PARLIAMENT
OF KENYA
LIBRARY

KENYA NATIONAL ASSEMBLY

REPORT OF THE DEPARTMENTAL COMMITTEES POST BUDGET WORKSHOP 2007

12TH – 14TH AUGUST 2007

SIMBA LODGE ,NAIVASHA.

TABLE OF CONTENTS

PARTICULAR	PAGE
Executive Summary	3
Opening Remarks	5
PANEL 1 PRESENTATIONS	
The Vision 2030: Role of Parliament	8
Setting Frameworks for Implementation of 2007/2008 Budget	10
Setting Frameworks for Disbursements of External Resources	15
Plenary Discussions	17
PANEL 2 AND 3 – BREAK OUT SESSIONS SUMMARY OF PROPOSALS	20
PANEL 4 – Finance Bill	
Overview of the Finance Bill 2007	26
Overview of the Finance Bill 2007 -Inference into Legal Aspects Of the Bill	43
Taxation Feature of Finance Bill 2007 – Private Sector Perspective	45
Analysis of the Proposals in the Financial Sector 1: Central Bank of Kenya, Banking and Insurance Acts	46
Analysis of the Proposals in the Financial Sector 2: Capital Markets Authority, Retirement Benefits, Pensions and Kenya Revenue Authority Acts	47
APPENDIX	
1. Workshop Programme	52
2. List of Participants	56
3. Working Group Distribution.	59

EXECUTIVE SUMMARY

The Post Budget Workshop 2007 took place from 12th – 14th August 2007 at the Simba Lodge Naivasha. This was the last Post-Budget Workshop for the 10th Parliament. The objective of the workshop is to provide Members of Parliament with the opportunity to gain background information and to be more informed on the budget and the progress made in its implementation. This will enable them to examine how adequately they can exercise their legislative, oversight and representation roles in as far as the budget is concerned. The key legislation discussed is the **Finance Bill 2007**. The bill provides the legislative framework for the Finance Minister's proposals on amendments to the various taxation and other Acts dealing with the financial sector including the Banking Act, Insurance Act, Capitals Markts Act, Pensions Act and the Central Bank Act.

The workshop programme included presentations on the Vision 2030 by the Director of the Social Sector-National Economic and Social Council, Dr. Wahome Gakuru, who is leading this process. Vision 2030 was the theme for this year's Budget. Dr. Gakuru took MPs through the three pillars of the Vision, namely, The Economic pillar which aims at maintaining a sustained economic growth of 10% per annum for the next 25 years; The Social pillar which envisions a just and cohesive society enjoying equitable social development in a clean and secure environment; the Political pillar which envisions an issue-based, people-centered, result- oriented and accountable democratic political system.

Presentations on implementation of the Budget 2007/08 and disbursements were made by a team from Treasury led by the Permanent Secretary, Mr. Joseph Kinyua. The PS Treasury reiterated that macro-economic stability is critical for achievement of growth and poverty reduction objectives and that in assessing macro-economic stability, there are three key macroeconomic variables to consider; *the rate of inflation; interest rates; and the exchange rate*. The MPs were taken through some of the recent developments that have been incorporated in the budgetary process and in particular the anchoring of the Medium-Term Fiscal Framework (MTFF) in the planning phase. The PS also gave the participants an outline of the resource envelope and the stages that follow once the Minister for Finance presents the budget in Parliament, which include Budget execution and reporting. The PS informed the members of various budget reforms that have been introduced since 2003 to strengthen the MTEF process and improve the link between policy, planning and budgeting. Finally, the PS outlined the challenges facing public financial management and the efforts being made to tackle them. Member of Parliament were then brought up to date on internal frameworks being put into place by Treasury to enhance disbursement of the external resources and ensuring efficient service delivery

The break out sessions to discuss key policy issues including analyzing sector allocations, challenges and prospects for four key sectors was successfully executed at the workshop. The sectors under scrutiny were: Education, Health, Agriculture and Physical

Infrastructures. The break –out sessions were resourced by relevant experts and senior Ministry staff, some led by their Permanent Secretaries who were present as discussants.

This was followed by a review and analysis of the Finance Bill by a team of legal and public finance consultants, outlining how the proposals made will affect various sectors

Broad recommendations made from all the plenary sessions and the break out sessions include but are not limited to:

1. Implementation of Parliamentary reports and recommendations by the Executive.

2. Speeding up of legislative framework to assist in implementation of various government policies and sectoral reforms.

3. Increasing budgetary allocations to key sectors such as Agriculture in accordance with Regional and international conventions.

4. Relevant amendments to the Procurement Act are necessary to improve on procurement planning, efficiency and absorption of allocated funds.

5. Re-aligning budgetary allocations in accordance with the key requirements outlined in the Vision 2030 necessary for its successful realization.

6. Continued dialogue and consultation between the Treasury and relevant Parliamentary Committees.

The workshop was well attended and had 26 Members of Parliament drawn from the following committees: Finance, Planning and Trade Committee; Fiscal Analysis and Appropriations Committee; Education, Research and Technology Committee; Health, Housing, Labour and Social Welfare Committee; Agriculture, Lands and Natural Resources Committee and Energy, Communication and Public Works Committee. There was a strong team from the Executive arm of Government led by the Permanent Secretary of the Treasury, Mr. Joseph Kinyua and included the Permanent Secretary in the Ministry of Roads and Public Works, Amb(Eng) Mohammed Maalim Mahamud, the Director of Education Planning and Policy Mrs. Mary Mwirotsi and senior economists from the Ministries of Finance, Health, Transport, Roads and Public Works, Agriculture, Education and the Kenya Revenue Authority. Parliament staff was ably represented through the Deputy Clerk and the Office of Fiscal Analysis in addition to the Committee staff. In attendance were USAID and DFID.

The workshop was sponsored by the Kenya National Assembly with support from SUNY-Kenya. Other collaborators included the Institute for Economic Affairs, the Parliamentary network on the World Bank – East Africa and Tegemeo Institute for Agricultural Policy and Development

Official Opening of the Workshop

Chair: Hon. (Dr.) Oburu Oginga, Chairman, Finance, Planning and Trade Committee.

Opening Remarks

The workshop began with prayers from Mrs. Phyllis Makau, Director, Office of Fiscal Analysis. Participants then introduced themselves.

The Chairman then invited Dr. Fred Matiangi, Chief of Party for SUNY – Kenya, Mr. J.N. Mwangi, Deputy Clerk of the Kenya National Assembly representing the Clerk of the National Assembly, Mr. Joseph Kinyua, Permanent Secretary, Treasury and Hon. Oloo Aringo, Vice- Chairman of the Parliamentary Service Commission to make introductory remarks.

Dr. Fred Matiangi, Chief of Party – SUNY – Kenya

Dr. Matiangi thanked everyone for coming and observed that this will be the last post budget workshop. For the last six years SUNY- Kenya has been working with Parliament to engage the executive in ensuring that there is progress in reforms. He commended the Parliamentary Service Commission for establishing the Parliamentary Budget Office. He noted that Parliament has continued to support reforms to enable it to access resources for engaging productive discussions with the government.

He stated in the course of five years, parliament has opened up to allow for more views from the private sector and other players. The executive branch has opened up too and is slowly embracing policy related dialogue to move forward the reform process. He thanked the partners, The Parliamentary Network on the World Bank - EA, the Institute for Economic Affairs and Tegemeo Institute for Agricultural Policy and Development for their support towards the realization of this workshop.

He noted that dialogue on budget issues is moving forward and hence discussions on the same are opening up. The gap between policy and politics needs to be narrowed down to ensure that parliament takes an active role in policy making and implementation. The future looks bright for the 10th parliament with increased staff, resources and capacity to effect its work.

He emphasized the agenda of SUNY – Kenya being Parliament's agenda. SUNY – Kenya's role is to offer support, facilitate and enhance dialogue between the Executive and Parliament. All resources utilized towards this work are locally mobilized. He thanked USAID and DFID whose contribution has supported this work. He expressed his hope that parliament will freely move back and forth with the treasury to improve economic governance in the country.

Mr. J.N Mwangi – Deputy Clerk of National Assembly
Representing the Clerk of the National Assembly, Mr. Mwangi stated that Parliament has grown in the last ten years and this is indicated through the establishment of parliamentary departmental committees which have enhanced the role of parliament in monitoring and oversight on the government. He added that the committees have been working in cooperation with the Ministries and their respective Ministers towards attaining these goals.

The establishment of the Fiscal Analysis and Appropriation Committee (FAAC) will go a long way in monitoring the government appropriation in the budget. Lastly he thanked the sponsors for organizing the workshop and for their continued support to Parliament and parliamentary committee work.

Mr. Joseph Kinyua, Permanent Secretary, Ministry of Finance
The Permanent Secretary was grateful to the sponsors for their support which has fostered dialogue between parliament and government and enabled them to work together. He stressed that Vision 2030, a common vision of a developed Kenya, will be realized by working together and dialogue.

Hon. (Dr.)Oburu Oginga, M.P, Chairman, Finance, Planning and Trade Committee
Hon. Oburu noted that the aspect of taxation without representation has contributed to the system of governance in Kenya. He emphasized the importance of citizens being taxed rightfully and fairly. He noted that last year there was a program between parliament and the Finance ministry on a number of issues that were critical. He hoped that the outcome of this workshop will be cooperative and united by both parliament and the Finance ministry and that there will be no contradictions between the two parties.

He stated that tax should be a measure of stimulating the economy and encouraging local industries and not just a way of collecting money from the public. He called for an increase in local investment.

Hon. Oburu expressed disappointment at the preference given to foreign investors and multi nationals as opposed to local manufacturers especially on taxation matters and urged the participants to address and discuss it objectively. He pointed out that this problem has occurred in the sugar, alcohol and tobacco industry. He also asked what measures the government is taking to address environmental issues as related to plastics.

Hon. Oloo Aringo – M.P and Chairman of the Parliamentary Service Commission
Hon. Aringo stressed the importance of continuous dialogue between parliament and government. He noted that when it came to Public Finance Management, consultation by government was inadequate and not participatory. He reminded participants that on noting the non-participatory mode of Financial Management, MPs responded by creating committees that could enter into dialogue with the Executive. These structures of

committees were formalized and well organized and would involve Parliament fully in transparent public financial management.

He congratulated the meeting and sponsors for this workshop and stressed the importance of the need of working together. He pointed out that parliament has created the Fiscal Analysis and Appropriation Committee (FAAC). This committee is structured and serious complete with a secretariat. The Office of Fiscal Analysis was also set up and it engages senior members from the Treasury. The committee and the OFA are staffed by competent personnel who are able to operate from a point of knowledge and work closely with consultants. He lauded the Treasury for supporting this initiative.

Panel 1: Setting Frameworks for the 2007/2008 Budget Implementation.

Chair: Hon. Joseph Lagat, MP, Chairman, Fiscal Analysis and Appropriations Committee.

Topic: The Vision 2030: The Role of Parliament.
Presenter: Dr. Wahome Gakuru, Director, Social Sector, National Economic and Social Council.

He welcomed the participants and thanked them for their presence. He acknowledged the contribution of members from the workshop and was grateful for their support and help.

He noted that in the last ten years the performance of our country's economy had fluctuated. However since 2002 the trend has been upward. This is due to successfully implementing the Economic Recovery Strategy. The major pillars emphasized in the ERS were Growth and Macroeconomic Stability, Improved Governance and Social Equity and Poverty Reduction. The country is consolidating on this recovery.

The overarching vision of the Vision 2030 is "a globally, competitive and prosperous nation with a high quality of life by 2030. The vision has three pillars: The Economic pillar aims at maintaining a sustained economic growth of 10% per annum for the next 25 years; The Social pillar envisions a just and cohesive society enjoying equitable social development in a clean and secure environment; the Political pillar envisions an issue-based, people-centered, result- oriented and accountable democratic political system.

Dr. Gakuru informed the participants that the Vision 2030 process has benefited from 150 Kenyans involved in the project organization. Work on 2030 has been supervised by various parties engaged in planning. These parties include the private sector, parliament and civil society. There are also technical support people who offer their expertise in the various sectors and vet the quality of the work by the core team who are drawn from within and outside government.

He noted that every Ministry is required to submit their own vision for their work so that policies are coordinated for the overall vision 2030 and that all parties involved move together. The process of developing 2030 has been highly consultative. They have worked through various institutions. In March last they went around all the provinces and engaged with the constituents to incorporate their views. They have also gotten involved at the district level to ensure that the public participates in this process. They also had a Diaspora meeting at the international level to involve the rest of Kenyans outside the country. These consultations are on going.

Dr. Gakuru emphasized that this is an ideal time for Kenya to launch a socio-economic transformation journey – the ERS has created macroeconomic stability and delivered solid growth across various sectors. Kenya's economic vision – 10% through 2030 – is aspirational and Kenya will be one of few countries in the world to achieve such high levels of sustained economic growth, which will be delivered through increased

productivity across the board by targeting key growth clusters/sectors… starting with six sectors. A robust and collaborative approach was followed to identify those sectors with the greatest potential to drive growth in the Kenyan economy. 6 key sectors were prioritised – tourism, agribusiness, wholesale & retail trade, manufacturing, BPO and financial services – and high level strategies developed .20 concrete flagship projects should be launched to deliver 10% annual growth by 2012 and will require KSh ~500bn over the next 5 years

Vision 2030 should focus on what will give returns for significant investment to ensure returns. Vision 2030 proposes discontinuity. This includes engaging in a new management policy that ensures relentless pursuit in policy implementation. Fast proactive implementation on legislation is crucial as well as developing professionals in management so that local expertise and talents are utilized.

This criterion on feasibility was thoroughly researched upon to ensure the best methods are used to achieve the vision. Tourism and agriculture are some of the premium sectors that will be exploited as a nation to guarantee wealth creation.. Public sector reforms like infrastructure, security and land are critical foundations of moving forward in development in Kenya. These reforms must be facilitated. Population trends are also an important factor.

In the social sector, the key areas include education, health, water and sanitation, environment issues, housing, urbanization and equity are critical cross cutting issues that must be focused upon. Equity in Science and Technology also have to be integrated in order to achieve this vision. When looking at the education sector, 3 policy issues must be addressed . The Quantity, the Quality and the Cost, and how to strike a balance between them.. He emphasized the need to increase access and equity on this. He noted that it will be interesting to observe the way the next parliament will integrate the flagship projects on education. On the Health sector the same questions on policy arise.The service delivery and financing of health care are the key concerns. Vision 2030 proposes policy and regulatory work to be divorced from actual health care delivery.

The political pillar of Vision 2030 proposes promoting dialogue in all areas of development between government and parliament and to promote a democratic and open society. The democratic governance pillar applies to all aspects of public life. Challenges include:

i) adherence to the rule of law,
ii) the need to develop electoral processes for highly industrialized strategies,
iii) promoting democracy with a people centered open society,
iv) the need to promote transparency and accountability,
v) public administration and service delivery
vi) security (peace building and conflict management).

Therefore the participatory process by the three arms of government is necessary. The legislative mandate challenges include low capacity in interrogating public financial

management, limited resources and tribal regional focused politics. Strengthening parliament in terms of resources is therefore crucial so that it can effectively participate. Benchmarking is also important in the political pillars to promote political and civil liberties. Indicators of GDP in crucial areas of focus are one way of doing this.

It was also noted that gains made in Civil Service in Kenya should be recognized.

Lastly it was noted that the development and execution of flagship projects should be emphasized for the effective realization of vision 2030.

Topic: Setting Frameworks for Implementation of 2007/2008 Budget.
Presenter: Mr. Joseph Kinyua, Permanent Secretary, Treasury

In setting framework for the national budget, the Permanent Secretary, Treasury indicated that it is necessary to define and realize the guiding principles needed to be carefully thought out and put in place along the whole spectrum of the budgetary process from the planning to the implementation stage. It is very important to achieve macro-economic stability for the reasons of the role it plays in the budget process and in sustaining and creating an environment that is critical for private sector investment and economic growth. In the process of budgeting, it is good to take cognizance of the scarcity of resources available to government, and therefore, the need to prioritize expenditure to ensure it is pro-poor; pro-growth; and consistent with debt sustainability. In addition, it was mentioned that, the budget reforms that are being implemented are targeted at enhancing efficient use of the resources and ensuring that those resources are directed towards the key priority areas of the Government. The PS Treasury reiterated that Macro-economic stability is critical for achievement of growth and poverty reduction objectives. In assessing macro-economic stability, there are three key macroeconomic variables to consider; *the rate of inflation; interest rates; and the exchange rate*.

The meeting was in formed that in order to achieve a stable macroeconomic environment, some fundamental prerequisites were necessary to create a conducive environment for private sector investment, which, in turn, is the basis for sustained economic growth and ultimately, poverty reduction. It was noted that movements in these variables affect the following; investment decisions and hence economic growth, households' disposable incomes and competitiveness of locally produced goods in the international market.

Notably, changes in fiscal policy often have an impact on monetary policy and on the exchange rate. This can be illustrated by a situation where the fiscal deficit widens resulting in additional resource requirements which leads to monetary expansion and higher inflation, if they are obtained from the CBK; or crowding-out private sector, if they are sourced from the rest of the financial system and depreciation of the exchange rate. The PS mentioned that macro-economic instability is mainly caused by fiscal indiscipline. Therefore, instilling fiscal discipline and getting the right fiscal framework are crucial for containing pressures on interest rates, inflation and the exchange rate.

Stability in these key macro-variables is necessary to ensure sustained economic growth, employment creation and poverty reduction.

The MPs attending the meeting were taken through some of the recent developments that have been incorporated in the budgetary process and in particular the anchoring of the Medium-Term Fiscal Framework (MTFF) in the planning phase. The MTEF process has four guiding principles namely:-

a) maintenance of a strong revenue effort;
b) containing of the growth of total expenditure while ensuring a shift in the composition of expenditure from recurrent to capital expenditure;
c) ensuring a significant shift in resource allocation toward the ERS priority social/economic sectors;
d) containing the growth of domestic debt to a sustainable level to ensure the private sector in not crowded out.

With respect to the resource envelop it was highlighted in deriving the overall availability of resources to allocate to line ministries, several aspects are taken into account;

a) Macro-economic variables (inflation, investments, GDP, consumption, import value, etc)
b) Tax collection—which finances about 95% of our total budget—this calls for estimating income tax; customs duties; value added taxes; and excise taxes.
c) Committed external financing—both grants and non-concessional loans—as you know, unless budgetary support has been committed we have taken the position not to include it in the budget; and
d) Domestic borrowing which is consistent with low interest rates in order to crowd-in private sector investments.

An illustration of the resource envelope for the financial year (2007/08):

Total Revenue/grants	*Ksh. 470.7*
Revenue	*Ksh. 428.9*
Grants/other	*Ksh. 41.8*
Total Expenditure	*Ksh. 580.4*
o/w Reccurrent	*Ksh. 408.2*
o/w Development	*Ksh. 169.3*
Other	*Ksh.3.0*
Overall Deficit	*Ksh. 109.8*
Foreign Finan.	*Ksh. 39.8*
Net Privatization	*Ksh. 36.0*
Domestic Finan.	*Ksh. 34.0*

From the above, it is clear that the total available resources amount to Ksh. 580.4 bn. comprising total revenues (Ksh. 470.7 bn.) plus total financing (Ksh. 109.8 bn.)

This resource envelope allowed treasury to set expenditure ceilings for line ministries amounting to Ksh. 580.4 bn. The ceilings are given to implement various development

programs of the line ministries. However, in many cases, Treasury often receives additional requests and more often than not there are no additional resources to meet and accommodate the requests. The most obvious way of meeting the requests for the additional resources by the implementing ministry is through raising of taxes but this may turn out not to be a prudential fiscal policy. Kenya tax to the GDP ratio is at almost maximum level and this therefore rules out raising taxes for additional resources.

Create fiscal space by cutting/rationalizing other expenditure is also another method of containing expenditure but it is not an obvious option at a time when all ministries and departments are complaining that they do not have enough resources.

In order to meet the deficit, borrowing more from the domestic financial market is the best option but caution has to be taken so as no to risk raising the interest rates and retarding private sector investments and growth.

Budget Execution

The PS Treasury took the MPs through the stage that flows once the Minister for Finance presents the budget in Parliament. Treasury embarks on the following;

a) Development of cash-flow plan incorporating all the cash plans of the line ministries
b) Issuing of the implementation guidelines, including through detailed implementation matrix
c) Procurement plans for all ministries
d) Development of the quarterly reports on monitoring the performance of the budget – resource use and output/outcome

It was emphasized that budget execution is the process of actualizing the policies of the budget. Inappropriate execution leads to failure in achieving budget and national development objectives. Appropriate execution is guided by strict expenditure control but adapting to changes in circumstances is also essential. Since budget is not only an administrative control mechanism but also a measure for democratic policymaking and implementation process, hence efficient budget implementation calls for:

a) Strict execution in accordance with legal procedures
b) Flexibility to counteract changes in circumstance
c) Wise settlement of problems which may occur during the execution process
d) Managing the purchase and use of resources efficiently

When the budget is completed and presented to Parliament, Treasury formulates quarterly budget allocation plans, which outline the credit limits spreading over the months of July to June of the following year. The line ministries execute the budget according to the work plans and procurement plans. The PS indicated that the work plans by the line ministries are a requirement by Treasury for disbursement of resources since they guide expenditure on projects and facilitate setting of targets, measuring of output and performance. It is at the execution stage that is necessary to observe transparency and

accountability and Treasury has established institutional mechanisms to ensure transparency, control and accountability. These mechanism include

a) budget execution reports are availed on time and if possible publicly announced
b) spending of a given fiscal year is financed by the year's revenues
c) restriction of spending which do not follow the budget's purposes or exceed predefined amounts
d) restriction of the signing of contracts which cause extra-budgetary burden

The last stage in the budgetary process is the reporting stage. The PS explained to the MPs that budget reporting allows the monitoring of the status of funds that were appropriated to line ministries. These reports provide a consistent presentation of information across programs within each ministry for policy decisions, provides historical reference that can be used to help prepare the future Budgets and additionally ties a ministry's financial statements to their budget execution

The PS enlightened the MPs on the programmes being carried out to strengthen the budget and reporting system including executing a more efficient and effective Public Financial Management System, implementation of sound budget process and linking of the budget process by aligning expenditure to policy priorities. Some of the reforms being implemented to counter resource constraints include:

a) Rationalization of operations and expenditures to create savings
b) Efficiency in use of limited resources
c) Effectiveness in budget implementation
d) Development of implementation plan
e) Comprehensive work plan;
f) Procurement plan; and
g) A Framework for Monitoring and Evaluation

Various budget reforms have been introduced since 2003 to strengthen the MTEF process and improve the link between policy, planning and budgeting. These include:

a) Early Budget Calendar to allow adequate time for review and consultations
b) Deepening the participation of the stakeholders
c) Strengthening continuity between overlapping years and predictability of resources
d) Public Expenditure Review (PER) now an integral part of the MTEF budget process
e) The introduction of the BOPA and BSP to facilitate fiscal discipline by establishing hard budget constraints by ensuring that expenditures in the M/T are consistent with resources available; and expenditure prioritization by taking into account the Government's overall policy objectives.

In the larger programme of Public Financial Management Reforms, other reforms are at an introductory level and they are targeted to run across all the ministries. They include; the Integrated Financial Management Information Systems (IFMIS), International

Classification of Government Finance Statistics (GFS) to allow standardization of items, Introduction of cash management system and credit lines for all ministries and implementation of zero based drawing accounts in central bank. The PFM reform strategy covers all the areas of budgeting, debt management, procurement and audit. The PS mentioned that improved audit techniques are being tested which will see the clearing of audit backlogs. The PS noted that much of these reforms have taken place and changes have been recorded in the following areas: streamlining the Procurement Process, enactment of new procurement law; establishment of Public Procurement Oversight authority (PPOA); automation of payroll (through the introduction of Integrated Payroll and Personnel Data (IPPD)). Several legal reforms have also taken place especially the enactment of laws related to financial management in areas of Audit, Financial management, Procurement, Privatization, etc.

In conclusion the PS underlined some of the continued challenges faced in the budgetary process. He in particular mentioned that the mushrooming of Semi Autonomous Government Agencies (SAGAs) and AGAs, have more that often resulted in duplication and wastage of public resource waste as well as distortion in public sector wages. The Matching of cash requirements with cash plans has been a manor challenge amplified by non-adhering to the institutionalized Budget process and inadequate performance benchmarks and weak reporting.

The meeting was taken through the number of other challenges confronted in managing the public finances, which include:

- Inadequate appreciation of hard budget constraint
- Lack of adequate responsibility on financial management
- Weak Prioritization of programs
- Weakness in matching procurement to cash plans and work plans leading to massive procurements towards the end of the year
- Unpredictable donor funding
- Strengthening Budget Implementation

To address these challenges, the PS said that building of capacity for efficiency, effectiveness and accountability in budget process by was necessary and instituted by:

- Formulating appropriate budgetary policies in support of priority areas
- Developing and enforcing result-oriented budget management framework underpinned by:
- Performance benchmarks and
- Array of input/output indicators
- Improving efficiency in procurement to create fiscal space for financing priority development
- Strengthening Budget Implementation
- The Treasury is also developing frameworks within line ministries for strengthening expenditure management and budget implementation
- This include paying detailed attention to:

- Major policy to be pursued by the ministry
- Processes and efficiency controls
- Prioritization and implementation phasing
- Compositional efficiency and effectiveness of expenditure profiles
- Price benchmarking, especially in purchase of common user items
- Strengthening Budget Implementation
- Introduction of programme performance budgeting to refocus budgeting process towards output and outcome. The process require the accounting officers to:
  - Set the goals, Link allocations to these goals and Enforce achievements of output/outcome targets
  - It is expected to:
  - Focuses on service delivery and outputs as well as inputs
  - Leads to decentralization of planning and management
  - It is also expected to allow institutionalization of:
  - Performance management
  - Performance monitoring
  - Monitoring of use of resources

For Prudent Financial Management the PS Treasury challenged the line ministries to keenly observe their roles by acting on the following;

- Taking responsibilities for financial management
- Eliminate wastage
- Ensuring timely implementation of programs
- Ensuring efficient delivery of services
- Ensuring that expenditures are within limits approved by Parliament;
- Ensuring strong monitoring and evaluation of projects and programs
- Ensuring efficient utilization of public resources
- Identifying trade offs for additional expenditures
- That Treasury is notified and corrective action taken when extraordinary circumstances may cause overspending; a proposed policy or operational change will have significant financial implication
- Preparation of annual work plans that are consistent with the government plan;
- Preparation of procurement plans consistent with the cash flow
- Establishment of performance measures for inclusion in strategic plans
- Results-oriented and link with core business areas, goals and resource allocation decisions

Topic: Setting Frameworks for Disbursements of External Resources.
Presenter: Mr. Kinyanjui, Director, External Resources department, Treasury.

External resources or official Development Assistance (ODA) is defined as flows to developing countries and multilateral institutions provided by official agencies, including state and local governments, or by their executive agencies. It was pointed out that statistics showed that external inflows increased from Kshs 32 billion in the financial year 2002/03 to 59.4 billion in 2006/07 from both bilateral and multilateral donors in support of development projects. A further commitment of Kshs. 81.7 Billion by donors

has been factored in the current financial year 2007/08 in support of our development agenda, which reflects an additional funding of Kshs 28.2 Billion compared to last financial year.

It was brought to the attention of the MPs that while there has been a commendable effort in terms of mobilising of external resources the opposite has been the case in term of utilisation of available resources. The annual performance has been an average 40% of the expenditure estimates reflected in the annual budget. However, MPs were informed that measures have been put in the previous two years to facilitate the utilisation rate to increase to over 50 percentages of the printed estimates considering the fact that 56.4% of Kenya's development budget is financed by ODA. It therefore follows that under collection of external resources has been a subject of continuous audit queries by Controller and Auditor General Offices and of concern to Public Accounts Committee as lack of utilisation of these funds means denying Kenyans the benefits to be derived from project investment.

Several reasons were presented to the meeting as to the poor performance in absorption of development budget and in particular the disbursement of external resources. These reasons include;

- Administrative and bureaucratic delays
- Poor Managerial skills and capacities on project staff
- Lack of clear policy on external aid management
- Multiple Donor conditionalities and procedures
- Too many missions by donors slowing down implementation
- Poor Budgeting on project funds due to lack of work-plans
- Use of apparel systems for managing the resources i.e FMA
- Use of A.I.A by donors
- Governance issues Procurements delays
- Unrealistic budgeting
- Weak reporting, accountability, monitoring and tracking systems.
- Uncertainty and unpredictability of donor inflows
- Stringent and inflexible donor disbursement requirements
- Lack of GOK counterparts funds

Frameworks to Enhance Disbursement of External Resources

Members of parliament were brought up to date on internal frameworks being put into place by Treasury to enhance disbursement of the external resources and ensuring services deliver. Firstly, the Treasury has developed a system of issuing regular circulars aimed at guiding Line Ministries and other agencies handling external resources on the laws governing the soliciting of external resources and the procedures to be followed while engaging with Development Partners for accessing Official Development Assistance. Secondly, Kenya Joint Assistance Strategy (KJAS) strategy which when completed will support the initiative of building the relationship between Government and donors further. Thirdly, measures have been put in place to reduce administrative and bureaucratic delays for example; accounting officers ensuring that cash plans are timely submitted to treasury within the set deadline and the introduction of Cash Plan

projections expected to eliminate the issue of lack of counter-part funds where Government is required to avail such funds. Fourthly, adoption of a system of managing the high staff turnover as well as the appointment of unskilled staff expected establish an efficiently and effectively mechanism of running projects.

The presentation gave a detailed analysis of what is required of prudent budgeting, which in turn in turn would enhance a greater absorption of the external resources.

- Prudent budgeting requires that expenditure estimates reflected in the development estimates be based on Work plans with accurately costed activities.
- Accounting Officers are to ensure that annual project budgetary requests are tied to activities that are achievable within the financial year.
- Through the current reforms in Government augmented by the introduction and sensitisation of services charters.
- Performance targeting will also become indicators of utilization
- The Kenya National Audit Office has been strengthened and is now up-to-date on audit reports.

Recommendations on further improvement on the Government

- Treasury will continuously issue circulars that will inform and guide accounting officers on issues that will enhance prudent utilisation of avail resources.
- Accounting officers ensuring to maintain an inventory of all externally funded projects and closely monitor the disbursement and physical progress.
- Programme Coordination Unit at the External Resources Department will be further strengthened to be a full fledge unit with added mandate of monitoring implementation of all externally financed projects. This unit is to capture disbursement data on monthly basis and this data is to be shared with accounting officers on quarterly basis to flag out poor performing projects for timely remedial action.
- Quarterly meetings of project coordinators an the PS Treasury
- Ensuring of quality negotiations with development partners on conditions attached to credits
- Strengthen the external resources department of Treasury
- Capacity building of project management staff
- Improve reporting of donor funds
- Implement fully the new procurement law
- Ensure smooth funds flow to implementing agencies
- Implement the Paris declaration (KJAS &KERP)

Recommendations on the part of the Development Partners

- Adhere to the international agreement particularly the Paris Declaration to relate better with Government
- The Partnership Principles will be finalised to regulate the framework of GoK/Donor partnership, for more effective development co-operation.

Plenary Discussions of Panel 1

Budget Execution

- Weak budget application delays development and reduces taxpayers' confidence in the Executive. The main reason for weak budget application could be procurement, and this is an area to be tackled.
- The creation of the Budget Office and the Fiscal Analysis and Appropriations Committee (FAAC) will help parliament get more involved in budget formulation and this might also help in budget execution
- Why is it that resources are allocated but not spent - what happens?
- Expenditure absorptive capacity is at 40% and this has been ongoing. Can the Ministry of Finance explain why it allocates money to ministries that are not spending?
- It is expected that before the formulation of SAGAs and AGAs, Treasury is consulted on their viability. However this does not seem to be the case.
- What is the role of local authorities - efficient use of funds
- The costs per unit e.g. per km for a road are high. What work has been done in this area to ensure that costings are closer to what they should be?
- What are we doing to encourage integrity in financial management in the Executive?
- Remuneration -its critical that government pays well so that it can attract quality staff in public service

Budget Audit:

- Why is it that financial management is not computarizes? This would ease financial management and control
- The current quarterly budget reports are too summarised which does not allow us to pull out the issues affecting budget execution
- Budgets should tackle problems encountered in previous budgets
- Audit backlogs- PIC is currently looking at 1999 audits. What is being done to hasten or rather bring audits up to date?

Donor relations:

- since money from donors have conditionalities, it would be better to disengage them from policy and instead, encourage them to channel their support to already existing policy and strategies
- Can Kenya cease loan repayments to WB and IMF for compelling the later to tackle SAPs?
- Why is overseas development assistance (ODA) increasing when our tax revenue collection is up? We should reduce our reliance on ODA and finance our development from revenues
- Project donor funds stay on budgets for a long time, and the projects are not started or completed - can we introduce timeframes for projects?
- What is government doing about Financial Management Agents if indeed they are expensive?

- We should not hasten to blame donors for their terms, when we are the ones who request for money, agree to the terms and then fail to fulfill them

Education:

- Education still needs to be developed further. Fortunately more ministries are seeing the importance of education however more collaboration is required to facilitate education. For example, the Ministry of Energy should ensure that all schools have power, Ministry of Water and Irrigation should ensure that all schools have water and Ministry of Transport, that all schools have adequate infrastructure

Taxation:

- Can we waive tax on supplies, such as cereals, to schools? This will reduce the cost of education to parents and children and thereby increase the number of students who enroll in, and complete education

Deficit financing:

- There is an upward trend of budgets in terms of size. Is this trend sustainable and should we rely on privatization to finance deficits?
- In regard to the budget proposal to sell government shares in Safaricom, it is pertinent that the nation knows who Mobitelea is, how they acquired the 10% share, and if they paid for it. If they did not pay for the shares, they should be asked to do so

Water:

- Some districts are getting more than others, although they might have water projects. Allocations should be based on need

Unemployment:

- The unemployment rate should be considered as we discuss macroeconomic stability

Vision 2030:

- Why isn't mining one of the V-2030 flagship projects?

Energy:

- Why didn't budget 2007/08 consider alternative sources of energy? This budget only allocated Kshs 20 billion and its primarily for solar and wind which might not be satisfy the demand levels particularly in Northern Kenya

Tourism:

- Kshs 68 billion earnings are anticipated from the tourism sector, and yet population will double. What will population growth mean for wildlife which is source of tourism earnings?

Response from the PS Treasury

The Public Finance Management (PFM) reform programme should help improve procurement. The PS did aggree that integrity plays a critical role and mentioned that this was the issue particularly in the past, where people did not want to follow right procedures. But he did also mention that we should not go to the other extreme and overburden ourselves with procedures and that the Public Procurement Oversight Authority (PPOA) was therefore try to minimise challenges in the procurement process. In this regard, he suggested that one such way of smoothening the process could be by requiring those who wish to contest a procurement decision to pay almost triple if they wish to take the matter to court. This would, he believes, deter people from wasting time and has been done elsewhere

The PS proposed to take MPs through the PFM reform programme so that they can also assist in ensuring that the programme objectives are realized

On donor relations, the PS stated that it is up to Kenya to negotiate in a way that upholds its interests. One of the ways that this can be done is to ensure that donor support is channeled towards Kenya's policies and strategies. Another way is to ensure that Kenya has the requisite skills in public service so that government-donor relations are informed and well managed

Panel 2 and 3: Break Out Sessions: Overview of Socio-Economic Implications of Budget 2007/2008 – Sectoral Issues.

Members and participants were divided into four working groups that spent about one and a half hours discussing the policy environment and fiscal affairs of selected sectors.

Summary of Recommendations made by Members on the issues in the break out sessions are:

Health

Resource Person: *Johnson Mwangi*
Rapporteurs: *Nicodemus Odongo and Ndungu GK*
Discussant: *Mr. Muchiri S.N., Chief Economist, Ministry of Health*

Recommendations

1. Policy on cost sharing – approached in terms of regional poverty index and population coverage
2. Standardization of health facilities and enforcement of standards
3. KNH – redeployment and manpower requirement – striking the balance e.g. need to employ consultant on Locum/part time basis
4. Curb Embezzlement of drugs along the supply chain
5. Coordination of health services providers – GoK, Private and Mission

Physical Infrastructure

Resource Person: *Sylvester Kasuku*
Rapporteur: *Con Omore and Rana Tiampati*
Discussant: *Amb (Eng.) Mohammed Maalim Mahamud, Permanent Secretary, Ministry of Roads and Public Works..*

1. Implementation of Parliamentary Reports should be undertaken such as Reports by Parliamentary Committee on Energy, Communication and Public Works and finance on Establishment of a Free Port, Airport Expansion and a light train system amongst others..
2. The Procurement Act should be amended to ensure that there is efficiency and speed in procurement of consultancy services in the infrastructure sub sector.
3. Ensure that there is a strict enforcement of Axle Load rules and regulations.
4. Expansion of pipeline should be dependent on whether it is obsolete or not, since it is an expensive undertaking.
5. Funding should be increased for road construction from the current 3% to 4%
6. There shouldn't be role conflict in the newly created authorities under the roads sector.

7. Public awareness and advocacy on government plans should be done to create political will and public understanding on issues such as the port expansion and encroachment of road reserves.
8. Modernize the railway system. The concession included public and cargo transport
9. Private sector participation in physical infrastructures should be encouraged. The process for the legal framework for public-private partnership should be speeded.
10. Modern transport system to decongest Nairobi City: Ministry of Transport has done feasibility studies on light train linking the city centre and the airport but has not done a study linking the city centre and the suburbs.
11. Speed up the legal framework for the new transport system and upgrades in various parts of the country such as that planned for Lamu.
12. The Ministry of Roads and Public Works should as a matter of policy, endeavor to undertake the sealing of all low volume traffic roads especially in high rainfall areas to curb rapid loss of gravel.
13. Electricity Tariffs and Penetration – Policy paper restructuring power sector has been prepared. This should be implemented to ensure tariff reductions and increase penetration.
14. Invest in energy production and renewable resources like solar energy, wind power and biomass. Ministry of Energy has done technical studies on wind energy and has received indications of support from Spain amongst other development partners. More funding is anticipated in next year's budget to take care of transmission aspects of electricity.
15. We need to establish a Physical Infrastructure Master Plan that will incorporate all sub-sectors.

Agriculture

Resource Person: *James Nyoro*
Rapporteurs: *Bonnie Mathooko and Carol Wangari*
Discussant: *Dr. Romano Kiome, PS. Agriculture.*

Recommendations.

1. Need to step up the reviving of institutions including allocating more funds to FTCs and the Agricultural Mechanization Services (AMS). Additionally, more funds should be invested in the production of orphan crops (abandoned crops).
2. Recommend an increase of fund allocated to the National Cereal and Produce Board (NCPB) to improve service delivery among them the drying of produce, particularly maize to the desired moisture content. This will reduce the losses arising from high cost of drying the produce.
3. Sugar sector needs to be revived, revamped and reformed. Removal of Sugar Development Levy (SDL) is only likely to benefit a few manufacturers, while there are no safeguards to check abuse of the removal by the gazetted manufacturers. In the same vein, the group further recommends zero rating of sugar as the case with other food crops should be addressed as a matter of priority.

4. Increasing the budgetary allocation of the Agriculture Ministry in line with the Maputo Declaration that advocates a 10 per cent share of the national budgets by 2008 and to which Kenya is a signatory. Currently the allocation stands at 7%
5. Agriculture ministry should look into getting additional land for institutions like KARI and ADC for continued research on seeds and breeding stock for the livestock industry.
6. Allocation on resettlement should be made more transparent as opposed to the previous ones. Genuine squatters must be identified to avoid people who are perennial squatters.
7. The status of the Consolidated Agriculture Legislations Bill - it should be fast tracked because it is holding key reforms in the agriculture industry which have been very slow.
8. Environment issues – On the issue of plastics, we should look at the issue of disposal and people who produce plastics should pay a levy.
9. Absorption capacity – particularly for the development expenditure has been attributed to inadequate procurement planning and generally low absorption of donor resources. There should be a reduction on donor dependency who often introduce and impose conditionalities that hold back implementation of programmes. Need to also monitor the procurement measures.
10. Repayment of loans should be addressed as an issue so that farmers can move on with production.
11. Debts – particularly those for the sugar sector should be written off as happened to the coffee and pyrethrum sector. In the same vein write off Tea.
12. Extension services: Review the policy on livestock extension officers with a view to bringing them back to government – currently privatized.
13. Decentralization of NCPB
14. Utilization and application of research from our institutions
15. Increase coverage of irrigation for more production was food

Education

Resource Person: *Eldah Onsomu*
Rapporteurs: *Thitu Mwaniki and Matthew Nyamwange*
Discussant: *Mrs. Mary Mwirotsi, Director of Education Planning and Policy*

1. Integrity and environment interest should be encouraged even as early as ECD level
2. Introduce research projects in primary education to build analytical skills
3. Review the curriculum for 8=4=4with involvement of other stakeholders (private sector). This is critical as the vision 2030 requires manpower that is armed with certain skills.
4. Develop libraries so as to enhance knowledge and access to information
5. Skew education towards technical skills development, this may include change of some secondary schools into technical institutions
6. Put more resources into research.

7. Discourage some levies that overload parents with unnecessary expenses. E.g. uniforms should limited to the necessary.
8. Target tuition subsidies to those who need it
9. Appoint Deputy Vice Chancellors who have management skills
10. Expand school facilities
11. Set up inspection units to ensure that school management adheres to guidelines set out on levies and fees. This will prevent extortion
12. Fast track the science (research?) education bills.
13. Schools supplies especially food staffs should not be taxed
14. District Education Officers must coordinate with CDF committees
15. Ministry of Education should be IT compatible and the Education Information Management System (EMIS) used. This should be done to avoid cases such as ghost teachers, pr even to assist in school mapping.
16. Implement proposal for model schools especially in rural areas
17. Entrenching programme performance based budgeting
18. Apply affirmative action for teachers who are orphaned by HIV and have dependants
19. Promote school facilities and general infrastructure in ASALs to increase access
20. HELB should give preference to people from ASALs

Plenary Discussions

The plenary discussions, comments and questions following the break –out sessions recommendations presented at plenary were on the following issues:

KRA forms are with Heads of schools. They are being asked to pay 16% tax on whatever is supplied to schools and this will result in an increase in fees.

The MPs in the Agriculture break out session reported that they had discussed the extension services (Livestock Extension Officers – LEO's). The LEO's were removed from government and privatized making it inaccessible and expensive for citizens.

MPs expressed hope that these recommendations they are making will be implemented. Various committees make useful reports that are not implemented.

MPs queried the progress of the proposed district education schools that were supposed to be model schools. The Ministry of Youth Affairs had also proposed the establishment of a polytechnic in each constituency.

Members said there was a need for local food banks in various areas through NCPB. They also proposed that need research results/findings from our agricultural institutions should be disseminated. They gave the example of Samburu which still gets supplies from WFP yet the land is arable. The Ministries of Agriculture, Livestock and Water should encourage restocking and irrigation.

It was proposed that there is need to develop a curriculum that will yield the human resource for Vision 2030.

On infrastructure development, it was proposed that the current allocation at 3% of GDP should be increased to 4% to match the real demand in this sector.

The members asked the PS Treasury to inform them about the legal framework for infrastructure and the adjustments that the Ministry will propose to the Procurement Act to enhance efficiency in procurement.

Response from the Treasury

The PS clarified that on the budgetary resources for Agriculture, the definition covers Livestock, Water and Crops. The technical team is working on a definition. Implementation on recommendations can only be done if it gets the final recommendations from Parliament. As Treasury prepares the budget for the next 3 years it should carry out an analysis of allocations in the past before it decides on an increase.

The legal framework – The PS informed members that the Treasury wanted the draft law to be put before Parliament during this session. The AG's office was holding them back. There are a lot of Public-Private-Partnership taking place and this is currently being done through the existing laws for example the concession of the railways - the company pays the Kenya Government for use of our railways lines.

The PS reported that they had started the debt right offs with the sugar industry (Kshs. 6 billion) but will re-look at the AFC debt.

Panel 4: Overview of the Finance Bill 2007 – Impact on Investment in Private Sector Part 1.

Chair: Hon. Elias Mbau MP, Vice-Chair, Fiscal Analysis and Appropriations Committee.

Topic: Overview of the Finance Bill 2007
Presenter: Mr. Njeru Kirira, Public Fiannce Consultant.

Customs and Excise Cap. 472 –
Clause 2 amends Section 2 of this Act and introduces a definition for services. This is necessary because services like mobile phone calls are taxable, since 2002

Clause 3:
This clause amends Section 90 and inserts a new subsection 2 for delicensing manufacture of plastic bags of 30 microns or less. This then means that on 1st January, 2008, manufacture of these bags will be legally stopped.

It was noted that although the measure is good for the environment investors need to be properly handled, so as not to send wrong signals to others. Plastics are now part of life, in all parts of world and it is more prudent to remove only the harmful. It was suggested that manufacturers should be given reasonable notice e.g. say till 1st July 2008 to change since it is not their fault.

Clause 4:
This is an amendment to Section 135 of the Act. It inserts a new paragraph (5A) to introduce other methods of calculating quantity of spirits produced.
Frequent changes in law creates unpredictability therefore clear systems of determining tax must be made. It may be necessary to consult with stakeholders and prescribe factors which will be considered to avoid disruptive surprises, ensures acceptability

Clause 5
Inserts a new section 166 C to deal with manufacturers who produce excisable goods but fail to charge excise duties, who charge but fail to account for duty to Commissioner and who are likely to frustrate recovery of duty and Commissioner is suspicious.
The provisions are well intended and will certainly help in reducing evasion and increase revenues. However the Commissioner should have reasonable grounds not just suspicion and the taxpayer should have at least 30 days in which to give notice.

It is important to note that these provisions can be abused by dishonest officers and taxpayers needs protection in case information given to commissioner is false or malicious

Clause 6:

This clause deletes rates of export duties and inserts new rates. The proposal raises export duties on raw hides and skins, 20% t0 40% or Ksh20 Kg, scrap primary cells, batteries, accumulators 20% orKsh10 Kg.

It is crucial to ensure local tanneries do not take advantage of these duties to lower prices of raw hides and skins / scrap batteries.

Clause 7:
Deletes the old rates and inserts new rates, targets higher duties on filter cigarettes; mineral water; beer; wines and also introduces duty on bottled water equal to Ksh6.00 a litre
Increased duty on plastics, in general affects all plastic packaging materials.

These measures aim to raise additional revenues to finance government programs. Specific tax rates need regular adjustments to reflect changes in prices, (inflation) and additional duty plastics and mineral water will raise prices of a wide range of goods.
Manufacturers can manipulate characteristics and there should be some understanding on how to acquire revenue on this.

On Excise duty imposed on secondhand spares at 20%, we should note that it very difficult to determine value of secondhand spares therefore determination of the 20% will suffer same problem. It is equally difficult to know the economic life of such spares and in the absence of a reliable way to determine economic life, buyers may be getting freezed already.

A possible solution may be in restricting indiscriminate importation of secondhand vehicles as imposing the duty is not likely to improve much,

Value Added Tax Act Cap 476
Deletes definition of a building to insert a new definition. This is necessary to exclude some of building structures which are taxable, e g radio and TV masts.

Clause 9:
Amends to Section 19A, deal with appointments of agents to withhold taxes and introduces two new subsections namely,
- subsection (3): Restates the obligation of a person who deals with taxable supplies to account for tax due, even though the tax may have been withheld and paid by another person.
- subsection 4: The new subsection gives Commissioner powers to waive requirements to withhold tax under subsection 19(2) and demonstrated it is not practical to withhold and account for tax, due to nature of business.

These measures seek to simplify tax administration.

Clause 10:
Inserts a new section 19B and this is a replicate of Clause 5 under Custom Excise Act.

Subsection (1) allows Commissioner, through the court, to attach funds of a taxable person who;

- has sold goods and not charged tax,
- has collected tax which has not been accountable for,
- Commissioner has information which makes him/her suspicious.

The attachment to be for 30 days subject to extension. The intentions of the proposal seem good for revenue protection but it gives taxpayer too short a notice. There is a need to protect taxpayers and integrity of tax administration.

Clause 11:

This crucial clause is an insertion of a new Section 20A into the Act. The new clause provides for the Commissioner to realize instrument of land situated in Kenya where a person fails to make payment of tax on due date or before or comply with notice served on him under any provisions of the Act

It also allows Commissioner to transfer land and buildings and before that 21 days notice has been published in gazette and one daily newspaper, date, time, place of sale and conditions given reasonable steps have been taken to notify the registered persons in writing.

It is important to note that it is not clear why such a provision is necessary. Land can be sold for failure "to comply with a notice under any provision of this Act" and on anything. No provision is allowed for reasonable failure to respond, to notice, whether person was sick or did not get it or was out of country.

This kind of provision can be abused and can also make people resent the tax. The Kenyan tax system based on voluntary compliance and it is essential to promote culture of self compliance, since it is not possible to enforce tax without it.

Clause 12:

The proposed amendment to Section 23 seeks to specify kinds of goods which will qualify for tax waiver when purchased or imported during disaster due to periods of strive, national calamity or disaster or for use in officially declared refugee camps. In case of disaster, this has to be declared under a written law. The previous provisions which included motor vehicles and computers were grossly abused in past, e g during El Nino rains in 1997 and other disasters.

Paragraph (f) of section 23 has been deleted which gave waiver to any person. NGOs abuse has been rampant, especially in election years.

A new provision has been inserted to cater for waiver of tax on goods and services used for construction of private universities (excluding hostels). The provision will encourage investments by private sector to increase access to university education,

Note that the Government is not likely to invest much more in university education given high cost of free primary and also what it would cost to extend to secondary schools.

Provision to exempt Vat on services/goods for construction of low income houses is a good move. The exclusion of public universities using own internally generated funds seems discriminatory. The expansion funded by parallel programs should be included.
If the intention is to expand university places to absorb more secondary leavers, exclusion of public universities is not justified when they spend money generated internally, not tax funded.
The provision for waiver of taxes on construction of low income houses is subject to recommendations by responsible minister and prescription of necessary conditions.

While the proposal sounds good, it has some flaws, among them:

- there is no definition for housing units for low income groups,
- what will constitute such houses? location or rental charges, sale price,
- how will the investors and taxman determine the target houses?

Clause 13:
These are amendments to second Schedule on Exempt Goods of the Act. They are detailed in Third Schedule, pages 1887 to 1889. The Schedule gives a list of tax exempt goods which means that tax will not be charged on sale.
The goods include live fowls, ducks, geese, turkeys, fish fillets, other fish products, cut flowers, charcoal e.t.c

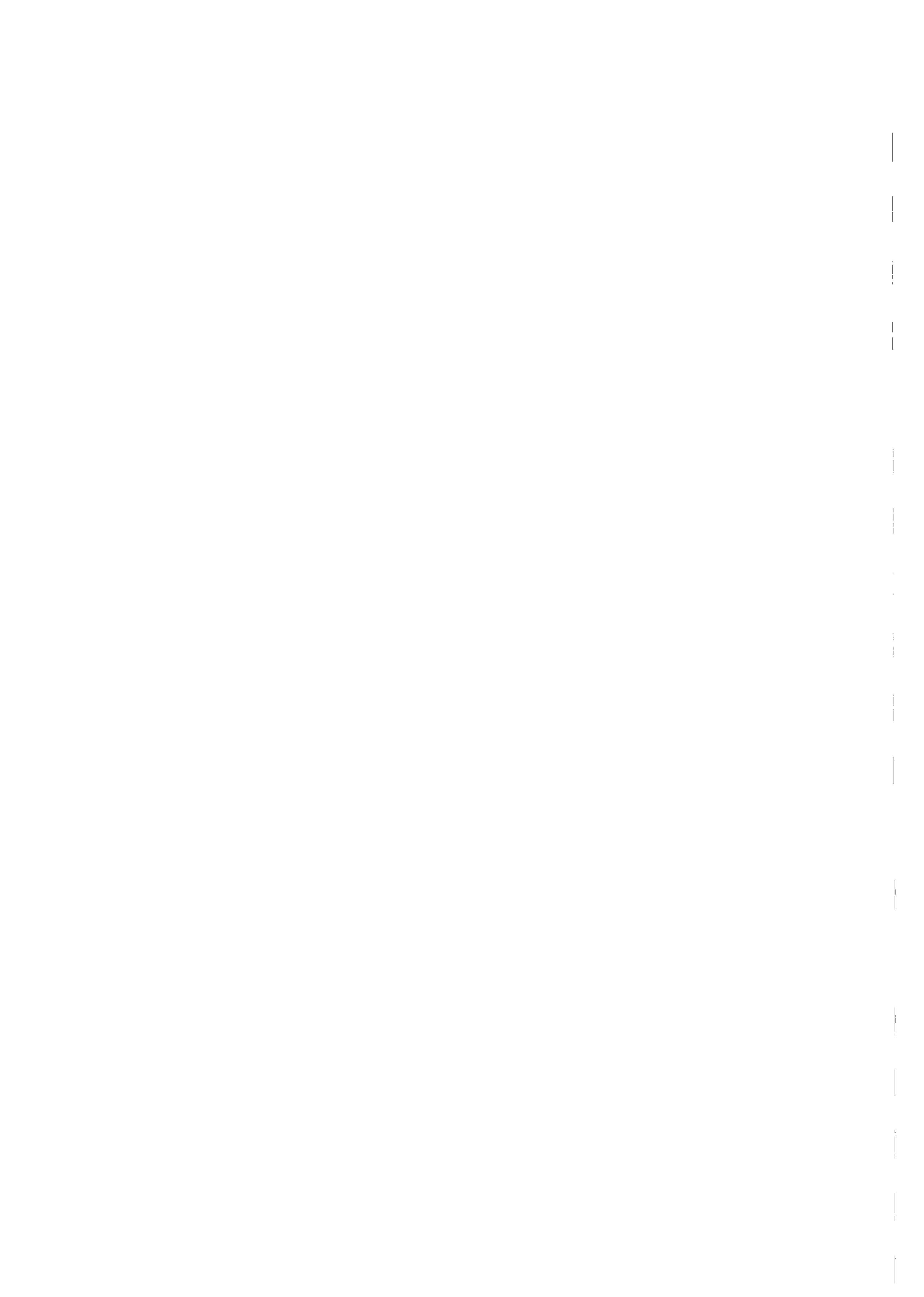
It is important to note that Exempt goods are not subject to tax on sale but do not get refund of input tax (as in case of Zero-rated goods)

Clause 14:
The Third Schedule is amended by deleting paragraph 10(c) to remove non-residential buildings from exemption list. This amendment makes such buildings subject to VAT, when leased or rented. This will have cost implications on doing business.

Clause 15:
The amendment repeals the Fourth Schedule of designated goods. These were taxed without regard to tax threshold. Therefore this is a more equitable tax system

Clause 16:
The Fifth Schedule Zero-rated Goods is amended by deleting various items from the list to remove them form zero-rated status. These include, waste pharmaceuticals, adding the following items like sweetened milk products (previously, only fresh milk included) as this will encourage processing of excess milk and specialized solar equipment and bodies for vehicles e g buses, pyrethrum extract which will encourage local production.

Clause 17:
Amends the Sixth Schedule Registration and removes item 1 (c) dealing with designated goods. It also deletes proviso to paragraph 16 which is referred to in sub-paragraph 1 (c) deleted above.



Note that the Intention of this amendment is to make VAT apply above a turnover of KShs 5.0 million. Those below KShs 5.0 million will pay turnover tax.

Clause 18:
These are amendments to Eighth Schedule on privileged bodies and institutions. They have Zero-rated status and are not liable to VAT. The amendments include:

(a) To delete paragraph (1) of item 9 dealing with bona fide gifts to charities which has been grossly abused.

(b) i. Paragraph 2 of item 1 to include leased goods, falling under "aircraft operations'

ii. paragraph (1) item 7, to include leased or imported goods used by ships and other vessels.

iii. item 21, to include leased, specialized ship loading and unloading equipment.

These provisions are important to promoting investments in specialized areas. They also recognize the value of leasing as an alternative to outright purchase.

Clause 19:
Section 5 is amended by deleting subsection (2B) and substituting it to specify that value of a vehicle provided by employer will be determined by Commissioner. Where use is restricted, Commissioner is to determine a lower rate and if vehicle is hired the cost of hiring then there is prescribed value.

Subsection (2C) defines features of a prescribed rate to base taxable benefit on;

(i) In 1996, 1% of capital cost of vehicle by employer,

(ii) In 1997, 1.5% of initial cost of the vehicle,

(iii) In 1998, 2% of initial cost of the vehicle.

These rates are already in use and the only addition is the case where use of vehicle is restricted by employer in (ii).

Subsection (4) is amended to exclude, from tax, medical insurance provided, to an employee, through an approved insurer same as medical expenses.
A new subsection (f) inserted to exclude, from tax, food provided, in a cafeteria, by employer to low income employees, subject to conditions set by Commissioner.
Amends to subsection (6) (a) defines when benefits arising from employee share option (ESOP) accrues, either at the time when the option vests on the employee or when the employee exercises the option. The benefit arises when employees are offered shares by employer at prices which are lower than par value or below market. These provisions already exist, and are only been clarified.

Clause 20:
Amendments to clause 9 (1) to clarify that an aircraft operator or ship-owner will be taxed on gross amount received when the aircraft or vessel calls on a Kenyan port.

Current provisions require commissioner to determine what is "just and reasonable' amount". The proposal makes taxation predictable.

Clause 21:
These are amendments to section 15 (2) (a) and allows deduction of bad debts against taxable income. Section (2) (a) gives the commissioner authority to prescribe guidelines on determination of bad debts.
To ensure predictability and common application, guidelines should be published at the earliest opportunity.

Clause 22:
This is an amendment to Section 22 C. It deals with savings under a home ownership plan. The amendment removes restrictions on how savings can be managed, (under irrevocable trust) makes it flexible.

Clause 23:
These are amendments to section 34, turnover tax rate and are minor arrangements to introduce the rate of tax payable by a resident person who operated a business with a turnover not exceeding Ksh.5 million (Para 12C – 2006). Such a person will be subject to a turnover tax and resident arte will apply.

Clause 24:
These are amendments to Section 35, on withholding taxes. Non-resident withholding taxes proviso to subsection (3) (f) defines contractual or professional fee, in "payments for building, civil or engineering works. Subsection (3c) which deals with building and civil engineering works, already covered above is deleted.

Clause 26:

i. Amendment to section 39(1) clarifies advance taxes paid Sec12A) by a person can be offset against final tax by same person under this section. This is currently restricted.
ii. Amendments section 39A (1) (import duty offset) deletes reference to import duty paid under Section 117 and substitutes it with EAC, Customs Management Act 2004 which has replaced the Customs and Excise Act on payment of import duties.

Clause 27:
The proposed amendment for the insertion of a new section 96A is similar to what is proposed under clause 5 under Customs and Excise Act and clause 10, VAT Act (section 19B).

It provides that where a person has income which has not been charged to tax is likely to frustrate tax recovery and commissioner is suspicious based on information availed to him. The Commissioner may apply for ex-parte court order attaching the person's funds with third parties.

The order will have effect for 30 days. The taxpayer has 15 days on being served with Court Order to apply for variation or dismissal while the Commissioner has 30 days to assess, determine tax payable and issue assessment. Once assessment has been issued, the court order expires. If the person interferes, he commits an offence. Any person holding funds is indemnified on any action taken.

Note that no reasons are given as to why the taxpayer is given 15 days, less than the 30 allowed to commissioner. The taxpayer should get equal days as Commissioner. While the provision is good for improving tax administration it is important to ensure such are not abused.

Clause 28:
This inserts a new section 103A section is similar to clause 11 on VAT on attachment and sale of land. Provisions of the new section 103A are that if a person who owns land in Kenya fails to pay taxes due on time, or fails to comply with any notice served on him under any provisions under the Act,
Commissioner may proceed to realize the land according to relevant laws.
The Commissioner assumes role of mortgage or charge, may transfer land / building to a purchaser without encumbrances, may sell the land / building after advertising in Gazette and a daily giving 21 days notice and when sold the , proceeds to go to i) payment of taxes, ii) settlement of expenses and iii) balance remitted to owner.

Note that this is a very harsh provision. It provides for sale of property for failure to comply with any notice e.g. to file a tax return, notice to produce records. The proposal however does not distinguish whether the person is acting on own behalf or as trustee e.g. Sections 63 and 64 on payment to pensioners, provides trustees can be required, to provide details of every pensioners place of residence.

For property to be sold for failure to respond to any notice is harsh. The provision is a major departure from the principle of voluntary compliance and can give rise to resentment against tax payment.

Clause 29:
These are amendments to First Schedule and insert a new Paragraph 53 to exempt pension payments received by individuals over 65 years.

It is worthy to note that this amendment is good for retirees, but it raises equity issues since there is no limit on amount paid to pensioner whether Ksh.2, 000 minimum pay or Ksh.100, 000 or more. For purposes of equitable treatment some maximum limit may be good.

Clause 30:
The amendment to the second schedule is intended to give capital deductions equal to 5% per year of residential buildings constructed for low income groups.

Note that the measure is designed to encourage construction of low income residential houses, to make it operation, if necessary to define low income housing and to encourage investors to build such houses,

One way to define such houses is to base it on:

- rental payments, in reference to per capital income,
- sale price to target owners,
    - i.e. monthly rental charges, if mortgage financed, not to exceed a ratio of per capita income,
    - publish guidelines for all to know maximum rental charges or sale price.

Clause 31:
This clause is for amendments to Third Schedule, Head B; Rates of Tax

a) The amendment to paragraph (f), on Export Processing Zone Enterprises, (EPZE) clarifies what commercial activities are, e.g.
    - breaking bulk, grading, repacking, labeling etc,
    - EPZEs, manufacturing have ten years tax free,
    - those engaged in commercial activities do not qualify,

b) Amendments to paragraph 3 (d)
    - recognizes residents of EAC as residents,
    - they will be subject to 5% withholding tax only on dividends.

The amendment is important to encouraging cross-listing of quoted companies in all the three stock exchanges (under EAC).
Kenyans should enjoy similar treatment in EAC partner states

Clause 32:
The amendment to Eleventh Schedule on Taxation of Export Processing Zone Enterprises is editorial in that in 2005, subparagraph 2 (e) of Third Schedule was changed to (f) but this schedule was not amended.

Part IV: Miscellaneous

Amendments to Pension Act

Clause 33, 34 and 35:
These amendments on public pensions aim to:

- increase minimum pension to Ksh.2,000,
- increase not to apply to pensions paid under Public Officers' Pensions (Kenya-UK) Agreement 1977,
- provided for two yearly pension increments at 3%,
- the Pension (increases) Act repeal.

Clause 35 increases penalty for false information from Kshs. 1,000 to Kshs. 10,000.
Clauses 37 and 38 contain amendments to the NSSF Act. They delete proviso to section 6 which required voluntary contributor to be employee of a contributor employer. This will

allow voluntary registration and contributions. It will also allow contributions for casual workers to be treated as surplus for purposes of actuarial valuation. These are tidying amendments, which are good for NSSF

Clause 39, 40, 41, 42 and 43:
These amendments to Government Land Act seek to change collector of land revenue from Ministry of Lands to Commissioner General.

Clause 44, 45, 46 and 47:
These amendments to the Traffic Act, Cap 403 aim to require an insurer of written off-vehicle to return the log book and number plates. This is good for security.
The amendments also change reference to Controller of Inland Revenue (who has been abolished to Registrar) and remove reference to TLB Licences which have been abolished.

Clause 48:
Amendments to Capital Markets Act, Cap 485 specifically to section 11 aims to provide for sanctions against those who fail to comply with CMA Act and regulations, and provide for:

- financial sanctions, proportional to the gravity of breach,
- directives to remedy or mitigate breaches,
- publication of malfeasance,
- suspension or cancellation of licences.

It is observed that recent experiences in mismanagement of clients stocks traded in NSE, suggest there is need to tighten supervision. The penalties should be published, same as CBK publishes financial sanctions. In addition CMA needs to have capacity for more dynamic supervision. Publication therefore makes operations predictable, avoids misuse.

Clause 49:
The amendment to section 18 deletes paragraph (ee) of Section 18 (1) to allow, unclaimed for seven years be paid into the Investor Compensation Fund (ICF).The same provisions are inserted under paragraph 18 (2) (ee). Also included is ICF to pay unclaimed dividends to investors under section 18 (1).The proposed amendments are good for investors and industry.

Clause 50:
Under this clause is the insertion of a New Section 18A.The proposed section establishes the Investor Compensation Fund Board (created to compensate investors who lose money for no fault of theirs). The Board has usual powers to, sue and be sued, borrow and lend money.

The Board membership includes:

- Chairman appointed by President,

- PS – Treasury or his representative,
- Attorney General or his representative,
- Public trustee,
- CEO CMA,
- Five members appointed by MOF with knowledge,
  - in legal matters, finance, business and administration,
- The Board will administer the Fund.

It is worthy to note that as the market grows this Board becomes more important to deal with possible losses increase as trade goes electronic.

Clause 51:
This is an amendment to section 24. A new proviso is inserted in paragraph 24 (6) to provide for extension of an expiring licence should CMA not decide on new licence before expiry date.

It is observed that the provision will protect operators who, for no fault of their own, may not get licence in time. It also protects investors who may have outstanding matters with the licensee. However, the CMA should be encouraged to new licences before expiry date.

Clause 52:
The insertion of a new Section 25A proposes financial sanctions on licenses for breach of the CMA Act or its rules. The sanctions to apply to approved or licensed persons, listed companies and employee or director of a listed company.

a) The CMA may also,
   - give a licensed person a public reprimand,
   - suspend the licence,
   - restrict use of the licence,
   - levy financial penalties in a manner prescribed,
   - revoke the licence.

b) In case of employees, CMA may
   - require the licensed person to discipline the employee,
   - require employee be disqualified from employment,
   - require money lost be recovered from the employee,
   - levy financial penalties on licensed person.

c) In case of a director, CMA may,
   - require director be removed,
   - require financial surcharges,
   - levy financial penalties.

These proposals are expected to address recent reports of abuse of client stocks and funds by NSE market players.

Clause 53:
This clause amends section 28 by inserting a require for CMA to satisfy its of the business for which a licence application is made. Note that this is a good requirement but should not hinder expeditious processing of licence applications.

Clause 54:
The amendment to section 33A is an editorial correction. It emphasizes the circumstances under which CMA may intervene with management of a licensed operator i.e.

- where licensee has contravened provisions of the Act,
- has ceased to qualify, after being licensed,
- is guilty of irregularity or malpractice.

Clause 55:
The proposed amendments to section 34 seek to:

(a) increase fine for offences which have no specific amount from Ksh.1.5 million to Ksh.15.0 million under subsection (2),
(b) provide for restitution under subsection (3),
(c) reorganize subsection to include loss from adverse impacts arising from a breach by a licence by persons claiming compensation restriction.

It is observed that the CMA has not been known to impose fines and that the provision for increased fine and restitution will only be deterrent when operators know they can be forced. The CMA needs capacity to be felt in the industry.

Clause 56:
The new section 34A clause seeks to give minister powers to prescribe penalties, but not to exceed Ksh.10 million, for legal persons and Ksh.5 million for natural persons.
Incase of breach to trading rules, penalty to be equal to double the commission, payable to a licensee. The penalty for reporting failure be double prescribed annual listing fee or licence fee and the penalty for failure to enforce compliance to be equal to annual licence fee of securities exchange.

This section gives discretion to CMA to levy other financial penalties or sanctions, cumulatively and also use other proceedings. It provides for all penalties levied under the Act to be paid into Investor Compensation Fund.

We should note that the section opens the way for minister to prescribe financial penalties and specifies how proceeds of penalties can be used. Financial penalties open a way for quick solution to breaches of regulatory regime. It is good for Kenya, where cases take too long in court. Decisions of the Authority (CMA) should be appealable to the Tribunal under section 35A to ensure fair play. But these provisions will only be effective when enforced.

Other points to note are:
Subsection (2) gives CMA authority to order restitution to affected persons,

Subsection (3) requires the affected person to quantify the loss, and CMA to serve the person to make restitution with details of amount
Subsection (4) gives authority power to publish names of licensees on whom sanctions have been imposed, in its Annual Report.

These provisions are important to protection of the integrity the local capital markets. Compliance to sanctions and penalties are only effective when operators know they are likely to be found out, and When found out punitive sanctions will be applied expeditiously.

Amendments to the Insurance Act

Clause 57:
The new paragraph (c) contains amendments to Section 27A and requires new board members of an insurance company to advise the Commissioner, in writing, of their willingness to serve on the Board.

Clause 58:
The proposed amendments to Section 41 delete subsection (1) and insert a proposal to increase aggregate value of admitted assets and liabilities from Kshs.1.0 million to Kshs.5.0 million, or 5% of admitted assets whichever is higher. This proposal comes into force on 1st January 2008.

It is important to note that while the proposal is good for the industry, the change should allow players enough time to comply. If it is hurried, it would hurt weak insurers.

Clause 59:
Proposed amendment to Section 54 inserts a new subsection (1A) to provide that accounts prepared by an insurer should comply with the International Financial Reporting Standards (IFRS),the IFRS to mean standards issued by the International Accounting Standards Board of London or those of ICPAK

Clause 60:
The amendment to Section 61 seeks to transfer penalties payable by insurer under section 61 from Permanent Secretary to Treasury to Policy Holders Compensation Fund. This essentially means the money will be available to compensate policy holders when their insurers run into problems.

Clause 61:
Two amendments to section 67D are proposed to penalize an insurer who commits other business malpractices and to transfer payments of penalties from Permanent Secretary Treasury to Policy Holders Compensation Fund. The amendments add clarity to the law.

Clause 62:
Amendments are proposed to section 15D, subsection (1),

a) Substitute "loss assessor" with "motor assessor" and insert "insurance investigator"
b) Subsection (2) deleting "loss assessor" and substituting "motor assessor" and inserting "insurance investigator"
c) Subsection (3) deleting "loss assessor" and substituting "motor assessor," inserting "insurance investigator"

These are minor changes which aim to bring into regulation "motor assessors" and "insurance investigators". The two will be required to register with commissioner before conducting business, same as other service providers in the insurance industry

Clause 63:
The amendment to section 156 (2) seeks to delete existing provisions and inserting a new one to require brokers to pay insurance premium the same day they receive it and the insurer to assume risk on receipt of premium.

It is worthy to note that the amendment has major implications on relations between broker, the insured and the insurer. If broker remits premium money to insurer on same day as received and he (broker) bears no further risk as well as he poses no further risks to insured or insurer. This therefore reduces risks which necessitate increased minimum capital requirements. These requirements will remove provision of credit by brokers to the insured, which was availed when remittance was in 60 days.

Clause 64:
The amendment to section 188 (1) adds a proviso to subsection 1 to allow an expiring license, where a renewal application has been made, remain in force until the Authority determines the fate of the application.

The provision is good in that it reduces risks of a licensee operating illegally without a fault on his part and it also closes a possible avenue for a dishonest person to argue he cannot assume liability for risks since he/she had no license.
Legal Notice No.97 requires Insurance companies to increase minimum capital requirements to;

		Ksh.m
(i)	insurer dealing with general business	300
(ii)	insurer dealing with life	150
(iii)	insurer dealing with both life/general	400

Note that while increased capital is good for industry existing investors need time to raise additional capital. It is important to ensure the time is not so short as to favour the big, international firms unduly.

<u>Amendments to the Banking Act, Cap 488</u>
Clause 65:

The amendment to Section 3 (1)b transfers responsibility to use the word "bank" from the Minister to the Central Bank. This is in line with best practices.

Clause 66:
The proposal on amendments to Section 9 transfers responsibility to approve amalgamations, transfer of assets, and liabilities of banks from the Minister to the Central Bank. This is an operational matter which the CBK can handle more expeditiously and is according to best practices.

Clause 67:
The amendment **to Section 31(3) (b)** seeks to add the Deposit Protection Fund to institutions which can exchange information under this section. This is in accordance with best practices. It should have been done when the exchange of information was first introduced.

Clause 68:
The proposal aims to make amendments to the Second Schedule to the Act to raise the Core Capital for banks and mortgage Finance Companies as follows:

Date	Kshs.Million
31st December 2008	500
31st December 2009	750
31st December 2010	1,000

We should note that raising core capital for these institutions is important to their ability to compete as many of the smaller banks find it difficult to compete and sometimes need to have their Letters of Credit reconfirmed by bigger banks. Another thing is that people who have invested in banks need adequate time to merge, amalgamate or raise capital.

Clause 69:
The proposed amendments to Section 52A seek to substitute the Customs and Excise Act, which has been replaced by the East African Community (EAC) Customs Management Act on matters of import duties.

Amendments to the Central Bank Act

Clause 70:
The proposed amendments to Section 4 seek to insert the following subsections:
(3) Obliges the CBK to support the Government economic policy objectives, including those on growth and employment.
(4) Provides that the Minister may specify, in writing, economic stability targets, and economic policy.
(5) Provides for a period of 12 months: annual targets on price stability specifying economic plans to be followed. First targets to be issued year after amendments become effective.
(6) Minister to publish the notice in appropriate manner and lay a copy of the notice in Parliament.

Note that the proposed amendments will regularize functional relations between CBK and the Treasury, make policy targets to CBK transparent and will close the gap which was created when CBK law as amended to make the Bank autonomous but did not provide mechanisms for enforcing accountability.

Clause 71:
In this clause Subsection 4D (1) on appointments to the Monetary Committee is replaced. The amendments:

a) gives the name as the "Monetary Policy Committee" of CBK,
b) makes the Deputy Governors Vice Chairmen,
c) provides for two members appointed by Governor from among the staff,
d) reduces other members from six to four.

Also notes (2A) whereby members appointed by the Governor to have:
- executive responsibility within the CBK Monetary Policy,
- the other be a person within responsibility in monetary policy operations.

This arrangement could improve the quality of decision making because the proposed amendments provide for a mix between technical staff from CBK and experts from outside.

Clause 72:
The proposed amendments Section 10 seeks to delete section 10 and replace it with a new one that provides for:

a) separate functions of CBK by removing the monetary function from the CBK Board,
b) Board to determine Bank objectives, including oversight on financial management and strategy,
c) keep performance of the Bank under constant review,
d) keep performance of Governor responsibility in discharging his consent under review,
e) keep performance of Governor, in achieving Bank objectives, under constant review,
f) determine whether the policy statement, issued by the Bank, under Section 4B is consistent with its primary function and policy objectives,
g) keep use of bank resources under constant review.

The proposed changes will introduce significant changes in power relations between the Governor and the Board. The role of the Governor will be significantly reduced in the Board and policy decisions in the CBK. This could affect role of Governor as industry regulator. It also appears the Governor will not be operating among equals [items (d) and (e)].

Clause 73:

The proposed amendments to Section 11 will introduce a Chairman appointed by the President on the Minister's recommendation and removes the Governor from Chairman, and makes him Deputy Chairman.

Subsection (2) removes the Deputy Governor from the Board and makes appointment of the Governor subject to the recommendations of the Minister. Subsection 5 is amended to provide for appointment of a Chairman who dies during the term and removes the Deputy Governor (also in Subsection 6).Subsection 6 inserts the Chairman

Clause 74:
This is an amendment to Section 12 and it removes the Governor, and replaces him with a Chairman on matters of convening meetings. It gives the Chairman authority to convene meetings, and also amends subsection 2 to remove the Deputy Governor while adding the Chairman in determining the quorum to be, Chairman or Governor and three directors.

It is important to note that there is no specified qualification for the Chairman, for this most critical institution in the country hence concern over possible appointments of unqualified persons

The proposal that both Governor and Chairman be recommended by the Minister also raises concerns in that, worldwide, Finance Ministers occasionally clash with Central Bank Governors, over monetary policy and a Governor desperate for renewal of appointment would find it difficult to disagree with the Minister even when the Minister is on the wrong. There is no criteria given on how the Minister will arrive at his recommendations.

Clause 75:
This new Section 13B proposes the appointment of two Deputy Governors, who are recommended by the Minister to the President and will serve for two, four year terms. The Deputies to be allocated functions by Governor and one to act while the Governor is away.

The combined effect of the persons appointed on Minister's recommendations. These are the CBK Chairman, the Governor, and the two Deputies is bound to interfere with the autonomy and independence of the Bank. In the event of abuse of power, the country could be exposed to substantial moral hazards.

Clause 76:
Amendments to Section 38 on Minimum Cash Balances. The proposal introduces a minimum charge of Kshs.10, 000 or 1% of the deficiency whichever is higher.
This penalty is imposed on any institution which fails to, meet the minimum cash balances against deposits and other liabilities. The charge is to apply per day during which deficiency continues.

The proposal is intended to encourage banks and financial institutions to comply with minimum cash balances. This is good for the financial sector.

Amendments to the Retirement Benefits Act

Clause 78:

Insertion of a new Section 36A and the proposed amendment seeks to exclude benefits payable by a Retirement Scheme from the Estate of a deceased member. The benefit will be paid in accordance with the scheme rules.

It is important to note that this is necessary to avoid benefits being tied with the estate for several years, as the family suffers.

Clause 77:

The amendment to Section 34 seeks to increase the period within which a scheme should submit audited accounts from 4 months to 6 months.

While this is not major proposal given, advances in technology, i.e., on computerized accounts, there is no reason why schemes should not submit audited accounts in four months.

Clause 79:

This amendment to Section 38 seeks to remove the prohibition against the use of retirement benefits to finance contributors' mortgages. The new subsection (1A) will allow members to mortgage accrued benefits to get mortgage finance subject to regulations.

It is important to note that under the current law, this would be illegal. The proposed amendments will assist contributors to get mortgages and will have a positive contribution to development of residential houses.

However, opening up use of benefits to mortgage finance exposes them to potential loss in event of default to pay.

Clause 80:

Inserts a new Clause, 45A and the proposed amendment will establish a trust fund into which will be paid benefits whose beneficiaries cannot be traced, within two years of commencing the wind up process.

The payments from this fund to be paid in accordance to rules of the scheme to which the member belonged. It requires the Controller and Auditor General to audit this Fund and gives the Minister authority to make regulations of the Fund.

Clause 81:

This clause has amendments to the First Schedule to the Kenya Revenue Authority Act and they aim to

Part I

Include the E.A.C. Customs Management Act on the management of import duties and the Annexes to the Protocol on Establishment of the E.A.C. Customs Union.

The amendment will make KRA the legally recognized administrator of import duties under the E/A.C.

Part II

The amendment seeks to add the Government Lands Act (cap 280) and the Sugar (Imposition of Levy) Order, 2002 (LN 385/2002).This amendment is to make KRA the legal collector of Land Revenue and Sugar Levy.

Part III

Proposes deletion of items, like the Government Land Act (Cap 280) and the Sugar (Imposition of Levy) Order, 2002 (LN 385/2002). It also proposes to insert the following items,

- the East African Community Customs Management Act 2004
- the Annexes to the Protocol on the establishment of the E.A.C. Customs Union.

All these amendments are legal formalities.

Topic: Inference into Legal Aspects of the Finance Bill 2007
Presenter: Mr. George Kegoro, Chief Executive, International Commission of Jurists.

Plastic Bags

The Finance bill prohibits licensing the manufacture of plastic bags of 30 microns and less. This does not translate into a ban of such bags. More needs to be done to achieve a ban if intended.

Power to Impound Third Party Payments for tax

The Commissioner of Income Tax is empowered to apply to the High Court, ex parte, for orders prohibiting any person who owes money to a tax debtor from paying the tax debtor if the Commissioner thinks the person has collected tax, which remains unaccounted for, and will frustrate the collection of tax.

- Tax debtor may apply to discharge or vary the order.
- Commissioner must within 30 days thereafter determine the tax payable, issue an assessment notice and commence recovery of such tax.
- This provision replicated in respect of VAT, income tax, and excise duty.

Procedure Where Commissioner is Mortgage

- Where a person, the owner of land situated in Kenya, fails to pay tax the Commissioner may proceed to realize the instrument of mortgage or charge deemed to be created under section 103(2) of Income Tax Act in accordance with relevant law.
- Commissioner, as mortgagee or chargee, may transfer the land to any purchaser.
- In doing so Commissioner will give a good title.

- No sale will take place unless all the provisions as to notice have been complied with.
- This is mainly a procedural provision to give effect to the right of the Commissioner as a mortgagee, which is already in the law.

Government Lands Act

- The effect of the amendments is to make KRA the collector of all revenue payable under the Act, which is at the moment payable at the Lands Office.

Capital Markets Authority

- The CMA Act is amended to establish the Investor Compensation Fund Board for the Fund established under section 18 of the Act.
- The membership of the Attorney General is anomalous.
- Since the board is established as a body corporate it would have been more advisable to establish it under its own statute.
- Amendments seek to enhance penalties for offences under the Act, e.g. the fines raised from Ksh.1, 000,000 to Ksh.15, 000,000.
- Penalties expanded to include monetary compensation for loss incurred as well as the power to disgorge profits gained as a result of wrongful conduct.
- Further powers of CMA to deal with default on the part of licensees broadened e.g. CMA can apply fines for non-compliance.
- Fines to be paid into the Investor Compensation Fund

Insurance Act

- Insurance companies will now be required to keep their accounts and to audit those in accordance with the International Accounting Standards.
- Proposed to change rule as to when the assumption risk by underwriters occurs.
- Currently, the insurer is not allowed to accept risk until after premium receipt of premium.
- However, premium deemed to be received if insurer directly or by implication accepts risk.
- Currently, brokers required to submit premiums by end of the following month.
- Proposed to require immediate remittance of premiums to insurers by brokers.
- Insurer will now assume risk only upon receipt of premium.
- This opens up the public to exposure in the event of non-remittance of premiums by broker.

Banking

- Role of the minister in relation to the licensing of commercial banks to be taken over by CBK.
- Role of Minister in relation to the amalgamation of assets and liabilities by banks to be similarly assumed by CBK.

- Amendments to the CBK Act involve many issues of policy and would need to be handled as such

Topic : Taxation Feature of the Finance Bill 2007
Presenters: Mr. Simeon Cheruiyot, Price WaterHouse Coopers and Mr. Maurice Mwaniki, Manager, Price WaterHouse Coopers.

The presenter begun by making note of the lack of clarity on the several proposals in the Finance Bill 2007 that may have far-reaching concerns during implementation.

- ***Proposal*** - Industrial sugar development levy removed; IDF abolished on imports from EAC or otherwise reduced; All businesses covered by the Kshs 5m VAT registration threshold

Import duty credit set off now confirmed; Second-hand motor vehicle spare parts to attract 20% excise duty; VAT on non-residential buildings will create additional burden on not-for-profit bodies

- ***Implications***- The VAT will be a cost to the tenant, who is not VAT registered and cannot therefore recover the VAT; *Some NGOs that are set up to address matters of public interest such us education, health, religion and alleviation of poverty or natural calamity – consider zero rating buildings used by such organizations;* This will be particularly punitive to not-for-profit organizations, which do not generate income but depend on donations and grants; *The criteria for qualifying for this status should be that the organisation is exempt from income tax;* VAT remission & zero rated status of donations to and purchases by charities have also been withdrawn!; These organisations will now incur VAT costs arising from VAT on purchase of goods or services which they cannot claim; The change was intended to curb the abuse of this privilege by non deserving organisations.

- ***Proposals***- Internationally, donations to charities and organisations devoted to the welfare of the community are exempt from VAT; Legislative provisions should allow for zero rated status or VAT remission for deserving cases ;Conditions and controls should be implemented to prevent abuse; Proper controls should be introduced to ensure deserving cases are not penalised for the mistakes of a few errant bodies; The goods are provided solely for the purposes of running the organisations; The Commissioner shall from time to time verify the receipt and use of such goods at the premises of the recipient; Human capital measures – Another attempt to get taxation of share options right raises more concerns and uncertainty;

- ***Implication*** - Benefit arising from a registered ESOP shall accrue at the earliest of the date of 'vesting' or 'exercise' of the option; Ordinarily, date of vesting predates the date of exercise so why not simply say 'the tax point is the date of vesting?; Will employees who do not exercise options that have vested on them be taxed?

- ***Proposals -*** Tax point should be the date of exercise of option; Clarify tax treatment of benefits arising from non-registered ESOP; Provide guidelines on information requirements for application of registration of ESOP with the Commissioner of income tax; Good measures intended to benefit low income earners but definitions and implementation rules/regulations are missing; Meals provided to low income employees in employer operated canteens or cafeterias shall be exempt from tax but who are low income employees?; and 'in employer operated canteens or cafeterias' so what about outsourcing; Industrial Building Allowance @ 5% p.a. for low income rental buildings – again?; VAT remission available for approved low income housing schemes (20 units minimum); Income tax system in Kenya is based on the 'source of income' and the 'residency' status of the taxpayer but is 'citizens' the new term for 'residents' ; Issue EAC 'citizens' to benefit from 5% withholding tax on listed shares but why are 'residents' left out; Reservation of 40% (formerly 25%) of IPOs for EAC 'citizens' but why are 'residents' left out?

- ***Proposals -*** The harmonized rate be based on the residency status of the taxpayer as opposed to the nationality.

Topic: An Overview Of The Amendments To:- Central Bank Of Kenya Act (Chapter 491).
Presenter: Mr. Tom Onyambu, Advocate and CPS.

The presenter begun by exposing the meeting to the key guiding principles and international best practice that constitutes sound legal frameworks for central banks. The three pillars of Central Bank Governance were highlighted and they were defined to be; independence/autonomy, democratic accountability and transparency. Members of Parliament were introduced to the legal object establishing the Central Bank of Kenya (CBK), which is the Central Bank Act (Chapter 491. it was mentioned that the Central Bank is not a Statutory body so it does not enjoy constitutional autonomy and hence it independence relies on protection by Parliament. The principal objectives of the Bank are; formulation and implement of the monetary Policy (directed at achieving, maintaining stability in levels of prices-Subsection and fostering of liquidity, solvency and proper functioning of the financial system (refereed to as the supervisory function).

Reconstitution of the Board of Directors - Creation of the Office of "Chairman"
Sections 73 &74 of the Finance Bill 2007 propose to create the office of the chairman of the Central Bank board and reconstitute the board where the governor ceases to chair the board and also remove the deputy governor from the board too. The other member of the board as proposed by the amendments are, the Ps treasury or his/her alternate and five non-executive directors. The proposal is to have the chairman appointed by the President (on the recommendation of the Minister). The Chairman shall preside at all board meetings and in the his absence the five non-executive directors shall elect one of their number to preside. The quorum for any meeting of the board is suggested to be the Chairman, the Governor and three Directors.

The big question posed was whether the proposed reconstitution of the board strengthens or undermine the CBK's autonomy. The meeting was taken through several i*ssues and Concerns that need to be addressed on the appointment the Chairman of the board, which included; a clear outline of the* qualifications of the chairman's office bearer, term of office, remuneration, preservation of Secrecy, declaration of Interest, termination or disqualifications from the office.

The presenter made proposal alternatives on approaches of enhancing corporate governance with central Bank. Some of the recommendations were given as examples of countries that are considered leaders in governance with respect to central banking.

- Appointment of Chairman by the non-executive members of the Board from among their number for a given term e.g. 12 months as it is the case in New Zealand
- Establishment of specialized committees to supervise and provide oversight on non-core functions of the Bank
- Appointment of Chairman by the President subject to approval of parliament- USA
- Appointment if the chairman by an Advisory Council or Board

Topic: Analysis of the Finance Bill, 2007 – Banking, Insurance and CMA
Presenter: Mr. Kibuga Kariithi, Director, Ashbu Securities.

The Minister has proposed the review of the Capital Markets Authority Act to strengthen the CMA's supervisory capacity.

The Minister has also proposed amendments to the Capital Markets Act to give the Capital Markets Authority more power in imposing sanctions, increasing the level of penalties and compensation under the Act and tightening investor compensation and protection provisions. The proposed changes are summarized as follows:-

Imposition of Financial Sanctions for Breach of the Act or Regulations
The CMA will have the power to impose financial penalties to persons committing a breach of the Act or Regulations. The CMA can also order the violator to remedy the breach including compensating the aggrieved party.

Further the CMA will have specific powers to deal with various types of defaulters, including listed companies, licensed persons and their employees and directors. The sanctions or penalties may range from suspension of trading and revoking licenses to forced termination of employment, disqualification from directorships of listed companies as well as financial penalties and liability to pay compensation to aggrieved parties.

The CMA is also required to publish a "List of Shame" in its annual report – with names of persons against whom any of the above actions has been taken. Increased Level of Financial Penalties and Investor Compensation The Minister has made several proposals to increase the level of penalties and compensation for breach of the Act.

In case of an illegal securities transaction by a licensed person that results in a loss to an investor, the guilty party is liable to compensate the aggrieved investor for:-
The loss or adverse impact of the breach;
The profits that have accrued to the former

The Minister has included specific penalties for breach of trading rules by a licensed person, failure to comply with reporting requirements, failure by a Securities exchange to enforce compliance with the Act and the rules of the securities exchange.
The Investor Compensation Fund - The Act further specifies that all financial penalties will be paid into the existing Investor Compensation Fund which will continue to compensate investors who suffer from the failure of a licensed broker or dealer.

In the last budget the Minister proposed that unclaimed dividends outstanding in listed companies for more than seven years be transferred to the Fund – some drafting errors in this budget were corrected and the budget further provides that beneficiaries who resurface after this period will be paid by the Fund.

The Minister has also proposed to establish an Investor Compensation Fund Board – which will be a body corporate whose function would be to administer the Investor Compensation Fund Impact The costs of non compliance with the Capital Markets Act have increased.

Proposal in order to assure that the regulatory environment does not become more burdensome, the process of demutualization and the repositioning of the securities exchange as a Self Regulatory Organisation (SRO) should be progressed with all speed.

The Amendment of the Internal Loans Act

The Minister has proposed amendments to the Internal Loans Act so that it recognizes dematerialised/paperless securities. Impact
The amended Act would recognise the use of central depositories for dematerialising Government of Kenya debt paper, clearing a hurdle in the setup of a primary dealership system and facilitate a more liquid secondary market for Government of Kenya debt securities.

Proposal - The NSE through the Market Leaders' Forum will continue to lobby for the speedy amendment of the Internal Loans Act, the implementation of the Primary Dealership System and for the Government of Kenya to outsource the function of the Central Depository System (CDS) for Government of Kenya debt securities – including treasury bills. Encouraging Regional Integration As a demonstration of the Government's commitment to East African Community regional integration, the Minister has proposed the following:-

Treat all citizens of the East African Community Partner States who invest in securities listed on the Nairobi Stock Exchange and earn dividend income as residents and therefore pay withholding tax at 5%;

Amend the Capital Markets Act to increase the percentage of the equity offer in an initial public offer that is reserved for Kenyans, from 25% to 40% and treat citizens of the other East African Community Partner States as local investors.

Impact: The above measures apply to the members of the East African Community – Kenya, Uganda and Tanzania; and should therefore apply to Rwanda and Burundi, both of whom are expected to officially become members of the Community in November 2007.

Stamp Duty

The Minister has abolished Stamp Duty payable on the share capital or increase in share capital of a company listed on the Nairobi Stock Exchange.
Instruments executed pursuant to or in connection with issue of asset backed securities through the CMA approved scheme exempted from stamp duty.

Impact: The first incentive will reduce the costs of raising capital through a public issue. Although the trade in listed asset backed securities had no stamp duty; the cost of stamp duty was incurred for the transfer of assets into special purpose vehicles for issuance of asset backed securities. The incentive will therefore facilitate the issuance of asset backed securities, which can then be listed.

Policy, Legal and Institutional Framework for the Implementation of Public Private Partnerships (PPPs)

The Government is in the process of finalizing the policy, legal and institutional framework for the implementation of Public Private Partnerships (PPPs) to allow private sector participation in the provision of key infrastructural services such as water, energy, development and operation of free port facilities, road and other transport services and also the funding of flagship projects under the Vision 2030.

The Banking Sector
More Authority to the Central Bank of Kenya - The Minister proposed amendments to the Banking Act to transfer certain powers of regulation and approval to the Central Bank.
Impact: This is in line with international best practice and consistent with the approach adopted by Tanzania and Uganda, which have both given more autonomy to their Central Bank. Approval of various operational matters is expected to be faster.

Amendments to the Central Bank Act

Several amendments are proposed to the Central Bank of Kenya Act, including changing the mandate of the Monetary Policy Committee from an advisory role to that of formulating monetary policy.

Further there is provision for an additional position of a Deputy Governor whose duties are to be determined by the Governor.
Raising the Minimum Capital for Banks
In order for Kenyan banks to reduce their financial risk, and compete on a regional level, the Minister has proposed to raise the minimum capital requirements of banks from the current Kshs. 250.0 million to Kshs. 1.0 billion over a period of three years;

Impact
The implementation of these proposals will result in the consolidation of the banking sectors as these institutions raise capital internally or externally and/or pursue mergers and acquisitions.

The Insurance Sector
In order to improve the financial strength of Kenyan insurance companies, the Minister has proposed to increase the paid up capital for insurance companies engaged in (i) long term insurance business from Kshs. 50.0 million to Kshs. 150.0 million; (ii) general insurance business from Kshs. 100.0 million to Kshs. 300.0 million; and (iii) composite insurance business from Kshs. 150.0 million to Kshs. 450.0 million. The insurance companies will be required to comply with these new paid up capital requirements within two years.

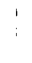
Impact
The implementation of these proposals will result in the consolidation of the insurance sector as these institutions raise capital internally or externally and/or pursue mergers and acquisitions. Further, this change could reduce the frequency of malpractices especially in acquisition of new business which has resulted from the scramble for a share of the overcrowded insurance sector.

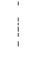
Plenary Discussion on the Finance Bill 2007

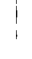
Amendments to Banking Act should not be lumped up with the Finance Bill. These are amendments that have major impact on the economy and should be proposed on their own.

The issue of unfairness in relation to the alcohol industry on the Customs and Excise Act proposed amendments. The multinationals produce no-malt beer that was zero rated. Research has shown that in Kenya, only 20% of the drinking population drink beer while 80% take "illicit brew".

The Minister has changed categorization of cigarette brands. The former has been based on the price of the brands. There is no law to change categorization from being base don







price to one based on physical features of the cigarette. This has the effect of changing the prices of the multinational whose tax will increase by 20% while that of the local company will increase by 80%. We are not taking our national interests seriously.

We have a large number of NGO's that are commercial. Items that came on duty free in 1988, 1992 and 1997, many NGOs were exempted and this was linked to political financing.

Taxation on residents: A Nationality issue has come in on the ownership of equity. This is to encourage nationals to invest. Incentives for investment should only be given to companies incorporated locally. If incentives are given, they are transferred to the account in the country where the company is registered.

The regional market has become an option for investment. MPs should pay attention to encourage regional investment and assess that our laws are encouraging this.

Despite the fact that the CBK Governor has security of tenure, the past Governor was removed using another law. Why should we have autonomous positions being created yet Parliament is not allowed to vet these appointments? It's not right for the appointments to be proposed by the Minister then appointed by the President.

Members sought to know how the public can be assured that they will get the number of shares they pay for in IPOs

Corporate philanthropy - how can we encourage our own organizations to give to our own local charitable institutions?

Response from the Treasury

The Permanent Secretary reminded members that alcohol consumption should also be seen from a health perspective. Those who brew should brew by taking health issues in perspective.

On the Central Bank proposals, the PS reiterated that everyone believes in a Central Bank that will discharge its duties effectively. The Governor, without checks used to facilitate printing of money without thinking about the impact in the 1990s. The Government was forced to recognize the importance of having a strong Central Bank. As part of good governance especially on the banks role to provide financial stability, the commercial banks wrote to us saying that Treasury demands certain structures for good governance for them but does not set an example or provide a model. The Governor should report to a non-Executive Director for the sake of accountability. The Monetary Policy committee we have is advisory. We need one with Executive duties which will be held responsible for any bad advice given on monetary policy management akin to the New Zealand or England model. The changes we are proposing are not for infiltration by Treasury. The better mode would be to have a separate legislation for it

APPENDIX 1: WORKSHOP PROGRAMME

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEES POST - BUDGET WORKSHOP

SIMBA LODGE, NAIVASHA.

Hosted by the Kenya Parliament's Departmental Committee on Finance, Planning and Trade and the Fiscal Analysis and Appropriations Committee.

Sponsored by the Kenya National Assembly in collaboration with USAID Parliamentary Strengthening Program (implemented by SUNY-Kenya) , the Institute of Economic Affairs (IEA) and the Parliamentary Network on the World Bank. (PNOWB).

Sunday 12th August 2007

Arrival of Committee Members, Resource Persons, Government officials and Observers at the Hotel

Monday 13th August 2007

Registration - 0800-0830 Hrs

Official Opening of the Workshop - 0830-0900Hrs.

Chair: *Hon. Dr. Oburu Oginga, M.P, Chairman, Finance, Planning and Trade Committee*

Opening Remarks by representatives of sponsoring institutions represented.

Panel 1 **Setting Frameworks for the 2007/2008 Budget Implementation - 0900Hrs – 1030Hrs.**

Chair: *Hon. Joseph Lagat, M.P, Chairman, Fiscal Analysis and Appropriation Committee*

Topic: *The Vision 2030: Role of Parliament*
Presenter: Dr. Wahome Gakuru, Director, Social Sector, National Economic and Social Council

Topic: *Setting Frameworks for Implementation of 2007/2008 Budget.*
Presenter: Permanent Secretary, Treasury.

Topic: *Setting Frameworks for Disbursements of External Resources.*
Presenter: Director, External Resources Department, Treasury.

Tea Break – 1030 Hrs.

Plenary Discussions of Panel 1 – 1100 Hrs – 1200 Hrs.

Panel 2: **Break Out Sessions: Overview of Socio-Economic Implications of Budget 2007/2008 – Sectoral Issues-1200hrs – 1330Hrs**

Topic: *Overview of Sector Working Groups role in the Budget Process + Guidelines for Break Out Sessions (1200Hrs – 1230Hrs)*
Presenter: Mr. Kwame Owino, Programmes Coordinator, IEA

TOPIC/SECTOR	Facilitators
Physical Infrastructures	Resource Person: **Sylvester Kasuku, University of Nairobi.** **Discussant: PS – *Roads and Public Works***
Education	Resource Person: **Eldah**

	Onsomu, KIPPRA **Discussant** – ***PS-Education***
Health	Resource Person: **Johnson Mwangi, Ministry of Environment** **Discussant** – ***PS-Health***
Agriculture	Resource Person: ***Mr. James Nyoro, Director-Tegemeo Institute of Agricultural Policy*** **Discussant** – ***PS-Agriculture***

Lunch Break – 1330Hrs – 1430Hrs

Panel 3: **Sectoral Issues Working Groups Reporting and Discussion - 1430 – 1630 Hrs**

Chair: *Hon. Nyaga Wambora,M.P,Vice Chairman, Finance, Planning And Trade Committee*

- **Physical Infrastructures**
- **Education**
- **Health**
- **Agriculture**

Tea Break – 1630Hrs

Panel 4: **Overview of the Finance Bill 2007-Impact on Investment in Private Sector Part 1- 1700 – 1900 Hrs.**

Chair: *Hon. Elias Mbau, M.P., Vice-Chairman, Fiscal Analysis and Appropriations Committee.*

Topic: *Overview of the Finance Bill 2007*
Presenter: Mr. Njeru Kirira, Public Finance Consultant.

Topic: *Overview of the Finance Bill 2007 – Inference into Legal Aspects Of the Bill*
Presenter: Mr. George Kegoro, Chief Executive, International Commission of Jurists

Plenary Discussions – 1800Hrs

Summary and Recommendations – 1900 Hrs.

Adjournment

Tuesday 14th August 2007

Panel 5: **Overview of the Finance Bill 2007 -Impact on Investment in Private Sector Part 2 – 0900Hrs - 1300 Hrs.**

Chair: *Hon. Chris Okemo, M.P., Member, Finance, Planning and Trade Committee and Fiscal Analysis and Appropriations Committee.*

Topic: *Taxation Feature of Finance Bill 2007 – Private Sector Perspective*
Presenter: Mr. Simeon Cheruiyot, Senior Manager, Price Water House Coopers.

Topic: *Analysis of the Proposals in the Financial Sector 1: Central Bank of Kenya, Banking and Insurance Acts*
Presenter: Mr. Tom Onyambu, Advocate, CPS.

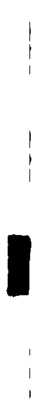
Topic: *Analysis of the Proposals in the Financial Sector 2: Capital Markets Authority, Retirement Benefits, Pensions and Kenya Revenue Authority Acts.*
Presenter: Mr. Kibuga Kariithi, Chief Executive, Ashbu Securities Ltd.

Tea Break – 1030 Hrs

Plenary Discussions of Panel 5 – 1100 Hrs – 1200 Hrs

Summary, Recommendations and Close of Workshop – 1200 Hrs.

Lunch and Departure – 1300 Hrs



APPENDIX 2: LIST OF PARTICIPANTS

Kenya National Assembly		
Post Budget Workshop 2007		
Simba Lodge Naivasha, 12th - 14th August 2007.		
List of Participants		
No.	**Name**	**Affiliation**
	MPs	
1	Hon. Dr. Oburu Oginga	Chairman, Finance Planning and Trade Committee
2	Hon. Wycliffe Oparanya.	Member, Finance, Planning and Trade Committee
3	Hon.Dr. Adhu Awiti.	Member, Finance, Planning and Trade Committee
4	Hon. Lucas Chepkitony.	Member, Finance, Planning and Trade Committee
5	Hon. Joseph Lagat	Chairman, Fiscal Analysis and Appropriations Committee
6	Hon. Simeon Lesrima.	Member, Fiscal Analysis and Appropriations Committee
7	Hon. Jimmy Angwenyi	Member, Fiscal Analysis and Appropriations Committee
8	Hon. Elias Mbau.	Vice-Chairman, Fiscal Analysis and Appropriations Committee
9	Hon. Oloo Aringo.	Vice-Chairman, Parliamentary Service Commission.
10	Hon. Charles Owino Likowa.	Member, Fiscal Analysis and Appropriations Committee
11	Hon. Amina Abdalla	Member, Fiscal Analysis and Appropriations Committee
12	Hon. Samuel Poghisio	Member, Fiscal Analysis and Appropriations Committee
13	Hon. Julius Arunga	Member, Fiscal Analysis and Appropriations Committee
14	Hon. Mirugi Kariuki	Member, Fiscal Analysis and Appropriations Committee
15	Hon. Viscount Kimathi.	Member, Energy ,Communications and Public Works Committee
16	Hon. Eng. Philip Okundi	Member, Energy ,Communications and Public Works Committee
17	Hon. Gonzi Rai	Member, Energy ,Communications and Public Works Committee
18	Hon. Daniel Karaba	Chairman, Education, Research and Technology Committee
19	Hon. Moffat Maitha	Chairman, Education, Research and Technology

		Committee
20	Hon. Prof. Christine Mango.	Chairman, Education, Research and Technology Committee
21	Hon. Godfrey Masanya	Chairman, Education, Research and Technology Committee
22	Hon. Charles Kilonzo	Chairman, Education, Research and Technology Committee
23	Hon. Tobias Ogur	Member, Health, Housing, Labour and Social Welfare Committee
24	Hon.Benson Mbai	Member, Health, Housing, Labour and Social Welfare Committee
25	Hon. David Koros	Member, Health, Housing, Labour and Social Welfare Committee
	Parliamentary Staff	
26	Mrs.Phyllis Makau	Office of Fiscal Analysis
27	Mr.Fred Muthengi	Office of Fiscal Analysis
28	Mr.Nicodemus Odongo	Office of Fiscal Analysis
29	Mr.James Mwangi	Deputy Clerk, KNA
30	Mr.Irungu Kigundu	Finance Office, KNA
31	Mr.Rana Tiampati	Clerk Assistant, Energy, Communications and Public Works
32	Mr.Bonnie Mathooko	Clerk Assistant, FAAC
33	Mr.Daniel Chania	Intern
34	Mrs.Lucy Wanjohi	Clerk Assistant, Finance, Planning and Trade Committee.
	GOK	
35	Mr. Joseph K. Kinyua	PS, Treasury
36	Mr. S.N.Muchiri	Chief Economist, Ministry of Health
37	Dr. Romano Kiome	PS, Ministry of Agriculture
38	Amb. (Eng) Mohammed Maalim Mahamud	PS, Roads & Public Works
39	Mr. P.O.Sika	Chief Architect, Ministry of Roads and Public Works
40	Mr. P.Ngugi	Director of Budget-Treasury
41	Mr.Martin Gumo	Kenya Revenue Authority
42	Mr.Julius Mutua	Finance Bill Team - Treasury
43	Mr.Mwangi Gakobo	Finance Bill Team - Treasury
44	Mr.Benson Kiiru	Kenya Revenue Authority
45	Beatrice Nyongesa	Kenya Revenue Authority

46	Mrs. Mary Mwirotsi	Director, Education Planning & Policy,MOEST.
47	Mr.Philip Wachira	Roads Ministry
48	Mr.Shadrack Leley	Roads Ministry
49	Eng. M.S.M. Kamau	Chief Engineer
50	Mr. P.K. Njagi	Education Ministry
51	Mr.Jackson Kinyanjui	Treasury
52	Mr. W.A.Lubira	Agriculture Ministry
53	Mr. Samson Olala	Agriculture Ministry
54	Mr. Duncan Onduru	Kenya Revenue Authority
55	Mr.D G Hunda	Senior Economist, Ministry of Transport.
56	Mr.Kalai Musee	Office of Commissioner of Insurance .
	Resource Persons	
57	Dr. Wahome Gakuru	Director,Social Sector - NESC
58	Mr.Fred Owegi	NESC/KIPPRA
59	Mr.Njeru Kirira	Public Finance Consultant
60	Mr.Tom Onyambu	Advocate
61	Mr.Kibuga Kariithi	Chief Executive-Ashbu Securities
62	Mr.Simeon Cheruiyot	Senior Manager, PWC
63	Mr.Maurice Mwaniki	PWC
64	Mr.Sylvester Kasuku	University of Nairobi.
65	Mr.Eldah Onsumu	KIPPRA
66	Mr.Johnson Mwangi	Ministry of Environment
67	Mr.George Kegoro	Chief Executive, International Commission of Jurists - Kenya
69	Mr.James Nyoro	Tegemeo Institute of Agricultural Policy and Development
	Partner Organizations	
70	Thitu Mwaniki	Programme Officer, IEA
71	John Mutua	Programme Officer, IEA
72	Kwame Owino	Programmes Coordinator,IEA
73	Matthew Nyamwange	Programme Assistant, PNOWB
	SUNY	
74	Fred Matiangi	Country Director, SUNY-Kenya
75	Pauline Nyanjui	Office Manager -SUNY-Kenya

76	Caroline Wangari	Programme Assistant, SUNY-Kenya
77	Damaris Ndegwa	Finance Manager, SUNY-Kenya
78	Con Omore	Programme Officer, SUNY-Kenya
79	Kevin Mungai	Logistician,SUNY-Kenya
80	Ndungu Kimani	Senior Programme Officer, SUNY-Kenya
	DONORS	
71	Wamuyu Gatheru	DFID
72	Sheila Karani	USAID

APPENDIX 3: WORKING GROUPS.

PHYSICAL INFRASTRUCTURES. Resource Person: *Sylvester Kasuku* Rapporteur: *Con Omore and Rana Tiampati* Discussant: *Amb (Eng.) Mohammed Maalim Mahamud.* **SAMBURU ROOM**	1. Hon. Gonzi Rai. 2. Hon. Elias Mbau 3. Hon.(Eng.) Phillip Okundi 4. Hon. Jimmy Angwenyi 5. Hon. Adhu Awiti. 6. Hon. Amina Abdalla 7. Kwame Owino (IEA) 8. Phillip Wachira (Roads Ministry) 9. Shadrack Leley (Roads Ministry) 10. Eng. M.S.M. Kamau (Chief Engineer). 11. Mr. P.O.Sika (Chief Architect). 12. Mr. Martin Gumo (KRA) 13. Mr. Maurice Mwaniki (PWC). 14. Mr. P.B.N. Ngugi (Treasury). 15. Mr. Joseph Kinyua, P.S. Treasury. 16. Mr.D.G. Hunda, Senior Economist, Ministry of Trai
EDUCATION: Resource Person: *Eldah Onsomu* Rapporteurs: *Thitu Mwaniki and Matthew Nyamwange* Discussant: *Mrs. Mary Mwirotsi, Director of Education Planning and Policy* **CONFERENCE ROOM**	1. Hon. Godfrey Masanya 2. Hon. Moffat Maitha 3. Hon. Daniel Karaba. 4. Hon. Christine Mango 5. Hon. Charles Kilonzo 6. Hon. Oloo Aringo 7. Mr. P.K.Njagi (Education Ministry) 8. Mr. Kibuga Kariithi (Consultant). 9. Dr. Wahome Gakuru (NESC). 10. Ms. Sheila Karani (USAID). 11. Mr. Fred Muthengi (Parliamentary Budget Office). 12. Mr. Tom Onyambu (Advocate). 13. Mr. Mwangi Gakobo (KRA).
HEALTH: Resource Person: *Johnson Mwangi* Rapporteurs: *Nicodemus Odongo and Ndungu GK* Discussant : *Mr. Muchiri S.N., Chief Economist, Ministry of Health* **AMBOSELI ROOM**	1. Hon. Ocholla Ogur. 2. Hon. Benson Mbai 3. Hon. Samuel Poghisio 4. Hon. Lucas Chepkitony 5. Hon. David Koros. 6. Hon. Simeon Lesrima. 7. Ms. Wamuyu Gatheru (DFID). 8. Mr. Njeru Kirira (Public Finance Consultant). 9. Mr. Fred Owegi (NESC/KIPPRA) 10. Mrs. Phyllis Makau (Parliamentary Budget Office). 11. Mr. Jackson Kinyanjui (Treasury). 12. Mr. John Mutua (IEA).

	13. Mr. Benson Kiiru (KRA).
AGRICULTURE: Resource Person: *James Nyoro* Rapporteurs: *Bonnie Matthooko and Carol Wangari* Discussant: *Dr. Romano Kiome, PS. Agriculture.* **CONFERENCE ROOM**	1. Hon. Joseph Lagat 2. Hon. Julius Arunga 3. Hon. Charles Likowa 4. Hon. Wycliffe Oparanya. 5. Hon. (Dr.) Oburu Oginga. 6. Hon. Mirugi Kariuki 7. Mr. W.A.Lubira (Agriculture Ministry). 8. Mr. Samson Olala (Agriculture Ministry) 9. Ms. Beatrice Nyongesa (KRA). 10. Mr. Duncan Onduru (KRA). 11. Mr. Simoen Cheruiyot (PWC). 12. Mr. Julius Mutua (Treasury)