



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, AUGUST 07, 2019

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Fourth Chairperson
4. **PAPERS**

The following papers were laid on the Table of the House:-

- i) The Reports of the Auditor-General and the Financial Statements in respect of the Revenue Statement for the year ended 30th June, 2018 from the Judiciary and the certificates therein: -
- ii) The Reports of the Auditor-General and the Financial Statements in respect of the Amani National Congress Party from January 2016 to December 2017 and the certificates therein.
- iii) The Reports of the Auditor-General and the Financial Statements in respect of the following **Institutions** for the year ended 30th June, 2018 and the certificates therein: -
 - a) National Construction Authority;
 - b) State Officers House Mortgage Scheme Fund – State Department of Housing and Urban Development;
 - c) Kenya Slum Upgrading Low Cost Housing and Infrastructure Trust Fund – State Department of Housing and Urban Development;
 - d) State Department of Public Works Vote 1095;

- e) Roads Annuity Fund;
- f) Receiver of Revenue (State Department of Housing and Urban Development);
- g) Stores and Service Fund;
- h) Kenya Seed Company Limited;
- i) Masinde Muliro University of Science and Technology;
- j) Bukura Agricultural College;
- k) Kenya Accreditation Service;
- l) Micro and Small Enterprises Authority;
- m) Tourism Fund;
- n) Bomas of Kenya;
- o) Orange Democratic Movement (ODM);
- p) Wiper Democratic Movement;
- q) Trade Network Agency;
- r) Bomet University; and
- s) Kisii National Polytechnic.

(The Leader of the Majority Party)

5. **NOTICES OF MOTION**

The following Notices of Motion were given:-

- i. **THAT**, taking into consideration the findings of the Departmental Committee on Agriculture & Livestock in its Report on the *Vetting of a Nominee for Appointment as the Chairperson of the Board of Directors of the Kenya Fish Marketing Authority, laid on the Table of the House on Wednesday, August 7, 2019*, and pursuant to section 201(1)(a) & (2) of the Fisheries Management and Development Act, 2016 and section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House **approves** the appointment of **Hon. Ochieng' G. Mbeo** as the Chairperson to the Board of Directors of the Kenya Fish Marketing Authority.

(Vice-Chairperson, Committee on Agriculture & Livestock)

ii. **Kenya – Somalia Maritime Boundary Dispute Resolution**

AWARE, that in the year 1924, the Anglo-Italian treaty delineated the Kenya-Somalia boundary with twenty-nine (29) identifiable boundary pillars starting from the tri-point with Ethiopia on River *Dawa* in Mandera County, to Indian Ocean at *Ishakani* in Lamu County;

ACKNOWLEDGING that the 1964 Organization of African Union(OAU) Resolution 16(1) urging Member States to preserve the colonial boundaries and cognizant that Federal Republic of Somalia attained independence in 1960 but did not subscribe to the said OAU resolution, therefore claiming territory beyond its border with Kenya, through successive regimes;

FURTHER AWARE that Article III, paragraph 3 and 4 of the Charter establishing the African Unity (AU) provides that African States unanimously

through the African Union (AU) resolved to respect the sovereignty and territorial integrity of each State and for its inalienable right to independent existence and further by peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration;

COGNIZANT that the Federal Republic of Somalia's rejection of the OAU/AU decision on boundaries was in furtherance of its expansionist ideology of the time, of achieving a Greater Somalia and its engineering of irredentism in Kenya's North Eastern Province and hence the *Shifita* war of 1963 – 1967.

RECALLING that the settlement of the war was acceptance of Federal Republic of Somalia to recognize Republic of Kenya's territorial boundary by way of the Arusha Accord signed by the then Somalia Prime Minister, Mohamed Egal and further that, his successor, President Gen. Siad Barre subsequently rejected the Accord leading to deterioration of relations between Republic of Kenya and Federal Republic of Somalia;

FURTHER RECALLING that President Siad Barre denounced territorial claims of the Republic of Kenya through a declaration at the 1981 OAU's Head of State Summit and leading to normalising of the relations between the two nations;

COGNIZANT that the current dispute regards establishment of Coastal States maritime zones in accordance with the United Nations Convention on the Law of the Sea (UNCLOS), which both Countries became Parties to in 1982, which allows coastal States to establish an Exclusive Economic Zone (EEZ) of two hundred nautical miles and a potential continental shelf of up to 350 nautical miles; **COGNIZANT FURTHER**, that the Republic of Kenya proclaimed her maritime zones including the maritime boundary in 1979 when UNCLOS was still under negotiations.

FURTHER RECOGNISING that, in order to domesticate the UNCLOS, Parliament of Kenya enacted the Maritime Zones Act (Cap 371, Laws of Kenya whose objective is to consolidate the law relating to the territorial waters and continental shelf of the Republic of Kenya;

RECALLING that in 1991, the Federal Republic of Somalia descended into civil conflict resulting in the emergence of terrorists groups and organisations such as the *Al Shabaab* and other groups affiliated to international terrorist groups like the Al Qaeda and (Islamic State for Iraq and Syria) ISIS, mass displacement of millions of Somali people most of whom are hosted in Kenya, piracy on the Western Indian Ocean close to Kenya and terrorist attacks in Kenya that have adversely affected our tourism industry, among others negative effects;

CONCERNED that since 1991 Federal Republic of Somalia has not had an effective government and hence lack of a peaceful environment for the Republic of Kenya to engage it in negotiations to agree on the demarcation of

their maritime boundary in the Indian Ocean; the Federal Government of Somalia having not raised any objection with the boundary as established until 2014, claiming a part of Kenya's maritime zone, by filing a case against Kenya at the International Court of Justice (ICJ) without giving an opportunity to negotiated settlement or any other alternative dispute resolution mechanism including negotiations as provided for under UNCLOS of which both the Republic of Kenya and Federal Republic of Somalia are signatories,;

FURTHER CONCERNED that the Federal Government of Somalia has sought provisional measures against Kenya for unlawful operations in her maritime territory and concerning the establishment of a maritime boundary between the two countries in the Indian Ocean, delimiting the Territorial Sea, Exclusive Economic Zone and Continental Shelf, including the continental shelf beyond 200 nautical miles;

CONCERNED FURTHER that in November 2018, during the Africa Oil week in Cape Town, South Africa, Somalia informed that it was in the process of mapping its offshore oil blocks and preparing to offer the blocks for auction; and on 7th February 2019, Somalia hosted Oil and Gas Conference in London and revealed the plan to offer for auction of oil blocks 230, 231, 232 and 233 that are within Kenya's maritime zones and that the Federal Republic of Somalia anticipates that the signing of the final Production Sharing Agreement by the winning bidder will be on 9th December 2019 with an effective date of 1st January 2020;

CONSIDERING, that the determination of the case will be made in September, 2019; and that Kenya is exposed to irregularly losing upto 26 per cent of its Exclusive Economic Zone and 85 per cent of the Continental Shelf and access to international waters; further considering that the possible delimitation of the maritime boundary on the basis of the equidistant principle sought by Federal Republic of Somalia will have the effect of extending its territory by up to 50 miles from Kenya's tourism resorts in Lamu and adjacent islands including the strategic Lamu Port, therefore threatening to expose Kenya to further terrorist attacks and long term insecurity;

COGNIZANT that the border dispute between the two countries may hamper current efforts in the continuing construction of a border wall between Kenya and Somalia, and the fight against piracy in Kenya's waters and fight against *Al-Shabaab* in the Region;

RECOGNIZING the dispute resolution mechanisms under the African Union (AU), Intergovernmental Authority for Development (IGAD) and East African Community (EAC) as the first point of call on such disputes;

NOW THEREFORE, this House resolves that the Government of the Republic of Kenya:-

- (a) upholds and protects the boundaries of the territory of Kenya, unless the People of Kenya resolves by way of referendum, to alter the territory of Kenya as contemplated under Article 255(1)(b) of the Constitution as read together with section, 3(3) of the Treaty Making and Ratification Act, (No. 45 of 2012);
- (b) take urgent steps to implement, in full, the provisions of the Maritime Zones Act, Cap 371 with regard to delimitation of the Northern Boundary of the Exclusive Economic Zone with Federal Republic of Somalia through agreement as envisaged by UNCLOS;
- (c) as a first and most preferred option, engages the Federal Government of Somalia to resolve the boundary dispute for the benefit of both countries and the region, through diplomacy and dispute resolution mechanisms available under African Union (AU), Intergovernmental Authority for Development (IGAD) and East African Community (EAC);
- (d) expresses to the United Nations, the Republic of Kenya's protest against the assertion of jurisdiction by the International Court of Justice over the maritime boundary conflict between Federal Republic of Somalia and the Republic of Kenya, noting Kenya's express reservation to jurisdiction made in 1965 and the provisions of Kenya's Maritime Zones Act to delimit the maritime boundary through agreement as envisaged by UNCLOS; and,
- (e) explores other lawful and constitutional mechanisms for protecting the territory of the Republic, including deploying the Kenya Defence Forces to the subject boundary to undertake the responsibility of protecting the sovereignty and territorial integrity of the Republic as contemplated under Article 241(3) of the Constitution.

(The Leader of the Majority Party)

6. **QUESTIONS**

The following Questions were asked –

- (i) **Question No.333/2019** by the Member for Homa Bay Town (Hon. Peter Opondo Kaluma, MP) regarding delays in elevating and granting Tom Mboya University College a full university Charter;

(To be replied by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)

- (ii) **Question No.366/2019** by the Member for Bonchari (Hon. John Oroo Oyioka, MP) regarding vacating the Suneka Sports Ground by the State Department for Public Works;

(To be replied by the Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)

- (iii) **Question No.367/2019** by the Member for Malava (Hon. Moses Malulu Injendi, MP) regarding appointment of substantive officers to several administrative units, in Kakamega North Sub County which were published vide *Gazette* Notice Number 5853 of 21st June 2017 and operationalized in 2018;

(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)

- (iv) **Question No.368/2019** by the Nominated Member (Hon. Halima Muccheke, MP) regarding progress in the payments to the village elders given that Kshs. 1.2 Billion had been set aside for the same;

(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)

The following Question was deferred –

- (i) **Question No.369/2019** by the Member for Member for Mwingi North (Hon. Paul Nzengu, MP) regarding a disjointed tarmac road between *Kamuwongo* Market and *Kandwia* Market in Mwingi North Constituency where a middle section on the said stretch of the road is not tarmacked;

(To be replied by the Cabinet Secretary Transport, Infrastructure, Housing and Urban Development: - Transport, Public Works and Housing)

7. **THE INSTITUTE OF DIRECTORS OF KENYA BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2019)**
(The Hon. Chrisantus Wamalwa, M.P.)

Order for Second Reading read;

THAT, Institute of Directors of Kenya Bill (National Assembly Bill No. 3 of 2019) be now read a Second Time.

The putting of the Question deferred;

8. **THE CONSTITUTION OF KENYA (AMENDMENT)(No.2) BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2019)**
(The Hon. George Kariuki GK, M.P.)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

9. **MOTION - CERVICAL CANCER SCREENING SERVICES TO ALL WOMEN AND ISSUANCE OF THE HPV VACCINE TO BOYS AND GIRLS BY THE NATIONAL GOVERNMENT**

(The Hon. (Dr.) Tecla Tum, M.P.)

Motion Made and Question proposed-

THAT, aware that Cervical cancer is the leading type of cancer in the country causing the greatest number of deaths with at least 8 to 10 women succumbing every day to the disease; further aware that most women diagnosed with precancerous changes in the cervix are in their 20s and 30s, but the average age of women when they are diagnosed with cervical cancer is the mid-50s; considering that Human Papilloma Virus (HPV) is one of the most common viruses in the world with 4 out of 5 (80%) persons getting some type of HPV at least once in a lifetime; cognizant of the fact that men and women can get HPV typically with the immune system getting rid of HPV without needing treatment; deeply concerned that HPV is a major risk factor of cervical cancer with nearly 99.7 percent of cervical cancers being caused by infection from high-risk HPV; appreciating that cervical cancer could be totally eliminated and further averted by putting preventative measures through timely treatments, this House therefore **resolves** that the National Government rolls out free screening services to all women and issuance of the HPV vaccines to boys and girls to reduce the mortality rates and completely eradicate deaths caused by Cervical Cancer in the Country.

(Resumption of debate interrupted on Wednesday, July 31, 2019 – Morning sitting)

(Change of Chair from the Fourth Chairperson to the Second Chairperson)

Mover replied;

Question deferred pursuant to Standing Order 53(3).

The Second Chairperson interrupted proceedings to permit the tabling of the following Paper:

Report of the Departmental Committee on Finance and National Planning on the acquisition of National Bank of Kenya by Kenya Commercial Bank Group PLC.

(Chairperson, Departmental Committee on Finance and National Planning)

and issuance of its Notice of Motion:

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on the Acquisition of National Bank of Kenya by Kenya Commercial Bank Group PLC, laid on the Table of the House on Wednesday, August 7, 2019.

10. THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2019)

Order deferred to another day.

11. THE EMPLOYMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.15 OF 2019)

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019) be now read a Second Time.

And the time being One o'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at One O'clock

M E M O R A N D U M

The Speaker will take the Chair today,
Wednesday, August 7, at 2.30 p.m.

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