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TENTH PARLIAMENT – FOURTH SESSION

REPORT OF JOINT COMMITTEES
ON THE SESSIONAL PAPERS NO. 1, 2 AND 3 OF 2011

By

Departmental Committee on Finance, Planning & Trade
and Departmental Committee on Energy, Communications & Information

(As directed by the House on August, 3, 2011)

Clerks Chambers,
Parliament Buildings,
NAIROBI.

August, 2011

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PREFACE

Mr. Speaker,

On Wednesday, 27th July, 2011, the Deputy Prime Minister and Minister for Finance Hon. Uhuru Kenyatta tabled the following three Sessional Papers in the House:-

- i. Sessional Paper No. 1 of 2011 on Kenya Government guarantee of a loan of EUR 39,100,000.00 equivalent to Ksh, 4,926,600,000.00 from the KFW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant;
- ii. Sessional Paper No. 2 of 2011 on Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KFW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant;
- iii. Sessional Paper No. 2 of 2011 Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

On Wednesday, 3rd August, 2011, the Speaker directed that the three (3) Sessional Papers be referred to the joint Committee of the House between the Departmental Committee on Energy, Communications and Information and the Departmental Committee on Finance, Planning and Trade which will endeavour to file a joint report.

Pursuant to the directive, the joint Committee held seven joint sittings to examine the matter.

Mr. Speaker,

The Departmental Committee on Energy, Communication and Information is established under Standing Order 198 and is mandated to consider:-

- Development, production, maintenance and regulation of Energy.
- Communication.
- Information.
- Broadcasting, and
- Information Communications Technology (ICT) development.

The Departmental Committee on Finance, Planning and Trade is established under Standing Order 198 and mandated to consider;-

- Public finance
- Banking
- Insurance
- Population planning
- National development
- Trade
- Tourism promotion and
- Management, commerce and industry

The Departmental Committees executes their mandate in accordance with the provisions of Standing Order 198 (3), which is –

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

Mr. Speaker,

The membership of the Joint Committees was as follows:-

- i. The Hon. (Eng.) James Rege, M.P - Co-Chairperson
- ii. The Hon. Chrysanthus Okemo, M.P - Co- Chairperson
- iii. The Hon. Maina Kamau, M.P
- iv. The Hon. Danson Mwazo Mwakulegwa, M.P
- v. The Hon. (Eng.) Nicholas Gumbo, M.P
- vi. The Hon. Edwin O. Yinda, M.P
- vii. The Hon. Emilio Kathuri, M.P

- viii. The Hon. Ekwere Ethuro, M.P
- ix. The Hon. Joshua Kutuny, M.P
- x. The Hon. Adan Keynan, M.P
- xi. The Hon. (Prof) Phillip Kaloki, M.P
- xii. The Hon Cyprian Omolo, M.P
- xiii. The Hon. Jakoyo Midiwo, M.P
- xiv. The Hon. Musikari Kombo, M.P
- xv. The Hon. Lucas Chepkitony, M.P
- xvi. The Hon. Lenny Kivuti, M.P
- xvii. The Hon. Nelson Gaichuhie, M.P
- xviii. The Hon. Ntortha M'Mithirau, M.P
- xix. The Hon. Ahmed Shabbir, M.P
- xx. The Hon. Nkoidila Ole Lankas, M.P
- xxi. The Hon. Sammy Mwaita, M.P

Mr. Speaker,

The joint Committee held a meeting with the Minister for Energy and the Managing Director of KenGen Ltd to discuss the Sessional Papers No. 1, 2 and 3 of 2011 whose findings are contained in this report.

The joint Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

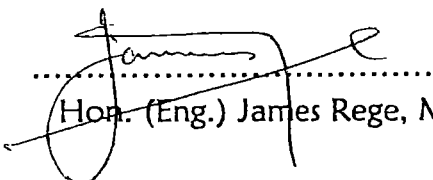
Mr. Speaker,

It is our pleasant duty, on behalf of the joint Committee to present this report to the House for adoption.

Signed:


Hon. Chrysanthus Okemo, MP, (Co-Chairperson)

Signed:


Hon. (Eng.) James Rege, MP, (Co-Chairperson)

Date:

August 25, 11

INTRODUCTION

1. On Wednesday, 27th July, 2011, the Deputy Prime Minister and Minister for Finance Hon. Uhuru Kenyatta tabled in the House the following three (3) documents:-
 - i. Sessional Paper No. 1 of 2011 on Kenya Government guarantee of a loan of EUR 39,100,000.00 equivalent to Ksh, 4,926,600,000.00 from the KFW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant;
 - ii. Sessional Paper No. 2 of 2011 on Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KFW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant;
 - iii. Sessional Paper No. 2 of 2011 Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.
2. On Wednesday, 3rd August, 2011, the Hon. Speaker directed that the three (3) Sessional Papers be referred to the joint Committee of the House between the Departmental Committee on Energy, Communications and Information and the Departmental Committee on Finance, Planning and Trade which will endeavour to file a joint report.
3. Pursuant to the directive, the Departmental Committee on Energy Communication and Information, jointly with the Departmental Committee on Finance, Planning and Trade Committees held meetings to examine the matter.

Meetings of the Committee

4. The Committee held a total of Seven meetings, the first one being on August 9th , 2011, wherein the joint Committees identified the following as issues to ask the Minister for Energy together with the Managing Director (M.D) of KenGen Ltd:-
 - i) Why KenGen has failed to pay the loan of Kshs 34 million which KenGen inherited from its predecessor Kenya Power Company, given that the last payment was made on 30th June 1997.
 - ii) The total loan portfolio of KenGen and any loan guaranteed by NIC Bank or Indian Company.

- iii) The shareholding of KenGen and the contribution of the private shareholders to the loan guarantee- *the Minister to provide the share certificate.*
- iv) The cash flow projections of KenGen indicating the Company's capability to service the loans.
- v) Explanation on the utilization of the proceeds from the Kshs 25 billion Infrastructure Bond, its repayment schedule and overall impact on KenGen Debts.
- vi) The total cost of each of the projects, other financiers and the breakdown on how the funds will be utilized.
- vii) The legal status of Geothermal Development Corporation (GDC) and the possibility of establishing GDC by an Act of Parliament as a state corporation with specific mandate to generate geothermal power.
- viii) The possibility of having the wells that were drilled by GDC through Grate Wall drilling Company of China handed over to GDC as opposed to handing them over to KenGen. In addition, handling of all geothermal exploration by GDC including Olkaria blocks which belong to the Government.

5. Thereafter, the joint Committee held a meeting with the Minister and the M.D on August 10, 2011. The Committee met on August 11th and analysed the evidence of the Minister, the M.D and additional information and compiled their report. The report was adopted at the Committee's meeting of August 25th, 2011.

BACKGROUND INFORMATION

- 6. Government guaranteed loans refer to the debt owed by the country's public entities to both foreign and local creditors, but are guaranteed by the Central Government. The debts may be denominated in domestic or foreign currency and are charged to the Consolidated Funds Services (CFS). The Guarantee (Loans) Act, Cap 461 provides the legal framework for issuance of Government loan guarantees to public entities.
- 7. The Guarantee (Loans) Act Cap 461 gives the Government the power to guarantee loans for a local authority or body corporate but with the prior approval of the National

Assembly. The Act mandates the Minister for Finance to prepare a Sessional paper and lay it before the House specifying;

- i) The covenant the due performance which is to be guaranteed
- ii) Where the covenant is for repayment of the loan- the amount of the loan, terms and conditions as to interest and repayment in respect of the loan, the Government's total contingent liability and any other information.

8. If approved by the National Assembly, the Government has the powers to guarantee the repayment of the principal loan and interest incurred. Under Section 3B the National Assembly, may by a resolution increase the limit of any contingent liability specified in the Act. On 12th July, 1993 the total contingent liability was increased to US\$ 1 billion (Ksh 80 billion) and at the time of the amendment, the guaranteed debt stood at US\$ 992 million (Ksh. 57.5 billion) with the dollar exchange rate at Ksh. 58.
9. The debt ceiling was further raised on 16th June, 2011, when the House approved a motion to increase the total contingent liability of the Government outstanding in respect of principal amount of money from US\$ 1 billion (Ksh. 80billion) to US\$ 2.5billion (Ksh. 200 billion). As at May 2011, the guaranteed debts disbursed and outstanding on contractual basis stood at US\$874 million, equivalent to Ksh 75 billion.

Overall Government Guarantees

10. As at 31st May, 2011 guaranteed debts and outstanding amounts on contractual basis stood at US\$874 million equivalent to Ksh 75 billion. This include, outstanding guarantees to:-
 - i) Government of Japan - Ksh 70,438,000,000 million
 - ii) United States - US\$3 million (Ksh 291 million)
 - iii) Canada - US\$ 4million (Ksh 394 million)
 - iv) World Bank - US\$ 45 million (Ksh 3.856 billion)
11. The Government is still paying debts owed by 15 parastatals that have defaulted in repayment of their loans including Kenya Power (now KenGen). Kenya Power Company a predecessor of KenGen. The Government has paid a total loan of Ksh2, 643,851,171.60 on behalf of KenGen. The principal amount was Ksh. 1,487,367,793 and an accrued interest of Ksh. 1,156,483,377.70. The outstanding loan has been repaid to the Government and the outstanding balance is Ksh 34million. The last payment was however made in 1997.

KENGEN LOAN GUARANTEES

12. Before 1998, KPLC was charged with generation, transmission and distribution of electricity in Kenya. The Electric Power Act of 1997 saw the separation of generation from transmission and distribution functions therefore KenGen was established and mandated with power generation while KPLC was mandated with distribution of power to the consumers. KenGen was fully Government of Kenya (GOK) owned until May 2006 when the government off-loaded 30% of its stake in the company through an Initial Public Offering (IPO) which attracted a historic 236% oversubscription. Through a Public Infrastructural Bond Offer (PIBO) in 2008, the company raised Ksh 25 billion.
13. KenGen has an installed capacity of 1,056 MW which is 75% of the National capacity and utilizes various primary sources of energy to generate electricity which are:-
 - Hydro- 761.28MW installed capacity (72.05%)
 - Geothermal 150MW (14.20%)
 - Thermal 139.83MW (13.23%)
 - Wind 5.45 MW (0.52%)
14. KenGen operates in a liberalized market and competes with five independent power producers with an installed capacity of 344.5MW which is 25% of the National installed capacity. The IPP generation comprises of:-
 - Fuel thermal - 270 MW
 - Geothermal - 48MW
 - Bagasse - 26MW
15. The total installed capacity of the country is about 1400 MW against a peak demand of about 1302 MW. The Least Cost Power Development Plan (LCPDP) envisions that Kenya's electricity peak demand will increase from 1,302 MW in 2011 to 15,026 MW by 2030 in line with the Vision 2030 which envisages energy as a key enabler for economic growth across the country. Accordingly, through the Rural Electrification Master Plan, the Government seeks to have 100% connectivity across the country through grid extensions and off-grid systems.
16. The least cost plan To meet the increased electricity demand due to the enhanced economic activities various generation sources have been considered, targeting 5,040 MW from geothermal, 900 MW from hydro, 1,500 MW from wind, 2,340 MW from LNG, 2,400 MW from coal, 1,400 MW from diesel, 4,000MW from nuclear and

2,000MW from imports. The investments required for generation, transmission and distribution to meet this demand are enormous.

Energy generation as envisioned by the Vision 2030

17. The Vision 2030 is the Government's roadmap that aims to transform Kenya to a middle income country by 2030. Energy is one of the infrastructural enablers of the economic, social and political pillars. Development projects recommended under *Vision 2030* will increase demand on Kenya's energy supply. Kenya must, therefore, generate more energy at a lower cost and increase efficiency in energy consumption. Under Vision 2030, the Government is committed to continued institutional reforms in the energy sector, including a strong regulatory framework, encouraging more private generators of power, and separating generation from distribution. New sources of energy will be found through exploitation of geothermal power, coal, renewable energy sources, and connecting Kenya to energy-surplus countries in the region. Kenya is targeting to develop 5000 MW of geothermal power by year 2030 as stipulated in Vision 2030.
18. On Wednesday July, 3rd, 2011 the Minister for Finance tabled three Sessional papers with regard to loan guarantees for KenGen.

I. Sessional Paper No.1 of 2011

Kenya Government guarantee of a loan of EUR 39,100,000.00 equivalent to Ksh, 4,926,600,000.00 from the Kfw Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant.

The loan has two components;

- i) An interest rate of 2.5% per annum for EUR 30million and 5.3% for EUR 9.1 million
 - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump-sum management fee of 0.75% of the principal amount of the loan.
- The loan has a three year moratorium and a repayment period of 10 years in 20 semi-annual installments.
 - KenGen is expected to augment the total project financing by about 31% (Ksh 1.932 billion).
 - The current total contingent liabilities of GOK in respect of guarantees under Cap 461 amount to Ksh 72.5 billion. Request for guarantee of Ksh 4.9 billion will increase the aggregate amount to Ksh 77.4 billion.

- The rehabilitation and upgrade is scheduled to be completed by June 2013. It will entail rehabilitation of the existing 40MW power station by raising its capacity to 48MW and installation of a new 24MW unit giving a total installed capacity of 72MW.

II. Sessional Paper No.2 of 2011

Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KfW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant.

The loan comprises of;

- An interest of 3.0% per annum.
- A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump sum management fee of 0.75% of the principal amount.

The loan has a 3.5 year moratorium and a repayment period of 8.5 years translating into 17 semi-annual installments.

KenGen is expected to augment the total financing by about 12% (Ksh. 12.2 billion). The current contractual contingent liabilities of GOK in respect of the guarantees amount to Ksh 77.4 billion. Request for 7.5 billion will increase the amount to Ksh 84.9 billion. The project aims to increase generation capacity of Olkaria I and IV to 280MW.

III. Sessional Paper No.3 of 2011

Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

The loan comprises of;

- An interest rate of 0.2% per annum
- A commitment fee of 0.1% per annum to be paid semi-annually on the total unused loan balance

The loan has a 10 year moratorium and a repayment period of 20 years while KenGen is expected to augment the total project financing by about 12%.

The current total contingent liabilities of the GOK under Cap 461 amount to Ksh 84.9 billion. Request for Ksh 33.3 billion will increase the aggregate amount to Ksh 118.2

billion. The implementation of the project will contribute an additional 140MW to the national grid.

Kindaruma Power Station

19. The seven forks hydro stations comprises of Masinga, Kamburu, Gitaru, Kindaruma and Kiambere power dams.

i) Masinga Power Station	- 2x20 MW	= 40MW
ii) Kamburu power station	- 3x 31.4 MW	= 94.2MW
iii) Gitaru power station	- (2x72.5MW) + (1x80.25MW)	= 225 MW
iv) Kindaruma Power Station	- 2x20MW	= 40 MW
v) Kiambere Power Station	- 2x 84 MW	= 168 MW

20. Kindaruma power station was commissioned in 1968 and currently has 2 units with an installed capacity of 40MW each at 20MW. The sessional paper No.1 aims to upgrade the 2 units to 48MW and install a third unit with a capacity of 24MW to increase the total capacity to 72MW. The Committee on Energy, Communications and Information on Friday August 5th, 2011 made an inspection visit of the Seven forks cascade and was able to ascertain that indeed there were upgrading works at the Kindaruma power station where a third unit was being installed.

Olkaria I and IV Power Plants

21. Olkaria I Power Station was the first geothermal power plant in Africa. The 45 MW plant was commissioned in three phases and has three units each generating 15MW of electricity. Olkaria II has 105MW while Independent Power Producers (IPPs) generate 52 MW at Olkaria West.
22. KenGen is embarking on a project and further plans to install 4 units each of 70 MW (total of 280 MW) at Olkaria I and IV. Units four and five will be installed at Olkaria I each with 70 MW while Olkaria IV will be installed with Units one and two each with 70 MW therefore giving a total of 280 MW.

SUMMARY OF THE EVIDENCE AS PRESENTED BY THE MINISTER FOR ENERGY AND MANAGING DIRECTOR OF KENGEN

23. On Wednesday, 10th 2011 the joint Committees met with the Minister for Energy and the KenGen Managing Director to deliberate on the three Session papers.

Olkaria I and IV 280 Mw Project Status

24. The project which is expected to be completed by June 2013 will require a total amount of 1,187 USD (Ksh 112,765,000,000). KenGen had already signed loan guarantees with Japan International CA, AFD, EIB and KfW. A summary is provided herebelow;

Loans Currency	Loan amount	Currency	Exchange Rate to the USD	Equivalent in USD m
JICA	29,516.00	Yen	0.010943	323
AFD	150.00	EURO	1.4	210
EIB	119.00	EURO	1.4	166.6
KfW	60.00	EURO	1.4	84

25. The scope of the project is;
- i) Supply and installation of steam gathering and distribution systems; (financed by KfW and IDA)
 - ii) Construction of access roads and local infrastructure;
 - iii) Technical advisory services including a panel of geothermal experts to provide technical review;
 - iv) Design and supervision engineering services (financed by KfW and IDA)
 - v) Expansion of the existing power plant at Olkaria I;
 - vi) Construction of new power plant at Olkaria IV;
 - vii) Construction of switchyards and transmission lines for connection to the grid; and
 - viii) Acquisition of land and way leaves for construction of Olkaria IV power plant.
26. The cost of electricity from the 280MW geothermal power plant is estimated at Ksh. 4.50 per kWh on completion in 2013.

KINDARUMA 3RD UNIT AND UPGRADE OF UNITS 1 AND 2

27. Kindaruma power plant was commissioned in 1968 and has two units each of 20 MW but had a provision for a 3rd unit. KenGen is installing the 3rd unit with a capacity of 24 MW and upgrading the other two units from 20 MW to 24 MW. Implementation is being done through two contracts namely the electro-mechanical awarded to Andritz Hydro of Austria and civil works awarded to Farab of Iran.

28. Work commenced in March 2010. The 3rd unit will be commissioned in June 2012 while the upgraded units 1 and 2 will be commissioned in December 2012 and June 2013 respectively. The estimated tariff for Kindaruma additional capacity is UScts 7/kWh. The total project cost is Ksh. 7.4 billion comprising;
- i) Electro-mechanical Euro 45 Milion + Shs 177 million amounting to Ksh 6.2 billion
 - ii) Civil works – Ksh 737 million
 - iii) Consultancy GBP 2.6 million – Ksh 395 million
 - iv) KenGen Management - Ksh 60 million
29. The cost of power from the new Kindaruma plant will be Ksh. 4.00 kWh.

KenGen's Cash Flows and Loan Portfolio

30. The Members main concern was that the proof that KenGen would be able to service the requested loan guarantees as well as their outstanding obligations. The Committee was informed that the company's total loan portfolio including interest and factoring the exchange rates amounts to Ksh 69, 639,380,412 while financing of upcoming projects including the requested loan guarantees for Kindaruma and Olkaria I&IV amounts to Ksh. 93, 501, 912, 110.
31. The outstanding Government guarantees to KenGen amounting to Ksh. 29,320,300,871 are;
- i) Kipevu 75 MW from JICA at Ksh 6,991,476,256
 - ii) Sondu Miriu from JICA at Ksh. 6,353, 528, 928
 - iii) Sondu Miriu from JICA at Ksh. 12,392,137,410
 - iv) Sangoro Power Plant from JICA at Ksh 3,583,158,277
32. The MD, KenGen informed the Committee that the capitalization of KenGen was Ksh 60 billion while the income before tax was about Ksh. 13 billion. The MD went on to explain that the Power Purchase Agreements (PPAs) signed with the Kenya Power and Lighting Company (KPLC) recognized debts and therefore provided security in terms of debt repayment therefore this was proof that KenGen will be able to meet its debts.
33. The MD further assured the Committee that KenGen had not defaulted on any loan and did not intend to do so. The Ksh 34 million outstanding debt currently owed by KenGen had been inherited from Kenya Power Company (KPC) the predecessor of KenGen and according to the MD, it was previously thought that KPLC would service the loans and

until recently when the issue arose in Parliament was KenGen informed that they were expected to pay the loan. The MD assured the Members that the Ksh. 34 million outstanding loan would be immediately cleared by KenGen.

KenGen shareholding

34. The MD KenGen, informed the joint Committee that the Government was the majority shareholder of KenGen owning 70% of the shares. He provided the share structure as follows;

Shareholder	No. of Shares	%
1. Permanent Secretary, Treasury	1,538,853,019	70.00
2. National Social Security Fund	28,927,829	1.32
3. Standard Chartered Nominees Limited A/C 9230	10,175,300	0.46
4. Standard Chartered Nominees Limited A/C 9098	8,194,631	0.28
5. CFC Stanbic Nominees Limited	6,185,131	0.28
6. Standard Chartered Nominees Limited A/C 1853	5,046,204	0.23
8. Jubilee Insurance Company of Kenya Limited	4,571,600	0.21
9. Kensington Developers Limited	4,148,427	0.19
10. Standard Chartered Nominees Limited A/C 9187	4,052,002	0.18
Sub-total	1,614,533,874	73.44
203,955 other shareholders	583,827,582	26.56
Total	2,198,361,456	100

Ownership of Geothermal resources in Kenya

35. The Committee was informed that GDC was formed to accelerate and to facilitate reduction of costs in the production of geothermal resources in Kenya and the Company is succeeding in its mandate. Regarding the legal status of GDC, the Committee was informed that it is a 100% state owned Corporation established under Cap 446 of the Laws of Kenya.
36. In view of the fact that GDC was a 100% state owned Corporation mandated with geothermal development, the Committee sought to understand why the Minister had not handed over the 21 wells at Ol Karia I & IV drilled by GDC which had contracted Great wall drilling Company of China to drill 10 wells. The Minister informed the Committee that he had allocated KenGen the entire Ol Karia block before the

establishment of GDC and that all other geothermal sites including Silali, Menengai, Paka and others were allocated to GDC.

FURTHER EVIDENCE BY THE MINISTER FOR ENERGY AND MANAGING DIRECTOR OF KENGEN

37. Arising from the evidence submitted by the Minister for Energy and the M.D of KenGen, the joint Committee requested the Minister and the Management of KenGen to furnish the Committee with documents and additional information with respect to:-
- a. Present a Share Register containing all the shareholders of KenGen (*to be returned after scrutiny by the Joint Committee*);
 - b. Submit to the Committee the Latest audited accounts of KenGen;
 - c. What are the terms of the lenders to KenGen and what type of securities do they require;
 - d. What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
 - e. Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
 - f. Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;
 - g. Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery;
 - h. What was the justification of paying US \$ 4 million to Green Energy Group Inc.

Responses by the Minister for Energy and Management of KenGen:

38. The Minister for Energy together with the management of KenGen further appeared before the joint Committee on 17th August, 2011 and the following was their response to the above questions as posed by the Committee:
- KenGen has not offered to any of the lenders who have financed the projects which are subject to these Sessional Papers. Furthermore, the Power Purchase Agreement has not been offered as collateral.
 - With respect to the assumptions underlying the projections in cash flow statements submitted to the joint Committee, they are derived from a

financial model which KenGen developed with the assistance of our financiers (KfW). The model has the following assumptions:

- 15% return on equity
- 6% inflation rate p.a
- Capital investment will be recovered over a period of 25 year for Olkaria (Geothermal) and over 50 years for Kindaruma (Hydro)
- The operational cost are based on those of existing plant (Hydro and Geothermal for Kindaruma and Olkaria respectively)
- It is also assumed that Kindaruma will produce 32 additional MW and Olkaria I & IV 280 MW.

- With respect to the names of the nominee in the top ten shareholders of KenGen, right now we don't have the information but we will obtain it from the respective banks and avail it to the Committee. We believe that the banks will not object to the disclosure.
- In event KenGen defaults in servicing the guaranteed loan, the law (the Energy Act) is very clear that the Minister will step in and take over and operate or off-load the assets of the defaulting company and in this case the Government of Kenya (through the Minister for energy) will step in and take over KenGen and continue running KenGen until it honours its contractual obligation. The law also safeguards the government from objection or interference from the other 30% share holders of KenGen.
- The question of dilution of GOK shareholding in KenGen in order to utilize the proceeds raised in funding the proposed project cannot arise given that it is not in the government policy to dilute the government shareholding in KenGen.
- Right now it is not proper for the government to offload its shareholding in KenGen since this will push the value of the dollar higher.
- With respect to the tender for the 14 additional well-heads that were awarded to the Norwegian company , Green Energy Group Inc, we response as follows:-
 - We refer the Committee to tender report submitted as **appendix A** and the advertisement contained therein. The tender report contains the names of the eleven (11) firms that participated in the

tendering process out of which three firms were shortlisted and after evaluation the tender was awarded to Green Energy Group AS.

- With respect to the faulty Well Head, it was a condition precedent for the tender that the winning company was to provide one Well Head unit for pilot purposes and that the unit was to work satisfactory for 18 months, and once it had satisfactorily worked it was only then when the 14 units could be tendered for. This Well Head was a prototype.
- KenGen paid USD 3.499 Million for the prototype which was equivalent to 50% and this amount was paid since the company was shipping in equipment.
- The terms of the contract provided that KenGen would pay 50% of the total price i.e USD 4.124m in the following criteria:-
 - a. US\$ 1m payable after receipt of GEG bank guarantee of US\$1m from a bank acceptable to KenGen;
 - b. US\$ 2.5m payable against shipping documents;
 - c. US\$ 0.625M payable after the First Acceptance Test.
- KenGen would pay the remaining 50% after Second Acceptance Test that the unit runs for 18 months
- KenGen were dealing with a Norwegian company, and we refer the Committee to appendix F. The Company has an outlet in Iceland and branch in India.
- KenGen engineers visited the Company in India in the process of manufacturing.
- Technical due diligence was done by a risk Company from Norway called Det Norske Veritas and we don't know whether it is affiliated to Green Energy Group Inc.
- The Wellhead is a temporary unit but our plan is to build a power plant. The Wellheads are single mobile units which will be mobile pending completion of Olkaria IV.
- If the new unit were to fail, the purchaser will be at liberty to declare non-compliance.
- We saw the Unit rotating in the factory but we had never seen it operational on the ground.

➤ The donors do a risk analysis for the project before funding.

COMMITTEE OBSERVATIONS

39. In its observations, the joint Committee notes the following:-
- a. The joint Committee notes that currently the country has a negative power generation margin and therefore there is need for more investments in the energy generation sub- sector.
 - b. The Committee further raised concerns about the possibility of the Government of Kenya offloading its shareholding in KenGen and concluded that it will closely monitor the privatization programme to ensure the GOK does not lose its controlling interest in KenGen.
 - c. The procurement for the supply, installation and commissioning of the Wellhead turbine generator by KenGen was not done satisfactorily and since the matter is still ongoing, the Departmental Committee on Energy, Communications and Information will engage fully with the Ministry of Energy on this subject.
 - d. All the twenty one (21) wells drilled at the Oikaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya should be transferred to GDC in consideration for the Kshs 3.7b paid by GOK to KenGen as indicated in the printed estimates for FY 2011/12

RECOMMENDATIONS

40. The Committee recommends that the House resolves:-
- (i) THAT, this House adopts Sessional Paper No. 1 of 2011, on the Kenya Government Guarantee of a loan of Eur 39, 100,000.00 equivalent to Kshs. 4,926,600,000.00 from the KfW, Frankfurt Am Main to the Kenya Electricity Generation Company for the rehabilitation and upgrade of the Kindaruma Hydro Power Plant laid on the Table of the House on Wednesday July 27, 2011.
 - (ii) THAT, this House adopts Sessional Paper No. 2 of 2011, on the Kenya Government Guarantee of a loan of Eur 60,000,000.00 equivalent to Kshs. 7,560,000,000.00 from the KfW, Frankfurt Am Main to the Kenya Electricity Generation Company for financing the 280mw Olkaria I and IV Geothermal Power Plant laid on the Table of the House on Wednesday July 27, 2011.
 - (iii) THAT, this House adopts Sessional Paper No. 3 of 2011, on the Kenya Government Guarantee of a loan of Japanese Yen 29, 516,000,000.00 equivalent to Kshs. 33,353,080,000.00 from the Japan International; Cooperation Agency (JICA) to the Kenya Electricity Generation Company for financing the Olkaria I unit Four and Five Geothermal Power Project laid on the Table of the House on Wednesday July 27, 2011.
 - (iv) THAT the Minister of Energy do expedite the transfer of ownership of all the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya to the Geothermal Development Company (GDC) a fully owned government company .

.....end.....

ANNEX I:

MINUTES OF THE JOINT COMMITTEES

MINUTES OF THE FIRST JOINT SITTING OF THE DC (F) ON FINANCE,
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &
INFORMATION HELD ON TUESDAY 9TH AUGUST 2011, IN COMMITTEE
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 4.00 P.M.

PRESENT

Hon. Chrysanthus Okemo, EGH, M.P. (Co-Chairman)

Hon. Eng. James Rege, CBS, M.P. (Co-Chairman)

Hon. Jakoyo Midiwo, MGH, M.P.

Hon. Ahmed Shakeel Shabbir, M.P.

Hon. Nelson Gaichuhie, M.P.

Hon. Sammy Mwaita, M.P.

Hon. Musikari Kombo, M.P.

Hon. Eng. Nicholas Gumbo, M.P.

Hon. Edwin Yinda, M.P.

Hon. Joseph Kutunyi, M.P.

Hon. Cyprian Omolo, M.P.

ABSENT WITH APOLOGY

Hon. (Prof.) Philip Kaloki, M.P.

Hon. Lucas Chepkitony, M.P.

Hon. Ntoitha M'Mithiaru, M.P.

Hon. Lenny Kivuti, M.P.

Hon. Nkoidila Ole Lankas, M.P.

Hon. Maina Kamau, M.P.

Hon. Emilio Kathuri, M.P.

Hon. Ekwee Ethuro, M.P.

Hon. Adan Keynan, M.P.

Danson Mwazo Mwakulegwa, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Florence Atenyo-Abonyo	-	First Clerk Assistant
Abdullahi Aden	-	Third Clerk Assistant
Jacob Ngwele	-	Third Clerk Assistant
Veronicah Kibati	-	Research Officer

MIN. NO. 1/2011

DELIBERATION ON THE SESSIONAL PAPERS

Committee Members deliberated on the following Sessional Papers which were tabled in the House and referred to the two Departmental Committees by the Speaker to scrutinize and report on the same to the House.

(a) Sessional Paper No.1 of 2011

Kenya Government guarantee of a loan of EUR 39,100,000.00 equivalent to Ksh, 4,926,600,000.00 from the KFW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant.

The Committee noted that:-

- The loan has two components;
 - i) An interest rate of 2.5% per annum for EUR 30million and 5.3% for EUR 9.1 million
 - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump-sum management fee of 0.75% of the principal amount of the loan. **7**

- The loan has a three year moratorium and a repayment period of 10 years in 20 semi-annual installments.
- Kengen is expected to augment the total project financing by about 31% (Ksh 1.932 billion).
- The current total contingent liabilities of GOK in respect of guarantees under Cap 461 amount to Ksh 72.5 billion. Request for guarantee of Ksh 4.9 billion will increase the aggregate amount to Ksh 77.4 billion.
- The rehabilitation and upgrade is scheduled to be completed by June 2013. It will entail rehabilitation of the existing 40MW power station by raising its capacity to 48MW and installation of a new 24MW unit giving a total installed capacity of 72MW.

(b) Sessional Paper No.2 of 2011

Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KFW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant.

The Committee noted that:-

- The loan comprises of;
 - i) An interest of 3.0% per annum.
 - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump

sum management fee of 0.75% of the principal amount.

- The loan has a 3.5 year moratorium and a repayment period of 8.5 years translating into 17 semi-annual installments.
- Kengen is expected to augment the total financing by about 12% (Ksh. 12.2 billion).
- The current contractual contingent liabilities of GOK in respect of the guarantees amount to Ksh 77.4 billion. Request for 7.5 billion will increase the amount to Ksh 84.9 billion.
- The project aims to increase generation capacity of Olkaria I and IV to 280MW.

(c) **Sessional Paper No.3 of 2011**

Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

The Committee noted that:-

- The loan comprises of;
 - i) An interest rate of 0.2% per annum
 - ii) A commitment fee of 0.1% per annum to be paid semi-annually on the total unused loan balance
- The loan has a 10 year moratorium and a repayment period of 20 years.

- Kengen is expected to augment the total project financing by about 12%.
- The current total contingent liabilities of the GOK under Cap 461 amount to Ksh 84.9 billion. Request for Ksh 33.3 billion will increase the aggregate amount to Ksh 118.2 billion.
- The implementation of the project will contribute an additional 140MW to the national grid.

MIN. NO. 2/2011

MEETING WITH THE MINISTER FOR ENERGY AND
MANAGEMENT OF KENGEN

Committee Members resolved to invite both the Minister for Energy and the management of KenGen for a meeting on Wednesday 10th August, 2011 to deliberate on the Sessional Papers on Guarantee of Loans to KenGen.

The Committee Members further resolved to seek clarification on the following issues during the said meeting:-

- (i) Why KenGen has failed to pay the loan of Kshs 34 million which KenGen inherited from its predecessor Kenya Power Company, given that the last payment was made on 30th June 1997.
- (ii) The total loan portfolio of Kengen and any loan guaranteed by NIC Bank or Indian Company.
- (iii) The shareholding of Kengen and the contribution of the private shareholders to the loan guarantee- *the Minister to provide the share certificate.*

- (iv) The cash flow projections of Kengen indicating the Company's capability to service the loans.
- (v) Explanation on the utilization of the proceeds from the Kshs 25 billion Infrastructure Bond, its repayment schedule and overall impact on KenGen Debts.
- (vi) The total cost of each of the projects, other financiers and the breakdown on how the funds will be utilized.
- (vii) The legal status of Geothermal Development Corporation (GDC) and the possibility of establishing GDC by an Act of Parliament as a state corporation with specific mandate to generate geothermal power.
- (viii) The possibility of having the wells that were drilled by GDC through Grate Wall drilling Company of China handed over to GDC as opposed to handing them over to Kengen. In addition, handling of all geothermal exploration by GDC including Olkaria blocks which belong to the Government.

MIN. NO. 3/2011

ADJOURNMENT

The Co-Chairpersons adjourned the meeting at Forty Minutes Past Six O'clock until Wednesday 10th August, 2011 at 10.00 a.m.

Signed
 Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed
 Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date 22/08/2011

MINUTES OF THE SECOND JOINT SITTING OF THE DC (F) ON FINANCE,
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &
INFORMATION HELD ON WEDNESDAY 10TH AUGUST 2011, IN
COMMITTEE ROOM, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDING
AT 10.30 A.M.

PRESENT

1. The Hon. (Eng.) James Rege, M.P. - Co. Chairman
2. The Hon. Chrysanthus Okemo, M.P - Co- Chairman
3. The Hon. Lucas Chepkitony -Vice Chairman
4. The Hon. Maina Kamau, M.P - Vice Chairman
5. The Hon. Jakoyo Midiwo, M.P
6. The Hon. Emilio Kathuri, M.P
7. The Hon. Sammy Mwaita, M.P
8. The Hon. Nelson Gaichuhie, M.P
9. The Hon. Ahamed Shabbir, M.P
10. The Hon. Musikari Kombo, M.P
11. The Hon. Edwin O. Yinda, M.P
12. The Hon. Joshua Kutuny, M.P
13. The Hon. Cyprian Omolo, M.P
14. The Hon. Charles Kilonzo, M.P - Observer
15. The Hon. Martin Ogindo, M.P - Observer
16. The Hon. Rev Mutava Musyimi, M.P- Observer

ABSENT WITH APOLOGY

1. The Hon. (Eng.) Nicholas Gumbo, M.P
2. The Hon. Ekwee Ethuro, M.P
3. The Hon. Danson Mwazo, M.P.
4. Hon. Philip Kaloki, M.P
5. Hon. Lenny Kivuti, M.P
6. Hon. Ntoitha M' Mithiaru, M.P
7. Hon. Nkoidila Ole Lankas, M.P
8. The Hon. Aden Keynan M.P

IN ATTENDANCE:

1. Ms. Florence Abonyo
2. Ms. Emmy Chepkwony
3. Mr. Jacob Ngwele
4. Mr. Abdulahi Ahmed
5. Ms. Veronicah Kibati

NATIONAL ASSEMBLY

First Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant
Research Officer

IN ATTENDANCE:

Ministry of Energy/KenGen

Hon. Kiraitu Murungi, M.P
Mr. Patrick Nyoike
Eddy Njoroge
Henry Nyachae
David Muthike
Albert Mugo
John Mudany
Hiroyuki Idino

Minister for Energy
Permanent Secretary Ministry of Energy
MD/CEO- KenGen
Finance Manager- KenGen
Transport Manager- KenGen
Strategy Manager-KenGen
Director, Finance/Communication KenGen
Economic Advisor- Office of the Prime Minister

MIN. NO.4/2011

PRELIMINARIES

The proceedings commenced at 10.30am with a word of prayer.

MIN.NO.5/2011:

ADOPTION OF THE PROGRAMME

The Committee adopted the sitting's programme as follows;

1. Introduction of members present
2. Introductory remarks by the Hon. (eng.) James Rege, M.P
3. Introductory remarks by the Hon. Chris Okemo, M.P
4. Introductory Remarks by the Minister for Energy
5. Briefs on Sessional papers by the MD Kengen
6. Questions and Responses
7. Any other business

MIN.NO. 6/2011: MEETING WITH MINISTER OF ENERGY- DELIBERATION ON:-

a. QUESTION NO. 992: MAGNITUDE OF LOANS GIVEN TO PARASTATALS

b. GOVERNMENT- GUARANTEED PUBLIC DEBT TO KENYA POWER COMPANY (NOW KENGEN) AND THE SESSIONAL PAPERS 1.2 &3 OF 2011 ON GUARANTEE OF LOANS TO KENGEN.

- A. Deliberation on the three Sessional papers and utilization of the fund: The Minister presented a breakdown of the utilization of funds under the three Sessional papers and project status was as follows:

OLKARIA I AND IV 280 MW PROJECT STATUS

The project is expected to be completed by June 2013 and will require a total amount of 1,187 USD (Ksh 112,765,000,000). KenGen had already signed loan guarantees with Japan International CA, AFD, EIB and KFW. A summary is provided here below;

Loans Currency	Loan amount	Currency	Exchange Rate to the USD	Equivalent in USD m
JICA	29,516.00	Yen	0.010943	323
AFD	150.00	EURO	1.4	210
EIB	119.00	EURO	1.4	166.6
KfW	60.00	EURO	1.4	84

The scope of the project is;

- i) Supply and installation of steam gathering and distribution systems; (financed by KfW and IDA)
- ii) Construction of access roads and local infrastructure;
- iii) Technical advisory services including a panel of geothermal experts to provide technical review;
- iv) Design and supervision engineering services (financed by KfW and IDA)
- v) Expansion of the existing power plant at Olkaria I;
- vi) Construction of new power plant at Olkaria IV;
- vii) Construction of switchyards and transmission lines for connection to the grid; and
- viii) Acquisition of land and way leaves for construction of Olkaria IV power plant.

The cost of electricity from the 280MW geothermal power plant is estimated at Ksh. 4.50 per kWh on completion in 2013.

KINDARUMA 3RD UNIT AND UPGRADE OF UNITS 1 AND 2

Kindaruma power plant was commissioned in 1968 and has two units each of 20 MW but had a provision for a 3rd unit. Kengen is installing the 3rd unit with a capacity of 24 MW and upgrading the other two units from 20 MW to 24 MW. Implementation is being done through two contracts namely the electro-mechanical awarded to Andritz Hydro of Austria and civil works awarded to Farab of Iran.

Work commenced in March 2010. The 3rd unit will be commissioned in June 2012 while the upgraded units 1 and 2 will be commissioned in December 2012 and June 2013 respectively. The estimated tariff for Kindaruma additional capacity is Uscts 7/kWh. The total project cost is Ksh. 7.4 billion comprising;

- i) Electro-mechanical Euro 45 Milion + Shs 177 million amounting to Ksh 6.2 billion

- ii) Civil works – Ksh 737 million
- iii) Consultancy GBP 2.6 million – Ksh 395 million
- iv) Kengen Management - Ksh 60 million

The cost of power from the new Kindaruma plant will be Ksh. 4.00 kWh.

The Committees sought to understand the following:

- i. Why KenGen had failed to pay the loan of Kshs. 34 Million which it inherited from its predecessor KPC.

The Meeting heard that the KPLC had committed to pay the loan and the outstanding amount accrued from exchange rate differences. KenGen expressed its opinion that the amount should be paid by KPLC but after a lengthy deliberation on the matter, KenGen committed to settle the debt.

- ii. **The total loan portfolio of KenGen and the status of the loan repayment.**
KenGen presented its loan portfolio as attached in the report.
- iii. **Loan guarantees to KenGen:** the joint Committee heard that KenGen was guaranteed a loan by StandBic Bank and not NIC Bank and that they are not aware of any Indian Company.
- iv. **Shareholding of KenGen:** The MD Kengen informed the joint Committee that the Government was the majority shareholder of KenGen owning 70% of the shares. He further presented a share structure as indicated in the report. KenGen informed the Committee that share certificates will be send to the Committee before Thursday 11th, 2011.
- v. **Cash flow projections of KenGen: on Kengen's Cash flow and Loan Portfolio**

The Members main concern was that the proof that Kengen would be able to service the requested loan guarantees as well as their outstanding obligations. The Committee was informed that;

The company's total loan portfolio including interest and factoring the exchange rates amounts to Ksh 69, 639,380,412 while financing of upcoming projects including the

requested loan guarantees for Kindaruma and Olkaria I&IV amounts to Ksh. 93, 501, 912, 110.

The outstanding Government guarantees to Kengen amounting to Ksh. 29,320,300,871 are;

- I. Kipevu 75 MW from JICA at Ksh 6,991,476,256
- II. Sondu Miriu from JICA at Ksh. 6,353, 528, 928
- III. Sondu Miriu from JICA at Ksh. 12,392,137,410
- IV. Sangoro Power Plant from JICA at Ksh 3,583,158,277

The MD, Kengen informed the Committee that the capitalization of Kengen was Ksh 60 billion while the income before tax was about Ksh. 13 billion p.a. The MD went on to explain that the Power Purchase Agreements (PPAs) signed with the Kenya Power and Lighting Company (KPLC) recognized debts and therefore provided security in terms of debt repayment therefore this was proof that Kengen will be able to meet its debts.

The MD further assured the Committee that Kengen had not defaulted on any loan and did not intend to do so. The Ksh 34 million outstanding debt currently owed by Kengen had been inherited from Kenya Power Company (KPC) the predecessor of Kengen and according to the MD, it was previously thought that KPLC would service the loans and until recently when the issue arose in Parliament was Kengen informed that they were expected to pay the loan. The MD assured the Members that the Ksh. 34 million outstanding loan would be immediately cleared by Kengen.

- vi. **Debt reflection the books of Account:** KenGen presented an overview of debt reflection in their books of account as attached in the report.
- vii. KenGen presented an explanation on the utilization of the proceeds from the Kshs. 35 billion bond and its repayment schedule and the overall impact on KenGen depts.
- viii. **Total Cost of each of the projects and other financiers:** the Committee received a presentation of the costs and list of financiers of all the projects. ?
- ix. The Committee sought to understand the Mandate and legal states of Geothermal Development Company. The Committee was informed that the Company was

formed to accelerate and to facilitated reduction of costs in the production of Geothermal resourced in Kenya and the Company is succeeding in its mandate. On the legal status the Committee heard that GDC is a 100% state owned Corporation established under Cap 446 of the Laws of Kenya.

- x. **Ownership of Geothermal resources in Kenya:** In view of the fact that GDC was succeeding in its mandate and it is 100% state owned Corporation, the Committee sought to understand why the Minister had not handed over the GDC explorations in Ol Karia I & IV drilled by Great wall drilling Company of China. The Minister informed the Committee that he was mandated by law to allocated Geothermal sites and that he had allocated KenGen the entire Ol Karia site way before GDC was established and that he has allocated GDC the entire Geothermal sites in the Country.

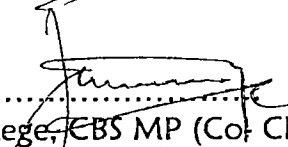
MIN.NO.7/2011: ANY OTHER BUSINESS

The Committee adjourned its meeting to work on the report and resolved to adopt it on the Thursday 11th, 2011 for tabling on the same date.

MIN.NO.8/2011: ADJOURNMENT

There being no other business and the time being ten minutes past 3.00 O'clock the meeting adjourned.

Signed 
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed 
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date 22/8/2011

**MINUTES OF THE THIRD JOINT SITTING OF THE DC (F) ON FINANCE,
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &
INFORMATION HELD ON TUESDAY 16TH AUGUST 2011, IN COMMITTEE
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 4.00 P.M.**

PRESENT

Hon. Chrysanthus Okemo, EGH, M.P. (Co-Chairman)

Hon. Eng. James Rege, CBS, M.P. (Co-Chairman)

Hon. Musikari Kombo, M.P.

Hon. Edwin Yinda, M.P.

Hon. Joseph Kutunyi, M.P.

Hon. Cyprian Omolo, M.P.

Danson Mwazo Mwakulegwa, MP

Hon. Emilio Kathuri, M.P.

Hon. (Prof.) Philip Kaloki, M.P.

ABSENT WITH APOLOGY

Hon. Ahmed Shakeel Shabbir, M.P.

Hon. Eng. Nicholas Gumbo, M.P.

Hon. Nelson Gaichuhie, M.P.

Hon. Sammy Mwaita, M.P.

Hon. Jakoyo Midiwo, MGH, M.P.

Hon. Lucas Chepkitony, M.P.

Hon. Ntoitha M'Mithiaru, M.P.

Hon. Lenny Kivuti, M.P.

Hon. Nkoidila Ole Lankas, M.P.

Hon. Maina Kamau, M.P.

Hon. Ekwee Ethuro, M.P.

Hon. Adan Keynan, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Florence Atenyo-Abonyo	-	First Clerk Assistant
Abdullahi Aden	-	Third Clerk Assistant
Jacob Ngwele	-	Third Clerk Assistant
Emmy Chepkwony	-	Third Clerk Assistant

MIN. NO. 12/2011 DELIBERATION ON THE SESSIONAL PAPERS NO.1, 2 & 3 OF 2011

Committee Members deliberated on the outcome of the meeting with the Minister for Energy and M.D KenGen which was held 10th August, 2011 resolved to invite once again both the Minister for Energy and the management of KenGen for a meeting on **Wednesday 17th August, 2011** in order to provide documents and the following additional information:

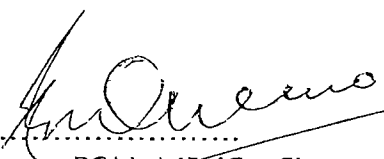
- (i) A Share Register containing all the shareholders of KenGen (to be returned after scrutiny by the Joint Committee);
- (ii) Latest audited accounts of KenGen;
- (iii) What are the terms of the lenders to KenGen and what type of securities do they require;
- (iv) What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
- (v) Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
- (vi) Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;

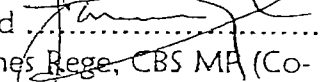
- (vii) Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery;
- (viii) What was the justification of paying US \$ 4 million to Green Energy Group Inc.

MIN. NO. 13/2011

ADJOURNMENT

The Co-Chairpersons adjourned the meeting at Thirty Minutes Past Five O'clock until Wednesday 17th August, 2011 at 11.00 a.m.

Signed 
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed 
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date August 24, 11

MINUTES OF THE FOURTH JOINT SITTING OF THE DC (F) ON FINANCE,
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &
INFORMATION HELD ON WEDNESDAY 17TH AUGUST 2011, IN
COMMITTEE ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 11.00 A.M.

PRESENT

1. The Hon. (Eng.) James Rege, M.P. - Co. Chairman
2. The Hon. Chrysanthus Okemo, M.P - Co- Chairman
3. The Hon. Lucas Chepkitony -Vice Chairman
4. The Hon. Jakoyo Midiwo, M.P
5. The Hon. Emilio Kathuri, M.P
6. The Hon. Sammy Mwaita, M.P
7. The Hon. Ahamed Shabbir, M.P
8. The Hon. Musikari Kombo, M.P
9. The Hon. Edwin O. Yinda, M.P
10. The Hon. Ekwée Ethuro, M.P
11. The Hon. Danson Mwazo, M.P.
12. Hon. Philip Kaloki, M.P
13. Hon. Ntoitha M' Mithiaru, M.P
14. The Hon. Cyprian Omolo, M.P
15. The Hon. Martin Ogindo, M.P - Observer

ABSENT WITH APOLOGY

1. The Hon. Maina Kamau, M.P - Vice Chairman
2. The Hon. Joshua Kutuny, M.P
3. The Hon. Nelson Gaichuhie, M.P
4. The Hon. (Eng.) Nicholas Gumbo, M.P
5. Hon. Lenny Kivuti, M.P
6. Hon. Nkoidila Ole Lankas, M.P
7. The Hon. Aden Keynan M.P

IN ATTENDANCE:

1. Ms. Florence Abonyo
2. Ms. Emmy Chepkwony
3. Mr. Jacob Ngwele
4. Mr. Abdulahi Ahmed

NATIONAL ASSEMBLY

First Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant

IN ATTENDANCE:

Ministry of Energy/KenGen

Hon. (Amb). M. M Mohammed, M.P
Mr. Patrick Nyoike
John Mudany

Asst. Minister for Energy
Permanent Secretary Ministry of Energy
Director, Finance/Communication- KenGen

Rebecca Miano
Albert Mugo
Daniel Barkala
Henry Gisia
David Muthike

Company Secretary - KenGen
Director Business Dev & Strategy - KenGen
Chief Accountant - KenGen
Chief Accountant - KenGen
Transformation Manager- KenGen

MIN. NO.14/2011

PRELIMINARIES

The proceedings commenced at 10.30am with a word of prayer.

MIN.NO. 15/2011: MEETING WITH MINISTRY OF FINANCE- DELIBERATION ON THE SESSIONAL PAPERS 1.2 &3 OF 2011 ON GUARANTEE OF LOANS TO KENGEN.

I. The following questions were posed by the joint Committee to the Minister for Energy and Management of KenGen:

- a. Present a Share Register containing all the shareholders of KenGen (*to be returned after scrutiny by the Joint Committee*);
- b. Submit to the Committee the Latest audited accounts of KenGen;
- c. What are the terms of the lenders to KenGen and what type of securities do they require;
- d. What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
- e. Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
- f. Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;
- g. Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery;
- h. What was the justification of paying US \$ 4 million to Green Energy Group Inc.

II. Papers Laid:

The following documents were tabled before the committee:-

1. Share Register containing all the shareholders of KenGen
2. Copies of the audited accounts of Kengen for the FY ending 30th June 2010
3. Report on the due diligence that was carried out against Green Energy Group Inc by Det Norske Veritas;

III. Responses by the Minister for Energy and Management of KenGen:

- The collateral which KenGen has offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011 have been defined on the terms of the Sessional Papers.
- With respect to the assumptions underlying the projections in cash flow statements submitted to the joint Committee they are derived from a financial model which KenGen developed with the assistance of our financiers (KfW). The model has the following assumptions:
 - 15% return on equity
 - 6% inflation rate p.a
 - Capital investment will be recovered over a period of 25 year for Olkaria (Geothermal) and over 50 years for Kindaruma (Hydro)
 - The operational cost are based on those of existing plant (Hydros and Geothermal for Kindaruma and Olkaria respectively)
 - It is also assumed that Kindaruma will produce 32 additional MW and Olkaria I & IV 280 MW.
- With respect to the names of the nominee in the top ten shareholders of KenGen, right now we don't have the information but we will obtain it from the respective banks and avail it to the Committee. We believe that the banks will not object to the disclosure.
- In event KenGen defaults in servicing the guaranteed loan, the law (the Energy Act) is very clear that the Minister will step in and take over and operate or off-load the assets of the defaulting company and in this case the Government of Kenya (through the Minister for energy) will step in and take over kengen and continue running kengen until it honours its contractual obligation. The law also safeguards the government from objection or interference from the other 30% share holders of Kengen.
- The question of dilution of GOK shareholding in KenGen in order to utilize the proceeds raised in funding the proposed project cannot arise given that it is not in the government policy to dilute the government shareholding in KenGen.
- Right now it is not proper for the government to offload its shareholding in KenGen since this will push the value of the dollar higher.
- With respect to the tender for the 14 additional well-heads that were awarded to the Norwegian company, Green Energy Group Inc, we respond as follows:-

- We refer the Committee to tender report submitted as **appendix A** and the advertisement contained therein. The tender report contains the names of the 11 firms that participated in the tendering process out of which three firms were shortlisted and after evaluation the tender was awarded to Green Energy Group AS.
- With respect to the faulty Well Head, it was a condition precedent for the tender that the winning company was to provide one Well Head unit for pilot purposes and that the unit was to work satisfactory for 18 months, and once it had satisfactorily worked it was only then when the 14 units could be tendered for. This Well Head was a prototype.
- KenGen paid US \$ 4 Million for the prototype which was equivalent to 50% and this amount was paid since the company was bringing in equipment, and the Company requested for payment of 10% and the balance was to be paid on testing and then the rest after 18 months. Nothing has been paid for the 14 units.
- KenGen were dealing with a Norwegian company, and we refer the Committee to **appendix F**. The Company has an outlet in Ice Land and branch in India.
- KenGen engineers visited the Company in India in the process of manufacturing.
- Technical due diligence was done by a risk Company from Norway called Det Norske Veritas and we don't know whether it is affiliated to Green Energy Group Inc.
- The Wellhead is a temporary unit but our plan is to build a power plant. The Wellheads are single mobile units which will be mobile pending completion of Olkaria IV.
- If the new unit were to fail, the purchaser will be at liberty to declare non-compliance.
- We saw the Unit rotating in the factory but we had never seen it operational on the ground.
- Concept of well head generation came up from GDC but they don't have capacity to operate them since the engineers are at KenGen.
- The intention of GOK was to make GDC a steam provider not power generator.
- The donors do a risk analysis for the project before funding.

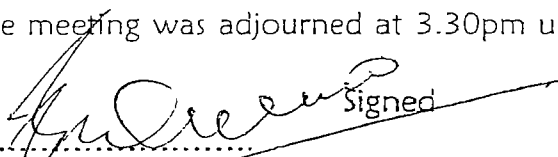
MIN.NO. 15/2011: JOINT COMMITTEES DELIBERATION ON THE WAY FORWARD.

After a brief deliberation between the P.S Ministry of Energy and management of KenGen, the Joint Committees made the following observations:

- ❖ The Wellhead turbine generator supplied to KenGen by Green Energy Group is faulty it should be returned and replaced with one that meets the specification.
- ❖ The procurement for the supply, Installations and Commissioning of the Wellhead turbine generator by KenGen was not done satisfactory and the joint Committee therefore needs to ask how secure is the US Dollar 4 million that was paid for the defective well head.
- ❖ All the 21 wells in Olkaria drilled by Great wall Company of China with GOK money should be transferred to a fully owned government company in this case Geothermal Development Company.
- ❖ The following Issues require further clarification and information:
 - KenGen should answer all the questions contained in the letter dated 16/08/11 in writing
 - KenGen to provide a copy of the agreement for design , supply, installation and commissioning of Geothermal Power Plant between KenGen and Green Energy Group As;
 - KenGen to provide a copy of the Feasibility Study Report for new units of the Optimization Project.
 - KenGen must show to the joint committee what safeguards or fall back they have put in place to secure the US \$ 4 Million already paid to Green Energy Group Inc;
 - KenGen to provide names of the nominees in top ten shareholders.

MIN.NO.16/2011: ADJOURNMENT

There being no other business and the meeting was adjourned at 3.30pm until Monday 22/8/11 at 2.30pm


Signed
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date August 24, 11

MINUTES OF THE FIFTH JOINT SITTING OF THE DC (F) ON FINANCE,
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &
INFORMATION HELD ON MONDAY 22ND AUGUST 2011, IN COMMITTEE
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 2.30 P.M.

PRESENT

1. Hon. (Eng.) James Rege, M.P. - Co. (Chairman)
2. Hon. Chrysanthus Okemo E.G.H, M.P -Co. (Chairman)
3. Hon. Philip Kaloki, M.P Vice Chairman
4. Hon. Jakoyo Midiwo, M.G.H, M.P
5. Hon. Aden Keynan, M.P
6. Hon. Nelson Gaichuhie, MP
7. Hon. Ntoitha M'Mithiaru, M.P.
8. Hon. Ahmed Shabbir Shakeel, M.P.
9. Hon. Lucas Chepkitony, M.P.
10. Hon. Martin Ogindo, M.P - Observer

ABSENT WITH APOLOGY

1. Hon. Musikari Kombo, M.P.
2. Hon. Nkoidila Ole Lankas, M.P.
3. Hon. Sammy Mwaita, M.P
4. Hon. Lenny Kivuti, M.P.
5. Hon. Maina Kamau, M.P Vice Chairman
6. Hon. Emilio Kathuru, M.P
7. Hon. Edwin O. Yinda, M.P
8. Hon. Joshua Kutuny, M.P
9. Hon. Cyprian Omolo, M.P
10. Hon. (Eng) Nicholas Gumbo, M.P
11. Hon. Ekwere Ethuro, M.P
12. Hon. Danson Mwazo, M.P

KENYA NATIONAL ASSEMBLY

Florence Abonyo - First Clerk Assistant
Jacob Ngwele - Third Clerk Assistant
Abdullahi Aden -Third Clerk Assistant

MIN. NO 17/2011

CONFIRMATION OF MINUTES

Minutes of the following previous sittings were confirmed by
the members present and signed by the Co. Chairpersons.

- (i) Minutes of the first joint sitting held on Tuesday 9th August 2011 were proposed by Hon. Nelson Gaichuhie, M.P and seconded by Hon. Shakeel Shabbir, M.P.
- (ii) Minutes of the second joint sitting held on Tuesday 16th August 2011 were proposed by Hon. Lucas Chepkitony, M.P and seconded by Hon. Nelson Gaichuhie, M.P.

MIN.NO. 18/2011

MATTERS ARISING

- (i) The Committee was informed that the Guarantee for the loan to KenGen is Euro but the letter from KenGen has it in Dollars.
- (ii) The Committee also seeks further clarification on the additional Commitment fee of 0.25% per annum on undisbursed loan amounts.

MIN. NO. 19/2011 DELIBERATION ON SESSIOMNAL PAPERS 1, 2 & 3 OF 2011

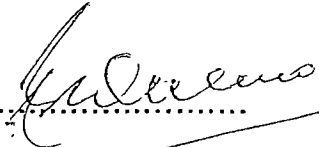
The Committee members resolved to invite the Minister for Energy, Management of both KenGen and GDC on Wednesday 24th August 2011 to seek clarification on the following:

- (i) Cash flow projections of KenGen indicating the Company capability to service the loans.
- (ii) Committee not satisfied with loan guarantee aspects of KenGen and to interrogate the cash flow statements.
- (iii) General governance issues with KenGen.
- (iv) The 30% shareholding by private the sector and how is government guaranteeing them.
- (v) When and how is KenGen planning to repay the 3.7 billion to geothermal development Corporation?
- (vi) Geothermal development corporation did the work as KenGen financed the drilling and that must get the money from government and pay KenGen
- (vii) The possibility of handing over the wells that were drilled by GDC through great wall drilling to GDC as opposed to handing them over ti KenGen.

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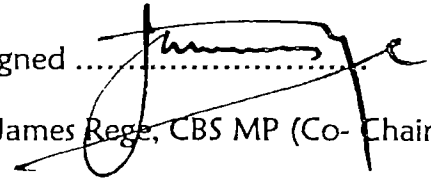
The Co. Chairpersons adjourned the meeting at five O'clock until Wednesday 24th August 2011 at 11.00 am.

Signed



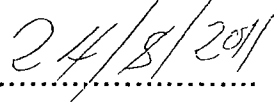
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed



Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date



MINUTES OF THE SIXTH JOINT SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION AND THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANING AND TRADE HELD ON WEDNESDAY 24th AUGUST 2011 IN COMMITTEE ROOM 9,MAIN PARLIAMENT BUILDINGS AT 10.30 AM

PRESENT

1. Hon. (Eng.) James Rege, M.P. Co. (Chairman)
2. Hon. Chrysanthus Okemo E.G.H, M.P Co. (Chairman)
3. Hon. Jakoyo Midiwo, M.G.H, M.P
4. Hon. Aden Keynan, M.P
5. Hon. Nelson Gaichuhie, MP
6. Hon. Ntoitha M'Mithiaru, M.P.
7. Hon. Ahmed Shabbir Shakeel, M.P.
8. Hon. Lucas Chepkitony, M.P.
9. Hon.Edwin O. Yinda, M.P
10. Hon. Musikari Kombo, M.P
11. Hon.Edwin O. Yinda, M.P
12. Hon. Ekwee Ethuro, M.P

ABSENT WITH APOLOGY

1. Hon. Nkoidila Ole Lankas, M.P.
2. Hon. Sammy Mwaita, M.P
3. Hon. Lenny Kivuti, M.P.
4. Hon .Maina Kamau, M.P Vice Chairmam
5. Hon. Emilio Kathuru, M.P
6. Hon. Joshua Kutuny, M.P
7. Hon. Cyprian Omolo, M.P
8. Hon. (Eng) Nicholas Gumbo, M.P

9. Hon. Philip Kaloki, M.P

Vice Chairman

10. Hon. Danson Mwazo, M.P

MINISTRY OF ENERGY

Hon. Kiraitu Murungi, EGH, M.P	Minister for Energy
Patrick Nyoike	P.S Ministry of Energy
Edward Njoroge	MD, KenGen
Dr. Silas Simiyu	MD, GDC
Mr. Martin Heya	Ministry of Energy

KENYA NATIONAL ASSEMBLY

Florence Abonyo	- First Clerk Assistant
Jacob Ngwele	- Third Clerk Assistant
Abdullahi Aden	- Third Clerk Assistant
Rose Mudibo	- Committee Secretary

MIN. NO 21/2011

CONFIRMATION OF MINUTES

Minutes of the following previous sittings were confirmed by the members present and signed by the co. Chairman.

- (i) Minutes of the Third joint sitting held on Tuesday 16th August 2011 were proposed by Hon. Crysanthus Okemo, M.P, and seconded by Hon. James Rege, M.P.
- (ii) Minutes of the fourth joint sitting held on Wednesday 17th August 2011 were proposed by Hon. Ekwee Ethuro, M.P and seconded by Hon. Musikari Kombo, M.P.
- (iii) Minutes of the Fifth joint sitting held on 22nd August 2011 were proposed by Hon. Nelson Gaichuhie, M.P. and seconded by Hon. Ntoitha M'Mithiaru, M.P.

MIN.22/2011

REMARKS OF THE MINISTER FOR ENERGY, M.D FOR KENGEN AND M.D FOR GDC

The Minister informed the Committee that;

- (i) The all the wells drilled by GOK funds post IPO by the Great Wall Company of China will be transferred to GDC and to that effect he directed the two M.D's to do the necessary agreements.

- (ii) Presently the government holds 70% share in KenGen, however the Committee was also informed that even if the government off-loads its shareholding, the government will still retain the controlling 51% in safeguarding the fear of shareholding and privatization.
- (iii) KenGen will generate power at Olkaria and Geothermal Development Corporation (GDC) to concentrate at Menengai, Silai and Paka. GDC will continue drilling Olkaria for the remaining the 7 wells which it is drilling at the moment, but once the drilling of the 7 wells is complete, GDC should move its operations to Menengai, Paka and Silali.
- (iv) The Committee Mandate of KenGen was to give affordable and sustainable power to the Country.

MIN. NO. 23/2011

JOINT COMMITTEE OBSERVATIONS

- The joint Committee notes that currently the country has a negative power generation margin and therefore there is need for more investments in the energy generation sub-sector.
- The Committee further raised concerns about the possibility of the Government of Kenya offloading its shareholding in KenGen and concluded that it will closely monitor the privatization programme to ensure the GOK does not lose its controlling interest in KenGen.
- The procurement for the supply, installation and commissioning of the Wellhead turbine generator by KenGen was not done satisfactorily and since the matter is still ongoing, the Departmental Committee on Energy, Communications and Information will engage fully with the Ministry of Energy on this subject.
- All the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya should be transferred to GDC in consideration for the Kshs 3.7b paid by GOK to KenGen as indicated in the printed estimates for FY 2011/12

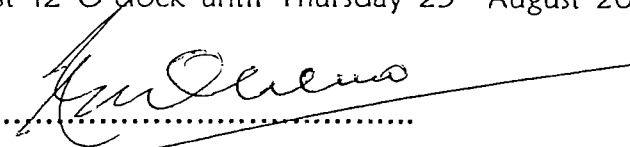
The Committee recommends the approval and issuance for Sessional paper 1, 2 & 3 of 2011 of Government of Kenya guarantee for loan to KenGen as follows;

- (i) Recommends for approval of session paper 1, the issuance of Government of Kenya Guarantee for the loan to KenGen of Euro 39.1 million equivalent to Kshs 4.9 billion from Kfw, Frankfurt am main, federal Republic of Germany, a government owned overseas development assistance bank.
- (ii) Recommends for approval of session paper 2, the issuance of Government of Kenya Guarantee for the loan to KenGen of Euro 60.0 Million equivalent Kshs 7.5 billion from Kfw, Frankfurt am main, federal Republic of Germany, a government owned overseas development assistance bank.
- (iii) Recommends for approval of session paper 3, the issuance of Government of Kenya Guarantee for the loan to KenGen of JPY 29516 million equivalent to Kshs 33.3 billion from Japan international Corporation Agency (JICA) A government of Japan Owned overseas development agencies.
- (iv) That the Minister for Energy do expedite the transfer of ownership of all the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya to a fully owned government company in this case the Geothermal Development Company (GDC).

MIN. NO 24/2011

ADJOURNMENT

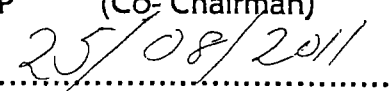
The Co. Chairpersons adjourned the meeting at Thirty minutes past 12 O'clock until Thursday 25th August 2011 at 11.00 a.m.

Signed.....

Hon. Crysanthus Okemo, EGH, M.P (Co- Chairman)

Signed.....

Hon. Eng James Rege CBS, M.P (Co- Chairman)

Dated.....

MINUTES OF THE SEVENTH JOINT SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION AND THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANING AND TRADE HELD ON THURSDAY 25th AUGUST 2011 IN COMMITTEE ROOM 9,MAIN PARLIAMENT BUILDINGS AT 10.30 AM

PRESENT

1. Hon. (Eng.) James Rege, M.P. Co. (Chairman)
2. Hon. Chrysanthus Okemo E.G.H, M.P Co. (Chairman)
3. Hon. Jakoyo Midiwo, M.G.H, M.P
4. Hon. Nelson Gaichuhie, MP
5. Hon. Ntoitha M'Mithiaru, M.P.
6. Hon. Sammy Mwaita, M.P
7. Hon.Edwin O. Yinda, M.P
8. Hon. Musikari Kombo, M.P
9. Hon. Ahmed Shabbir Shakeel, M.P.
10. Hon. Ekwewe Ethuro, M.P
11. Hon. (Eng) Nicholas Gumbo, M.P
12. Hon. Joshua Kutuny, M.P

ABSENT WITH APOLOGY

1. Hon. Philip Kaloki, M.P Vice Chairman
2. Hon. Lucas Chepkitony, M.P.
3. Hon. Nkoidila Ole Lankas, M.P.
4. Hon. Lenny Kivuti, M.P.
5. Hon .Maina Kamau, M.P Vice Chairmam
6. Hon. Emilio Kathuru, M.P
7. Hon. Cyprian Omolo, M.P
8. Hon. Danson Mwazo, M.P

KENYA NATIONAL ASSEMBLY

- Florence Abonyo - First Clerk Assistant
- Jacob Ngwele - Third Clerk Assistant
- Abdullahi Aden - Third Clerk Assistant

MIN. NO 25/2011

CONFIRMATION OF MINUTES

Minutes of the following previous sittings were confirmed by the members present and signed by the co. Chairman.

- (i) Minutes of the Sixth joint sitting held on Wednesday 24th August 2011 were proposed by Hon. Ahmed Shabbir Shakeel, M.P, and seconded by Hon. Edwin O. Yinda, M.P.

MIN.26/201

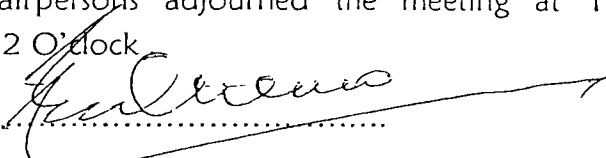
ADOPTION OF THE JOINT COMMITTEE REPORT

Members unanimously adopted the report of the joint Committee for tabling in the House.

MIN. NO 27/2011

ADJOURNMENT

The Co. Chairpersons adjourned the meeting at Thirty minutes past 12 O'clock.

Signed.....

Hon. Crysanthus Okemo, EGH, M.P (Co- Chairman)

Signed.....

Hon. Eng James Rege CBS, M.P (Co- Chairman)

Dated..... 25/8/11

