



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT- (THIRD SESSION)
THE NATIONAL ASSEMBLY
COMMUNICATIONS FROM THE CHAIR

**ON THE MESSAGE FROM THE SENATE ON THE PUBLIC
PROCUREMENT AND ASSET DISPOSAL BILL, 2014 AND RELATED
MATTERS**

Honourable Members,

As you are aware, on June 18, 2015, the National Assembly considered the Presidential Memorandum on the *Public Procurement and Asset Disposal Bill, 2014* and passed it fully accommodating the President's reservations. Subsequently and in accordance with the Constitution and our Standing Orders, I conveyed the decision of the House to the Senate. However, the Senate, by way of a Message dated June 24, 2015, invoked the provisions of Senate Standing Order 158 and returned the Memorandum to the National Assembly proposing the formation of a Joint Committee of the Houses of Parliament to examine the Memorandum.

Hon. Members, you will recall that in an earlier Communication, I had observed that some provisions of our Standing Orders are not in tandem with the expectations of the Constitution. Specifically, the provisions of Standing Order 155, which is also replicated in Standing Order 158 of the Senate Standing Orders and which commits Presidential Memoranda on a Bill considered by both Houses to a Joint Committee, partially offend the provisions of Article 115 of the Constitution. While Standing Order 155 foresees the adoption of a report of a Joint Committee of the two Houses, Article 115 of the Constitution requires that any amendment to the President's reservations or indeed a total rejection of the reservations should be supported by a vote of at-least two-thirds of the Members of the National Assembly and two-thirds of the delegations in the Senate.

Similarly, my colleague, the Hon. Speaker of the Senate in a Communication seems to have also observed that part of the Senate Standing Order 158 relating to the manner of considering the President's Memorandum does not accord with the requirements of Article 115 of the Constitution. My colleague, the Hon. Speaker of the Senate therefore requests that the two Houses form a joint committee in the manner provided for in the Standing Orders relating to formation of joint committees so as to give the two Houses an opportunity to "*jointly consider the President's reservations*". He also observed that, and I quote "*this however does not take away the prerogative of each House to make a separate decision on Presidential Memorandum*".

Hon. Members, I find the request contained in the Message to be fair and reasonable, even though it is coming rather late as far as the Presidential Memoranda on the *Public Procurement and Asset Disposal Bill, 2014* and indeed the *Public Audit Bill, 2014* are concerned. You know too well that the National Assembly has already considered the two Memoranda and the matter has since become *functus officio*. Nevertheless, the character of bicameralism requires all of us to be accommodative and supportive of its complexities. In this regard, I hereby direct that, pursuant to the provisions of Standing Order 213(3) and Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the Committee on Selection embarks on the process of nominating five (5) Members for appointment by the House as Members of the Joint Committee for the purposes of considering the Presidential Memoranda on the *Public Procurement and Asset Disposal Bill, 2014* and indeed the *Public Audit Bill, 2014*. Due to the urgency of this matter, the Committee on Selection should conclude that business before 2.30 pm tomorrow, Wednesday, July 8, 2015 so as to accord the House an opportunity to consider the Motion to approve the names during the afternoon sitting of the following day.

Hon. Members, Let me also confirm that, in accordance with the provisions of Standing Order 213(6) and Rule 9(6) of the Joint Rules, unless a decision is reached by consensus any vote to be taken in the Joint Committee shall be by separate Houses. In view of the fact that National Assembly has already deliberated on and made a decision on the Presidential Memoranda on the *Public Procurement and Asset*

Disposal Bill, 2014 and the *Public Audit Bill, 2014*, the Membership of the National Assembly in the Joint Committee will be expected to convey and uphold the decisions made by National Assembly on June 18th, 2015 and June 23rd, 2015 on the two items.

I Thank you!

THE HON. JUSTIN B.N. MUTURI, E.G.H, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, July 07, 2015