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REPUBLIC OF KENYA

NATIONAL ASSEMBLY

EIGHTH PARLIAMENT - THIRD SESSION

DEPARTMENTAL COMMITTEE

ON

FINANCE, PLANNING AND TRADE

REPORT ON

THE FINANCE BILL, 1999

PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 1999

INTRODUCTION

I. **Mr. Speaker, Sir**, on behalf of Members of the Departmental Committee on Finance, Planning and Trade and in pursuant to the provisions of Standing Order 101(3), I present to the House the Report and Recommendations of the Committee on the Finance Bill, 1999.

The functions of Departmental Committees *inter alia* as established under Standing Order 151 are:

- (i) **to study and review all legislation after First Reading subject to the exemptions under Standing Order 101A(4);**
- (ii) **to 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 or a Minister;**
- (iii) **to make reports and recommendations to the House as often as possible including recommendation of proposed legislation;**

Mr. Speaker, Sir, the Report contain proposals for amendments to the Finance Bill which had been discussed and agreed upon by the Committee and the Minister for Finance.

The Finance Bill was referred to the Committee upon a Motion moved by the Minister pursuant to provisions of Standing Order 101(I). The Committee deliberated on the Bill in six Sittings. I wish to remind the House that, the Finance Bill is a consequence of the financial proposals by the Minister for Finance in the 1998/99 Budget Speech.

The Minister for Finance was accompanied by the Permanent Secretary and the Director of Fiscal and Monetary Affairs among other technical officers at all sittings of the Committee.

Mr. Speaker, Sir, the following are the Members of the Committee :

The Hon. Simeon M. Mkalla, M.P - Chairman
The Hon. Jimmy Angwenyi, MP
The Hon. Onesmus Mboko, M.P.
The Hon. Wycliffe Osundwa, MP
The Hon. John Michuki, M.P.
The Hon Peter Ochieng Odoyo, M.P.
The Hon David Mwiraria, M.P.
The Hon Joseph J. Mugalla, M.P.
The Hon Soita Shitanda, M.P
The Hon. Adan Keynan, MP
The Hon Mohamed A. Galgalo, M.P.

RECOMMENDATIONS OF THE COMMITTEE AND PROPOSED AMENDMENTS AGREED ON WITH THE MINISTER FOR FINANCE

The following are the recommended amendments agreed upon by the Committee and the Minister for Finance.

PART II - CUSTOMS AND EXCISE

Clause 3

THAT, Section 9 of the Customs and Excise Act, Cap 472 be amended by deleting the words "as the Commissioner may determine" in the last line and inserting in place thereof the words "and should not be below the duty payable if the cargo is diverted into the local market".

Clause 10 Subsection 5

THAT, Clause 10, section 127B be amended as follows:

- (i) Sub-section 5 by deleting the words "without un-due delay" in the third line and inserting in place thereof the words "within 14 days".
- (ii) in subsection 7 by deleting all the words after the word "Authority" appearing in the third line and inserting in place thereof the words "upon payment of a cash deposit equivalent to the assessed duty and reimbursement of any excess payment within 14 days from the date of final determination of payable duty".

PART III - VALUE ADDED TAX

Clause 19

THAT, section 3 of the Value Added Tax, Cap 476 be amended by deleting all the words after "Commissioner" in 3A and inserting in place thereof the words "with advice from the Board of the Kenya Revenue Authority".

Clause 20

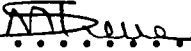
THAT, section 11 of the Value Added Tax be amended by adding the words "or an officer authorised by him" immediately after the word "Excise" in line three of 1A(c) of sub-paragraph (a).

PENDING MATTERS

Due to unforeseen circumstances the Committee did not conclude deliberation with the Minister for Finance on the following matters; viz:

- (i) The rationale in re-introduction of the Presumptive tax on farm produce. It was the considered opinion of the Committee that this tax should not be re-introduced.
- (ii) The rationale in increasing the tax on kerosene. It was the considered opinion of the Committee that, the increase be annulled.

Signed:


.....
Hon. Simeon M. Mkalla, M.P.
Chairman
Departmental Committee No.F
Finance, Planning and Trade

Date:

October 14, 1999

MINUTES OF THE TWENTYSIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN CONFERENCE ROOM NO.7 PARLIAMENT BUILDINGS ON TUESDAY 15TH JUNE, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:

The Hon. Simeon Mkalla, MP - Chairman
The Hon. Wycliffe Osundwa, MP
The Hon. Onesmus Mboko, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Soita Shitanda, MP
The Hon. Adan Keynan, MP

ABSENT WITH APOLOGY:

The Hon. Joseph Mugalla, MP

ABSENT WITHOUT APOLOGY:

The Hon. Peter Odoyo, MP
The Hon. David Mwiraria, MP
The Hon. John Michuki, MP
The Hon. Mohamed Galgalo, MP

IN ATTENDANCE: NATIONAL ASSEMBLY

Miss A.K. Thurania - First Clerk Assistant
Mrs F.A. Abonyo - Third Clerk Assistant

MIN.56/99: CONSIDERATION OF THE FINANCE BILL

The Committee deliberated on the Finance Bill and resolved to make the following amendments:

CLAUSE 3:

THAT, section 9 of the Customs and Excise Act be amended by deleting the words "as the Commissioner may determine" and inserting the words "as per the pre-shipment report from the country of origin" in the last line.

CLAUSE 9:

THAT, the Minister for Finance be requested to explain how he intends to implement and enforce the provisions of this Clause.

CLAUSE 10:

THAT, the Minister clarifies how he will determine the value of goods in Section 127B of the Customs and Excise Act.

CLAUSE 10, SUBSECTION 5

THAT, Clause 10, Subsection 5 be amended by deleting the words "without undue delay" in the third line and inserting "within 14 days".

CLAUSE 10, SUBSECTION 7

THAT, Clause 10, subsection 7 be amended by deleting all the words after "authority" appearing in the third line and inserting in place thereof "upon payment of a cash deposit equivalent to the assessed duty and reimburse any excess payment within 14 days from the date of final determination of payable duty".

MIN.57/99: ADJOURNMENT

And the time being thirty minutes pas Twelve O'clock, the Chairman adjourned the sitting until Thursday, June 17, 1999 at 10.00 a.m.

CONFIRMED
(CHAIRMAN)

DATE

MINUTES OF THE TWENTYSEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN CONFERENCE ROOM NO.7 PARLIAMENT BUILDINGS ON THURSDAY 17TH JUNE, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:

The Hon. Simeon Mkalla, MP - Chairman
The Hon. Wycliffe Osundwa, MP
The Hon. Onesmus Mboko, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Soita Shitanda, MP
The Hon. Mohamed Galgalo, MP
The Hon. Adan Keynan, MP

ABSENT:

The Hon. Joseph Mugalla, MP
The Hon. Peter Odoyo, MP
The Hon. David Mwiraria, MP
The Hon. John Michuki, MP

IN ATTENDANCE: NATIONAL ASSEMBLY

Miss A.K. Thurania - First Clerk Assistant
Mrs F.A. Abonyo - Third Clerk Assistant

MIN.58/99: CONSIDERATION OF THE FINANCE BILL

The Committee continued with deliberations on the Finance Bill, proposed amendments and sought clarification from the Minister on the following sections:

(i) **Seventh Schedule - Page 393/394**

That the Minister clarifies why under the 2nd and 3rd method on transaction value identical and similar goods under subsection 3, the lowest value should be used to determine the customs value of the imported goods being valued.

(ii) **Related Persons (Appendix C) - Page 400**

That the Minister clarifies how he would categorise a case where the manufacturer, the wholesaler and the retailer are members of the same family.

19. (iii) **Part III - Value Added Tax - Page 402**

That the Minister specifies the terms and conditions of service to avoid

appointment of unsuitable persons under (3A).

- 20. On the amendment of section 11 of the Value Added Tax Part 1A(c) Page 043, the Minister should clarify why a customs receipt for goods purchased from an auction should only be signed by the Commissioner of Customs and Excise in case he is not available . Will this not cause unnecessary delays?
- 21. Where excess input tax has been paid, part (2A) page 403, the committee proposed that a claim for reimbursement should be lodged within 12 months and not 24 months.
- 22. On the amendment of section 12 of the Value Added Tax, Part b(i) page 405 the Committee proposed that the remission granted under this paragraph should not exceed 25%.

Tenth Schedule - Page 417

- 42. That the Minister clarifies why some companies such as Kenya Breweries have been allowed to have unfair advantage over their business competitors.

Pensions Act - Page 424

- 56. That the Minister elaborates further on the amendments to the Pensions Act.

90. **Minimum Capital Requirements - Page 447**

That the core capital requirements of Kshs500 million and Kshs375 million for banks and financial institutions respectively are too high.

107. **Local Authorities Transfer Act - Page 458**

That the Minister clarifies why the Local Authorities Transfer Fund is being reduced from 5% to 2%.

MIN.59/99: ADJOURNMENT

And the time being Five O'clock, the Chairman adjourned the sitting until Monday, June 21, 1999 at 9.00 a.m.

CONFIRMED

(CHAIRMAN)

DATE

MINUTES OF THE TWENTYNINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN CONFERENCE ROOM NO.9 PARLIAMENT BUILDINGS ON TUESDAY, 22ND JUNE, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:

The Hon. Simeon Mkalla, MP - Chairman
The Hon. Onesmus Mboko, MP
The Hon. Peter Odoyo, MP
The Hon. Adan Keynan, MP
The Hon. Jimmy Angwenyi, MP

ABSENT:

The Hon. David Mwiraria, MP
The Hon. John Michuki, MP
The Hon. Joseph Mugalla, MP
The Hon. Soita Shitanda, MP
The Hon. Mohamed Galgalo, MP
The Hon. Wycliffe Osundwa, MP

IN ATTENDANCE: NATIONAL ASSEMBLY

Mr. M. Werunga - Deputy Clerk
Miss A.K. Thurania - First Clerk Assistant
Mrs F.A. Abonyo - Third Clerk Assistant

MIN.68/99: MEETING WITH THE MINISTER FOR FINANCE

The Minister for Finance, Dr. the Hon. Francis Y.O. Masakhalia, EGH, MP, accompanied by Messrs:

G.N. Gicheru - Director of Budget
E.M. Githae - Deputy Secretary
Simiyu wa Sanya - Under Secretary
Elizabeth Ng'ang'a - Principal Parliamentary Counsel, Attorney-General's Chambers
P.J.M. Thumbi - Budgetary Supplies Officer

appeared before the Committee and clarified on the issues raised and amendments proposed by the Committee during their deliberations on the Finance Bill 1999 as follows:

Part II - Customs and Excise

Clause 3

THAT, section 9 of the Customs and Excise Act, Cap 472 be amended by deleting the words "**as the Commissioner may determine**" appearing in

the last line and inserting in place thereof "**and should not be below the duty payable if the cargo is diverted into the local market**".

Clause 9

The Committee had expressed concern over the importation of cheap goods into the Kenyan market and the negative impact it had on our economy and had requested the Minister for Finance to elaborate on the measures he would take to curb the trend.

The Minister informed the Committee that although the country has to be careful not to contravene World Trade Organisation (WTO) regulations, the Government would look for legal ways of raising duty on the products coming into the country to provide a comparative price to similar goods produced locally, hence making it uneconomical for those countries to bring their goods here.

The Minister however warned that the country cannot afford to be over-protective but instead, local manufacturers should be encouraged to produce high quality goods more cost effectively and become competitors at the international level. This will ensure that local consumers also get value for their money and stop craving for foreign goods.

Clause 10

The Committee had requested the Minister to explain how the value of goods would be determined under Section 127B of the Customs and Excise Act.

The Minister informed the Committee that this section was being amended to conform with internationally recognised World Trade Organisation (WTO) valuation procedures. He said that with effect from 1st January, 2000 the pre-shipment requirements would cease to be operational in countries that are signatories to the WTO Convention.

Clause 10, subsection 5

That, Clause 10, subsection 5 be amended by deleting the words "**without undue delay**" in the third line and inserting in place thereof the words "**within 14 days**"

Clause 10, subsection 7

That, Clause 10, subsection 7 be amended by deleting all the words after the word "**Authority**" appearing in the third line and inserting in place thereof the words "**upon payment of a cash deposit equivalent to the assessed duty and reimbursement of any excess payment within 14 days from the date of final determination of payable duty**".

(i) **Seventh Schedule - Value of Goods**

The Committee had requested the Minister to clarify why under the 2nd and 3rd method on transaction value of identical and similar goods in subsection 3, the lowest value should be used to determine the customs value of the imported goods being valued.

In response, the Minister said that the "lowest value concept" is in accordance with the World Trade Organisation regulations. Since Kenya is a signatory to the World Trade Organisation Convention, it has no choice but abide by the internationally set rules.

(ii) **Related Persons**

On the issue of how the government would ensure that a manufacturer, a wholesaler and a retailer who are members of the same family do not hamper the entry of other people in those markets, the Minister said that a legislation in this regard would be counterproductive as it would be restrictive and discriminatory.

The Minister informed the Committee that he would however look for other positive ways of encouraging indigenous people to enter and effectively compete in business.

Part III - Value Added Tax

Clause 19

That, section 3 of the Value Added Tax, Cap 476 be amended by deleting all the words after "**Commissioner**" in 3A and inserting in place thereof the words "**with advise from the Board of the Kenya Revenue Authority**".

Clause 20

That, section 11 (eleven) of the Value Added Tax be amended by adding the words "**or an officer authorised by him**" immediately after the word "**Excise**" in line three of 1A(c) of subparagraphs (a).

In part 2A of Clause 20, the Minister explained that since some claims have been delayed due to ongoing investigations, the 24 months period would give the affected clients enough time to lodge their claims.

Clause 22

On the amendment of Section 23 of the Value Added Tax Act, part (b)(1) , the Minister informed the Committee that a sudden reduction in remission to 25% would adversely affect charitable organisations which are

bringing in relief food to arid and semi-arid areas of the country. He suggested that the remission should remain at 50% subject to gradual review.

Clause 42 - Tenth Schedule - Agricultural Produce and Authorised Agents

On why some companies such as Kenya Breweries were allowed unfair advantage over their competitors, the Minister said that suspended duty imposed was meant to encourage local production of barley and other products to reduce importations.

Clause 56

The Minister clarified that the amendment of Section 6 of the Pensions Act Cap 189 was positive because it would encourage early retirement and still enable retirees to be eligible for pension when they attain the age of 50 years.

Clause 90 - Minimum Capital Requirement for Opening a New Bank

The issue of minimum capital requirement for opening new banks and financial institutions was deliberated on at length. The Committee observed that the magnitude of change from the current minimum requirement to Kshs500 million and Kshs375 million for banks and financial institutions respectively is too high. This will definitely leave the control of the banking sector in foreign hands.

The Committee also urged the Minister to revisit the issue of Sectoral Banks so that they can have lower capital requirements and long term lending to assist the small scale savers and access loans at affordable rates.

In response, the Minister informed the Committee that low capitalization in the past has contributed to the collapse of local banks. A corporate approach to start banks on a sound capital base, integrity and ethical financial management is the way forward for the banking sector. The Minister however promised to address the issue of delays in deciding what action to take when a bank starts collapsing. This will save the employees and the depositors the agony of having to wait for years before their fate is decided on.

Clause 107 - Local Authorities Transfer Act

The Minister informed the Committee that the Local Authorities Transfer Fund is being reduced from 5% to 2% because this is the only money available at the moment, but the fund can be boosted later as the national financial situation improves. Although the Committee observed that the Act should not have been amended before implementation, the Minister

was commended for his foresight in reducing the figure instead of offering what he could not deliver.

MIN.69/99: ADJOURNMENT

And the time being One O'clock, the Chairman adjourned the sitting until Tuesday, 29th June, 1999 at 9.00 a.m.

CONFIRMED
(CHAIRMAN)

DATE

MINUTES OF THE THIRTYFIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE, HELD IN CONFERENCE ROOM NO.7 PARLIAMENT BUILDINGS ON MONDAY 12th JULY, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, MP - Chairman
The Hon. Jimmy N. Angwenyi, MP
The Hon. Wycliffe W. Osundwa, MP
The Hon. Mohammed Galgalo, MP
The Hon. Soita Shitanda, MP

ABSENT WITH APOLOGY:

The Hon. Adan Keynan, MP

ABSENT WITHOUT APOLOGY:

The Hon. John N. Michuki, MP
The Hon. David Mwiraria, MP
The Hon. Joseph J. Mugalla, MP
The Hon. Onesmus Mboko, MP
The Hon. Peter O. Odoyo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Werunga - Deputy Clerk
Miss A.K. Thurania - First Clerk Assistant
Mr. John Wanyoike - Third Clerk Assistant.

MIN.75/99: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS:

The minutes of the Twenty Eighth and Twentyninth Sittings of the Committee held on 21st and 22nd June, 1999 respectively were confirmed by the Members present and signed by the Chairman.

MIN.76/99 COMMUNICATION FROM THE CHAIR

The Chairman informed the Committee that the Minister for Industrial Development had apologised for his failure to attend the meeting scheduled for 12th July, 1999. He however agreed to reschedule the same for 26th July, 1999.

MIN.77/99 MATTERS ARISING - TWENTY EIGHTH SITTING

Under Min. No.61/69, the Committee directed that the Ministry

of Finance be requested to submit a detailed analysis of the Pending Bills Report for perusal.

Under Min. No.62/99 (i)(a) the Committee requested the Secretariat to liaise with the governor of Central Bank with a view to organizing the proposed Seminar for Members of the Committee preferably within the month of July, 1999. During the Seminar, the Committee would request the Governor to organize meetings with other stake holders in the banking industry such as the Commercial Bank of Kenya, National Bank and ICDC who the Committee would wish to meet.

Under Min. No.62/99(i)(c) the Committee resolved to schedule the visit to Customs Department Mombas for 2nd to 4th August, 1999.

Under Min. No.62/99(v)(a), - Ministry of Trade: the Committee agreed to delete the Central Organization of Trade Unions, the Federation of Kenya Employers, the Kenya Farmers Association and Certified Public Accountants erroneously listed as organizations under the umbrella of Ministry of Trade which the Committee was planning to meet.

Under Min. No.62/99(v)(b)- Ministry of Finance

The Committee resolved to include the Controller and Auditor-General, Auditor-General (Corporations), Export promotion Council, Certified Public Accountants, Investment Promotion Centre, Kenya Association of Manufacturers, National Chamber of Commerce and Industry, Kenya Farmers Association, NSSF and National Hospital Insurance Fund in the list of stakeholders in the Ministry of Finance.

Under Min. No.62/99(viii) - Ministry of Tourism.

The Committee agreed to include the Kenya Hotels and Restaurants Authority in the list of stakeholders in the Ministry of Tourism.

Under Min. 65/99 - Brief by the Minister for Trade

The Committee was concerned that Institutions such Kenya Institute of Business Training (KIBT) have not made any impact and are hardly known at the grass-root enterprise level. The Committee agreed that the Minister for Trade should be requested to submit a schedule of KIBT'S programme of activities for perusal.

Under Min.65/99 (iii)

The Committee would like to know how much money has been given as grant by the European Union for the Micro Programme Support in all its components.

Under Min.65/99(iv)

The Minister had informed the Committee that the Joint Loans Credit Scheme was being reviewed with a view to handing it over to the local authorities. The Committee requested the Secretariat to find out from the Minister how far they had gone in the handing over process.

Under Min/65/99(2(i)

The Committee would like the Minister to bring a Bill to Parliament to amend the existing Trade Licensing Act in order to safeguard the interests of indigenous business people.

Under Min.65/99(4)

The Committee resolved that since organisations such as WTO affect the nation in many ways, the Minister should make the necessary arrangements to involve the Committee at every stage before these agreements are signed.

The Committee would like to meet the Members of the inter-Ministerial Committee on Protection of domestic industries.

The Committee resolved that the Minister should be specific on when he would bring the Bill on "Anti-dumping" to Parliament to safeguard domestic industries.

Under Min.65/99(5)(i), (ii),(iii)

The Committee was concerned that the Ministry of Trade had no legal framework within which it could handle health related business transactions. The Ministry should seek the assistance of the Finance Committee in expediting the harmonization of the required legal framework so that, such laws could be put in place preferably before the end of this year. The Kenya Bureau of Standards should also bring the required bill to Parliament to provide penalties in respect of importation of substandard goods.

Under Min.65/99(7)

The Committee expressed concern that as representatives of the

people, they had not heard of the sensitization workshops the Ministry said it was conducting for the business community.

Under Min.65/99(7)(1)

The Committee would like the Minister to clarify the status of the Kenya National Trading Corporation in relation to the privatisation process that had earlier been put in place.

Under Min.66/99 (i)

Since the WTO regulations do not allow for imposition of quarter system, the Committee would like to know from the Minister what concrete action was being taken to protect local industries through agreements on subsidy and concessions on tariffs as the Minister had indicated.

Under Min.66/99 (ii)

The Committee requested for information on whether or not a Commercial Attachee had been posted to South Africa with effect from 1st July, 1999 as earlier promised by the Minister.

The Committee also requested that the Minister looks for modalities of setting achievement targets for the attachees so that those who fail to meet them are recalled.

MIN.78/99:

THE FINANCE BILL, 1999

Matters arising:

The Committee was concerned that the current Pensions Act has no provision for a mandatory time limit within which retirees should be paid their dues. This has resulted in a lot of misery as some of them wait for years before they are paid.

The Committee proposed that the Minister should insert a proviso in the Pensions Act which would enable the would-be retirees to be paid their dues before the actual retirement date.

Clause 90 - Minimum Capital requirement for opening a new bank

The Committee once again deliberated on the issue of capital requirement for opening a new bank. The Monitoring Unit of the Central Bank should be more vigilant now than ever before and ensure that professional ethics and integrity are strictly observed in the banking industry. In support of the indigenous business people

who would wish to open new banks, the Committee proposed that the minimum core capital for banks and financial institutions should be amended as follows:

<u>Compliance date</u>	<u>Banks</u> Kshs(million)	<u>Financial Institutions</u> Kshs (million)
31st Dec. 1999	200	50
31st Dec. 2000	250	100
31st Dec. 2001	300	150
31st Dec. 2002	350	200

All institutions licensed after the commencement of this schedule shall have a minimum core capital as per the above schedule, i.e. if a bank or a financial institution is starting in 1999, it should require Kshs200 million and Kshs50 million respectively.

Clause 90(e)

That subsection 9e) be amended by deleting the words "one hundred and fifty million" in the first line and inserting in place thereof the words 'fifty million shillings'.

MIN.79/99: ADJOURNMENT

And the time being thirty minutes past One O'clock, the Chairman adjourned the sitting until Monday, 19th July, 1999 at 9.00 a.m.

CONFIRMED
(CHAIRMAN)

DATE:

MINUTES OF THE THIRTYTHIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE, HELD IN CONFERENCE ROOM NO.7 PARLIAMENT BUILDINGS ON MONDAY, 26TH JULY, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:-

The Hon. Simeon Mkalla, MP Chairman
The Hon. Jimmy Angwenyi, MP
The Hon. John Michuki
The Hon. Mohammed Galgalo, MP
The Hon. Onesmus Mboko
The Hon. Soita Shitanda, MP
The Hon. Adan Keynan, MP

ABSENT WITH APOLOGY:

The Hon. Wycliffe Osundwa, MP

ABSENT WITHOUT APOLOGY:

The Hon. David Mwiraria
The Hon. Joseph Mugalla
The Hon. Peter Odoyo

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. M. Werunga - Deputy Clerk
Miss A.K. Thurania - First Clerk Assistant

MIN.80/99: MEETING WITH THE MINISTER FOR FINANCE

The Minister for Finance, Dr. the Hon. Francis Y.O. Masakhalia, EGH, MP, accompanied by:

Ms Margaret Chemengich - Permanent Secretary
Mr. Njeru Kirira - Director of Fiscal and Monetary Affairs
Mr. E.M. Githae - Deputy Secretary, Fiscal and Monetary Affairs Department
Mr. Francis Thurania - Deputy Commissioner, Customs and Excise Department, Kenya Revenue Authority

briefed the Committee further on the Finance Bill, 1999.

MIN.81/99: BRIEF ON THE FINANCE BILL, 1999

The Minister informed the Committee that he had held meetings with

representatives of the business community who presented proposals on the Finance Bill. They had also expressed genuine concern over the unfair competition Kenyan manufacturers were facing from imported goods particularly those from Egypt and Mauritius. These two countries, he said, are ways ahead in terms of their industrial base because their production costs are very low compared to ours.

According to the stakeholder, there is need for the government to rethink the liberalization policy as it had left the business community and farmers exposed and in dire need of protection even from their Comesa trading partners some of who are highly subsidised by their governments.

MIN.82/99: **PROPOSED AMENDMENTS PART II - CUSTOMS AND EXCISE**

Clause 3

The Minister accepted the Committee's proposal on this Clause.

Clause 10 Subsection 5 and 7

The Committee concurred with the Minister that considering the bureaucratic delays in these transactions, 14 days was too short and proposed to increase the number of days to 30 in both subsection 5 and 7.

PART III - VALUE ADDED TAX

Clause 19

Clause 19 was amended by deleting the word "Advise" and inserting in place thereof the word "Approval".

Clause 20

It was agreed that this Clause remains in its original form.

Clause 56 - Pensions Act

The Minister informed the Committee that delays in the Pensions Department are caused by the Ministries and Departments who fail to submit information on retirees on time. He said that the Pensions Department was in the process of networking with the Personnel Computer Division so that information on retirees can be reflected on their computers and immediate action taken before the actual retirement dates.

Clause 90 - Minimum Capital Requirement for Opening a new Bank

The Minister informed the Committee that banks with a low capital base have little credibility and international business people cannot use letters of credit from such banks because they are no longer acceptable. Small banks also have a disadvantage in that they cannot afford to give loans to big borrowers. This forces them to rely on small scale customers whose accounts are expensive to maintain. The Minister further informed the Committee that the current trend world wide is for the small and medium size banks to merge for their own survival.

It is the strength in numbers that has enabled poor and middle class South Africans buy huge multinational companies through corporate approach of pooling resources. According to the Minister a good example is the proposed farmers bank where various groups have already pooled Kshs500 million and are now waiting for approval to start the Farmers Bank.

After a lengthy discussion on this issue, the Committee accepted the Minister's recommendation but proposed that banks and financial institutions entering the market should start off with the core capital stated against the scheduled years and not Kshs500 million and Kshs375 million respectively as earlier indicated.

MIN.83/99:

COMMENTS BY THE COMMITTEE

Banking Sector

The Committee was of the view that the recent problems in the banking sector were not caused by low capitalization but by the laxity of the Central Bank. Failure by the Central Bank's Monitoring Unit to thoroughly assess the managerial capabilities and credibility of the owners of new banks and the delays in taking immediate action after getting signals of ailing banks contributed a lot to the problems in the banking industry.

The Minister defended central Bank's performance and said that previously, it had no legal status to effectively supervise the banking sector. This situation had however changed and apart from the legal framework, it had now beefed up its manpower to perform supervisory and monitoring duties.

Kerosene

The Committee expressed great concern over the rise in the price of this commodity. At a time when all efforts are being made to

conserve forests and when electricity is still a dream in the rural areas, there will definitely be a rise in the destruction of forests for fuel. The quality of education in the rural areas where majority of Kenyan population lives will also be affected.

In response, the Minister told the Committee that unscrupulous people were now using kerosene blended with diesel as fuel for matatus resulting in a lot of environmental pollution. Power generating stations have also started using kerosene and most of it destined for neighbouring countries is being diverted to the local market for the above purposes. The increase is therefore a measure to curb this trend and was not meant to hurt the ordinary consumer.

ESAF Funds

Asked why the country cannot do away with donor funds and concentrate efforts on creating its own wealth if it had failed to fulfil the required conditions, the Minister said that the conditions earlier set by the donors had been fulfilled. The donor institutions have however set new conditions on 'governance' and the government was hoping that negotiations with the World Bank and the International Monetary Fund would commence soon.

MIN.84/99:

ADJOURNMENT

And the time being thirty minutes past Five O'clock, the Chairman adjourned the sitting until Monday, 26th July, 1999 at 9.00 a.m.

CONFIRMED
(CHAIRMAN)

DATE:

MINUTES OF THE THIRTYFOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE, HELD IN CONFERENCE ROOM NO.9 PARLIAMENT BUILDINGS ON TUESDAY 3RD AUGUST, 1999 AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:-

The Hon. Simeon Mkalla, MP Chairman
The Hon. John N. Michuki, MP
The Hon. Jimmy Angwenyi, MP
The Hon. Peter Oduyo, MP
The Hon. Wycliffe Osundwa, MP
The Hon. Mohammed Galgalo, MP
The Hon. Soita Shitanda, MP
The Hon. David Mwiraria, MP
The Hon. Onesmus Mboko, M.P.

ABSENT WITH APOLOGY:

The Hon. Adan Keynan, M.P.

ABSENT WITHOUT APOLOGY:

The Hon. Joseph Mugalla, M.P.

IN ATTENDANCE NATIONAL ASSEMBLY

Mr. J. N. Mwangi - Senior Clerk Assistant.

MIN.92/99: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS

The Minutes of the Thirtieth, Thirty-First, and Thirty-Second Sitzings of the Committee held on 29th June, 12th July, and 19th July, 1999 respectively were confirmed by the Members present and signed by the Chairman.

MIN.93/99 MATTERS ARISING

(a) **Under Minute No.71/99**

The Committee expressed concern that the Ministry of Tourism had not seriously addressed itself to the issue of revitalising the tourism industry. In this regard, the Committee resolved that the Minister should, in his next appearance before the Committee explain:-

- (i) Measures that have been taken for the last two years to revitalise the tourism industry.

- (ii) How the Waiver of Visa for those visiting Kenya would benefit the industry.
- (iii) Why the tourism Masterplan had not been implemented.
- (iv) Why the tourism industry had solely been left to tour operators.
- (v) When the Kenya Tourist Development Corporation last gave financial assistance to hotels, and the list of these hotels.

(vi) **Kenya Utalii College:**

The criteria for admitting students at the College giving the amount paid by those applying before they are considered.

(vii) **Catering Levy Trustee**

The fate of the 342 employees of the Catering Levy Trustee after Kenya Revenue Authority took over Levy Collection.

(viii) **Tourist Police Unit**

The Committee strongly felt that the Tourism Industry should fall under the Kenya Wildlife Service (KWS) so that the K.W.S. Security Personnel could take over the work of the Police Unit.

(b) **Under Minute No.73/99**

- (i) The Committee requested the Secretariat to ensure that all the documents required by the Committee from the Ministry of Tourism are submitted.

(c) **Under Minute No.83/99 (of 32nd Sitting)**

(i) **Kerosine**

The Committee resolved to re-visit the issue of tax on kerosine with the Minister. The Members strongly held the view that there should be no tax at all on kerosine

(ii) **ESAF FUNDS**

The Committee resolved that the Minister for Finance appear before them on Monday 9th August, 1999 to clarify the latest position concerning conditionalities set by the International Monetary Fund.

(d) **Under Minute 77/99**

- (i) The Committee once again directed that the Ministry of Finance do submit the Report of the Committee on Pending Bills which was chaired by Mr. Mule.
- (ii) The Committee requested the Secretariat to liaise with the Governor of the Central Bank concerning the proposed Seminar for Members of the Committee. The Committee tentatively fixed the date for the Seminar on 16th and 17th August, 1999 in Mombasa.
- (iii) The Committee resolved to visit the Customs Department, Mombasa between 18th and 20th August, 1999.
- (iv) As concerns the Trade Licensing Act, the Committee resolved to get Comments from Stakeholders in order to establish the Sections of the Act which need to be amended.
- (v) The Committee expressed the need for the Minister for Trade to be accompanied by the World Trade Organisation Officials in one of his appearances before them.

(e) **Under Min. No.78/99**

Pensions

The Committee expressed grave concern at the inhuman manner in which Pensioners are treated. It was resolved that the Minister for Finance be requested to review the Pension upward and also to ensure that pensioners get their monthly pensions promptly.

MIN.94/99

CONSIDERATION OF THE 1999/2000 ACTIVITY PROGRAMME

The Committee considered the proposed 1999/2000 activity programme and adopted the same with amendments.

MIN.95/99

ADJOURNMENT

And the time being ten Minutes past Two O'Clock, the Chairman adjourned the Sitting until Monday, 9th August, 1999 at 2.30 p.m.

CONFIRMED
CHAIRMAN)

DATE: