

KENYA

No way to run a railway

President Kenyatta is backing a US\$4 billion no-bid contract with a state-owned Chinese company to rebuild the Nairobi-Mombasa railway

Kenya's flagship transport plan, the Standard Gauge Railway Project (SGRP), is attracting growing controversy over its enormous cost and the uncontested contract award for the first phase. The Kenya Railways Corporation handed this to the state-owned China Roads and Bridges Corporation (CRBC). The 485-kilometre first phase, due to be completed in 2016, will link Mombasa to Nairobi and be built alongside the existing narrow gauge (1,000 millimetre) line operated by Rift Valley Railways under a 25-year concession from KRC and the Uganda Railways Corporation granted in 2006. RVR is a consortium of Egyptian Ahmed Heikal's private equity firm Citadel Capital and the Kenyan investment group TransCentury,

The project, one of two ambitious regional rail projects worth US\$10 billion in total, aims to provide a new standard gauge network serving Kenya, Burundi, Rwanda and Uganda, with extensions ultimately to Ethiopia, South Sudan and Kisangani in Congo-Kinshasa. Estimates of the cost of the Mombasa-Nairobi section are around \$4 bn. The southern line, from Dar es Salaam through Isaka in northern Tanzania and then to Kigali, Rwanda, is estimated at \$5-6 bn. The line from Nairobi to Malaba, on the border

with Uganda, which is the second phase of SGRP, will cost much more because of the hilly terrain.

Opposition to the SGRP has mounted steadily since the contract was awarded to CRBC in July 2012 and President Uhuru Kenyatta formally inaugurated construction work last November. Initially, the contract was for only the civil works but was then extended to the CRBC's procurement of locomotives and rolling stock. Criticism of the SGRP is led by several members of parliament, chief among them Kiminini opposition MP Chrisantus Wamalwa Wakhungu of the Forum for the Restoration of Democracy-Kenya and Nandi Hill MP Alfred Kiptoo Keter, of the United Republican Party (part of Kenyatta's governing Jubilee Alliance). Contractors and business groups excluded from the non-competitive contract process are also up in arms. Keter has rebuffed accusations that disgruntled business people are funding him.

The MPs' protests obliged the Speaker, Justin Muturi, of The National Alliance (TNA), to agree to a full-scale investigation of the SGRP's economic viability and procurement process by the National Assembly's Public Investment Committee. The PIC began probing in January and its wide-ranging scrutiny has already

found officials providing widely varying estimates of the first phase costs.

Criticism first arose when it was revealed that the government of ex-President Mwai Kibaki had acceded to CRBC's request to conduct its own feasibility study. The government blithely dismissed objections but then Keter, a hitherto unknown first-time MP of 34, sensationally alleged last year that three government officials had taken kickbacks worth 27 bn. Kenya shillings (\$314 million) to secure the contract for CRBC.

Last week, during the PIC hearings, it emerged that a second 'China Roads and Bridges Corporation' was registered in Kenya, had a Kenyan address and belonged to three Kenyans. When investigators attempted to visit their offices, it became obvious that the company did not exist. Parliament's Transport, Public Works and Housing Committee, headed by William Maina Kamanda, the NTA member for Starehe, Nairobi, and a hardcore Kenyatta-loyalist, also opened investigations, albeit with a more restricted scope. His committee is widely expected to exonerate the government of any malpractice. The PIC report, due in March, is likely to lay into the project and its escalating costs. The PIC is chaired by Adan Keynan Wehliye, the opposition Orange Democratic Movement MP for Eldas in Wajir.

The affair has exposed tensions inside the Jubilee coalition. When, late last year Kenyatta and Vice-President William Ruto visited Eldoret, the hotbed of Kalenjin politics, Keter repeated his allegations of high-level official corruption and added that the new government was not giving Kalenjin people an equal share of public appointments – or government tenders.

This speech provoked a visibly irritated Kenyatta to claim that Keter was being funded by shadowy businessmen aggrieved at having lost out on rail contracts. *Africa Confidential* has been given the name of a businessman Kenyatta is believed to have had in mind when he made his charge. The individual was linked to the Anglo-Leasing scandal of the early 2000s and was very well connected in Kibaki's government. By the logic of mutual back-scratching that characterises much Kenyan business and politics, this person might reasonably have expected rewards for his political connections and is now, we understand, upset that he is not profiting from the rail project.

OPAQUE COSTS

Transport and Infrastructure Principal Secretary Nduva Muli said in January that the cost of the first phase was Ksh327 bn. Yet National Treasury Cabinet Secretary Henry Rotich informed the PIC in early February that the cost was Ksh 447 bn. Rotich also confirmed that China would front 85% of the cost of the project, with a

HOW TO GAUGE SUCCESS

The standard gauge (1,435 millimetre) railway network in Africa is limited to North Africa (Algeria, Egypt, Libya, Morocco, Tunisia) and Gabon (the 670-kilometre Trans-Gabon railway completed in the 1980s). Guinea, Senegal and Tanzania have considered converting their systems to the standard gauge but have yet to take any action.

Global mainline railways are largely standard gauge – the original 4ft 8½ inch gauge used by the pioneer British railway engineer George Stephenson in the early 19th century – and used in most of Europe (except Finland, Portugal, Russia and Spain, which use a wider gauge), North and South America, the Middle East, parts of Asia and Australia. In contrast, African railways comprise a variety of narrow-gauge networks largely constructed by European colonial powers in the 19th century. These were primarily designed to carry goods and minerals to coastal ports, with passenger traffic usually a secondary consideration.

The well-connected railway system of Southern and Central Africa was built to the 1,067 mm. (3 foot 6 inches) gauge, the so-called 'Cape gauge' adopted by Cecil Rhodes. The Tazara railway linking Lusaka and Dar es Salaam, built by China in 1976, also uses Cape gauge. As this is effectively the standard gauge south of the Equator, there is virtually no prospect of Cape gauge being converted to the wider 1,435 mm gauge, since there would be few, if any, tangible economic benefits. In East Africa, the gauge is narrower at 1,000 mm. (3ft 3in), as is most of the more disconnected railway system of West Africa, with the main exceptions of Ghana and Nigeria, where the railways built by Britain were to Cape gauge. ●

4.1% annual interest rate on the \$1.6 bn., 15-year commercial loan portion.

Even if Muli's figure excluded the extra procurement contract cost of Ksh95 bn., this would still not add up to the figure given by Rotich. Muli promised to provide the Committee with a route map of the line (which is not yet in the public domain) and explain the need for the second, procurement contract. It is not clear why this has been placed with CRBC since the new line is supposed to be operated on an 'open access' basis, with firms allowed to offer competing services.

Muli has been put on the spot by Keynan, who said it was critical that Kenyans were told the exact cost and specifications of the new line. "Though Muli is a witness, he can turn out to be a prime suspect," Keynan said. Another figure bandied about by officials is the supposed Ksh1.3 trillion cost for completing the SGRP, including the second phase to Malaba and Kisumu, even though this has not yet been formally costed, let alone funded. Muli told the Committee the figure could vary by 40% 'according to the terrain and the distance'.

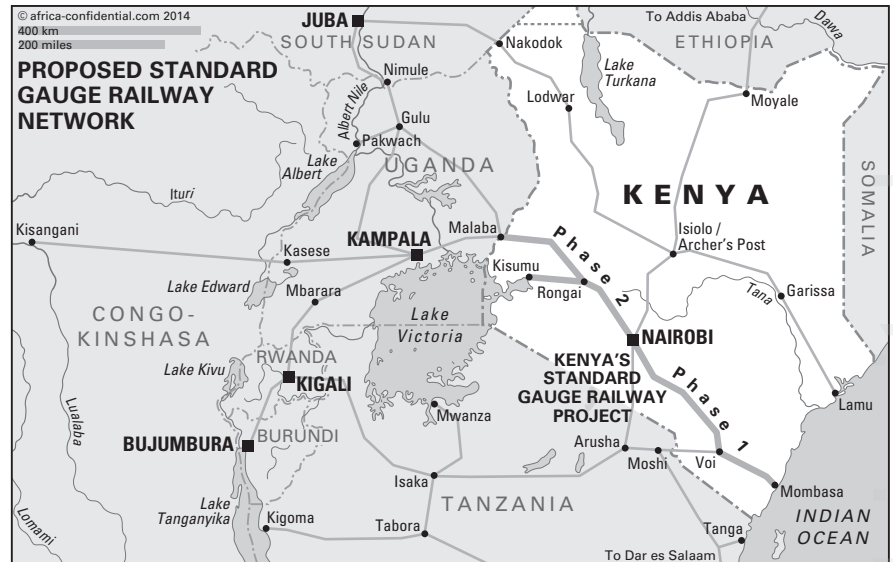
Another fact to emerge is that the contract between KRC and CRBC stipulates that the line will be built to Chinese technical specifications. This contradicts what Transport and Infrastructure Cabinet Secretary **Michael Kamau** had previously told the Committee. The line would be constructed according to **United States** specifications, he said. This and other aspects are worrying the Committee.

PRESSING ON

Kenyatta claims that only special business interests oppose the project. Flanked by his entire cabinet, he told a 28 January press conference at State House that the SGRP 'must and will go ahead for us to achieve our development agenda', describing it as East Africa's biggest infrastructure investment in the last 50 years. He did not name the recalcitrant business interests but said 'their commercial interests do not supersede the interests of this country'.

Kenyatta maintained that 'due process' had been followed in awarding the first phase contract to CRBC. China was providing \$3.23 bn. in funding, he added, comprising a commercial loan of \$1.6 bn., whose terms have not been disclosed, and a concessional loan of \$1.63 bn. from the Export-Import Bank of China. The cost to Kenya would be limited to the purchase of the land for the permanent way.

The main claimed benefits would be to reduce freight transport charges from the present \$0.20 per tonne/kilometre to about \$0.083, while the journey time to Nairobi would be slashed from the current 30 hours to only eight. Some doubt the time saving and even project cheerleaders, such as the African Development Bank (AfDB)



have cautioned that railway transport usually accounts for only 20%-40% of the freight business. Even in the best of circumstances, they say, the government would have to create innovative solutions (concessional arrangements, tolls, etc.) to pay back the huge loans.

It had originally been proposed that the SGRP would be electrified, which would have enabled trains to run faster but this had to be dropped after it was discovered that Kenya does not generate enough electricity to power them. Trains will therefore be diesel-hauled, as now. While it is calculated that a standard-gauge diesel train could operate at up to about twice the speed of its narrow-gauge counterpart, the reduction in journey-time would probably be to about 15 hours, not 8. No reference has been made to the cost of relocating and compensating the people whose homes and businesses would have to move out of the way.

The next hurdle for the SGRP's supporters to clear is an initial hearing by the High Court on 21 February of an application by two campaigners to stop the project. Summons to appear have been sent to the Attorney General, **Githu Muigai**, CRBC, KRC and the Public Procurement Oversight Authority. A judge made the directives after the petitioners told the court that they had documents providing evidence of irregular procurement through single-sourcing, instead of competitive bidding that would allow value for money.

One certain loser, whatever the Committee decides, will be the operator of the existing railway system. RVR secured that concession after years of mismanagement and poor performance by the Kenyan and Ugandan state-owned railway companies. It currently operates 2,541 km. of track linking Mombasa to the agriculturally-rich hinterland of the Kenya Highlands and to Kampala. Both railway authorities still own the

railway infrastructure and facilities, while RVR operates trains and maintains the infrastructure.

In 2011, the consortium received funding from six development finance institutions and a local bank to deliver a targeted \$287 mn. capital expenditure programme on a five-year turn-around programme. The fact that the narrow-gauge railway was receiving such investment is thought to be a major reason why multilateral donor agencies and lenders were unwilling to finance the entirely new SGRP.

Of the total, \$164 mn. is in loans from the AfDB (\$40 mn.); Germany's state-owned KfW (formerly KfW Bankengruppe, \$32 mn.); International Finance Corporation (\$22 mn.); FMO (Netherlands state development bank, \$20 mn.), Infrastructure Crisis Facility Debt Pool (\$20 mn.); **Belgian** Investment Company for Developing Countries (\$10 mn.); and Equity Bank of Kenya (\$20 mn.). RVR pledged to reinvest \$41 mn. of its internally generated revenue. In 2012, it released the first tranche of \$190 mn., primarily for rolling stock, found a new management team and in 2013, rehabilitated the defunct line between Tororo and Pakwach, Uganda.

RVR defines its business goal as to improve the management, operation and financial performance of the two railway networks in a coordinated manner. This involves standardising infrastructure maintenance and operations, increasing market share of freight traffic and improving the competitiveness of the Northern Corridor and the port of Mombasa. Many Kenyans complain that service remains poor but RVR is committed to a major upgrade programme. Critics complain that SGRP duplicates RVR's investment.

Rift Valley Railways Investments (Propriety) Limited is owned by Kenya Uganda Railways Holdings, which has

local and foreign shareholders. These include Ambience Ventures and Ambience Rail Company, both investment vehicles for Citadel Capital, with 51%; Safari Rail, a wholly-owned subsidiary of TransCentury, with 34%; Uganda's Bomi Holdings, with 15%. The latter is owned by **Charles Magezi Mbire**, one of Uganda's most influential entrepreneurs. There is no visible **South African** corporate shareholding; Citadel is based in Cairo

and listed on the Egyptian stock exchange, which is stated to control investment of some \$8.6 bn. in 14 countries.

Those contemplating the current controversies are reminded that commercial problems and financial scandals dogged the East African railway well before independence, when it was known as the Uganda Railway. Construction began in 1896 and the cost was originally estimated at £1.9

mn. Costs rose astronomically, to £5.5 mn., causing a huge uproar in the British Parliament. Forced to justify the increase and the massive labour outlay – nearly 7,000 **Indians**, mostly from the Punjab, were brought in to build it – the Foreign and Colonial Office opted to attract white settlers into the Rift Valley and the adjacent Highlands to begin commercial farming to pay off the debt. The rest is, quite literally, history. ●

EGYPT

Poll systems under scrutiny

No one yet knows what systems will be used in the coming elections but the conduct of the last referendum raised some big questions

Election observers have yet to learn what kind of electoral system will be employed in the presidential election that will precede parliamentary polls. However, for those experts interested in scrutiny of polling methods and fairness, the election system itself is crucial. Referring to the 14-15 January referendum on the constitution, the head of one international observation mission in Cairo told *Africa Confidential* that – although they had seen nothing untoward during the two-day process – if they had been eligible to vote, they would have boycotted it. ‘The judges supervising the referendum got manuals full of procedures, but there was no training.’

Current electoral provisions could be problematic, especially at the vote counting stage, says **Preap Kol**, the Executive Director of Transparency International **Cambodia**, who led an eight-person team to observe 15 different governorates in the referendum. Kol says TI witnessed ‘serious fundamental problems’ prior to the referendum, including restrictions on freedom of expression, assembly and campaigning, with some people arrested simply for advocating a ‘no’ vote.

The High Elections Commission (HEC) released a list of local observers on its website and announced that 67 groups had been accredited; 83,000 observers were supposed to be on the ground. This release came on the last day before the deadline for accreditation, which fuelled suspicion. After 11 January, the day when most Egyptian observers were issued passes (and only three days before the referendum), Egyptian observers said they had not received the number of passes they requested. One international election observer said that he hadn’t spotted a single Egyptian observer in Cairo over the whole two days of voting; others told us they had not seen many. Several Egyptian observers listed by the

HEC had no websites of their own and telephone numbers that did not work when called. This included organisations which claimed to have received 12,000-plus observer licences.

The election monitoring group *Shayfeencom* (‘We are watching you’) planned to apply for 5,000 accreditation licences but was held up by a new online process created by the HEC that took 15 minutes per application. *Shayfeencom* managed to apply for only 900 licences, the group’s co-founder, **Ahmed Hafez**, said. ‘Only 280 of those applications were accepted and we weren’t provided with any reasons’. *Shayfeencom* was, though, able to deploy 1,000 observers after applying to judges in separate governorates.

Overall, the total number of Egyptian observers at polling stations across the country came to no more than 2,000, says Hafez. In Port Said, a relatively small governorate with 300,000 electors, Hafez told *AC* that one of his observers was taken to a police station and severely beaten after being tied up with electric wire. This followed a dispute with a group called the Nation’s Future, which was videotaped by *Shayfeencom* putting up ‘vote yes’ signs inside polling stations.

‘PRESS TERRORISED’

Hafez says he was told the group was connected to **Mostafa Hegazy**, advisor to Interim President **Adly Mansour**. ‘If the HEC and the judges let them inside the polling stations, then why didn’t they allow observers?’ *Shayfeencom* also ran a hotline for members of the public to call. Of 500 violations logged, compared with 3,000 at the last election under President **Mohamed Mursi**, the most common violation reported was propaganda. *Shayfeencom* heard nothing about systematic voter fraud, according to Hafez, but he said the press ‘terrorised people and stifled public debate’.

The programme manager for Democracy International, **Dan Murphy**, whose teams filed 1,900 reports from polling stations around Egypt, said that as far as domestic accreditation was concerned, the HEC’s Judge **Ahmed Soheim** had told him the Commission accredited ‘legal’ organisations. The fact that domestic observers did not receive accreditation worried DI, said Murphy. ‘A domestic observation effort is typically much more robust than an international observation process. We did receive information that those domestic observers who received accreditation were seemingly more in the “yes” camp,’ he says.

Egypt attended the African Union Peace and Security Council Summit in **Ethiopia** on 29 January and provided a briefing on developments. Before the meeting, Egypt’s Deputy Chief of Mission in **Guinea**, **Abdullah Attelb**, told us the unanimous vote for the constitution not only ‘portrayed a solid proof of the Egyptian people’s determination to realise a constitution that embodies their will, which was expressed by two great revolutions undertaken in less than three years,’ but that the referendum was conducted under the observation of ‘tens of local and international organisations, including the EU and League of Arab States, in a positive atmosphere characterised by the utmost fairness and transparency.’

Diplomats have also been watching, with the HEC accrediting one technical observer from each embassy. The embassies of **Britain**, **France**, the **Netherlands**, **Norway** and the **United States** were among the most attentive, says one international observer. ‘When we had a meeting with representatives from the *Nour* Party, the person coming behind was the French Ambassador. And while the European Union delegation sent only four technical experts to focus on election procedures, they also have people who closely follow the political aspect and who report back to Brussels.’

An EU Council meeting concluded in an unambiguous statement that the EU ‘deplores the absence of a fully inclusive process, the lack of attempts to overcome the polarisation of society and the closing of political space for dissenting opinion before and during the referendum.’ ●