years to recoup and be self-sustaining.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 334/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1995/96 ACCOUNTS- PROJECT VEHICLES.

The Committee directed that the Permanent Secretary, Ministry of Water and Irrigation to write to the Permanent Secretary, Ministry of

Finance, requesting for a tax waiver on the Motor vehicles and copies be forwarded to the Committee. This is to be done in two weeks time.

The committee concluded taking evidence on the Paragraph.

MIN. NO. 335/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 1996/97 ACCOUNTS- FINANCIAL POSITION.**

The Committee was informed that the Board has put in measures to recoup its financial stability.

The Committee directed that the Parent Ministry oversee resolution of the matter and reports progress in three weeks time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 336/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1996/97 ACCOUNTS- CREDITORS.**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 337/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 1996/97 ACCOUNTS- DEBTORS.**

The Committee directed the Chief Executive to provide a list of creditors and debtors of the Board in three weeks time.

The Committee concluded taking evidence on the Accounts of the Board for the years 1995/96 and 1996/97.

MIN. NO. 338/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M., until 2.30 P. M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, 9 FEBRUARY 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. Jimmy Angwenyi, MP - **(Ag. Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. J.B.N. Muturi, MP-

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE

Mrs R. N. M Kiiru	-	Deputy Chief Finance Officer.
Mrs. Lucy Gitundu	-	Senior Accountant (DGIPE)

MINISTRY OF AGRICULTURE

Mrs. M. Kamau	-	Senior Assistant director of Agriculture

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. Tom Gaya	-	Senior Auditor

MIN. NO. 339/2004/2005: EVIDENCE

Report and Accounts of the Pyrethrum Board of Kenya for the years 1995/96 and 1996/97 and Certificates thereon by the Controller and Auditor General.

Mrs. Polyne Sego, Ag. Managing Director, Pyrethrum Board of Kenya accompanied by Mr. Ongiri Osinde, Finance Manager appeared before the Committee and gave evidence on Accounts of the Board for the years 1995/96 and 1996/97.

MIN. NO. 340/2004/2005: EVIDENCE PARAGRAPH 1 OF 1995/96-LATE SUBMISSION OF ACCOUNTS.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 341/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1995/96 DEBTORS AND PREPAYMENTS KSH. 475,130,400.

The Committee was informed that some of the Debts owed by former Board Members have been written off upon Board's approval while the rest are waiting write off. Further, the Board received Ksh. 6,473,079.40 being full principal and interest in respect of loss of Ksh. 3,268,246 through an interception of a cheque.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 342/2004/2005: EVIDENCE: PARAGRAPH 3 OF 195/96 ACCOUNTS- ENCROACHMENT OF THE BOARD'S LAND

The Committee heard that: -

i. the land was sold to Kich Agricultural Co. Ltd. in the year 2002 at Ksh. 30,050,000 out of which. Ks. 19. million has been paid leaving an outstanding balance of Ksh. 10,950,00;

ii. the land had been valued by M/S. Mugi Property Consultants in 1995 and January 2002 at Ksh. 42,177,990 and 53,995,779.85 respectively;

iii. the Board has been making efforts for retrieval of the title deed through the Court; and,

iv. the Board's (vendor) lawyers Ms. Nancy Njoroge at the time, transferred the title documents to the purchaser's advocates before full payments were made and contrary to the agreement between the two transacting parties.

The Committee directed the Chief Executive to:-

(i) seek legal advice in respect of the case H.C.C No. 142 of 2004 with a view to determining whether Ms. Nancy Njoroge could be enjoined in the case;

(ii) write to the Registrar of Companies seeking names of director(s) of M/s. Kich Agricultural Company Ltd. and Copies of the *search* to be given to the Committee and the Kenya National Audit office, in seven days time;

(iii) report the matter to the police for investigations and copies of correspondence to be given to the Committee; and,

(iv) provide copies of the Board minutes approving the sale and a copy of the Cheque paid by M/S. Kich Agricultural Company Ltd.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 343/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 1996/97 ACCOUNTS- COMPOSITION OF THE BOARD.**

The Committee was informed that the extra Board Member Mr. W. K. Chebiegon was not gazetted when the Board undertook to pay him.

The Committee concluded taking evince on the Paragraph.

MIN. NO. 344/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1996/97 ACCOUNTS- DEBTORS AND PREPAYMENT**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 345/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 1996/97 ACCOUNTS- CREDITORS AND PROVISIONS.**

The Committee was informed that the Board has since reconciled the postings.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 346/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1996/97 ACCOUNTS- BUDGETARY CONTROL.

The Committee heard that approval to exceed its budgetary allocation was obtained from the Board.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 347/2004/2005: ANY OTHER BUSINESS

(I) While expressing concern and uncertainty on the statutory position of the Kenya Cooperative Creameries, the Committee resolved to summon the Permanent Secretary, Ministry of Cooperative Development and the Investments Secretary to apprise the Committee on the status and percentage of government investment in the Cooperative.

(II) Members addressed the issue of commitment to the Committee's work and promptness to its business. It was agreed that this issues would be discussed in presence of the substantive Chairman and other Committee Members. Members proposed that in the event that a quorum is not realized within thirty (30) minutes past the agreed time on any sitting, the Member(s) present at the time should call-off the Sitting.

(III) Members agreed that its next programme of business would be confined to Mondays and Fridays when the House is sitting. Further the following State Corporations be included in the programme:-

(i) National Bank of Kenya,
(ii) Industrial and Commercial Development Corporation (ICDC),
(iii) Kenya -Re,
(iv) National Water Conservation and Pipeline Corporation,
(v) Kenya Railways Corporation.

The Committee also resolved to look into the percentages of the government's investments in various State Corporations against their core activities and average turnover, with a view to focusing more on the major Corporations.

(IV) Further in its proposed international tour, the Committee resolved to visit the Parliament of South Africa in addition to State Parliaments in Australia.

(V) Members also agreed to pay site visits to various State Corporations in Coast and Western Kenya to verify various issues raised before it when taking evidence from Chief Executives of Corporations and also inspect ongoing and completed projects.

MIN. NO. 348/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.15 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE

Mr. B. L. Amoko	-	Senior Economist
Mr. J. N. Karago	-	Senior Assistant IAG

MINISTRY OF REGIONAL DEVELOPMENT

Mr. Gichuhi Kamuto - Deputy Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. H.O. Wanyama - Deputy Director of Audit.
Mr. Tom Gaya - Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. N. Mwingirwa - DCE
Mr J. M. Weru - Inspector II

MIN. NO. 349/2004/2005: EVIDENCE

Report and Accounts of the Ewaso Ngiro North River Basin Development Authority for the years 1997/98 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Eng. A. A. Ali, Chief Executive, Ewaso Ng'iro North River Basin Development Authority, accompanied by Messrs: Paul Ndirima, Chief personnel and Administrative Officer; Hersi Bante, Internal auditor and A. Jabar Accountant, appeared before the Committee and gave evidence on Accounts of the Authority for the years 1997/98 and 1998/99.

MIN. NO. 350/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1997/98 ACCOUNTS- FIXED ASSETS.

Arising form its earlier direction that the Chief Executive expedites pursuit of issuance of title deed, the Committee was informed that the Chief Executive has been following the matter with the Office of the Commissioner of Lands to no avail. In the circumstances, the Committee directed that the Chief Executive expedite the matter with a view to obtaining a title deed in respect of the land, within thirty days, failure to which the Permanent Secretary, Ministry of Lands and Housing and the Commissioner of Lands would be required to appear before the Committee.

MIN. NO. 351/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1997/98 ACCOUNTS- IRREGULAR PAYMENT OF BOARD ALLOWANCES.

The Committee was informed that the Chief Executive had sought *post facto* authority from the Office of the President for the allowances.

The Committee was concerned that the Head of Public Service and Secretary to the Cabinet had signed the *post facto* authority, as this was the obligation of the State Corporations Advisory Board's Secretary, which was in place at the time.
The Committee resolved to raise this issue with the "Big Five" at a later date.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 352/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 1998/99 ACCOUNTS- FIXED ASSETS.**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 353/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1998/99 ACCOUNTS- IRREGULAR PAYMENT OF BOARD ALLOWANCES.**

The Committee directed the Chief Executive to provide *post facto* approval for the expenditures paid to the ex-official members.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 354/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 1998/99 ACCOUNTS BUDGET AND BUDGETARY CONTROL.**

The Committee asked the Kenya National Audit Office to verify the submission of the Chief Executive.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 355/2004/2005: **SITE VISITS**

The Committee resolved to pay site visits to ascertain various issues raised before it when taking evidence from Chief Executives of various State Corporations.

MIN. NO. 356/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 4.55 P.M. until Thursday, February 10, 2004 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, FEBRUARY 10, 2005 11 .30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. Lucy W. Gitundu	-	Senior Accountant

CONTROLLER AND AUDITOR GENERAL

Mr. Eric O. Onyango	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher Ombega	-	Inspector I
Mr. Davidson D. W. Sifuma	-	Inspector II

MIN. NO. 357/2004/2005: EVIDENCE

Report and Accounts of the Medical Practitioners and Dentist Board for the years 1993/94, 1994/95, 1995/96 and 1996/97 and Certificates thereon by the Controller and Auditor General.

Dr. Nyikal, Chief Executive/Registrar, Medical Practitioners and Dentist Board, accompanied by Messrs: Daniel M. Yumba, Executive Officer; Njage J. N (Dr.), Deputy Director of Medical Services; Japheth I. Kebeya, Accountant; Sospeter Onyango, Assistant Accountant and John Kariuki Ireri, Support Staff, appeared before the Committee and gave evidence on Accounts of Board for the years 1993/94, 1994/95, 1995/96 and 1996/97.

MIN. NO. 358/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 1 OF 1993/94 ACCOUNTS- NON-SUBMISSION OF ACCOUNTS.

The Committee was informed that: -

(i) there was no record of the Board's Accounts for the period 1978 to 1993 during which it was a unit of the Ministry of Health.

(ii) Some of the accounts of the Board were not audited

In the circumstances, the Committee **differed taking evidence on the Accounts of the Board** for the years 1993/94, 1994/95, 1995/96 and 1996/97, to later date when the Board Chief Executive will be required to provide evidence to the Committee that the accounts of the Board for the years 1978 to 1993 and onwards were included in the appropriation accounts for the Ministry of Health.

MIN. NO. 359/2004/2005: ANY OTHER BUSINESS.

The Committee resolved to reschedule the appearances of the Management of Tana and Athi Rivers Development Authority to a later date other than Friday, February 11, 2005 as earlier agreed under Min. No. 315/2004/2005 and that of Post Bank to a later date.

MIN. NO. 360/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. K.M. Sang, MP - **(Ag. Chairman)**
The Hon. J.B.N. Muturi, MP-
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Lawrence B. Amoko	-	Senior Economist

MINISTRY OF REGIONAL DEVELOPMENT AUTHORITIES

Mr. S. G. Gichere	-	Deputy Chief Economist

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. Tom Gaya	-	Senior Auditor

OTHER WITNESSES

Dr. Daniel K. Punyua		-Former Chief Executive, Ewaso Ng'iro North River development Authority.
Mr. Philip K. Mwangi	-	Former Supplies Officer, Ewaso Ng'iro North River Development Authority.

MIN. NO. 361/2004/2005: EVIDENCE

Report and Accounts of Ewaso Ng'iro North River Development Authority fro the years 1994/95 and 1995/96 and Certificates thereon by the Controller and Auditor General.

Mr. f. M. Nkako, Chief Executive, Ewaso Ng'iro North River Development Authority accompanied by Mr. Kerika Ole Ndere, Chief Accountant, appeared before the Committee and gave evidence on Accounts of he Bank for the years 1994/95 and 1995/96.

MIN. NO. 362/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1994/95 ACCOUNTS- PURCHASE OF A MOTOR VEHICLE.

Mr.Kariuki Mwangi, a former Purchasing Officer of the authority **tabled before the Committee a** self written response to the issues raised by the Committee in relation to the Motor vehicle, Toyota Surf: KAE 498G.

The Committee was informed that no duty was paid on the vehicle.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 363/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1995/96 ACCOUNTS- BUDGETARY CONTROL.

The Committee heard that authority was not sought from the Board, the Parent Ministry nor from the Ministry of Finance to over expend.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 364/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1995/96 ACCOUNTS- PROFESSIONAL CHARGES.

The Committee was informed that the Authority paid M/s. Mwacharo & Associates Architects amount of Ksh. 1,568,321 while M/S. Chalan & Associates was paid Ksh. 69,000. No competitive bidding was done.

The Committee directed that Dr. Punyua, the former Chief Executive goes to the premises of Ewaso Ng'iro South Development Authority to retrieve information related to Paragraphs 1 and 2, provide this information to the Committee and copied to the Kenya National Audit Office. In the event that he does not get any information, to write back to the Committee explaining the issues raised y the Committee in two weeks time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 365/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 1995/96 ACCOUNTS- OUTSTANDING IMPREST OF KSH. 192,311**

The Committee was informed that the issue has been resolved.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 366/2004/2005: **EVIDENCE: PARAGRAPH 4 OF 1995/96 OF 2000 ACCOUNTS- SUSPENSE ACCOUNT.**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 367/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.30 P.M. until Friday, February 11, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY FORTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, FEBRUARY 11, 2005 AT 11 .30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 368/2004/2005: CONFIRMATION OF MINUTES

The Minutes of the Fourteenth Sitting held on Tuesday, September 21, 2004 were confirmed by the Members present, proposed by Hon. Peter G. Munya, M.P, Seconded by Hon. Wafula Wamunyinyi, M.P, and signed by the Chairman.

The Minutes of the Fifteenth Sitting held on Wednesday, September 22, 2004 were confirmed by the Members present, proposed by Hon. Wycliffe A. Oparanya, M.P, Seconded by Hon. Peter G. Munya, M.P, and signed by the Chairman.

MIN. NO. 369/2004/2005: MATTERS ARISING

(i) The Committee was informed that the information it had requested for under **Min. No. 130/2004/2005** had been provided; and,

(ii) Under **Min. No. 130/2004/2005 (ii), t**he Committee observed that, in absence of any Board minutes awarding the tender to M/s. Thabiti Insurance Brokers, the firm would appear to have been single sourced to supply insurance brokerage at the Electricity Regulatory Board.

MIN. NO. 370/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M. until Tuesday, February 15, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, FEBRUARY 15, 2005 AT 11 .30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. K. O. Ondieki	-	Principal Auditor

CONTROLLER AND AUDITOR GENERAL

Mr. Eric O. Onyango	-	Deputy Director of Audit
Mr. J.J.W. Nganga	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. Joyce Wesonga	-	Senior Auditor

MIN. NO. 371/2004/2005: EVIDENCE

Report and Accounts of the Kenya Dairy Board for the years 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Mr. Machira Gichohi, Chief Executive, Kenya Dairy Board, accompanied by Mr. Humphrey Maina, Finance Manager, appeared before the Committee and gave evidence on Accounts of Board for the 1996/97 and 1997/98.

MIN. NO. 372/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1996/97 ACCOUNTS- SUBMISSION OF ACCOUNTS.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 373/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1996/97 ACCOUNTS- FINANCIAL POSITION.

The Committee took evidence and concluded on the paragraph.

MIN. NO. 374/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1996/97 ACCOUNTS- LAND AND BUILDINGS

The Committee was informed that:-

(i) the Board has since acquired title deed for the plot on which the building is constructed while it is pursuing title documents for plot LR. No. 209/21701 in Kabete, Nairobi; and,

(ii) The Board is pursuing ways of selling off the asset and valuation is underway,

The Committee directed the Chief Executive to provide a copy of the minutes of the Board (of KDB), approving the extensions on the unfinished building at the cost of Ksh. 5,017,287 in two weeks time and copy the same to the Kenya National Audit Office.

The Committee took evidence and concluded on the paragraph.

MIN. NO. 375/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1996/97 ACCOUNTS- DEBTORS AND PREPAYMENTS.

The Committee was informed that:-

(i) some of the ex-employees who owed the Board were casual employees who had been advanced with imprests;

(ii) the former chairman of the Board, Mr. Andrew Kiptoon had been advanced Ksh. 88,150, which was still unaccounted for; and,

(iii) some of the officers who owed the Board a total of Ksh. 190,786 were drivers (employees) from the parent Ministry,

In the circumstances, the Committee:-

(i) **deferred taking evidence** on the paragraph and resolved to summon the former Chief Executive Officer of the Board, Mr. Saidimu, to explain the circumstances under which the payments were made; and,

(ii) directed the Chief Executive to write to Mr. Andrew Kiptoon, the former chairman of the Board directing him to pay the outstanding debt of Ksh. 88, 150 and copy be made to the Committee and the Kenya National Audit Office, in seven days time.

MIN. NO. 376/2004/2005: EVIDENCE: PARAGRAPH 5 OF 1996/97 ACCOUNTS- PROCUREMENTS PROCEDURES.

The Committee was informed that the Board did not follow the laid down government procedures pertaining to procurement of good and services.

The Chief Executive was directed to provide a detailed breakdown of who authorised the transactions.

The Committee resolved to summon the former Chief Executive Officer of the Board, Mr. Saidimu, to explain the circumstances under which the irregular procurements that amounted to Ksh. 3,023,613 were made.

. . NO. 377/2004/2005: EVIDENCE: PARAGRAPH 6 OF 1996/97 ACCOUNTS- DONATIONS.

The Committee **deferred taking evidence** on the paragraph and directed that the former Chief Executive Officer of the Board, Mr. Saidimu should appear before it on Tuesday, March 1st, 2005 at 2.30 P.M. He will be expected to explain the expenditure of Ksh. 212,442 that was ostensibly incurred as donations.

The Committee directed the Chief Executive to avail to Mr. Saidimu, all documents in respect of the expenditure to enable him address the issue.

MIN. NO. 378/2004/2005: EVIDENCE: PARAGRAPH 7 OF 1996/97 ACCOUNTS- COMMUTED LEAVE FOR CASH.

The Committee took evidence and concluded on the paragraph.

MIN. NO. 379/2004/2005: EVIDENCE: PARAGRAPH 8 OF 1996/97 ACCOUNTS- STAFF PENSION FUND.

The Committee was informed that:-

(i) the Board has received Ksh. 8,243,930 from Kenya National Assurance 2002, which is two-thirds of the total amount;

(ii) the balance of Ksh. 2.7 Million which was due in December, 2004, would be paid by June, 2005; and,

(iii) the Board has paid most of the former employees their dues from the account, while it has reinvested the fund with M/s. American Life Assurance Company, (ALICO).

The Committee concluded taking evidence on the paragraph.

MIN. NO. 380/2004/2005: EVIDENCE: PARAGRAPH 9 OF 1996/97 ACCOUNTS- PAYMENT OF SITTING ALLOWANCES TO BOARD MEMBERS.

The Committee **deferred taking evidence** on the paragraph and directed that the former Chief Executive Officer of the Board, Mr. Saidimu should appear before it on Tuesday, March 1st, 2005 at 2.30

P.M. He will be expected to explain why he paid himself si allowance of Ksh. 10, 000 in contravention of Section 10 of the St Corporations Act, Cap 446.

MIN. NO. 381/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M. until afternoon.

AFTERNOON SITTING.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE

Mrs. Lucy W. Gitundu - Senior Accountant
Mrs. Phylis N. Makau - Principal Economist

MINISTRY OF EDUCATION SCIENCE AND TECHNOLOGY

Mr. Gacivih J. N. - D.C. S. C

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Wacira - Assistant Director of Audit
Mr. Patrick Kibe - Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. P. K. Waweru - Inspector

MIN. NO. 382/2004/2005: EVIDENCE

Report and Accounts of the Kenya Literature Bureau for the years 1996/97, 1997/98, 1998/99 and 1999/2000 and Certificates thereon by the Controller and Auditor General.

Mr. Mathew Adams Karauri, Chief Executive, Kenya Literature Bureau accompanied by Messrs: Jane W. Muthaura, Finance Manager and Agnes Minjiri, Internal Auditor, appeared before the Committee and gave evidence on Accounts of he Bureau for the years 1996/97, 1997/98, 1998/99 and 1999/2000.

MIN. NO. 383/2004/2005: EVIDENCE: PARAGRAPHS 1 OF 1996/97 AND 1999/2000 ACCOUNTS- DEBTORS AND PREPAYMENT: 73,054,386.

The Committee concluded taking evidence on the Paragraphs.

MIN. NO. 384/2004/2005: EVIDENCE: PARAGRAPHS 2 AND 1 OF 1996/97 AND 1997/98 ACCOUNTS (RESPECTIVELY)- STAFF PENSION FUND.

The Committee took evidence and concluded with the Paragraphs.

MIN. NO. 385/2004/2005: EVIDENCE: PARAGRAPHS 1 OF 1998/99 AND 1999/2000 ACCOUNTS- DEBTORS.

The Committee was informed that the debt of Ksh. 84, 451.00 which was guaranteed to Mrs. Anne W. Mithamo would be written off as she was deceased and the debt is therefore irrecoverable.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 386/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1998/99 ACCOUNTS- PROCUREMENT PROCEDURES.

The Committee was informed that the tender was open one.

The Committee directed the Chief Executive to provide: -

(i) names of firms/individuals who submitted tenders;

(ii) a copy of the tender evaluation report, if any;

(iii) a copy of minutes of the tender committee deliberating on the tender;

(iv) names of director(s) of M/S. English Printing Press; and,

(v) copy of the tender advertisement, if any, or tender specifications by the Board.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 387/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1999/2000 ACCOUNTS- SHORT TERM DEPOSITS.**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 388/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.30 P.M. until Wednesday, February 16, 2005 at 9.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, FEBRUARY 16, 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi. MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J.	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Deputy Director of Audit
Mr. Tom Gaya	-	Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Davidson W. Sifuna	-	Inspector

OTHER WITNESSES

Mr. J.M. Kamau	-	Director of Criminal Investigations
Mr. K. Wabwoba	-	Chief Investigating Officer

MIN. NO. 389/2004/2005: EVIDENCE

Report and Accounts of the Kenya National Trading Corporation for the years 1996/97 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Mr. Vinicent H. L. Opanga, Chief Executive, Kenya National Trading Corporation, accompanied by Messrs: Remmy K. Koech, Chief Accountant; Michael Mubea; Legal Officer, Lawrence Kimilu, Senior Marketing Manager and Evans Oyaro, Senior Accountant, appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1996/97 and 1998/99 .

MIN. NO. 390/2004/2005: PROCEDURE

In view of the fact that the Committee had exhaustively deliberated on paragraphs 1, 3 and 5 of the 1996/97 accounts when examining the 1997/98 accounts of the Corporation, the Committee resolved to deem them as concluded.

MIN. NO. 391/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1996/97 ACCOUNTS- COFFEE STOCK LOSES.

The Director of Criminal Investigations Department **tabled the following paper** before the Committee:

- **Report to the Public Investment Committee (PIC) on pending KNTC cases with the CID.**

The Committee expressed concern that the Attorney General had not been represented in the meeting despite a written request by the Committee for his representation.

The Committee resolved to request for representation of the Attorney General again in a subsequent sitting, failure to which he will be required to appear before the Committee in person, to give evidence on the issues raised before it in respect of losses of stock and assets at KNTC and other issues of non-representation in courts by his Office on matters of State Corporations.

MIN. NO. 392/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1996 ACCOUNTS- LONG-TERM INVESTMENTS.

The Committee heard that: -

(i) the issue of the exclusion of Ksh. 250,456,000 has been resolved with the Ministry of Finance;

(ii) the management is to seek authority to write off stock loses of Ksh. 12,425,604; and,

(iii) Ksh. 22.4 million had been received while Ksh. 9.9 million is still pending,

The Committee resolved to revisit the issue of loss of Ksh. 9.9 million when the Attorney–General will be appearing before it.

99The Chief Executive was also directed to provide evidence that the loss of Ksh. 94,249,110.65 had been recovered.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 393/2004/2005: **EVIDENCE: PARAGRAPH 4 OF 1996/97 ACCOUNTS- STAFF PENSION FUND**

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 394/2004/2005: **EVIDENCE: PARAGRAPH 6 OF 1996/97 ACCOUNTS- LONG TERM INVESTMENT.**

The Committee was informed that:-

(i) the Broker was M/s. Dyer and Blair and M/S. Commercial Bank of Kenya Ltd; and,

(ii) the transactions were initiated by the then Chief Executive Mr. Maganga,

The Committee resolved that the then chief executives of KNTC and M/S. Commercial Bank of Kenya Ltd. and the current Chief Executive officer of M/S. Dyer and Blair should appear before the Committee at a later date to explain their roles on the transaction.

The Committee directed the Chief Executive to provide a copy of the agreement entered into with M/S. Dyer and Blair on the sale of the shares.

The Committee **deferred taking evidence** on the paragraph.

MIN. NO. 395/2004/2005: EVIDENCE: PARAGRAPH 7 OF 1996/97 ACCOUNTS- IRREGULAR TRANSFER OF SHARES.

The Committee directed the Chief Executive to provide: -

(i) evidence that the Board approved the transfers; and,

(ii) confirm reconciliation of the accounts to the Kenya National Audit Office, in seven days time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 396/2004/2005: EVIDENCE: PARAGRAPH 8 OF 1996/97 ACCOUNTS- CASH AND BANK BALANCES.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 397/2004/2005: DEFERRED EVIDENCE:

The Committee deferred taking evidence on the Accounts of the Corporation for the year 1998/99 to a later date.

MIN. NO. 398/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.45 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. L.W. Gitundu - Senior Accountant

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Mr. C.K. Thuku - Senior Assistant Director

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua - Deputy Director of Audit
Mr. J. K. Ongwen - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana - Inspector I
Mr J.M. Weru - Inspector II

MIN. NO. 399/2004/2005: EVIDENCE

Report and Accounts of the Jomo Kenyatta University of Science and Technology for the years 1999/2000 and 2000/2001 and Certificates thereon by the Controller and Auditor General.

Prof. Prof. Nick G. Wanjohi, Vice Chancellor, JKUAT, accompanied by Messrs: Stephen A. Agong, Deputy Vice Chancellor (APD); Samuel K. Sinei, Deputy Vice Chancellor (RPD); P.D. Muchai Mbugua, Registrar (AP &D); Vincent Paul Kariuki, Ag. Finance Manager and R.A. Indimuli, Ag. Deputy Finance Officer; appeared before the Committee and gave evidence on Accounts of 1999/2000 and 2000/2001 of the University.

MIN. NO. 400/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1999/200 ACCOUNTS- FIXED ASSETS.

The Committee was informed that the university had since acquired a title deed for the land.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 401/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1999/2000 ACCOUNTS- SHORT-TERM DEPOSITS.**

The Committee herd that the University had received a total of Ksh. 1,566,310.00 as at September 9, 2002 from the liquidators of Kenya Finance Bank.

The Committee directed the Chief Executive to provide evidence that the investment was authorised by the University Council.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 402/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 2000/2001 ACCOUNTS- FINANCIAL POSITION.**

The Committee was informed that the University was paying PAYE in instalments in agreement with KRA.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 403/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 4.45 P.M. until Thursday 17th February at 9.30 am.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

18th May 2005

DATE.....

MINUTES OF THE FORTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, FEBRUARY 17, 2005 AT 10.45 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF LANDS AND HOUSING

Mrs. Judith M. Okungu	-	Commissioner of Lands

MINISTRY OF TOURISM AND WILDLIFE

Mrs. F. K. Kadasia	-	Senior Deputy Secretary

KENYA NATIONAL AUDIT OFFICE

Mr. Paul M. Njuguna	-	Assistant Director of Audit
Mr. Jack J. Otieno	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Titus Muriithi	-	Senor Inspector

MIN. NO. 404/2004/2005: EVIDENCE

Report and Accounts of the Kenya Wildlife Service for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Dr. Julius Kipngetich, Chief Executive, Kenya Wildlife Service, accompanied by Messrs: Joachim Kagiri, Ag. Deputy Director of Wildlife; Nelson Agina, Chief Accountant; Alice Muita, Head, human Resource Department; Peter Leitoro, Ag. Deputy Director of Security; Samson Kimilu, Chief Internal Auditor and Mueni Mutunga, Head of Legal Service, appeared before the Committee and gave evidence on Accounts of 1999/2000 of the Service.

MIN. NO. 405/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1999/2000 ACCOUNTS - FIXED ASSETS

The Committee heard that:-

(i) the management of Kenya Wildlife Service was in the process of acquiring title deeds for its parcels of land;

(ii) the Chief Executive had provided the information as directed under **MIN.NO. 235/2004/2005 (i and ii)**;

(iii) the KANU-Youth in Naivasha had surrendered to the Commissioner of Lands, the Title deed in respect of the land that had been excised from part of the Naivasha Wildlife Training Institute Farm;

(iv) since surrender of the title deed in (iii) above, the land is yet to be reallocated to the Service; and,

(v) the Service is pursuing issuance of a title deed in respect of the land in (iii) above.

The Committee directed that:-

(i) the Commissioner of Lands revisits the issue of the irregular allocations of KWS land, consults the Attorney – General for advice on cancellation and repossession and provides information to the Committee on the progress of the repossessions; and,

(ii) the Commissioner of Lands should provide the names of the officer(s), who executed the illegal allocations,

The Committee resolved to visit some of the irregularly allocated plots in Malindi and Kwale on Wednesday, March 2nd, 2005.

MIN. NO. 406/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.05 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S. J. Njoroge - Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. J. Karua - Assistant Director of Audit
Mr. Joshua M.Kereda - Principal Auditor

TREASURY (DGIPE)

Mr. F.W. Kingori - Assistant Investments Secretary

INSPECTORATE OF STATE CORPORATIONS

Ms. T. K. Gichana - Inspector I

MIN. NO.407/2004/2005: EVIDENCE

Report and Accounts of the Kenya Ferry Services for the year 1997/98 and Certificates thereon by the Controller and Auditor General.

Mr. Alex Ole Leteipan, Chief Executive, Kenya Ferry Services, accompanied by Messrs: S.S. Janoowala, Chief Engineer, Deche Kashero, Financial Controller and J.J. Ria, Strategy and Corporate Affairs Manager appeared before the Committee and gave evidence on Accounts 1997/98 of the Ferry Services.

MIN. NO. 408/2004/2005: EVIDENCE: PARAGRAPH 1 – INVESTMENTS.

The Committee heard that the Services had deposited Ksh. 2,093,480 at the Kenya Finance Bank (under liquidation).

The Committee directed the Chief Executive: -

(i) to write to the Deposit Protection Fund requesting for advice/proposal on how it intends to redeem the deposits;

(ii) to provide copies of the minutes of the Board approving the deposit Service Pay Benefits of Kshs. 2, 093, 480 at the Kenya Finance Bank, and names of the Board Members then; and,

(iii) to submit the information in two weeks time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 409/2004/2005: EVIDENCE: PARAGRAPH 2 – FREE HOLD LAND AND BUILDINGS

The Committee was informed that the title deeds have been transferred to Kenya Ports Authority from M/s., Bunty Estates.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 410/2004/2005: EVIDENCE: PARAGRAPH 3 – STOCK

The Committee concluded taking evidence on the paragraph.

MIN. NO. 411/2004/2005: **EVIDENCE: PARAGRAPH 4 – PROCUREMENT OF PUMP SPARES.**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 412/2004/2005: **EVIDENCE: PARAGRAPH 5 – ADVANCES FROM KENYA PORTS AUTHORITY.**

The Committee directed the Chief Executive to write to the Kenya Anti-Corruption Commission, with view to establishing the progress of the investigations on the case and a copy of the same be given to the Committee and the Kenya National audit Office.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 413/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.05 P.M. until Friday, February 18, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

20th June 2005

Date:.....

MINUTES OF THE FORTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, FEBRUARY 18, 2005 AT 11.20 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 414/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

(i) Minutes of the Sixteenth Sitting of the Committee held on Thursday, September 23, 2004 were confirmed by the Members present, proposed by the Hon. Wafula Wamunyinyi, M.P, seconded by the Hon. Peter Munya, M.P and signed by the Chairman;

(ii) Minutes of the Seventeenth of the Committee Sitting held on Friday, September, 24, 2004 were confirmed by the Members present, proposed by hon. Peter Munya, M.P, seconded by Hon. Gachara Muchiri, M.P and signed by the Chairman;

(iii) Minutes of the Eighteenth Sitting of the Committee held on Tuesday, September 28, 2004 were confirmed by the Members present, proposed by the Hon. Peter G. Munya

M.P, seconded by the Hon. Wafula Wamunyinyi, M.P, and signed by the Chairman; and,

(iv) Minutes of the Nineteenth Sitting held on Wednesday, September 29, 2004 were confirmed by the Members present, proposed by the Hon. Wafula Wamunyinyi, M.P, seconded by the Hon. Gachara Muchiri, M.P, and signed by the Chairman.

MIN. NO. 415/2004/2005: MATTERS ARISING

The following maters arose while confirming minutes of the Committee:

(i) the Committee was informed that the information it had requested under **MIN.NO. 161/2004/2005** had been provided,

(ii) under **MIN.NO.171/2004/2005 (i-iv)**, the Committee was informed that the Chief Executive, National Social Security Fund, had provided the information requested.

(iii) under **MIN.NO.171/2004/2005 (iii)**, the Committee observed with concern that:-

a) the Chief Executive, National Social Security Fund, had provided information on the ownership of M/S. Regent Management was not exhaustive as some names were Company names while the Committee was interested in knowing the individuals who owned the Companies; and,

b) in view of the fact that one of the directors of M/S. Regeant Management, M/S. Chemusian, was not a qualified Estates Manager contrary to the Estates Agents Registration Act. (Cap 533), there was need to summon the Estates Agents Registration Board to explain whether it was satisfied with the composition of the Board of M/S. Regent Management Company.

The Committee resolved to summon the Estates Agents Registration Board at a later date.

MIN. NO. 416/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the

Sitting at 12.20 P.M. until Tuesday, February 22, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

20th June 2005

Date:.....

MINUTES OF THE FORTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, FEBRUARY 22, 2005 AT 11.02 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Festus W. Kingori - Assistant Investments Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Eric O. Onyango	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

OTHER WITNESSES

Mr. M.A. Nyakiongora	-	Senior Supt. Quantity Surveyor, Ministry of Public Works
Mr. P. O. Sika	-	Chief Architect, Ministry of Public Works

Mr. R. A. Malala - Partner, M/S. Ujenzi Consultants

MIN. NO. 417/2004/2005: EVIDENCE

Report and Accounts of National Hospital Insurance Fund for the year 1999/2000 and the certificate thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lawrence N. Ondari, Manager, Finance, and William Mosonik, Manager, Information Technology; appeared before the Committee and gave evidence on the Accounts of the Fund for the year 1999/2000 and contract price variations at the Medicare Centre, Plot L.R. No209/11248.

MIN. NO. 418/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1999/2000 ACCOUNT: ACCURACY OF ACCOUNTS.

The Committee was informed that prior adjustments have been done in the subsequent accounts to correct the anomaly.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 419/2004/2005: EVIDENCE: PARAGRAPH 2.0 OF 1999/2000 ACCOUNTS- LONG TERM INVESTMENTS.

The Committee was informed that the investments were as a result of conversion of investments in five financial institutions that were merged under a government directive into the Consolidated Bank of Kenya.

The Committee further heard that the Fund is a shareholder in the Bank.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 420/2004/2005: EVIDENCE: PARAGRAPH 2.1 OF 1999/ 2000 ACCOUNTS- SHORT TERM INVESTMENTS.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 420/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1999/ 2000 ACCOUNTS-DEBTORS.

The Committee heard that the Board had approved for a provision of bad debts of Ksh. 751,150,000 and recommended for a write off of the debts amounting to Ksh.164, 229,726.00 deposited in ailing financial institutions.

There is need to seek an explanation from the Deposit Protecting Fund on what provisions are there to safeguard depositors in case of events when financial institution collapse with customers funds and still continue to operate under different names.

Further, the Committee resolved to raise the issue with the "Big Five" at an appropriate time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 421/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1999/ 2000 ACCOUNTS-MISSING PAYMENT VOUCHERS-KSHS. 86,810,410.80.

The Committee directed that the Chief Executive avails the copies of the vouchers to the Committee and copied to the Kenya National Audit Office, in two weeks time.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 422/2004/2005: EVIDENCE: MEDICARE CENTRE ON PLOT LR. NO. 209/11248.

The Committee observed with concern that the variations on the Building seem to have been insubstantially inflated. The Committee noted with concern that the Lead Architect, Mr. Wanyonyi Muchanga would appear to have been manipulating the execution of the works as per the minutes of the Boards Twenty Sixth Sitting of March 6, 2003.

The Committee deferred taking evidence on the matter and directed that: -

(i) the Chief Executive to provide a break down showing the percentages that each reason/factor contributed to the variations,

(ii) the following persons should appear before it to give evidence on the matter:-

a) the project manager, Maj. (Rtd.) K. Mibei

b) the Commissioner of Mines and Geology,

c) Permanent Secretaries, Ministries of Health, Finance and Public Works,

d) the Lead consultant, Mr. Wanyonyi Muchanga

e) the Contractor M/S. N.K. Brothers;

f) the then Chief Executive Mr. Ebrahim M. Hussein.

MIN. NO. 423/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 2.05 P.M. until 3.00 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Kennedy. O. Ondieki - Deputy Director

MINISTRY OF TRADE AND INDUSTRY

Mr. T. M. Mocha - Chief Finance Officer

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama - Deputy Director of Audit
Mrs. M. M. Muasya - Principal Auditor

MIN. NO. 424/2004/2005: EVIDENCE

Report and Accounts of Kenya Wine Agencies Ltd.

Mr. Francis E. O. Oyugi, Chief Executive, Kenya Wine Agencies, accompanied by Messrs: J. N. Ndung'u, Deputy Managing Director and Yobesh Amolo, Manager, Finance and Administration, appeared before the Committee and gave evidence on non-submission of accounts of the Agencies and Privatisation Programme at KWAL.

MIN. NO. 425/2004/2005: EVIDENCE: NON SUBMISSION OF ACCOUNTS.

While expressing that exemption of KWAL from certain provisions of the State Corporations Act did not exempt the Corporation from the Exchequer and Audit Act, the Committee observed with concern that the accounts of the Agencies for the years 1993/94 to 2002/2003 had not been submitted.

The Committee directed the Chief Executive to provide:-

(i) evidence of the exemption;

(ii) evidence that KWAL's private auditors had been approved by the Controller and Auditor General;

(iii) copies of the accounts for the years 1993/94 up to and including 2002/2003; and,

(iv) the information in (i to iii) above in seven days' time.

The Committee deferred taking evidence on the matter

MIN. NO. 426/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.05 P.M. until Wednesday, February 23, 2005 at 9.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

20th June 2005

DATE.....

MINUTES OF THE FIFTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, 23 FEBRUARY 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant

MINISTRY OF INFORMATION AND COMMUNICATION

Mr. Omolloh Okuthe	-	Deputy Chief Finance Officer

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr. J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana	-	Inspector I
Mrs. J.M. Wesonga	-	Senior Inspector

MIN. NO. 427/2004/2005: ATTENDANCE

The Committee was concerned that the Office of the Inspectorate of State Corporations had failed to turn up for the meeting and expressed that the attendance by the Office was wanting.

The Committee was informed that the concern would be passed on to the Office of the Inspector General, State Corporations.

MIN. NO. 428/2004/2005: EVIDENCE

Report and Accounts of the Postal Corporation of Kenya for the years 1999/2000 and 2000/2001 and Certificates thereon by the Controller and Auditor General.

Mr. Dan Ameyo, Chief Executive, Postal Corporation of Kenya, accompanied by Messrs: Julius Shigoli, Corporation Secretary; Benson Ngari, General Manager, Finance and Accounts and Bernard Murerwa, Manager, Finance, appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1999/2000 and 2000/2001.

MIN. NO. 429/2004/2005: DEFERRED EVIDENCE: PARAGRAPH 1 OF 1999/2000 ACCOUNTS- LAND AND BUILDINGS.

The Committee was informed that: -

(i) the parcels of land were inherited from the defunct Kenya Post and Telecommunications Corporation;

(ii) the issue of the parcels of lands which have not been vested in the Corporation were forwarded to the Transitional Management Committee for deliberation and vesting, which had not been responsive;

(iii) the parcel of land in Nairobi West which had not been vested to the Corporation though a letter of allotment had been issued, had irregularly been allocated to a Mr. and Mrs. Njoroge Keru, who were in possession of a title deed;

(iv) some of the firms hired to undertake the surveys on the parcels of land were not registered by then, one of them being M/S. Geotop Kenya Ltd, while M/S. Kimathi Mugeyu Land Surveys would appear to have had questionable transactions with the Corporation; and,

(v) the surveyors were single-sourced.

The Committee **deferred taking evidence** on the paragraph and directed that:-

(i) the Chief Executive provides a list detailing all the assets that the Corporation is in dispute with Telkom, Kenya Ltd and which has been forwarded to the Transitional Management Committee;

(ii) the Chief Executive to provide the basis of survey fees reimbursement and the rates paid to the surveyors for survey;

(iii) the Chief Executive to provide information on how much was paid to M/S. Geotop from the time they commenced offering their services to the time they were registered;

(iv) as the Chairman of the Transition Management Committee, the Permanent Secretary, Ministry of Information and Communication should appear to give evidence on what action and/or progress has been made to separate the assets belonging to Telkom Kenya Ltd. and Postal Corporation of Kenya,-M/S. Telkom Kenya Ltd. to be represented in the meeting; and,

(v) the Chief Executive to provide the information in (i to iii) above in seven days' time.

MIN. NO. 430/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1999/ 2000 ACCOUNTS- WORK IN PROGRESS.

The Committee heard that: -

(i) the project in Kericho town, which was designed for 12 floors was later scaled down to 4 floors and completed in the year 2001; and

(ii) the design were made during the time of the defunct Kenya Post and Telecommunications Corporation.

The Chief Executive was directed to provide: -

(i) the names of the professional(s) hired in respect of the initial project by the defunct Kenya Post and

Telecommunications Corporation;

(ii) a copy of the minutes of the Board of then Kenya Post and Telecommunications Corporation approving the 12 floors project; and,

(iii) a copy of the vesting order detailing the sharing of the assets of the defunct Kenya Post and Telecommunication Corporation.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 431/2004/2005: EVIDENCE: PARAGRAPH 3 OF 1999/2000 ACCOUNTS- DORMANT PROJECTS.

The Committee was informed that the Corporation does not consider constructing the abandoned buildings financially feasible.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 432/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1999/2000 ACCOUNTS- IRREGULAR PROCUREMENT OF GOODS AND SERVICE.

The Committee heard that the Officer concerned was Mr. J. K. Cheruiyot, who was an Assistant General Manager in charge of Procurement and Fleet at the Corporation.

The Chief Executive was directed to give a copy of any evidence showing that the Board sanctioned this mode of procurement.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 433/2004/2005: EVIDENCE: PARAGRAPH 5 OF 1999/ 2000 ACCOUNTS- REVALUATION RESERVE & GENERAL RESERVE ACCOUNT.

The Committee directed that the Corporation liaises with the Kenya National Audit Office with a view to confirming the correctness of the adjusted accounts.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 434/2004/2005: DEFERRED EVIDENCE:

The Committee deferred taking evidence on the Accounts of the Corporation for the year 2000/2001 to a later date.

MIN. NO. 435/2004/2005: ANY OTHER BUSINESS

The Committee wished to know: -

(i) the financial stability of the Corporation in respect of its pension fund;

(ii) the efficiency of M/S. Universal Statispace in offering VSAT Services to the Corporation; and,

(iii) staffing at the Corporation *vis-a-viz* its financial status.

The Committee was informed that:-

(i) the Corporation has been carrying out reforms which include reorganizing the structure and composition of the Staffing levels giving clear definition of duties;

(ii) the Board will have to ratify the reorganization;

(iii) the Corporation has reinvested in the EMS courier service in bid to recoup its performance and its financial stability;

(iv) the Corporation has been pursuing authorization to carry out post office savings services, parallel to the services offered by the Post Bank which is a statutory Corporation;

(v) the VSAT service was a government project which is on-going; and,

(vi) The pension scheme fund is under-funded since it's a relatively new fund.

MIN. NO. 436/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M. until 2.30 P. M.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S. J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE

Mr. Gerald Ochieng Ajumbo	-	Principal Economist
Mr. K. O. Ondieki	-	Deputy Director

MINISTRY OF LOCAL GOVERNMENT

Mr. Zachary Ogongo	-	Permanent Secretary
Mr. Edward Karani		
Mr. A. Chavela		

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Mrs. M. J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. Njoroge	-	Inspector I
Mr J.M. Weru	-	Inspector II

MIN. NO. 437/2004/2005: EVIDENCE

Report and Accounts of the Local Authorities Provident Fund for the years 1996/97 and 1997/98 and the Certificates thereon by the Controller and Auditor General.

Mrs. Christine Ndaka, Ag.Chief Executive, Local Authorities Provident Fund, appeared before the Committee and gave evidence on Accounts of the Fund for the years 1996/97 and 1997/98.

MIN. NO. 438/2004/2005: EVIDENCE: PARAGRAPHS 1 OF 1996/97 and 1997/98 ACCOUNTS- PAYMENT OF ALLOWANCES TO BOARD MEMBERS.

The Committee, while expressing that the payments were irregular, advised the acting Chief Executive to seek the *post facto* approval from the State Corporations Advisory Committee.

The Committee directed the Acting Chief Executive to provide a list of the Board members and officers from the authority who were paid the allowances detailing how much each of them received, in seven days time.

The Committee while noting that the irregularity would appear to be continuing to date, advised the Permanent Secretary and the Ag. Chief Executive to exhaustively revisit the issue in the light of the existing mechanisms of regularising the payments and the provisions of the State Corporations Act (Sec. 10) so as to avoid continued contravention of the law on the issue.

The Committee heard that the Fund incurred a total of Ksh. 84,500 to offset hospital bills at the Nairobi Hospital for a former member of the Board.

The Committee concluded taking evidence on the two paragraphs.

MIN. NO. 439/2004/2005: EVIDENCE: PARAGRAPHS 2 AND 4 OF 1996/97 AND 1997/98 ACCOUNTS (RESPECTIVELY)- CONTRIBUTION OF EXPENSES.

The Committee heard that as at 30th June, 2003, accumulated contributions amounted to Ksh. 61,691,019.30 which have not been remitted.

The committee directed the Ag. Chief Executive to seek the advise of

the Attorney General on the issue with a view to proposing amendment of the Local Authorities Provident Fund Act accordingly.

The Committee concluded taking evidence on the Paragraphs.

MIN. NO. 440/2004/2005: **EVIDENCE: PARAGRAPHS 3 OF 1996/97 AND 1997/98 ACCOUNTS- NON REMITTANCE OF CONTRIBUTION BY LOCAL AUTHORITIES.**

As at June 2003, a total of 178 Local Authorities had not submitted a cumulated total of amount of Ksh.597, 743,983.80.

The Committee concluded taking evidence on the Paragraphs.

MIN. NO. 441/2004/2005: **EVIDENCE: PARAGRAPHS 4 AND 2 OF 1996/97 AND 1997/98 ACCOUNTS- SHORT-TERM DEPOSITS.**

The outstanding balance which is held by the official receiver of M/S. Building Society (under liquidation) was Ksh. 4,697,114.15 as at October 1st, 1999.

The Committee was informed that the Fund is pursing the payment of the deposits held in the Banks under receivership with the Depository Protection Fund.

The Committee concluded taking evidence on the Paragraphs.

MIN. NO. 442/2004/2005: **PAPERS LAID.**

The Chief Executive **laid the following papers** before the Committee:-

(i) *Inspection of Local Authorities Provident Fund by the Ministry of Local Government, of March 8, 2004.*

(ii) *The Special Audit Report on the Local Authorities Provident Fund dated 28, September 2004 (Report on Mismanagement of Affairs of the Local Authorities Provident Fund)*

The Committee requested Kenya National Audit Office to scrutinise the reports with a view to advising the Committee when it undertakes to address the issues raised in the two reports on a later date.

MIN. NO. 443/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.05 P.M. until Thursday, February 24, 2005 at 9.30 A. M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

20th June 2005

DATE.....

MINUTES OF THE FIFTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, 24 FEBRUARY 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant

MINISTRY OF INFORMATION AND COMMUNICATION

Mr. Omolloh Okuthe	-	Deputy Chief Finance Officer

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr. J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana	-	Inspector I
Mrs. J.M. Wesonga	-	Senior Inspector

MIN. NO. 444/2004/2005: EVIDENCE

Report and Accounts of the Kenya Airports Authority for the year 1997/98 and Certificate thereon by the Controller and Auditor General.

Mr. George Muhoho, Chief Executive, Kenya Airports Authority, accompanied by Messrs: John Thumbi, General Manager, Finance, Allan Muturi, Manager (Procurement and Logistics) and Eng. M. Mukhwana, General Manager (Engineering Services); appeared before the Committee and gave evidence on Accounts of 1997/98 of the Authority.

MIN. NO. 445/2004/2005: EVIDENCE: PARAGRAPH 7 OF 1997/98 ACCOUNTS- RENT INCOME.

The Committee was informed that some of the cases are in court.

The Committee directed the Chief Executive to provide a list of all its tenants from the year 1996 to date, showing the rent payable by each tenant, the amounts paid so far and the balance and where in dispute, the progress of the court case (s).

The Committee concluded taking evidence on the paragraph.

MIN. NO. 446/2004/2005: EVIDENCE: PARAGRAPH 8 OF 1997/98 ACCOUNTS- PURCHASE OF BROCHURES FOR ELDORET AIRPORT.

The Committee heard that M/S. Bush-Drum was paid a total of Ksh. 1,302,960 for the work. Further, the additional of Ksh.203,815, (being the difference between the original contract price and the final payment made) is still unaccounted for.

The project was initiated and implemented during the tenure of Mr. P. Lagat, the then Chief Executive Officer of the Authority.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 447/2004/2005: EVIDENCE: PARAGRAPH 9 OF 1997/98 ACCOUNTS- PURCHASE OF TYRES AND TUBES.

The Committee heard that to-date, all the four tyres purchased are still in use.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 448/2004/2005: EVIDENCE: PARAGRAPH 10 OF 1997/98 ACCOUNTS- DEBTORS AND RECEIVABLES.

The Committee was informed that some imprest was advanced to four former members of the Board while that advanced to Mrs. Monicah Mburu had been recovered in full.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 449/2004/2005: EVIDENCE: PARAGRAPH 11 OF 1997/98 ACCOUNTS- CASH AND BANK BALANCES.

The Committee heard that the Authority has since reconciled the accounts.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 450/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.05 P.M. until afternoon.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st August 2005

DATE.....

MINUTES OF THE FIFTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, FEBRUARY 25, 2005 AT 11.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 451/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Nineteenth Sitting of the Committee were proposed by Hon. Gachara Muchiri, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(ii) Minutes of the Twentieth Sitting of the Committee were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Gachara Muchiri, M.P and signed by the Chairman;

(iii) Minutes of the Twenty First Sitting of the Committee were proposed by Hon. Gachara Muchiri, M.P, seconded

by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

MIN. NO. 452/2004/2005: MATTERS ARISING

The following matters arose:-

(i) under **MIN. NO. 195/2004/2005**: the Committee directed the Secretariat to write to the Coffee Board of Kenya seeking an explanation as to what action it had taken against Mr. D. Sonoiya, who had drawn two salaries- from the Investments Promotion Centre and from the Coffee Board.

(ii) under **MIN. NO. 208/2004/2005:** the Committee resolved to request the Minister, Ministry of Energy to table the special audit reports that were carried out under the direction of the Committee on **loans financing arrangements with M/s. Triple A Capital Limited and Refinancing by Standard Chartered** and **floatation of tender regarding the construction of the 9 KM Ngema Access Road and repairs of roads in Bondo District** soonest possible to enable it examine the two reports.

(iii) under **MIN. NO. 204/2004/2005**: the Committee was informed that Chief Executive, Pharmacy and Poisons Board had not provided the reconciliation report on Accumulated Funds, (Kshs. 10, 667, 752) as earlier directed during the Seventh Sitting of the Committee. The Secretariat was directed to write a reminder to the Chief Executive.

(iv) in view of the roles played by various regulatory boards, and considering that while taking evidence several issues have arose touching on their roles, and that most of the boards have not been submitting their annual accounts and reports for tabling before the House, the Committee resolved to summon the managements of the following regulatory Boards at a later date:-

a) Architects and Quantity Surveyors Registration Board

b) Valuers' Board

c) Estate Agents Registration Board

d) Engineers Board

MIN. NO. 453/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.35 P.M until Tuesday, March 2, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st August 2005

DATE.....

MINUTES OF THE FIFTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, MARCH 1, 2005 AT 11.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 454/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Members present confirmed the Minutes of the previous Sittings of the Committee as follows: -

(i) Minutes of the Twenty Second Sitting of the Committee held on Friday, October 08, 2004 were proposed by Hon. Kingi Kahindi, M.P, seconded by Hon. Wycliffe A. Oparanya, M.P and signed by the Chairman;

(ii) Minutes of the Twenty Third Sitting of the Committee held on Friday, October 22, 2004 were proposed by Hon. Wycliffe A. Oparanya, M.P, seconded by Hon. Kingi Kahindi, M.P and signed by the Chairman;

(iii) Minutes of the Twenty Fourth Sitting of the Committee held on Monday, October 25, 2004 were proposed by Hon. Joseph

Kahindi Kingi, M.P, seconded by Hon. Wycliffe A. Oparanya, M.P and signed by the Chairman;

(iv) Minutes of the Twenty Fifth Sitting of the Committee held on Friday, October 29, 2004 were proposed by Hon. Ali A. Bahari, M.P, seconded by Hon. Abdirahman A. Hassan, M.P and signed by the Chairman; and,

(v) Minutes of the Twenty Sixth Sitting of the Committee held on Monday, November 01, 2004 were proposed by Hon. Joseph K. Kingi, seconded by Hon. Wycliffe A. Oparanya, M.P and signed by the Chairman;

MIN. NO. 455/2004/2005: MATTERS ARISING

The following matters arose: -

(I) under **MIN. NO. 213/2004/2005:** the Committee resolved to summon the Chief Executive, National Cereals and Produce Board at a later date to explain why he had not executed the Committee's direction to submit progress report on importation of 180, 000 metric of white maize. He had been directed to submit the report during the appearance of the Board before the Committee on Friday, October 08, 2004 and was to submit the report by October 30, 2004.

Further, the Committee resolved to revisit the matter with the Board to establish the progress of the importation of the white maize.

(II) under **MIN. NO. 218/2004/2005:** the Committee resolved to raise the issue of recovery of the balance of Ksh. 787, 210. 15 which arose from theft of teachers' salary in December 1997, with the Attorney-General when he appears. The Chief Executive, Teachers Service Commission had been requested to pursue the matter with the Attorney –General.

(III) under **MIN. NO. 230/2004/2005:** the Committee resolved to hold a meting with the Kenya Anti-Corruption Commission to ascertain the progress of the case it had referred to the Commission. Further, the Committee resolved to raise the issue of overvaluations of parcels of land in respect of NSSF's Accounts for the year 1999/2000 by M/s. Lyold Masika and M/s. Milligan.

(IV) under **MIN. NO. 239/2004/2005 (iii):** The Committee noted that it had as yet not paid its proposed visit to the site of the plot that was irregularly surrendered and allocated to a third

party in the report of 1997/98 Accounts of the Kenya National Trading Corporation. The Committee resolved to visit the site at a later date.

(V) the Committee resolved to summon the managements of Kenya Pipeline Corporation, the Kenya National Oil Corporation to explain the progress the corporations have made on implementation of the recommendations of the Report that was carried out by the Ministry of Energy. The Report was tabled in the House during the Second Session.

(VI) the Committee resolved to summon the managements of Ken-Gen and Kenya Power and Lighting Company to explain progress on the implementation of the Nyanja Report.

(VII) Members agreed to be confirming minutes of previous sitting(s) on Fridays.

MIN. NO. 456/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M until Wednesday, March 3, 2005 at 9.30 A.M. at the premises of the Kenya Ferry Services.

Hon. J.B.N. Muturi, MP

SIGNED ....

(CHAIRMAN)

1st August 2005

DATE.....

MINUTES OF THE FIFTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT THE TELKOM K. LTD. COAST REGIONAL OFFICES HEADQUARTERS, NKURUMA ROAD, MOMBASA ON, WEDNESDAY, MARCH 2, 2005 AT 12.05 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Wafula Wamunyinyi, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Alice Kitur	-	Secretary

MINISTRY OF FINANCE (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Mr. Joshua M. Kereda	-	Principal Auditor

MIN. NO. 457/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA FERRY SERVICES (KFS) AND MEETING WITH THE MANAGEMENT OF KFS.

The Committee was met by the management of the Services led by the Chairman of the Board and the Managing Director Mr. A. S. Ole Leteipan. The Committee was informed that the Company owns a fleet of five ferry vessels namely: Nyayo, Harambee, Kilindini, Pwani and Mvita. The core responsibility of the organization is the provision of ferry service at Likoni and Mtongwe and correctly it services an

average of 157,000 pedestrians and 3,000 vehicles a day. The vessels are fully insured for both Hull Machines and protection/indemnity (passengers).

The Committee was further informed that to date, the Company owes Kenya Ports Authority Kshs.400 million resulting from the financial advances given to it during the formation days and that the Government has provided Kshs.50 million for the compensation of the victims and settlement of cases in respect to Mtongwe Ferry Accident of 29th April 1994.

The Committee observed with concern that development of the ferry approaches on the Island side has been frustrated by illegal allocation of land on the side to private developers. The Committee directed the Chief Executive officer to provide a list of parcels of land illegally allocated to the private developers and the names of the allottees.

The Committee was conducted to the new Ferry Services Headquarters at Peleleza off Likoni Mainland. The property was bought from a developer for Kshs.50 million and some money had been spent on renovations.

At 12.10 P.M, the Committee left for Nkrumah Road, Mombasa, to inspect the Telkom K. Ltd regional Headquarters.

MIN. NO. 458/2004/2005: COMMITTEE INSPECTION TOUR OF TELKOM K. LTD. COAST HEADQUARTERS AND MEETING WITH THE MANAGEMENT OF TELKOM K. LTD.

On arrival, the Managing Director, Telkom K. Ltd welcomed the Members of the Committee.

Further, the Committee held a meeting with the Management of Telkom comprising of the Chief Executive Officer, Eng. J. N. Waweru and Messrs; Aineah A. Anika, Regional Manager, Coast; Hassan D. Nagele, Assistant Manager; C.K. Suguru, Regional Accountant; A.B. Mwawase and J. M. Ngatia, S.S.O.

The Committee was informed that -

(i) M/S. Stats Investments Ltd. expressed interest on leasing the property to Telkom K. Ltd in March, 2001 and the latter accepted the offer in June, 2000 for a five year and three months contract;

(ii) a lease agreement was signed between the two parties in December, 2001;

(iii) works to renovate the building (by the Lessee) had commenced prior signing of the lease agreement which gave the responsibility of external repairs and renovations to the Lessor, while the Lessee was to undertake any internal repairs and renovations;

(iv) Telkom Kenya Ltd. lost advantage of the one year "rent free" period;

(v) as at February 2005, Telkom K. Ltd. had spent Ksh. 19,134,183 on repair and renovation works at the building;

(vi) the Corporation intends to develop the Extelcomms and Exchange House plots to accommodate staff upon the expiry of the lease period in November, 5, 2005; and,

(vii) at the time of executing the transaction, Telkom K. Ltd. had properties in the region which could have been developed for the same purpose.

Expressing that the execution of the lease would appear to have irregular and that the Corporation had unduly lost the lease advantage of one year "rent free" period, while it had spent substantial amount of money to irregularly renovate the building, the Committee directed that:

(i) the Chief Executive pursues all the means possible including arbitration and litigation to ensure that the Corporation does not lose in the transaction; and,

(ii) the Corporation recovers the Ksh. 19,134,183 spent in renovating the building, from the rent payable;

The Chief Executive was also directed to provide:-

(i) information on how the property was identified for leasing by Telkom K. Ltd.;

(ii) information on who owns the Land - Mombasa /Block/XXV/13, (to be obtained from the Commissioner of Lands)

(iii) name(s) of owner(s)/director(s) of M/S. Stats Investments Ltd.

(iv) a copy of the evaluation report done by M/S. Lloyd Masika on the property;

(v) a copy of the lease agreement (signed) entered into by the two parties;

(vi) a schedule showing when and at how much all the repairs/renovations were done, and whether they were carried out by the Corporation's staff or contactors- in case(s) of contactors, how they were identified;

(vii) justification why Telkom K. Ltd. undertook to meet the costs of the repairs/renovations;

(viii) names of the members of the Board of Telkom K. Ltd. who undertook the site visit prior to the leasing arrangements and a copy of the minutes of the sitting of the Board deliberating on the issue, during or immediately after visit;

(ix) a copy of the minutes of the Board approving the occupation of the premises on lease from M/S. Stats Ltd.

(x) names of the then Chief Executive, the Coast Region Manager and the then Company Secretary;

(xi) a brief on the issues raised by the Committee and the current position of the Corporation on the entire matter; and,

(xii) the information in (i to ix) above in two weeks time.

At 2.30 P.M, the Committee left for Mariakani to inspect the Coast Development Authority's Milk Processing Plant.

MIN. NO. 459/2004/2005: COMMITTEE INSPECTION TOUR OF THE COAST DEVELOPMENT AUTHORITY (CDA) – MILK PROCESSING PLANT AT MARIAKANI.

Members arrived at the Mariakani Milk processing Plant at 3.50 P.M and were received by Mr. Festus Chigogo Mng'ong'o, the Technical Manager, Coast Development Authority.

Thereafter the Committee held a meeting with Mr. Mr. Festus Chigogo Mng'ong'o, the Technical Manager, Coast Development Authority and Messrs; Ali Wasi Mwabeya of Community participation;

Dr. Jua Mbura, Head, Livestock Department and Shoka Lugwe, Personal Assistant.

The Committee was briefed about objectives of Coast Development Authority *vis a viz* that of rehabilitating the milk processing Plant.

Further, the Committee was informed that: -

(i) the project intends to process pasteurised milk for the local market and eventually expand into the production of other milk products like ghee and butter for both local and export markets;

(ii) he project was to have capacity to receive 20,000 litres of raw milk per day, though this has been reviewed downwards to 5,000 litres due to financial limitations;

(iii) he project has so far received a total of Ksh. 13, 850,000 from its six shareholders out of the intended Ksh. 40.Million; and,

(iv) Coast Development Authority has contributed Ksh. 100,000 towards the project against its entitlement of Ksh. 8. Million at 26 *percent* share holding;

The Committee while observing that Coast Development Authority had minority share holding in the project, while the rest is owned by the five local authorities expressed concern over the observation that the CDA appeared to be running the administration of the project from it funds.

The Committee was thereafter conducted to a tour of the Plant

MIN. NO. 460/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 2.30 P.M until Thursday, March 4, 2005 at 9.30 A.M. at the premises of the Kenya Ferry Services.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE FIFTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE: INSPECTION TOUR OF KENYA WILDLIFE SERVICE'S FIXED ASSETS AT THE COAST REGION HELD ON THURSDAY, MARCH 3, 2005 AT 11.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Mr. Joshua M.Kereda	-	Principal Auditor

MIN. NO. 461/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA WILDLIFE SERVICE'S FIXED ASSETS AT THE COAST REGION.

The Committee was received by Dr. Julius Kipng'etich, Director, Kenya Wildlife Service, Ms. Mueni Mutunga, Head of Legal Services; Mr. Benjamin Kavu, Assistant Director, Coast Region; Mr. Tom Sipul, Lands Manager and Mr. Philip Mwakio, Senior Warden, at the Malindi Airport who flanked the Members to the three sites.

MIN. NO. 462/2004/2005: PROPOSED SITE FOR MALINDI DISTRICT WARDEN'S OFFICE AND STAFF QUARTERS.

The Committee noted that the 1.89 Ha. Piece of land, which belonged to the Service and where the Malindi District Warden's Offices and Staff Quarters were to be built, was irregularly transferred to the following thirteen private developers: -

(i) Mwalimu K. Ngandu, P. O Box 371, Malindi,
(ii) Benjamin Rondo, P.O Box 371, Malindi
(iii) Godfrey Mjomba, P.O. Box 371, Malindi
(iv) Amani S. N. P. O Box 371, Malindi,
(v) Bahati Temo, P. O Box 371, Malindi,
(vi) John Thoya P. O Box 371, Malindi,
(vii) Josephine Wanjiku K. P.O Box 371, Malindi,
(viii) Martin Saro, P. O Box 371, Malindi,
(ix) Francis B. Diwani, P.O. Box 5184, Malindi (former Mayor, Malindi)
(x) Francis Maritim, P.O. Box 30089, Nairobi
(xi) Z. A. Mabea, P.O. Box 30089, Nairobi
(xii) Esther W. Maina, P.O. Box 30089, Nairobi
(xiii) Salem Investments, P.O. Box 30089, Nairobi

The Committee expressed concern that it would appear that the irregular allocations were a conduit between the Ministry of Lands Office and the Local Authority, Malindi, since most of the private developers allocated the land were officers from the two offices.

The Committee while noting that the site is still undeveloped, directed the Chief Executive to ensure that the land is fenced off and to pursue the matter with the Commissioner of land with the aim of repossessing the asset. The Chief Executive was further directed to liaise with the Commissioner of land with a view to placing caveats on the land.

MIN. NO. 463/2004/2005: MALINDI NATIONAL PARK STAFF QUARTERS, PLOT LR. NO. 514/41).

The Committee visited the site, which was irregularly hived off and allocated to M/S. Match Designer of P.O. Box 61060, Nairobi.

The Chief Executive was directed to liaise with the Commissioner of land with a view to placing caveats on the land.

Further, the Committee noted that private developers had illegally encroached into the buffer zone (Riparian Land) along the Indian Ocean/Malindi area and established temporary and semi-permanent commercial structures. Conventionally, the zone, which is under the custody of the Kenya Wildlife Service, is meant to act as a buffer area during high and low tides. The Committee also noted with concern that the illegal developers have blocked access along the beach.

The Chief Executive was directed to provide a schedule of all such encroachments to the Committee in two weeks' time.

MIN. NO. 464/2004/2005: WATAMU MARINE NATIONAL RESERVE.

The Committee toured the site and was informed that part of the land at the entrance of the Reserve, was irregularly hived off and allocated to a former employee of the Service.

MIN. NO. 465/2004/2005: IVORY ROOM MOMBASA.

The plot L.R. No. Mombasa Island/XXV/38, which was gazetted as a monument vide legal notice no. 2443 of May 16, 1997,was irregularly allocated to M/S. Josdig Ltd. of P.O. Box 51990, Nairobi whose directors are Mr. Gideon Moi and Mr. Joshua C. Kulei. The Committee noted that the plot is not developed and instructed the Chief Executive to employ all means possible including litigation to ensure that the plot reverts to the Service.

MIN. NO. 466/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the inspection at 5.30 P.M until Friday, March 4, 2005 at 9.30 A.M. at the premises of the Kenya Ports Authority.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st August 2005

DATE.....

MINUTES OF THE FIFTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE: INSPECTION TOUR OF KENYA PORTS AUTHORITY HELD ON FRIDAY, MARCH 4, 2005 AT 11.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Mr. Joshua M.Kereda	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher Ombega	-	Inspector I

MIN. NO. 467/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA PORTS AUTHORITY-GRAIN BULK HANDLING PROJECT AND MEETING WITH THE MANAGEMENT OF THE PORT.

On arrival, Mr. Brown.M.M. Ondego, Chief Executive, Kenya Ports Authority and Mr. Francis Gichiri Ndua, Corporate Services Manager received the Committee.

Afterwards, the Committee toured the Grain Bulk Handlers Ltd (GBHL) and was received by Mr. Jaffer, the Managing Director, GBHL who took the Members through the Project.

Thereafter, the Committee held a meeting with the Management of the Port who included Mr. Brown. M. Ondego, Chief Executive, Kenya Ports Authority (KPA); Mr. Francis Gichiri Ndua, Corporate Services Manager; Eng. Joseph O. Atonga, Chief Ports Engineer; Mr. Jule Imanthiu, Public Relations Manager and Mr. M. Musumba a Senior Security Officer at the Port.

During the Meeting, the Committee was informed that:-

(i) the licence agreement between GBHL and KPA was concluded in December 2002 which included the applicable tariff of U.S $ 2.00 per Metric ton handled;

(ii) GBHL in turn, charges between U.S $ 13.00 and 16.00 per Metric ton being an amount for stevedoring and shorehandling;

(iii) with time, the project has resulted in undue monopoly by GBHL in provision of grain handling services at the Port;

(iv) KPA is pursuing ways of contracting other convectional grain handlers to provide the service at competitive rates, a move that GBHL is opposed to.

(v) Further, GBHL is pursuing arrangements to provide a fertilizer-handling system at the Port.

The Committee, while observing that the arrangements between GBHL and KPA had exerted undue dominance by the former in the Port in provision of the handling service, expressed concern that the KPA stands to lose considerable amounts of revenue since most of the work is handled by GBHL. Further, GBHL provides the service at

exorbitant fee, which is not proportionate to the tariff, which KPA charges on GBHL for every metric ton.

On the envisaged provision of fertilizer handling system, the Committee discouraged the management of the Port from entering into similar arrangements as those entered with GBHL.

Thereafter, the Committee left for Kenya Electricity Generating Company's Kipevu Power Plant.

MIN. NO. 468/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA ELECTRICITY GENERATING COMPANY'S KIPEVU POWER PLANT.

Eng. Eddy Njoroge, Managing Director, Ken-Gen, Mr. Abel Rotich, Operations Manager, Mr. Obiero and Mr. Karanja, Senior Managers at the Kipevu Power Plant received the Committee at 3.10 P.M.

The Committee held a meeting with the Management of the Plant where it was briefed on the generating capacity of the three electricity-generating projects, which included the Diesel Plant, the Steam Plant and the Gas Turbines.

On the steam Plant, the Committee was informed that some of the existing boilers are up to thirty (30) years old, while the lifespan of a boiler is twenty five (25) years.

On Westmont an Independent Power Producer, the Committee was informed that the company, which was producing 43 Megawatts, was wound-up in September 2004 after the lapse of the lease since 1997. Ken-Gen had no plans of purchasing the Plant and that the Plant had not been constructed at Build-Own- Transfer (BOT) basis.

Further, the Committee was conducted through the three power generation plants.

MIN. NO. 469/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the inspection at 5.30 P.M until Saturday, March 5, 2005 at 10.00 A.M. at the premises of the Kenya Airports Authority.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE FIFTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE: INSPECTION TOUR OF KENYA AIRPORTS AUTHORITY HELD ON SATURDAY, MARCH 5, 2005 AT 11.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T.N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Mr. Joshua M. Kereda	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher Ombega	-	Inspector I

MIN. NO. 470/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA AIRPORTS AUTHORITY-

The Committee, flanked by Mr. George Muhoho, Managing Director, Kenya Airports Authority, Mr. John Mugo, Airport Manager, Mr. James Wahinya, Electrical Engineer and MS. Margaret Malaba, Civil Engineer at the Airport, went through the Airport's fire fighting

equipments. Members were informed that the Airport meets the internationally acceptable capacity for fire fighting. The Committee noted that the Airport lacked reserve capacity thus a breakdown of any of the equipment would mean a shortage in the required capacity.

Members were also conducted through the perimeter fence where the Airports land had been encroached by private developers.

MIN. NO. 471/2004/2005:` ADJOURNMENT

And there being no other business, the Chairman adjourned the inspection tour at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE FIFTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, MARCH 10, 2005 AT 11.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Gitau Kabogo, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 472/2004/2005: CONSIDERATION OF COMMITTEE SITTING PROGRAMME FOR THE MONTHS OF MARCH AND APRIL

The Committee in its programme of Business for the months of March and April resolved to be sitting on Mondays so as to be able to conclude the enormous work ahead of it.

Further, the Committee approved its programme of sitting with amendments.

The Committee was informed that the Parliament of Australia had confirmed that it would be sitting on 3rd and 5th, May 2005. Members agreed to schedule its programme of foreign visit to correspond with the proposed dates.

Members also resolved to hold a sitting on Friday, March 11, 2005 to confirm its minutes for previous sittings.

MIN. NO. 473/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.35 P.M Friday, March 11, 2005 at 9.30 A.M.

Hon J B.N Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE FIFTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON TUESDAY, MARCH 15, 2005 AT 10.00 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP
The Hon. Wycliffe A. Oparanya, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant

INSPECTORATE OF STATE CORPORATIONS

Mr. Patrick Wandaka	-	Inspector II

MIN. NO. 474/2004/2005: APPEARANCE OF THE MANAGEMENT OF KENYA SUGAR BOARD ON IMPORTATION OF SUGAR.

The Committee expressed concern on the manner in which the Permanent Secretary, Ministry of Agriculture had treated the Committee by writing, on behalf of the Sugar Board, alluding that the Board was unable to appear before the Committee. While expressing that the issue was urgent, the Committee resolved that the Management of the Board should appear before the Committee on April 1st, April 2005 at 10.00 A.M.

Further the Committee considered and approved the Sitting programme for the months of March and April, 2005.

MIN. NO. 475/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.30 P.M, until Thursday, 17 March 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

1st August 2005

DATE.....

MINUTES OF THE SIXTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, MARCH 17, 2005 AT 10.30 A.M.

PRESENT

The Hon J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Wafula Wamunyinyi, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J Njoroge	-	Third Clerk Assistant

INSPECTORATE OF STATE CORPORATIONS

Mr. Davidson D.W Sifuma	-	Inspector

CONTROLLER AND AUDITOR GENERAL

Mr. H. O. Wanyama	-	Director of Audit
Joash M. Ogutu	-	Principal Auditor

MINISTRY OF LANDS AND HOUSING

Mr. Paul N. Masinde	-	Senior Principal Finance Officer

MIN. NO. 476/2004/2005: EVIDENCE

Report and Accounts of the National Housing Corporation for the year 1999/2000 and Certificate thereon by the Controller and Auditor General.

Mr. A. J. Odera, the Managing Director, National Housing Corporation, accompanied by Messrs: B. J. Ogolla, Technical Manager; Elizabeth. W. Mbugua, Corporation Secretary and M. M.

Wandabwa, Ag. Finance Manager appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1999/2000

MIN. NO. 477/2004/2005: EVIDENCE: PARAGRAPH 1 – OUTSTANDING LOAN ARREARS

The Committee was informed that as it had directed on February 3, 2005, the Corporation under the facilitation of the Ministry of Lands and Housing, had held a meeting with the Ministry of Local Government in bid to resolving the issues of obtaining authority to sell some houses under certain local authorities for redeeming debts. The Committee further heard that the issue has not been resolved.

In the circumstances, the Committee directed the Ministry of Lands and Housing to facilitate further meetings with the National Housing Corporation (being the secretariat), and the Ministry of Local Government in endeavour to resolving the issue. The Committee is to be updated on the progress of the issue in a month's time.

MIN. NO. 478/2004/2005: EVIDENCE: PARAGRAPH 6 – IRREGULAR EXPENDITURE.

The Committee heard that a total of five tenders were invited.

The Committee, while observing that the consultants were selectively sourced by the management without pre-qualification and that the work that was to be done could have been provided by the Corporation's staff, was concerned that Corporation would appear to be employing selective tendering without pre-qualification in its present procurements, directed the Chief Executive to provide.

(i) a schedule showing all its major tenders in the last five years, who was awarded, at how much and the tendering criteria applied;

(ii) a cost benefit analysis of the costs of having the works (in Paragraph 6 of 199/2000 accounts) done by consultants as opposed to the Corporation's own staff;

(iii) the information in (i and ii) above in two week's time.

The Committee concluded taking evidence on the paragraph

MIN. NO. 479/2004/2005: EVIDENCE: PARAGRAPH 7 – IRREGULAR PAYMENT FOR TITLE DEED.

The Committee was informed that the consultant M/S. Housing Valuation Consultants was paid a total of Ksh. 1,710,599 for procurement of title deeds for 2133 Kibera Highrise flats at a cost of Ksh. 15,000 per flat, **a job that was never done.**

The Committee also heard that as to date, the Corporation is yet to receive title deeds for the same.

The Chief Executive was directed to provide:-

(i) a list of the works that was done by the consultant;

(ii) the quantification of the works done vis-à-vis the payments made;

(iii) information on the basis of the Ksh. 15,000 per flat, rate;

(iv) the process of sourcing the consultants;

(v) a copy of the letter commissioning the consultants; and

(vi) names of the Chief Executive then;

The Committee expressed concerned that the consultant was a Valuer, Housing Agent and Property Manager and not a surveyor. Therefore the Consultant was not only paid for works not done but also for what it was primarily not qualified and registered to undertake.

The Committee concluded taking evidence on the paragraph

MIN. NO. 480/2004/2005: EVIDENCE: PARAGRAPH 8 – LOSS OF CASH.

The Committee was informed that the cash that was lost through burglary was insured with Kenya National Assurance Company, which was later put under liquidation.

The Committee directed the Chief Executive to pursue recovery of the mount from the Kenya National Assurance 2001 Ltd.

Further, the Committee directed the Chief Executive to liaise with the Kenya National Audit Office with a view to reconciling the difference between the total cash lost and the cash lost through burglary and report back to the Committee.

The Committee concluded taking evidence on the paragraph

MIN. NO. 481/2004/2005: EVIDENCE: PARAGRAPH 9 – SHORT TERM DEPOSITS.

The Committee was informed that no government authority was granted to deposit the money in Prudential Bank. Further, through the Deposit Protection Fund, the Central Bank of Kenya reimbursed Ksh. 7,077,900.20 while Mr. Lawi Kiplagat, the then Chief Executive Officer of the Corporation was surcharged Ksh. 6,935,556 for acting contrary to Treasury regulations.

The Committee also heard that Mr. Lawi Kiplagat has since been declared bankrupt (on his request) and efforts of the Inspectorate of State Corporations to attach his property in bid to recover over 21 million have been unsuccessful.

The Committee directed the Chief Executive to report the case to the Kenya Anti-Corruption Commission with a view to having Mr. Lawi Kiplagat being investigated for possible abuse of office and committing the Corporation to the losses.

The Committee concluded taking evidence on the paragraph

MIN. NO. 482/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at noon until 12.10 P.M

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Gachara Muchiri, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K.M. Karua	-	Director of Audit
Mr. Boniface K. Mulli	-	Senior Auditor

MINISTRY OF FINANCE (DGIPE)

Mr. Charles M. Onchoke	-	Director, Finance

INSPECTORATE OF STATE CORPORATIONS

Mr. Edward M. Ngigi	-	Principal Inspector

MIN. NO. 483/2004/2005: EVIDENCE

Status of New Kenya Co-operative Creameries (KCC) Ltd. - Kenya *Gazette* notice No. 1175 of February 18, 2005

Following a *Kenya Gazette* notice No. 1175 of February 18, 2005, Mr. Solomon Boit, Permanent Secretary, Ministry of Co-operative Development and Marketing, accompanied by Messrs; Fredrick F. Odhiambo, Commissioner for Co-operative Development; Florence W. Kanyoni, Legal Officer, Ministry of Co-operative Development; Prudenzio N. Gaitara, General Manager, New Kenya Co-operative Development Creameries (KCC) Ltd.; Milkah G. Mugo, Company Secretary, New KCC Ltd and Patrick M. Mutisya, Chief Internal Auditor, New KCC Ltd, appeared before the Committee and gave evidence on the current status of the New Kenya Co-operative Creameries (KCC) Ltd.

MIN. NO. 484/2004/2005: LEGALITY OF THE GAZETTEMENT AND GOVERNMENT'S INVESTMENT IN THE NEW KCC LTD.

The Committee, whilst noting that the provisions of the State Corporations Act, (Cap. 466) section 3(1) vests the powers of establishing a state corporation in the President or through an Act of Parliament; observing that none of this had been done, further noting that the gazette notice No. 1175 of February, 18th, 2005 was by the Minister for Co-operative Development and Marketing;

(i) expressed that the establishment of the New Kenya Co-

operative Creameries (KCC) Ltd. as stipulated in the *Gazette notice* No. 1175, would appear to be null and void to the extent of the illegality of the *notice;* and,

(ii) to the extent of the illegality of the *Gazette notice*, the transfer of the New KCC Ltd. to a state corporation is irregular and the security of the government's investments in it would appear to be uncertain.

The Committee was informed that the Ministry of Co-operative Development and Marketing had noted the irregularity and that a corrective *Gazette notice* would be issued to correct the anomaly.

Further, the Permanent Secretary, Ministry of Co-operative Development and Marketing **laid the following paper** before the Committee:-

Memorandum presented before the Public Investments Committee meeting held on 17th March, 2005 at the Parliament Buildings.

While noting that the government's move to invest in the New KCC Ltd. and secure the interests of the public was noble, the Committee directed that:-

(i) in seven days time, the Permanent Secretary, Ministry of Co-operative Development and Marketing provides:-

(a) names of directors of the Collapsed KCC 2000 Ltd and KCC Holdings Ltd. and the names of the directors of the former KCC Ltd;

(b) names of the ten shareholders who were registered as the owners of New KCC Ltd. before the takeover;

(c) information on the legal status of New KCC Ltd.;

(d) information on the current status of the account of the Ksh. 547,028,870, and

(e) information showing the progress of the assets take-over from the former KCC Ltd. to the current New KCC Ltd. and an itemized list of the assets and their value.

(ii) the properly established New KCC Ltd. (state corporation) appears before the Committee at a later date and be well prepared to apprise it on its asset value.

MIN. NO. 485/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M, until Monday, March 21, 2005 at 2.30 P.M

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, APRIL 1, 2005 AT 10.05 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Peter G. Munya, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T. N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua	-	Director of Audit
Mr. Boniface K. Mulli	-	Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana	-	Inspector I
Mr N. A. Kweya	-	Inspector I

MINISTRY OF AGRICULTURE

Mrs. Emily M. Gatuguta	- Senior Deputy Secretary/SC
Mrs. Philomena Koech	- Senior Deputy Secretary/Adm.

MIN. NO. 486/2004/2005 **EVIDENCE**

Kenya Sugar Board- Importation of Raw and Mill White Sugar: *Gazette Notice* No. 1405 of February 25, 2005.

Ms. Rosemary Mkok. Ag. Chief Executive, Kenya Sugar Board, accompanied by Messrs: Patricia Njeru, Ag. Head of Planning and Yufualis Okubo appeared before the Committee and gave evidence on the intended Importation of Raw and Mill White Sugar as reflected in the Kenya *Gazette Notice* No. 1405 of February 25, 2005.

MIN. NO. 487/2004/2005: **EVIDENCE: IMPORTATION OF RAW AND MILL WHITE SUGAR.**

The Committee was informed that:-

(i) the Board sat on 1st February 2005, to deliberate on the matter where it among other issues, resolved that:-

(a) the 89,000 MT be shared out between the millers and the registered importers,

(b) the whole process be subjected to laid down public procurement procedures and be adjudicated by the Tender Committee,

(c) the Tender Committee to develop a criterion for the allocations and a comprehensive sequence of events and modalities for the importation. This was to be made public,

(ii) the *Gazette notice* came prior to deliberation of the importation criterion by the Tender Committee;

(iii) the *notice* did not reflect the deliberations of the Board which had resolved that quotas be allocated other than allowing the importation and exemption from duty on a first-come basis;

(iv) the *Gazette notice* only came to the Board during a subsequent sitting and was not privy to its contents; and

(v) following the *notice,* 52030 MT of Sugar was at the Port awaiting clearance, as at March 30th , 2005.

In the circumstances, the Committee:-

(i) directed that the substantive Chief Executive, Mr. Otieno, the Chairman of the Board, the Investments Secretary, the and the Permanent Secretary Ministry of Agriculture appears before it on April 14, 2005 to deliberated on the issue. Also, Mr. Odero from the Kenya Sugar Board to be present. They will be expected to apprise the Committee on why there was inconsistency between the contents of the *notice* no. 1405 of 25th February, 2005 and the resolutions of Board; and,

(ii) resolved that the Chief Executive will be expected to provide an up-to-date schedule of the position of the importation, showing how much sugar has been imported by each company and what would be remaining as at then, and copies of minutes of all other meetings of the Board subsequent to the one of 1st, February, 2005.

Further, the Ag. Chief Executive **laid the following papers** before the Committee:

(i) *a copy of the Minutes of the 41st Meeting of the Kenya Sugar Board February 1st, 2005- (unconfirmed minutes)*

(ii) *a schedule showing the amounts of sugar imported by different companies following the notice, as at March 30th, 2005.*

MIN. NO. 488/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.02 P.M, until Monday, April 4, 2005 at 2.30 P.M

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, 04 APRIL 2005 AT 4.05 P.M

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gachara Muchiri, MP

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Festus W. King'ori	-	AS I
Mr. J.B. Mwangi	-	Ag. D/GITS

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram M. Waciira	-	Assistant Director of Audit
Mr. George Mukuah	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mrs. Joyce Wesonga	-	S. A
Mr. David M. Gichuhi	-	Inspector I

MINISTRY OF TOURISM AND WILDLIFE

J. M. W. Gikuri	-	Under Secretary

MIN. NO. 489/2004/2005: EVIDENCE

Report and Accounts of the Kenya Tourist Development Corporation for the years 1995/96 and 1996/97 and the certificate thereon by the Controller and Auditor General.

Mr. Mr. Mutua P. Nzoka, Managing Director, Kenya Tourist Development Corporation, accompanied by Messrs: Sam D'souza, Deputy Managing Director; Peter Ongeso, Loans Manager and H. M. Kiage, Finance Manager appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1995/96 and 1996/97.

MIN. NO. 490/2004/2005: EVIDENCE: PARAGRAPHS 1 OF 1995/96 AND 1996/97 ACCOUNTS – REVOLVING FUNDS LOANS.

The Committee was informed that out of the forty four (44) loan beneficiaries, sixteen (16) have since redeemed their loans in subsequent years.

Further, some have obtained court injunctions restraining the Corporation from realising the securities.

The Committee directed the Chief Executive to provide, within seven days, a schedule showing the names of the debtors, how much has been recovered from each, and what is remaining, and where there are court cases (determined or in progress), details of each.

Taking of evidence on the paragraph was concluded

MIN. NO. 591/2004/2005: EVIDENCE: PARAGRAPHS 2 OF 1995/96 AND 1996/97 ACCOUNTS – INVESTMENTS AND LOANS.

The Committee directed the Chief Executive to provide a schedule showing the present status of the cases.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 492/2004/2005: EVIDENCE: PARAGRAPHS 3 OF 1995/96 AND 1996/97 ACCOUNTS – WATALII STREET PROJECT.

The Committee heard that the plot has not been developed to date. The Chief Executive was directed to provide a copy of the approved plans for envisaged development on the same property.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 493/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1996/97 ACCOUNTS - FIXED DEPOSITS.

The Committee heard that the exercise has since been completed. The Committee observed that the Corporation invested the funds in commercial banks with no recourse to Treasury guidelines as follows: -Kenya Commercial Bank- Ksh. 60. Million, at 18-21 %, Prime Bank- Ksh. 94. Million at 18-19%, Daima Bank- 61. Million at 22-23 % and ABC Bank- Ksh. 204 at 13-17% interest rate, while Treasury Bills ranged at 24-26%.

The Committee also heard that as to date, the Corporation has no investments in these Institutions.

Further, no Treasury approval nor did the Board approve the investments.

In the circumstances, the Committee **deferred taking evidence** on the Paragraph and directed that the then Chief Executive appears before it a later date to explain the circumstances under which investments were made contrary to Treasury circulars.

MIN. NO. 494/2004/2005: EVIDENCE: PARAGRAPH 5 OF 1996/97 ACCOUNTS - DEBTORS AND PREPAYMENTS.

The Committee heard that out of Ksh. 38,050,030.00 recorded as ex-tenants and staff debt, Ksh. 17,292,937.00 has been recovered while 20,757,092.00 is still outstanding.

Further, the dividends expected form M/s. Kenya Hotel Properties and M/s. International Hotel Properties amounting to Ksh. 12,409, 630 were never recovered.

The Committee concluded taking evidence o the paragraph.

MIN. NO. 495/2004/2005: **EVIDENCE: PARAGRAPH 6 OF 1996/97 ACCOUNTS – IRREGULAR PAYMENTS OF HOUSE ALLOWANCE.**

The Committee heard that the rate of the owner-occupier allowance paid to then Chief Executive was derived form commercial rates as opposed to the Corporation's laid down regulations.

The Committee directed the Chief executive to recover the differential amount from the former Chief Executive.

The Committee concluded taking evidence on the paragraph

MIN. NO. 496/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 6.10 P.M until Friday, April 8, 2005 at 9.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, APRIL 8, 2005 AT 10.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge.	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. L.W. Gitundu	-	Senior Accountant

MINISTRY OF INFORMATION AND COMMUNICATION

Eng. James Rege	-	Permanent Secretary
Mr. Omolloh Okuthe	-	Deputy Chief Finance Officer

CONTROLLER AND AUDITOR GENERAL

Mr. P. M. Njuguna	-	Assistant Director of Audit
Mr. J. K. Ongwen	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. J.M. Wesonga	-	Senior Auditor

Mr. Christopher M. Ombega - Inspector

OTHER WITNESSES

Eng. John N. Waweru - Chief Executive, Telkom, Kenya

MIN. NO. 497/2004/2005: EVIDENCE

Report and Accounts of the Postal Corporation of Kenya for the years 1999/2000 and 2000/2001 and Certificates thereon by the Controller and Auditor General.

Mr. Dan Ameyo, Chief Executive, Postal Corporation of Kenya, accompanied by Messrs: Julius Shigoli, Corporation Secretary; Benson Ngari, General Manager, Finance and Accounts and Bernard K. Murerwa, Manager, Finance, appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1999/2000 and 2000/2001.

MIN. NO. 498/2004/2005: PARAGRAPH 1 OF 1999/2000 ACCOUNTS- LAND AND BUILDINGS.

The Permanent Secretary, Ministry of Information and Communications informed the Committee that he had facilitated meetings with the affected Corporations and the Transition Management Committee (TMC) with view to resolving the issues.

Further that, the next meting would be on May 4th, 2005.

Concerned that, the Permanent Secretary, Ministry of Information and Communications would appear to be unprepared to respond to the issues before the Committee, the Committee deferred taking evidence on the issue until a later date when he will be required to have submitted a comprehensive response before the Committee on the following:-

(i) Properties not vested
(ii) Wrongly vested properties
(iii) Double vesting of properties
(iv) Unvested and double vesting of motor vehicles
(v) Telkom Staff titles vested to PCK
(vi) Staff vehicles to be vested to PCK
(vii) Pending court cases
(viii) Pension issues

The Committee also heard that the Secretariat of the TMC had addressed most of the outstanding issues and pending approval by the TCM.

The Committee further directed that in its next meeting of May 4, 2005, the TCM comes up with a way forward on resolving the issue. The Committee is to be provided with a write up on the same seven days form the date of this sitting of the TCM.

MIN. NO. 499/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.10 P.M until Monday, April 11, 2005 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY FOURTH FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, APRIL 11, 2005 AT 11 .30 A.M.

MORNING SITTING

PRESENT

The Hon. Jimmy Angwenyi, MP - **(Ag. Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Joseph Kingi Kahindi, MP

ABSENT WITH APOLOGY

The Hon. J.B.N. Muturi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. Stanley M. Muriuki	-	Director of Audit
Mr. J.J.W. Nganga	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. Joyce Wesonga	-	Senior Auditor
David M. Gichuhi	-	Inspector I

OTHER WITNESS

Mr. Daniel Saidimu Lenaronkoito	-	Former Chief Executive, Kenya Dairy Board

MIN. NO. 500/2004/2005: EVIDENCE

Report and Accounts of the Kenya Dairy Board for the years 1996/97 and 1997/98 and Certificates thereon by the Controller and Auditor General.

Mr. Machira Gichohi, Chief Executive, Kenya Dairy Board, accompanied by Mr. Peter Mutua, Administrative Manager, appeared before the Committee and gave evidence on Accounts of Board for the year 1996/97.

MIN. NO. 501/2004/2005: EVIDENCE: PARAGRAPH 4 OF 1996/97 ACCOUNTS- DEBTORS AND PREPAYMENTS.

The Committee noted with concern that Mr. Saidimu appeared not to be well prepared to address the issues before it. The Committee directed him to address the issues in writing in seven days time.

The Committee concluded taking evidence on the paragraph

MIN. NO. 502/2004/2005: EVIDENCE: PARAGRAPH 5 OF 1996/97 ACCOUNTS- PROCUREMENTS PROCEDURES.

The Committee was concerned that the Board did not follow the laid down government procedures pertaining to procurement of good and services.

The Committee asserted that in absence of any records showing that tender or quotations wire invited, the Board had flouted procurement regulations.

The Committee concluded taking evidence on the paragraph

MIN. NO. 503/2004/2005: EVIDENCE: PARAGRAPH 6 OF 1996/97 ACCOUNTS- DONATIONS.

The Committee expressed concern that the Chief executive paid himself Ksh. 10,000 as sitting allowances in contrary to section 10 (1) of the State Corporations Act and in full knowledge of the provisions of the Act.

The then Chief Executive, Mr. Daniel Saidimu informed the Committee that he paid himself the allowances in order to motivate himself to carry out the duties of his office.

The Committee concluded taking evidence on the paragraph

MIN. NO. 504/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 5.30 P.M until Thursday, April 14, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, APRIL 14, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP

OTHER MEMBER OF PARLIAMENT

The Hon. (Prof) P. Ayiecho Olweny, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T. N. Gathaara - Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph K. M. Karua - Director of Audit
Mr. Boniface K. Mulli - Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana - Inspector I
Mr N. A. Kweya - Inspector I

MINISTRY OF AGRICULTURE

Mr. James E.O. Ongwae	-Permanent Secretary
Mrs. Emily M. Gatuguta	-Senior Deputy Secretary
Mrs. Philomena Koech	-Senior Deputy Secretary

MIN. NO. 505/2004/2005 **EVIDENCE**

Kenya Sugar Board- Importation of Raw and Mill White Sugar: *Gazette Notice* No. 1405 of February 25, 2005.

Mr. Andrew O. Otieno, Chief Executive (on forced leave), Kenya Sugar Board, accompanied by Messrs: Eng. Julius Nyarotho, Board Chairman, Rosemary Mkok. Ag. Chief Executive, Solomon Odera, S.D.F Manager, and Yufualis Okubo appeared before the Committee and gave evidence on the intended Importation of Raw and Mill White Sugar as reflected in the Kenya *Gazette Notice* No. 1405 of February 25, 2005.

MIN. NO. 506/2004/2005: **EVIDENCE: IMPORTATION OF RAW AND MILL WHITE SUGAR.**

The Committee was informed:-

(i) that, Kenya is a signatory to the COMESA Free Trade Area Treaty, which is yet to be domesticated;

(ii) that, allocating or rationing quotas to importers offends articles 49, 55 and 61 of the COMESA FTA Regulations;

(iii) that, in view of (ii) above and the then pending court cases on importations of sugar, the substantive Chief Executive, Mr. A. Otieno, prior to making the *Gazette* notice, consulted the Ministers for Agriculture, Finance and Trade & Industry;

(iv) that, the *Gazette notice* only came to the Board during a subsequent sitting and was not privy to its contents;

(v) that, on noting that the *notice* was illegitimate, the Board in its 44th meeting of 25th February, 2005 directed the then Ag. Chief Executive, Mr. Solomon Odera, to annul the *notice* as it did not reflect the resolutions of the Board. The management was directed to issue a fresh one through a special edition of the *Kenya Gazette* , which conforms to the version of the Board;

(vi) that, the then Ag. Chief Executive, Mr. Solomon Odera, consulted the substantive Chief Executive (then on forced leave), who asserted that the *Gazette notice* was made after consultation with the Ministries of Finance, Trade & Industry and Agriculture and subsequently the *notice* should remain and status quo maintained;

(vii) that, on noting that the *Notice* was irregular, the Chairman of the Board consulted the Minister, Ministry of Agriculture who directed that the *notice* should remain and status quo maintained, as altering the n*otice* would complicate the cases in court;

(viii) that, Mr. A. Otieno, the substantive Chief Executive, was on forced leave resulting from findings of the Ad-Hoc Committee that set up to investigate a number of mismanagement issues in the KSB;

(ix) that, following the findings of the Report of the Ad-Hoc Committee on management aspects at the KSB, the Ministry requested the Inspectorate of State Corporations to carry out a special management audit- the Permanent Secretary, Ministry of Agriculture had written to the Board, extending the leave period on Mr. A. Otieno, to pave way for investigations;

(x) by the substantive Chief Executive, that there were interested parties within the KSB and the central government, who were involved in and influenced the importations. Further, the substantive Chief Executive was under undue pressure from the same persons;

(xi) that, as a result of the *Gazette notice,* 60,849 MT of sugar was at the Port of Mombasa awaiting clearance, while 11,945.40 MT was due to the court cases, as at April 13, 2005; and

(xii) that, the shortage of sugar being experienced was not as a result of impediments on the importations but could be due to probable hoarding by distributors and major suppliers.

The Committee observed with concern:-

(i) that, where there is conflict between international treaties and local statutes, the latter prevails. This in effect implies that the Kenya Sugar Act, prevails in event of conflict with the COMESA FTA Regulations;

(ii) that, the substantive Chief Executive, Mr. A. Otieno, acted *ultra vires* by making the *Kenya Gazette notice* No. 1405 as he defied the Board's resolution (which Board he is only answerable to) that the importation be regulated by subjecting it to the laid down public procurement procedures which was to be adjudicated by the Tender Committee; and

(iii) that, the then Ag. Chief Executive, Mr. S. Odera, disregarded the Direction of the Board to annul the notice as he insolently decided to seek advice of the substantive Chief

Executive, who had already defied the Board by placing the notice; and

The Committee directed the substantive Chief Executive, Mr. A. Otieno to report to the Director of Criminal Investigations Department, the case of persons within the KSB Board and the central government who were involved in the importations and whom exerted undue pressure on him in course of carrying out his duties at KSB- **Mr. Otieno to adhere to this direction and report progress to the Committee within seven days' time.**

MIN. NO. 507/2004/2005: PAPERS LAID

The following papers were laid before the Committee:-

(i) *A Report of the Ad-Hoc Committee on Some Management Aspects at the Kenya Sugar Board- Paper laid by the Chairman, KSB.*

(ii) *A copy of letter Ref: MOA/S.II/25A/7VOL I(34) of 6th April 2005- from the Ministry of Agriculture requesting the Inspectorate of State Corporations to carry out management audit at KSB- Paper laid by the Permanent Secretary, Ministry of Agriculture.*

(iii) *A copy of latter Re: KSB/CH/1/VOL:1(9) of March 16, 2005 from the Chairman of KSB Board, directing Mr. A. Otieno to proceed on 21 days leave- Paper laid by the Ag. Chief Executive, KSB.*

(iv) *A schedule showing how much sugar had been imported into the country as at April 13, 2005 due to the notice.*

The Committee noted the contents of the papers laid.

MIN. NO. 508/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.15 P.M until Friday, April 15, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, APRIL 15, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Ali Bahari, MP
The Hon. Gitau Kabogo, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF INFORMATION AND COMMUNICATION

Mr. H. M. Mung'asia - Deputy Secretary

CONTROLLER AND AUDITOR GENERAL (KENAO)

Mr. H. O. Wanyama - Deputy Director of Audit
Mr. J. K. Ongwen - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. A.W. Njoroge - Senior Inspector

MIN. NO. 509/2004/2005: EVIDENCE

Reports and Accounts of the Communication Commission of Kenya for the years 2000/2001 and 2001/2002 and Certificates thereon by the Controller and Auditor General.

Mr. James Kulubi, Ag. Director General, Communication Commission of Kenya accompanied by Messrs: Mr. John Omo, Commission Secretary; Peris K. Nkonge, Assistant Director of Finance; J. K. Kandie, Deputy Human Resource Officer and Wilson Chepkwony, D/FSM appeared before the Committee and gave evidence on the Accounts of the Commission for the years 2000/2001 and 2001/2002.

MIN. NO. 510/2004/2005: **EVIDENCE: PARAGRAPHS 1, OF 2000/2001 AND 2001/2002 ACCOUNTS: KAREN PLOTS LR. NO.12445 AND 12550**

The Committee observed with concern that the management had not adhered to its directive that they report the matter of obtaining money by false pretence by Mr. Chege Kirundi, to the Director of CID.

In the circumstances, the Committee directed that the Ag. Chief Executive Officer expedites the directive of the Committee by recording a statement with the police and pursuing the matter and reports progress in one week's time.

The Committee concluded taking evidence on the paragraph

MIN. NO. 511/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 2001/2002 ACCOUNTS: SHORT TERM DEPOSITS**

The Committee was informed that the Commission invested Ksh. 51,166,913.52 and 316,364,170.05 in Industrial Development Bank and Citibank respectively with the understanding that the deposits will mature without loss of accrued interest. Further, during this time, the Commission was preparing to undertake two major projects which included the construction of the Headquarters building and procurement of RSMS machine.

The Committee concluded taking evidence on the paragraph

MIN. NO. 512/2004/2005: **EVIDENCE: PARAGRAPH 5 OF 2001/2002 ACCOUNTS: IRREGULAR PAYMENT OF EX-GRATIA AND HONORARIA**

The Committee was informed that the Board approved payment of Ksh. 250,000 to its members as end of year ex-gratia. Further, the three public officers were paid following Board's approval. The payments were within the Commissions approved budget.

The Committee noted with concern that the letter from the Ministry of Transport and Communications which approved the payment of the Ex-gratia was signed by a Mr. H. Oluoch (for the Permanent Secretary), who was a beneficiary of the same Ex-gratia.

The Committee directed the Chief Executive to provide a copy of the letter of December 7th, 2001 seeking for the concurrence of the Minister - the letter was missing in the response/appendices of the Commission.

The Committee concluded taking evidence on the paragraph

MIN. NO. 513/2004/2005: **EVIDENCE: PARAGRAPH 5 OF 2001/2002 ACCOUNTS: USE OF CREDIT CARD BY CHIEF EXECUTIVE**

The Committee heard that the Board approved the issues of the credit card to the Chief Executive in lieu of travelling allowance when on official duties overseas.

The Committee concluded taking evidence on the paragraph

MIN. NO. 514/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 1.15 P.M until Monday, April 18, 2005 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, APRIL 18, 2005 3.10 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. Lucy W. Gitundu - Senior Accountant

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira - Assistant Director of Audit
Mr. Charles O. Kiage - Principal Auditor

MIN. NO. 515/2004/2005: EVIDENCE

Report and Accounts of the Medical Practitioners and Dentist Board for the years 1993/94, 1994/95, 1995/96 and 1996/97 and Certificates thereon by the Controller and Auditor General.

Dr. Nyikal, Chief Executive/Registrar, Medical Practitioners and Dentist Board, accompanied by Messrs: Daniel M. Yumbya (Dr.), Executive Officer; Njage J. N (Dr.), Deputy Director of Medical Services; Japheth I. Kebeya, Accountant; Sospeter Onyango (Dr.), Assistant Accountant and John Kariuki Ireri, H.C.O, appeared before

the Committee and gave evidence on Accounts of Board for the years 1993/94, 1994/95, 1995/96 and 1996/97

MIN. NO. 516/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1993/94 ACCOUNTS- NON-SUBMISSION OF ACCOUNTS.

The Committee was informed that Board submitted its Accounts through the parent Ministry Further, the board in large extent of 1978-1986 was uncertain on whether it was a state Corporation

The Committee concluded taking evidence on the paragraph.

MIN. NO. 517/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1993/94 ACCOUNTS- LATE SUBMISSION OF ACCOUNTS.

The Committee was informed that the Board failed to submit its accounts on the assumption that it would be incorporated in the accounts of the Ministry of Health.

The Committee concluded taking evidence on the paragraph

MIN. NO.518/2004/2005: EVIDENCE: PARAGRAPH 1 OF 1994/95 ACCOUNTS- BUDGETARY CONTROL.

The Committee was informed that it was an assumption that preparation of the budget would be done from the Ministry

The Committee concluded taking evidence on the paragraph

MIN. NO. 519/2004/2005: EVIDENCE: PARAGRAPH 2 OF 1994/95 ACCOUNTS- CASH AT BANK BALANCES.

The Committee observed with concern that the current accountant of the Board was incompetent to handle the accounts of the Board.

The Committee directed that the Registrar reconciles the difference and provides written evidence to the Committee in two weeks' time.

The Committee concluded taking evidence on the paragraph

MIN. NO.520/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 1995/96 ACCOUNTS- UNDERSTATEMENT OF CURRENT ASSETS.**

The Committee was informed that the Board has since updated its register.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 521/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1995/96 ACCOUNTS- CASH And BANK BALANCES.**

The Committee was informed that the Board is yet to reconcile its accounts to date on the issue while the same is still a concern to the Auditors.

The Committee directed that the Registrar reconcile the difference and providence written evidence to the Committee in two week's time.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 522/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 1995/96 ACCOUNTS- HONORARIA PAYMENTS.**

The Committee was informed that the payments were allowances paid to doctors on inspection Board meetings.

The Board was directed to obtain *postfacto* approval from the Parent Ministry and the Treasury.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 523/2004/2005: **EVIDENCE: PARAGRAPH 4 OF 1995/96 ACCOUNTS- BUDGETARY CONTROL.**

The Committee was informed that the Board failed to prepare budget for the year as it assumed to have been made by the Ministry.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 524/2004/2005: **EVIDENCE: PARAGRAPH 1 OF 1996/97 UNDERSTATEMENT OF CURRENT ASSETS.**

The Committee concluded taking evidence on the paragraph.

MIN. NO. 525/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 1996/97 ACCOUNTS- DEBTORS.**

The Committee was informed that the figure was related to imprests that were taken by a member of staff, while that was owed by the Board members have since been surrendered.

The Board was encouraged to maintain computerised register showing all its registered doctors and who owe how much to the Board.

The Committee concluded taking evidence on the paragraph.

MIN. NO.526/2004/2005: **EVIDENCE: PARAGRAPH 4 OF 1995/96 ACCOUNTS- BUDGETARY CONTROL.**

The Committee was informed that the Board failed to prepare budget for the year as it was assumed to have been made by the Ministry.

The Committee concluded taking evidence on the paragraph.

MIN. NO.527/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5.40 P.M until Friday, April 22, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SIXTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, APRIL 22, 2005 10.40 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

CONTROLLER AND AUDITOR GENERAL

Mr. P.M. Njuguna - Assistant Director of Audit
Mr. Ronald N. Bichanga - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Titus Muriithi - Senior Inspector

OTHER WITNESS

Mr. J. M. Kioko - Regional Manager, Kenya Bureau of Standards

MIN. NO. 528/2004/2005: EVIDENCE

Report of the Kenya Power and Lighting Company: Importation of Posts for the year 2004/2005.

Mr. Jasper Oduor, Chief Executive, Kenya Power and Lighting

Company accompanied by Messrs; L.K. Njagi, Company Secretary, A.N. Gatukui, Supplies Manager; Z.O Ayieko, Manager, Finance and Humphrey Ndwiga, Chief Engineer (R & D) appeared before the Committee to give evidence on Importation of Posts for the year 2004/2005.

MIN. NO. 529/2004/2005: **EVIDENCE: IMPORTATION OF POSTS FOR THE YEAR 2004/2005.**

The Committee was informed that the Managing Director, Kenya Bureau of Standards was out of the country on official trip.

The Committee acceded to a request by the Management of KPLC to reschedule taking of evidence to later date as the Corporation was having a meeting with the Minister at 11. 00 A.M

The Committee resolved that the Corporation should appear be fore it on Friday, May 6, 2005 to give evidence on the issue. The Managing Director, KEBS and a representative of the Ministry of Environment and Natural Resources should also be present to advise the Committee on the availability of timber for posts in the country *vis-à-vis* the existing forest cover and the Ministry's position on importation of poles and other timber products Further the Managing Director, KEBS will be required to be present in person

MIN. NO. 530/2004/2005: **CONFIRMATION OF MINUTES**

The Minutes of the Twenty Seventh to Thirty Third Sittings of the Committee were confirmed by the members present and signed by the Chairman as follows.-

(i) Minutes of the Twenty Seventh Sitting of the Committee held on Friday, November 12, 2004 were proposed by Hon. Wafula Wamunyinyi, MP and Seconded by Hon. Joseph K. Kahindi, MP ;

(ii) Minutes of the Twenty Eighth Sitting of the Committee held on Friday, November 12, 2004 were proposed by, Hon. Joseph K. Kahindi, MP and Seconded by Hon. Wafula Wamunyinyi, MP;

(iii) Minutes of the Twenty Ninth Sitting of the Committee held on Friday, November 12, 2004 were proposed by Hon. Wafula Wamunyinyi, MP and Seconded by Hon. Joseph K. Kahindi, MP;

(iv) Minutes of the Thirtieth Sitting of the Committee held on Friday, November 19, 2004 were proposed by Hon. Gachara Muchiri, MP and Seconded by Hon. Joseph K. Kahindi, MP ;

(v) Minutes of the Thirty First Sitting of the Committee held on Thursday, November 25, 2004 were proposed by Hon. Joseph K. Kahindi, MP and Seconded by Hon. Wafula Wamunyinyi, MP;

(vi) Minutes of the Thirty Second Sitting of the Committee held on Friday, November 26, 2004 were proposed by Hon. Wafula Wamunyinyi, MP and Seconded by Hon. Gachara Muchiri, MP; and

(vii) Minutes of the Thirty Third Sitting of the Committee held on Friday, December 03, 2004 were proposed by Hon. Kingi Kahindi, MP and Seconded by Hon. Abdirahman Hassan, MP.

MIN. NO. 531/2004/2005: REPORT WRITING

The Committee resolved to conclude taking evidence by mid-May to give room for report writing.

MIN. NO. 532/2004/2005: KENYA SUGAR BOARD ISSUES

While noting the contents of the papers laid by the various witnesses during the last appearance by the management of Kenya Sugar Board (KSB) and the evidence adduced before it , that the leave on the substantive Chief Executive, Mr. A. Otieno would be extended so as to pave way for investigation by the Inspectorate of State Corporations, the Committee expressed concern that the Ministry would appear to have gone against this decision by reinstating the Chief Executive. This, the Committee expressed, may fetter execution of exhaustive investigations by the Inspector General, State Corporations.

Further, while noting the evidence given by the substantive Chief Executive, Mr. Otieno during the last appearance by the KSB management that **he had consulted the Minister for Agriculture on telephone** prior to making the irregular *Gazette* notice, the Committee resolved that the Minister for Agriculture should appear before it on Thursday, May 5, 2005 at 10.00 A.M alongside the management of KSB to give evidence on the contents of the *Gazette* notice and the subsequent importations and the reinstatement of Mr. A. Otieno at KSB against the Board's earlier decision.

MIN. NO.533/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 10.55 A.M until Monday, April 25, 2005 at 2.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

19th August 2005

DATE.....

MINUTES OF THE SIXTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, APRIL 25, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Kennedy Ondieki	-	Deputy Director

MINISTRY OF TRADE AND INDUSTRY

Mr. Seth A. Otieno	-	Director of Internal Trade

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mrs. Mercy Muasya	-	Principal Auditor

ATTORNEY- GENERAL'S CHAMBERS

MS. Muthoni Kimani	-	Deputy Solicitor General

INSPECTORATE OF STATE CORPORATIONS

Mr. Davidson W. Sifuna - Inspector

OTHER WITNESSES

Mr. Justus M. M'Mpwii	-	Former Chief Executive, KNTC
Mr. Raphael Masinde	-	Former Ag. Chief Executive, KNTC on secondment from ICDC
Mr. Alexander Kamincha	-	Former Executive Chairman, Kenya Commercial Bank
Mr. Mohamed Hassan	-	Executive Director, M/s. Dyer & Blair

MIN. NO.534/2004/2005: EVIDENCE

Report and Accounts of the Kenya National Trading Corporation for the years 1996/97 and 1998/99 and Certificates thereon by the Controller and Auditor General.

Mr. Vinicent H. L. Opanga, Chief Executive, Kenya National Trading Corporation, accompanied by Messrs: Remmy K. Koech, Chief Accountant; Michael Mubea; Legal Officer and Evans Oyaro, Senior Accountant, appeared before the Committee and gave evidence on Accounts of the Corporation for the years 1996/97 and 1998/99 .

MIN. NO. 535/2004/2005: EVIDENCE: PARAGRAPH 6 OF 1996/97 ACCOUNTS- LONG TERM INVESTMENTS.

The Committee was informed that the then Managing Director, Mr. Mugaa single sourced M/s. Dyer and Blair to undertake the brokerage and consultancy.

The Committee observed with concerned that M/s. Dyer and Blair was paid a double commission from sales and purchases commission.

The Committee directed the Executive Director M/s. Dyer and Blair to provide a copy of the transactions prospectus, names of agents/brokers that got the sales commission and how much was paid to each through Dyer and Blair.

MIN. NO.536/2004/2005: EVIDENCE – HON. KANYINGI, MP CASE

The Committee was informed that the Director of Public Prosecution had requested the Director of Criminal Investigations Department to conduct further investigations.

The Committee directed the representative of the Attorney General to provide a progress report in two weeks time.

MIN. NO.537/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.55 P.M until Thursday, April 28, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, APRIL 28, 2005 AT 11:35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Joseph Kingi Kahindi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Festus W. Kingori-Assistant Investments Secretary

MINISTRY OF HEALTH

Mr. Swaleh Slim - Senior Deputy Secretary

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Mr. Lojomon K. Biwott- Commissioner of Mines & Geology

MINISTRY OF ROADS AND PUBLIC WORKS

Mr. Kiriinya Mukiiira	-	Permanent Secretary
Mr. M.A. Nyakiongora	-	Senior Supt. Quantity Surveyor
Mr. Philip O. Sika	-	Chief Architect
Mr. V.B. Walubaji	-	Chief Quantity Surveyor

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

MS. Jane Weru	-	Inspector

OTHER WITNESSES

Maj. (Rtd) K. A. Mibei	-	Project Manager, Medicare Plaza
P. Khoda	-	Managing Director, M/s. N.K. Brothers
P.S Kisia	-	Quantity Surveyor, M/s. N.K. Brothers

MIN. NO. 538/2004/2005: EVIDENCE

Report and Accounts of National Hospital Insurance Fund for the year 1999/2000 and the certificate thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lawrence N. Ondari, Manager, Finance, and Lucy Rono, Manager, Chief Legal Officer; appeared before the Committee and gave evidence on contract price variations at the Medicare Centre, Plot L.R. No209/11248.

MIN. NO. 539/2004/2005: EVIDENCE: PRICE VARIATIONS AT THE MEDICARE CENTRE, NAIROBI

The Committee expressed concern that the Permanent Secretary, Ministry of Finance had not attended the meeting although he had written indicating that he would be represented by the Investments Secretary, who did not turn up for the sitting.

In addition, the Committee heard that the former Chief Executive Mr. Ibrahim Hussein could not attend the Committee's sitting as he was in the process of obtaining clearance from court in case between himself and M/s. N.K. Brothers. The case had been heard the previous day.

Further, the Committee expressed concern on the failure to attend by Mr. Wanyonyi Muchanga of M/s. Womi Associates.

In view of the fact that a case was in court that touched on M/s. N.K Brothers, the Committee directed the two witnesses from M/s. N.K. Brothers to withdraw from the meeting and advised them that they would be invited if and when deemed necessary.

Whilst observing that most of the key witnesses had not turned up for the meeting, the Committee deferred taking evidence on the matter of contract price variations at the Medicare Plaza, Nairobi until May 12, 2005 at 10.00 A.M when the following persons will be required to appear before it to give evidence on the same:-

(i) the then Chief Executive Mr. Ibrahim Hussein.

(ii) the project manager, Maj. (Rtd.) K. Mibei

(iii) the Commissioner of Mines and Geology,

(iv) Permanent Secretaries, Ministries of Health, Finance and Public Works,

(v) the Lead consultant, Mr. Wanyonyi Muchanga of M/s. Womi Associates

(vi) Engineer S.R. Manga of M/s. S.R. Manga & Associates (Structural Engineers)

(vii) Mr. Kaigutha of Kaigutha & Partners (Electrical & Mechanical Engineers)

(viii) Mr. Rebman Malala of M/s. Ujenzi Consultants (Quantity Surveyor)

Among other issues, the witnesses will be required to explain their role(s) in the project.

MIN. NO.540/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12.50 P.M until Friday, April 29, 2005 at 9.30 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, 05 MAY 2005 AT 10.05 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP
The Hon. Gachara Muchiri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T. N. Gathaara	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Assistant Director of Audit
Mr. Boniface K. Mulli	-	Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana	-	Inspector I
Mr N. A. Kweya	-	Inspector I

MINISTRY OF AGRICULTURE

Mrs. Emily M. Gatuguta	-	Senior Deputy Secretary

MIN. NO. 541/2004/2005: EVIDENCE

Kenya Sugar Board- Importation of Raw and Mill White Sugar: *Gazette Notice* No. 1405 of February 25, 2005.

Mr. Andrew A. Otieno, substantive Chief Executive, Kenya Sugar Board, accompanied by the Company Secretary, Ms. Rosemary Mkok appeared before the Committee and gave evidence on the Importation of Raw and Mill White Sugar as reflected in the Kenya *Gazette Notice* No. 1405 of February 25, 2005.

MIN. NO. 542/2004/2005: EVIDENCE: IMPORTATION OF RAW AND MILL WHITE SUGAR.

While noting that the latter Ref: MOA/S.II/25A/7 VOL.I(34) dated April 6, 2005 from the Permanent Secretary, Ministry of Agriculture to the KSB Board extending the leave of the substantive Chief Executive by one month so as to pave way for investigations by the Inspectorate of State Corporations following the Report of the Ad-Hoc Committee on Some Management Aspects at the Kenya Sugar Board, the Committee was concerned that the Ministry would appear to have gone against its own decision.

The Committee was informed that the decision to reinstate Mr. Otieno was communicated to him by the Permanent Secretary though not in the official way of writing.

In the circumstances, the Committee directed Mr. Otieno to withdraw from the sitting, who in turn obliged.

While noting the absence of the Minister for Agriculture in the meeting, the Committee was informed that the Minister had travelled to Ghana for three days visit.

In view of the foregoing, the Committee resolved to invite the Minister to appear before it on Friday, May 13, 2005 at 10.00 A.M.

MIN. NO.543/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11:35 A.M until Friday, May 6, 2005 at 10.00 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, MAY 6, 2005 10.25 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Joseph Kingi Kahindi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF ENERGY

Mr. Nganga Munyu - Principal Economist

CONTROLLER AND AUDITOR GENERAL

Mr. P.M. Njuguna - Assistant Director of Audit
Mr. Ronald N. Bichanga - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

Mr. Titus Muriithi - Senior Inspector

OTHER WITNESS

Eng. John Masila - Managing Director, Kenya Bureau of Standards

MIN. NO. 544/2004/2005: EVIDENCE

Report of the Kenya Power and Lighting Company: Importation of Posts for the year 2004/2005.

Mr. Jasper Oduor, Chief Executive, Kenya Power and Lighting Company accompanied by Messrs; L.K. Njagi, Company Secretary, A.N. Gatukui, Supplies Manager; Z.O Ayieko, Chief Manager, Finance and Humphrey Ndwiga, Chief Engineer, Research & Development appeared before the Committee to give evidence on Importation of Posts for the year 2004/2005.

MIN. NO. 545/2004/2005: EVIDENCE: IMPORTATION OF POSTS FOR THE YEAR 2004/2005.

The Committee expressed concern that the Ministry of Environment and Natural Resources was not represented in the meeting to apprise it on the on the availability of timber for poles in the country *vis-à-vis* the existing forest cover and the Ministry's position on importation of poles and other timber products. The Committee resolved to invite a representative of the Ministry at a later date.

The Committee was informed that:-

(i) that, Kenya Power and Lighting Company (KPLC) invited tenders for the supply of treated wood poles of varying sizes. The tender closed on 31st December, 2003;

(ii) that, the Company's Central Tender Committee (CTC), approved the award for the supply of the poles to M/s. Treated Timber Products (Pty);

(iii) that, the exercise was to cost the Company Ksh. 467,607,930 excluding VAT. As this amount exceeded the funds allocated for the item in the 2003/2004 budget, the CTC on 6th February, 2004 rescind its approval and a revised figure was determined taking into account the funds available;

(iv) that, the contract was signed and orders placed for a total of 69.475 poles of different sizes;

(v) that, the article on the Newspapers on "Poles Scam" was incorrect as none of the poles from the above consignment had been tested by the Kenya Bureau of Standards (KEBS) then. neither KEBS nor KPLC is privy to the origin of the samples;

(vi) that, KPLC does not have the capacity to carry out tests or verify on poles and relies on KEBS which in turn depends on the Telecommunication Plant at Gilgil;

(vii) that, KEBS has since carried out tests on the poles and has found that some of them do not meet the user standards based on the KS 02-94 and KS 02-516 Kenyan Standards;

(viii) that, by the time KEBS conducted the tests and disqualified some of the pole, the supplier had already been paid a total of Ksh.41,002,155 using a letter of credit;

(ix) that, arising from the tests that were carried out as in (v) above, KEBS Regional Manager for Nairobi, Mr. Kioko, vide letter Ref: BS/IMP/ICDN/M/08/25 of March 7, 2005 instructed KPLC to reship the poles as they were substandard. This was followed by another letter Ref.BS/IMP/ICDN/M/09/14 dated March 15, 2005 advising KPLC to ignore the instructions of the earlier letter;

(x) that, for the supply of the 2004/2005 poles, no bidder was fully compliant to the bidding requirements

(xi) that, for the 6,938 poles delivered by M/s. Treated Timber Products (Pty) between March 23, 2005 and April 4, 2005 and which failed to meet the KEBS tests for medium size specifications on ground diameter and strength, KPLC had since resolved to:-

(a) reject the poles and require the supplier to make immediate replacements; and

(b) in case (a) above fails, de-classify the poles to light standard for use of low voltage distribution lines and demand appropriate refund of the differences in costs between light and medium sized poles from the supplier;

The Committee observed with concern, that:-

(i) despite the fact that KPLC uses wooden poles for transmission of power, it does not have the capacity to verify whether poles supplied by any trader meet the user requirements; and,

(ii) neither KPLC nor KEBS could explain the source(s) or the ownership of the poles that were ostensibly tested in place of

the poles supplied by M/s. Treated Timber Products (Pty); and

The Committee directed:-

(i) the Chief Executive, KEBS to provide identity by way of information on the ownership and origin of the sample of WOOD POLES imported vide Customs Entry No. 1113.MPRO No. 0531930 as they appear on the tests report- This is the Customs number of the poles that were ostensibly tested and failed the quality standard, leading to the newspaper article;

(ii) the Chief Executive, KPLC to provide information on the total number of poles that were contracted for, how many have been supplied as at May 6, 2005 and how many of these failed KEBS tests;

(iii) the Chief Executive, KPLC to provide information on the total number of poles that were awarded to M/s. Cabro E.A Ltd. against the number tendered for and copies of the tender documents in respect of the supply for 2004/2005; and

(iv) the Chief Executive, KPLC to arrange a meeting with the local suppliers to apprise them on the standard requirements of poles and encourage them to meet the required standards so as to reduce costs of supply. KEBS to be represented in the meeting(s) at the highest level.

MIN. NO.546/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M until Thursday, May 12, 2005 at 10.00 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE SEVENTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, MAY 12, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Festus W. Kingori-Assistant Investments Secretary

MINISTRY OF HEALTH

Mr. Patrick Khaemba	-	Permanent Secretary
Mr. Swaleh Slim	-	Senior Deputy Secretary

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Mr. Lojomon K. Biwott-	Commissioner of Mines & Geology

MINISTRY OF ROADS AND PUBLIC WORKS

Mr. Kiriinya Mukiiira	-	Permanent Secretary
Mr. M.A. Nyakiongora	-	Senior Supt. Quantity Surveyor Mr. Philip O. Sika- Chief Architect

Mr. V.B. Walubaji — Chief Quantity Surveyor

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira - Deputy Director of Audit
Mr. Charles O. Kiage - Principal Auditor

INSPECTORATE OF STATE CORPORATIONS

MS. Jane Weru - Inspector
Mr. P. N. Muchera - Inspector

OTHER WITNESSES

MR. R. A. Malala - Quantity Surveyor, M/s Ujenzi Consultants

Mr. Joseph Kaigutha - Electrical Engineer, M/s Chepkwony Kaigutha Ltd

MIN. NO. 547/2004/2005: EVIDENCE

Report and Accounts of National Hospital Insurance Fund for the year 1999/2000 and the certificate thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lawrence N. Ondari, Manager, Finance; Lucy Rono, Manager, Chief Legal Officer and Maj. (Rtd) K. A. K.A. Mibei-Project Manager, Medicare Plaza appeared before the Committee and gave evidence on contract price variations at the Medicare Centre, Plot L.R. No. 209/11248.

MIN. NO. 548/2004/2005: EVIDENCE: PRICE VARIATIONS AT THE MEDICARE CENTRE, NAIROBI

The Committee took great exception and expressed concern and that the Permanent Secretary, Ministry of Finance would appear to be demeaning the Committee and Parliament by large by failing to attended its meeting for the second time. With reference to his letter Re: CONF.268/03/A dated May 11, 2005, the Committee asserted that the Permanent Secretary should appear before it to give evidence on the matter.

In the circumstances, the Committee deferred taking evidence on the matter of contract price variations on Medicare Plaza, Nairobi to Wednesday, May 13, 2005 at 10.00 a.m when the Permanent Secretary, Ministry of Finance will be expected to appear alongside the management of the Fund and other witnesses as earlier resolved under MIN NO. 560/2004/2005.

MIN. NO.549/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M until Friday, May 13, 2005 at 10.00 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, MAY 13, 2005 AT 11.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. R. Sialai - Senior Clark Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mrs. T. N. Gathaara - Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira - Assistant Director of Audit
Mr. Boniface K. Mulli - Senior Auditor

INSPECTORATE OF STATE CORPORATIONS

Mrs. T. K. Gichana - Inspector I
Mr N. A. Kweya - Inspector I

MIN. NO. 550/2004/2005: **EVIDENCE: KENYA SUGAR BOARD IMPORTATION OF RAW AND MILL WHITE SUGAR.**

The Committee expressed grave concern over the manner in which the Minister for Agriculture had acted *ultra vires* and influenced decisions of the Kenya Sugar Board as adduced in past sittings of the Committee, particularly where the Board was exercising its statutory powers. The Committee resolved to raise this matter with the "Big Five" at an appropriate time.

MIN. NO.551/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 1.05 P.M until Friday, May 13, 2005 at 10.00 A.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, MAY 18, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Joseph Kingi Kahindi, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Joseph Kinyua - Permanent Secretary
Mr. Festus W. Kingori - Assistant Investments Secretary

MINISTRY OF HEALTH

Mr. Patrick Khaemba -Permanent Secretary
Mr. Zack B. Awino -Snr. Principal Procurement Officer
Mr. Tom A. Khakame - Principal Accountant

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Mr. Lojomon K. Biwott- Commissioner of Mines & Geology

MINISTRY OF ROADS AND PUBLIC WORKS

Mr. Kiriinya Mukiiira - Permanent Secretary
Mr. M.A. Nyakiongora - Senior Supt. Quantity

Surveyor Mr. Philip O. Sika	-	Chief Architect
Mr. V.B. Walubaji	-	Chief Quantity Surveyor
Eng. M. Kimani	-	Chief Structural Engineer

CONTROLLER AND AUDITOR GENERAL

Mr. Hiram Waciira	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

OTHER WITNESSES

Maj. (Rtd). K.A. Mibei	-	Project Manager, Medicare Plaza
Mr. R. A. Malala	-	Partner, M/S. Ujenzi Consultants
Mr. Joseph Kaigutha	-	Electrical Engineer, M/s. Chepkwony Kaigutha Ltd.
Mr. Ibrahim Hussein	-	Former Chief Executive, NHIF

MIN. NO. 552/2004/2005: EVIDENCE

Contract Price Variations at the Medicare Plaza, Nairobi and Reports and Accounts of National Hospital Insurance Fund for the years 1998/99, 2000/2001, 2001/2002 & 2002/2003 and the certificates thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lucy Rono, Chief Legal Officer; appeared before the Committee and gave evidence on contract price variations at the Medicare Centre, Plot L.R. No. 209/11248 and Accounts Fund for the years 1998/99, 2000/2001, 2001/2002 and 2002/2003.

MIN. NO. 553/2004/2005: PROCEDURE

In view of the fact that the most of the audit reservations on the Report of the Controller and Auditor General on the Accounts of the Fund for the years 1998/99, 2000/20001, 2001/2002 and 20002/2003 were recurring in the four Reports, the Committee, in concurrence with the Officers from the Kenya National Audit Office, resolved to address the four Reports and Accounts concurrently.

MIN. NO. 554/2004/2005: **EVIDENCE: CONTRACT PRICE VARIATIONS AT THE MEDICARE PLAZA, NAIROBI; PARAGRAPHS 3, 2 AND 6 OF 1998/99, 2001/2002 AND 2002/2003 ACCOUNTS (respectively) - CONSTRUCTION OF NHIF BUILDING**

The Permanent Secretary, Ministry of Finance registered his apologies for failing to appear before the Committee on two previous occasions.

The Commissioner of Mines and Geology informed the Committee that though the blasting in the site were controlled, this could not have been a factor for the delays or contract price variations at the project, as the Contractor was not limited to drill and blast more that 10 pits in a day; the Contractor would therefore had achieved the intended blastings depths and degree in the long run even with the controlled blasting. Further the contractor could have foreseen the hardness of the rock.

The Committee also heard that the Contractor had under performed in the NSSF contract and therefore the basis for awarding marks to the contractor during the tender evaluation on this basis was unfounded as he had finished only 30% of the works three years after the expiry of the contract time, a fact that was known to the Tender Committee. Further, before awarding the contract to N.K Brothers, there was communication between the Chief Architect and the Consultant, who asserted that the Contractor could still perform though he had not performed in the NSSF project. The Committee was informed that as the works at the NSSF did not involve blasting (they carried out mechanical excavations), the works at NHIF ought to have been easier.

The Committee observed with concern that the Quantity Surveyor and Structural Engineer in the project failed to seek the advice of the Commissioner of Mines and Geology on the blastings and the impact of the same on the overall project and instead went ahead to effect variations on the contract price presented by the Contractor on the basis of controls by the Department.

Further the Committee was informed that the Ministry of Public Works though the Departmental Representatives in the Project, were sidelined in the implementation stage.

In addition, the Fund on various occasions directly employed external consultants other than going through the Ministry of Public Works as the Departmental Representatives.

The Committee also heard that:-

(i) the Ministry of Health relied on the experts' reports on tendering;

(ii) the Ministry of Finance did not approve the supplementary budget of the Fund, which incorporated capital expenditure. The Ministry of Finance at present is very restrictive on contract price variations;

(iii) the lead consultant exhibited difficulties; he had no office, and was a "brief case consultant";

(iv) the then CEO chaired some site meetings; and

(v) to date, the Account stands at Ksh. 4.4 billion and that the account will be finalised in the next two weeks.

In the circumstances, the Committee directed:-

(i) the Chief Executive to provide a breakdown of the payments made to each consultant to date, how much each factor contributed to the variations;

(ii) the Ministry of Public Works to provide information on the all the works that the Consultant M/s. Womi Associates had undertaken elsewhere, the quotations and the eventual/final payments; and,

(iii) Mr. Kimani, the Chief Structural Engineer from the Ministry of Public Works to withdraw from the room as he was not prepared to address the issues before the Committee. He is to appear before the Committee later to explain his role in the project and the basis of hard rock and blasting on contract price variations.

MIN. NO. 555/2004/2005: **EVIDENCE: PARAGRAPHS 1 OF 1998/99 AND 2000/2001 ACCOUNTS -LONGTERM INVESTMENTS.**

The Committee was informed that the investments were as a result of conversion of investments in five financial institutions that were merged under a government directive into the Consolidated Bank of Kenya.

The Committee further heard that the Fund is a shareholder in the Bank and the Fund anticipates receiving returns in the future.

Further the Fund has since acquired the Contrust House, a building previously owned by the Bank at a cost of Ksh. 150 M. in bid to offsetting the debt.

The Committee concluded taking evidence on the Paragraphs.

MIN. NO. 556/2004/2005: **EVIDENCE: PARAGRAPHS 2 OF 1998/99-SUNDRY DEBTORS**

The Committee was informed that the amount of Ksh. 174,359,634.00 has since been provided for as doubtful amount in the accounts of the Fund for the year 1999/2000.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 557/2004/2005: **EVIDENCE: PARAGRAPHS 4, 1 AND 1 OF 1998/99, 2001/2002 & 2002/2003 ACCOUNTS (Correspondingly) - FIXED DEPOSIT /SHORT TERM INVESTMENTS/LOSS OF FUNDS.**

The Committee was informed that the Fund has since recovered Ksh. 8,590,778.000 from four of the indebted institutions i.e.:- Thabiti Insurance (Ksh. 1.8 m.), Ari Credit Finance (Ksh. 2.5 M.), Kenya Finance Bank, (Ksh. 2.4 M) and Pioneer Building Society (Ksh. 1.8 M), while Ksh. 54,409,221.00 is still outstanding-

Further, the Fund has since received Ksh. 13. M. from M/s. Family Finance Building Society and has gone to court to dispute the balance.

The Committee noted that the investments were made in contravention of Treasury Circular No.10 of July 15, 1992.

The Committee concluded taking evidence on the three Paragraphs.

MIN. NO. 558/2004/2005: **EVIDENCE: PARAGRAPH 5 OF 1998/99 - IRREGULAR PROCUREMENT OF GOODS AND SERVICES.**

The Committee was informed that after upfront payments were made, the thirteen (13) Land Rovers were delivered eight months later while scrutiny on their log books showed anomalies in the actual years of manufacture. The vehicles were registered as being manufactured in

19998 as this was the date cleared they were from the Bond, where they were assembled, on receipts of the LPO.

Further, there was no Ministerial Tender Boards approval to place the advertisement in the New York Time Magazine. The Committee noted with concern that the advert was of no benefit to the Fund.

The Committee also heard that the case of procurement of forms valued at Ksh. 12,8000,000.00 without open tendering has since been referred to the Director of criminal Investigations Department. The Committee directed the Chief Executive to follow the matter with the director of CID and report progress.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 559/2004/2005: **EVIDENCE: PARAGRAPH 2 OF 2000/2001 ACCOUNTS:- PURCHASE OF HOUSING UNITS L.R. NO. 209/5846.**

The Committee was informed that at the time of acquiring the property, M/s. Prudential Building Society owed the contractor Ksh. 15,856,517.50 and cost of security at Ksh. 1.5 million. The Fund had invested in prudential and was therefore trying to safeguard its interested in acquiring the properties. As per order of the court, the Fund paid Ksh. 20.6 million as security to the Contractor debt and thus obtained possession of the property. The Contractor has since requested to arbitration on the case.

Further, the flats and maisonettes generate income to the Fund while the shops do not. The Fund spent a total of Ksh. 4,059,101 on installing security gadgets on the property.

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 560/2004/2005: **EVIDENCE: PARAGRAPH 3 OF 2000/2001 ACCOUNTS: - RENOVATION OF STAND AT NAIROBI ASK SHOW**

The Committee was informed that there was no contract between the contactor and the Fund while the Payment of Ksh. 1,321,429.80 was paid to M/s. Coastwise for different works at the site.

The Committee **deferred taking evidence** on the paragraph to a later date and directed the Chief Executive to provide:-

(i) the total amount of money spent on the account;

(ii) information on the purpose of the payments of 1,321,429.80 made to M/s. Coastwise;

(iii) details of how M/s. Coastwise and M/s. Marechoge were identified,

(iv) a copy, if any, of the tender evaluation report; and

(v) the name(s) of the owners these two firms.

MIN. NO. 561/2004/2005: DEFERRED EVIDENCE:

The Committee deferred taking evidence on taking evidence on Paragraphs 3,4,5 and 7 of 2002/2003 accounts to a later date where it requested the former Chief Executive of the Fund Mr. Hussein to be present.

MIN. NO.562/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.00 P.M until a later date.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, MAY 19, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Joseph Kingi Kahindi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MIN. NO. 563/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Thirty Fourth Sitting of the Committee held on December 10th, 2005 were proposed by Hon. Ali. Bahari, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(ii) Minutes of the Thirty Fifth Sitting of the Committee held on January 25th, 2005 were proposed by Hon. Ali. Bahari, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(iii) Minutes of the Thirty Sixth Sitting of the Committee held on January 26th, 2005 were proposed by Hon. K.M Sang,

M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(iv) Minutes of the Thirty Seventh Sitting of the Committee held on January 27th, 2005 were proposed by Hon. K.M. Sang, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(v) Minutes of the Thirty Eighth Sitting of the Committee held on February 1st , 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. K.M. Sang, M.P and signed by the Chairman;

(vi) Minutes of the Thirty Ninth Sitting of the Committee held on February 2nd , 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. K.M. Sang, M.P and signed by the Ag. Chairman;

(vii) Minutes of the Fortieth Sitting of the Committee held on February 3rd, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(viii) Minutes of the Forty First Sitting of the Committee held on February 8th, 2005 were proposed by Hon. K.M Sang, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(ix) Minutes of the Forty Second Sitting of the Committee held on February 9th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(x) Minutes of the Forty Third Sitting of the Committee held on February 10th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. K.M Sang, M.P and signed by the Chairman;***

(xi) Minutes of the Forty Fourth Sitting of the Committee held on February 117h, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Wycliffe Oparanya, M.P and signed by the Chairman;

(xii) Minutes of the Forty Fifth Sitting of the Committee held on February 15th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Wycliffe Oparanya, M.P and signed by the Chairman; and,

(xiii) Minutes of the Forty Sixth Sitting of the Committee held on February 16th, 2005 were proposed by Hon. Abdirahman Hassan, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

MIN. NO. 564/2004/2005: MATTERS ARISING

The following matters arose while confirming minutes:

(i) Under MIN. 299/2004/2005, the secretariat was directed to write to the Chief Executive, Kenya Marine and Fisheries Research Institute (KEMFRI) confirm whether the last instalment of Ksh. 15, 065, 928.35 has been received from the Kenya National Assurance Company;

(ii) Under MIN. 300/2004/2005, the directed the Secretariat to seek progress report form the Chief Executive, KEMFRI, on the issue of Kisumu Land L.R. No. 1148/1389 land;

(iii) Under MIN. 303/2004/2005 (ii) and (iii):-

(a) The Committee was informed that Mr. Reuben Ole Nakuo formerly of KNTC has since appeared before the Anti-Corruption Court on criminal charges and abuse of office; and,

(b) The Committee resolved to revisit the issue of Mr. Kuria Kanyingi a former Chairman of KNTC with the Director of Criminal Investigations Department and the Attorney general;

(iv) Under MIN. 344/2004/2005 the Committee resolved to pay an inspection tour of Western Kenya where it will visit Nyayo Tea Zones Corporation's land at Kericho, Nzoia Sugar Company and KWS land at Naivasha;

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE SEVENTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, JUNE 16, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. K.M. Sang, MP
The Hon. Alı Bahari, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Peter G. Munya, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai - Senior Clerk Assistant
Mr. S.J. Njoroge - Third Clerk Assistant

MINISTRY OF FINANCE

Mr. K. O. Ondieki - Deputy Director

CONTROLLER AND AUDITOR GENERAL

Mr. Joseph M. Karua - Director of Audit
Mr. David M. Njoka - Deputy Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher Ombega - Inspector I

OTHER WITNESSES:

Mr. Isaiah F. Kiplagat - Former Chief Executive, Post Bank

Mr. John Kimanzi Mutinda - Former Chairman, Post Bank.

MIN. NO. 565/2004/2005: **EVIDENCE**

Reports and Accounts of the Kenya Post Office Savings Bank for the years ended December 31, 2000 and December 31, 2001 and Certificates thereon by the Controller and Auditor General.

Mrs. Nyambura Koigi, Chief Executive, Kenya Post Office Savings Bank, accompanied by Messrs: Nyambura Koigi, Director Operations; Titus Njue Gatumo Senior Manager, Finance and Accounts; Mercy Mbijiwe, Company Secretary; Agnes Odhiambo, Director, Finance; H. Kenowa Omumia, Senior Manager, ICT and William O. Omollo, Ag. Senior Manager, A &P, appeared before the Committee and gave evidence on Accounts of he Bank for the years ended December 31, 2000 and December 31, 2001.

MIN. NO. 566/2004/2005: **EVIDENCE: PARAGRAPH 1 OF YEAR 2000 ACCOUNTS- IRREGULAR ACQUISITION OF DEC ALPHA SERVER.**

The Committee directed that the Chief executive provides all the information on tendering on the Server to the Kenya National Audit Office for verification and reconciliation.

MIN. NO. 567/2004/2005: **EVIDENCE: PARAGRAPH 2 OF YEAR 2000 ACCOUNTS- PROCUREMENT OF SYMBOLS BANKING SOFTWARE.**

The Committee heard that the Chief executive was out of the country during the time of launching the Project where the then Chairman of the Board signed the contract with M/s. Systems Access PTF Ltd. For supply of the Symbols Banking Software.

The Committee noted with concern that the Bank failed to draw a comprehensive contract on the supply

The Contract (order form) was not sealed by the Company Seal, was signed only one person to be a binding document on the Bank
The Contract stipulated that the supplier would be paid on time and material thereby giving the latte the leeway to demand fees.

The Committee directed the Chief Executive to liaise with the Kenya National Audit Office with a view to reconciling the differences in figures spent on acquisition of the software and report back to the Committee in two weeks time.

MIN. NO. 568/2004/2005: **EVIDENCE: PARAGRAPH 3: STRUCTURED CABLING OF POST BANK HOUSE.**

The Committee was informed that Mr. John Sambu was dismissed from the Bank's Board of Directors after execution of the contracts and that his dealings in the entire contract was suspect as he had, on several occasions, influenced award of contacts to certain firms.

The Committee took great exception to this point of information resolved to express itself appropriately at a later date.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 569/2004/2005: **EVIDENCE: PARAGRAPH 4: ACQUISITION OF IBM NET-FINITY SERVERS MODELS 5600 AND 5000.**

The Committee directed the Chief Executive to provide the names of the persons who sat in adjudication the tender.

MIN. NO. 570/2004/2005: **EVIDENCE: PARAGRAPH 5: SYMBOLS SOFTWARE-IMPLEMENTATION CONSULTANT.**

The Committee heard that the system vendor was M/s. Systems Access who was not paid for the period they stayed in the bank.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 571/2004/2005: **EVIDENCE: PARAGRAPH 6: IRREGULAR PROCUREMENT OF PERSONAL COMPUTER.**

The Committee concluded taking evidence on the paragraph.

MIN. NO.572/2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 1.50 P.M until Friday, June 17, 2005 at 9.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON FRIDAY, JUNE 17, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

MINISTRY OF FINANCE (DGIPE)

Mr. Barrack O. Amollo-Under Secretary
Mr. Festus W. Kingori- Assistant Investments Secretary

MINISTRY OF HEALTH

Mr. Joash L.O Miyom -Ministry of Health

MINISTRY OF ROADS AND PUBLIC WORKS

Eng. M. Kimani - Chief Structural Engineer

CONTROLLER AND AUDITOR GENERAL

Mr. H.O Wanyama	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

OTHER WITNESSES

Mr. Ibrahim Hussein - Former Chief Executive, NHIF

MIN. NO. 573/2004/2005: EVIDENCE:

Contract Price Variations at the Medicare Plaza, Nairobi and Reports and Accounts of National Hospital Insurance Fund for the years 2000/2001 and 2002/2003 and the certificates thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lawrence N. Ondari, Manager, Investments, appeared before the Committee and gave evidence on contract price variations at the Medicare Centre, Plot L.R. No. 209/11248 and Accounts Fund for the years 2000/2001 and 2002/2003.

MIN. NO. 574/2004/2005: EVIDENCE: PARAGRAPH 3 OF 2000/2001 ACCOUNTS: - RENOVATION OF STAND AT NAIROBI ASK SHOW

The Committee heard that:

(i) the Fund paid M/s. Costwise Associates Kshs. 1,323,490.50 vide voucher No. 00258 of 21st July 20 for the proposed partitions and burglar proofing of offices at Jamhuri Park (NHIF Show Stand pavilion offices). The amount paid was in respect to professional services offer by this firm in regards to preparation of bills of quantities for the said works;

(ii) M/s. Costwise Associates are registered quantity surveyors and its Directors were Messrs N.B Kithinji and C.M Mwangi; and,

(iii) M/s Marachoge Images, whose director was Mr. Dennis K. Baragoreti, was awarded the works but at a negotiated cost of Kshs. 1,600,000.00 after the show committee establishing that they met all the require specifications that enables them to carry out the works.

The Committee concluded taking evidence on the paragraph.

MIN. NO. 575/2004/2005: **EVIDENCE: CONTRACT PRICE VARIATIONS AT THE MEDICARE PLAZA, NAIROBI; PARAGRAPHS 3, 2 AND 6 OF 1998/99, 2001/2002 AND 2002/2003 ACCOUNTS (respectively) - CONSTRUCTION OF NHIF BUILDING**

The Chief Executive, NHIF laid the following paper before the Committee:

- A letter dated 17th March 2005, referenced A 6.01 Vol.X/24, from Ministry of Public Works and Housing to M/s Baseline Architects, P.O Bo 39928 Nairobi

Further, Mr. S.R Manga laid the following papers before the Committee:-

a letter dated 20th May 1996, referenced Str.Conf. 71 Vol. 111/56 from Ministry of Public Works and Housing to M/s S. R Manga and Associates, and,

a copy of 'Unconfined comprehensive strength test results', dated 7th July 199, referenced 98/UCS/736/Kgw, from Central Testing Laboratories Ltd, Komorock Road, P.O Box 18507 Nairobi to M/s N.K Brothers

The Committee heard that:-

(i) the information it had requested under MIN. No. 579 had been provided; and

(ii) the Ministry of Public Works and Housing concurred with the Contractor that the hardness of the rock was harder than envisaged and therefore certified the claims.

The Committee directed:-

(i) the Chief Executive Officer to provide information on how much each factor contributed to the final variations on the Project;

(ii) Mr. Kamau of Ministry of Public Works to provide:-
   a) comprehensive information on how much was paid to each contractor including a breakdown on the costs incurred by each contractor to pay the staff seconded by the Fund; and

b) information on the all the works that the Consultant M/s. Womi Associates had undertaken elsewhere, the quotations and the eventual/final payments.

MIN. NO. 576/2004/2005: DEFERRED EVIDENCE:

The Committee deferred taking evidence on Paragraphs 3,4,5 and 7 of 2002/2003 accounts to a later date where it requested the former Chief Executive of the Fund Mr. Hussein to be present.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP- (Chairman)
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Wafula Wamunyinyi, MP
The Hon. Wycliffe A. Oparanya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

CONTROLLER AND AUDITOR GENERAL

Mr. H.O Wanyama	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

MINISTRY OF AGRICULTURE

Hon. Kipruto Arap Kirwa, MP	-	Minister
Mr. J.E.O. Ongwae	-	Permanent Secretary

MIN. NO. 577/2004/2005: EVIDENCE

Kenya Sugar Board- Importation of Raw and Mill White Sugar: Gazette Notice No. 1405 of February 25, 2005.

MIN. NO. 578/2004/2005: EXPUNGING WORDS FROM THE HANSARD RECORDS OF THE COMMITTEE

While addressing the letter by the Minister for Agriculture referenced MOA/B.1/21AVOL.IV/4 dated May 12th, 2005 on improper words used against himself, the Committee resolved that the words be expunged from the Hansard records of the proceedings of the Committee, as requested by the Minister.

MIN. NO. 579/2004/2005: EVIDENCE: IMPORTATION OF RAW AND MILL WHITE SUGAR.

Arising from the evidence adduced before it during earlier appearances by the management and other witnesses from the Kenya Sugar Board, the Committee took evidence from the Minister for Agriculture on the Importation of Raw and Mill White Sugar as reflected in the Kenya Gazette Notice No. 1405 of February 25, 2005.

Among the other issues the Minister informed the Committee that:-

(i) KSB was taken to court for the second time running by importers when it attempted to regularize the importations. The importers argued that this was against COMESA FTA Regulations;

(ii) the Minister, on realizing that time was running out , and that KSB had not laid down a procedure and strategy for having the sugar imported without attracting litigations similar to those of 2004, verbally directed the then Chief Executive of KSB, to allow a Free-for-All policy and thus the Gazette notice;

(iii) the Minister made the decision on the basis that it is the Minister who makes the rules of Import and as provided under section 4 of the State Corporations Act.;

(iv) during the imports, most dealers and distributors horded sugar thereby occasioning the shortage

(v) if the Minister annuls the Notice, it would have a direct bearing on the court cases; and,

(vi) Concerned that the Free-for-All system is prone to abuse by importers in that it allows a "first-come, first-for-the-tariff" basis, the Committee was informed that the Ministry has been pursuing ways of addressing the anomaly.

MIN. NO.580/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 6.00 P.M until a later date.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE SEVENTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, JUNE 20, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter G. Munya, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Wendy Ong'ayo	-	Parliamentary Intern

MIN. NO. 581/2004/2005: CONFIRMATION OF MINUTES OF PREV IOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Forty Seventh Sitting of the Committee held on February 17, 2005, were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Peter Munya, M.P and signed by the Chairman;

(ii) Minutes of the Forty Eighth Sitting of the Committee held on February 18, 2005, were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Gachara Muchiri, M.P and signed by the Chairman;

(iii) Minutes of the Forty Ninth Sitting of the Committee held on February 22, 2005, were proposed by Hon. Gachara Muchiri, M.P, seconded by Hon. Abdirahman Ali Hassan, M.P and signed by the Chairman; and

(iv) Minutes of the Fiftieth Sitting of the Committee held on February 23, 2005, were proposed by Hon. Ali Bahari, M.P, seconded by Hon. K.M Sang, M.P and signed by the Chairman;

MIN. NO. 582/2004/2005: MATTERS ARISING

The following matters arose while confirming minutes:-

(i) **Under MIN. No. 405**, the Committee resolved to revisit the issue of land unequally allocated to private developers from KWS land. The Committee therefore resolved to summon the Commissioner of Lands on June 30th 2005 to apprise it on the progress made to repossess the lands/cancel the allocations, and names of people who did the allocations.

(ii) **Under MIN. No. 415**, section iii) b, the Committee resolved to treat the matter of the composition of the board of M/S Regent Management Company very seriously. To that effect, the Committee resolved to summon the board. The Committee further resolved to summon the Registrar, Estate Agents Registration Board, as well as the Director of Criminal Investigation Department.

(iii) **Under MIN. No 420**, the Committee resolved to take up the matter of the Deposit Protection Fund with the "Big Five".

(iv) **Under MIN. No. 422**, the Committee requested the Secretariat to remind the Chief Executive to provide a breakdown showing the percentages that each reason/factor contributed to the variations.

(v) As agreed **under MIN. No. 452**, the Committee resolved to request the KENAO to scrutinize the reports in view to advising the Committee on the same.

(vi) International trip to Sweden

MIN. NO.583/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 1.30 P.M until Thursday, June 23, 2005 at 9.30 P.M.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE EIGHTIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, JUNE 23, 2005 AT 10.35 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- (Chairman)
The Hon. Jimmy Angwenyi, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Wycliffe A. Oparanya, MP
The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

MINISTRY OF FINANCE (DGIPE)

Mr. Festus W. Kingori- Assistant Investments Secretary

INSPECTORATE OF STATE CORPORATIONS

Ms. Jane Weru - Inspector

CONTROLLER AND AUDITOR GENERAL

Mr. H.O Wanyama	-	Deputy Director of Audit
Mr. Charles O. Kiage	-	Principal Auditor

OTHER WITNESSES

Mr. Ibrahim Hussein - Former Chief Executive, NHIF

MIN. NO. 584/2004/2005: EVIDENCE:

Contract Price Variations at the Medicare Plaza, Nairobi and Reports and Accounts of National Hospital Insurance Fund for the years 2000/2001 and 2002/2003 and the certificates thereon by the Controller and Auditor General.

Dr. Hassan M. Adan, Chief Executive, National Health Insurance Fund, accompanied by Messrs: Richard Kerich, Chief Manager Finance, Jacinta N. Mwangi, Manager, Accounts, David Mulli, Manager, Planning and Lawrence N. Ondari, Manager, Investments, appeared before the Committee and gave evidence on contract price variations at the Medicare Centre, Plot L.R. No. 209/11248 and Accounts Fund for the years 2000/2001 and 2002/2003.

MIN. NO. 585/2004/2005: EVIDENCE: PARAGRAPH 3 OF 2002/2003 ACCOUNTS: STOCK AMORTIZATION

The Committee heard that:

(i) the management found it prudent to convert the stationery into stock and utilize it in subsequent years without making purchases of similar items;

(ii) the items included among others stamps, certificate of contributions paid, letterheads, files and various revised claims and registration forms;

(iii) the Management in pursuance of the framework for the Preparation and Presentation of Financial Statements capitalized the Stationary since its benefits were to be realized beyond one financial year

The Committee concluded taking evidence on the Paragraph

MIN. NO. 586/2004/2005: EVIDENCE: PARAGRAPH 4 OF 2002/2003 ACCOUNTS: PURCHASE OF MERU MUNICIPALITY PLOT

The Committee heard that:

(i) the Sale Agreement was signed by the Chairman of the Board; and,

(ii) Kenya Anti-Corruption Commission is still investigating the matter

The Committee concluded taking evidence on the Paragraph.

MIN. NO. 587/2004/2005: EVIDENCE: PARAGRAPH 5 OF 2002/2003 ACCOUNTS: EXCESS PAYMENT OF SITTING ALLOWANCE

The Committee heard that the Inspectorate of State Corporations had deliberated on the case and is yet to conclude on possible surcharges

The Committee concluded taking evidence on the Paragraph

MIN. NO. 588/2004/2005: EVIDENCE: PARAGRAPH 7 OF 2002/2003 ACCOUNTS: CONSTRUCTION OF MULTI-STOREY CAR PARK

The Committee heard that:

(i) the total amount paid to date is Kshs. 1,254,607,752.55.

(ii) the contractor had paid an advance sum of Kshs 15,000,000.00;

(iii) to date, 70% of the contract fee has been paid while 52% of the work has been done;

(iv) the Board on 9th July, 2003 scaled down the project to 780 parking spaces at a revised contract sum of Kshs. 1,179,611,756.00 with an additional contract period of 52 weeks to enable it to pay at most Kshs. 30,000,000.00 per month, and that the project should be finished, at latest by December 2005.

The Committee concluded taking evidence on the Paragraph.

MIN. NO.589/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 11:45 A.M until a later date.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE EIGHTY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON MONDAY, AUGUST 1, 2005 AT 2:30 P.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP

ABSENT WITH APOLOGY

The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

MIN. NO. 590/2004/2005: CONFIRMATION OF MINUTES OF PREV IOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Fifty First Sitting of the Committee held on February 24th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Abdirahman Ali Hassan, M.P and signed by the Chairman;

(ii) Minutes of the Fifty Second Sitting of the Committee held on February 25th , 2005 were proposed by Hon. Abdirahman Ali. Hassan, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(iii) Minutes of the Fifty Third Sitting of the Committee held on March 1st, 2005 were proposed by Hon. Wafula

Wamunyinyi, M.P, seconded by, Hon. Abdirahman Ali Hassan M.P and signed by the Chairman;

(iv) Minutes of the Fifty Fifth Sitting of the Committee held on March 2nd, 2005 were proposed by Hon. K.M. Sang, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(v) Minutes of the Fifty Ninth Sitting of the Committee held on March 3rd , 2005 were proposed by Hon. Abdirahman Hassan, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

The Committee resolved to confirm Minutes of its **54th, 56th, 57th and 58th** Sittings at a later date.

MIN. NO 591/2004/2005: MATTERS ARISING

The following matters arose: -

(i) Under **MIN. NO. 462/2004/2005 (ii)**: the Committee was informed that the Auditor-General had indicated that the Special Audit Report on Kenya Pipeline Corporation's loan financing arrangements with Ms/. Tripple A Capital Ltd, has since been forwarded to the Minister of Finance for onward tabling before the House. The Committee resolved to discuss the issue with the "Big Five";

(ii) Under **MIN. NO. 462/2004/2005 (iii)**: the Committee was informed that the Chief Executive, Pharmacy and Poisons Board had provided the reconciliation report on Accumulated Funds as requested;

(iii) Under **MIN. NO. 465/2004/2005 (i)**: the Committee was informed that the Chief Executive, National Cereals and Produce Board had submitted a progress report on importation of 180,000 metric tonnes of white maize;

(iv) Under **MIN. NO. 465/2004/2005 (ii)**: the Committee was informed that the Chief Executive, Teachers Service Commission had written to the Attorney-General as directed;

(v) Under **MIN. NO. 465/2004/2005 (iii)**: the Committee resolved to summon the Director, Kenya Anti-Corruption Commission on issues concerning overvaluations of land as reflected under **MIN. NO. 230/2004/2005**; and

(vi) Under **MIN. NO. 465/2004/2005 (iv)**: the Committee resolved to visit the site of the plot irregularly allocated to M/s. Rapsel Ltd. as raised by the auditor in his report of 1997/98 Accounts of the Kenya National Trading Corporation on August 4th 2005 at 10:00 a.m. the Secretariat was requested to make a brief on the issue,

MIN. NO 592/2004/2005: ANY OTHER BUSINESS

The Committee also resolved to look into the percentages of the government's investments in various State Corporations against their core activities and average turnover, with a view to focusing more on the major Corporations.

MIN. NO.593/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 4.50 P.M until a later date.

Hon. J.B N Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE EIGHTY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE: SITE INSPECTION OF PLOT L.R NO. 209/10343, LOITA STREET, NAIROBI: THURSDAY, AUGUST 4, 2005 AT 10:30 A.M.

PRESENT

The Hon. J.B N. Muturi, MP- **(Chairman)**
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. K.M. Sang, MP
The Hon. Wycliffe A. Oparanya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon Peter G. Munya, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

SAVINGS AND LOANS (K) LTD.

MS. Lul Musa	-	Manager Operations

MIN. NO. 594/2004/2005: EVIDENCE: KNTC's plot L.R No. 209/10343

Arising from its resolution under MIN. No. 611 (vi), the Committee paid an inspection visit to plot L.R No. 209/10343 situated at Loita Street Nairobi, and which plot was fraudulently allocated to M/s. Rapsel Lt and later sold to M/s. Savings and Loans (K) Ltd.

The Committee was met by Mr. Vinicent H. L. Opanga, Chief Executive, Kenya National Trading Corporation, accompanied by Messrs: Remmy K. Koech, Chief Accountant; Michael Mubea; Legal Officer, Lawrence Kimilu, Senior Marketing Manager and Evans Oyaro, Senior Accountant.

The Committee was informed that: -

(i) the land was allocated to the Corporation under Ref. No. 111101/29 of 25th April 1985;

(ii) the land was valued at Kshs. 30,462,540, which included the value of the plot, cost of developing the parking and consultancy fees;

(iii) the land was irregularly surrendered to the Commissioner of Lands and subsequently allocated to M/s. Rapsel Ltd, who later sold it to M/s. Savings and Loan (K) Ltd, at Kshs. 110,000,000 (approx.) in 1993. the latter was issued with a Title Deed;

(iv) KNTC is pursuing revocation of the Title Deed, and repossession of the land.

The Committee directed the Chief Executive to exhaustively pursue the revocation of the Title Deed and repossession of the plot with the Commissioner and the Attorney General.

MIN. NO.595/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the meeting Sitting at 11:30 a.m. when it left the site.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE EIGHTY THIRD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, AUGUST 19, 2005 AT 10:30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Ali Bahari, MP
The Hon. (Dr.) Enoch Kibunguchy, M.P.
The Hon. (Dr.) Sammy Rutto, M.P.
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parlimentary Intern

MIN. NO. 596/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Fifty Fourth Sitting of the Committee held on March 2nd , 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(ii) Minutes of the Fifty Sixth Sitting of the Committee held on March 4th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(iii) Minutes of the Fifty Seventh Sitting of the Committee held on March 5th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman with amendments;

(iv) Minutes of the Fifty Eighth Sitting of the Committee held on March 10th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(v) Minutes of the Fifty Ninth Sitting of the Committee held on March 15th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(vi) Minutes of the Sixtieth Sitting of the Committee held on March 17th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(vi) Minutes of the Sixty First Sitting of the Committee held on April 1st, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Ali Bahari, M.P and signed by the Chairman;

(vii) Minutes of the Sixty Second Sitting of the Committee held on April 4th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(viii) Minutes of the Sixty Third Sitting of the Committee held on April 8th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(ix) Minutes of the Sixty Fourth Sitting of the Committee held on April 11th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(x) Minutes of the Sixty Fifth Sitting of the Committee held on April 14th, 2005 were proposed by Hon. Ali Bahari, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xi) Minutes of the Sixty Sixth Sitting of the Committee held on April 15th, 2005 were proposed by Hon. Ali Bahari,

M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

MIN. NO 597/2004/2005: MATTERS ARISING

Under **MIN. NO. 502/2004/2005**: Members observed that the information provided by the Chief Executive, Kenya tourist Development Corporation was sufficient to make a conclusive recommendation without summoning the former Chief Executive;

MIN. NO 598/2004/2005: RE PORT WRITING RETREAT

The Committee resolved to undertake the Report-Writing Retreat at the Travellers Beach Hotel commencing August 28, 2005.

MIN. NO.599/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12:30 A.M until a later date.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

25th August 2005

DATE.....

MINUTES OF THE EIGHTY FOURTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY, AUGUST 25, 2005 AT 10:30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. (Dr.) Enoch Kibunguchy, M.P.
The Hon. (Dr.) Sammy Rutto, M.P.
The Hon. Wafula Wamunyinyi, MP

ABSENT WITH APOLOGY

The Hon. Gachara Muchiri, MP
The Hon. Gitau Kabogo, MP
The Hon. Peter G. Munya, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP
The Hon. Ali Bahari, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.J. Njoroge - Third Clerk Assistant
Ms. Wendy Ong'ayo - Parliamentary Intern

MIN. NO. 600/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the previous Sittings of the Committee were confirmed by the Members present as follows:-

(i) Minutes of the Sixty Seventh Sitting of the Committee held on April 18th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(ii) Minutes of the Sixty Eighth Sitting of the Committee held on April 22nd, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman without amendment;

(iii) Minutes of the Sixty Ninth Sitting of the Committee held on April 25th, 2005 were proposed by Hon. Jimmy

Angwenyi, M.P, seconded by Hon. Wafula Wamunyinyi, M.P and signed by the Chairman;

(iv) Minutes of the Seventieth Sitting of the Committee held on April 28th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Wafula Wamunyinyi, M.P and signed by the Chairman;

(v) Minutes of the Seventy First Sitting of the Committee held on May 5th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xii) Minutes of the Seventy Third Sitting of the Committee held on May 12th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xiii) Minutes of the Seventy Fourth Sitting of the Committee held on May 13th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xiv) Minutes of the Seventy Fifth Sitting of the Committee held on May 18th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xv) Minutes of the Seventy Seventh Sitting of the Committee held on June 16th , 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman;

(xvi) Minutes of the Seventy Eighth Sitting of the Committee held on June 17th, 2005 were proposed by Hon. Jimmy Angwenyi, M.P, seconded by Hon. J.B Muturi, M.P and signed by the Chairman

(xvii) Minutes of the Seventy Ninth Sitting of the Committee held on June 20th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman

(xviii) Minutes of the Eightieth Sitting of the Committee held on June 23rd, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman

(xix) Minutes of the Eighty First Sitting of the Committee held on August 1st, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. J.B Muturi, M.P and signed by the Chairman

(xx) Minutes of the Eighty Second Sitting of the Committee held on August 4th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman

(xxi) Minutes of the Eighty Third Sitting of the Committee held on August 19th, 2005 were proposed by Hon. Wafula Wamunyinyi, M.P, seconded by Hon. Jimmy Angwenyi, M.P and signed by the Chairman

Confirmation of the Minutes of the **Seventy Second and Seventy Sixth** Sittings of the Committee was deferred to a later date.

MIN. NO 601/2004/2005: MATTERS ARISING

The following matter arose: -

(i) under **MIN. NO. 543/2004/2005:** the Committee directed the Secretariat to find out the results of the investigation by the Inspectorate of State Corporations on issues of mismanagement at the Kenya Sugar Board; and,

(ii) under **MIN. NO. 574/2004/2005:** the Secretariat was directed to request the Chief Executive NHIF to provide a breakdown of the payments made to each consultant.

MIN. NO.602/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 12:00 noon until a later date.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE EIGHTY FIFTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT TRAVELLERS BEACH HOTEL CONFERENCE ROOM ON TUESDAY 30TH AUGUST, 2005 AT 9.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wycliffe A. Oparanya, M.P.

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-	Deputy Director of Audit
Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega - Inspector

TREASURY

Mr. Kennedy Ondieki - Deputy Director

MIN. NO.603/2004/2005: RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:-

1. Kenya National Trading Corporation

1996/97 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Understatement of Debtors
3.0 - Stock Losses
4.0 - Staff Pension Scheme
5.0 - Fixed Assets
6.0 - Long Term Investments
7.0 - Irregular Transfer of Shares
8.0 - Cash and Bank Statements

1997/98 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Bank and Cash Balances
3.0 - Stock Losses
4.0 - Fixed Assets

2. Communications Commission of Kenya

2000/2001 Accounts

Paragraphs:-

1.0 - Karen Plots L.R. 12445 & 12550
2.0 - Debtors
3.0 - National Communications Secretariat.

2001/2002 Accounts

Paragraphs:-

1.0 - Karen Plots L.R. 12445 & 12550
2.0 - Short Term Deposits
3.0 - Debtors

4.0 - National Communications Secretariat Expenditure
5.0 - Irregular Payment of Ex-gratia & Honoraria – Deferred
6.0 - Use of Credit Card by Chief Executive.

3. National Social Security Fund

1999/2000 Accounts

Paragraphs:-

1.0 - Financial Performance
2.0 - Year 2000 Computer Conversion Contract
3.0 - Payment of Legal Fees
4.0 - Moktar Daddah Street Project
5.0 - Nyayo Estate, Embakasi

MIN. NO.604/2004/2005: ADJOURNMENT.

The Committee adjourned the sitting at 1.45 p.m. until afternoon at 2.30 p.m.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Dr. Enoch Kibunguchi, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-	Deputy Director of Audit
Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega	-	Inspector

TREASURY

Mr. Kennedy Ondieki	-	Deputy Director

MIN. NO.605/2004/2005: RECOMMENDATIONS

National Social Security Fund

1999/2000 Accounts

Paragraphs:-

6.0 - Outer Ring Road Plot
7.0 - Investments of Properties
8.0 - Loans and deposits in National Bank of Kenya Ltd.

The Committee resolved to meet with the National Bank in order to understand the current status of the Bank.

9.0 - Members Contribution.

4. Kenya Wildlife Service

1999/2000 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Staff Advances

5. Teachers Service Commission

1999/2000 Accounts

Paragraphs:-

1.0 - Debtors
2.0 - Overpayment of salaries and allowances.
3.0 - Cash on hand and bank.
4.0 - Promotion on merit.

6. Kenya Airports Authority

1997/1998 Accounts

Paragraphs:-

1.0 - Purchase of Fire Fighting Equipment
2.0 - Repair of leaking roofs.
3.0 - Rehabilitation of Unit 3 and Staff Pavilion Aprons at JKIA– Contract No. KAA/JKA/363/C
4.0 - Airfield Lighting Camps
5.0 - Loss of Revenue on Credit Notes
6.0 - Airport Concession Fees & Rent Income
7.0 - Rent Income
8.0 - Purchase of Brochures for Eldoret Airport
9.0 - Purchase of tyres and tubes
10.0 - Debtors & Receivables
11.0 - Cash and Bank Balances.

7. Kenya Tourist Development Corporation

1995/1996 Accounts

Paragraphs:-

1.0 - Revolving Funds Loan
2.0 - Investments & Loans
3.0 - Watalii Street Project.

1996/1997 Accounts

Paragraphs:-

1.0 - Revolving Funds Loan
2.0 - Investments.
3.0 - Dormant Watalii Street Project
4.0 - Fixed Deposits

5.0 - Debtors & Prepayments
6.0 - Irregular Payments of House Rent

8. Postal Corporation of Kenya

1999/2000 Accounts

Paragraphs:-

1.0 - Land and Buildings
2.0 - Work in Progress
3.0 - Dormant Projects
4.0 - Irregular Procurement of Goods and Services
5.0 - Revaluation Reserve & General Reserve Account

MIN. NO. 606/2004/2005: ADJOURNMENT.

And there being no other business, the Committee adjourned the sitting at 7.00 p.m. until 9.00 the following day

Hon. J.B.N. Muturi, MP
SIGNED .....
(CHAIRMAN)

8th September 2005
DATE.....

MINUTES OF THE EIGHTY SIXTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT TRAVELLERS BEACH HOTEL CONFERENCE ROOM ON WEDNESDAY 31ST AUGUST, 2005 AT 9.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Dr. Enoch Kibunguchy, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-	Deputy Director of Audit
Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega	-	Inspector

TREASURY

Mr. Kennedy Ondieki	-	Deputy Director

MIN. NO.607/2004/2005: RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:-

1. **Kenya Dairy Board**

1995/1996 Accounts

Paragraphs:-

1.0 - Submission of Accounts
2.0 - Financial Position
3.0 - Cash and Bank Balances
4.0 - Questionable Expenditure – Kshs 255,000
5.0 - Unbanked Revenue – Kshs. 1,219,172
6.0 - Staff Pension Fund
7.0 - Land and Buildings
8.0 - Debtors and Prepayments – Kshs. 2,142,615

1996/1997 Accounts

Paragraphs:-

1.0 - Submission of Accounts
2.0 - Financial Position
3.0 - Land and Buildings
4.0 - Debtors and Prepayments
5.0 - Procurement Procedures
6.0 - Donations
7.0 - Commuted leave for cash
8.0 Staff Pension Fund
9.0 - Payment of Allowances to Board Members

1997/1998 Accounts

Paragraphs:-

1.0 - Work in progress
2.0 - Debtors and Prepayments

2. National Cereals and Produce Board

1998/1999 Accounts

Paragraphs:-

1.0 - Operating Results
2.0 - Other Debtors
3.0 - Consultancy Fees

3. Investments Promotion Centre

1997/1998 Accounts

Paragraphs:-

1.0 - Board meeting.
2.0 - Irregular disposal of motor vehicle.
3.0 - Misuse of salary advance facility.
4.0 - Appointment of new employees.
5.0 - Debtors

4. Electricity Regulatory Board

1999/2000 Accounts

Paragraphs:-

1.0 - Irregular payment of salary and allowances to the Board Chairman.
2.0 - Other Board Members
3.0 - Procurement of Goods and Services
4.0 - Budgetary Control

5. Kenya Literature Bureau

1995/1996 Accounts

Paragraphs:-

1.0 - Debtors and Prepayments
2.0 - Staff Pension Scheme

1996/1997 Accounts

Paragraphs:-

1.0 - Debtors and prepayments – Kshs 73 054 386

2.0 - Staff Pension Fund

1997/1998 Accounts

Paragraphs:-

1 0 - Staff Pension Scheme

1998/1999 Accounts

Paragraphs:-

1.0 - Debtors
2.0 - Procurement Procedures

1999/2000 Accounts

Paragraphs:-

1.0 - Debtors and Prepayments
2.0 - Short term Deposit

6. National Housing Corporation

1999/2000 Accounts

Paragraphs:-

1.0 - Outstanding Loan Arrears
2.0 - Government of Kenya Loans
3.0 - Irregular award of contracts
4.0 - Repair of lorry – KTP 268
5.0 - Payment of Advertisements
6.0 - Irregular Expenditure
7.0 - Irregular Payment for Title Deeds
8.0 - Loss of Cash
9.0 - Short Term Deposits

7. National Irrigation Board

1995/1996 Accounts

Paragraphs.-

1 0 - Debtors – National Cereals & Irrigation Board
2.0 - Irrigation Schemes
3.0 - Project Vehicles

1996/1997 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Creditors
3.0 - Debtors

8. Nyayo Tea Zones Development Corporation

1999/2000 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Appropriation of loan proceeds – Kshs. 223,356,690
3.0 - Purchase of furniture and fittings for the Managing Director's house.
4.0 - Supply of Dial Weighing Scaler
5.0 - Management Contract
6.0 - Sale of Land and Tea Bushes
7.0 - Cash and Bank Balances
8.0 - Work in Progress
9.0 - Establishment cost – Kshs. 247,497,100
10.0 - Unsupported expenditure.

MIN NO. 608/2004/2005: ADJOURNMENT

The Committee adjourned at 1.45 p.m. until the afternoon at 2.30 p.m.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. Dr. Enoch Kibunguchi, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-	Deputy Director of Audit
Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega - Inspector

TREASURY

Mr. Kennedy Ondieki - Deputy Director

MIN. NO. 609/2004/2005: RECOMMENDATIONS

9. National Hospital Insurance Fund

1998/1999 Accounts

Paragraphs:-

1.0 - Long Term Investments
2.0 - Sundry Debtors and Prepayments
3.0 - Construction of Medicare Plaza
4.0 - Fixed Deposits
5.0 - Irregular Procurement of Goods and Services

1999/2000 Accounts

Paragraphs:-

1.0 -Accuracy of the Accounts – Kshs. 29,762,019
2.0 -Long Term & Short Term Investments – Kshs. 54,200,000
3.0 -Debtors
4.0 -Missing payment vouchers – Kshs. 86,810,410.80

2000/2001 Accounts

Paragraphs:-

1.0 - Long Term Investments
2.0 - Purchase of housing units L.R 209/5846
3.0 - Renovation of stand at Nairobi ASK Show

2001/2002 Accounts

Paragraphs:-

1.0 - Short Term Investments
2.0 - Medicare Centre – LR No. 209/11248

2002/2003 Accounts

Paragraphs:-

1.0 - Loss of funds
2.0 - Conversion of Investment into Real Estate
3.0 - Stock amortization
4.0 - Purchase of Meru Municipality Plot
5.0 - Excess Payment of sitting allowance
6.0 - Construction of NHIF Building
7.0 - Construction of Multi Storey Car Park.

The Committee resolved that the Controller and Auditor General conducts a special audit on the Multi-Storey Car Park Project (Paragraph. 7 of 2002/2003 accounts),

10. Export Processing Zones

1996/1997 Accounts

Paragraphs.-

1.0 - Personal Emoluments
2.0 - Salary Advances
3.0 - Board Expenses
4.0 - Fixed Assets
5.0 - Miscellaneous Income
6.0 - Other Personal Allowances

11. Catering & Tourism Development Levy Trustees

1998/1999 Accounts

Paragraphs:-

1.0 - Proposed office block
2.0 - Sundry debtors
3.0 - Log book vehicle registration No. KAD 499M
4.0 - Board of Trustees and Payment of Sitting Allowances
5.0 - Miscellaneous Income

12. Kenya Agricultural Research Institute

1998/1999 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Land and Buildings

13. Kenya Trypanosomiasis Research Institute

1996/1997 Accounts

Paragraphs:-

1 0 - Fixed Assets
2 0 - Debtors
3.0 - Creditors

1997/1998 Accounts

Paragraphs.-

1.0 - Fixed Assets
2.0 - Creditors

14. Kenya Industrial Research and Development Institute

1994/1995 Accounts

Paragraphs.-

1.0 - Delay in submission of accounts
2.0 - Fixed Assets
3.0 - Debtors
4.0 - Advances and Payment
5 0 - Investments
6 0 - Misappropriation
7.0 - Pension Scheme

1995/1996 Accounts

Paragraphs:-

1.0 - Debtors
2.0 - Advances and Prepayments
3.0 - Pension Scheme

15. Ewaso Ng'iro South Development Authority

1995/1996 Accounts

Paragraphs:-

1.0 - Budgetary Control
2.0 - Professional Charges
3.0 - Outstanding Imprest – Kshs. 192,311
4.0 - Suspense Account

1994/1995 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Purchase of Motor Vehicle
3.0 - Budgets and Budgetary Control
4.0 - Professional Charges – Kshs. 1,568,321
5.0 - Suspense Account

16. Kenya Ferry Services

1996/1997 Accounts

Paragraphs:-

1.0 - Going concern
2.0 - Cash and Bank Balances
3.0 - Sundry Debtors
4.0 - Service Pay Benefits
5.0 - Advances from Kenya Ports Authority
6.0 - Payment of Professional Fees
7.0 - Budgetary Control

1997/1998 Accounts

Paragraphs:-

1.0 - Investments
2.0 - Freehold land and buildings
3.0 - Stocks
4.0 - Procurement of pump spares
5.0 - Advances from Kenya Ports Authority

17. Kenya Forestry Research Institute

1997/1998 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Fixed Assets - The Committee directed the office of the Controller & Auditor General to ascertain the existence of funds ostensibly held in a sinking fund.

18. Pharmacy & Poison's Board
Accounts for the six-month period ended 30th June 1994

Paragraphs:-
1.0 - Late submission of accounts
2.0 - Accumulated Fund – Kshs. 10,667,752

3.0 - Budgetary Control

1994/1995 Accounts

Paragraphs:-

1.0 - Late submission of accounts
2.0 - Budgetary Control

19. Jomo Kenyatta University of Agriculture & Technology

1997/1998 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Fixed Assets
3.0 - Short Term Deposits
4.0 - Audit Fees

1998/1999 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Fixed Assets
3.0 - Short-Term Deposits

1999/2000 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Short-Term Deposits
3.0 - Board Expenses

MIN. NO. 610/2004/2005: ADJOURNMENT

And there being no other business, the Committee adjourned the sitting at 6.00 p.m. until 9.00 a.m. the following morning.

Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE INSPECTION TOUR OF KENYA WILDLIFE SERVICE'S FIXED ASSETS AT THE COAST REGION BY THE PUBLIC INVESTMENTS COMMITTEE HELD AT 31ST AUGUST, 2005 AT 9.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Jimmy Angwenyi, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Wycliffe Oparanya
The Hon. Ali Bahari, MP
The Hon. Abdirahman Ali Hassan, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-Deputy Director of Audit
Mr. Hiram Wachira	-Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega - Inspector

TREASURY

Mr. Kennedy Ondieki - Deputy Director

MIN. NO. 616/2004/2005: COMMITTEE INSPECTION TOUR OF KENYA WILDLIFE SERVICE'S FIXED ASSETS AT THE COAST REGION.

The Committee was received by Mr. Benjamin Kavu, Assistant Director, Coast Region accompanied by Mr Tom Sipul, Lands Manager, Kenya Wildlife Service, Ms. Mueni Mutunga, Head of Legal Services, Muthoni Thiongo, Donor Liaison Officer and ** Ag. Warden In charge, Kisite Marine National Park and Mpunguti Marine National Reserve who flanked the Members to the two sites

MIN. NO. 617/2004/2005: KISITE MARINE NATIONAL PARK AND MPUNGUTI MARINE NATIONAL RESERVE

The Committee toured the three Islands namely, Kisite, Mpunguti ya Juu and Mpunguti ya Chini which had been irregularly hived off form part of the protected wild life zones and allocated to one Mr. A. Torriani of Funzi Keys The Committee was informed that the Service is employing all means to ensure that the three islands whose ecosystem is fragile are not possessed and/or inhabited by the private developer.

The Committee heard that the Kisite Marine National Park and Mpunguti Marine National Reserve which are islands whose ecosystem is fragile, as well as being breeding ground for birds and of cultural significance to the inhabitants (Kayas) and which are of security importance due to their proximity to Tanzania, were irregularly allocated to private developers through conduit by the following officers without due regard to matters mentioned above and in disregard of the caveat placed by the Service; Mr. Francis Baya, the then P.S., Ministry of Lands, Mr S. K. Mwaita and Suleiman M. B. Kamoleh, the then Commissioner of Lands and the then Matuga M.P. respectively.

MIN. NO. 618/2004/2005: WASINI RESTAURANT

The Committee proceeded for lunch at a restaurant on Wasini Island, which is owned by a local. After lunch, the members of the Committee were conducted to tour of the premises.

MIN. NO. 619/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at 4.45 p.m. until a later date.

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

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE EIGHTY SEVENTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD AT TRAVELLERS BEACH HOTEL CONFERENCE ROOM ON THURSDAY 1ST SEPTEMBER, 2005 AT 9.30 A.M.

MORNING SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Dr. Enoch Kibunguchi, MP
The Hon. Jimmy Angwenyi, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. Sylvester Kiini	-	Deputy Director of Audit
Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega - Inspector

TREASURY

Mr. Kennedy Ondieki - Deputy Director

MIN. NO. 611/2004/2005: RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:-

1. Jomo Kenyatta University of Agriculture & Technology

2000/2001 Accounts

Paragraphs:-

1.0 - Financial Position

2. Ewaso Ng'iro North River Basin Development Authority

1997/1998 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Irregular Payment of Board Allowances.

1998/1998 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Board meetings and irregular payment of allowances
3.0 - Budget and Budgetary Control

3. Kenyatta University

1997/1998 Accounts

Paragraphs:-

1.0 - Fixed Assets
2.0 - Ceding of University land to other parties: The Committee resolved to discuss the issue with the 'Big Five'.
3.0 - Debtors
4.0 - Creditors and Accrued Expenses

4. Tana and Athi Rivers Development Authority

1992/1993 Accounts

Paragraphs:-

1.0 - Financial Position
2.0 - Revenue from sale of Hydro-Electric Bulk Power.
3.0 - Outstanding loan repayments
4.0 - Irregular use of the Authority's Funds to Construct a House for Former Managing Director.
5.0 - Debtors and Prepayments.
6.0 - Investments – Kshs. 24,500,000.00

1993/1994 Accounts

Paragraphs:-

1.0 - Submission for Accounts for Audit
2.0 - Financial Position
3.0 - Revenue from sale of Hydro Electric Bulk Power
4.0 - Outstanding Loan Repayments
5.0 - Irregular construction on a Private House by a Former Managing Director
6.0 - Debtors - Prepayments
7.0 - Investments – Kshs. 24,500,000.00
8.0 - Funds (Cash) Flow Statement

5. Tea Research Foundation

1996/1997 Accounts

Paragraphs:-

1.0 - Land Ownership
2.0 - Staff Pension Fund – Kshs. 9,496,103

1997/1998 Accounts

Paragraphs:-

1.0 - Land Ownership
2.0 - Staff Pension Fund – Kshs. 9,496,103

6. Kenya Marine and Fisheries Institute

1996/1997 Accounts

Paragraphs:-

1.0 - Staff Pension
2.0 - Fixed Assets

1997/1998 Accounts

Paragraphs:-

1.0 - Staff Pension
2.0 - Fixed Assets

7. Local Authorities Provident Fund

1996/1997 Accounts

Paragraphs:-

1.0 - Payment of Allowances to Board Members
2.0 - Contribution for Expenses
3.0 - Non – Remittance of Contribution by Local Authorities.
4.0 - Short-Term Deposits

1997/1998 Accounts

Paragraphs:-

1.0 - Payment of Allowances to Board Members
2.0 - Short-Term Deposits
3.0 - Non – Remittance of Contribution by Local Authorities.
4.0 - Contribution for Expenses

8. Pyrethrum Board of Kenya

1995/1996 Accounts

Paragraphs:-
1.0 - Late submission of the accounts for audit
2.0 - Debtors & Prepayments – Kshs. 475,130,400.
3.0 - Encroachment of the Board's land

1996/1997 Accounts

Paragraphs:-

1.0 - Composition of the Board
2.0 - Debtors and Prepayments
3.0 - Creditors and Provisions
4.0 - Budgetary Control

9. Medical Practitioners and Dentists Board

1993/1994 Accounts

Paragraphs:-

1.0 - Non submission of accounts
2.0 - Late submission of accounts for audit.

1994/1995 Accounts

Paragraphs:-

1.0 - Budgetary Control
2.0 - Cash and bank balances.

1995/1996 Accounts

Paragraphs:-

1.0 - Understatement of current assets
2.0 - Cash and bank balances
3.0 - Honoraria payments
4.0 - Budgetary Control

1996/1997 Accounts

Paragraphs:-

1.0 - Late submission of accounts for audit
2.0 - Debtors
3.0 - Budgetary Control

10. Kenya Post Office Savings Bank

1999/2000 Accounts

Paragraphs:-

1.0 - Irregular acquisition of Del Alpha Server
2.0 - Procurement of Symbols Banking Software
3.0 - Structured cabling of Post Bank House
4.0 - Acquisition of IBM-NET-FINITY File Servers Model 5600 and 5000.
5.0 - Symbols Software – Implementation Consultants
6.0 - Irregular procurement of personal computers
7.0 - Investments in unstable banks
8.0 - Karura Training & Sports Complex
9.0 - Non-Collection of Rent

11. Kenya Sugar Board

Importation of Raw and Mill White Sugar. Gazette Notice no. 1405 of February 25, 2005.

The Committee resolved that the Findings of the Inspectorate of State Corporations on issues of mismanagement at Kenya Sugar Board be communicated to the Committee soonest.

MIN. NO. 612/2004/2005: ADJOURNMENT

The Committee adjourned the sitting at 1.45p.m. until afternoon at 2.30 p.m.

AFTERNOON SITTING

PRESENT

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. Paul Sang, MP
The Hon. Peter Munya, MP
The Hon. Abdirahman Ali Hassan, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP
The Hon. Dr. Enoch Kibunguchi, MP
The Hon. Jimmy Angwenyi, MP

IN ATTENDANCE

Hon. Sammy Rutto, MP

NATIONAL ASSEMBLY

Mr Murumba Werunga	-	Deputy Clerk
Mr. M. R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

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Mr. Hiram Wachira	-	Assistant Director of Audit

INSPECTORATE OF STATE CORPORATIONS

Mr. Christopher M. Ombega - Inspector

TREASURY

Mr. Kennedy Ondieki - Deputy Director

MIN. NO. 613/2004/2005: RECOMMENDATIONS

The Committee considered and approved the final draft recommendations as follows:-

12. New Kenya Co-operative Creameries (KCC) Ltd

Status of New Kenya Co-operative Creameries (KCC) Ltd – Kenya Gazette Notice No. 1175 of February 18, 2005.

13. Telkom (K) Ltd

Coast Headquarters building, Nkrumah Road, Mombasa Block XXV/13

14. National Cereals and Produce Board

Tender for importation of while maize for the year 2004/2005.

15. Kenya Power & Lighting Company Limited

Supply of treated poles for the year 2004.

The Committee noted with great concern that the Managing Director, KEBS, Engineer Masila would appear to have intended to mislead the Committee by adducing conflicting evidence with regard to testing of poles that were imported by KP&LC by Custom Entry No. 113, MPRO No. 0531930.

The Committee resolved to summon the Managing Director before it in respect of this matter at a later date.

MIN. NO. 614/2004/2005: Any Other Business

The Chairman gave a vote of thanks to the Committee and the Technical team for successfully completing the Report-Writing Retreat.

MIN. NO. 615/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at 4.45 p.m. until a later date.

The Hon. J.B.N. Muturi, MP

SIGNED .....

(CHAIRMAN)

8th September 2005

DATE.....

MINUTES OF THE EIGHTY EIGHTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON WEDNESDAY, SEPTEMBER 7, 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Jimmy Angwenyi, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. (Dr.) Sammy Ruto, MP
The Hon. Peter G. Munya, MP
The Hon. (Dr.) Enoch Kibunguchy, MP
The Hon. Abdirahman Ali Hassan, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J. Njoroge	-	Third Clerk Assistant

MINISTRY OF FINANCE (DGIPE)

Mr. Festus King'ori	-	Under Secretary

CONTROLLER AND AUDITOR GENERAL

Mr. Evans N. Mwai	-	Controller & Auditor General
Mr. Kang'ondu	-	Director of Audit

MIN. NO. 620/2004/2005: POSTPONEMENT OF APPEARANCE OF "BIG FIVE"

The Committee acknowledged receipt of a letter from the Permanent Secretary Treasury requesting it to reschedule the Sitting as he was scheduled to travel outside the country on official duty.

The Committee was also informed that the Attorney General would not be available as he was also scheduled to travel outside the

country on a pre-arranged official tour.

In the circumstances, the Committee resolved to reschedule the Sitting to a later date when all the "Big Five' will be available.

MIN. NO. 621/200/2005: PAPER LAID

The Controller and Auditor General laid a paper before the House detailing; *Accounts of State Corporations that have been certified and discussed by the Committee, those that have been certified but have not yet been discussed by the Committee, the latest Accounts certified, the Accounts currently under audit and the Accounts not submitted to date, of 87 State Corporations.*

MIN. NO. 622/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at 12:00 p.m. until a later date.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

8th September 2005

Date:.....

MINUTES OF THE EIGHTY NINTH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO.7, PARLIAMENT BUILDINGS, ON THURSDAY , SEPTEMBER 8 2005 AT 10.30 A.M.

PRESENT

The Hon. J.B.N. Muturi, MP- **(Chairman)**
The Hon. Wafula Wamunyinyi, MP
The Hon. Gachara Muchiri, MP
The Hon. Ali Bahari, MP
The Hon. (Dr.) Sammy Ruto, MP
The Hon Peter G. Munya, MP
The Hon. (Dr.) Enoch Kibunguchy, MP
The Hon. K.M. Sang, MP

ABSENT WITH APOLOGY

The Hon. Abdirahman Ali Hassan, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Gitau Kabogo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr M.R. Sialai	-	Senior Clerk Assistant
Mr. S.J Njoroge	-	Third Clerk Assistant

MIN.NO. 623/2004/2005: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the previous sittings of the Committee were confirmed by the members present and signed by the Chairman as follows:

(i) the Minutes of the Seventy Second Sitting held on 6th May 2005 were proposed by Hon. (Dr.) Enoch Kibunguchy, MP, and seconded by Hon. Abdul Bahari;

(ii) the Minutes of the Seventy Sixth Sitting held on May 19th 2005 were proposed by Hon. Gachara Muchiri, MP, and seconded by Hon. Wafula Wamunyinyi, MP.

(iii) the Minutes of the Eighty Fourth Sitting held on August 25th 2005 were proposed by Hon. (Dr.) Enoch Kibunguchy, MP, and seconded by Hon. Abdul Bahari.

(iv) the Minutes of the Eighty Fifth Sitting held on August 30th

2005 were proposed by Hon. K.M. Sang, MP, and seconded by Hon. Abdul Bahari.

(v) the Minutes of the Eighty sixth Sitting held on August 31st 2005 were proposed by Hon. Peter G. Munya, MP and seconded by Hon. K.M. Sang, MP.

(vi) the Minutes of the inspection tour of Kenya Wildlife Service's fixed assets at the coast region held on 5th September 2005 were proposed by Hon. (Dr.) Enoch Kibunguchy, MP, and seconded by Hon. Abdul Bahari.

(vii) the Minutes of the Eighty Seventh Sitting held on September 1st 2005 were proposed by Hon. Wafula Wamunyinyi, MP., and seconded by Hon. Abdul Bahari.

(viii) the Minutes of the Eighty Eighth Sitting held on September 7th 2005 were proposed by Hon. Peter G. Munya, MP, and seconded by Hon. Abdul Bahari.

MIN. NO. 624/2004/2005: ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at 12:00 p.m. until a later date.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

November 10, 2005

Date:.....

MINUTES OF THE NINETIETH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON TUESDAY, 25TH OCTOBER 2005 AT 10:00 A.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. K.M. Sang, M.P.
The Hon. Geoffrey Gachara Muchiri, M.P.
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, M.P.
The Hon. (Dr.) Enoch Kibunguchy, M.P.
The Hon. Jimmy Angwenyi, M.P.
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY:

The Hon. (Dr.) Sammy Rutto, M.P.
The Hon. Peter G. Munya, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. M. R Sialai	-	Senior Clerk Assistant.
Mr. S.J. Njoroge	-	Third Clerk Assistant
Ms. Wendy Ong'ayo	-	Parliamentary Intern

OFFICE OF THE PRESIDENT

Amb. Francis Muthaura	-	Head of Public Service
S.M. Maluki	-	Financial Advisor
Andrew K. Metho	-	Senior Deputy Director
R.E Ndubai	-	Principal Deputy Director, DPM

CABINET OFFICE

Mr. S.K Kirogo	-	Deputy Secretary

TREASURY

Mr. Joseph Kinyua	-	Permanent Secretary
Esther Koimett	-	Investments Secretary
C.M. Onchoke	-	Director, Finance DGIPE

KENYA NATIONAL AUDIT OFFICE

Mr. J.K. Kagondu - Deputy Auditor General

MIN. NO. 625/2005/2006:

The Head of Public Service, Mr. Francis Muthaura extended his apologies on behalf of the Attorney General, the Controller and Auditor General who were unable to attend the Sitting.

I. LEGAL ISSUES

MIN. NO. 626/2005/2006: **ISSUE 1: - STATE CORPORATIONS ENABLING ACTS VIS-A-VIS THE STATE CORPORATIONS ACT (CAP 446)**

The issues could not be discussed, as they pertained to legal matters that could only be satisfactorily discussed with the AG. However, the Committee sought to have the views from Treasury.

The Committee heard that Treasury had committed itself to comprehensively reviewing the legislations pertaining to State Corporations in the current financial year with view to harmonising them.

MIN. NO. 627/2005/2006: **ISSUE 2: - STATE CORPORATIONS ADVISORY COMMITTEE (SCAC)**

The Committee heard that the SCAC is mainly meant to advise the government, and as such, it is in accordance with the provisions of the law for the Head of Public Service to sanction revisions on behalf of the Committee. Further, the PS had sanctioned revisions during the period when SCAC was not operational.

The Committee concluded discussions on the issue.

MIN. NO. 628/2005/2006: **ISSUE 3: - ACTION ON CASES RECOMMENDED BY THE HOUSE**

The issue was deferred till such a time as when the Committee met with the Attorney General.

MIN. NO. 629/2005/2006: ISSUE 4: - AMENDMENT OF THE LATF ACT

The Committee heard from Treasury that it was currently in the process of putting together a Financial Sector Reform Programme, which would cater to issues such as those affecting the Kenya Post Office Savings Bank and LATF.

The Permanent secretary, Finance concurred that as regards Local Authorities, there is a need for a radical reform to streamline the financial management of these local authorities in order to make them more accountable and ensure that they honour their financial obligations.

MIN. NO. 630/2005/2006: IRREGULAR ALLOCATION OF STATE CORPORATIONS LAND

The Committee was informed that the Governments' position on illegally allocated land belonging to State Corporations was that the land was to be repossessed and reverted back to the Corporation in question. Further, a Land Titles Tribunal will be established to facilitate cancellation of all Titles Deeds to irregularly allocated land.

II. POLICY MATTERS

MIN. NO. 631/2005/2006: ISSUE 1: DORMANT/ ABANDONED PROJECTS

The Permanent Secretary, Treasury observed that there was need for the Treasury to give power to Treasury Circulars and make them legally binding. The Committee heard from the Head of Public Service that the government was looking at ways of structuring the Treasury to enable it monitor the execution of its instructions.

The Committee advised the Treasury to seek the advice of the AG as regards strengthening of Treasury Circulars to make them legally binding.

MIN. NO. 632/2005/2006: ISSUE 2: - CONSULTANCY FEES, PROCUREMENT OF GOODS AND SERVICES

The Committee noted that the National Cereal and Produce Board had spent huge sums of public funds by engaging the four firms to act as intermediaries in the importation of maize, when the Board could have facilitated the importation of the maize itself.

The Committee was informed that sugar importation had to adhere to

measures laid down by COMESA to govern free trade in the region, as Kenya is a signatory to COMESA.

The Committee noted that there were irregularities in the importation of sugar, and urged the Government to urgently re-look at the matter to ensure that the Kenya Sugar Board executes its mandate of a regulator of the industry, as vested on it by the sugar Act, 2001 without arm-twisting by the parent or any other Ministry. The Head of Public Service assured the Committee that they were looking into the quota system and its importance in order to find a way to deal with the issues of sugar shortage and importations in the country.

MIN. NO. 633/2005/2006: ISSUE 9: - KENYATTA UNIVERSITY (KU) LAND

The Committee was reassured that the Government would implement the recommendations of its 13th Report, once they are adopted by the House.

MIN. NO. 634/2005/2006: ANY OTHER MATTERS

The Meeting agreed that there was need to expedite on its proposed study tour to the Lok Sabha and the Legislative Assembly of Kerala, India. The Committee was informed that correspondence with the Lok Sabha was at advanced stage and that due to the intended Referendum of the Proposed Constitution, it had become imperative to push the trip forward to December 5th onwards. The Committee reiterated that the delegation for the trip would be based on attendance of Committee sittings.

MIN. NO. 635/2005/2006: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 2:00 p.m. until a later date.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

November 10, 2005

Date:.....

MINUTES OF THE NINETY FIRST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON WEDNESDAY, 9TH NOVEMBER 2005 AT 10:00 A.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. J.B.N. Muturi, MP - **(Chairman)**
The Hon. Abdirahman Ali Hassan, MP
The Hon. Wafula Wamunyinyi, M.P.
The Hon. Ali Bahari, MP
The Hon. Geoffrey Gachara Muchiri, M.P.
The Hon. K.M. Sang, M.P.
The Hon. Peter G. Munya, M.P.
The Hon. (Dr.) Sammy Rutto, M.P.

ABSENT WITH APOLOGY:

The Hon. Gitau Kabogo, MP
The Hon. (Dr.) Enoch Kibunguchy, M.P.
The Hon. Jimmy Angwenyi, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. M. R. Sialai	-	Senior Clerk Assistant.
Mr. S. J. Njoroge	-	Third Clerk Assistant
Ms. W. N. Ong'ayo	-	Parliamentary Intern

ATTORNEY GENERALS' OFFICE

Mr. S. Amos Wako	-	Attorney General

MIN. NO. 636/2005/2006: STATE CORPORATIONS ENABLING ACTS VIS-À-VIS THE STATE CORPORATIONS ACT (CAP 446)

The Hon. Attorney –General appeared before the committee and responded to issues raised by the Committee that the State Corporations Act supersedes all other Acts or written laws setting up State Corporations in the event of conflict, unless otherwise provided for in written law or by statute under which a State Corporation is established.

The Committee concluded taking evidence on the issue.

MIN. NO. 637/2005/2006: STATE CORPORATIONS ADVISORY COMMITTEE

The Committee was informed that Section 10 provides for the payment of the chairman and members of a Board as long as this remuneration has the Boards' approval. However, this Section is not compulsory, and hence a State Corporation can get exemption from its application.

MIN. NO. 638/2005/2006: ACTION ON CASES RECOMMENDED BY THE HOUSE

The Committee heard that: -

(i) any Report by the Public Investments Committee is deemed as a complaint on which the Attorney General acts upon to prefer charges/investigations;

(ii) it is the responsibility of State Corporations to complain on matters that are not specifically addressed by the Public Investments Committee;

(iii) it would be imperative to recommend to State Corporations to take up matters of recovery, prosecution etc, immediately the action is discovered to avoid cases whereby they may be constrained under the limitations of Actions Act (Cap 12) and Corporations to insure members against possible losses;

(iv) the Criminal Law Act should be amended to provide that judge/presiding officer may order recoveries/punishment in matters where theft/criminal act is found while delivering a judgement on a civil matter;

(v) the Office of the Attorney General does not have adequate manpower and capacity to undertake prosecutions in a timely manner and therefore should be strengthened by increasing staffing;

(vi) an application to file the appeal out of time has already been made by the office of the AG, regarding the case involving loss of Kshs 500 million by Mr. David K. Tirop; and,

(vii) the Attorney General is unable to prosecute in cases where the evidence is not sufficient, such as in the case of KNTC's plot No. 209/10343 (Item No. 3 (c)).

The Committee directed the AG to provide a written memoranda on progress on Item No. 3(iii) a on case involving Mr. David K. Tirop on theft of Kshs. 500 million where his office was supposed to file an appeal after in two weeks time.

MIN. NO. 639/2005/2006: AMENDMENT OF THE LOCAL AUTHORITIES PROVIDENT FUND ACT

The Attorney General undertook to incorporate the amendments of the Local Authorities Provident Fund Act in the subsequent Miscellaneous Amendment Bill.

MIN. NO. 640/2005/2006: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at 2:00 p.m. until later.

Hon. J.B.N. Muturi, MP

Signed:.....

(Chairman)

November 10 , 2005

Date:.....

MINUTES OF THE NINETY SECOND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, ON THURSDAY 10TH NOVEMBER, 2006 AT 2:30 P.M.

PRESENT:

The following Members of the Committee were present:-

The Hon. J.B.N. Muturi, MP
The Hon. K.M. Sang, M.P.
The Hon. Geoffrey Gachara Muchiri, M.P.
The Hon. Gitau Kabogo, MP
The Hon. Ali Bahari, MP

ABSENT WITH APOLOGY:

The Hon. Wafula Wamunyinyi, M.P.
The Hon. Peter G. Munya, M.P.
The Hon. Jimmy Angwenyi, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. S. J. Njoroge- Third Clerk Assistant

MIN. NO.641/2005/2006: CONFIRMATION OF MINUTES

The Minutes of the Ninetieth and Ninety-First Sittings were confirmed by the members present and signed by the Chairman as follows:

(i) the eighty ninth sitting held on Thursday , September 8 2005 were proposed by Hon. Geoffrey Gachara Muchiri, MP and seconded by Hon. K.M. Sang, M.P

(ii) the ninetieth Sitting held on Tuesday, October 25th 2005 were proposed by Hon. Geoffrey Gachara Muchiri, MP and seconded by Hon. K.M. Sang, M.P

(iii) the Ninety First Sitting held on 9th November, 2005 were proposed by Hon. Geoffrey Gachara Muchiri, M.P and seconded by Hon. Ali Bahari, MP.

MIN NO. 642 2004/2005: **CONSIDERATION OF THE 13th REPORT**

The Committee adopted the 13th report as amended for onward tabling before the House. The Secretariat was directed to incorporate the amendments.

MIN. NO.643 2004/2005: **ADJOURNMENT**

And there being no other business, the Chairman adjourned the Sitting at 5:30 p.m. until a later date.

Signed:.....
(Chairman)

Date:.....

APPENDIX II

ADMINISTRATIVE EXPENSES OWED TO LOCAL AUTHORITIES PROVIDENT FUND BY 159 LOCAL AUTHORITIES AS AT 30TH JUNE 2003.

APPENDIX II - ADMINISTRATIVE CHARGES FROM LOCAL AUTHORITIES

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
1	AHERO TOWN COUNCIL	-	-	1,753.00	2,719.60	16,641.30	21,113.90
2	AWENDO TOWN COUNCIL	-	2,340.00	7,011.80	27,196.00	25,602.00	62,149.80
3	BARINGO COUNTY COUNCIL	-	-	876.50	1,359.80	1,280.10	3,516.40
4	BOMET MUNICIPAL COUNCIL	6,431.60	18,720.00	17,529.60	32,002.50	104,599.30	179,283.00
5	BUNGOMA MUNICIPAL COUNCIL	5,145.30	4,680.00	3,505.90	48,952.80	57,604.50	119,888.50
6	BUNGOMA COUNTY COUNCIL	-	-	-	-	56,324.40	56,324.40
7	BURETI MUNICIPAL COUNCIL	-	-	-	118,302.60	119,049.30	237,351.90
8	BURETI COUNTY COUNCIL	-	-	3,505.90	5,439.20	56,324.40	65,269.50
9	BURNT FOREST TOWN COUNCIL	-	-	2,629.40	5,439.20	56,324.40	64,393.00
10	BUSIA COUNTY COUNCIL	-	-	876.50	73,429.20	81,926.40	156 232.10
11	BUTERE-MUMIAS COUNTY COUNCIL	-	19,890.00	17,529.60	28,555.80	47,363.70	113,339.10
12	CHOGORIA TOWN COUNCIL	1,286.30	1,170.00	876.50	1,359.80	1,280.10	5,972.70
13	CHUKA MUNICIPAL COUNCIL	39,875.90	36,270.00	29,800.90	44,873.40	40,963.20	191,783.40
14	ELDORET MUNICIPAL COUNCIL	6,431.60	5,840.00	4,382.40	6,799.00	6,400.50	29,853 50
15	EMBU COUNTY COUNCIL	92,615.00	81,900.00	587,724.20	91,106.60	76,806.00	930,151.80
16	EMBU MUNICIPAL COUNCIL	52,739.10	74,880.00	58,724.20	107,424.20	107,528.40	401,295.90
17	FUNYULA TOWN COUNCIL	-	-	-	1,359.80	1,280.60	2,640.40
18	GARISSA COUNTY COUNCIL	-	46,800.00	38,565.10	62,550.80	53,764.20	201,680.10
19	GARISSA MUNICIPAL COUNCIL	41,162.20	37,440.00	28,047.00	118,302.60	106,248.30	331,200.10

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
20	GUCHA COUNTY COUNCIL	-	7,020.00	13,147.70	25,836.20	94,727.40	140,731.30
21	GISII COUNTY COUNCIL	226,392.30	210,600.00	151,631.00	251,563.00	192,015.00	1,032,201.30
22	HOMABAY COUNTY COUNCIL	57,984.40	148,590.00	112,189.40	171,334.80	172,373.70	662,472.30
23	HOMABAY MUNICIPAL COUNCIL	9,004.20	8,190.00	10,517.80	23,116.60	29,442.30	80,270.90
24	ISOLO COUNTY COUNCIL	209,670.20	188,370.00	134,977.90	201,254.00	263,700.60	997,972.70
25	ITEN-TAMBACH COUNTY COUNCIL	1,286.30	1,170.00	-	-	-	2,456.30
26	KABARNET MUNICIPAL COUNCIL	47,593.80	42,120.00	47,329.90	70,709.60	64,005.00	271,758.30
27	KAJIDO TOWN COUNCIL	48,880.20	40,950.00	29,800.30	73,429.20	67,845.30	260,905.00
28	KAKAMEGA COUNTY COUNCIL	33,444.30	24,570.00	18,406.10	25,602.00	127,858.60	229,881.00
29	KAKAMEGA MUNICIPAL COUNCIL	32,158.00	31,590.00	21,035.50	38,074.40	43,523.40	166,381.30
30	KANGEMA TOWN COUNCIL	-	-	-	1,359.80	1,280.10	2,639.90
31	KANGUNDO TOWN COUNCIL	47,593.80	44,460.00	33,306.20	4,351,360.00	43,523.40	4,520,243.40
32	KAPENGURIA MUNICIPAL COUNCIL	1,286.30	1,170.00	876.50	44,873.40	42,243.30	90,449.50
33	KAPSABET MUNICIPAL COUNCIL	-	54,990.00	42,947.50	95,186.00	104,968.20	298,091.70
34	KARATINA MUNICIPAL COUNCIL	90,042.40	72,540.00	47,329.90	76,148.80	67,845.30	353,906.40
35	KARURI TOWN COUNCIL	-	1,170.00	2,629.40	6,799.00	5,120.40	15,718.80
36	KEHANCHA MUNICIPAL COUNCIL	5,145.30	3,510.00	1,753.00	2,719.60	19,201.50	32,329.40
37	KEIYO COUNTY COUNCIL	28,299.00	26,910.00	19,282.60	29,915.60	26,882.10	131,289.30
38	KENDU BAY COUNTY COUNCIL	-	-	-	24,476.40	23,041.80	47,518.20
39	KERICHO MUNICIPAL COUNCIL	177,512.20	195,390.00	159,519.40	255,642.40	276,501.60	1,064,565.60
40	KEROKA TOWN COUNCIL	2,572.60	1,170.00	876.50	1,359.80	28,162.20	34,141.10

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
41	KERUGOYA/KUTUS MUNICIPAL COUNCIL	15,435.80	12,870.00	8,764.80	55,751.80	84,486.60	177,309.00
42	KIAMBU COUNTY COUNCIL	1,286.30	17,550.00	14,023.70	61,191.00	74,245.80	168,296.80
43	KIAMBU MUNICIPAL COUNCIL	-	-	876.50	1,359.80	-	2,236.30
44	KILIFI COUNTY COUNCIL	77,179.20	69,030.00	44,700.50	92,466.40	104,968.20	388,344.30
45	KILIFI TOWN COUNCIL	18,008.50	50,310.00	36,812.20	63,910.60	67,845.30	236,886.60
46	KIMILILI MUNICIPAL COUNCIL	-	2,340.00	1,753.00	23,116.60	21,761.70	48,971.30
47	KIPKELION TOWN COUNCIL	5,145.30	4,680.00	3,505.90	12,238.20	10,240.00	35,809.40
48	KIPSIGIS COUNTY COUNCIL	39,875.90	70,200.00	50,835.80	82,947.80	79,366.20	323,225.70
49	KIRINYAGA COUNTY COUNCIL	12,863.20	12,870.00	7,888.30	269,240.00	268,821.00	571,682.50
50	KISII MUNICIPAL COUNCIL	375,605.40	358,020.00	303,262.10	481,369.20	465,956.40	1,984,213.10
51	KISUMU COUNTY COUNCIL	1,286.30	2,270.00	-	25,836.30	42,243.30	71,635.90
52	KISUMU MUNICIPAL COUNCIL	9,004.20	9,360.00	14,023.70	36,714.60	51,204.00	120,306.50
53	KITALE MUNICIPAL COUNCIL	572,412.40	415,350.00	309,397.40	471,850.60	448,035.00	2,217,045.40
54	KITALE WATER CO. LTD	-	76,050.00	56,971.20	88,387.00	78,086.10	299,494.30
55	KITUI COUNTY COUNCIL	64,316.00	53,820.00	37,688.60	57,111.60	49,923.90	262,860.10
56	KITUI MUNICIPAL COUNCIL	94,474.00	91,260.00	101,671.70	164,535.80	154,892.00	606,833.50
57	KOIBATEK COUNTY COUNCIL	6,431.60	10,530.00	7,888.30	10,878.40	10,240.80	45,969.10
58	KWALE COUNTY COUNCIL	145,354.20	142,740.00	130,595.50	251,563.00	234,258.40	904,511.10
59	KWALE TOWN COUNCIL	34,730.60	31,590.00	23,665.00	36,714.60	34,562.70	161,262.90
60	LAIKIPIA COUNTY COUNCIL	475,593.80	43,290.00	37,688.60	924,666.40	93,447.30	1,574,686.10
61	LAMU COUNTY COUNCIL	-	-	21,035.50	53,032.20	56,032.20	130,099.90

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
62	LAPF SECRETARIAT	9,004.20	9,360.00	7,001.80	10,878.40	19,201.50	55,445.90
63	LIMURU MUNICIPAL COUNCIL	-	60,840.00	70,118.40	144,138.80	134,410.50	409,507.70
64	LITEIN TOWN COUNCIL	3,859.00	3,510.00	788.30	1,398.00	14,081.00	23,636.30
65	LONDIANI TOWN COUNCIL	56,598.10	51,480.00	38,565.10	59,831.20	55,044.30	261,518.70
66	LUANDA TOWN COUNCIL	-	4,680.00	3,505.90	9,518.60	7,680.60	25,385.10
67	LUGARI COUNTY COUNCIL	-	15,210.00	11,394.20	19,037.00	20,481.60	66,122.80
68	MACHAKOS MUNICIPAL COUNCIL	10,290.60	9,360.00	7,011.80	10,878.40	10,240.80	47,781.60
69	MAKUENI COUNTY COUNCIL	174,939.50	168,480.00	126,213.10	189,012.20	172,813.50	831,458.30
70	MALABA TOWN COUNCIL	77,179.20	98,280.00	74,500.80	112,862.40	110,088.60	472,911.00
71	MALAKISI TOWN COUNCIL	-	-	-	27,196.00	26,882.10	54,078.10
72	MALAVA TOWN COUNCIL	-	4,680.00	7,011.80	23,116.60	25,602.00	60,410.40
73	MALINDI COUNTY COUNCIL	1,286.30	-	21,035.50	35,354.80	39,683.10	97,359.70
74	MALINDI MUNICIPAL COUNCIL	-	-	1,753.00	93,826.20	168,973.20	264,552.40
75	MANDERA COUNTY COUNCIL	-	-	876.50	46,233.20	46,083.60	93,193.30
76	MANDERA TOWN COUNCIL	-	-	-	61,191.00	57,604.50	118,795.50
77	MARAGUA COUNTY COUNCIL	-	-	1,753.00	2,719.60	2,560.20	7,032.80
78	MARAGUA TOWN COUNCIL	1,286.00	1,170.00	876.50	2,719.60	2,560.20	8,612.30
79	MARAKWET COUNTY COUNCIL	10,290.60	9,360.00	5,258.90	20,397.00	20,481.60	65,788.10
80	MARALAL TOWN COUNCIL	1,286.30	1,170.00	876.50	1,359.80	1,280.10	5,972.70
81	MARIAKANI TOWN COUNCIL	1,286.30	1,170.00	876.50	1,359.80	72,965.70	77,658.30
82	MASAKU COUNTY COUNCIL	331,156.90	379,080.00	319,915.00	569,756.20	504,359.40	2,104,267.50

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
83	MASIMBA TOWN COUNCIL	-	14,040.00	20,159.00	31,275.40	38,403.00	103,877.40
84	MATUU TOWN COUNCIL	63,029.70	57,330.00	42,071 00	63,190 00	64,005.00	289,625.70
85	MAUA MUNICIPAL COUNCIL	-	4,680.00	56,971.20	92,466.40	96,001.50	250,119.10
86	MAVOKO MUNICIPAL COUNCIL	177,512.20	222,300.00	167,407.70	255,642.40	235,538.40	1,058,400.70
88	MBEERE COUNTY COUNCIL	127,345 70	112,320.00	8,484,142.10	129,181 00	125,449.80	8,978,438.60
89	MBITA POINT TOWN COUNCIL	10,290.60	17,550.00	14,023 70	27,196.00	35,842.80	104,903.10
90	MERU CENTRAL COUNTY COUNCIL	1,286 30	1,170 00	-	-	-	2,456 30
91	MERU MUNICIPAL COUNCIL	-	-	876.50	28,555 80	65,285.10	94,717.40
92	MERU SOUTH COUNTY COUNCIL	-	1,170.00	876.50	1,359 80	38,403.00	41,809.30
93	MIGORI COUNTY COUNCIL	61,743.40	65,520.00	70,994.90	127,821 20	125,449.00	451,528 50
94	MIGORI MUNICIPAL COUNCIL	-	-	-	1,359.80	39,683 00	41,042.80
95	MOMBASA COUNTY COUNCIL	456,643.60	410,670 00	465,418.90	962,738.40	1,058,642 70	3,354,113.60
96	MOUNT ELGON COUNTY COUNCIL	-	-	-	6,799.00	6,400.50	13,199 50
97	MOYALE COUNTY COUNCIL	-	-	-	32,635.20	30,722.40	63,357 60
98	MTITO ANDEI TOWN COUNCIL	42,488.60	36,270.00	28,923.80	40,794.00	49,923.90	198,400 30
99	MUHORONI TOWN COUNCIL	-	-	-	-	11,520.90	11,520 90
100	MUNIASI MUNICIPAL COUNCIL	3,859.00	16,380.00	19,282.60	31,275.40	28,162.20	98,959.20
102	MURANGA COUNTY COUNCIL	41,162 20	31,590 00	23,665 30	78,868 40	106,248 00	281,533.90
103	MURANGA MUNICIPAL COUNCIL	153,072 10	145,080 00	106,054 10	155,017.20	162,572.70	721,796 10
104	MWINGI COUNTY COUNCIL	9,004 20	9,360.00	6,135 40	14,957.80	47,363.70	86,821.10
105	MWINGI TOWN COUNCIL	1,286.30	1,170 00	-	-	2,560.20	5,016 50

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
106	NAKURU COUNTY COUNCIL	1,286.30	1,170.00	1,753.00	171,334.80	194,575.20	370,119.30
107	NAKURU MUNICPAL COUNCIL	-	1,170.00	876.50	1,359.80	1,280.10	4,686.40
108	NAMBALE TOWN COUNCIL	-	-	-	33,995.00	40,963.20	74,958.20
109	NANDI COUNTY COUNCIL	2,572.60	3,510.00	1,753.00	2,719.60	7,680.60	18,235.80
110	NANDI HILLS TOWN COUNCIL	9,004.20	9,360.00	9,641.30	21,756.80	39,683.10	89,445.40
111	NANYUKI MUNICIPAL COUNCIL	326,725.30	304,200.00	242,785.00	441,935.00	440,354.40	1,755,999.70
112	NAROK COUNTY COUNCIL	899,137.70	817,830.00	613,536.00	962,738.40	906,310.80	4,199,552.90
113	NYAHURURU MUNICIPAL COUNCIL	-	-	-	-	24,321.90	24,321.90
114	NYAMACHE TOWN COUNCIL	-	3,510.00	2,629.40	16,317.60	14,081.10	36,538.10
115	NYAMARAMBE TOWN COUNCIL	-	7,020.00	6,135.40	9,518.60	8,960.70	31,634.70
116	NYAMBENE COUNTY COUNCIL	-	132,210.00	99,042.20	156,377.00	142,091.10	529,720.30
117	NYAMIRA COUNTY COUNCIL	1,286.30	1,170.00	876.50	16,317.60	93,447.30	113,097.70
118	NYAMIRA TOWN COUNCIL	63,029.70	59,670.00	55,218.20	101,985.00	117,769.20	397,672.10
119	NYANDARUA COUNTY COUNCIL	27,012.70	22,230.00	16,653.10	33,995.00	67,845.30	167,736.10
120	NYANDO COUNTY COUNCIL	-	-	78,006.70	197,171.00	204,816.00	479,993.70
121	NYANSIONGO TOWN COUNCIL	3,859.00	16,380.00	14,023.70	21,756.80	26,882.10	82,901.60
122	NYERI COUNTY COUNCIL	331,870.60	624,780.00	454,016.60	728,852.80	622,128.60	2,761,648.60
123	NYERI MUNICIPAL COUNCIL	1,286.30	1,170.00	876.50	1,359.80	1,280.10	5,972.70
124	NZOIA COUNTY COUNCIL	33,444.30	28,080.00	21,912.00	73,429.20	80,646.30	237,511.80
125	OGEMBO TOWN COUNCIL	-	-	-	8,158.80	7,680.60	15,839.40
126	OLKALAU TOWN COUNCIL	12,863.29	11,700.00	8,764.50	13,598.00	23,041.80	69,967.59

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
127	OLKEJUADO TOWN COUNCIL	286,849.40	243,360.00	179,678.40	267,880.60	239,378.70	1,217,147.10
128	OTHAYA TOWN COUNCIL	-	-	-	36,714.60	56,324.40	93,039.00
129	OYUGIS TOWN COUNCIL	21,867.40	33,930.00	32,429.80	48,952.80	48,643.80	185,823.80
130	POKOT COUNTY COUNCIL	-	1,170.00	7,888.30	35,354.80	33,282.60	77,695.70
131	PORT VICTORIA COUNTY COUNCIL	-	-	17,529.60	28,555.80	24,321.90	70,407.30
132	RACHUONYO COUNTY COUNCIL	25,726.40	31,590.00	30,676.80	53,032.20	62,724.90	203,750.30
133	RONGO TOWN COUNCIL	-	-	38,565.10	59,831.20	67,845.30	166,241.60
134	RUIRUI MUNICIPAL COUNCIL	-	-	-	-	1,280.10	1,280.10
135	RUMURUTI TOWN COUNCIL	-	-	-	4,079.40	5,120.40	9,199.80
136	RUNYENJES MUNICIPAL COUNCIL	72,033.90	24,570.00	18,406.10	27,200.00	67,845.30	210,055.30
137	SAGANA TOWN COUNCIL	1,286.30	1,170.00	876.50	1,359.80	-	4,692.60
138	SIAYA COUNTY COUNCIL	-	-	-	43,513.60	43,523.40	87,037.00
139	SIAYA MUNICIPAL COUNCIL	-	-	-	2,719.60	38,403.00	41,122.60
140	SIRISIA TOWN COUNCIL	-	-	-	-	10,240.80	10,240.80
141	SOTIK TOWN COUNCIL	11,576.90	12,870.00	9,641.30	14,958.80	14,081.10	63,128.10
142	SUBA COUNTY COUNCIL	50,166.50	44,460.00	53,465.30	85,667.40	79,366.20	313,125.40
143	SUNEKA TOWN COUNCIL	-	16,380.00	21,035.00	61,191.00	57,605.40	156,211.40
145	TAITA TAVETA TOWN COUNCIL	50,166.50	44,460.00	78,883.20	127,821.20	117,769.20	419,100.10
146	TAVETA TOWN COUNCIL	95,187.70	79,560.00	55,218.20	85,667.40	97,287.60	412,920.90
147	TESO COUNTY COUNCIL	36,017.00	32,760.00	42,671.00	65,270.40	61,444.80	238,163.20
148	THARAKA COUNTY COUNCIL	-	-	-	28,555.80	38,403.00	66,958.80

	Name of Local Authority	1998/99	1999/00	2000/01	2001/02	2002/03	Total
149	THIKA COUNTY COUNCIL	-	9,360.00	26,294.40	50,312.60	44,803.50	130,770.50
150	THIKA MUNICIPAL COUNCIL	1,286.30	1,170.00	1,753.00	2,719.60	2,560.20	9,489.10
151	TRANSMARA COUNTY COUNCIL	-	0	-	1,359.80	1,280.10	2,639.90
152	TURKANA COUNTY COUNCIL	5,145.30	4,680.00	3,505.90	5,439.20	21,761.70	40,532.10
153	UGUNJA TOWN COUNCIL	-	-	-	17,677.40	21,761.70	39,439.10
154	VIHIGA COUNTY COUNCIL	-	-	-	85,667.40	97,287.60	182,955.00
155	VIHIGA MUNICIPAL COUNCIL	60,457.00	72,540.00	70,994.90	116,942.80	103,688.10	424,622.80
156	VOI MUNICIPAL COUNCIL	39,875.90	36,270.00	28,923.80	44,873.40	49,923.90	199,867.00
157	WAJIR COUNTY COUNCIL	45,021.20	91,260.00	81,512.60	111,503.60	113,928.90	443,226.30
158	WEBUYE MUNICIPAL COUNCIL	1,286.30	1,170.00	876.50	4,079.40	2,560.20	9,972.40
159	WOTE TOWN COUNCIL	-	-	-	35,354.80	33,282.60	68,637.40
	Total	**7,558,070.2**	**7,700,860.0**	**15,499,604.0**	**17,905,666.4**	**13,747,015.0**	**62,411,215.6**