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**NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT – SECOND SESSION, 2014**

**REPORT OF THE DEPARTMENTAL COMMITTEE
ON DEFENCE AND FOREIGN RELATIONS ON THE
SUPPLEMENTARY ESTIMATES ONE (1) FOR LINE
MINISTRIES/DEPARTMENTS**

**MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE;
MINISTRY OF DEFENCE;
DEPARTMENT OF EAST AFRICA AFFAIRS, MINISTRY OF THE EAST AFRICAN
AFFAIRS, COMMERCE & TOURISM; AND
NATIONAL INTELLIGENCE SERVICE**

**CLERK'S CHAMBERS
NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI**

February 2014

PREFACE

Mr. Chairperson Sir,

- 1 On behalf of the Members of the Departmental Committee on Transport, Public Works and Housing, and pursuant to the provisions of Standing Order No. 216 it is my pleasure to present to the Budget Committee the Committee Report on the Budget Policy Statement.

Committee Membership comprises of the following: -

- i. The Hon. Ndung'u Gethenji, M.P. – Chairperson
 - ii. The Hon. Elias Bare Shill, M.P. – Vice Chairperson
 - iii. The Hon. Adan Keynan, M.P.
 - iv. The Hon. Katoo Ole Metito, M.P.
 - v. The Hon. Jakoyo Midiwo, M.P.
 - vi. The Hon. Chris Wamalwa, M.P.
 - vii. The Hon. Nyiva Mwendwa, M.P.
 - viii. The Hon. Maj-General J.K. Nkaiserry, M.P.
 - ix. The Hon. Gonzi Rai, M.P.
 - x. The Hon. Wafula Wamunyinyi, M.P.
 - xi. The Hon. Joseph Lekuton, M.P.
 - xii. The Hon. Joseph Gitari, M.P.
 - xiii. The Hon. Joseph Kiuna, M.P.
 - xiv. The Hon. Yusuf Hassan, M.P.
 - xv. The Hon. David Pkosing, M.P.
 - xvi. The Hon. Beatrice Nyaga, M.P.
 - xvii. The Hon. John Lodepe Nakara, M.P.
 - xviii. The Hon. Roselinda Soipan Tuya, M.P.
 - xix. The Hon. Annah Nyokabi Gathecha, M.P.
 - xx. The Hon. David Wafula, M.P.
 - xxi. The Hon. Elisha Busienei, M.P.
 - xxii. The Hon. Ali Dido Rasso, M.P.
 - xxiii. The Hon. Mohammed Abass, M.P.
 - xxiv. The Hon. Ibrahim Sane, M.P.
 - xxv. The Hon. Richard Onyonka, M.P.
 - xxvi. The Hon. Joyce Wanjaloh Lay, M.P.
 - xxvii. The Hon. Dennitah Ghati, M.P.
 - xxviii. The Hon. Ken Obura, M.P.
- 2 The Departmental Committee on Defence and Foreign Relations is one of the Departmental Committees established under Standing Order No. 216 whose functions are *inter alia*:-

- i. investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - ii. study the programme and policy objectives of the Ministries and Departments and the effectiveness of the implementation;
 - iii. study and review all legislation referred to it;
 - iv. study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;
 - v. investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vi. to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
 - vii. make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.
- 3 In executing its mandate, the Committee oversees the following Ministries and Departments:
- i. Ministry of Foreign Affairs and International Trade;
 - ii. Ministry of Defence;
 - iii. East African Community; and,
 - iv. National Intelligence Service.
- 4 According to Schedule II of the Standing Orders, the Committee is mandated to consider the following subjects:
- i. Defence;
 - ii. Intelligence;
 - iii. Foreign Relations;
 - iv. Diplomatic and Consular Services;
 - v. International Boundaries;
 - vi. International Relations; and,
 - vii. Agreements, Treaties and Conventions.

Mr. Chairperson Sir,

- 5 As you are aware, pursuant to Standing Order 243, the national government shall submit to Parliament for approval, a Supplementary Budget in support of money spent under Article 223 of the Constitution. The supplementary budget shall include a statement showing how the additional expenditure relates to the fiscal responsibility. Further as you are aware, the Supplementary Estimates I were tabled in the House on Wednesday, 12th February 2014. Departmental Committees were required to consider the Estimates

and submit a report for their line Ministries and Departments to the Budget and Appropriations Committee by Tuesday, 18th February 2014.

- 6 In considering the Budget Policy Statement (BPS), the Departmental Committee on Defence and Foreign Relations held three sittings where it scrutinized the Supplementary Estimates, in particular for the, Ministry of Foreign Affairs and International Trade, Ministry of Defence, Department of East African Affairs in the Ministry of East African Affairs, Commerce and Tourism; and National Intelligence Service.
- 7 Based on the scrutiny of the Estimates conducted, the following were the recommendations and justifications for each Ministry/Department;

NATIONAL INTELLIGENCE SERVICE (NIS)

8 Funds Allocated

- i. During the Sector hearings, the Service had requested for Kshs. 22.905 billion from the National Treasury to fund the FY 2013 programme and activities. According to the sharing of the budgetary resources allocated by Treasury to the National Security Sector for FY 2013/2014 (amounting to Kshs. 72.5 billion) the Service received an allocation of Kshs. 13.980 billion, with the balance going to the Ministry of Defence. This resulted to financing gap/shortfall of Kshs. 8.925 billion to the Service. The Committee had recommended that the Service be allocated Kshs. 16.180 billion for the FY 2013/2014.
- ii. During the FY, NIS requested the National Treasury for additional resources amounting to **Kshs. 1.7 billion** to address emerging security threats. The National Treasury has proposed to the National Assembly, in the Supplementary Estimates 1 for the FY 2013/2014, additional funding to NIS amounting to Kshs. 887 million, which comprises Kshs. 870 million (51% of the request) from the Exchequer and Kshs. 17 million as A-in-A.

Recommendation

- 9 Thus, the Committee recommends that the National Assembly considers funding the Service with the supplementary request of **Kshs. 1.7 billion** to enable it carry out security intelligence and counter intelligence operations.

Justification

- i) The additional funding will be directed to Emergence Security Operations, enhanced Security Intelligence Operations and Counter Intelligence Operations, owing to the escalating security challenges, viz heightened terrorism; radicalization of Kenyan youths; cyber crime; effects of South Sudan's internal conflict; hostile foreign sponsored activities; increased poaching activities; and threats to implementation of devolution.
- ii) The requested funds are also meant to meet commitments under the Rapid Results Initiative (for the Security Sector), whereby the Service is expected to be at the forefront of intelligence - led operations for the next several months. Currently, the Service

funding on Operations and Maintenance is below the optimal funding level, reducing its overall effectiveness in tackling emerging and heightened security threats.

- iii) From July 2013, when the current budget was approved, there has been an increase to National Security to a point where the current resource outlay may not sustain effective neutralization of these threats. There is need to maintain a stable and secure environment in the country. The alternative to this leads to higher cost of doing business, stagnation and reversal of economic growth, loss of property and life, lawlessness and eventual collapse of the nation state.
- iv) Due to globalization, advancement to technology and sophistication of organized crimes, intelligence operations have become tech-savvy, necessitating huge resource outlays. The fund will also be channeled towards technological crimes.

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

- 10 The Ministry's budget for 2013/2014 FY, had been drastically reduced affecting the operations in missions abroad as well as at the headquarters. During the Public Administration and International Relations Sector bidding process held in October, 2012, the Ministry had been allocated **Kshs 9.539B** for recurrent activities and **Kshs 1.286B** for development activities respectively. But the actual allocation in the printed estimates has been reduced to **Kshs 8.639B** under recurrent vote and **Kshs 268M** under development vote, resulting to a reduction of **Kshs 1.918B** in the overall budget.

Parliament recommended the imposition of austerity measures in 2012/2013 financial year that have been carried over to 2013/2014 financial year. The Ministry has cumulatively lost **Kshs 900M** through the austerity measures on the operations and maintenance items, negatively impacting on the operations of missions abroad.

Recommendation

- 11 Thus, the Committee recommends that the National Assembly considers funding the Ministry of Foreign Affairs and International Trade with the supplementary budget of **Kshs. 2.111Billion** for recurrent and **Kshs. 4.455.9** for development to enable it carry out its programmes and activities.

Recurrent Vote

S/No.	Item	Budgetary Requirement	Budgetary Allocation	Short Fall
Personnel Emoluments				
1	Local staff Salaries	1,331B	1,242B	89.4M
2	Transfers allowance and payment of salaries in lieu of notice for Ambassadors	90M	0	90M
3	Shipment of Personal Effect			
(i)	Mission	108M	54M	54M
(ii)	Headquarters	44M	19M	25M
Operations and Maintenance				
4	Purchase of Motor vehicle (List attached)			

S/No.	Item	Budgetary Requirement	Budgetary Allocation	Short Fall
(i)	Missions	97M	0	97M
(ii)	Headquarters	188M	0	188M
5	Hospitality			
(i)	Headquarters	110M	28M	82M
(ii)	Missions	250M	57M	193M
6	Foreign Travel			
(i)	Headquarters	219M	115M	104M
(ii)	Missions	296M	130M	166M
7	State Visits	1.228B	228M	1B
8	Ambassadors Conference	85M	0	85M
9	Rent	86M	23M	63M
10	Foreign Service Institute	250M	0	250M
Totals				2,111B

Development Vote

S/No.	Mission	Budgetary Requirement	Budgetary Allocation	Short Fall
1	Ministry Headquarters	70M	49.5M	20.5M
2	Abuja	56M	21.6M	34.4M
3	Addis Ababa	42.4M	18.9M	23.5M
4	Windhoek	74M	1.9M	72.1M
5	Islamabad	23M	0.6M	22.4M
5	Ottawa	58M	39.3M	18.7M
6	Routine Maintenance	300M	136.2M	114.3M
New projects				
1	Kampala	550M	0	550M
2	New York	1.2B	0	1.2B
3	Ministry Head quarters	2.0B	0	2.0B
4	Foreign Service Institute	400M	0	400M
Totals				4455.9B

Justification

12 Recurrent Vote

Personnel Emoluments-

- i. **Kshs 89.4 M** to cater for phase two of the process of reviewing terms and conditions for local staff in thirty four (34) Missions and **Kshs 90M** being costs relating to the exit package for Ambassadors who are likely to leave the service during the financial year.
- ii. **Shipment of Personal Effect** - This item was subjected to austerity measures despite it being an allowance payable to all officers who have completed their tours of duty to enable them ship their belongings back to the country. Payment of this allowance on time enables the Ministry save additional costs that would accrue due to retaining the officers beyond their tour of duty. The Ministry requires an additional of **Kshs 54M** for the missions and **24M** for Headquarters to cater for the diplomatic bag.

Operations and Maintenance

- i. **Motor Vehicles** – The Ministry is facing acute shortage of vehicles especially protocol and representational for use by headquarters for VIP transport and by our missions abroad. Some of the missions have old and unserviceable vehicles. This is indeed denting our image and reputation as a country. However no allocation was given for this item. Without functional vehicles, missions will be constrained in their operations. The Ministry requires funding to a tune **Kshs. 285M** to facilitate the procurement of the vehicles as per the table of priority below:-

S/No.	Mission	Estimated Cost
1.	Moscow	8M
2.	Ottawa (R)	9M
3.	New York (U)	7M
4.	Madrid (R)	9M
5.	Abuja (R)	8M
6.	Harare (R)	8M
7.	Paris (U)	4M
8.	Doha (U)	4M
9.	Kuala Lumpur (R&U)	17M
10.	Kinshasa	8M
11.	Cairo	8M
12.	Vienna	7M
13.	Headquarters	188M
Totals		285M

- ii. **Hospitality** – The nature of the Ministry’s operations requires that it extends courtesies to visiting dignitaries both in our missions abroad and the Ministry headquarters. The application of 30% austerity measures on this item caused the Ministry to experience challenges in this area. Thus the Ministry is requesting additional funding to the tune of **Kshs. 275M**.
- iii. **Foreign Travel** – Foreign Travel is a focal point of the Ministry’s activities both at the headquarters and in missions abroad. In the new Government structure, the External Trade portfolio which was formerly in the Ministry of Trade has been transferred to this Ministry. This expanded mandate will require additional resources for the Ministry considering the focus the government is giving to trade diplomacy. Additionally for missions that have multiple accreditations to discharge their functions effectively, more resources are required on this item since officers and the heads of missions have to travel frequently in the areas of accreditation. The Ministry requires an additional of **Kshs 270M** on this item and **Kshs 1B** to cater for State Visits.

- iv. **Ambassadors Conference** - The Ministry is proposing to hold the 17th Biennial Ambassadors Conference in regional conclaves this financial year. The conference is a vital forum of the Ministry for the Ambassadors to meet and share ideas and experiences in the discharge and execution of the country's Foreign Policy. This year's conference assumes even higher significance because it would afford an opportunity to the Heads of missions to engage with the new Administration on the Foreign Policy re-orientation. We require a budget of **Kshs 85M**.
- v. **Rents** - The Ministry is housed in the old Treasury Building which is restricted in office accommodation. Consequently, there has been need to rent office space equivalent to 9,000 sq.ft. on the 10th, 12th and 19th floors in KICC at the cost of **Kshs 12M** annually in rent. This arrangement has worked out favorably for the Ministry both in terms of cost and in the coordination of its functions due to the proximity of the two buildings. However, the Ministry received notice to vacate the building by the end of June 2013 to pave way for the provision of office space to Senators. There has therefore arisen an urgent need to look for alternative premises to rent offices for these officers and those under the External Trade Department which has been transferred to this Ministry. In this regard, the Ministry requires **Kshs 63M** to cater for rent, office partition and purchase of office furniture and equipment.
- vi. **Transformation of the Foreign Service Institute (FSI)** - The Ministry established the Foreign Service Institute (FSI) in 2007 as one of its Directorates to offer training and capacity building on international relations and diplomacy to the ministry staff and other stakeholders. Over the years and given Kenya's role in East Africa and the great lakes region, the institute has trained a number of diplomats from the region. In the second Medium Term Plan of the Kenya Vision 2030 the ministry prioritized transformation of the institute into an academy including granting it a semi autonomous status in order to effectively discharge its mandate in line with international norms and best practices. In addition, the ministry plans to develop a Foreign Service Curriculum to facilitate training of Foreign Service officers and diplomats from the region and the continent at large. The Ministry requires funding of **Ksh. 250M** to initiate the transformation process.

13 DEVELOPMENT VOTE

Under development vote, the Ministry was allocated only **Kshs.268M** that is grossly insufficient. The Ministry requires additional funding as indicated below in order of priority:-

i) Routine Maintenance

All the properties in missions abroad require routine maintenance and repairs. In the past, a maintenance budget was provided in the recurrent budget which has since

been scrapped. This means the development budget has to cater for all routine maintenance works. On average, a budget of **Kshs 300M** is required for this purpose.

ii) On- going Projects

On-going projects include Windhoek, Addis Ababa, Islamabad, Ottawa, The Hague, Ministry headquarters and Pretoria.

- **Pretoria** - The procurement process for development of Ambassador's residence and four staff houses has commenced and funds are required to cater for the consultancy fees, demolition of the two buildings which have been condemned by the Ministry of Public works. The procurement of a contractor is expected to commence during the financial year. The cost of these services is estimated at **Kshs 100M**.
- **New York** - A consultant's estimates indicate that repairs to the ambassador's residence and the three other residential houses will cost **USD 2.5M** (Kshs 217.5M). Some of the very urgent works commenced in the last financial year, but have stalled due to inadequate budgetary allocation. The Ministry had planned to carry out works that are considered priority at an estimated cost of **Kshs 174M**.
- **Washington D.C** - Out of the total estimated cost of USD 3.5M required to carry out comprehensive repairs, approximately **Kshs 87M** is required for critical repairs.
- **London** - The ambassador's residence in London is in complete state of disrepair and it is estimated that it will require at least **Kshs 30M** to replace a leaking roof and carry out other urgent works.
- **Tokyo** - the mission has already forwarded a request for JPY 27,329,000 equivalent to **Kshs 23m** to carry out necessary repairs and maintenance of the chancery, reconstruction of perimeter wall that was collapsing, installation of fire detection systems and security system. Quotations have been obtained and have been forwarded to the Ministry.

12 New Projects

Acquisition of a chancery and ambassador's residence in Kampala, a chancery in New York and purchase of land and construction of Ministry Headquarters. The Sector Working Group had allocated funds for acquisition of chancery and residence in Kampala and of a Chancery in New York on two consecutive budget years but to-date Treasury has not been able to allocate a budget. It is estimated that the properties will cost approximately **Kshs 550M**, **Kshs. 1.2B** and **Kshs. 2B** respectively. The Ministry has identified a 2 acre plot for purchase.

- ii) The Ministry's budget for 2013/2014 FY, had been drastically reduced affecting the operations in missions abroad as well as at the headquarters. During the Public Administration and International Relations Sector bidding process held in October, 2012, the Ministry had been allocated **Kshs 9.539B** for recurrent activities and **Kshs 1.286B** for development activities respectively. But the actual allocation in the printed

estimates has been reduced to **Kshs 8.639B** under recurrent vote and **Kshs 268M** under development vote, resulting to a reduction of **Kshs 1.918B** in the overall budget.

- iii) Parliament recommended the imposition of austerity measures in 2012/2013 financial year that have been carried over to 2013/2014 financial year. The Ministry has cumulatively lost **Kshs 900M** through the austerity measures on the operations and maintenance items, negatively impacting on the operations of missions abroad. The Ministry requested the Committee's intervention to have this money reinstated in the budget to cushion the Missions.

The Ministry therefore urgently requires the Committee's intervention in securing additional funding in the following key areas.

MINISTRY OF DEFENCE

Funds Allocated

- 13 Ministry is conceived as the insurance of socio-economic and political development and the insulator of national values and interests. The Ministry undertakes the role of guaranteeing national security with the National Intelligence Service under. During the 2013/14, the Ministry was allocated a sum of **Kshs. 70.743B** against a total requirement of **Kshs. 80/82B** leaving a financing gap of **Kshs. 10.077B**.

14 Recommendation

Thus, the Committee recommends that the National Assembly considers funding the Ministry of Defence with the supplementary request of **Kshs. ---** to enable it carry out its programmes and activities.

15 Justification

1. Exchequer Shortfall in FY 2012/13

The Ministry's greatest challenge when the FY 2013/14 commenced was that the Ministry started with a shortfall of **Kshs. 4.48B** as pending bills which were carried forward from FY 2012/13. By 30th June 2013, the Ministry had submitted G-Pays covering the above amount as payments due on contractual obligations but the National Treasury was unable to provide exchequer releases.

Following the advice given by Treasury, this amount was treated as first charge in the FY 2013/14 budget allocation. The Ministry had factored this in its Supplementary Estimates but the same has not been provided.

The failure by the National Treasury to provide this amount has adversely affected the implementation of critical programmes under modernization and O&M.

1. Tax Regime - VAT Act 2013 and Customs and Excise Act Cap 472 (Railway

Development Levy)

Within the first quarter of FY 2013/14, Railway Development Levy was introduced as a new tax at rate of 1.5% and the Ministry was compelled to start paying VAT on all procured goods. Prior to this, goods and equipment procured by DoD were zero rated for VAT purposes.

The Ministry will be required to spend a total of Kshs. 5.3B of its current budgetary allocation to pay VAT on its procured goods and services and a sum of Kshs. 0.3 on Railway Development Levy. The two taxes will therefore require a total of Kshs. 5.6B which had not been budgeted for in the FY 2013/14.

In its consultations with the National Treasury, the Ministry has attained a temporary reprieve on VAT in that the Ministry will be required to submit claims on actual VAT payments for reimbursement.

Although the payment on Railway Development Levy appears small, it poses a very serious strategic challenge to the country because of disclosure requirement.

2. Funds for Emergency Security Operations

The Ministry had requested for Kshs. 3B to be factored in the FY 2013/14 budget but this amount was not provided in the Printed Estimates. However, the Ministry has had a number of security operations i.e Westgate and deployments authorized by Parliament in various counties, and evacuation of Kenyans from South Sudan. Due to additional demands, the total requirement grew to Kshs. 4.65B.

Out of this amount, only Kshs. 1.65B has been provided in the Supplementary Estimates. This will result to a financing gap of Kshs. 3 B for addressing emergency security operations.

In light of these demands, the Ministry should be considered in its request for funds for emergency security operations, under the unforeseen emergencies that arise in the course of the FY.

DEPARTMENT OF EAST AFRICAN AFFAIRS, MINISTRY OF THE EAST AFRICAN AFFAIRS, COMMERCE & TOURISM

16 Funds Allocated

The Department had requested Kshs. 749 million to cater its programmes and activities for both recurrent and development expenditure. However, it was only allocated Kshs. 70 million. This has resulted in the financial gap/shortfall of Kshs. 679million.

The austerity measures imposed in 2012/2013 were mainly on hospitality, operational, maintenance and travel. The measures did not take into consideration mandates of various Ministries and Departments. For instance, the Department of East African Affairs role

coordinative. Thus, there are many negotiations which involve a lot of meetings, travel, hospitality, creating of sensitization programmes and hosting of conferences. This also calls for a lot of printing, advertising, supplies and services.

17 Recommendation

Thus, the Committee recommends that the National Assembly considers funding the Department with the supplementary request of **Kshs. 679million** to enable it carry out its programmes and activities.

18 Justification

- i) EAC is strategic for Kenya both in terms of neighborhood and market for its products. For example, in 2012 EAC accounted for 26.1% of the total Kenyan exports compared to the next largest market, EU at 21%. It is therefore a market that Kenya needs to invest in and promote.
- ii) Kenya has a heavy responsibility of Chairing EAC organ meetings for the next one year from November 2013. This had not been budgeted for as the Chair was supposed to go to Rwanda. This calls for Kenya to lead in fulfilling her obligations as well as host the Summit. Thus the Department should be well funded.
- iii) The austerity measures imposed in 2012/2013 were mainly on hospitality, operational, maintenance and travel. Nevertheless, there was need to take into consideration mandates of various Ministries and Departments. For instance, the Department of East African Affairs role coordinative in nature. Thus, there are many negotiations which involve a lot of meetings, travel, hospitality, creating of sensitization programmes and hosting of conferences. Printing, advertising, supplies and services

The Ndung'u Gethenji, MP
Chairperson
Departmental Committee on Defence and Foreign Relations

Dated: 18th February, 2014