REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION

THE DEPARTMENTAL COMMITTEE
ON
FINANCE, PLANNING & TRADE

REPORT ON THE CONSIDERATION OF THE PRESIDENT'S MEMORANDUM ON THE INSURANCE (AMENDMENT) BILL, 2013

PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2014

1.0 INTRODUCTION

The Departmental Committee on Finance, Planning & Trade is one of the twelve Departmental committees of the National Assembly established under SO 216 and mandated to, inter alia; **'to study and review all legislations referred to it;**

Specifically, the Committee deals with *Public finance, monetary policies, public debt, financial institutions, investment and divestiture policies, pricing policies, banking, insurance, population, revenue policies, planning, national development, trade, tourism promotion and management, commerce and industry.*

The Standing Orders also empowers the Committee to make its own selection of the subjects regarding the policy, management and administration among others of the Ministries and Departments falling under its jurisdiction.

COMMITTEE'S MEMBERSHIP

The committee comprises of the following members:-

1. Hon. Benjamin Langat, MP **(Chairman)**
2. Hon. Nelson Gaichuhie, MP **(vice Chairman)**
3. Hon. Jones M Mlolwa, MP
4. Hon. Anyanga, Andrew Toboso, MP
5. Hon. Timothy M .E. Bosire, MP
6. Hon. Shakeel Shabbir Ahmed, MP
7. Hon. Joash Olum, MP
8. Hon. Dr. Oburu Oginga, MP
9. Hon. Patrick Makau King'ola, MP
10. Hon. Abdullswamad Sheriff, MP
11. Hon. Sumra Irshadali, MP
12. Hon. Ogendo Rose Nyamunga, MP
13. Hon. Iringo Cyprian Kubai, MP
14. Hon. Dennis Waweru, MP
15. Hon. Tiras N. Ngahu, MP
16. Hon. Sakaja Johnson, MP
17. Hon. Jimmy Nuru Angwenyi, MP
18. Hon. Ronald Tonui, MP
19. Hon. Mary Emase, MP
20. Hon. Joseph Limo, MP
21. Hon. Lati Lelelit, MP
22. Hon. Kirwa Stephen Bitok, MP
23. Hon. Sammy Mwaita, MP
24. Hon. Daniel E. Nanok, MP

25. Hon. Eng. Shadrack Manga, MP
26. Hon. Abdul Rahim Dawood, MP
27. Hon. Sakwa John Bunyasi, MP
28. Hon. Alfred W. Sambu, MP
29. Hon. Sammy Koech, MP

2.0 CONSIDERATION OF THE INSURANCE (AMMENDMENT) BILL, 2013

On Thursday, 27th June, 2013, the Insurance (Amendment) Bill, 2013 went through the First Reading and referred to the Departmental Committee on Finance, Planning & Trade pursuant to the provisions of the Standing Order No. 127 of the National Assembly.

Pursuant to Article 118 of the Constitution and Standing Order 127, the Departmental Committee on Finance, Planning & Trade facilitated Public Participation by engaging the relevant stakeholders on the Bill. The Committee met with the National Treasury, the Insurance Regulatory Authority, PriceWaterhouseCoopers (Independent auditing firm), and Institute of Certified Public Accountants of Kenya (ICPAK) in the process of public participation and made presentations.

The Bill successfully went through the second reading on 1st, 9th, 10th and 17th October 2013. On 17th October 2013, it went through the Third Reading and finally presented to His Excellency the President for assent on 26th November, 2013 Pursuant to Article 115 of the Constitution.

3.0 RECEIPT OF THE PRESIDENT'S MEMORUNDUM

On 9th December, 2013, the President wrote to the Speaker of the National Assembly conveying his memorandum of refusal to assent to the Bill pursuant to Article 115 of the Constitution. His Excellency the President expressed reservations on five (5) clauses in the Bill that was approved by the House and thereafter recommended amendments in each of them.

Standing Order 154 requires that the National Assembly should consider the President's reservations within 21 days upon its receipt. Since the memorandum was submitted when the House was in recess, the counting period commenced on 11th February, 2014.

In his Communication from the Chair, the Speaker directed the Departmental Committee on Finance, Planning and Trade to examine the reservations by H.E. the President and table its report on or before 20th February, 2014.

4.0 CONSIDERATION OF THE PRESIDENT'S RESERVATIONS

On 14th February, 2014, the Committee considered the President's reservations and made the following observations:

(1) <u>Clause 6 (b)</u>

6. The principal Act is amended in section 7 by

(b) Inserting the following new subsection immediately after subsection (7)—

"(8) For the avoidance of doubt, where the Authority, the Commissioner or other authorized persons require an insurer or a licensed person to provide information under this Act—

(a) the Authority, the Commissioner or such authorized persons shall declare to the insurer or licensed person, the intended purpose of sharing of the information and the persons or institutions intended to receive the information;

(b) in the case of an insurer, such information shall be provided upon written consent obtained from the board of such insurer; and

(c) if, at the expiry of twenty-one calendar days, the board of an insurer has not granted the consent under paragraph (b), the person from whom the information was required or the licensed person shall provide the information to the Authority."

The Committee observed that:-

i. As currently worded, Section 7 of the principle Act makes adequate provision for the purpose of robust supervision of regulated entities. Requests for information and documentation are made in the normal course of supervision and if this is subjected to consent it impairs the operation of the analysis and assessment which is required to varying extents for members of the insurance industry to ensure risk based supervision of the entities.

ii. Section 7 in its current form also provides a clear and judicious process for obtaining information, documents or evidence required for timely decision making on members of the industry. The insurance entities are in turn required to put in place sufficient internal systems and controls to ensure appropriate risk management and compliance with the Law.

iii. Further, in accordance with the Insurance Core Principles which are the international standards issued by the International Association of Insurance Supervisors (IAIS) to which Kenya is a member, ICP 3 in particular requires that the Authority have the legal authority and power to obtain and exchange supervisory information in respect of legal entities and groups, including the relevant non-regulated entities of such groups.

iv. The legal authority and power to which the supervisor is subject should enable it to obtain and exchange information when:

- the supervisor considers the information to be necessary for the supervision of insurance legal entities or groups, or when another supervisor considers the information to be necessary, and

- the supervisor is reasonably requested to provide relevant information by one of the authorities.

Requiring consent on part of the information will defeat the very essence of supervision and the adoption of the Risk Based Supervisory Model for the insurance industry.

The Committee therefore concurs with the President' recommendation for deletion of Clause (6) (b) of the Bill

(2) <u>Clause 11</u>

Section 56 of the principal Act is amended—

(a) in subsection (4), by deleting the words "and approved by the Commissioner" appearing immediately after the words "Companies Act";

(b) by deleting subsection (5);

(c) by deleting subsection (7) and substituting therefor the following new subsection—

"(7) An auditor who fails to comply with any requirement under this section commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings".

The Committee observed that:-

i. The proposed provision goes against the Insurance Core Principles (ICP) issued by the International Association of Insurance Supervisors (IAIS), hence rendering nugatory the statutory powers underpinning the Corporate Governance Guidelines issued to the insurance industry.

ii. The Authority has been challenged on this issue in Court by an insurance entity and the High Court upheld the spirit of the provision which is steeped in good governance principles and effective regulation of governance structures of insurers.

iii. Therefore, the gains achieved by implementation of Corporate Governance Guidelines risk being eroded due to weakening of regulatory power to rein on rogue insurers. This would be detrimental to the consumers in the insurance industry.

The Committee therefore concurs with the President' recommendation for deletion of Clause 11 of the Bill

(3) Clause 13A

Insertion of new clause 13A immediately after 13

13A. The Principal Act is amended by repealing Section 68A and replacing with the following new Section –

68A. (1) notwithstanding any other provision of this Act, the Authority shall, from time to time, carry out an assessment of the suitability of the person managing, controlling or having a significant ownership of significant beneficial interest in a person, licensed under this Act.

(2) an assessment under subsection (1) shall be in accordance with the criteria as may be prescribed in regulations

(3) where, upon assessment under this section, the Authority is satisfied as to the suitability of the person managing, controlling or having a significant ownership or significant beneficial interest in a person licensed under this Act, it shall so certify in writing.

(4) a person who, upon an assessment under this section, is not certified by the Authority as suitable to manage or control a person licensed under this Act, shall be deemed to be disqualified from holding such office.

The Committee observed that:-

i. The proposed repeal and replacement of Section 68A of the Principal Act which was contained in the Bill published on 18th June 2013 was omitted.

ii. The provision was aimed at clarifying the power of the Authority to carry out investigations on the moral and financial suitability of key persons of an insurer in line with the Financial Action Task Force recommendation on Anti-Money Laundering and Combating Financing of Terrorism.

iii. The current Section 68A does not address such recommendation and it is required that insurance laws should be strengthened to empower regulators to assess professional, financial and moral suitability of insurers' key persons (owning or controlling over 10%)

iv. The effect is that Kenya runs the danger of being non-compliant since such are some of the gaps identified in the insurance law. As a consequence, Kenya risks being 'blacklisted' by the Financial Action task Force. Therefore, the omitted clause should be inserted after clause 13 and be named 13A.

The Committee therefore concurs with the President' recommendation for insertion of a new clause 13A after clause 13 of the Bill

(4) Clause 20(b)

20. Section 197A of the Insurance Act is amended—

(a) by deleting the word "Kenya" wherever it appears and substituting therefor the words "a reciprocating East African Community Partner State".

The Committee observed that:

the implication of such amendment is that premium levy will now be due from companies transacting business in East African Community thereby causing double levying of tax for businesses which are both in Kenya and the country in which the business is underwritten under jurisdictional laws. This shall result in hampering insurance business in East African region

The Committee therefore concurs with the President' recommendation for deletion of Clause (20) (b) of the Bill

(5) Clause 22

22. The principal Act is amended by inserting the following new section immediately after section 204 –

204A. (1) A dispute between the Authority and an insurer, or a dispute between insurers arising from action or intended action of the Authority acting in the exercise of the functions conferred by this Act, shall be resolved by arbitration and the Arbitration Act shall apply.

(2) In a dispute between insurers, the Authority shall, in consultation with the insurers, appoint an arbitrator.

(3) In a dispute between the Authority and an insurer or insurers, each party shall appoint one arbitrator.

(4) Nothing in this section prevents a party not satisfied by a settlement arrived at after arbitration to commence an action in court.

The Committee observed that:-

Section 169 of the Principal Act establishes the Insurance Appeals Tribunal to deal with disputes. The Act also provides other structures like mediation, consumer protection resolution mechanisms, appeals to the High Court and other judicial processes.

Therefore, the proposed amendment shall render the Insurance Appeals Tribunal redundant

The Committee therefore concurs with the President' recommendation for deletion of Clause 22 of the Bill

ACKNOWLEDGEMENTS

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee also appreciates the Secretariat for the preparation of this report.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Finance, Planning & Trade to table this report on the President's reservations on Insurance (Amendment) Bill, 2013 and commend it to the House for information pursuant to the provisions of Standing Order 154.

Signed ....

HON. NELSON GAICHUHIE, MP
VICE-CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

Date: 18th FEB 2014

DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE

ATTENDANCE REGISTER

DATE 14/2/2014 AGENDA ADOPTION OF THE PRESIDENTIAL MEMORANDUM AND SUPPLEMENTARY ESTIMATE REPORTS

	NAME	SIGNATURE
1.	Hon. Benjamin Langat, M.P. (Chairperson)	
2.	Hon. Nelson Gaichuhie, M.P. (Vice-Chairperson)	
3.	Hon. Anyanga Andrew Toboso, M.P.	
4.	Hon. Sammy Mwaita, M.P.	
5.	Hon. Sammy Koech, M.P.	
6.	Hon. Ogendo Rose Nyamunga, M.P.	
7.	Hon. Sakaja Johnson, M.P.	
8.	Hon. Sakwa John Bunyasi, M.P.	
9.	Hon. Timothy Bosire, M.P.	
10.	Hon. Tiras Ngahu, M.P.	
11.	Hon. Joash Olum, M.P.	
12.	Hon. Lati Lelelit, M.P.	
13.	Hon. Shakeel Shabbir Ahmed, M.P.	
14.	Hon. Jimmy Nuru Angwenyi, M.P.	
15.	Hon. Patrick Makau King'ola, M.P.	
16.	Hon. Sumra Irshadali, M.P.	
17.	Hon. Alfred Sambu, M.P.	

18.	Hon. Abdullswamad Sheriff, M.P.	
19.	Hon. Jones Mlolwa, M.P.	
20.	Hon. Ronald Tonui, M.P.	
21.	Hon. Dr. Oburu Oginga, M.P.	
22.	Hon. Mary Emase, M.P.	
23.	Hon. Joseph Limo, M.P.	
24.	Hon. Iringo Cyprian Kubai, M.P.	
25.	Hon. Daniel Epuyo Nanok, M.P.	
26.	Hon. Abdul Rahim Dawood, M.P.	
27.	Hon. Dennis Waweru, M.P.	
28.	Hon. Eng. Shadrack Manga, M.P.	
29.	Hon. Kirwa Stephen Bitok, M.P.	

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE HELD ON FRIDAY 14TH FEBRUARY, 2014 IN COMMITTEE ROOM, FOURTH FLOOR, CONTINENTAL HOUSE, AT 10.00 A.M

Present

1. Hon. Benjamin Langat, MP - Chairperson
2. Hon. Andrew Toboso, MP
3. Hon. Sammy Mwaita, MP
4. Hon. Sammy Koech, MP
5. Hon. Sakwa John Bunyasi, MP
6. Hon. Timothy Bosire, MP
7. Hon. Lati Lelelit, MP
8. Hon. Shakeel Shabbir Ahmed, MP
9. Hon. Patrick Makau King'ola, MP
10. Hon. Sumra Irshadali, MP
11. Hon. Alfred Sambu, MP
12. Hon. Ronald Tonui, MP
13. Hon. Dr. Oburu Oginga, MP
14. Hon. Joseph Limo, MP
15. Hon. Iringo Cyprian Kubai, MP
16. Hon. Daniel Epuyo Nanok, MP
17. Hon. Eng. Shadrack Manga, MP

Absent With Apology

1. Hon. Nelson Gaichuhie, MP - Vice-Chairperson
2. Hon. Ogendo Rose Nyamunga, MP
3. Hon. Sakaja Johnson, MP
4. Hon. Tiras Ngahu, MP
5. Hon. Joash Olum, MP
6. Hon. Jimmy Angwenyi, MP
7. Hon. Abdullswamad Sheriff, MP
8. Hon. Jones Mlolwa, MP
9. Hon. Mary Emase, MP
10. Hon. Abdul Rahim Dawood, MP
11. Hon. Dennis Waweru, MP
12. Hon. Kirwa Stephen Bitok, MP

In Attendance

1. Mr. Evans Oanda - First Clerk Assistant
2. Ms. Esther Nginyo - Third Clerk Assistant
3. Mr. Tobias Opana - Junior Legislative Fellow

Parliamentary Budget Office

1. Mr. Robert Nyaga - Chief Fiscal Analyst
2. Mr. Josephat Motonu - Fiscal Analyst
3. Mr. Benjamin Ngimor - Fiscal Analyst

MIN.NO. DFC/29/2014: PRELIMINARIES

The Chairman called the meeting to order at 10.53 am and said a word of prayer. He welcomed all participants to the meeting and introduced the day's agenda.

MIN.NO. DFC/30/2014: CONSIDERATION OF THE MEMORANDUM FROM H.E. THE PRESIDENT ON INSURANCE (AMENDMENT) BILL, 2013

The Chairperson informed the Committee H.E. the President had sent back the Insurance (Amendment) Bill, 2013 to Parliament with a Memorandum containing his reservations that required Committee's reconsideration. The Committee considered the Memorandum and made the following analysis and recommendations;

(1) <u>Clause 6 (b)</u>

6. The principal Act is amended in section 7 by

(b) Inserting the following new subsection immediately after subsection (7)—

"(8) For the avoidance of doubt, where the Authority, the Commissioner or other authorized persons require an insurer or a licensed person to provide information under this Act—

(a) the Authority, the Commissioner or such authorized persons shall declare to the insurer or licensed person, the intended purpose of sharing of the information and the persons or institutions intended to receive the information;
(b) in the case of an insurer, such information shall be provided upon written consent obtained from the board of such insurer; and
(c) if, at the expiry of twenty-one calendar days, the board of an insurer has not granted the consent under paragraph (b), the person from whom the information was required or the licensed person shall provide the information to the Authority."

<u>Discussion</u>

As currently worded, Section 7 of the principle Act makes adequate provision for the purpose of robust supervision of regulated entities. Requests for information and documentation are made in the normal course of supervision and if this is subjected to consent it impairs the operation of the analysis and assessment which is required to varying extents for members of the insurance industry to ensure risk based supervision of the entities.

Section 7 in its current also provides a clear and judicious process for obtaining information, documents or evidence required for timely decision making on members of the industry. The insurance entities are in turn required to put in place sufficient internal systems and controls to ensure appropriate risk management and compliance with the Law.

Further, in accordance with the Insurance Core Principles which are the international standards issued by the International Association of Insurance Supervisors (IAIS) to which Kenya is a member, ICP 3 in particular requires that the Authority have the legal authority and power to obtain and exchange supervisory information in respect of legal entities and groups, including the relevant non-regulated entities of such groups.

The legal authority and power to which the supervisor is subject should enable it to obtain and exchange information when:

- the supervisor considers the information to be necessary for the supervision of insurance legal entities or groups, or when another supervisor considers the information to be necessary, and
- the supervisor is reasonably requested to provide relevant information by one of the authorities.

Requiring consent on part of the information will defeat the very essence of supervision and the adoption of the Risk Based Supervisory Model for the insurance industry.

The Committee therefore concurs with the President' recommendation for deletion of Clause (6) (b) of the Bill

(2) Clause 11

11. Section 56 of the principal Act is amended—

(a) in subsection (4), by deleting the words "and approved by the Commissioner" appearing immediately after the words "Companies Act";

(b) by deleting subsection (5);

(c) by deleting subsection (7) and substituting therefor the following new subsection—

"(7) An auditor who fails to comply with any requirement under this section commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings".

Discussion

The proposed provision goes against the Insurance Core Principles (ICP) issued by the International Association of Insurance Supervisors (IAIS), hence rendering nugatory the statutory powers underpinning the Corporate Governance Guidelines issued to the insurance industry.

The Authority has been challenged on this issue in Court by an insurance entity and the High Court upheld the spirit of the provision which is steeped in good governance principles and effective regulation of governance structures of insurers.

Therefore, the gains achieved by implementation of Corporate Governance Guidelines risk being eroded due to weakening of regulatory power to rein on rogue insurers. This would be detrimental to the consumers in the insurance industry.

The Committee therefore concurs with the President' recommendation for deletion of Clause 11 of the Bill

Clause 13A

Insertion of new clause 13A immediately after 13

13A. The Principal Act is amended by repealing Section 68A and replacing with the following new Section –

68A. (1) notwithstanding any other provision of this Act, the Authority shall, from time to time, carry out an assessment of the suitability of the person managing, controlling or having a significant ownership of significant beneficial interest in a person, licensed under this Act.

(2) an assessment under subsection (1) shall be in accordance with the criteria as may be prescribed in regulations

(3) where, upon assessment under this section, the Authority is satisfied as to the suitability of the person managing, controlling or having a significant ownership or significant beneficial interest in a person licensed under this Act, it shall so certify in writing.

(4) a person who, upon an assessment under this section, is not certified by the Authority as suitable to manage or control a person licensed under this Act, shall be deemed to be disqualified from holding such office.

Discussion

The proposed repeal and replacement of Section 68A of the Principal Act which was contained in the Bill published on 18th June 2013 was omitted.

The provision was aimed at clarifying the power of the Authority to carry out investigations on the moral and financial suitability of key persons of an insurer in line with the Financial Action Task Force recommendation on Anti-Money Laundering and Combating Financing of Terrorism.

The current Section 68A does not address such recommendation and it is required that insurance laws should be strengthened to empower regulators to assess professional, financial and moral suitability of insurers' key persons (owning or controlling over 10%)

The effect is that Kenya runs the danger of being non-compliant since such are some of the gaps identified in the insurance law. As a consequence, Kenya risks being 'blacklisted' by the Financial Action task Force.

Therefore, the omitted clause be inserted after clause 13 and be named 13A.

The Committee therefore concurs with the President' recommendation for insertion of a new clause 13A after clause 13 of the Bill

Clause 20(b)

20. Section 197A of the Insurance Act is amended—

(a) by deleting the word "Kenya" wherever it appears and substituting therefor the words "a reciprocating East African Community Partner State".

Discussion

The implication of such amendment is that premium levy will now be due from companies transacting business in East African Community thereby causing double levying of tax for businesses which are both in Kenya and the country in which the business is underwritten under jurisdictional laws. This shall result in hampering insurance business in East African region

The Committee therefore concurs with the President' recommendation for deletion of Clause (20) (b) of the Bill

Clause 22

22. The principal Act is amended by inserting the following new section immediately after section 204 –

204A. (1) A dispute between the Authority and an insurer, or a dispute between insurers arising from action or intended action of the Authority acting in the exercise of the functions conferred by this Act, shall be resolved by arbitration and the Arbitration Act shall apply.

(2) In a dispute between insurers, the Authority shall, in consultation with the insurers, appoint an arbitrator.

(3) In a dispute between the Authority and an insurer or insurers, each party shall appoint one arbitrator.

(4) Nothing in this section prevents a party not satisfied by a settlement arrived at after arbitration to commence an action in court.

Discussion

Section 169 of the Principal Act establishes the Insurance Appeals Tribunal to deal with disputes. The Act also provides other structures like mediation, consumer protection resolution mechanisms, appeals to the High Court and other judicial processes.

Therefore, the proposed amendment shall render the Insurance Appeals Tribunal redundant

The Committee therefore concurs with the President' recommendation for deletion of Clause 22 of the Bill

MIN.NO. DFC/31/2014: CONSIDERATION OF THE SUPPLEMENTARY ESTIMATES OF THE LINE MINISTRIES AND STATE DEPARTMENTS.

1. THE NATIONAL TREASURY

Dr. Kamau Thugge, Principal Secretary, The National Treasury accompanied by Mr. Onderi Ontweka, Ag. Director of Budget, Mr. Francis Anyona, Chief Economist, Mr.Lazurus Keizi, Principal Economist, Mr. Jackson Kinyanjui, Director, ERD, Mr. Kennedy Nyachiro, Chief Economist and Mr. Eric Murungi, Senior Finance Officer appeared before the Committee and made a presentation on supplementary estimates as follows;

RECURRENT EXPENDITURE

Vote	Increments (Reductions)	Key area of changes
R103. Ministry of Devolution and Planning	**246,135,893**	
	o/w 992,950,000	Increase in allocation to civil service reform secretariat for Huduma Centers
	(142,036,217)	Transfer of urban development department to Ministry of Devolution and Planning
	(1,049,066,834)	Transfer of youth polytechnic and training services to Ministry of Education
	199,000,000	Increase in allocation for Human Resource Management Service for rationalization of public service
	185,835,431	Transfer of disaster management from Ministry of Interior & Coordination of National Government
R107. The National Treasury	**3,505,000,000**	
	o/w (500,000,000)	Reduction in training expenses for headquarters
	499,324,000	Increase in allocation for headquarters for other operating expenses
	1,000,000,000	Increase in grants to Kenya Revenue

		Authority including for conversion of senior staff terms of employment to contractual; tax compliance and education, tax education and enforcement.
	2,000,000,000	Increased funds to Economic Affairs Department for payment of duty for imported equipment and machinery for the Ministry of Defence.
	126,000,000	Funds for wages for temporary employees under Economic Affairs Department
	300,000,000	Funds for insurance cost for civil servants
	(225,000,000)	Transfer of Kenya Investment Authority to Min of Industrialization and Enterprise Development
R117. Ministry of Industrialization and Enterprise Development	**420,601,789**	
	o/w 225,000,000	Transfer of Kenya Investment Authority from National Treasury
	171,204,798	Funds for Micro and Small Enterprise Development and Micro and Small Enterprise Authority which had not been budgeted for in the printed estimates
R118. Ministry of East African Affairs, Commerce and Tourism	**(734,129,350)**	
	o/w (135,058,653)	Transfer of External Trade Promotion Services to Ministry of Foreign Affairs
	(238,981,390)	Transfer of Foreign Trade Services to Ministry of Foreign Affairs
	(257,139,341)	Transfer of the Kenya/Southern Sudan Liaison Office to Presidency vote
	(130,000,000)	Reduction in allocation for specialized materials for Kenya Tourist Board
R206. Commission on Revenue Allocation	**(25,000,000)**	
	o/w (15,000,000)	Reduction in funds for salaries and allowances
R208. Salaries and Remuneration Commission	**345,462,363**	
	o/w 170,119,492	Increase in allocations for public staff wage sustainability conference
	127,294,669	Increase in allocations for job evaluation and shortfall in operation and maintenance
R211. Auditor General	**380,336,579**	
	o/w 230,000,001	Increase in salaries for permanent employees

	124,114,471	Increase in allocation for purchase of specialized plant, equipment and machinery
R212. Controller of Budget	**25,747,931**	
	o/w 37,500,000	Increase in allocation for printing and advertising; purchase of vehicles; and purchase of specialized equipment

DEVELOPMENT EXPENDITURE

Vote	Increments (Reductions)	Key area of changes
D103. Ministry of Devolution and Planning	**(2,873,694,021)**	
	o/w 6,695,410,000	Increased allocation to CDF for construction of houses for health workers and CDF arrears for FY2012/13
	687,006,226	Increase in grants for Project Management Department (funded by external donors)
	(6,726,824,267)	Reduction in funds to Planning and Development for construction of building; civil works; and research and feasibility studies (due to reduction in external funding)
	(297,000,000)	Reduction of funds for construction of building under Basic infrastructure for Local Authorities
	(540,000,000)	Transfer of General Administration and Planning Services to Ministry of Education Science and Technology
	(4,282,340,000)	Reduction of funds to NYS headquarters mainly for wages to temporary employees; rentals of produced assets; fuel; and civil works
	(446,435,000)	Transfer of Youth Polytechnics and training services to Ministry of Education Science and Technology
	390,000,000	Increase of funds to Youth Development Services for Hospitality Supplies and Services
	(533,056,686)	Reduction of funds to disaster management for emergency relief and refugee assistance
	2,344,084,141	Transfer of Western Kenya Flood

		Mitigation Project from the Ministry of Interior & Coordination of National Government
D107. The National Treasury	**5,942,835,278**	
	o/w 1,490,000,000	Increase in grants to KRA
	634,000,000	Allocations for purchase of specialized material that had not been budgeted for in the printed estimates (funded by external donors)
	5,332,000,000	Increased allocation to budget reserves
	(1,368,348,057)	Reduction in funds to Global Fund for specialized materials and supplies (due to a reduction in external funding)
	(518,750,000)	Reduction in funds to Public Private Partnerships Secretariat for research and feasibility studies (due to a reduction in an external funding)
D117. Ministry of Industrialization and Enterprise Development	**(156,810,000)**	
	o/w (303,500,000)	Reduction in funds to KIRDI for civil works
	100,000,000	Increased grants to Micro & Small Enterprises Authority
D118. Ministry of East African Affairs, Commerce & Tourism	**(378,800,404)**	
	o/w (228,450,000)	Reduction of funds for Headquarters Administrative Services to zero
	(60,000,000)	Reduction of grants to government agencies under Tourism Marketing and Promotion
D211. Auditor General	**25,000,000**	
	o/w 25,000,000	Increase in funds for acquisition of land

COMMITTEE'S CONCERNS

The Committee raised the following concerns over the supplementary estimates;

i. The reduction of Kshs. 518 million from Public Private Partnership (PPP) Secretariat for research and feasibility studies.

ii. Whether loans are budgeted for bearing in mind that Kshs. 22 million meant of the Standard Gauge Railway had been removed from budget.

iii. The increase in grant to the Kenya Revenue Authority.

iv. Difference in the format used in supplementary estimates which was itemized as opposed to programme based format.

v. The increased allocation of Kshs. 5.3 billion to budget reserve whereas there is a contingency vote.

vi. The increase of funds amount to Kshs 170 million to Salary and Remuneration Commission for Staff Wage Sustainability conference.

vii. The fact that Development expenditure is less than recurrent expenditure.

viii. The reduction of Kshs. 130 million for specialized materials for Kenya Tourist Board under the Ministry of East African Affairs, Commerce and Tourism.

RESPONSE BY THE PRINCIPAL SECRETARY, THE NATIONAL TREASURY TO THE COMMITTEE'S CONCERNS

While responding to the concerns by the Committee on the Supplementary Estimates, the Principal Secretary indicated the current Financial Year has been rather difficult necessitating measures to ensure proper spending. He informed the Committee that;

i. The reduction of Kshs. 518 million from PPP Secretariat was due to reduction in external funding.

ii. Once loans are assigned, they are budgeted for.

iii. The increase in grant to the Kenya Revenue Authority to Kshs. 1.49 billion is a 2%legal requirement.

iv. The itemized format used in presenting the Supplementary Estimates was adopted for ease of understanding the increase/decrease in figures per item.

v. The name budget reserve used is a misnomer and should be changed. The World Bank introduced a budgetary support program whereby the money allocated in this vote, once utilized in social issues such as orphans and Vulnerable Children is usually reimbursed in full by the World Bank.

vi. Kshs. 170 million allocated to SRC is meant for National Dialogue for consensus on wages in a bid to rationalize the wage bill to a more sustainable level.

vii. There is need to allocate more resources in future to Development Expenditure as opposed to the current situation where Recurrent Expenditure takes higher allocation.

viii. The Tourism Sector has been prioritized and more resources will be provided in the new Financial Year. However, the reduction from the Tourism sector was necessitated by realignment in government.

2. MINISTRY OF EAST AFRICAN AFFAIRS, COMMERCE AND TOURISM

Mrs. Margaret Byama, Chief Finance Officer, Ministry of East African Affairs, Commerce and Tourism accompanied by Ms. Margaret Njoka, Head of Finance, Ms. Ann Wamuyu, Finance Officer, Ms. Martha Nanga, Finance Officer, Mr. Charles Okeyo, Head of Levy Operations, Mr. Orumoi Jonah, Head of Finance, Kenya Tourist board and Ms. Fredinah Musili, Management Accountant, Kenya Tourist Board appeared before the Committee and a presentation for additional funding as follows;

RECURRENT ESTIMATES

SN	AMOUNT (KSHS)	AREA OF FUNDING	JUSTIFICATION
1.	10 Million	Foreign Travel Expenses	For the Cabinet Secretary and Ministerial Staff to attend meetings related to COMESA, EAC, Tourism Promotion and marketing and regional integration matters.
2.	20 Million	Export Promotion Council	To cater for programme activities which include Solo Exhibitions in Lubumbashi DR Congo, North and Southern Sudan Trade and Investment Conferences and Trade Missions to Greece.
3.	20 Million	EAC Chairmanship and National Sensitization on EAC Matters.	EAC Chairmanship and national sensitization on EAC matters which include Common Market Protocol, Monetary Union and fast tracking of Political Federation.
4.	5 Million	Media Relations and Communication	Marketing Kenya as the best tourism destination in the region and communicating to and sensitizing business community on access to market opportunities. Installation of public address system in the Ministry's headquarter boardroom.
5.	15 Million	Kenyatta International Conference Centre	Hosting the World Public Relations Forum.

6	30 Million	Administration Headquarters	Payment of rents and rates at the Ministry Headquarter.
7.	160 Million	Legal Dues, Arbitration and Compensation Payments	Payment for a case which has been finalized and the dues keep accruing interests on daily basis.
8.	300 Million	Kenya Tourist Board	Tourism Market Recovery Programme.
9.	50 Million	Consumer Protection Advisory Committee	To cater for operations and maintenance of newly created Committee at the Ministry HQs.
	Total 610 Million		

DEVELOPMENT ESTIMATES

SN	AMOUNT (KSHS)	AREA OF FUNDING	JUSTIFICATION
1.	1.2 Billion	Construction of Ronald Ngala Utalii College	The Ministry through Tourism Board has awarded a contract of Kshs. 8.9 Billion. No fund were allocated. There is a pending bill of Kshs. 985,500,000.
2.	10 Million	Export Promotion Council	For development of National Export Strategy, Market Research in Angola and Nigeria and co-ordination of the establishment of International Road Transport Carnet System in Kenya and EAC Member States.
3.	20 Million	Development of Resort Cities	Development of Resort Cities in Isiolo, Turkana and Lamu. Concentration will however be in Turkana and Isiolo for sensitization workshops and feasibility studies.
4.	50 Million	Operationalization of the Tourism Act	Operationalization of Tourism Regulatory Authority, rebranding and restructuring of institutions in the tourism sector.

5.	30 Million	Business Premises Rent Tribunal	Computerization of registry at BPRT Headquarters and establishment of regional offices in the field.
6.	50 Million	Kenya Institute of Business Training	Furnishing and equipping of the 7 storey building at Parklands that is almost complete.
7.	50 million	Bomas of Kenya	Feasibility study of the Boma International Convention Centre.
	Total 1.4 Billion		

The Ministry therefore requires Kshs. 600 Million in Recurrent Estimates and Kshs. 1.4 billion in Development Estimates for FY 2013/2014 to execute its strategic mandate. It is therefore requesting for a total of Kshs. 2 billion.

COMMITTEE'S CONCERN

The Committee was concerned that there was no allocation for Ronald Ngala Utalii College despite the project having been started. The Committee was of the view that the Ministry should opt for Public Private Partnership for Boma International Convention Centre Project.

Further the Committee was concerned that there was need to fund the Tourism sector for the growth of the country's economy.

MIN.NO. DFC/32/2014: COMMITTEE'S PROPOSAL ON SUPPLEMENTARY ESTIMATES

Having considered the presentations by the Principal Secretary, The National Treasury and the Chief Finance Officer, Ministry of East African Affairs, Commerce and Tourism, the Committee made the following proposals;

A. Ministry of Devolution and Planning

1. Reduce the allocation to 103000808 Civil Service Reform Secretariat - PSM for Huduma Centers by Ksh 292,950,000.

2. Reduce allocation to 103018800 Human Resource Management Service - DPM for rationalization of the public service by Ksh 49,000,000.

B. The National Treasury

3. Reduce the allocation to 107000101 Headquarters for other operating expenses by Ksh 99,324,000.

4. Reduce allocation to 107000300 Economic Affairs Department for other operating expense for payment of duty for imported equipment and machinery for the Ministry of Defence by Ksh 500,000,000.

5. Reduce allocation to 107000300 Economic Affairs Department for basic wages for temporary employees by Ksh 126,000,000.

6. Reduce allocation to 107001500 Insurance to Civil Servants for insurance costs for civil servants by Ksh 200,000,000.

C. Salaries and Remuneration Commission

7. Reduce allocation to 208000101 Headquarters for hospitality supplies and services for public staff wage sustainability conference by Ksh 100,000,000.

Total Savings realized by the Committee were Kshs. 1.267 Billion.

MIN.NO. DFC/33/2014: COMMITTEE'S RECOMMENDATIONS

Having realized a saving If Kshs. 1.267 billion from the proposed cuts, the Committee made the following recommendations that;

1. Kshs. 800 million be allocated to the Ministry of East African Affairs, Commerce and Tourism for the Ronald Ngala Utalii College Project.
2. Kshs. 267 Million be allocated to the Ministry of East African Affairs, Commerce and Tourism to be prioritized as per the Ministry's urgent and pressing obligations.
3. The Committee on Budget and Appropriation reallocates the balance of Kshs. 200 million from the above savings.

MIN.NO. DFC/34/2014: ANY OTHER BUSINESS

The Chairperson informed the Committee that he would be travelling on official duties and that in his absence, the Vice-Chairperson would be conducting the Committee's business.

MIN.NO. DCF/35/2014 ADJOURNMENT

There being no other Business, the Chairperson adjourned the meeting at 13.14 p.m.

Signed..

Chairperson

Date.......18th Feb 2014.......