



PARLIAMENT OF UGANDA

# PARLIAMENTARY DEBATES

(HANSARD)

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OFFICIAL REPORT

SECOND SESSION - THIRD MEETING

WEDNESDAY, 15 MARCH 2023



PARLIAMENT OF UGANDA

## IN THE PARLIAMENT OF UGANDA

### Official Report of the Proceedings of Parliament

#### SECOND SESSION - 17TH SITTING - THIRD MEETING

Wednesday, 15 March 2023

*Parliament met at 2.01 p.m. in Parliament House, Kampala.*

Education is here today - Lands is here, Hon. Oboth Oboth is also here.

#### PRAYERS

*(The Speaker, Ms Anita Among, in the Chair.)*

*The House was called to order.*

So, I want to welcome you and Members, you all see what is happening now - there is too much rain. Yesterday, a boda boda rider drowned in the floods. Kampala Capital City Authority must work on the potholes. The Ministry of Disaster Preparedness should also be alert given what is happening, and find solutions to this this problem.

#### COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to this afternoon sitting. I just want to remind you of tomorrow's sitting. Pursuant to Article 101(2) of the Constitution, His Excellency the President will address the House and we will have the sitting at Kololo Ceremonial Grounds. I know that is not okay with my brother, *Hajji*, but we have no option.

We kept crying about the dry season, now rains have come, and people are suffering; we need to work on the potholes, especially in Kampala, and of course even up country. We are not saying that work on the roads; we are saying cover the potholes.

Because the construction of our bigger Chamber is ongoing, we have to go there but soon, we shall not be going to those other places; our building will be completed very soon. Honourable members, we are going to have that building finished but also, we are going to have offices for all Members of Parliament in the building where the Ministry of Lands, Housing and Urban Development is, and at Development House. The construction will be starting and in one year, you will all have offices there. A one-stop centre is what you are going to have.

Yesterday, a boda boda rider died, I think in Bwaise. So, we really need to look at that. Minister for Kampala Affairs should look into this. As well the Minister for Disaster Preparedness should handle those issues to save the lives of our people.

Honourable members, of recent, we have heard the media talking about iron sheets. And I have always said that in my district, I got a call that iron sheets had been brought, and when they were taken, I said, "Give them to the schools," little did I know that those iron sheets were meant for another subregion.

Honourable members, yesterday we had sectors that did not lay their ministerial policy statements. We had education – and I am happy

Therefore, after a thorough analysis, and looking at the fact that the iron sheets were meant for Karamoja, and not for Bukedea,

I have taken a personal decision, as a leader, since the iron sheets had not been allocated to my district - though I had already given them out - I have decided to buy 500 iron sheets and give them back.

I have sent my Personal Assistant to take back the iron sheets to the Office of the Prime Minister; I have taken personal responsibility. *(Applause)*

I must also thank the person who thought of Bukedea - maybe it was wrong thinking - but I must thank them. But because I do not want to look like I grabbed the iron sheets, I have decided to send them back.

I want to thank you so much; I do not want to be a shame to the Parliament. And I have done this for the good of the House. Thank you.

2.08

**THE CHIEF OPPOSITION WHIP (Mr John Nambeshe):** Thank you, Madam Speaker. In the course of your Communication from the Chair - I am one of those that should say, I am the happiest to hear the statement that you have just made because it is a show of deep remorse. And I will say that the rest that are adversely mentioned in the iron sheets saga, which were meant for the vulnerable communities of Karamoja, should follow suit; they should equally show remorse - and not only being remorseful but take a page out of your book and go an extra mile to double - *(Laughter)* - Madam Speaker, I am reliably informed that you received - without even your knowledge or solicitation, 300 iron sheets. But here you are; you have bought close to double what you received, 500. You have actually gone back to the Bible days, like Zacchaeus when he got saved, he said, "I will pay double."

I would implore and urge those - and they are from the side of the majority - to take a leaf out of your book and do likewise.

Madam Speaker, besides that, I applaud your decision to relocate tomorrow's sitting to Kololo. Although that is within your discretionary powers, it comes with the

COVID-19 restrictions, but which were officially lifted by the Ministry of Health. That there is a stringent requirement for Members to be subjected to the PCR test, without even giving due consideration to other options like face masking, social distance - and you know the President sits extremely far from the Members.

Madam Speaker, I would like to seek your indulgence to allow Members - like there are some Members who may arrive tomorrow and may not have sufficient time on their hands to go for that test - that may be we use the other option of social distancing rather than strictly zeroing in on the PCR test.

**THE SPEAKER:** Thank you, point taken. Honourable members, one thing I want to let you know is that the Office of the Prime Minister is the one housing a number of these ministries. So, when you receive something from the Office of the Prime Minister, you may think it is from the disaster office. You may not know whether it is coming from Karamoja, Northern Uganda, Teso or whichever.

When we receive some of these things, we think they have been sent to us in good faith. Our constituents need them and because of that, we say, "Okay, have what belongs to you."

2.12

**MR MEDARD LUBEGA SSEGGONA (NUP, Busiro County East, Wakiso):** Thank you, Madam Speaker. I can only join the Leader of the Opposition in thanking you for taking a positive decision. And I want to draw a distinction between people who were invited and told "there are relief items here" from those who actually manage those relief items. They knew who they were intended to benefit but feasted on them. I am not about to forgive them.

Regarding going to Kololo tomorrow, I want to seek clarification - because this thing of the COVID-19 test has been consistent. And I am always willing to take that COVID-19 test because I do not want to be a danger to other people. However, I want to seek clarification

from you, on our behalf, whether you have been privy to the President's results so that, equally, we do not get infected. We need to protect each other and the President has a duty to protect us. *(Laughter)*

**THE SPEAKER:** Hon. Ssegona, we are going to have everybody tested, including the President. If he tests positive, he will not come. Otherwise, everybody is going to get tested and of course, we agreed one can attend virtually – like *Mama Janet*.

**MR SSEMUJJU:** Thank you, Madam Speaker. I want to thank you for being exemplary. The items for Karamoja will need to go to Karamoja.

Madam Speaker, yesterday, the Leader of Government Business was missing here. Even today, she is missing –

**THE SPEAKER:** I have seen -

**MR SSEMUJJU:** Not the representative; I mean her, in flesh. I want to find out if she has already been arrested because she took 3,000 iron sheets –*(Laughter)*– or if she is writing a statement to the police because even today, the main stories in the newspapers are that ministers are going to begin recording statements. I can see Hon. Musasizi is still here –*(Laughter)*– I do not know if he has finished his.

Anyhow, I want to know – and this is serious – whether the Leader of Government Business has not been arrested so that we report to the police that she is here. We have a civic duty to report when we see the people that the police is looking for. *(Laughter)*

**THE SPEAKER:** I got communication from the Rt Hon. Robbinah Nabbanja, the Prime Minister, that she has another engagement and that she would be sending Hon. Lumumba. So, she is not arrested. She is not a thief and has not done anything. Yes, point of procedure?

**MR ENOSI ASIIMWE:** Thank you, Madam Speaker. You gave the responsibility to the committee to investigate this matter and report to the House -

**THE SPEAKER:** I have already ruled on it.

2.16

**MR REMIGIO ACHIA (NRM, Pian County, Nabilatuk):** Thank you, Madam Speaker. This matter is a very sad one, but we thank you for your leadership, integrity and for taking the first step.

I would like to inform this House that when this matter came to the fore, Madam Speaker guided me, when we petitioned her - because we were in recess - and on that same day, she quickly said, “This is abominable” and referred the matter to the Committee on Presidential Affairs. She has been following it up to ensure we get to the bottom of it. How can this be happening? It could be happening to Bunyoro Affairs, Luwero Affairs, Teso Affairs or Northern Uganda Affairs – because how do you explain the fact that even Hon. Namuyangu, who controls iron sheets, also got iron sheets from those meant for Karamoja? It is very sad! Thank you, Madam Speaker, for this. *(Laughter)*

**THE SPEAKER:** Thank you. Honourable members, can we now go to matters of national importance.

2.17

**MR ALEX BYARUGABA (NRM, Isingiro County South, Isingiro):** Thank you, Madam Speaker, for this opportunity. Shakespeare said that simplicity signifies the magnanimity of a soul and that if you can share with her majesty and not lose that common touch, then you are a really big man and big lady. Thank you, Madam Speaker, for that magnanimity. Thank you for that simplicity. Thank you for coming out to show leadership.

I pray that all those who received those iron sheets unintentionally – honestly, it can happen to any one of you and even me –*(Inaudible)*

**THE SPEAKER:** You press it.

**MR BYARUGABA:** Thank you, Madam Speaker. I do pray most sincerely, from the bottom of my heart – I am an elder in this

House as well. I think it is very important that the example you have given - you have shown that kind of good leadership - be immediately followed up by other colleagues of ours.

We all know that very many of these honourable colleagues are really innocent. It can happen to you and I, but the person who was dishing them out might have to look for something more convincing, at least to me. I want to thank you, Madam Speaker.

**MS NANYONDO:** Thank you, Madam Speaker. I rise on a procedural matter. On the 22<sup>nd</sup> of July last year, I raised a matter of national importance about the deaths in valley dams in Bukomansimbi. Indeed, you directed the Prime Minister, who also directed the Minister of Agriculture to come to Bukomansimbi. The minister sent the undersecretary -

**THE SPEAKER:** Is that on the communication?

**MS NANYONDO:** I rose on a point of procedure.

**THE SPEAKER:** We are still on reaction to my Communication from the Chair – he is an independent, you can speak.

2.20

**MR NABOTH NAMANYA (FDC, Rubabo County, Rukungiri):** Thank you, Madam Speaker. In your Communication from the Chair, you talked about the rains that washed away a person and motorcycles. Equally, for those of us who come from areas with poor topography, the rains are too much and most valleys are submerged by flood water.

It is time for Primary Seven pupils to register for PLE. These days, because most valleys especially in Kigezi are submerged by water, pupils cannot travel from their respective primary schools to the districts to register yet they require the NIN.

Madam Speaker, I want to request that you implore the Minister of Education and Sports, who is here, to provide alternative areas where children can go and register for PLE because it has become a problem in Kigezi. Thank you.

**THE SPEAKER:** Thank you. I think all ministries should immediately devise emergency intervention measures on these issues. We have ministers of Works, Education, Disaster Preparedness, and of course, Finance will also need money for that. Let us look at what we can do. Honourable Minister of Education and Sports, do you have something to say?

2.21

**THE MINISTER OF STATE FOR EDUCATION AND SPORTS (PRIMARY EDUCATION) (Dr Joyce Moriku):** Thank you so much, Madam Speaker. I would like to thank my colleague, for raising that critical issue. I was just sharing with the Minister of Finance, Planning and Economic Development and indeed he said most of the regions in Kigezi and Kabale face a lot of challenges, especially during this time because of heavy rains; the children have to cross from one region to another - especially the nearby schools.

Therefore, Madam Speaker, I have noted the challenges and I pity the affected regions. I want to pledge that we will liaise with our technical people to map up those critical areas that need urgent intervention. We will work together with the ministries of Works, Disaster Preparedness and Finance, as you have stated, to see what we can do as an immediate remedy to ensure that the PLE candidates are registered timely for their PLE examinations. I thank you.

2.23

**MS FAITH NAKUT (NRM, Woman Representative, Napak):** Thank you very much, Madam Speaker. I would like to thank you for your exemplary leadership, especially on the matter of iron sheets.

In Karamoja, we believe in the justice of restoration. *(Text expunged.)*

Secondly, we expected the committee that you assigned the job of investigating this matter to be in Karamoja this week. However, we learnt, by Monday, that they were unable to travel due logistical reasons. We request you, Madam Speaker, with the –*(Interruption)*

**MR MOSES OKOT:** Madam Speaker, stealing is an ingredient of theft in our criminal law book. The Member holding the Floor has suggested that those who did return the iron sheets, did steal them, in her juxtaposition. Is she in order to allege that in returning the iron sheets one would have stolen them? This is because being found in possession of stolen property makes you a thief. Are we proceeding? Is she in order?

**THE SPEAKER:** We are actually not proceeding well. First of all, whoever got the iron sheets did not steal them. They did not even solicit for them; they were given. Just like I said, they were delivered to my district and they just called me asking me what to do with the iron sheets that had been delivered. My response was, "Give them to the schools." It was not private schools, but government schools. Therefore, you are not in order. *(Applause)*

**MS NAKUT:** Much obliged, Madam Speaker.

**THE SPEAKER:** Please withdraw the statement so that it is expunged from the record.

**MS NAKUT:** I expunge that statement. I acknowledge, honourable colleagues, that the iron sheets took themselves into people's compounds without their knowledge. *(Laughter)*

**THE SPEAKER:** No, Hon. Nakut, you are spoiling your own case.

**MS NAKUT:** I take your guidance positively.

**THE SPEAKER:** One thing - and I have always said that all the people who are mentioned did not ask for those iron sheets. But even if I asked, the discretion was yours to either give me or not. First of all, you know where those iron sheets were supposed to go, unless they come from your donation account and it is not a diversion from where it was meant to be. Therefore, you should not put the blame on other people.

My action has been arrived at because I do not want Parliament's image tainted. That is why I am doing it. I would have also said, "It was given to vulnerable people." My people are equally vulnerable, like yours. What is the difference? They did not take it to Kenya; they took it to Bukedea and other places in Uganda. Actually, after this, I also need them in my constituency.

**MS NAKUT:** Thank you very much, Madam Speaker. On the issue of the committee, we seek your indulgence to ensure that the committee reaches home. The people have been waiting in all our district headquarters since Monday to give their evidence to the committee.

**THE SPEAKER:** We have very good leadership in that committee. The committee will be in the constituency and they will do their work. It is just that they had an interaction with the minister today and the technical people. That is why they did not travel. They couldn't travel and leave the interaction that had been already planned. They will come there and we will have a report in this House.

**MS NAKUT:** Thank you very much, Madam Speaker. The second issue in your Communication from the Chair was about the rains. The rains are both a curse and a blessing. They are a blessing when we prepare to harvest rainwater.

We have some valley dams that are silted. The Ministry of Water and Environment has equipment and we have made requests to the ministries of Water and Agriculture; they have equipment. If this water could be harvested, then our livestock and crop farmers would be sorted.

However, the Ministry of Water and Environment says they are unable to proceed with the silting because they have no resources to deploy those machines. I seek your support so that the valley dams, which we already have in Karamoja that have silted, be de-silted to tap into this water that is going to waste. Thank you, Madam Speaker.

**THE SPEAKER:** The Ministry of Water and Environment should take note of that. You also need to take note of what Hon. Veronica said on the valley dams. Let us go to matters of national importance.

2.29

**MS ASINANSI NYAKATO (FDC, Woman Representative, Hoima):** Thank you very much, Madam Speaker, for giving me chance. I rise on a matter of national importance.

Aware that 8<sup>th</sup> March was Women's Day, and like elsewhere, Ugandans celebrated it. I joined the people of Hoima Oil City to celebrate it by organising a series of activities, which included tree planting and a women's football tournament.

Madam Speaker, to my disappointment, however, the police led by the Resident District Commissioner, a one Badru Mugabi, teargased, fired live bullets and stray bullets to disperse the gatherings, which seriously affected the pregnant women, young girls, persons with disability and even myself. They even had to teargas women who had tried to set up some small businesses to earn a livelihood at that event. This led to the unceremonious end of the day's events.

Madam Speaker, if a Woman Member of Parliament cannot be allowed to celebrate with fellow women in her constituency, who will be allowed to do that?

I pray that the Minister for the Presidency who is in charge of Resident District Commissioners (RDCs) and Resident City Commissioners (RCCS), the Minister of Defence and Veteran Affairs and the Minister of Internal Affairs come out and explain why security organs have continued to contravene Article 29 of the Constitution that protects freedom of expression, movement, assembly and association.

I also pray that the RCC and DPC of Hoima West Division be disciplined for such an unlawful act.

Finally, I pray that the cost encountered should be reimbursed so that I facilitate the organisation of a fresh ceremony. I beg to submit.

**THE SPEAKER:** Where will the reimbursement come from? Government?

3.32

**THE MINISTER, OFFICE OF THE PRIME MINISTER (GENERAL DUTIES) (Ms Kasule Lumumba):** Thank you, Madam Speaker. What happened to the fellow women and young girls is very unfortunate. I am sure men must have been affected because whatever affects a woman also affects a man. *(Laughter)*

Given permission, the Minister of Internal Affairs will explain that because that is an internal affairs issue and not defence or the Presidency – *(Interjections)* – Madam Speaker, the Minister of Internal Affairs is in charge of order in the country and so, he is the one responsible.

**MR SSEMURU:** Madam Speaker, RDCs are part of the Presidency. The teargas at the function that had been organised by Hon. Nyakato is what the Minister of Internal Affairs can explain.

The person holding the Office of the Leader of Government Business should be modest enough to relay the same message to those who are responsible for the Presidency, to reign on their RDCs to stop behaving like savages because they do it in many constituencies. You cannot just wish it away that internal Affairs will come and explain; the RDCs too, must be dealt with.

**THE SPEAKER:** I think what Hon. Lumumba needs to do is to inform the different line ministers.

**MS LUMUMBA:** Madam Speaker, what she has raised - and her complaints were basically the actions of the police. The police, in its reasoning - by the way, even if the RDC commands the police, and the police see it is not reasonable enough to take such actions, they

are the ones that must explain to this country. Otherwise, it does no harm to coordinate all the ministries for us to get a comprehensive report about this issue. I will do that. Thank you.

**MS AISHA KABANDA:** Point of order!

**THE SPEAKER:** To whom are you raising the point of order? The Member has already sat and so, you cannot raise a point of order.

**MS AISHA KABANDA:** Thank you, Madam Speaker. I have served as a Resident City Commissioner in Kampala. According to the regulations in this country, RDCs are the security heads in a city or a district. They supervise police and any other security organs in the area, and RDCs are under the Ministry of the Presidency.

Madam Speaker, at a time when the RDC is leading, it is the Presidency leading. Is it, therefore, in order for the minister to come and tell us that for any operation in the district, it is the Ministry of Internal Affairs that leads, yet the supervising officer is the RDC who falls under the Presidency? Is she in order?

**THE SPEAKER:** Hon. Lumumba, I think it is a simple thing. Just give information to those ministers so that they can handle this.

**MS LUMUMBA:** In my previous statement, I said that we shall coordinate all the ministries to come up with a comprehensive report.

**THE SPEAKER:** We expect feedback next week.

2.36

**MR JULIUS ACON (NRM, Otuke East County Otuke):** Thank you, Madam Speaker. I rise on a matter of national importance about an issue that happened in Otuke District, on the 6<sup>th</sup> of last month.

Madam Speaker, you are aware of the heavy rains and winds that are occurring these days. Last month, on the 6<sup>th</sup>, the roof to three classrooms at Anepmoroto Primary School was blown away. As we speak, they cannot

even study under a tree because the rains have been constant, from morning up to 12 O'clock.

We have the honourable Minister of Education and Sports here. My appeal is that the Government takes action and provides - we requested for 300 iron sheets and 300 bags of cements. I know iron sheets have been a big story in this country but such cases should be handled immediately. Thank you.

**THE SPEAKER:** Yes, honourable minister.

2.38

**THE MINISTER OF STATE FOR EDUCATION AND SPORTS (PRIMARY EDUCATION) (Dr Joyce Moriku):** Madam Speaker, it is really a pity. Yes, the rains can be a blessing but at the same time very destructive, especially to our schools.

We have received those complaints already from some parts of the country. One is this of my colleague in Otuke. Honestly, children have nowhere to sit because the roof was blown off yet we do not have an immediate emergency measure like providing tents.

It appears my friend is requesting for iron sheets from the Office of the Prime Minister but the Department of Disaster Preparedness seems not to be having iron sheets to address such emergency measures.

Therefore, in that case -

**THE SPEAKER:** Order!

**DR MORIKU:** Madam Speaker, I am hearing in the background someone saying that the Office of the Prime Minister has iron sheets for disasters. In that case, we will undertake the obligation through the Ministry of Local Government.

**THE SPEAKER:** Honourable minister, you have got the message from the Member of Parliament. So, send a team to assess what can be done. It is only after an assessment has been done that you can be able to respond.



**DR MORIKU:** Much obliged, Madam Speaker. We will do the needful through the district.

**THE SPEAKER:** It is not a matter of giving iron sheets. What will the iron sheets do? This is a Government school.

**DR MORIKU:** We will undertake the assessment through the Ministry of Education and Sports management unit and the technical team. We will liaise with the local government to carry out the assessment and get the report, and submit to the necessary office - *(Interruption)*

**MR LUBEGA SSEGGONA:** Madam Speaker, first, I am very happy and I want to thank my sister. It is a big effort, especially from a person who does not command the finances.

Yesterday, Madam Speaker, you guided us very well. I suppose that now that the substantive minister is present on Zoom, may we have a policy commitment on matters of this nature? I believe Hon. Janet Museveni Kataaha is with us on zoom. May we have a policy commitment from the minister?

I can see the difficulty with which my sister, the Minister of State for Education and Sports, is making the expressions that we are witnessing.

**MS LUMUMBA:** Madam Speaker, in the Office of the Prime Minister, we have the Ministry of Relief, Disaster Preparedness and Refugees. As we speak, we have iron sheets in store.

So, let us get communication from the District Disaster Committee, which is chaired by the Chief Administrative Officer and the needful will be done so that our children do not suffer anymore.

**MR MOSES OKOT:** Madam Speaker, it is true that every ruling of this House becomes binding. When I reported here, the committee on disaster, which the Minister for the Presidency is relaying today – I don't know but first of all, it is a disaster itself.

In Olal Primary School, one year down the road, the same ministry took 200 iron sheets and abandoned them there. As I speak, Olal is submerged in the flooded waters of Lake Kyoga. Does Olal Primary School still stand as part of your schools being governed by your ministry?

There are commitments that are being made here but that are not followed up by backing and commitments from ministries. For how long shall we be sent on a wild goose chase?

**THE SPEAKER:** First tell me one thing minister: when a school has a problem like this, do you just give iron sheets or you go and work on the buildings too?

**DR MORIKU:** Madam Speaker, when a disaster of such nature occurs in any school in Uganda, the first step is that the respective disaster management committee takes stock of what has happened and makes a report. That committee is chaired by the Chief Administrative Officer and that report comes to our ministry and then later my ministry forwards it to the Prime Minister's office under the Department of Relief, Disaster Preparedness and Refugees. And if iron sheets are available, depending on the budget –

**THE SPEAKER:** There is a procedural matter.

**MS AFOYOCHAN:** Thank you, Madam Speaker. I want to find out from the minister or the ministers in charge here: when they were giving out iron sheets to themselves, they never sought the letter from the Chief Administrative Officer or anybody. However, when we need these relief items for serious matters, we are supposed to go through the bureaucracy whereupon we end up not getting them.

Madam Speaker, I think this is very disheartening. We request that they release some of these items without any conditions.

**MS LUMUMBA:** Madam Speaker, we are before the Committee on Presidential Affairs on the same. I would request that instead of us preempting the details here - because we will be going against our own work as Parliament.

So, my prayer is: can we have that discussion when the report is ready because I know part of it will be a way forward and recommendations, which will help us to move better?

**THE SPEAKER:** Honourable Members, as I said before, there is a problem in schools, there are problems with the roads and all that.

Can we have all the Members whose schools are affected write letters, bring and we handle them with the ministry? (*Applause*) Those with issues of roads and dams, write to me and we forward those letters to the respective ministries. Otherwise, we are going to spend the whole day here talking about matters of national importance. When the minister fails to act, that is when we shall come back to the Floor and say, "This is what we asked you to do but you failed to do."

**MR LUBEGA SSEGGONA:** Madam Speaker, I am very much appreciative of that guidance. At least now, we know where to go.

However, my concern – and why I am seeking your guidance – is whether it is not better to have a policy in place. I listened to Dr Moriku and I think even Hon. Kasule Lumumba; they were talking about iron sheets yet we are talking about Government schools.

Now, when you get iron sheets from the Prime Minister's office, go and drop them at a school, who is going to drop the bricks and cement?

**THE SPEAKER:** Who is going to roof it, the timber and all that?

**MR LUBEGA SSEGGONA:** You must have a policy in place.

**THE SPEAKER:** That is why I am saying, write and we will write back to the ministry, then they will do an analysis and we see what has taken place.

Honourable members, in the Public Gallery this afternoon, we have students from Makerere University Law School. They have come to observe the proceedings. You are most welcome. (*Applause*) Thank you for coming.

We also have, in the same Public Gallery this afternoon, students from Mayuge Light Secondary School. They are represented by Hon. Rukia Nakadama and Hon. Aggrey Bagiire. You are most welcome and thank you for coming.

Still in the Public Gallery, we have a delegation of students from Cavendish University Law School. Join me in welcoming them. They have come to follow this afternoon's proceedings.

Honourable members, on issues of national importance, we are going to get your issues. Write your issues; we will forward them to the respective ministries. Some other matters of national importance will be discussed but because we are running out of time, we will handle them. Next item.

**MR LUBEGA SSEGGONA:** Madam Speaker, yesterday, you directed the Minister of Public Service to bring a statement today. I have tried to get it from my iPad –

**THE SPEAKER:** Why are you preempting what I was going to -

**MR LUBEGA SSEGGONA:** Thank you very much, Madam Speaker, for your consideration.

#### LAYING OF PAPERS

**THE SPEAKER:** In the laying of papers, we will expect what we asked for from the ministry yesterday; is it the Minister of Public Service?

**MS AISHA KABANDA:** Thank you, Madam Speaker. We have largely spoken about education but we have a Minister of Education and Sports that completely disregards this Parliament. For two years, she has not stepped in Parliament. Is there a reason we should continue having this minister as the Minister of Education and Sports?

Therefore, are we proceeding properly to have a minister for such a very important ministry that completely disregards this House and does not step in the House and is not even present on Zoom? When does she take note of our issues

for consideration? Are we proceeding well, Madam Speaker?

**THE SPEAKER:** Hon. Aisha Kabanda, do you want to tell me that because Hon. Janet Kataaha Museveni has not come to the House the schools are not operating? We have four ministers in that ministry. We have Hon. Dr Kaducu, who is here. Hon. Ogwang is around. Hon. Dr Muyingo is there. I have always told you - I know *hajats* are very respectful people - now, she is sitting.

When Hon. Janet Kataaha Museveni has an issue, she comes on Zoom. However, because she did not know that she had an issue to respond to today, is the reason she hasn't joined us via Zoom. If you want, she will be in the House tomorrow. Please prepare to raise all your matters to her tomorrow. (*Laughter*)

**DR BARYOMUNSI:** Thank you, Madam Speaker. Further to your guidance, the Constitution provides for the appointment of ministers. When you read that Article, you will realise that it says that the President shall appoint ministers and the subsequent Article says, "...the President shall appoint other ministers..."

Ministers of state are alternative ministers. Therefore, when a minister of state is in the House, the ministry is substantively represented in the House. That is the interpretation of the law.

**THE SPEAKER:** Honourable minister, my Minister of Education and Sports is in the House. So long as you are on Zoom, you are in the House. If you want her to say hello to you, you can go for a cup of tea at Nakasero. Next item.

## LAYING OF PAPERS

### MINISTERIAL POLICY STATEMENTS AND BUDGET ESTIMATES FOR FINANCIAL YEAR 2023/2024

#### I) MINISTRY OF EDUCATION AND SPORTS

**THE SPEAKER:** Honourable ministers, as I stated earlier, yesterday, there were some ministries that did not present their ministerial policy statements. We are doing this in conformity with Section 13 (13) of the Public Finance Management Act, 2015 and Rule 146 (1) of the Rules of Procedure.

We will get the ministerial policy statements and send them to the sectoral committees that should be able to report back by the 20<sup>th</sup> of next month – and that is a constitutional date. As I said, under rule 147, the Opposition is supposed to give an alternative statement. Can we now receive the ministerial policy statements?

2.54

**THE MINISTER OF STATE FOR EDUCATION AND SPORTS (PRIMARY EDUCATION) (Dr Joyce Kaducu Moriku):** Madam Speaker, in accordance with Section 13 (13) of the Public Finance Management Act, 2015, I beg to lay, on Table, the Ministerial Policy Statement for the Ministry of Education and Sports and other votes under the education, sports and skills development sub-programme, for Financial Year 2023/2024.

The Votes are:

1. Vote 013 – Ministry of Education and Sports;
2. Vote 111 – National Curriculum Development Center (NCDC);
3. Vote 128 – Uganda National Examinations Board (UNEB);
4. Vote 132 – Education Service Commission;
5. Vote 164 – National Council for Higher Education;
6. Vote 165 – Uganda Business and Technical Examinations Board;

7. Vote 166 – National Council of Sports;
8. Vote 301 – Makerere University;
9. Vote 302 – Mbarara University of Science and Technology;
10. Vote 304 – Kyambogo University;
11. Vote 305 – Busitema University;
12. Vote 306 – Muni University;
13. Vote 307 – Kabale University;
14. Vote 308 – Soroti University;
15. Vote 309 – Gulu University;
16. Vote 310 – Lira University;
17. Vote 312 – Uganda Management Institute;
18. Vote 313 – Mountains of the Moon University; and
19. Vote 612 – Local governments.

Madam Speaker, I beg to lay.

**THE SPEAKER:** Please, lay. I refer it to the Committee on Education and Sports.

## II) MINISTRY OF ICT AND NATIONAL GUIDANCE ICT

2.56

**THE MINISTER OF STATE FOR INFORMATION, COMMUNICATIONS TECHNOLOGY AND NATIONAL GUIDANCE (NATIONAL GUIDANCE) (Godfrey Kabbyanga):** Thank you, Madam Speaker - yes, the alternative minister, but with permission from the senior minister.

**THE SPEAKER:** Yes, go ahead.

**MR KABBYANGA:** Thank you, Madam Speaker. Pursuant to Section 13 (13) of the Public Finance Management Act, 2015, I beg to lay on the Table, the Ministerial Policy Settlement and budget estimates for Financial Year 2023/2024 for the Ministry of Information, Communications Technology and National Guidance, under two Votes: Vote 0202 – Ministry of ICT and National Guidance, and Vote 126 – National Information Technology Authority – Uganda.

Madam Speaker, I beg to lay.

**THE SPEAKER:** Thank you. It is referred to the Committee on ICT and National Guidance for processing.

## III) OFFICE OF THE PRIME MINISTER

2.58

**THE MINISTER, OFFICE OF THE PRIME MINISTER (GENERAL DUTIES) (Ms Justine Lumumba):** Thank you, Madam Speaker. I beg to lay on Table, the Ministerial Policy Statement for Financial Year 2023/2024 for Vote 003 – Office of the Prime Minister.

**THE SPEAKER:** Do you have only one Vote under Prime Minister's Office?

**MS LUMUMBA:** Yes, under the Prime Minister, there is only one Vote.

**THE SPEAKER:** Thank you. It is referred to the Committee on Presidential Affairs.

## IV) MINISTRY OF LANDS HOUSING AND URBAN DEVELOPMENT

2.59

**THE MINISTER OF STATE FOR LANDS, HOUSING AND URBAN DEVELOPMENT (URBAN DEVELOPMENT) (Mr Mario Obiga Kania):** Madam Speaker, I beg to lay on Table, the Ministerial Policy Statement for Vote 012 – Ministry of Lands Housing and Urban Development and Vote 156 – Uganda Land Commission, for the Financial Year 2023/2024.

I beg to lay.

**THE SPEAKER:** Thank you. It is referred to the Committee on Physical Infrastructure for processing.

## V) PUBLIC SERVICE COMMISSION

3.00

**THE MINISTER OF STATE FOR PUBLIC SERVICE (Ms Grace Mugasa):** Madam Speaker, I beg to lay on the Table, the Ministerial Policy Statement for the Public Service Commission, under Vote 146.

**THE SPEAKER:** Thank you, it is referred to the committees on public service and local government for processing.

3.01

**THE MINISTER, OFFICE OF THE PRESIDENT (SCIENCE, TECHNOLOGY AND INNOVATION) (Dr Monicah Musenero):** Madam Speaker. I beg to lay on the Table, the ministerial policy statement and budget estimates for the Ministry of Science, Technology, and Innovation under vote 167 and other votes, and Vote 110 for the Uganda Industrial Research Institute.

**THE SPEAKER:** You have only two votes?

**DR MUSENERO:** Yes.

**THE SPEAKER:** Okay, thank you. It is referred to the Committee on Presidential Affairs. Minister of Public Service, you are supposed to bring a report in regard to the staff of the Ministry of Science and Technology, and the Rural Electrification Authority. Can we have that report laid on the Table so that we can go and study it and then have a debate next week?

**MS MUGASA:** Thank you, Madam Speaker. I beg to lay a report from the Ministry of Public Service - it is a partial report at the moment - it has the Ministry of Science Technology and Innovation staff and other agencies -

**THE SPEAKER:** Honourable minister, do not give us a partial report. Go and finalise it.

**MS MUGASA:** Another one is coming.

**THE SPEAKER:** No, go and complete it and then bring a full report on Tuesday. And actually, you need to bring it earlier so that we can upload it for Members to read through.

**MS MUGASA:** Much obliged.

MOTION FOR ADOPTION OF THE  
REPORT OF THE AD HOC COMMITTEE  
ON THE BUJAGALI TAX WAIVER

**THE SPEAKER:** Rt Hon. Prime Minister, we have a motion on that report. How would you like us to proceed? I do not see the Attorney-General. Please advise us.

3.04

**THE MINISTER, OFFICE OF THE PRIME MINISTER (GENERAL DUTIES) (Ms Justine Lumumba):** Madam Speaker, let the report be presented while I look for my team to come here.

**THE SPEAKER:** Thank you. Honourable members, yesterday, this report again came but it had some typos - but which wasn't a typo. It was a material mistake, but which has been corrected. The report that has been duly signed is uploaded on your network. So, can you go ahead?

I am happy the Attorney-General has come - we can handle it with the Attorney-General alone, after all the issues that are coming from the agreement -

3.05

**MR DICKSONS KATESHUMBWA (NRM, Sheema Municipality, Sheema):** Madam Speaker, I will go through the report and would like to refer the members to page four.

Background

Government, over the years, has demonstrated its commitment to improving the investment climate in Uganda by supporting the development of significant infrastructure projects with private partners. Increasingly, the country's economic growth exacerbated the electricity demand and the Government sought to develop its generating capacity by inviting proposals from private partners.

The Government of Uganda worked with the AES Corporation and its affiliate, AES Nile Power, between 1996 and the second quarter of 2003, to implement the power station and the development of the Uganda Electricity Transmission Company Limited (UETCL) - line as a private sector project.

On 16 January 2004, the Government of Uganda published a request for proposals concerning the development of the Bujagali Hydropower Project for the development of a 200-Megawatts Bujagali Power Project to:

1. The prospectus was elicit expressions of interest from potential sponsors of the project;
2. It was to provide a context for interested potential sponsors, to comment upon and seek clarification of the process of seeking a sponsor to develop the project; and
3. To sell and convey all of its rights, title and interest in the power station to the Government of Uganda at the sum of \$1 plus any other overdue capacity payment upon conclusion of the 30-year term of the power purchase agreement.

Subsequently, the Government of Uganda acquired IPS Consortium as the sponsor that was required to form a special purpose vehicle to implement the 250-Megawatt Bujagali Hydropower Project on Dumbbell Island along the River Nile.

On the 17<sup>th</sup> of August 2005, Bujagali Energy Limited was incorporated as a special-purpose vehicle to implement this project.

It is noteworthy that over the years, the agreements between Government of Uganda and Bujagali Energy Limited (BEL) have been amended to incorporate the new developments and changes necessitated by the passage of time during its execution.

Below is the table that summarises the agreements and the changes that were effected and the members can go through that? And that takes me straight to page six.

In July 2017, under Section 21 of the Income Tax Act, Parliament approved the five-year corporation tax exemption that was supposed to end on 30 June 2022, of the income earned by BEL, concerning the operation of Bujagali Hydroelectric Power as a Government intervention to reduce end-user tariffs and generation tariff payable to BEL.

The introduction of the exemption did not, in effect, amend the agreement or formula used to compute the capacity charge. The committee

noted that the development of the Bujagali Power Project enhanced the power supply and access but at a very high cost.

#### Problem statement

The Government of Uganda has increasingly invested in developing and generating electric power to ensure the sufficient and stable supply to meet the increasing demand. This is critical for economic growth, poverty reduction and the social-cultural transformation of the country.

For the financing of Bujagali to be secured, the Government of Uganda entered into a Public Private Partnership with Bujagali Energy Limited, through a power purchase agreement that would guarantee cash flows to repay the debt incurred.

The Government of Uganda guaranteed to pay BEL the total capacity charge of the power plant, whether power is evacuated or not.

Under Section 21 of the Income Tax Act, the Parliament of Uganda approved a five-year corporate income tax exemption in July 2017. However, despite all the interventions by Government of Uganda, the power tariffs remain high until today. Upon this background, an Ad hoc Committee on Bujagali Tax Waiver was set up to investigate the intricacies of the agreements between BEL and the Government of Uganda, to understand the effect of arrangements on the power tariffs to consumers.

Madam Speaker, the committee now begs to report under the specific terms of reference as listed on page seven.

#### Methodology

The committee held meetings, reviewed documents and made field visits. The meetings we held included:

1. Interaction with the Attorney-General;
2. The Auditor-General;
3. The Ministry of Finance, Planning and Economic Development;

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>4. The Minister of Energy and Mineral Development;</li> <li>5. Uganda Electricity Transmission Company Limited;</li> <li>6. Electricity Regulatory Authority;</li> <li>7. Bujagali Energy Limited; and</li> <li>8. Uganda Revenue Authority.</li> </ol> | <p>Findings, observations and recommendations</p> <p>The Ad hoc Committee, under TOR 1, which was to ascertain the Government of Uganda's equity contribution in Bujagali and return on investment</p> |
|--|--|

The committee reviewed several documents listed below:

1. Request for proposals;
2. The initialing agreements;
3. The Memorandum and Articles of Association of Bujagali Energy Limited;
4. The Certificate of Incorporation of Bujagali Energy Limited;
5. The shareholders agreement between the various parties including Bujagali Holding Power, GS Bujagali Holdings Limited, Bujagali Energy Limited and Government of Uganda;
6. The power purchase agreements;
7. The Assumption and Novation Need;
8. The amended and restated implementation agreements relating to with Bujagali Energy Limited;
9. We reviewed the report of the Auditor-General;
10. We reviewed the audited accounts of Bujagali from 2006 to 2021; and
11. All the submissions.

Madam Speaker, I would like to lay on the Table, the documents I have referred to in my report.

**THE SPEAKER:** Please lay.

**MR KATESHUMBWA:** We also undertook fact-finding missions by visiting the power plant in Jinja to assess the status of the dam.

We did a comparative study in Kenya and interacted with the Minister of Energy in Kenya, the Kenya Electricity Generating Company, and the Kenya Power, Energy and Petroleum Regulatory Authority. I have laid the minutes of these meeting, among the documents.

On 8 December 2007, the Government of Uganda entered into a shareholders' agreement related to the operation of Bujagali Energy Limited, Bujagali Holdings Power Company Limited, SG Bujagali Holdings Limited and Bujagali Energy Limited.

The project's total equity was \$199,866,000. Out of this equity, the Government of Uganda's equity contribution was \$20 million and BEL shareholders contributed \$179,886,000. Government of Uganda's contribution was issued and classified under Class C Ordinary shares as summarised in the table below.

When you look at the table, you realise that we have two shareholders. We have the Government of Uganda, with \$20 million under Class C and Bujagali Energy Limited, which contributed \$179 million, under classes A and B.

The equity contributions to the project by the sponsors were in two parts, that is, the \$179 million. The expenditure incurred, between 2005 to 2007, amounted to \$20.6 million that was split between Sithe Global and Industrial Promotional Services. You can see the figure.

Further contribution to a tune of \$159,222,833 was made between 2007, 2008 and 2012. The equity contribution of \$20 million by the Government of Uganda was in kind. For the Government of Uganda, the certificate of shares issued No. 6, under the Common Seal of Bujagali Energy Limited to the Minister of Finance, Planning and Economic Development, allotted a total of 360,000 Class C shares at Shs 100,000 per share. This is equivalent to a capital contribution, to the project, of Shs 36.17 billion but with no voting rights as a shareholder in the company as per the provisions in Clause 13(1) (b) of the agreement.

Under the agreement, in clause 4.1(f), the Government of Uganda's equity contribution is not entitled to a payment of dividends and no redemption of shares under Class C, until the repayment of tariffs debt and interest on the tariff debt components of the capacity payments - until they are paid to zero, Government of Uganda was not entitled to any dividends.

The committee noted that Bujagali Holdings Limited and Sithe Global issued Class A shares equal to 50.25 percent and 49.75 percent of all authorised Class A shares respectively.

Additionally, Bujagali Holdings Company was issued Class B shares including the share premium provided their contribution for A and B shares does not exceed \$60 million. On the other hand, Sithe was also issued Class A and B shares with a share premium, subject to the company's articles of association.

The committee established that the financing mechanism of the project was incorporated in the Tariff Equity Repayment and Return. Members, I request you to take note of that term "Tariff Equity Repayment and Return" because it is going to come out often.

The Tariff Equity Repayment and Return was used as a financing mechanism through which the computation was based on. So, that tariff equity repayment plan computation was based on a standard amortisation formula, which is below the power purchase agreement, and was supposed to maintain a return of 19 per cent to the shareholders. So, the investors who invested in Bujagali were entitled to 19 per cent return on investment.

The committee could not establish how the 19 per cent return on investment was negotiated. However, when we examined the original proposals, we looked at the proposal evaluation criteria set by Government of Uganda, and realised that it had capped the internal rate of return at 20 per cent. So, the bidders negotiated 19 per cent return on investment.

Colleagues, this is a bit highly technical, but if you look at the formula; the amortisation

formula used to calculate the tariff equity repayment and return, it is composed of the aggregate equity – which is the amount of the tariff equity repayment – which means the equity yield and of course the aggregate equity as of the commercial operations debt.

I will try to simplify it as we move forward but that is the amortisation formula that is used to calculate the tariff equity repayment return that was used to pay the investor.

The committee noted that the Electricity Regulatory Authority –

**THE SPEAKER:** Mr Chairperson, you also need to tell the Members the source of your formula – that it was from a power purchase agreement.

**MR KATESHUMBWA:** Yes, Madam Speaker. This was part of the negotiated formula in the power purchase agreement.

The committee noted that the Electricity Regulatory Authority used the above formula to compute capacity charge payments based on the aggregate equity.

If you look at the formula again – I want you to pay attention to it – the tariff equity repayment return is computed. One of the components of that computation is the aggregate equity. Aggregate equity means the total money that the investors contributed, just to simplify it.

The Electricity Regulatory Authority used the aggregate equity of US\$ 176.9 million. Since the investor had put in US\$ 176.9 million, they projected that in five years, the US\$ 176.9 million would have earned interest of US\$ 206 million based on 19 per cent. They projected that if you have put in US\$ 176.9 million now, while the dam construction is going on, in five years, this money will be worth what you have put in plus interest at 19 per cent, which is US\$ 206 million.

As a result, they projected a future value of US\$ 383.4 million, which was used as the aggregate equity to be put in that formula to compute the tariff equity repayment return. As such, the



monthly payments that were being made since then were equivalent to US\$ 5.5 million. That is what ERA has been paying since then.

The committee observed that the issuance of Class C shares to the Government of Uganda, with no voting rights, denied Government the latitude to contribute to the governance of Bujagali Energy Limited and the return on its investment despite the investment of US\$ 20 million.

We also observed that under clause 1.1 of the power purchase agreement, the financial yield for Bujagali shareholding is put at 19 per cent. Accordingly, the Class A and B shares that were due to the other investors were entitled to a dividend under that agreement. As at June 2022, Bujagali Energy Limited had paid out dividends to the tune of US\$ 475.7 million.

If you look at the table since 2013, they have been paying out dividends. The dividends paid up to 2022 amount to US\$ 475,740,974. The source of this information is Bujagali Energy Limited Directors' reports and their audited financial accounts. I have informed you that we reviewed financial accounts from 2005 to 2021.

We observed that the 19 per cent return on equity was very high given that the bank lending rates at that time were around 6.5 per cent. ERA attributed the high rate to the country's low credit rating then that coincided with the global financial crisis at that time.

However, we observed that the return on equity of 19 per cent alone accounts for 52 per cent of the capacity charge. It is a very big component of our headache of high tariffs. If you are an investor here, you know the average return you get. 19 per cent was very huge.

The committee established that at the commencement of the project, as part of the implementation agreement, Government of Uganda undertook to lend Bujagali Energy Limited US\$ 90 million as a fast-track advance loan payable after six months.

Besides the fact that this loan was undisclosed in the loan payment schedules of Bujagali Energy Limited, the committee established that only US\$ 75 million was disbursed to BEL. The agreements indicate US\$ 90 million but what they received is US\$ 75 million. The same money was paid back to Government of Uganda as agreed on 21 December 2007. The Accountant-General, in his letter dated 14 December 2007, guided the reimbursement in two batches as you can see in the table.

When we asked the Minister of Finance about the balance of US\$ 15 million, the ministry indicated that the balance was expensed to UETCL for other related costs such as VAT, NEMA, stamp duty and insurance. The committee was not provided with evidence of these expenses by UETCL.

The other observation is that whereas – and this is a very critical observation – ERA considered the equity injection – remember the US\$ 176.9 million equity injection by Bujagali to compute the amortised interest and the future value, the basis of which the US\$ 5.5 million was being made. We established that the actual equity contribution was not US\$ 176.9 million but US\$ 179.8 million. The breakdown is as per the table. The source is the Bujagali Energy Limited reports and the audited financial accounts.

Bujagali Energy Limited, in their reports, have said they have a different figure from what ERA had. Based on the formula and the computation of US\$ 5.5 million capacity payments per month to BEL over a period of 30 years, the total financial obligation would amount to US\$ 2 billion. If you are to use that US\$ 5.5 million for 30 years, which is the period covered by the shareholders' agreement – 2012 to 2042 – the financial obligation would be US\$ 2 billion as you can see in the figure. Honourable members, think about the original cost of the dam. Remember they put in US\$ 179 million and the Government put in -

As indicated in the table earlier, the equity of Bujagali Energy Limited of Class A and Class B shares was US\$ 179 million. The anticipated

interest computed by Bujagali Energy Limited from 2007 to 2012 (five years), was US\$ 210 million. Therefore, they got US\$ 179 million and projected that in five years, they would have earned US\$ 210 million and added that to have the future value of US\$ 390 million, as the base to compute the monthly capacity charge. I hope I have tried to simplify.

Madam Speaker, we established that the projected future value (supposed to be earned at 19 per cent) that was used to determine the future value was never subjected to tax. The interest of US\$ 210 million ought to have been offset by a provisional tax component of 30 per cent. So, if you make projected revenue, it follows, as a principle, that you must provide for tax. You cannot project that I will earn US\$ 210 million in our economy and use it as a base without offsetting it for tax at 30 per cent. We established that the tax component of 30 per cent or US\$ 63 million was not provided for.

Therefore, the future value is overstated and should have been at US\$ 326.9 million. If you look, the formula should be that net income is equal to interest (US\$ 210 million) minus the provisional tax component (US\$ 63 million), which gives you US\$ 147 million. The US\$ 147 million is what should have been added to the US\$ 179 million actual equity contribution to be able to establish the aggregate equity of US\$ 326 million to be used. This is a very important observation.

Therefore, it is the US\$ 326.9 million that should have been used to compute the tariff equity repayment return per month for Bujagali capacity payments, instead of US\$ 383.4 million. If the US\$ 326.9 million had been used as the aggregate equity, after providing for the tax provision, the monthly capacity charges should have been US\$ 4.7 million in 2012, US\$ 3.7 million in 2013, US\$ 2.8 million in 2014 and US\$ 2.3 million from 2015 onwards, instead of the US\$ 5.5 million that was used across the board. Are we together?

We calculated it and said that if you had provided for tax, you would not have overstated your future value, which you used to calculate

the monthly payments. We have broken it down per year.

Madam Speaker, to make matters worse, Bujagali Energy Limited shareholders started redeeming their shares from 2013 up to 2015. "Redeeming" is taking away your money. In 2013, they redeemed US\$ 70.3 million. In 2014 it was US\$ 64.2 million, in 2015 it was US\$ 35.3 million. Therefore, in three years, the shareholders redeemed US\$ 169 million out of the US\$ 179 million they put in.

**THE SPEAKER:** Chairperson, was that part of the agreement; that you can be able to redeem at any one time?

**MR KATESHUMBWA:** The agreement is silent but they are investors. Part of the common business practice is that you can redeem your shares as a shareholder. However, we are going to see trouble with those decisions.

In three years, the equity of Bujagali, having removed US\$ 169 million, stood at US\$ 157 million, which is the US\$ 10 million plus the other projected interest.

#### Observations

Following the shareholders' exempt redemption, the computation of the monthly capacity payments should have been based on the remaining equity balances from 2013 to 2015. This is because you took away your money and you are continuing to compute as if the money is there. Unfortunately, the computations of payments to Bujagali Energy Limited continue to be based on a wrong original equity value of US\$ 383 million.

If the computation was to be done, taking into consideration the redemption of shares as well as the compliance with the other tax provisions I mentioned, the resultant capacity payments, going forward, should have been as summarised in the table.

If you look at the table, we have highlighted what should have been the monthly payment every year - in the second last column. So,

while we are paying them US\$ 5.5 million per month, the committee recomputed what should have been a monthly payment, as indicated –US\$ 3.7 million downwards. You can see that when they withdrew their money, the repayments should have reduced as well.

The total payments to Bujagali Energy Limited, therefore, from 2012 to 2022, ought to have been US\$ 329,341,281. Instead, the Government of Uganda paid Bujagali Energy Limited a monthly amount of US\$ 5.5 million. As a result, it totals to US\$ 671 million in 10 years. In our observation, the wrong calculation resulted in an excess payment of US\$ 342 million to Bujagali.

Based on that calculation, if we amortise this 30 year-period up to 2042, which is listed in the agreement, the Government of Uganda would pay BEL only up to US\$ 881 instead of the US\$ 2 billion which is based on the current loan calculation. That means it would cost the country an additional US\$ 1.1 billion - and as you look at these figures, remember the cost of the dam.

I will go to the impact on consumer tariff. The critical impact of all this is how it affects the final consumer tariff. The current consumer tariff in Uganda stands at 8.49 cents per kilowatt. This was after the refinancing agreement of July 2018 and a tax exemption given in 2017.

However, based on the correct competition, the tariff would be US cents 5.72 after the refinancing of July 2018 and a tax exemption of 2017.

The committee observed that even with the corporation tax exemption, even if it was imposed at 30 per cent, with the correct computation, the tariff would still have been US\$ 6.55 cents per kilowatt, which is still lower than the current US\$ 8.49 cents per kilowatt - and we have illustrated the computation there.

Because of the current capacity payment to BEL, if you add return on debt, that formula, the interest on debt, the tariff equity return per

month, the corporate income tax, which is zero, operation and other technical charges zero, operation and maintenance - all these total US\$ 10 million. When you add those, they result in the current tariff of US\$ 8.49 cents.

Therefore, if power is sold at the current power tariff, the payment value, based on the above figures, would be 119,273,733 kilowatts.

If we change the payment per month, as we have illustrated, the new capacitor payment would be 6.8 instead of 10. If you apply the same formula; the 6.8 dividend by the kilowatts being produced, it would result in US\$ 5.72 cents per kilowatt.

Therefore, it just tells you that to reduce power, all that needed to be done was to make the repayments according to the correct formula.

If we assume 30 per cent - because if you look at that table where there is Corporate Income Tax (CIT), it is zero. But if we make a provision for 30 per cent income tax, still the tariff would have been US\$ 6.55 cents per kilowatt, which is still lower than the 8.49.

#### Recommendations

The committee recommends that Bujagali Energy Limited should refund to the Government of Uganda the excess payments of US\$ 342 million for the period of 10 years plus surcharges. *(Applause)*

The committee recommends that Bujagali Energy Limited should be held liable for not declaring the provisional component of tax on the purported income amounting to US\$ 63 million. Uganda Revenue Authority is directed to recover all the taxes from BEL prior to the exemption.

The committee also recommends that going forward, the Electricity Regulatory Authority (ERA) should compute capacity payments as per the adjusted equity of US\$ 157 million after 2015, following the share redemption by the shareholders.

The committee also recommends that the IGG should take interest in the operations of ERA in the amortisation of the return on equity on Bujagali and establish the culpable officers who amortised this computation based on a wrong return on equity to BEL.

The Government of Uganda should renegotiate the agreement with Bujagali Energy Limited.

We also recommend that the Government should institute a strong monitoring team to ensure the integrity of the facility until its handover.

Members, the Government of Uganda is supposed to be earning equity, according to the agreements, after 30 years, when the investors have been paid off. At that point, the dam will be handed over. Therefore, the condition of the dam at that point is important. If it is completely exhausted - and that was the case we established in Kenya - at the time of the handover, you might find you need to put in more money. Therefore, the Government must have a mechanism to continue monitoring the integrity of the facility.

We also recommend that the IGG should investigate the US\$ 15 million expressed through UETCL to establish how, where and whether the money was spent.

We recommend that the Auditor-General should audit the application of US\$ 15 million because it is in the agreement but it was never expensed.

We combined terms of reference two and three to establish the cost-benefit and value for money of the historical income tax exemption on Bujagali and assess the impact of the tax waiver on energy tariffs.

The committee established that the Auditor-General undertook a special audit on Bujagali Energy Limited in 2014, on a special request by the Government, to audit the tariff project costs regulated by ERA.

The procedures performed during the audit were solely to establish whether the tariff project costs reported as US\$ 879 million were reflective of the actual cost of the project.

**THE SPEAKER:** Isn't it US\$ 875.11?

**MR KATESHUMBWA:** Yes, US\$ 875.11 million - whether they were reflective of the actual cost of the project, whether they prudently incurred following the original designs, and whether the costs were reflective of the value for money.

The audit revealed US\$ 756.86 million as the final tariff project costs and that this was prudently incurred as per the original design.

However, the project's price appeared high compared to other hydropower projects in terms of the overall project costs, electromechanical costs and turbine and transformer cost.

The high costs were attributed to the fact that BEL borrowed US\$ 50.7 million, which included high debt financing costs such as interest during construction of US\$ 111.6 million and lenders' administrative costs of US\$ 23.7 million. Additionally, there was an interest to be paid after the commercial operations debt of US\$ 334.5 million equivalent to Shs 1.2 billion.

The audit revealed that Bujagali Energy Limited met an insurance loss of US\$ 163,063 resulting from lost equipment of Alstom (a subcontractor of Salini) and that 70 per cent of that cost should have been met by the contractor but was instead charged as part of the tariff project costs.

The committee established that the license issued by ERA and the Power Purchase Agreement (PPA) states that BEL capacity price should include the following and their respective percentage contribution:

- i. Debt repayment
- ii. Interest on debt
- iii. Return on equity payment
- iv. Corporate Income Taxes

- v. Other taxes
- vi. Operations and maintenance costs for the power plant
- vii. Miscellaneous charges, and
- viii. The Government equity repayment.

Remember, out of these components, the Government equity repayment is zero and Corporate Income Tax (CIT) is zero. If you look at that chart, you will realise that the biggest cost driver, which accounts to 52 per cent, is the return on equity. That is as a result of the other 19 per cent that was negotiated.

The total cost, as indicated in the graph, is US\$ 129.3 million per annum. Under Section 21 of the Income Tax Act, the Parliament of Uganda approved a five-year CIT in July 2017. The exemption was on the income earned by BEL operating the Bujagali Hydro Electric Power Plant.

According to URA, for the income tax exemption period commencing 2018 to 2021, BEL declared exempt income resulting in potential CIT foregone of Shs 388.7 billion. So, according to URA, the CIT foregone was Shs 388.7 billion. If they had paid, this money would have gone to the Consolidated Fund. The table is highlighted there.

The waiver of the CIT to BEL was one of the interventions carried out by the Government to reduce the generation tariff payable to BEL and, by extension, the purpose was to reduce the end user tariffs. The cost driver, as indicated, includes: debt service and return on equity, including tax. Therefore, tax is just one component of the total cost.

The Ministry of Energy and Mineral Development demonstrated the advantages of the waiver. As you can see, the Ministry of Energy and Mineral Development highlighted that before the waiver, the cost was Shs 13.83 and after the waiver, it went down to 10.62 before the refinancing.

The Ministry of Energy and Mineral Development informed the committee that the tariff for Bujagali in 2018 was US cents 13.83

per kWh and it was one of the most significant contributors to the high-levelised tariff. This was set to increase to US cents 14.23 in 2022. Remember that was one of the justifications given for us to extend the tax waiver. If we did not, the tariff was going to increase.

In the interest of time, allow me to go to the observations on page 23.

The committee observes that:

- (i) Even with the Government intervention of the tax waiver on BEL, the operations and the refinancing of the Bujagali Hydropower Plant, the current tariff of US cents 8.30 per kWh is still over and above the target of US cents 5 per kWh. Remember the Government has been saying the target should be 5 per kWh so, the CIT reduced by 3.2, the refinancing reduced it further but it remained at 8.3, which is much higher than the target. So, it remains costly to domestic consumers and it is deterring industrial consumers' accelerated growth and competitiveness as electricity is the major factor of production.
- (ii) In the audited accounts of BEL, the operating revenue consists of taxes, operation, maintenance costs and miscellaneous charges. These were estimated and included in the capacity payment charge and were excessive, which led to operating revenue. This, in effect, would have been a refund to the Government of Uganda as an excess payment *vis-à-vis* the actual. Therefore, the Corporation Tax purported to be on this revenue is taxing Government money which should not have been the case if the refund was done.
- (iii) The significant cost driver is the uncapped/unregulated dividend payouts to BEL shareholders. The retained earnings, an income to BEL, should have been subjected to tax and the effect would be net of tax instead of gross payments. Therefore, the CIT in the formula should

- apply to earnings resulting from 19 per cent. If you are earning 19 per cent, then the CIT should have been applied.
- (iv) The National Audit Act, 2008 was not complied with as the Auditor-General was supposed to audit the expenses of BEL by virtue of the Government of Uganda being a shareholder.
- (v) Electricity utilities are monopolies and it is paramount that the regulator protects the interests of the end-user customers with little or no alternative for electricity. The Government can achieve this by capping the return on equity. The determination of the utility's total revenue requirement, which represents the amount of money a utility must collect to cover its costs and make reasonable profits, must be capped to keep the final tariff cost affordable by the end user.
- (vi) If Parliament does not approve the extension of the CIT, BEL claims will incorporate and appropriate amounts in the tariff following the formula. So, with or without the exemption, BEL would remain in the same economic position in that if it paid CIT, it would still recover the money expended on CIT by charging a higher tariff.
- (vii) Hydro plants are temperamental because they depend on natural weather; the higher the rain, the more generation. This helps to determine the average capacity utilisation factor of a power dam over its lifetime during operation.
- (viii) Bujagali Energy Limited has never declared whether or not they have had a surplus or deficit of operation and maintenance costs and other charges because if they had a surplus, the charges within the formula would be lower and would result in a refund to Government.
- (ix) We also observed that even with the Government intervention of the tax waiver -

**THE SPEAKER:** It is other miscellaneous charges and taxes.

**MR KATESHUMBWA:** Yes.

- (ix) Even with the Government intervention of the tax waiver on Bujagali Energy Limited and the refinancing of Bujagali Hydropower Plant, the current tariff (of US cents 8.3), is still over and above the target of US cents 5.5 per kilowatt. The capacitor charge of US cents 8.3 remains costly and it is deterring consumers and industrial consumers from accelerated growth and competitiveness.

#### Recommendations

- i) The committee recommends that the Auditor-General should audit Bujagali Energy Limited as per the National Audit Act, given that Government of Uganda is a shareholder in the project. Specifically, the committee strongly recommends that the Auditor-General should undertake a value-for-money audit on Bujagali to establish the actual effects of the cost drivers, because all these charges we have talked about are assumed underestimated. If there is no audit by Government, this becomes a problem.
- ii) Colleagues, I think you will appreciate that even as we go into the oil sector, this is the biggest problem we are going to have. If you have someone inflating costs and they are not being audited to establish the actual costs –

The Ministry of Energy and Mineral Development has never undertaken any feasibility study to estimate the agreed utilisation factor to be incorporated at the signing of the Power Purchase Agreement. Establishing the actual average utilisation factor determines its impact on the final tariff. The higher the utilisation factor beyond what was agreed upon, the lower the tariff.

iii) The committee recommends that through the Minister of Energy -

**THE SPEAKER:** Maybe to Members, under the National Audit Act, 2008, all institutions that get money from the Consolidated Fund must be audited. This is what the chairperson is saying; that under that Act, audit has never taken place and they are recommending that there should be an audit. All these people you are giving money, be it ROKO, etc., are subject to audit.

I was just making clarification, you will debate.

**MS CECILIA OGWAL:** Madam Speaker, I am just giving the presenter a point of consideration. When Government is not part of governance, you cannot -

**THE SPEAKER:** Now, you are going to come with that on the debate. The question is: why are we in Class C and not A and yet our contribution is higher than what they have?

**MR KATESHUMBWA:** The second recommendation under this TOR is that through the Ministry of Energy, the Government of Uganda should initiate processes to renegotiate the power purchase agreements with Bujagali Energy Limited.

**THE SPEAKER:** Honourable Members, for those who want to go away, next week I want all of you in the House for the famous law. Whoever does not come, I will go to your constituents and say, this one - (*Laughter*)

We are talking about our generational aspect, our morals and values. We do not mind about the risks. Let us first protect our children. If your risk is that we shall not get money, can't we work for our money? The only thing we have to do is to make sure we reduce on corruption and use what we have within. Go ahead.

**MR KATESHUMBWA:** Through the Ministry of Energy and Mineral Development, the Government should initiate processes to renegotiate the Power Purchase Agreements

with Bujagali Energy Limited to provide for a cap to return on investment and the utilisation factor to reduce the tariff costs before deciding on extension of the waiver.

iv) We also recommend that from our findings in TOR 1, the Corporate Income Tax waiver should have had an impact of lowering the tariffs to US cents 5.72 per kilowatt, if the capacity payments computation was done using the correct tariff equity payment return. Therefore, what we demonstrated is that with the Corporate Income Tax Waiver, the tariff would have gone down to US cents 5.72. Consideration of the CIT waiver should only be made after refund of excess payments by BEL and completion of renegotiations.

Term of Reference number 4 was to inquire into the merits - and this is the last one - of the loan restructuring and its impact on the country.

The loan restructuring of Bujagali Energy Limited Project arose from the matter of high electricity costs raised by His Excellency the President of Uganda at the 28<sup>th</sup> Summit of the Heads of State and Governments of the African Union on 30 January 2017. We even examined correspondences from the President about concerns of the high power costs.

The high electricity costs prompted assurances from the President of the African Development Bank to support Uganda's efforts towards providing affordable electricity at that summit. Subsequently, the President directed the ministries in charge of Energy and Finance to explore measures to reduce power tariffs to US cents 5 per kilowatt.

The ministries identified the cost of Bujagali's project debt, exacerbated by its short term tenure of 16 years from the start of construction and the corporate income tax to be applied effective 2017 to be the critical drivers for the high tariff costs. After negotiations, we identified the financiers' "no objection" for the appointment of ADB and International Finance Corporation

(IFC) as joint mandated lead arrangers for the proposed refinancing with Stanbic Bank as the transaction advisor which was received on 23 February 2017.

The Ministries of Finance and Energy presented five financing proposals to the Cabinet:

- a) The Cabinet discussed and noted the budgetary requirements for reducing the end-user power price to US cents 0.071 during Financial Years 2017 to 2023.
- b) The Cabinet rejected the proposal to reduce the end-user power price paid by all industrial consumers to US\$ 0.05 per kWh through subsidies and approved the renegotiation of the terms of the African Development Bank proposal for the Bujagali project refinancing as follows:
  - (i) To refinance US\$ 504.7 million of the existing Bujagali project debt, replacing the current project lenders with new investors;
  - (ii) They also agreed that the African Development Bank, together with other development finance institutions, should make a provision of guarantee for repayment of the new project lenders;
  - (iii) An interest rate of 6.25 per annum was agreed;
  - (iv) They also agreed to a new debt service reserve account requirement amounting to US\$ 26.17 million;
  - (v) They agreed to new loan tenure of 15 years from July 2017 to June 2032. So, they extended the loan up to 2032.
  - (vi) Issuance fees totalling US\$ 38.07 million are to be paid upfront from the loan amount. So, they give you the money but remove the issuance fees of US\$ 38 million.

- (vii) They also agreed to the existing Bujagali project loan cancellation with a loan breakage penalty cost of US\$ 9 million.

In a bid to reduce the power tariffs in 2018, the Minister of Finance, Planning and Economic Development informed the committee that the Government of Uganda, through the lead arrangers; International Finance Corporation (IFC) and African Development Bank (AFDB), refinanced the project through a loan to a tune of US\$ 444.3 million repayable over 14 years, ending November 2032.

We have put a table that highlights the approved amount, what was disbursed and the loan balances. It is important to note that whereas the approved loan was US\$ 444.3 million, the amount disbursed was US\$ 403.4. The difference of US\$ 40.8 million could not be accounted for. If it is assumed that US\$ 38.07 million was paid as issuance fees then the discrepancy of US\$ 2.83 million -

**THE SPEAKER:** Is it issuance or insurance fees? When a loan is given, there are insurance fees, commitment fees - It could have been maybe insurance -

**MR KATESHUMBWA:** This is the issuance fee; it is paid up front. So, we established that there is still a discrepancy of US\$ 2.83 million that cannot be accounted for. We have provided tables of the loan status. Members can look at Tables 12 and 13.

According to the Minister of Energy and Mineral Development, the Government of Uganda achieved financial close for debt refinancing of the project in addition to the waiver and the two components have had a consolidated effect of reducing the tariff by US\$ 0.0534 cents.

Remember that before the tax waiver, it was US\$ 0.13 and after the refinancing, it went down to US\$ 0.849. The ministry attributed the high tariff costs to the high payments required to finance the initial loans in the short term. Therefore, the refinancing was intended to lower the tariff cost.



Following the debt refinancing and corporate income tax waiver, the Ministries of Energy and Finance reported that the average monthly capacity payments to BEL would reduce from US\$ 13 million in 2018 to US\$ 10 million in 2021, translating to what they called “monthly savings” of US\$ 2.2 million. The electricity tariffs reduced from an average of US\$ 0.1383 to an average of US\$ 0.0849 per kilowatt, translating to a 38.6 per cent reduction, representing approximately 17 per cent reduction, which is equivalent to US\$ 0.0534 per kilowatt.

#### Observations

The committee observed that the refinancing increased the debt from the outstanding loan of US\$ 423 million at the time of refinancing to US\$ 678 million, an increase of 37 per cent, which meant that the Government would lose an additional US\$ 255 million as a result of refinancing and this is supposed to be paid by 2032. So, if the Government was to fulfil the earlier timeline of 2023, the Government would save US\$ 255 million.

The refinancing of Bujagali hydropower plant using debt is becoming more expensive to the Government because there is an extra cost of interest and lenders’ financing charges, all of which must be recovered through the tariff. So, whatever costs that have to be made, the impact goes on the tariff and on the consumer.

The additional financing to the tune of US\$444 million attracted issuance fees – Madam Speaker, this is what you were asking – of US\$ 38 million, which occasioned a 9.4 per cent loss on the principal amount compared to an average of one per cent of the principal fee for processing a loan. So, our loan was processed with an issuance fee of US\$ 38 million – that is around 9.4 per cent. When we compare that with an average loan processing fee of one per cent, you can see that there is a problem.

iii. Before refinancing, the Government had a running loan balance of US\$ 423 million. The refinancing created an additional US\$ 21 million cost on the borrowing. If the US\$ 38

million was used to offset part of the loan, the Government would have been relieved of some significant amount from the principal.

iv. We further observe that the Government of Uganda was to earn a return on its investment of US\$ 20 million by 2032 after the repayment of debt, but the project refinancing extended the repayment period from 2018 to 2032. Therefore, by implication, the extension implied that the Government of Uganda will earn its return on investment when the capital invested in the project has depreciated over the years and may require significant investment in rehabilitation to maintain the production capacity. So, by the time the repayment is over, we will have to reinvest in the asset.

#### Recommendations

The Government of Uganda should buy out a percentage of the debt to lower the tariff costs in the long term.

Additionally, financing projects such as Bujagali Energy Power through internally generated sources like equity would be cheaper. Therefore, Government should consider listing the Uganda Electricity Generation Company Limited on the stock exchange to solicit capital from the public so that we can buy out this loan.

Remember, people are earning 19 per cent. If you have seen the interest being declared by NSSF and the Treasury Bonds, it is still much lower. So, if UEGCL was channelling these repayments to local investors, they can easily enlist equity to pay off this loan and we stop the haemorrhage.

The Minister of Finance should account for the US\$ 2.3 million out of the amount of US\$ 83 million that we could not trace.

Finally, there is TOR 5, which was to examine the Public Private Partnership Agreement and ascertain all parties’ compliance with the terms of the agreement.

Article 8 is on the taxation implementation agreement and Article 12 of the Power Purchase

Agreement required that a company shall be subject to taxation in Uganda, applicable to a Ugandan company.

From the records obtained by the committee, BEL did not pay the Corporate Income Tax in respect of the projected amount of US\$ 63 million during the first five years.

#### Observations

The committee observes that the non-compliance before the tax exemption to BEL - because at that time, the tax exemption had not been granted and this is the one that we are dealing with. So, at the time, the provision for tax should have been complied with.

The committee observes that the non-compliance before the tax exemption was a violation of the agreement as executed by the parties. We recommend that URA should undertake a comprehensive tax audit on BEL to ascertain compliance with the tax obligation.

#### The non-electrical output

This is another component of the terms of the agreement. Article 8, section 3.1 of the Power Purchase Agreement provides for net electrical output. Schedule 1 to that agreement provides for the minimum functional specification for the contracted capacity of the 250 megawatts.

The agreement set a budget of 250 megawatts; that was the contracted amount to be produced by Bujagali. The agreement further stipulates that the power station shall be capable of delivering the contracted capacity, which is 250 megawatts at the normal hydraulic condition with a flow through the turbines that does not exceed 1372 cubic meters per second.

The committee was informed that only 160 megawatts of power is being loaded into the national grid by Bujagali. This is a violation of the terms of the power purchase agreement.

From the field visit to Bujagali Power Plant, the committee was informed that the production is determined by the demand from UETCL and

as such, Bujagali only produces what is being demanded from it by UETCL, which normally averages around 168 megawatts. So, you have a contracted capacity of 250 but they only produce around 160 according to the demand from UETCL.

#### Observations

The committee observes that whereas the dam has the potential to produce at the maximum capacity, the actual production is not proportional to the capital investment. It is like buying a bus and you drive it with your wife every day to come to work.

The dam has the potential to produce at that maximum capacity but the actual production is not proportional to the capital investment. As such, the dam is underutilised yet the demand for power in the country is very high.

We recommend that UETCL puts in place strategies to ensure the increase of power supply so as to meet the growing demand.

I need to add here that if the contracted capacity is 250 megawatts, the other costs that are variables that go into producing 250 megawatts which is estimated - but you produce at 160 megawatts - that means those costs are overstated and that is why we recommended a value-for-money audit because they are assumed every year.

In 5.4.2, fixing Corporate Income Tax under item 4.5 of Annex D of the Power Purchase Agreement: the parties undertook to agree on a reasonable estimate of the company's income tax payable by the company during each agreement year.

This, according to the agreement, should be agreed upon by the parties not later than one month before the start of each agreement year and shall be the basis of the capacity payment for that agreement year.

There is no evidence provided to the committee as to when the parties ever agreed on the reasonable income tax payable by the

company. This was a violation of the Power Purchase Agreement.

The other component we considered under the compliance provision ToR is the insurance requirement. Article 9 of section 9.1 of the implementation agreement provides for insurance. It requires that the company should maintain specific policies and undertake insurance from financially strong national and internationally reputable insurance companies in accordance with the power purchase agreement.

According to the report of the Auditor-General, Bujagali Energy Limited met an insurance loss of US\$ 163,063 when it paid out US\$ 753,759 for the loss of equipment of Alstom. This was a company contracted by Salini that was in transit to the site. Despite the fact that there was an insurance claim and the subsequent compensation to BEL of US\$ 590,695,000, it still suffered the loss of up to approximately US\$ 163,063, which should have been incurred by the contractor who was required to insure the items in transit.

However, Bujagali consequently included 70 per cent of the loss in the tariff project costs, which was indeed irregular and a violation of the agreement. We recommend that BEL should refund to Government of Uganda the wrongly claimed insurance costs with interest.

### Conclusion

Madam Speaker, the committee and I would like to thank the committee members that worked tirelessly on this report: Hon. Mafabi, Hon. Karim, Hon. Omara, Hon. Loy Katali, Hon. Faith Nakut, Hon. Muwanga Kivumbi, and Hon. Tayebwa.

As I conclude, the committee set out to investigate the Bujagali tax waiver and believes that it has done so. This report is based on our analysis of the agreements between Government of Uganda, Bujagali Energy Limited and the prevailing power tariffs.

The haemorrhage and repatriation of resources from Uganda have been modernised through treaties and memorandums of understanding. Investors, represented by sophisticated lawyers, impose miserable terms on the Government and employ tax dodgers to bleed profits from the desperate situation in which Government found itself then.

In the case of Bujagali power project, the Government of Uganda was in a poor bargaining position; it did not have the resources to fund the project and the country could not afford any further delays.

The committee is of the opinion that Government should intentionally protect the public interest and always take a lead role in monitoring strategic and significant projects such as Bujagali Energy Limited, regardless of the circumstances. At that time, we were in power blackouts. We were in a low rating but we have come of age. The haemorrhage cannot continue.

During the investigations, it was unclear who was ultimately responsible for monitoring the activities of Bujagali as the Ministry of Energy and Mineral Development assumed some roles and the Ministry of Finance also had responsibilities. In contrast, others were assumed by UETCL as the executor of the power purchase agreement.

Therefore, the committee strongly calls upon Parliament to compel Government of Uganda to renegotiate the Bujagali Energy Limited PPA terms before deciding on the issue of the tax. This is in addition to recovery of all excess payments and the application of proper figures in the calculation of the capacity payments going forward. I beg to move. *(Applause)*

**THE SPEAKER:** Thank you very much, Chairperson, for a very good report. You have heard from the chairperson the recommendations and observations but if you look at the observations that have been made, especially the nature of our shareholding by Government of Uganda - that is what Hon.

Cecilia Ogowal was talking about - we are at Class C where we do not have any voting rights. That should be responded to by the Attorney-General.

Look at the erroneous computation of payments to Bujagali Energy Limited, which is US\$ 342 million, that should also be handled. I request the Auditor-General to carry out a forensic audit to determine these figures because these figures have never been determined by the Auditor-General. Now that we have leading figures from our committee - we are not mandated to do that but we need to subject the figures we have to a forensic audit and own the figures because they have never reported anything on this.

Then ineffectiveness of the tax waiver which is driving up the tariffs - we are talking about a tariff of 5 kWh, now it is at 8.3 kWh. Which is which?

On unregulated payment of dividends - we have never received any dividends as a country. You cannot have no return on investment. How do you do business like that? To enter into business, there must be a return on investment. We are just giving this out.

Attorney-General, we need to find out what is going on with Bujagali before I allow Members to debate.

4.34

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you, Madam Speaker –

**THE SPEAKER:** The Minister of Energy and Mineral Development is not here yet most of the things we are discussing are from the agreement.

**MR KIRYOWA KIWANUKA:** Thank you, Madam Speaker. Like the Speaker has stated, the Minister of Energy and Mineral Development is not here. They are attending a nuclear conference in Munyonyo and they send their apologies.

First of all, I would like to thank the committee for the report that has been presented. The work has been tremendous. The report generally points out challenges both in the structure of the agreement and implementation of the project.

The proposals to audit are most welcome. The proposal to be on top of the processes that are on-going in Bujagali is most welcome. Government, indeed, receives the report well and does not have any objection to carrying out the said audit.

Madam Speaker, the issue is that the agreement, as the committee clearly points out, was not necessarily favourable because of the circumstances obtained at the time. However, that should not be reason for us to continue to - because we need to rethink our position; is this working for me? Like the committee has pointed out, maybe when we refinanced, it was not probably the best option but what we need to do, as the Government, is to go back and look at it.

There are quite a number of figures and formulas that have been set out in this document. I think Government needs to sit down, understand the figures and establish that they are the correct ones. If indeed they are and the wrong formula was used to compute the payments that are supposed to be made to Bujagali, every action necessary will be taken to recover what is rightfully due to Government.

Madam Speaker, we request that you allow Government to receive this report, go back and act on it; not go back to rethink it but act on it. If the committee says, "Renegotiate," I do not have a problem with that. We will go back and renegotiate.

The issue is, we need to figure out the terms that were unfavourable, the figures that are wrong and then come back to Parliament with a report. I beg to submit.

**THE SPEAKER:** There is a point of clarification from Hon. Mbabazi.

**MS JANEPHER MBABAZI:** Thank you. The clarification I seek from the Attorney-General is whether these agreements have mid-term review. Do you make an open agreement and refinance after the final? Thank you.

**MR KIRYOWA KIWANUKA:** Madam Speaker, this particular agreement did not have a mid-term review clause.

**THE SPEAKER:** Is it up to 2042?

**MR KIRYOWA KIWANUKA:** Yes, Madam Speaker. However, like the committee has correctly pointed out, this is an investment. Look at the investment like what was done before, where you go back into refinancing. The business that the company is doing is to recover money. If you can make that earlier, you can get out of it. Therefore, whether you have a mid-term review or not, there are clauses you can use to try and renegotiate.

On renegotiation, when a person has an agreement, the obligation of the Government is to meet the terms of that agreement. To renegotiate the terms of the agreement is to make good effort to look at the terms and the other party and say, "This clause is unfavourable and in all honesty, we need to do this". However, if it is an agreement, you are obligated to follow through with it.

**MR OGUZU:** Thank you, Madam Speaker. What we see and what has been presented in this report is a clear aggressive tax planning by multinationals hidden in very complex structures that seek to take advantage of our country.

The Attorney-General is indicating to the country that Government welcomes the idea to renegotiate the contracts and look at a number of proposals being made here. Actually, you may find that Parliament is involved in some of the cases. Therefore, when you talk about "Government", who are you exactly referring to? This is because there are many recommendations being made here and you are addressing yourself to "Government". Who are you looking at in Government? I think this

time, let us be specific so that we can follow the actions. *(Applause)*

**MR KIRYOWA KIWANUKA:** Madam Speaker, the business of running Government is a shared responsibility, like I always say. For example, if we wanted to get a concessional loan to re-organise this, there is no way we can avoid Parliament. If we are going to commit public funds in any way, you cannot avoid Parliament; so it is a shared responsibility.

However, what we speak of now is that Parliament has done its part; it has pointed out the areas that they think the Executive needs to look at. And we are saying; "Let us go back, as the Executive, look at these figures." And like the Rt Hon. Speaker said, use the technical persons that we have, like the auditors, to ensure that we have the figures correct. Thereafter, come back and report back and say, "This is what we intend to do," so we can go along together.

Right now, Madam Speaker, we are here as the Executive, asking Parliament to allow a tax waiver and Parliament is saying, "No, we need you to do this." Hence, we need to go back and then come back to Parliament and tell them what we think we need to do in order to save this whole situation for all of us, as a country.

4.40

**MR CHARLES MATOVU (NUP, Busiro County South, Wakiso):** Thank you, Madam Speaker. The Attorney-General has somehow explained the take of the Executive. By looking at this agreement, it is the Attorney-General to advise Government. How come all this was done without his input?

Another thing –

**THE SPEAKER:** What I need to clear is that this agreement was not sanctioned by Hon. Kiryowa Kiwanuka. He is making a commitment that they are going to make a review of what is in the agreement.

**MR MATOVU:** Thank you, Madam Speaker. Perhaps, there is documentation to this effect that he could have read already.

Secondly, apart from the corporate income tax, which other taxes were waived? We need to ascertain all that so that we make a good recovery of the same.

Lastly, we know the impact of electricity in the country and how it affects manufacturing, households and small-scale businesses. In lieu of the charges that have been portrayed by the contractors, is there any specific way we can make a recovery of all those costs and lower the cost towards the local consumers? I thank you.

4.42

**MS SANTA ALUM (UPC, Woman Representative, Oyam):** Thank you, Madam Speaker. We have been having a serious problem with electricity in this country. Allow me to thank the committee for coming up with this very good report.

Attorney-General, you have just been in office for about two years and you are making a commitment, but I would like to urge you that when you go back - right now, your colleagues are not here and I do not think that you are going to do this work alone. You will need the technical people who should help you to look at the technical aspects of all this.

Madam Speaker, I would like to ask the Attorney-General to give us the commitment when he will come back to Parliament. This is because he seems to mean well and I want to thank him for that. You are very active on matters of Parliament, but you cannot work alone. Thank you so much.

**THE SPEAKER:** Honourable Attorney-General, when do we expect an action as per Rule 220 of our Rules of Procedure?

**MR KIRYOWA KIWANUKA:** Madam Speaker, I did have a long conversation with Hon. Okaasai last night about this particular report. I am here with his full knowledge that I am making this undertaking. When we spoke with Hon. Okaasai, we did have a conversation and said, "Even if we do not have a complete answer within three months, we should come

back and keep Parliament appraised on where we are at every stage of the way." Therefore, we will be coming back to the House in three months to tell you where we are, even if we have not completed.

Madam Speaker, the -

**THE SPEAKER:** Honourable Members, we are talking about renegotiating an agreement. That is one. However, what he is saying is that he will be coming to update the House progressively on what has been done. (*Applause*) I am also going to give the Auditor-General two months to come up with a forensic audit. Hon. Nathan Nandala-Mafabi, chairperson of Bugisu Cooperative Union, you are a member of the committee. Do you want to give us information?

**MR NANDALA-MAFABI:** Thank you very much, Madam Speaker. The Attorney-General is very good at what he is saying. However, the moment you default on one clause in an agreement, it becomes null and void.

In the agreement, we never agreed - first of all, there have been six amendments. The amendments were in favour of Bujagali. Now, we are also saying that we want to amend them. There is nothing wrong with that. However, the worst is that they withdrew money from the company, which is not allowed, as per the agreement.

**THE SPEAKER:** Hon. Nathan, can you repeat what you said?

**MR NANDALA-MAFABI:** Madam Speaker, the -

**THE SPEAKER:** The problem is that you are making noise and now I cannot hear.

**MR NANDALA-MAFABI:** Madam Speaker, first, that agreement has been amended many times. The amendments have been made in favour of Bujagali. It is important for us to say that we want to make an amendment in our own favour.

The first one that I am raising, again, which has a big point, is that the moment you default on one clause, that means it is a breach and the agreement becomes null and void. That is why I am telling the Attorney-General that in the agreement, there was no section which allowed the redemption of capital. If we had maintained the money, that means we would not even have gone to borrow more money.

Now, because the other shareholders used - by the way, even the money we are borrowing might be their own money – they put it as a loan from the other side and we borrow and pay them, first, on 19 per cent and on interest. We are saying, since you redeemed the money, it meant you breached the agreement. We have come to the conclusion that this agreement does not subsist.

**MR KIRYOWA KIWANUKA:** We did interact with the committee and many of these things were raised. At the time, we decided not to do anything and just wait for the committee to complete its work. I cannot stand here and tell you that an entity is in breach and the agreement is null and void. What we are requesting for is you allow us - because he says it is a breach, but not every breach leads to a contract becoming null and void. Some are voidable and others are void. We need to look at it from that angle.

However, he points out a fundamental issue, which we are definitely going to be addressing, when we look at it. Madam Speaker, like you said, we are going to have to depend on the technical people. Thank you, for saying that you will have the Auditor-General do the work within two months. There is no way we can take any action before the technical people, especially the auditor who is carrying out the audit on the numbers. Even if it is to demand for money, we must know exactly how much money is being demanded for. Therefore, we request that that instruction be given to the Auditor-General, and that will help us to move this process along. Thank you.

**THE SPEAKER:** The Clerk should write to the Auditor-General today and ask them to do

a forensic audit and report back within two months - on one, the amounts that are supposed to be refunded and how much we are supposed to get in dividends.

4.49

**MS PATIENCE KINSHABA (NRM, Woman Representative, Kanungu):** Thank you, Madam Speaker. My concern is to the Attorney-General. We need to know how many agreements we have in this country that do not have midterm reviews so that we know what to do with them. With Bujagali, we are in a total mess.

Thank you, Madam Speaker.

**THE SPEAKER:** Thank you.

4.49

**MR RICHARD SEBAMALA (DP, Bukoto County Central, Masaka):** Thank you, Madam Speaker. I thank the committee and the composition of the brains that have come up with this report. Indeed, it was a very good committee.

I would like to point out that it is not only Bujagali where we are suffering with deemed energy. Honourable colleagues, we are paying extra 90 megawatts. Actually, in this budget, I think we have over Shs 100 billion to pay for deemed energy – that is power that we are not utilising and this is not only for Bujagali.

Madam Speaker, let us not wait for a situation where Bujagali comes to us for a tax waiver for us to audit the rest.

When you look at Karuma, Isimba and all these other dams, we are paying for deemed energy that we are not using. We should come up with a good negotiation on how to handle the price of deemed energy. *(Applause)*

**THE SPEAKER:** Thank you.

4.50

**MR ENOSI ASHIMWE (NRM, Kabula County, Lyantonde):** Thank you, Madam Speaker. I have many questions, before I

make my comments on this. I want to seek clarification from the Attorney-General – if he can share with us the terms under which we can reverse this contract before we look at renegotiation or before you give us time to think.

The findings of the committee, under TOR 1, clearly tell us that there was a breach in terms of understatement of returns, understating taxes and all that.

However, what has really challenged me – and I actually wanted to seek clarification from Hon. Nandala is that your conclusion does not speak to your findings. Your conclusion is telling us to renegotiate. However, your findings are telling us that there was a lot of breach, including - I do not know whether it was intentional because if it was intentional, then it was fraud.

**THE SPEAKER:** Is it the conclusion in the report?

**MR ENOSI ASIIMWE:** Yes. The conclusion in the report is talking about renegotiating with a view of extending the tax exemption -

**THE SPEAKER:** Then, which other conclusion?

**MR ENOSI ASIIMWE:** The findings from around page 15 or 18 are telling us that the team that has been running the contract at Bujagali has been withdrawing money for the last 10 years. They are also telling us that they understated taxes - or they showed that they should not be paying taxes – to a tune of \$63 million. They are also talking about the losses on insurance – I think on page 25. However, when they come to the conclusion, they say we renegotiate.

Really, finding all these misstatements -

**THE SPEAKER:** You know, the renegotiation is because we are in an agreement -

**MR ENOS ASIIMWE:** - which is okay, Madam Speaker. I agree with you. However, before we think of renegotiation, I want the

Attorney-General to give us terms under which we can terminate this contract. This is because when you look at the terms of reference and findings from this gentleman, clearly there was something wrong for the last 10 years. If we say we give them two months to audit – this team has done the audit -

**THE SPEAKER:** That is not our role, as Members of Parliament. We do oversight: we do not audit – and this is the first time we are getting the figures these people have got. The Auditor-General has never got those figures. That is why we are saying we need the Auditor-General to verify. It is only the Auditor-General who is mandated to audit, under the National Audit Act.

**MR ENOSI ASIIMWE:** Thank you, Madam Speaker, for the guidance. My conclusion is that we move by allowing the Auditor-General to verify the figures the team has given us. Once we confirm that what has been reported is true, then we can think of termination or renegotiation.

However, even now, even if we said we negotiate or terminate, we may not have the facts. So, I suggest we deal -

**THE SPEAKER:** Honourable members, we will adopt the report and then action will be taken. Actually, I wish you could - whoever is speaking - This report is self-explanatory.

Honourable members, we need to bring amendments. This report is self-explanatory. The person who presented was actually lecturing. Whoever does not know anything about figures understood the report. So, why don't we have amendments to the recommendations?

4.55

**MR IDDI ISABIRYE (NRM, Bunya County South, Mayuge):** Thank you, Madam Speaker. I want to thank the committee for the elaborate presentation -(*Interruption*)



**MS CECILIA OGWAL:** Madam Speaker, you have already ruled that we adopt the report and – as we did with the NSSF – then we move one by one. So, can we now move from term of reference number one and move logically? That is what I am trying to propose. So, can you guide us, Madam Speaker?

**THE SPEAKER:** No, problem. We are going to do that.

**MR IDDI ISABIRYE:** Madam Speaker, basing on that, I beg to move that we adopt this report because we do not want to dilute it. The committee did a very good job.

Looking at the figures - it was a very technical report and our input here would actually require us to go and look at exactly what they did. I now move a motion that the report be adopted with the recommendations therein.

**THE SPEAKER:** *Hajat?*

4.56

**MS AISHA KABANDA (NUP, Woman Representative, Butambala):** Thank you, Madam Speaker –

**THE SPEAKER:** Making noise does not help you because we are going to adopt the report. All you need is to bring your amendment to the recommendations.

**MS AISHA KABANDA:** Thank you, Madam Speaker. First, as a matter of correction, on page 19, while the figure was written as 1.2 trillion, the reader read 1.2 billion. I think that can be corrected.

I have an amendment on recommendation number seven – I think on TOR 2 – that talks about \$90 million that was loaned to BEL. It has been said that out of the \$90 million, they received \$75 million and the \$15 million was taken to UETCL. The recommendation there is that the IGG should take over the investigation.

My take is that the minister conceded that instead of \$90 million, they gave them \$75 million. I do not see a matter for the IGG to investigate in that case -

**THE SPEAKER:** It should be the Auditor-General.

**MS AISHA KABANDA:** Yes, that is the point I am bringing. Instead, the responsible officers should take responsibility, but the Auditor-General should investigate the effect of the \$15 million or whether it actually went to UETCL – it might not even have gone there.

The person who misappropriated this money and took it to a different entity, where it was not supposed to go, should be held responsible. Thank you.

**THE SPEAKER:** I put the question to that amendment.

*(Question put and agreed to.)*

**THE SPEAKER:** Stand up if it is an amendment.

**MR AOGON:** Madam Speaker, the Attorney-General asked for three months and my proposal is for him to agree that we do it within two months for him to come back here so that it runs in tandem with the time that you have given to the Auditor-General. I know there are many issues that people want to raise but it is good that we get all that information and we shall have a proper debate when he comes back. My proposal is for him to come back within two months.

**THE SPEAKER:** The Auditor-General is for two months.

**MR AOGON:** The Attorney-General also should come –

**THE SPEAKER:** But he has to act on the figures that are brought by the Auditor-General. You are an auditor, I thought you knew that.

**MR AOGON:** I am just trying to be mindful about the end of this year, because I thought we would wind up and by the 30<sup>th</sup> of June, we should be done. Something like –

**THE SPEAKER:** Which figures is he going to rely on?

**MR AOGON:** He is going to rely on the Auditor-General's figures.

**THE SPEAKER:** Now, if we have given them two months –

**MR AOGON:** Much obliged, because I wanted to debate. Madam Speaker, you have denied me room to speak.

**THE SPEAKER:** Amendment?

4.59

**MR JONATHAN ODUR (UPC, Erute County South, Lira):** Thank you, Madam Speaker. The first amendment I would like to propose, regards the regulatory bodies. From the report, you see that the power tariffs and also the declaration were a bit fraudulent.

So, the Electricity Regulatory Authority, the insurance and the Uganda Revenue Authority, in addition to the corporation tax that they have evaded should also look at the capital gains tax from the dividends that they were able to draw away – that is the first amendment.

The second amendment is that the Ministry of Finance, Planning and Economic Development should also review those agreements. I heard the committee chairperson mention the double tax agreements; that some of the problems are as a result of the double tax agreements that we made. So, out of those 11 agreements, the Minister of Finance, Planning and Economic Development should be directed to review the double tax agreements so that it falls in line with our vision. Thank you.

**THE SPEAKER:** Is the amendment okay? On the same amendment?

**MR NANDALA-MAFABI:** Yes, Madam Speaker, Hon. Odur raises concern on Capital Gains Tax. Capital Gains Tax cannot be on dividends. Capital Gains Tax will be on redemption, but dividends will be subjected to Withholding Tax. That is the only amendment I wanted to make for him. Hon. Odur, do you agree?

**MR ODUR:** Madam Speaker, thank you very much. That is exactly what I meant.

**THE SPEAKER:** I put the question to that amendment.

*(Question put and agreed to.)*

5.01

**MR JAMES KABERUKA (NRM, Kinkizi County West, Kanungu):** Madam Speaker, I have an amendment but before I make the amendment, allow me to thank you, as the leader of this institution in the 11<sup>th</sup> Parliament.

The 11<sup>th</sup> Parliament has shown that we are really pro-poor and pro-people of Uganda, and we are here to unearth the dirt, even that which was made before we came. I also want to thank the committee for having ably brought out a report that communicates because we have had many committees before but thank you, Madam Speaker, for selecting a good team to this effect.

Prof. Lumumba said that when you give hyenas the duty to take care of the goats, you may not find any goats. I think there is need to look at the people who are taking charge of our investments. I want to thank the Attorney-General because he is very candid and open. The Attorney-General before him took Parliament to be advisory. I want to thank you for appreciating the work of Parliament.

Madam Speaker, the amendment I want to make is that we need to see the people responsible for these losses them because they fleeced Ugandans. If found culpable, they should be brought to book. We should not only treat figures, we should also interrogate the motivation behind the actions these people made.

If we continue making recommendations and simply review the agreements, other people are going to make similar mistakes. Madam Speaker, I was with you in the 10<sup>th</sup> Parliament. How I wish Hon. Bahati was here so that as we debate this mess in Bujagali, he is taking

notes, as a Christian. We need to make sure that the people who are taking charge of our investments are careful.

Let us bring these people to book; and we know who did this and they know the effects that Ugandans face – they should at least have the remorse of saying our power –

**THE SPEAKER:** Give me your amendments.

5.04

**MR JOHN MAGOLO (NRM, Bungokho County North, Mbale):** Thank you very much, Madam Speaker. I really want to appreciate the committee for the good work, details and specific to the point.

The report demonstrates the loss that the country has incurred at a time when we are talking about Shs 78 trillion being in debt. So, in view of all that, where was our Government in terms of governance?

**THE SPEAKER:** What are you amending?

**MR MAGOLO:** My amendment is that the Government should reassert itself into the governance system of this Bujagali Project because it is nowhere so that we also reassert its voting rights to be able to follow up all these. Thank you.

**THE SPEAKER:** The shares we have are “Class C.”

5.06

**DR ABED BWANIKA (NUP, Kimaanya-Kabonera Division, Masaka City):** Madam Speaker, on the recommendation, which reads: *“Through the Minister of Energy and Mineral Development, the Government should initiate processes to renegotiate...”* I want us to replace the word “renegotiate” with the word “review” so that we do not say “renegotiate”. We say “review the process” because the end might be a termination. So, we should review instead of renegotiating.

**THE SPEAKER:** I put the question to that amendment.

*(Question put and agreed to.)*

5.07

**MR XAVIER KYOOMA (NRM, Ibanda County North, Ibanda):** Thank you, Madam Speaker. My amendment is in line with the figures together with the recommendations thereafter.

When you go to page 15, first of all, I want to thank the committee; they have done a tremendous job. I thank you very much. Now, when you look at that table, the future value of Bujagali, definitely, had to fall once they redeemed their shares, because to get the future value of Bujagali, they got their current investment then multiplied by the future value and got the future value.

When you look at how they were redeeming their shares that means actually that their future value was reducing. Now, look at around 2015 when the original investment had reduced to US\$10 billion. That means the future value should have correspondingly reduced because you would get the future value multiplied by the investment then. So, what does this imply?

By the way, to make an observation on that while they still had only US\$ 10 million they would keep on getting US\$5.5 million as their return on investments, which is more than 50 per cent.

So, Madam Speaker, the amendment I am making to that effect is that that table needs to be reviewed so that the equity for BEL in terms of USD moves with the redemption of those shares up to 2015. Thereafter, the equity and future value should be based on \$10 million. Accordingly, the recommendation thereafter should fall within those figures.

Hon. Kateshumbwa, what you are talking about is now accounting - I would like to hear from Hon. Nandala-Mafabi and others on the future values. Otherwise, that is what you did. In fact, to get a future value of BEL, get the current investment, multiply it by the future value and that is when you get the 300 plus. The more they reduced the shares, the more

the future value also reduced. To be specific, around 2015, the Government of Uganda had more future value than BEL.

Therefore, I propose that the subsequent amendments to that effect should capture those figures.

**THE SPEAKER:** This is why I have said we need a forensic audit. We may not be able to understand the figures; so, these figures can be understood or analysed by the auditors.

**MR NANDALA-MAFABI:** Madam Speaker, what Hon. Kyooma has raised is what we have done. We are saying the future value is exaggerated from 2007 to 2012. First of all, if you are charging interest at 19 per cent, then you should have paid tax on the interest - where to get the 63 million.

Then, from 2012 - that is how you should have computed the future value at the return of 19 per cent. The moment you redeem every year, the return will be on the balance, not the original figure. This is why we are saying that BEL, together with the Electricity Regulatory Authority and the Ministry of Energy and Mineral Development, colluded to maintain a figure, which is very wrong.

5.11

**MR FREDRICK ANGURA (NRM, Tororo South County, Tororo):** Thank you, Madam Speaker. I also want to thank the committee for a very good report. I just want to request that an amendment be made. The chairperson told us that the agreement had expected us to generate 250 megawatts. Yet, what is supplied now is 160 megawatts and the charges are based on capacity charge.

Madam Speaker, there are two types of energy charge. We have the energy charge and the capacity charge. Capacity charge is based on the expected production as per the agreement and it is 250, yet the installed capacity is 250. The energy charge is based on what you supply on a day-to-day basis as requested by the Uganda Electricity Transmission Company Limited.

Here, the chairperson, told us that the expected capacity to be generated was 250 megawatts, yet the charges are based on capacity. I want to amend that the charges now be based on energy. What they supply is what the charges should be based on. Thank you.

5.12

**MR ALFRED EDAKASI (NRM, Kaberamaido County, Kaberamaido):** Thank you, Madam Speaker. Just to add my voice, I also thank the committee. I think the people who are saying this House should stop ad hoc committees are part of the feasting. I think we should continue with this. I am extremely impressed by this report.

Mine is on the tax waivers and tax holidays. We are learning from other countries - recently, when you sent us to benchmark in Zambia, we noted that tax holidays and waivers do not necessarily benefit that country. I would like to propose that the Government reviews the policy on tax waivers.

Partly because of what we are seeing constantly - right now, even in this report, you see that BEL decided, as soon as they realised they were making money, they started withdrawing their investment. These investors end their participation in the economy before the time given to them for the tax holiday. They also distort trade within the country - because our own traders do not get the advantage. I think this particular policy on tax waiver should be reviewed. Thank you.

5.14

**MS CHRISTINE APOLOT (NRM, Woman Representative, Kumi):** Thank you, Madam Speaker. I also thank the committee for work well done; work that had a lot of statistics. In one of the statements, the chairperson highlighted that at the time of investigation, it was unclear on who was charged with the responsibility of monitoring. Madam Speaker, this is a very big gap based on this project that is taking a longer period of time.

I would like to make a proposal that we name the line ministry in charge of the monitoring.

They should report to the House periodically so that we continue getting updates about the project, than leaving it open to nobody. Thank you.

5.15

**MR TONNYAYOO (NRM, Kwanja County, Kwanja):** Thank you, Madam Speaker. Allow me to thank the committee for this very clear report. Looking at the conclusion of the report - the committee presented that investors usually come with very powerful lawyers and negotiators that tend to overpower our team during negotiations and that is why we end up coming up with these kinds of agreements.

I would like to know from the Attorney-General whether we are recommending a renegotiation or a review. Attorney-General, do you have the men and women with the intent and capacity to sit at the table with the team of investors so that we are able to come up with a better review? Otherwise, we may end up coming with a worse situation.

In the 10<sup>th</sup> Parliament, these recommendations were made. Instead of renegotiating, they went for refinancing. I request that we recommend the Attorney-General to present a team of competent people with good intent that cannot defraud the country. These will be the ones to present the review and renegotiation. Otherwise, we will go back to square one. Thank you.

**MR NAMBESHE:** I am putting a colleague to order. Is he in order, Madam Speaker, to underrate the capacity of our legal brains that the Attorney-General normally assembles to handle matters like this? Rather, you should have doubted their capacity to resist being compromised by the dollars that are dashed and flashed at them. Is he in order?

**THE SPEAKER:** Of course, any other person would only have trust in “KK”; not the ones being delegated. I would say, he is in order. *(Applause)*

5.17

**MS CECILIA OGWAL (FDC, Woman Representative, Dokolo):** Thank you, Madam Speaker. I am very uncomfortable about the Class C shareholding status. I am also very uncomfortable that the Ugandan Government does not have a hand in the governance or management of the company. Therefore, I do not have trust in the figures that will be given by the company to our auditors. That is one thing we should keep at the back of our minds.

I want to move on amendment on terms of reference (1) on page 18 where we say, “*BEL should refund the Government of Uganda the excess payment of \$342,198,189 for the period of 10 years since 2012 plus a surcharge.*”

I beg to move that the Ministry of Finance should report to the House the progress made towards this refund in six months.

**THE SPEAKER:** But we have said we do not trust the figures; we are subjecting these figures to a forensic audit. So, the refund should be done after the forensic auditor has found out how much money we are supposed to get.

5.19

**MR OGUZU LEE (FDC, Maracha County, Maracha):** Thank you, Madam Speaker. I would like to make this amendment with the view of regulating dividend payments because one of the challenges the committee observed was unregulated dividend payments, which aided the exit of some people. I propose that any -

**THE SPEAKER:** Hon. Kabbyanga, this is not for discussion; if you want to discuss in the House, go to the corridors.

**MR OGUZU:** Madam Speaker, I propose that any further dividend payments must be put on hold until Parliament resolves this matter. And that will involve after we have discussed the Auditor-General’s report.

Secondly, I propose that none of the current shareholders of BEL must exit BEL; that means

they are not supposed to sell their shares until we establish facts around this.

Thirdly, this BEL structure, as I said, is very complex, which is facilitating illicit financial flows. I invite the Financial Intelligence Authority, using the beneficial ownership law, to establish the owners of these companies, so that we should be able to expose them internationally.

They are the reason we are not having hospitals, not paying teachers; the reason why a lot of things are going wrong in this country.

Lastly, Hon. Nandala clarified that there is collusion, which led to the Electricity Regulatory Authority (ERA) not doing their work, collusion that led to people we put in charge not doing their work. Madam Speaker, this requires action and this action must be taken by the Prime Minister.

I would like, therefore, to invite the Prime Minister and make a recommendation that ERA, the people who negotiated this agreement, have some explanation to do to the Prime Minister so that we know their role in relation to bringing such a raw deal for the Government.

Lastly, I would like to make a recommendation for the Committee on National Economy - They are the ones who cleared this refinancing loan and we got to know that there was a loss of about \$9.4 million - that when the committee is passing loans, it must do thorough work. Otherwise, we would have avoided many things.

And Madam Speaker, lastly, there are international financing agents involved here. We have the African Development Bank, the International Finance Corporation - the arm of the World Bank; I think we must express our dissatisfaction with these financial entities. They aided all these complex illicit structures that have led to the country losing a lot of money. Thank you.

**THE SPEAKER:** Thank you.

5.22

**MR ELIJAH OKUPA (Independent, Kasilo County, Serere):** Thank you, Madam Speaker. I will start by amending what my brother is saying - about the people who are responsible for negotiating, especially those who are political leaders who sit in this House. They should not only go to the Prime Minister; they should have an explanation to this House. The other technical people can go and make an explanation to the Prime Minister but the political leadership who sit in this House - the Minister of Finance, the Minister of Energy - must come and explain -

**THE SPEAKER:** They do not clap in the House.

**MR OKUPA:** Madam Speaker, the issue of the waivers; as we give the Auditor-General two months, I think the Government of Uganda - Ministry of Finance - should not bring in a waiver until this matter is resolved. Until the two months, we suspend all the waivers until the Auditor-General has done his work. Thank you.

**THE SPEAKER:** Thank you.

5.23

**MS MIDIUS NATUKUNDA (NRM, Woman Representative, Rukungiri):** Thank you, Madam Speaker. I also thank the committee for their wonderful report. On page 30, they recommend that the Ministry of Finance accounts for the \$2.8 million.

Although you have ruled that they should do a forensic report, wouldn't it be good if the Ministry of Finance gives us what they would like to tell us about this report, because they need to account for this? Can they -

**THE SPEAKER:** Assuming they come and tell you that it is not \$2.3 million but it is \$2 million or \$ 5 million?

**MS NATUKUNDA:** They should give us their accounts and a statement about these figures. I thank you.

5.24

**MR NATHAN BYANYIMA (NRM, Bukanga North County, Isingiro):** Thank you, Madam Speaker. I am happy that this issue of energy has come to the ears of Members of Parliament. There is somebody somewhere who has been condemning Parliament about energy. It took us a lot of time to ask the Government; “Why do you hurry to put a signature and assure people of the volume of water as if you are God?”

It has come back here and I can tell you that even the Auditor-General you are talking about does not have people of quality like that gentleman you have seen, Hon. Kyooma. We have better quality people here than at the Auditor-General’s office. *(Applause)* And I can tell you, I respect-

**THE SPEAKER:** Hon. Nathan, leave my staff. The Auditor-General has good people.

**MR BYANYIMA:** I withdraw. Madam Speaker, you have seen, as soon as the issue of the iron sheets came up, the Inspector General of Government said they would be through within about two weeks. Our committee was able to produce a report here.

I do not trust some of those people you are talking about. We are accountable to our people; we want the unit cost to be low.

**THE SPEAKER:** Should we act outside the law because we do not trust people?

**MR BYANYIMA:** I am cautioning that we must be more careful. For example, we have had Attorneys-General. Somebody yesterday said, “This Kiryowa you see here is the only Attorney-General I have seen attending Parliament every day.” *(Applause)* The rest were not part of us. These things happened under the noses of many Attorneys-General. Kiryowa is one of the few breeds that we could be having -

**THE SPEAKER:** Hon. Kiryowa Kiwanuka, the Attorney-General of Uganda.

**MR BYANYIMA:** My worry is for us to go back, again. We would rather -

**THE SPEAKER:** Honourable Attorney-General, since the House has said you are the best Attorney-General, can you kindly help us work on this review?

**MR BYANYIMA:** Cancel the agreement, pay the costs but get away from those shylocks. I thank you.

**THE SPEAKER:** Thank you.

5.27

**MR MAXIMUS OCHAI (NRM, West Budama County North, Tororo):** Thank you, Madam Speaker. Whenever there is a thick cloud, there is a silver lining. I appreciate the contribution that the committee made by producing this report.

This report has been able to identify the fact that the public-private partnership project enhanced energy output and in that respect, I thank Government for that initiative.

That said, I want to make a contribution to amend a recommendation, which says that the Uganda Revenue Authority should recover the tax proceeds that were foregone prior to granting of the tax exemption. That recommendation presupposes, Madam Speaker, that URA has the capacity to do that. The last time I recall interacting with URA, they were actually crying. They want their capacity enhanced.

I, therefore, propose that we amend that recommendation to the effect that the ministry for finance enhances both the institutional and human resource capacity of URA, not only to collect revenue, but also to assess tax. Thank you.

5.28

**MR WILLIAM CHEMONGES (NRM, Kween County, Kween):** Thank you, Madam Speaker. I want to begin by thanking the chairperson and all the committee members who went through this report very carefully.

It is a big shock that the entire country is crying over power. Looking at the report and the amount of money misused, you wonder whether we have legal people in this country. In fact, I do not even believe in other amendments because Hon. Nandala-Mafabi said this thing has been amended and renegotiated many times in favour of one party. This shows that all the people who have been handling it have been one-sided.

There is nobody in favour of the country. That is why Hon. Nathan has told us he has no hope in the Auditor-General. I am sure even the Auditor-General, from the time the project started, has been auditing –(Interjections)-okay, maybe he has never.

Therefore, maybe to end, the country -

**THE SPEAKER:** The Auditor-General is an officer of Parliament. You are telling the country that your own officer - which is very wrong.

**MR CHEMONGES:** Thank you, Madam Speaker, for the correction. However, at a certain time we must also tell ourselves where we are wrong.

**THE SPEAKER:** No. That is not correct. The Auditor-General is doing his work.

**MR CHEMONGES:** Okay. I withdraw the statement.

**THE SPEAKER:** First of all, blame the people who made the agreement. That is the beginning point. The Auditor-General did not make the agreement or create all those inefficiencies. Conclude.

**MR CHEMONGES:** Honourable members, I think it high time we took our country wholesomely. Let us respect the people who sent us to Parliament. Let us be keen in all these agreements because this is not the only project that has died. Even for us in Sebei, there is an irrigation scheme which has taken almost -

**THE SPEAKER:** Which amendment are you making?

**MR CHEMONGES:** The amendment I am making is that all the officials who have been handling this project should be investigated. Thank you.

5.31

**MR GEOFFREY KAYEMBA-SOLO (NUP, Bukomansimbi South County, Bukomansimbi):** Thank you, Madam Speaker, for allowing me to touch your eye. *(Laughter)*

**THE SPEAKER:** You have not touched my eye. *(Laughter)*

**MR KAYEMBA-SOLO:** I have caught your eye. *(Laughter)* I would like to thank the committee for this massive report. It has given us the picture of what Bujagali is.

Madam Speaker, we have more power purchase agreements in this country. I would like to propose a recommendation that other power purchase agreements should also be reviewed to avoid the situation of Bujagali.

**THE SPEAKER:** Attorney-General, you may need to interest yourself in all the purchase agreements. That is a very good point.

5.32

**MR RICHARD LUMU (DP, Mityana County South, Mityana):** Thank you, Madam Speaker -

**THE SPEAKER:** I put the question to that amendment

*(Question put and agreed to.)*

**MR LUMU:** I want to thank the ad hoc committee because the work done is tremendous and very good for the country.

I need to be helped by the Attorney-General. In 2013 - because after the investment of \$179 million, they withdrew almost all the money. What is remaining is \$10 million. Uganda's shares of \$20 million are still intact. Does



Uganda now having the highest shareholding in that company or not?

Secondly, is Uganda now the biggest investor in BEL? If so, the learned Attorney-General can advise on the shareholding status of Uganda in BEL in as far as redemption of shares is concerned. Thank you.

**THE SPEAKER:** Class C shares – no, you are going to respond to all.

5.34

**MR ATKINS KATUSABE (FDC, Bukonzo County West, Kasese):** Madam Speaker, I really want to thank you. For recap purposes, in the 10<sup>th</sup> Parliament, there was a select committee constituted and I had the chance to be a member. We never even sat for a second. You can imagine this House constituting a committee that never sat even for a second for this particular matter.

Therefore, Madam Speaker, this country owes you a “thank you.” (*Applause*)

Mr Chairperson and your committee, thank you very much for the job well done. Honourable Attorney-General, you make us all proud –

**THE SPEAKER:** Can’t you even clap for the Attorney-General? (*Applause*)

**MR KATUSABE:** Madam Speaker, there is a trail. One of my cousins happens to be an examiner of one of those UNEB subjects. As he was going through the students’ papers – the question was: “What is Uganda’s economy?” Many of the students answered: “Corruption.” That is how low we have sunk as a country.

Madam Speaker, I suggest, as an amendment, if it pleases you – these people that have got us into this mess are known and we thank God that they are still holding office. Some of these people are the same that will continue asking to negotiate. I ask that these people be marked, clearly identified and kept aside from further negotiations.

My specific amendment is that tariffs should be kept either lower than what it is today or at a constant until a feedback has become available from the process that we are trying to undertake.

I also suggest that this entire technical team, specifically from ERA and the finance ministry, should face a relevant committee of this Parliament. It is not enough to make reference of this whole undertaking to the Prime Minister. We have the capability and I do not know - when I look at the Members, we have been served with the Attorney-General, Hon. Kateshumbwa and Hon. Okupa; we have capabilities within this House.

In conclusion, I really want to ask everybody in this House to trust in our capabilities and in our Members - and also to give the honour that is due, specifically to the committees that we constitute as a House. Thank you very much.

5.38

**MS JANE AVUR (NRM, Woman Representative, Pakwach):** Thank you, Madam Speaker. I want to commend you for having instituted this select committee. One of the reasons I say this, is that as the Committee on Finance, Planning and Economic Development, this will indeed make our work bit easier, as we move towards the period where we are going to look at tax Bills.

Madam Speaker, I would like to amend the recommendation on the term of reference five (TOR5). Before I make the amendment, this country is grappling with the issue of resource mobilisation. Where any taxpayer or would-be taxpayer is trying to avoid or evade tax, as Parliament, we should come in to support URA. That is why I want to amend the recommendation that says, “The committee recommends that URA should undertake a comprehensive tax audit on BEL to ascertain compliance with tax obligations.” I want to add, “...and where it is found that they were not compliant with the tax, the due tax must be collected as soon as possible.” It should be done within maybe a period of one month.

**THE SPEAKER:** URA has an obligation to ensure that they collect the correct tax. They must do it as stipulated in the law. You do not need to give them – it is actually their responsibility to do it so they will do it.

**MS AVUR:** Maybe in this case, we should even say, “With penalties.”

**THE SPEAKER:** The law is there.

**MS AVUR:** Most obliged.

5.40

**THE CHIEF OPPOSITION WHIP (Mr John Baptist Nambeshe):** Thank you, Madam Speaker. I commence with urging the House to amend the law in the Public Finance Management Act, section 77 - so that it requires any tax exemption that is granted by the responsible line minister to be approved by this House.

Before I go to the second proposal, Madam Speaker – *(Interruption)*

**MR NANDALA-MAFABI:** Thank you very much, Madam Speaker, and also Hon. Nambeshe, our Leader of the Opposition for the day. In fact, the Constitution of Uganda says, “any tax waiver or change is by Parliament.” That section you are talking about of the Public Finance Management Act, if it says so - which I am not so sure of - contravenes the Constitution.

**MR NAMBESHE:** Thank you for the supplementary information you have given. The truth of the matter is that there was an omission in the Public Finance Management Act not to have allowed Parliament to approve any exemptions that are granted by the line minister.

Madam Speaker, I was seeking clarification from the chairperson who is whispering to his neighbour, especially when this report - I must commence with appreciating you and your team for this good report. However, I know you picked a leaf from the proposals that the Opposition legislative agenda had raised.

Nonetheless, what I am seeking for clarification is on where you say that the actual production is not directly proportional to the capital investment, and yet the demand for power in Uganda is very high. Therefore, the dam at Bujagali is underutilised. That would mean that - where is the much hyped deemed energy - the surplus? With the advanced technology, the surplus can be stored; it is storable, but now that is not there, could you please throw light on that? Are they merely taking Ugandans for a ride?

Lastly, all these big companies that have been cutting shoddy deals with the Government and getting tax exemptions should be investigated. This is because on average, Uganda lost - in five years, from the Financial Year 2016/2017 to 2020/2021, we lost Shs 21.5 trillion in revenue in exemption bonanzas that had been granted by the Government. So, there is need -

**THE SPEAKER:** We gave the Committee on Finance, Planning and Economic Development that report to make analysis of the companies that are given exemptions and report back to the House. What could have happened?

5.45

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Dr Keefa Kiwanuka):** The report is ready, Madam Speaker.

**THE SPEAKER:** Can we have that report because we want to understand which companies get exemptions and the criteria used to give out the exemptions?

**DR KEEFA KIWANUKA:** Much obliged. We will be seeking to be on the Order Paper.

**THE SPEAKER:** Can we have it next week?

5.45

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you very much, Madam Speaker. Many comments have been made by our honourable colleagues and we have noted them. They come from the way we do our work and we take this seriously. We are doing our

best at the Attorney-General's chambers and we are sure that we will try and do more and work harder.

I am going to comment on two or three issues that relate directly to the issue at hand; the issue of the shareholding terms. The terms of the shareholding were already set in the agreement. Those are some of the things that we got, but Class C shares did not give us the authority to participate in the governance. We also could not redeem them, to answer my learned friend's question.

Now, the investor has redeemed most of his investment but has left 10. That does not make us the highest shareholders because you remember they already have the expected value in the business. To answer your question, we are not the highest shareholder; but in an investment, such as this one, if you choose to buy out someone, you can buy them out. It is just a question of Economics and the balance of that.

The breaches that have been raised –  
(*Interruption*)

**MR SSEMUJJU:** Madam Speaker, the point that the much praised Attorney-General – I am saying so because when people are still in office, I am hesitant to praise them. The former dean of the Faculty of Law at Makerere University, Prof. Makubuya, turned out to be the worst Attorney-General with all his knowledge. So, I am hesitant to join the chorus.

The President has repeatedly said that we want to buy out Bujagali and that is how the tariff will come down. You are explaining how that can be done. Maybe, this Parliament will need to know, with all your knowledge and experience, how far you we have gone with the negotiations to have Bujagali finally closed. This debate of a waiver would not even be arising if what the President has repeatedly said had been done.

The clarification I seek is: has the President now abandoned - - are you now blaming the economics for not buying out Bujagali?

**MR EKANYA:** Attorney-General, I have seen the recommendations but Madam Speaker, in most of the international firms, shareholders and directors change position. If a recommendation of fraud is labeled on a corporate liability, do you think we all benefit anything? Don't you think it is proper for us to lift the veil in our recommendation so that liabilities, refunds, or any fraud and collusion go to BEL, including its directors and shareholders? This will take us to the bedrooms of some of these directors.

For example, Aga Khan could attest and sign to the commitment of transparency and Anti-corruption of the Organisation for Economic Cooperation and Development (OECD). If we lift the veil, attach the shareholders and the directors, we will have gone to the root and the bedroom of international fraudsters and associated companies. Therefore, don't you think it is proper to recommend that the Government lifts the veil and attaches the responsibility of collusion and fraud to the shareholders and directors of BEL and associated companies? Thank you.

5.49

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you very much, Hon. Ekanya. A company, as a corporate entity, cannot commit a criminal offence. The criminal offence, if found, is committed by the minds behind the company. Therefore, if we find fraud or a criminal nature, then it goes to the mind of the person; that is, the director and the shareholder.

Hon. Ssemujju, the option is still there and the issue of buying out is always a question of economics; its money, and it is going to be a matter that has to come back here.

Madam Speaker, the issue of the Power Purchase Agreements (PPAs) was already raised in this House. What I can only do is to go back to ERA and find out how far they have gone. Otherwise, I did not give them an instruction to review. I was also advised that they have standardised all their PPAs to ensure that we do not have any sliding, but I will check and report to the House.

Madam Speaker, on all the issues that have been raised, allow us to go back, study them and come back to the House with proposals of how we can get out of this situation. Otherwise, the interest of all of us is to have a low tariff, and get out of any bad contracts we have. And we have some that we have already started reviewing and we are going to come back to you.

I would like to thank the committee, again, and Members of the House for the guidance given to us on this report. We take these issues very seriously. We shall definitely come back to the House. *(Applause)* I beg to submit.

**THE SPEAKER:** You are going to bring the proposals and the action taken. You have three months to report back. You can even bring it tomorrow.

I now put the question that the report of the Ad Hoc Committee on the Bujagali Tax Waiver be adopted by this House with the amendments.

*(Question put and agreed to.)*

*Report adopted.*

**THE SPEAKER:** Honourable members, we have a session tomorrow. Kindly go and take the COVID-19 test. I adjourn the House until tomorrow at 2.00 p.m. We shall meet at Kololo.

*(The House rose at 5.51 p.m. and adjourned until 16 March 2023, at 2.00 p.m.)*