INTERNAL MEMO

TO: **The Clerk**

THR' **Director Committees**

Endorsed and forwarded for your consideration/transmission to the Hon Speaker
17/06/14

FROM: **Principal Clerk Assistant**

DATE: **Tuesday 17th June 2014**

SUBJECT: ANNUAL REPORT OF THE STANDING COMMITTEE ON ENERGY, ROADS AND TRANSPORTATION.

The above matter refers.

Attached herein, is the Annual Report of the Standing Committee of the Senate on Energy, Roads and Transportation.

The Committee adopted the report during its sitting held on 10th June 2014 and resolved that the report be tabled for consideration and adoption by the Senate.

This is therefore to request you to consider the report and advise if it should be tabled to the Rules and Business Committee, Liaison Committee or the Senate.

Yours

B.L.LENAIROSHI

Hon. Speaker
You may approve for tabling.
18/06/14

Approved
19/6/14

S. 52.PLC.2014

Clerks
Chambers
The Senate
NAIROBI
16th July, 2014

PAPER LAID

Mr. Speaker Sir, I beg to lay the following Paper on the Table of the House, today Wednesday, 16th July 2014.

The Annual Report of the Standing Committee on Energy, Roads and Transportation for the period between May 2013 to April 2014.

Copies to:
The Speaker
Deputy Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

NOTICE OF MOTION (SEN. GIDEON MOI)

(COMMITTEE ON ENERGY, ROADS & TRANSPORTATION)

Mr. Speaker Sir, I beg to give Notice of the following Motion

THAT, this House adopts the Annual Report of the Standing Committee on Energy, Roads and Transportation for the period between May 2013 to April 2014 laid on the Table of the House on Tuesday, 17^{th} June, 2014.

SIGNED:.. **DATE**...10th/06/2014...........

SEN. GIDEON MOI
CHAIR, STANDING COMMITTEE ENERGY, ROADS & TRANSPORTATION

REPUBLIC OF KENYA

PARLIAMENT

THE SENATE

ANNUAL REPORT OF THE STANDING COMMITTEE ON ENERGY, ROADS AND TRANSPORTATION FOR THE PERIOD BETWEEN

MAY 2013 – APRIL 2014

CLERK' CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

JUNE 2014

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ABBREVIATIONS AND ACRONYMS

10BB, 13T	-	Oil Blocks
CDM	-	Clean Development Mechanism
CSR	-	Corporate Social Responsibility
EISA	-	Environmental and Social Impact Assessment
EPP	-	Emergency Power Plants
GDC	-	Geothermal Development Company
GOK	-	Government of Kenya
IPP	-	Independent Power Producers
KERRA	-	Kenya Rural Roads Authority
KURA	-	Kenya Urban Roads Authority
KENGEN	-	Kenya Electricity Generating Company
KPA	-	Kenya Ports Authority
KPC	-	Kenya Pipeline Company
KPLC	-	Kenya Power and Lighting Company
KPRL	-	Kenya Petroleum Refineries Ltd
MW	-	Mega Watts
PPA	-	Power Purchase Agreement
RFP	-	Request For Proposal

PREFACE

1. The Standing Committee on Energy, Roads and Transportation was constituted on Thursday 25th April 2013 during the First Session of the Eleventh (11th) Parliament pursuant to the provisions of Senate Standing Order No.177.

2. The Committee is mandated under the second schedule of the Senate Standing Orders to; ***consider all matters related to transport, roads, public works, construction and maintenance of roads, rails and buildings, air, seaports and housing, Fossil fuels exploration, Development, production, maintenance and regulation of energy and communication.***

3. In executing its mandate, the Committee oversees the following Ministries:-

   (i) Ministry of Transport and Infrastructure;-and

   (ii) Ministry of Energy and Petroleum

4. The Standing Committee on Energy, Roads and Transportation comprises of the following members:-

   a) Sen. Gideon Moi - Chairman
   b) Sen. Danson Mwazo - Vice Chairman
   c) Sen. David Musila - Member
   d) Sen. Kiraitu Murungi - Member
   e) Sen. Christopher Obure - Member
   f) Sen. Chiaba, Abu - Member
   g) Sen. Otieno Kajwang - Member
   h) Sen. Charles Keter - Member
   i) Sen. Martha Wangari - Member

5. Mr. Boniface L. Lenairoshi is the Principal Clerk Assistant and Clerk to the Committee.

6. The Committee held a total of thirty nine meetings in the period between May 2013 – April 2014.

EXECUTIVE SUMMARY

Mr. Speaker Sir, the year 2013/14 was a busy and productive year for the Senate Standing Committee on Energy Roads and Transportation. I am proud to present our annual report, which details the activities undertaken by the Committee during the year under review.

The Committee had a total of thirty nine (39) sittings with effect from 2nd May 2013 to 25th March 2014 to deliberate on several issues under its jurisdiction.The Committee received 18 Ministerial Statements out of which 15 were satisfactorily responded to before the end of the session.

During the year under review, two petitions were refered to the Committee. The Committee was able to finalize and table one petion in December 2013 and the remaining one is ready for presentation to the Senate.

The Committee had two workshops to discuss the Draft Energy Policy and Energy Bill 2014 and presented its comments /recommendations to the taskforce on the same. The Roads Policy and Kenya Roads Bill 2014 is scheduled to be presented to the Committee in early April 2014.

Mr. Speaker Sir, the Committee visited the Counties of Nakuru, Baringo and Mombasa during the first quater of the year under review to familiarize itself with key projects under its watch. In the current year, the Committee intends to visit more counties to establish the status of projects under its line Ministries.

On foreign visits, the Committee had the opportunity to visit Soth Korea in June 2013 and New Zealand, Australia and the United Arab Emirates in February and March 2014. The report on South Korea visit was tabled and adopted by the Senate on 22nd October 2013 while the one on New Zealand, Australia and United Arab Emirates is ready for presentation to the Senate.

The Committee tabled seven reports to the Senate and all of them were adopted for implementation. Subsequently following the decision of the Senate to split Committees, the Committee was split into Energy and Roads and Transportation and the election for the respective chairs and vice chairs were conducted in March 2014.

In this reagard, Mr. Speaker Sir, I am glad to present the annual report of the Standing Committee of the Senate on Energy, Roads and Transportation for considaration and subsequently adoption by this Hon. House.

ACKNOWLEGMENT

My gratitude goes to all the Members of the Energy, Roads and Transportation Committee for their dedication, time, sacrifice and input during the year under review and in the preparation of this report.

In particular my able Vice Chairman Sen. Dawnson Mwazo, Members of the Committee Sen. Kiraitu Murungi, Sen. David Musila, Sen. Christopher Obure, Sen. Abu Chiaba, Sen. Otieno Kajwang, Sen. Charles Keter and Sen. Martha Wangari.

Special thanks also goes to the Speaker and Clerk of the Senate for thier support in undertaking the business of the Committee during the year under review.

I thank you all.

SIGNED.. **DATE** 10TH JUNE 2014

SEN. GIDEON K. MOI, M.P.
CHAIRMAN STANDING COMMITTEE ON
ENERGY, ROADS & TRANSPORTATION.

CHAPTER ONE: INTRODUCTION

In pursuit of fulfilling its mandate as provided for in the Constitution and the Senate Standing Orders, the Committee developed its workplan for the period April – December 2013. The key highlights of the activities contained in the work plan are illustrated here below;-

CHAPTER TWO: HOUSE KEEPING

2.1 Election of the Chairperson and Vice Chairperson

Pursuant to Standing Orders No. 181, the election of the Chairman and Vice Chairman of the Committee was conducted and presided over by the Clerk of the Senate on 2nd May 2013.

Sen. Gideon Kipsiele Moi was elected the Chairman while Sen. Danson Mwakulegwa Mwazo was elected as the Vice Chairman.

2.2 Validation of the Committee Mandate & Workplan

The Committee validated its mandate and workplan for the period between May – December 2013 during its second meeting held on 14th May 2013.

2:3 Induction Workshop

The Committee held its induction workshop on 6th June 2013 at Pangoni Beach Hotel in Mombasa. The induction workshop was co-funded by SUNY Kenya. The resource persons were drawn from the Ministry of Transport and Infrastructure, Ministry of Energy and Petroleum and the Private Sector.

CHAPTER THREE: BUDGET FINANCIAL YEAR 2013/14

The Committee interogated the Annual Estimates of Revenue and Expenditure for financial year 2013/14, the Division of Revenue Bill 2013, the County Allocation of Revenue Bill 2013 and its budget during its 3rd and 4th meetings held on 16th and 23rd May 2013. The brief deliberations and recommerndations of the Committee are illustrated here below:-

3.1 Annual Estimates of Revenue and Expenditure

Findings

a) The total budget for the National Government was Kshs. 1.6 trillion which consists of Kshs. 606 billion for recurrent; Kshs. 453.8 billion for development; and Kshs. 380.3 billion for Consolidated Fund Services and

b) The Ministry of Transport and Infrastructure had been allocated Kshs. 125.7 billion while the Ministry of Energy and Petroleum had been allocated Kshs. 78.5 billion,

Recommendations

a) The Senate identifies key areas of focus towards actualizing vision 2030 and insist on making the necessary adjustments on the budget to address the issue of Railway infrastructure, Roads Development, Port of Mombasa among other key projects and

b) The Standing Orders be reviewed to provide for avenues through which the Senate plays its oversight roles and involved in the interrogation of the County Budget.

3.2 Division of Revenue Bill 2013

Findings

a) The Bill provides for the equitable division of revenue raised nationaly between the national and county governments,

b) The National Assembly passed the Bill with amendments to adjust County allocations upwards from Kshs. 198.7 billion to Kshs. 210 billion and

c) The Bill was committed to the Senate for consideration, approval and concurrence.

Recommendations

a) Conditional allocation is the responsibility of the national government hence the 20 billion conditional allocation should be given to counties;- and

b) The Senate should give conditions for the expenditure of the 20 billion conditional allocations.

3.3 County Allocation of Revenue Bill 2013

Findings

a) The Bill provides for the division among Counties, of the revenue allocated to the County level of government,

b) The total shareable revenue is Kshs. 198.69 billion of which 154.7 billion is allocated using the formulae approved by Parliament and Kshs. 43.9 billion is the conditional allocation and

c) The funds to be allocated to each County will be drawn from the enactment of the Division of Revenue Bill 2013.

Recommendations

a) The regulations to be published by the Cabinet Secretaries should be subject to the approval of Parliament,

b) There is need to have county allocations go to the County Revenue Fund;- and

c) The County Allocation of Revenue Bill 2013 be amended to ensure that Senators are involved in the supervision/oversight of the Budget of the counties which is an express mandate under Article 96(1).

3.4 Budget for the Committee

The Committee was allocated a budget of Kshs. 18 million and at the begining of March 2014, the Committee had spent **Kshs. 13,683,025.** The Committee is proposing to visit USA and Mexico in mid April 2014 and is requesting for additional funds to cater for the said visit among other operational expenses.

CHAPTER FOUR: STAKEHOLDERS FORUM

The Committee had meetings and interacted with the following line Ministries and all its stakeholders in the course of its operation. The Ministry of Transport and Infrastructure and Ministry of Energy and Petroleum.

During the period under review, the Committee considered the following key issues with the line Ministries.

4.1 Ministry of Transport and Infrastructure

a) Transfer of Road functions

b) Development Funds for KURA & KERRA

c) Classification of Roads

d) Kenya Roads Bill 2014

e) Management of Inland Ports and

f) Standard Gauge Railway.

4.1.1 Transfer of Road Functions

Findings

The Committee noted that it may not be possible to immediately transfer/devolve the road functions envisaged in schedule four of the Constitution to County Governments due to;-

a) Some Road projects cut across Counties,

b) The existing Road contracts had been signed by KeRRA,

c) Donor funded programmes are financed through agreements where KeRRA is the designated implementing agency,

d) Lack of adequate capacity for counties to undertake the Roads function and

e) The Ministry of Transport and Infrastructure provides additional backup on quality control and standards.

Recommendations

a) The National Government to ensure that structures are put in place at the County level for the management of Roads funds and the capacity of County governments is enhanced to enable them execute their mandate properly,

b) The Transition Authority to fastrack the review, assessment and gazettement of functions to be transferred to respective Counties in line with the provisions of the law,

c) The Transition Authority to provide a comprehensive report outlining the rational/basis for the functions it was going to gazette for transfer to individual counties and the functions it was seeking to exclude from the immediate transfer.

d) On KURA/KERRA contracts, it was agreed in principal to adopt the proposed framework where the Commission for revenue allocation would provide a schedule of how the approximately Kshs. 10 billion for KURA/KERRA would have been allocated to the respective counties using the formulae for sharing revenue. Following thereafter, counties that had ongoing KURA/KERRA road contracts would use the shared and allocated roads revenue for their respective counties to finance the existing contracts “as a first charge”. Where there was a shortfall, the National Treasury would finance the balance amount to meet the contractual obligations for those contracts,

e) The Transition Authority to undertake an immediate review and classification of national and county roads within its legally mandated process and provide the classification and distinction on county roads so as to enable counties undertake these functions immediately.

4.1.2 Development Funds for KURA & KeRRA

Findings

a) The Kshs. 10 billion Roads development fund meant for Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KeRRA) were unconditionally disbursed to the counties and

b) The Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KeRRA) were unable to implement the approved work plans for the current financial year due to lack of funds.

Recommendations

a) The Committee had several consultative meeting with the Cabinet Secretary National Treasury, Chairman Commission on Revenue Allocation, Director General KURA, KeNHA, Executive Director KRB and the Transition Authority,

b) The National Treasury granted authority to the Ministry of Transport and Infrastructure to incur additional expenses to the extent of funds which were transferred to the counties in respect of Fuel Levy (Kshs. 9 Billion), GoK Development Funds (Kshs.10.5 Billion), and Donor Development Funds (Kshs. 6.9 Billion) and

c) The total amounting to Kshs. 26.4 billion will be regularized during the supplementary estimates for the current financial year.

4.1.3 Classification of Roads and Kenya Roads Bill 2014

Findings

a) The last classification of roads was done by the Kenya Roads Board in 2006 and concluded in 2009 and for it to be in line with the Constitution of Kenya, it is necessary to provide a clear definition, classification and allocation of the National trunk roads and County roads,

b) The report on the Kenya Roads Bill 2014 and the Classification of National and County Roads have been prepared and are scheduled to be presented to the Cabinet and

c) Policy Paper No. 5 of 2006 led to the formation of the Kenya Roads Act 2007 and similarly a policy document has been prepared that will lead to the draft Roads Bill 2014.

Recommendations

a) Classification of Roads be done urgently in consultation with key stakeholders and gazetted as National or County Roads,

b) The classification of the roads to address some of the historical imbalance in the construction of the Roads in the Country and

c) The Ministry of Transport and Infrastructure to ensure that the Roads Bill 2014 is fastracked and addresses the roles of KURA and KERRA in the devolved system of governance.

4.1.4 Management of Inland Ports

Findings

The Committee noted that the inland Ports in Kenya are managed by the Kenya Railways Corporation but are unable to operate due to the concession of the Railways to the Rift Valley Railways.

Recommendations

That the matter be brought to the attention of the Cabinet Secretary Ministry of Transport and Infrastructure to amend the Kenya Railways Act/Kenya Ports Act and allow for the take over, Management,and development of Inland Port Authorities by the Kenya Ports Authority.

The amendments to the Kenya Ports Authority Act were included in the in the Miscelleneous amendment Bill 2013 while the amendments to the Kenya Railways Act were omitted.

4.1.5 Standard Gauge Railway

Findings

a) The Standard Gauge Railway is a key flagship project under the vision 2030 and is critical for the economic development of the country and the region,

b) The Republic of Kenya, Rwanda and Uganda have signed a trilateral agreement for the development of the new high capacity Standard Gauge Railway linking the port of Mombasa to Kampala and Kigali,

c) The project has been approved by the Cabinet and the Government – to – Government financing arrangement has been endorsed at the highest levels of both the Government of Kenya and China and

d) The procurement of the project has been undertaken within the law as confirmed by the Attorney General and the process will be completed when the financing agreement, which is currently undergoing internal review by the Exim Bank of China is executed.

Recommendations

a) That the local construction Companies and people be given some components of the project to undertake e,g building of the Railway Stations and railway corridors among others,

b) That a railway corridor be put in place to prevent accidents and also allow for animal passage by raising the rail line above the ground in areas such as Tsavo,

c) The Ministry to identify and communicate with the land owners where the rail line is going to traverse and the affected people be compensated,

d) In future, proper communication strategy should be used to market the Governments intentions on implementing the key projects and

e) The Ministry moves with speed to actualize and deliver the project to Kenyans within the stipulated time and the legal framework of procurement.

4.2 Ministry of Energy and Petroleum

a) Status of Coal Mining in Kitui County,
b) Status of Oil exploration in Turkana County.

4.2.1 Status of Coal Mining in Kitui County

Findings

a) The Ministry started coal exploration in the Mui Basin, covering about 500 sq.km in Kitui County, in 1999. The basin is divided into four coal blocks namely Block A (Zombe-Kabati), Block B (Mutitu-Itiku), Block C (Yoonye-Kateiko) and Block D (Karunga-Isekele),

b) As at the beginning 2010, MOE&P had done substantial exploration in Block C which established existence of commercially viable coal deposits amounting to at least 400 million metric tonnes. Additionally, the Ministry had also established that there were coal deposits in the other three Blocks A, B and D,

c) Subsequently, the Government moved to concession the coal blocks for the purpose of exploration, exploitation and development by the private sector,

d) MOE&P issued letters for award of Coal Blocks C and D to **M/s Fenxi Mining Industry Company Ltd**. on 24th August, 2011,

e) M/S Fenxi Mining Industry Company Ltd. is to be issued with Coal Special (Prospecting) Licence and Special Mining Lease by the Commissioner of Mines and Geology in the Ministry of Mining; and conduct elaborateEnvironmental and Social Impact Assessment (ESIA) for each of the two coal blocks prior to start of any field programme.

f) Prior to start of mining in each of the two coal blocks, Fenxi Mining Industry Company Ltd. is to conduct a Resettlement Action Plan (RAP) meeting World Bank standards and which is to be approved by GoK, prior to implementation,

g) Compensation - Affected communities are to be compensated for their land and properties based on market value,

h) The Concession documents for Coal Block C and D were executed between the Government of Kenya and Fenxi Mining Industry Ltd on 23rd December 2013 and

i) Under the Government's fast tracked programme for generation of an additional 5000+MW of power in the country in 40 months, 960 MW is to be generated using Mui coal at a power plant to be constructed near the Mui Basin in Kitui County.

Recommendations

a) MOE&P to support local leaders undertake awareness campaign of the Coal project with the local community,

b) MOE&P to re-advertise the tender for concession of Coal Blocks A and B,

c) MOE&P to work with the Ministry of Lands, Housing and Urban Development to fast track ongoing land adjudication and registration exercise for issuance of Title Deeds to the local community in the areas affected by the coal project,

d) The Environmental and Social Impact Assessment (EISA) to be done, supervised and audited by NEMA at regular intervals,

e) The respective District Resettlement and Compensation Committee (DRCCs) for Coal Blocks C and D as well as A and B be constituted and MOE&P to advertise the tender for 960 MW Mui Coal Power Plant.

4.2.2 Status of Oil Exploration in Turkana County.

Findings

a) In 2010/2011, Tullow Oil farmed into and assumed operatorship of the blocks in Turkana,

b) Blocks 10BB and 13T are located entirely within Turkana County, Block 10BA spansTurkana and Marsabit Counties,

c) Tullow Oil has drilled 4 wells across Blocks 10BB and 13T, making 4 discoveries to date namely;- Ngamia-1 (10BB) in May 2012; Twiga South-1 (13T) in October 2012; Etuko-1 in July 2013 (10BB); and Ekales-1 (13T) in September 2013.

d) In July 2013, oil resources were estimated to be in excess of 300 millionbarrels of oil, which is considered in excess of the basin threshold for development,

e) In addition to the two existing rigs used by Tullow, a third has been contracted to support increasedexploration and appraisal in Kenya,

f) Three more wells are scheduled to have commenced drilling before end-2013: Agete (13T), which is in progress; Amosing (10BB); and Ewoi (10BB). Four furtherwildcat wells are scheduled for drilling in 2014,

g) Tullow has exceeded both its work and financial obligations across all Licenses and the excellent results to date onshore Kenya are an important step towards understanding theoverall basin potential and its commerciality;- and

h) Resources discovered to date (300 mmbbl) are of a scale that the partnership will initiate discussions with the Government of Kenya and other stakeholders to consider development options.

Recommendations

a) Tullow should ensure that they transact their business in the most transparent manner and involve all stakeholders in their activities,

b) Tullow in conjunction with the Ministry of Energy and Petroleum should ensure that the current community education and sensitization programme/campaign on oil and gas is intensified in order to fill the information gaps that often lead to mistrust, self-interest and suspicion,

c) The County Governments should support the delivery of national projects like oil and gas exploration activities and hence Tullow needs to invest in building their capacity,

d) The National and County Governments should prioritize on development of the infrastructure especially in areas where natural resources have been discovered in order to accelerate their commercialization,

e) There is need for dialogue to occur in an open, inclusive and structured manner amongst all the stakeholders and resolving of any grievances should be carried out in a peaceful and expeditious manner,

f) The contractor should consult with the relevant stakeholders and refine further its local content, employment programme, business opportunities and the social investment in the County of Turkana,

g) The government to produce a policy paper/sessional paper on the development of the petroleum industry in the country and the document should stipulate the amount of oil that exists in the country,

h) Legislation be put in place to establish a sovereign fund that will be paid into some money from the proceeds oil and other minerals,

i) Legislation be put in place to discourage the exportation of crude oil and encourage value addition by processing and exporting refined oil at a higher value and

j) Negotiation of royalties between the executive and the oil extracting companies should be reasonable,

CHAPTER FIVE: REPORT ON COUNTY INSPECTION VISIT/TOUR

The Committee visited the Counties of Nakuru, Baringo and Mombasa during the period under review to familiarize itself with the following key projects under its jurisdiction;-

i) Geothermal Development Company (GDC) Projects in Bogoria, Silale, Arus (Baringo County) and Menengai in Nakuru County,

ii) Kengen Projects in Olkaria, Nakuru County,

iii) Kenya Ports Authority (KPA) in Mombasa County,

iv) Kenya Petroleum Refinary Ltd (KPRL) in Mombasa County and

v) Kenya Pipeline Company (KPC) in Mombasa County.

5.1 Geothermal Development Company (GDC) Projects in Bogoria & Menengai

Findings

a) GDC has set the ball rolling towards attracting Carbon Money, under the Clean Development Mechanism (CDM) initiative from the geothermal projects proposed and ongoing,

b) The Menengai and Silale Geothermal Projects are due to be registered for the CDM and the motive was endorsed by the stakeholders from the respective Counties as well as the National Environment Management Authority (NEMA),

c) Once these projects are registered, it is anticipated that under the Kyoto Protocol of 1997, heavy polluting developed countries will buy carbon credits from green projects mainly in developing countries,

d) The development of the Geothermal Power Projects will reduce reliance on imported fossil fuel (Diesel) thereby reducing the carbon footprint,

e) The work and activities of the Geothermal Development Company is not known by members of the public,

f) Some rigs that are ready for the production of electricity are lying idle; long after they have been completed,

g) There is adequate, sufficient and timely inflow of finances from the financiers/donors but GDC experiences delays and unpredicted disbursement of funds from GOK,

h) The world's geothermal installed capacity is 10,800 MW and Kenya is ranked 9^{th} with a capacity of 243MW,

i) Planned operations (Water system and infrastructural work in Bogoria/ Silali block) budgeted at **Ksh 1.5 billion** will not begin. The availability of these funds would unlock donor commitments of **Ksh8.5 billion,**

j) Infrastructural work to open Suswa field will not be undertaken since **Kshs. 1.5 billion** funds required from the Government is still pending. The availability of these funds would unlock donor commitments of **Ksh 17 billion,**

k) GDC has continued to remove upfront risks that for many years deterred investors from venturing into geothermal development and with a promising investment environment (Constant Supply of

Steam), more financiers and investors have expressed their interest in geothermal development,

l) The National off-taker (KPLC) guarantees the investors of a ready market by signing Power Purchase Agreement (PPA) and undertaking to purchase all the electricity generated,

Recommendations

a) The Government to give GDC the seed money of Kshs. 1.5 billion to unlock donor commitments of Ksh 17 billion in Suswa,

b) The Government to give GDC the seed money of Kshs. 1.5 billion to unlock donor commitments of Ksh8.5 billion in Bogoria/ Silali blocks,

c) The registration of Menengai, Silale and other geothermal projects under the Clean Development Mechanism (CDM) should be hastened and a clear policy be developed on sharing/utilization of the proceeds from the sale of carbon credits,

d) Investors be advised to install wellheads on wells which are ready for early power generation so as to provide power shortly after drilling, have early revenue and improve on the profitability of the project,

e) The Government should adequately fund and support the Geothermal exploration to ensure that Kenyans enjoy a low power tariff hence lower cost of production and increase competitiveness in the manufacturing industries,

f) The County governments should set aside land for setting up of industrial parks near the Geothermal Resource sites. GDC should facilitate the development of power plants by IPP's and provision of by-products for direct use,

g) The Geothermal Development Company should ensure that members of the public are regularly and adequately sensitized/informed on their activities through the social media, press or any other form of communication,

h) The current transmission losses should be curbed by installing modern transmission lines that will eventually lower/reduce the tariffs on cost of power,

i) There is need for a stable and environmental friendly power supply in running the GDC Projects instead of the current diesel generators that are expensive and environmentally unfriendly,

j) The Government of Kenya should set aside adequate funds so that Geothermal Development Corporation can accelerate and undertake more exploration in the other counties of Samburu, West Pokot and Turkana,

k) Embark on building capacity for the counties to carry out their legislative work that can help the counties to protect resources, raise revenue, guard these revenues and to develop the counties,

l) Empower departments of engineering and sciences in universities through increased funding to engage in more research especially in places that produce sugar cane like Kakamega, Kisumu and Bungoma counties.they can be net producers of power alcohol that will go a long way in powering our motor vehicles with the resultant effects that we will be spending less money in running the transport system and

m) Encourage multi-sectoral collaboration on resource exploration in order to ensure that the available resources are fully explored and utilized for the benefit of citizens and the counties.

The Report was tabled on 26th February 2014 and adopted on the same day in the afternoon.

5.2 Kengen Projects in Olkaria – Nakuru County.

Findings

a) Kenya Electricity Generating Company (KenGen) is the leading electric power generating company in Kenya, producing about 80 percent of electricity consumed in the country,

b) Kenya is ranked 9th in the world in terms of Geothermal installed capacity. However, if all projects are completed, Kenya can be ranked third in the world,

c) The company uses various sources to generate electricity ranging from hydro, geothermal, thermal and wind. Hydro is the leading source, with an installed capacity of 677.3 Megawatts, which is about 60% of the country's total installed capacity. It sells the Power in bulk to Kenya Power and Lighting Company (KPLC) which distributes to consumers,

d) The company is now operating in a liberalized market and is in direct competition with four (4) Independent Power Producers (IPP) who between them produce about 20% of the country's electric power,

e) KenGen has a workforce of 1,600 staff distributed in 20 different sites where its power plants are located. With its wealth of experience, established corporate base and a clear vision, the company intends to maintain leadership in the liberalized electric energy sub-sector in Kenya and in the Eastern Africa Region and

f) The target of the company is to produce affordable and clean energy. Although geothermal power in the initial stages is expensive, it is far more cheaper in the long run.

Recommendations

a) That KenGen to find ways of curbing the steam from the wells and use it as a collateral to secure loans from financiers as it explores various fund raising options for projects under the Asset Backed Security (ABS) programme,

b) The wells already identified to generate electricity should be put to immediate use to generate and sale electricity to the National grid at a competitive price,

c) Kengen to have a stakeholder's forum and inform the counties of their potentials in terms of electricity generation from various sources,

d) The Government moves with speed in the exploration and mining of Coal and Liquefied Natural Gas (LNG) so as to boost the energy security and lower the cost of power that is associated with fossil fuel,

e) Kengen to innovate alternative ways of raising funds and explore the options of Public Finance Initiatives or any other Private Public Partnership arrangement in order to generate more electricity,

f) Legislation be developed to guide the Community and investors on the issue of land compensation and the revenues generated from the investments;- and

g) The Government to compensate Kengen for Roads developed by the company in Naivasha.

The report was tabled on 26th November and adopted on 4th December 2013.

5.3 Kenya Ports Authority (KPA) - Mombasa County.

Findings

a) The Port has the necessary capacity in place and that with the implementation of LAPPSET, KPA will be placed in a competetive advantage over its regional rivals like Djibouti and Durban,

b) The President, during his visit to the Port of Mombasa in the month of July 2013, established an inter-agency committee comprising of key stakeholders involved in the operations of the port to implement various directives,

c) The Lamu port is expected to have 22 berths in an area of 1,000 acres. Lamu will be connected to Addis Abbaba in Ethiopia and Juba in Southern Sudan by a Standard Guage Railway Line hence improving the railway infrustructure across 11 countries in East Africa with some 15000 Kilometres of new track,

d) Kshs. 3.7 billion in the current financial year has been set aside for the construction of the Lamu Port. As a government agent, KPA has already awarded tender and is awaiting for government to allocate the funds for construction,

e) The Dongo-Kundu by-pass will significantly improve the traffic flow in Mombasa town to the South Coast and ease congestion at the Likoni ferry,

f) KPA has an e-Port strategy in place whereby most requests and operations are done online including payment.Further to this, sensitization is done by the KPA Public Relations Department to create public awareness through social media. This has helped in engaging their clients on new developments at the Port,

g) The Commissioner of customs is now domicilled at the Port of Mombasa to fast track the clearance of goods and enhance efficiency and

h) Among the worst challenges the Port has experienced was that of frequent power outages.The committee noted that KPA has upgraded its power intake but its below the required threshold. Thus KPA is looking for other ways of getting additional power supply.

Recommendations

a) The Presidential directives that attributed to the improvement of service delivery and hamonious working relationship and coordination of all agencies working at the port be availed to the Committee and be factored as a performance management standard,

b) The Presidential directives be considered by the Committee with a view of anchoring them into law to ensure strict compliance and improvement of port operations,

c) Kenya Ports Authority should revamp its website to allow for more interaction with its customers, public and other key stakeholders,

d) KPA's public relations office be proactive by engaging the members of the public in constant interactions on its operations and performance through the media – Radio, TV and other social media,

e) The existing community charter between Kenya Ports Authority and the public sector implemented through the Presidential directives be extended to include members of the private sector,

f) Kenya Ports Authority to strive to ensure that the performance and operations of the Port of Mombasa is competitive and in line with the set global standards,

g) The Kenya Ports Authority to increase its regional market share by strengthening the liaison offices in Transit Markets,

h) The operations of the clearing agents at the port be guided by legal framework, i.e legislations to ensure that their activities are properly streamlined and operate within a harmonious legal framework with the Kenya Ports Authority, Kenya Revenue Authority among other stakeholders;

i) The Kenya Railways Corporation Act be amended to provide for the Kenya Ports Authority to manage and maintain the inland ports within the Country, e.g Kisumu Port;- and

j) Kenya Ports Authority to operationalize the National Single Window System in order to enhance efficiency and transparency in the Ports operations.

k) The Government to secure funding for the port of Mombasa to facilitate expansion/dredging that will attract lagger vessels and enhance business at the port,

l) That a one stop border post be put in place to minimize accassional delays at border points,

m) There is need to build another fuel jetty at the port of Mombasa to complement the current one that handles 99% of imported fuel,

n) There is need to build a bridge that connects the South Coast to the mainland and that the ferry services at the Likoni channel should be expanded to transport commuters around the island i.e Likoni, Nyali Bridge and Makupa Courseway,

o) The Committee to propose legislations to modernise and enhance efficiency at the port of Mombasa,

p) The port of Mombasa be made a duty free port to allow for investors from all over the world to bring and store their goods for free and only pay for them at the point of sale. This is a cost effective way of warehousing and makes it easier to monitor the goods that come into the country and

q) KPA to sensitize the members of the public on the projects that it has undertaken in terms of its corporate social responsibility,

The Report was tabled on 27th February 2014 and adopted on 19th March 2014.

5.4 Kenya Petroleum Refineries Ltd – Mombasa County

Findings

a) The Government and Essar have a 50% stake (each) at the refinery,

b) Essar bought the 50% of its shares from the government at a cost of US$ 5 Million,

c) The refinery is sitting on a 300 acres piece of land in Mombasa on the shores of Indian Ocean,

d) Essar came on board with an agreement of upgrading the facility to a modern refinery but has not delivered on the agreement,

e) 50% of the facility (piping) is in good condition but the remaining 50% needs to be upgraded/modernized, the furnace is archaic,

f) A 9mw generator has been put up at the refinery to help the refinery manage its own power but is yet to be commissioned,

g) The refined oil from KPRL is expensive as compared to the imported one and is unfriendly to the environment since it has a high sulphure content emmission,

h) The refinery has never broken even and is running the economy at a loss of around Kshs. 5.4 billion annually,

i) The reserve funds are used to run and manage the daily operations at the refinery,

j) The fuel prices are high as a result of the Government compelling the Oil Marketing Companies to purchase the refined oil at KPRL,

k) The KPLR has employed around 250 workers at the facility,

l) The facility makes no economic sense to the Government in its present state,

m) The Government might be sued due to the high percentage of sulphure emission,

n) Inefficiency of KPRL has led to Uganda putting up a refinery with the intention of targeting the oil deposit in the region and especially South Sudan;- and

o) The standard Chartered Bank has a US$ 350 million financing deal with KPRL.

Recommendations

a) The KPRL should be converted from a refinery to a storage facility and the oil marketers should be allowed to import cheaper refined oil that is environmentally friendly,

b) Kenya Pipeline Company (KPC) to manage the storage facility and the use it as a national reserve for oil products,

c) The Ministry of Energy and Petroleum to negotiate with the oil marketers to absorb the employees of KPRL,

d) The Government should strategies on the discoveries of oil deposit in the East Africa Region and expedite the building of a modern refinery at the Lamu Port as envisioned in the LAPSSET project under vision 2030,

e) The Government should urgently take Essar to task on its failure to upgrade the facility as per the agreement,

f) The Government should be very cautious on investing its resources to support the setting up of a refinery in a landlocked Country/City and

g) The share holding between the Government and Essar be reviewed to ensure that the Government has a higher stake at the refinery than Essar

The Report was tabled on 27th February 2014 and adopted on 19th March 2014.

5.5 Kenya Pipeline Company (KPC) - Mombasa County;

Findings

a) Aged Pipeline:-The Mombasa – Nairobi pipeline is 35 years old and requires a lot of rehabilitation works while some equipment have become obsolete and damaged due to wear and tear,

b) Unreliable Power Supply:-This is reflected in the power outages, frequent over- voltage and under-voltage as recorded in KPC pump stations,

c) Unreliable Communication Infrastructure:-The Company relies on third party communication network. When communication is not available, the operation of the pipeline is slowed since the Nairobi Control Centre cannot be able to see various variables such as pressure and flow rates,

d) Reliance on Single Jetty for Imports:-Kipevu Oil Terminal (KOT) handles over 99% of the country's imports. Reliance on a single jetty for offloading exposes the country to supply disruptions in case of a catastrophe,

e) Slow Evacuation of Products at Nairobi:-The product transfers from the KPC Nairobi Terminal to the OMCs' depots are currently at an average of 5,000m^3 per day based on requests by the Oil Marketers against handling capacity of approximately 11,000m^3 per day. This leads to clogging of the pipeline system and Ullage constraints at KOSF and Nairobi Terminal,

f) Customs Clearance:- Customs clearance processes slows down evacuation of products from KPC system leading to congestion of trucks in the depots resulting in safety and security threats,

g) High demurrage costs,

h) Product Transfer Operations:-There is a single source of JET A-1 from KPRL supply to Moi International Airport and the inflexibility in scheduling of transfers of PMS and DPK grades from KOSF to OMC's Terminals in Mombasa through KPRL and

i) Safety and Security:-There is concern due to encroachment of pipeline Right of Way (ROW) and terrorism threats and vandalism of Pipeline facilities.

Recommendations

a) The Government to replace the aged Mombasa – Nairobi pipeline that is 35 years old with a new pipeline,

b) GoK to support KPC's endeavors to source external funds (loan) for development of all major oil pipeline infrastructures,

c) Enforce the ban of trucking of transit fuel products from Mombasa to save road infrastructure and increase utilization of KPC facilities,

d) Assist KPC to implement the take of hydrant and loading operations at JKIA and MIA to enhance controls and reduce risks,

e) GoK to support KPC's efforts to find a long term solution to power outages and may consider other alternative sources of energy such as coal, LNG etc,

f) To enhance assistance to KPC in delineation and securing of company Right Of Way (ROW) and facilities against terrorism threats, encroachment and vandalism. Probably, there is need to establish a Kenya Pipeline Police Unit just like KPA and KRA.

g) GoK to defer the privatization process of KPC to allow the Company to concentrate on its infrastructural development to enhance its net worth and strategic position in the Oil industry,

h) GoK to support KPC to effectively participate in the Regional and Local Pipeline infrastructural development e.g. LAPPSET, Sinendet-Kisumu, Nakuru, Isiolo etc,

i) GoK/Treasury to assist in efforts to engage KRA in de-bonding KPC facilities to handle only duty paid materials and improving on the their IT systems,

j) To consider transferring the ownership of KOSF to KPC and discontinue the rental payments which stands at Khs. 384,000,000.00 per annum,

k) To assist in reducing the large number of OMCs in the long term (79 No. with 55 active) by raising the entry bar to enhance efficiency,

l) Gok needs to strictly enforce regulations for Oil Marketing Companies to keep and maintain adequate fuel stocks that lasts at least for twenty one (21) days at any given time.

m) Kenya Ports Authority (KPA) to relocate the jetty and enhance it to be able to receive four vessels at a time and KPC to invest in the construction of the offshore jetty,

n) KPC to continuously engage OMCs to enhance utilization of their Terminals in Nairobi to enhance evacuation and evaluate investing in a common user facility within the environs of Nairobi to provide off-take and a level playing field to all OMCs,

o) KPC to install the Integrated Security System in all its installation and enhance security surveillances including the Right Of Way (ROW),

p) KPC to ensure and guarantee the safety of its products by transporting them through the pipeline, or railway as opposed to trucks that are overloaded and prone to accidents,

q) The Committee to propose legislations to expand and extend the pipeline network to enhance efficiency and discourage transportation of petroleum products by road,

r) KPC to establish fuel deports in major towns in the Country and at all border points to ease transportation of fuel and save on accidents and infrastructure,

s) The government to guarantee the state corporations to issue bonds to assist in capitalizing their projects instead of relying on the ex-chequer and

t) KPC to be facilitated to have their own communication channels to enable them to manage their activities more effectively.

The Report was tabled on 27th February 2014 and adopted on 19th March 2014.

CHAPTER SIX: FOREIGN VISIT/STUDY TOURS

6.1 South Korea – 15th - 23rd June 2014

The Government of the Republic of Korea extended an invitation to Kenya's Ministry of Energy and the Kenya Nuclear Electricity Board for a fifteen member delegation to visit South Korea between 15th and 23rd June 2013. In this regard, the Chirman Sen. Gideon K. Moi, and Sen. Otieno Kajwang' were nominated to represent the Senate in South Korea.

Objectives of the Visit

a) To learn lessons from the Korean model of utilizing nuclear power for Industrial and Economic Development,

b) To expose the Kenyan policymakers to the opportunities nuclear technology offers for the country's future prosperity,

c) To explore the avenues available for bilateral cooperation with Korea;- and

d) To enhance the understanding of Kenyan policymakers of the fundamental aspects of a nuclear power programme, especially the importance of public/stakeholder engagement during all phases of a nuclear power programme.

Recommendations

a) Kenya Nuclear Electricity Board (KNEB) to undertake public education on nuclear energy,

b) Kenya should seek technical support from Korea in;-

i) Capacity building for Kenya's nuclear power programme in Human Resource Development,

ii) Institutional set up required for the management of Kenya's nuclear power programme,

iii) Grid analysis to determine the status of existing grid *vis-à-vis* requirement for grid compatibility for the nuclear power plant,

iv) Site analysis to evaluate and identify potential sites for Kenya's nuclear power plants,

c) Kenya and Korea should enter into a bilateral agreement on nuclear energy cooperation so as to solidify the linkages between the two countries and serve to give impetus to Kenya's nuclear power programme.

d) Memorandum of Understanding (MoUs) between key institutions and the two governments should be expedited so that Kenya can fully tap into the vast reservoir of knowledge Korea possesses in this field,

e) Legislation be enacted necessary for Kenya's nuclear electricity programme and

f) The Government should sponsor more students to learn more about nuclear science and support the Nuclear science and technology institutions in the Country.

The Report was tabled and adopted on 22nd October 2013.

6.2 New Zealand, Australia and Dubai - 20th Feb – 4th March 2014

The Committee visited the Geothermal Power Plants in New Zealand, Coal Plants in Australia and the Port of Dubai in United Arab Emirates to learn more about the alternative sources of Energy and operations of the free port. The report on the same is ready for presentation to the Senate.

CHAPTER SEVEN: POLICIES AND LEGISLATIONS.

7.1 Draft Roads Policy and Draft Roads Bill 2014.

The Roads Policy and Kenya Roads Bill 2014 have been prepared and will be presented to the Cabinet within the Month of March 2014. The Roads Policy document and the Kenya Roads Bill 2014 will thereafter be presented to the Committee for consideration.

7.2 Draft Energy Policy and Draft Energy Bill 2014.

a) The Committee had a consultative meeting with the Ministry of Energy and Petroleumto consider the draft Energy Policy and Energy Bill 2014 in February and March 2014.

b) The Committee and all the key stakeholders in the Energy Sector were also invited to the National validation workshop on the Draft Energy Policy and Bill 2014 on Friday 14th March 2014.

c) The Ministry is in the process of engaging and consulting with all the keystakeholders in the Energy sector, the Commission on the Implementation of the Constitution (CIC) and will present a Cabinet Memorundum to the Cabinet in April 2014 and

d) The Draft Bill is expected to be tabled before Parliament in May 2014 and enactment of the same is expected by June 2014.

CHAPTER EIGHT: PETITIONS

The Committee considered the following Petitions during the year under review;-

i) Petition presented by Sen. David Musila on behalf of Mr. Joseph Kalinga, a resident of Kitui County to inquire into the matter of upgrading and tarmacking of the Kibwezi-Kitui-Mwingi Road (B7) and

ii) Petition presented by Sen. Peter Mositet on behalf of Mr. Jackson Muchira Mbui, Managing Director of Tata Chemicals Magada to inquire into the matter of maintenance of Magadi Road.

Report on the Petition

a) The Report on the Petition to inquire into the matter of upgrading and tarmacking of the Kibwezi-Kitui-Mwingi Road was presented to the Senate on December 5th 2013 as stipulated under Sdtanding Order 224 (2).

b) The Report on the Petition to inquire into the matter of maintenance of Magadi Road is ready for consideration by the Committee before it is presented to the Senate.

CHAPTER NINE: COMMITTEE MEETINGS

The Committee had a total of thirty four (34) meetings and deliberated on the following key issues;-

a) House Keeping Matters,
b) Budget
c) Stakeholders Meeting,
d) County Inspection Tours
e) Committee Reports
f) Policies and Legislations
g) Petitions
h) Ministerial Statements

CHAPTER TEN: MINISTERIAL STATEMENTS

The Committee considered and responded to the following eighteen (18) Ministerial Statements.

a) Status of the Siakiriga –Matunguu-Meru town Road,

b)Tarmacking of Kapenguria-Kibichbich-Kapsait-Kapsangar-Iten road,

c) Bitumization of the Maseno-Akado-Asembo Bay Road,

d) Demolition of residential buildings & other structures in Lang'ata Estate,

e) Construction of the Sagana-Kutus-Kerugoya-Karatina town Road (C74),

f) Allocation of Oil blocks to Nigerians,

g) Construction of Makutano-Kikima-Tawa Road,

h) Construction projects that have stalled following the introduction of devolution,

i) Upgrading of Machakos-Kangundo Road to bitumen Standards,

j) Stand-off between Tullow Oil Company and residents of Turkana County,

k)Rehabilitation of Isinya-Ngong Road, (D 523),

l) Management of Turkwel Power Plant,

m) Re-carpeting of Narok Road,

n) Power blackout in Garissa Town,

o) Status of Molo-Olenguruone Road,

p) Construction and maintenance of Sea Walls and Jetties*,

q) Power Blackout in Rhamu, Mandera North* and

r) Administrative and Governance issues at the GDC*

CHAPTER E LEVEN: CHALLENGES

During the year under review the Committee encountered the following challenges;-

a) Attitude Change

Owing to longstanding governance structures and public service practices propped by the previous Constitution, many individuals both in government and amongst the citizenry continue to hold a certain conservative mindset towards reform,

b) Mandate of Committees

The apparent overlaps and cross cutting functions of different Committees of the Senate and the National Assembly presents a challenge and misunderstanding on the mandate of the Committees of the Senate and the National Assembly.

c) Ministerial Statements

In pure Presidential system there is a clear separation of powers between the Legislature and the Executive. The current scenario compels the chairpersons of Committees to respond to Ministerial Statements on behalf of the Cabinet Secretaries.

The primary site for scrutiny of the executive is at the parliamentary committees, not, as before the parliamentary questions asked in plenary sessions.

d) Internal Capacities of Committees:

Parliamentary committees suffer from inadequate staffing levels. Though the Parliamentary Service Commission has been implementing reforms to strengthen the research and analysis capabilities of parliamentary committees, staffing levels remain low.

e) Infrastructure of Committees:

The physical infrastructure available to committees has had a constraining effect on Committee work. Committees have to share the few committee rooms available. The creation of additional Committees will put more pressure and strain on the physical infrastructure.

f) Time Available for Consideration of Matters Undermines Quality:

The number of legislative and policy measures that committees have to address is immense, reducing the amount of time available for doing so effectively. There is, therefore, inadequate scrutiny of bills and policy proposals going before committees. Consequently, their quality cannot always be assured. Shortage of time impairs the ability of committees to effectively engage the public.

g) Support and Cooperation of Government Agencies:

One factor that has undermined the performance of parliamentary committees has been lack of support from the government. Now, more than before, Parliament will rely heavily on the co-operation of government agencies if it is to play its rightful role.

CHAPTER TWELVE: CONCLUSSION

The complexity and variety of issues that face modern legislatures and the demand on the time of legislators, call for specialization and division of labour in legislative bodies. One of the most important mechanisms, recognized by both the Constitution and Standing Orders in Kenya is the Committee System.

Legislatures majorly depend on Committees to conduct their business and the ability of any democratic legislature especially in presidential systems of government to free itself from the overbearing posture and subtle control by the executive branch depends on the roles that the Committees play.

It is therefore imperative that the Committees of the Senate are natured, supported and encouraged to do their work in the most conducive environment and that the reports and recommendations that are adopted by the Senate are implemented.