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KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE

REPORT ON THE

FINANCE BILL 2001

PARLIAMENT BUILDINGS
NAIROBI

October 2001

INTRODUCTION

Mr. Speaker, Sir, I am pleased to present to the House a report of the Departmental Committee on Finance, Planning and Trade on the Finance Bill, 2001.

Some of the functions of Departmental Committees 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 Finance Bill, 2001 was referred to the Committee on July 04, 2001upon a motion moved by the Minister pursuant to the provisions of Standing Order 101A(1).

The Committee commenced deliberations on the Bill on July 13, 2001 and held five sittings. The Minister for Finance accompanied by the Permanent Secretary attended three sittings of the Committee and gave an overview of the Bill.

The Committee also invited the Commissioner General, Kenya Revenue Authority and his team on three occasions and they gave invaluable insight into the thinking that went into the proposals in the Bill.

After deliberations on the Finance Bill 2001, the Committee identified the following issues and tax proposals whose implementation was considered to have serious ramifications on the economy and referred them to the Minister for further discussion.

CLAUSE 65 - VAT ON RENTAL BUSINESS PREMISSES

The Committee noted that stakeholders in the Real Estate business were not consulted to formulate mechanisms for implementation of VAT and also address the effects this tax would have on investors and other stakeholders. The Minister confirmed that he was staying implementation until January 2002.

COMPULSORY STOCK RECORDS – LEGAL NOTICE NO. 96 OF 14TH JUNE 2001

The Committee further noted that although paragraph 6(1) of the seventh schedule to the VAT Act requires every dealer of taxable goods to keep updated records of all transactions which might affect their tax liability, the following problems would hinder proper implementation.

(a) Businesses with computerised systems would have undue advantage over those using manual bincards and ledgers, hence making them liable to penalties.

(b) The exercise will be too tedious and time consuming particularly for small-scale traders. The problem of breakages, pilferage and thefts of goods will further complicate reconciliation of data.

(c) Traders not familiar with accounting principles will be forced to hire the services of bookkeepers, which in turn would increase their expenditure making it too expensive for them to remain in business.

(d) Unnecessary harassment of traders by tax officers might create room for corruption.

INCREASE OF EXCISE DUTY ON PETROL BY KSHS.2 PER LITRE – LEGAL NOTICE NO. 135/136 OF 20TH SEPTEMBER 2001

The Committee was concerned that this increase translates to a heavy burden on the ailing economy.

CLAUSE 65 - EFFECT OF VAT ON TOURISM INDUSTRY

Considering the hard times and competition the Tourism Industry was going through, the Committee felt that imposition of any tax would worsen the situation.

RECOMMENDATIONS

1. That the VAT on business premises should be withdrawn.

2. That compulsory stock records should be postponed until modalities of implementation and awareness campaigns are put in place.

3. That the Minister should either withdraw excise duty on petrol or bring a law in Parliament to enforce compliance by the oil industry.

4. (a) That the Tourism Industry should be given rebates on the existing tax and should also be considered for support with stabex funds for which it qualifies.

(b) That the law governing the Tourism Industry should be reviewed to give the Industry more autonomy.

5. The Committee recommended that the Minister should consider the establishment of a bicycle assembly plant in the country. This would drastically cut down on the cost of importation making bicycles affordable to low-income groups.

CONCLUSION

The Committee recommends that the House adopts the Finance Bill 2001 together with the recommendations contained in the Committee's report.

Mr. Speaker Sir, I wish to take this opportunity on behalf of the Committee to record our gratitude to the Minister for Finance and his staff together with officials of Kenya Revenue Authority for the assistance they accorded the Committee.

Mr. Speaker Sir, the minutes of the sittings of the Committee are hereby attached to the report.

Signed ____________________

Hon. Simeon M. Mkalla, MP
Chairman, Departmental Committee on Finance, Planning and Trade

Date 18TH OCTOBER, 2001

MINUTES OF THE ONE HUNDRED THIRTY NINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON JULY 13, 2001 IN COMMITTEE ROOM NO.9, PARLIAMENT BUILDINGS AT 10.00 A.M.

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

Hon. Simeon Mkalla, MP - Chairman
Hon. Jimmy Angwenyi, MP
Hon. David Mwiraria, MP
Hon. Winston Ayoki, MP
Hon. Soita Shitanda, MP
Hon. Harrison Odongo, MP
Hon. Onesmus Mboko, MP

ABSENT: Hon. John Michuki, MP
Hon. Adan Keynan, MP
Hon. Samuel Kiminza, MP
Hon. Mohamed Galgalo, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

A. K. Thuranira - First Clerk Assistant

MIN.NO.588/2001 MEETING WITH THE MINISTER FOR TOURISM AND INFORMATION

The Committee had scheduled a meeting with the Minister for Tourism and Information to discuss the Ministry's policy frame work as it relates to the revival of the Tourism Industry. He was also expected to discuss the fate of former employees of African Tours and Hotels who had been retrenched.

When the Minister came, he sought the indulgence of the Committee to be allowed more time as he was not adequately prepared to tackle the issues raised satisfactorily.

The Committee agreed to reschedule the meeting for August 10, 2001.

MIN.NO.589/2001 ADJOURNMENT

The Chairman adjourned the sitting until that afternoon at 2.30 p.m.

AFTERNOON SITTING

PRESENT: All Members present during the morning Sitting attended the afternoon session and met with officials of Kenya Revenue Authority namely Messrs:

John Munge	–	Commissioner General , Kenya Revenue Authority
K.L. Tande	-	Commissioner of VAT
F.M. Thuranira	-	Deputy Commissioner, Customs and Excise Duty
S.ole Kirgotty	-	Registrar of Motor Vehicles
Joseph Nduati	-	Deputy Commissioner, LTO
Rukunga Ncebere	-	Deputy Commissioner Income Tax Dept.
Karen Ngunda	-	Acting Operations Manager
Joseph Mawah	-	Senior Assistant Commissioner VAT
Maurice Ochieng	-	Senior Asst. Commissioner
P.O. Odeny	-	Senior Asst. Commissioner VAT
Hellen A. Bila	-	Chief Legal Officer
S.K. Chebii	-	Commissioner of Excise and Customs

MIN.NO.590/2001 **CONSIDERATION OF THE FINANCE BILL 2001 – EXECUTIVE SUMMARY**

The Commissioner General introduced his Management team and said that the theme of this years budget speech was "Effective Resource Allocation for Growth and Poverty Reduction". He said that the budget seeks to target allocation of available resources to areas that can accelerate economic growth through increased productivity and employment and which have a direct impact on reducing poverty.

HIGHLIGHTS OF THE BUDGET

1. Economic Environment

The Committee was informed that the country's economic performance had weakened further in 2000/2001 with the main indicators being:-

③ Annual inflation of 6.2% in 2000 compared to 1.4% in 1999

③ That growth in real terms slowed to negative 0.3% in 2000 compared to 1.4% in 1999, 1.8% in 1998 and 2.3% in 1997.

③ That the agricultural sector declined by 2.4% compared with a growth rate of 1.2% in 1999.

2. TAXATION MEASURES WITH NO DIRECT REVENUE IMPLICATION – CUSTOMS AND EXCISE

- The Committee was informed that all fines for offences under the Act will be reviewed to a maximum of Kshs.1.5 million.

- That there will be gazettement of manufacturers who may import Industrial Sugar for use as raw materials for manufacture of goods under the Essential Goods Production Support Programme. This will deter unscrupulous business people who have been using that guise to flood the Kenya

Market with imported sugar. There will be very strict vetting of the importers.

- That the new computation of compound penalty will be reduced from 3% to 2% per month.

3. **MEASURES WITH DIRECT REVENUE IMPLICATIONS**

- The Committee was further informed that top tariff band on goods from COMESA and East Africa Community trading partners will be lowered from 40% to 35%.

- That duties on fibre will be zero rated and those on yarn will be lowered from 25% to 20%.

- That the Ministers powers to waive duty on imported goods (Donations) will be enhanced from 50% to 100%.
- That duty payable on condoms and bicycles will be removed.

- That there will be access to duty free fuel for EPZ operators on boilers and generators only.

- That duty on imported goods currently produced in Kenya will be increased to 35%.

4. **EXCISE**

- The Committee was informed that failure to affix excise stamps on cigarette packets will now attract a penalty of Kshs.1.5 million.

- That there will be an increase in excise duty by Kshs.2 on premium and regular Petrol.

- That there will be an increase in annual excise factory licence fees to Kshs.50,000 per annum for breweries, wineries, distillers, denature compounders, rectifiers, tobacco and cigarette manufacturers. Other excise licences were increased to Kshs.25,000.

5. **VALUE ADDED TAX – MEASURES WITH NO DIRECT REVENUE IMPLICATIONS**

- Zero rating of the consumption of electricity of 200 units and below used by a domestic household. Consumption of over 200 units will be fully charged.

- Introduction of a provision in the VAT Act to allow objections to tax.

- Amendment in the VAT Act to allow the tax payer to file an appeal after paying the amount he has not disputed or such part of that amount that the Commissioner may allow.

6. **MEASURES WITH DIRECT REVENUE IMPLICATIONS**

- Chartering of aeroplanes and hiring of buses will be taxable.

  Introduction of VAT on rental of Commercial buildings for business purposes..

7. **MISCELLANEOUS MEASURES**

That the responsibility for collecting Catering and Training Levy and the National Hospital Insurance Fund has been transferred to the Kenya Revenue Authority.

③ That the Air Passenger Service Charge has been reduced from US Dollars 40 to US Dollars 20.

MIN.NO. 591/2001 COMMENTS AND OBSERVATIONS BY THE COMMITTEE

The Committee made the following observations

1. **Zero rating of bicycles**

The Committee noted that the Minister should seriously think about the establishment of a bicycle assembly plant in the country to cut on the cost of importation.

2. **Increased duty on imported goods currently produced in Kenya to 35%**

The Committee considers this increase to be too low. The influx of cheap imports has contributed to many job losses and even closure of industries.

3. **Penalty on failure to affix excise stamps on cigarette packets – maximum Kshs.1.5 million**

The Committee noted that the above penalty has been left loose ended. The range should be specific leaving no loopholes likely to be exploited by the Judicial System.

4. **Increase of excise duty by Kshs.2 on petrol**

The Committee was concerned that the increase by Kshs.2 per litre translates to a heavy burden on the ailing economy.

5. **Annual factory licences of Kshs.50,000**

The Committee noted that the timing of this increase is bad given the hard economic times. The cost in terms of job cuts and complete loss of income might make the measures counter productive.

6. **VAT Regulations**

(a) The Committee was concerned that the ordinary traders' inability to comprehend VAT documents and regulations has contributed to the ruining of some businesses that have eventually been treated as tax evaders and as a result have been heavily penalised. There is need to simplify documentation procedures and intensify public education on tax issues.

(b) Delays in giving VAT refunds.

7. <u>VAT Registration</u>

The Committee noted that some individuals and especially up coming business people have been denied VAT registration and hence denying them possibilities of making a start in business.

8. **Second Hand Vehicles**

Dealers in second hand vehicles have expressed concern that they are more heavily taxed than those dealing in new vehicles.

9. **Option for farmers to file income tax returns or pay presumptive tax**

The Committee expressed concern that farmers who are already disadvantaged in many ways might find these procedures cumbersome and costly both in terms of time and resources.

10. **Transfer of the responsibility for the collection of 2% Catering Levy**

What effect will this have on jobs at Catering Levy Trustees.

MIN.NO.592/2001 ANY OTHER BUSINESS

The Committee expressed concern over proliferation of counterfeit products in the local market and asked the Commissioner General what action was being taken.

In response, the Commissioner General said that recently, his department had raided several five star hotels in the city where goods worthy millions of shillings suspected to have been brought into the country duty free were netted. The Kenya Revenue Authority was also consulting with the Commissioner of Police to seal off some of the transport routes particularly the North Eastern corridor, through which most of these goods pass.

MIN.NO.593/2001 **ADJOURNMENT**

And there being no other business the Chairman adjourned the Sitting at six O'clock.

CONFIRMED..
CHAIRMAN

DATE......28/8/01..

MINUTES OF ONE HUNDRED FOURTY-THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON TUESDAY, AUGUST 21, 2001 IN THE SMALL DINING HALL AT 10.00 A.M.

PRESENT	Hon. Simeon Mkalla, MP	-	Chairman
	Hon. Jimmy Ang'wenyi, MP		
	Hon. Soita Shitanda, MP		
	Hon. John Michuki, MP		
	Hon. Mohamed Galgalo, MP		
	Hon. David Mwiraria, MP		
	Hon. Adan Keynan, MP		
	Hon. Harrison Odongo, MP		
	Hon. Samuel Kiminza, MP		

ABSENT Hon. Onesmus Mboko, MP
Hon. Winston Ayoki, MP

IN ATTENDANCE **NATIONAL ASSEMBLY**

A. K. Thuranira - First Clerk Assistant

MIN. NO. 605/2001 CONSIDERATION OF THE FINANCE BILL 2001

The Committee considered various proposals contained in the finance bill 2001 and raised the following issues for further consideration by the Minister for Finance.

1. **VAT ON RENTAL BUSINESS PREMISES**

a) The Committee noted that before introducing that tax, the Minister should have consulted stakeholders and formulate mechanisms for collection and proper implementation. At the moment, the tax will definitely encourage corruption and perpetual evasions.

b) Most people will shift their business to residential areas and the vacated business premises particularly in the city centre will pose a serious security risk.

c) In view of the current high interest rates, investors and other business people can hardly repay their loans. There is need for the government to give them incentives instead of hindering their operations when they are already struggling to survive.

The Committee resolved to meet with real estate agents such as Lloyd Masika and Tysons Habenga among others to discuss the effects of this tax on business tenancy and other operations.

2. OPTION FOR FARMERS TO FILE INCOME TAX RETURNS OR PAY PRESUMPTIVE TAX

The Committee expressed concern that in coming up with this proposal, the principles of taxation such as the availability of sustainable income considering the vulnerability of the agricultural sector were totally ignored. Other issues such as equitability of taxable income have not been adequately addressed.

The Committee noted that this taxation would open room for corruption thereby creating loopholes and tax evasion mechanisms. The Committee recommends that the government should look for alternative sources of revenue by imposing taxes on luxurious commodities such as beer, tobacco products and spirits.

3. VAT ON THE TOURISM INDUSTRY

The Committee noted that imposition of any form of VAT on the Tourism Industry would have serious repercussions on the already ailing sector. Tourists are diverting to South Africa, Mauritius and even Tanzania creating very stiff competition for this country.

The Committee recommends that:

- The World Bank be approached to give soft loans similar to those accorded the Philippines to enable hoteliers refurbish their hotels to improve standards and hence attract more tourists.

- The government should mount rigorous surveillance on the licensing of "briefcase" tour operators who create too many overheads making tourism too expensive for ordinary tourists. Mechanisms should also be created to ensure clear distinctions between tour operators and transporters in the industry.

4. **VAT ON TRANSPORTATION OF AGRICULTURAL INPUTS**

The Committee noted that this tax can only act as disincentive to farmers as it will encourage imports of food stuffs from other countries where farmers enjoy government subsidies.

5. **CATERING LEVY**

The Committee welcomes the centralization of revenue collection. However, the Committee recommends the abolition of the Training Levy. It is not fair to demand that the taxpayer trains people for the tourism industry only. There are so many sectors of our economy that have more critical training needs than the tourism industry.

6. **PRESHPMENT LEVY**

The Committee resolved to have a meeting with the Kenya Revenue Authority to find out whether there are improvements in revenue collection since the removal of SWIPCO from revenue operation

MIN. NO.606/2001 - ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at 12.00 noon.

Confirmed signed

Date 6th Sept 2001

MINUTES OF THE ONE HUNDRED AND FOURTY-FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON TUESDAY, AUGUST 28, 2001 IN COMMITTEE ROOM NO. 7 AT 2.30 P.M.

PRESENT

Hon. Soita Shitanda, MP - Ag. Chairman
Hon. David Mwiraria, MP
Hon. Winston Ayoki, MP
Hon. Harrison Odongo, MP
Hon. Onesmus Mboko, MP
Hon. Mohammed Galgalo, MP
Hon. Jimmy Ang'wenyi, MP

ABSENT WITH APOLOGY

Hon. Simeon Mkalla, MP - Chairman

ABSENT WITHOUT APOLOGY

Hon. John Michuki, MP
Hon. Adan Keynan, MP
Hon. Samuel Kiminza, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

A. K. Thuranira - First Clerk Assistant

MIN. NO.607/2001 - CONFIRMATION OF MINUTES

Minutes of the previous five sittings were confirmed by Members present and signed by the Chairman after being proposed and seconded by the following Members.

(i) Minutes of the 137th sitting held on June 29, 2001 were proposed by Hon. Ayoki and seconded by Hon. Mboko.

(ii) Minutes of the 138th sitting held on July 12, 2001 were proposed by Hon. Mboko and seconded by Hon. Ayoki.

(iii) Minutes of the 139th sittings held on July 13, 2001 were proposed by Hon. Odongo and seconded by Hon. Mwiraria.

(iv) Minutes of the 140th sitting held on July 23, 2001 were proposed by Hon. Galgalo and seconded by Hon. Angwenyi.

(v) Minutes of the 141st sitting held on July 26, 2001 were proposed by Hon. Angwenyi and seconded by Hon. Ayoki.

MIN. NO.608/2001 MATTERS ARISING

1. **139th Sitting**

The Committee noted that the Commissioner of Value Added Tax (VAT) should be called upon to withdraw the requirement for traders to maintain an up date inventory of all the items they sell.

The Committee observed that the requirement was not only tedious and time consuming but also that unscrupulous VAT officers might use it to extort money from traders.

The date of commencement i.e. September 01, 2001 means that the traders were not given enough time and were not educated to enable them start the exercise effectively.

Later when the Ag. Chairman of the Committee called the Commissioner for VAT requesting him to suspend the matter, the Commissioner indicated that various consultations and representations had been made on the issue and that the government had decided to shelve it until January 2002.

The Committee further resolved to schedule a meeting with the Commissioner for VAT as there are other contentious issues such as delays in VAT refunds that need to be exhaustively discussed

2. **<u>140^{th} Sitting</u>**

The Committee resolved to request the Ministry of Trade and Industry to organise a one day Workshop on Trade Agreements and Protocols that the Ministry has signed on behalf of this country. There was also need to discuss the operations of the Weights and Measures Department as its officials are frustrating and harassing small scale business people in the rural areas during their inspections of weights and measures.

MIN. NO. 609/2001 CONSIDERATION OF THE BANKING AMENDMENT BILL

The Committee resolved to have a meeting with the Minister for Finance in which the following issues would be discussed.

1. The Banking Amendment Bill and what it is intended to achieve.

2. Recommendation by the Committee that Banks invest between 35 and 40% of their deposits within their areas of operation.

3. Reduction of the minimum capital requirement for starting new banks.

4. That the Minister gives a breakdown of how much money banks invest in Treasury bills and the effect these amounts would have on the economy.

MIN. NO. 610/2011 ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at five o'clock.

Confirmed Signed

Date 6th Sept 2001

MINUTES OF THE ONE HUNDRED AND FIFTY-FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN COMMITTEE ROOM NO.9, PARLIAMENT BUILDINGS ON THURSDAY, OCTOBER 08, 2001 AT 2.30 P.M.

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

The Hon. Simeon Mkalla, MP - Chairman
The Hon. Jimmy Angwenyi, MP
The Hon. Soita Shitanda, MP
The Hon. Mohamed Galgalo, MP
The Hon. Adan Keynan, Mp

ABSENT:

The Hon. David Mwiraria, MP
The Hon. John Michuki, MP
The Hon. Samuel Kiminza, MP
The Hon. Winston Ayoki, MP
The Hon. Harrison Adongo, MP
The Hon. Onesmus Mboko, MP

In Attendance - National Assembly

A.K. Thuranira - First Clerk Assistant

MIN.NO.632/2001 MEETING WITH THE MINISTER FOR FINANCE AND OFFICIALS OF KENYA REVENUE AUTHORITY

The Minister for Finance, Hon. Chris Okemo, MP appeared before the Committee accompanied by the following officers from the Ministry and Kenya Revenue Authority:-

Mr. John Munge	-	Commissioner General – Kenya Revenue Authority
Mr. Stanley Ngaine	-	Director/Treasury
Mr. S.K. Chebii	-	Commissioner of Customs & Excise
Mr. S. ole Kirgotty	-	Registrar of Motor Vehicles

Mr. Maurice Ochieng	-	Senior Assistant Commissioner –Kenya Revenue Authority
Mr. Stephen Karuga	-	Deputy Commissioner – Kenya Revenue Authority
Mr. Andrew Okello	-	Assistant Director – Treasury
Mr. Philip Odeny	-	Senior Assistant Commissioner – VAT
Mr. G.M. Kitenga	-	Ag. Deputy Commissioner of Customs-Kenya Revenue Authority

During the session, the Minister responded to various issues the Committee had raised in connection with the Finance Bill 2001 as follows:-

(i) **VAT ON BUSINESS PREMISES**

The Minister said that he had considered the Committee's concerns and after further consultation with other stake holders, a decision had been made to postpone implementation until appropriate modalities are worked out.

(ii) **OPTION FOR FARMERS TO FILE INCOME TAX RETURNS**

This issue was deliberated on at length. The Minister finally informed the Committee that while he fully understood the hard economic and climatic problems farmers were going through, it would not be possible to exempt them from paying tax altogether. Categorising small and large scale farmers for the purpose of fixing different taxes would also pose the problem of equitability not to mention the administrative cost of such an exercise. The Committee therefore agreed that the option should remain.

(iii) **EFFECTS OF VAT ON THE TOURISM INDUSTRY**

The committee informed the Minister that during a recent tour of various hotels at the Coast, stakeholders in the tourism Industry expressed various concerns such as:-

- Lack of funds specifically from the Industry ploughed back to improve general infrastructure and particularly the dilapidated road network.

- Subsidize on the cost of power which is both very expensive and highly irregular making the cost of doing business too prohibitive.

- Assist in the rehabilitation of water systems that were constructed over 30 years ago when the population was much lower.

- Beef up general security and particularly the tourist zones.

- Give tax concessions to enhance and promote tourism.

- Create some official ownership of the tourism industry.

- Rehabilitate and expand Malindi Airport to encourage direct flights particularly from Europe.

In response, the Minister said:-

That the government had already given incentives to the Industry by allowing importation of capital goods for refurbishment and other items completely duty free.

- That currently, the main problem with the Industry is that unlike other tourist destinations, no vigorous and aggressive marketing is being undertaken in the country. Stakeholders should pool resources and market themselves effectively.

- That the cost of power is high because of the use of crude oil. The use of other forms of energy should be encouraged.

- That the government would ensure prudent utilization of the available scarce resources to create an enabling environment for tourism to thrive.

CATERING LEVY

The Committee was informed that all the necessary arrangements had been made to transfer the collection of Catering Levy to Kenya Revenue Authority. Former employees of the Levy had been retrenched and amicable agreement had been reached for payment of their dues.

FUEL INCREASE BY KSHS 2

The Minister informed the Committee that contrary to what the public perceived, the Minister did not issue a directive to the oil industry not to increase the prices. In a liberalized economy, it would be difficult for the government to implement such a directive. The Minister was hoping that the private sector would absorb increase without passing it over to the consumers.

It was agreed that the Levy should remain.

ANNUAL FACTORY LICENCE OF KSHS.50,000

The Committee agreed with the Minister that this licence had remained in force for many years and had just been revised up-wards marginally. Besides, compared to annual turnovers posted by these companies, the amount was very minimal. To remain.

VAT REGISTRATION

The Committee was informed that VAT has a registration threshold of an annual turnover of Kshs.3.6 million. Companies or individuals posting less than the above figure don't have to register. However, registration is voluntary, and it is not in the interest of Kenya Revenue Authority to bar people from paying tax.

SECOND HAND VEHICLES

The Committee was reminded that Parliament had enacted Anti dumping law through the recommendation of the Committee to prevent massive dumping of second hand vehicles which were an environmental and safety hazard

MIN.NO.633/2001 COMMENTS ON THE REPORT OF THE COMMITTEE'S TOUR OF THE COAST PROVINCE

(i) **MEETING WITH THE KENYA INTERNATIONAL FREIGHT AND WAREHOUSING ASSOCIATION (KIFWA)**

The Committee informed the Minister that during its tour of the Coast Province, it had a session with the above association. The association had forwarded to the Minister proposed amendments to the Customs and Excise Act and the Committee would forward them to the Commissioner General for further comments.

(ii) **DUMPING OF COUNTERFEIT GOODS INTO THE MARKET**

The Commissioner General informed the Committee that very deliberate and concerted efforts are being made by Kenya Revenue Authority to net all those concerned in the dumping racket. Currently, twenty two (22) cases are in court and Kenya Revenue Authority and Kenya Bureau of Standards are working very closely on this matter.

(iii) **COMMENTS BY THE COMMITTEE**

The Committee commended Kenya Revenue Authority for a job well done. During the visit to the Port, the Committee noted with satisfaction that there was a marked improvement in revenue collection. It was hoped that further efforts would be made to seal all loopholes that lead to loss of revenue for this country.

MIN.NO.634/2001 ANY OTHER BUSINESS

The Committee was informed that the trade dispute between Kenya and Egypt over the sale of Kenya tea had been resolved.

MIN.NO.635/2001 **ADJOURNMENT**

And there being no Other Business the Chairman adjourned the Sitting until further notice.

Confirmed............signed............
(Chairman)

Date...............15th October 2001

MINUTES OF THE ONE HUNDRED FIFTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON MONDAY, OCTOBER 15, 2001 IN COMMITTEE ROOM NO. 9 AT 2.30 P.M.

PRESENT:	Hon. Simeon Mkalla, MP -	Chairman
	Hon. Onesmus Mboko, MP	
	Hon. John Michuki, MP	
	Hon. Samuel Kiminza, MP	
	Hon. Jimmy Angw'enyi, MP	
ABSENT:	Hon. David Mwiraria, MP	
	Hon. Adan Keynan, MP	
	Hon. Winston Ayoki, MP	
	Hon. Mohamed Galgalo, MP	
	Hon. Harrison Odongo, MP	
	Hon. Soita Shitanda, MP	

IN ATTENDANCE - NATIONAL ASSEMBLY

A. K. Thuranira - First Clerk Assistant

MIN. NO.636/2001 - CONFIRMATION OF MINUTES

Minutes of the previous four sittings were confirmed by the Members present and signed by the Chairman after being proposed and seconded by the following Members.

(i) Minutes of the 148th sitting held on 18 September 2001 were proposed by Hon. Mboko and seconded by Hon. Michuki.

(ii) Minutes of the 149th sitting held on 19th September 2001 were proposed by Hon. Michuki and seconded by Hon. Mboko.

(iii) Minutes of the 150th sitting held on 4th October 2001 were proposed by Hon. Mboko and seconded by Hon. Kiminza.

(iv) Minutes of the 151st sitting held on 8th October 2001 were proposed by Hon. Angw'enyi and seconded by Hon. Mboko.

MIN. NO.637/2001 - MATTERS ARISING

(i) **149TH Sitting**

Min. No. 625/2001

The Committee noted that the minutes of the 149th sitting as presented were not a true record of the proceedings of that day.

The Committee therefore directed the Secretariat to redo the minutes to include the following missing points:-

BANKING (AMENDMENT) BILL 2001

CLAUSE 9 & 10

(i) That the Bill is not a miscellaneous Amendment Bill and therefore cannot deal with both the Banking Act and the Building Societies Act.

(ii) That Building Societies all over the world have a specific role to play quite distinct from that played by banks. This proposal is therefore a major departure and should be brought to the House in a Sessional Paper.

(iii) That if this amendment Bill is passed, it would confer privileges to building societies for which the banks pay dearly due to the required initial capital out lay. If building societies want to do banking, they should follow proper procedures as stipulated in the Banking Act.

(iv) The Registrar of Societies should be called upon to implement the law as it relates to Building Societies.

(ii) **150th Sitting**

Min.No.629

The Committee further noted that the minutes of the 150th sitting did not include observations and comments made by the Committee. The Secretariat was directed to make a note for future minutes.

(iii) **151st Sitting**

Min.No.632/2001

On the issue of the effects of VAT on the Tourism Industry, the Committee responded to the Minister's comment in which he said that the Tourism Industry should undertake aggressive marketing and noted that over fifty five hotels at the Coast had already closed down. This in effect means that the Industry has no capacity to sustain itself in order to mount the marketing campaigns.

The Committee therefore recommended that issues such as insecurity, lack of infrastructure and high operational costs should be urgently addressed by the government.

MIN. NO.638/2001 - MEETING WITH THE MINISTER FOR FINANCE

The Minister for Finance, Hon. Chris Okemo, EGH, MP appeared before the Committee accompanied by the following officers from the Ministry and the Kenya Revenue Authority:

Mr. Mwaghazi Mwachofi	-	Permanent Secretary, Treasury
Mr. John Munge	-	Commissioner General, Kenya Revenue Authority
Mr. Stanley Ngaine	-	Director/Fiscal and Monetary Affairs
Mr. S. Kirgotty	-	Registrar of Motor Vehicles
Mr. Francis Thuranira	-	Deputy Commissioner, Customs/Excise
Mr. Kepher Tande	-	Commissioner/VAT
Mr. Maurice Ochieng	-	Senior Assistant Commissioner/KRA
Mr. Stephen Karuga	-	Deputy Commissioner/KRA
Mr. Andrew Okello	-	Assistant Director/Treasury
Mr. Philip Odeny	-	Senior Assistant Commissioner/KRA
Karen Nginda	-	Ag. Operations Manager
Mr. G. M. Kitenga	-	Ag. Deputy Commissioner of Customs/KRA

The Committee had called upon the Minister to discuss the following issues:

1. **The possibility of establishing a bicycle manufacturing plant in the country in order to cut down on importation costs.**

   This issue was deliberated on at length. The Minister informed the Committee:

   1. That the proposal in the Finance Bill 2001 is to zero rate the importation of bicycles and also make them duty free.

2. That there used to be bicycle manufacturing plants in the country in the 1980's prior to liberalization.

3. That upon liberalization, the market was opened up for imported knocked down kits and the local manufacturers were forced to close down due to stiff competition. It was cheaper to import since the differential tariffs had been abolished.

   In response to a question by the Committee on the cost effectiveness of a manufacturing plant in the current liberalised economy, the Committee was informed that bicycle manufacture involves very simple and minimal transfer of technology and it would involve very little value addition. The government would be forced to raise duty for imported ones to protect those locally manufactured.

   Responding to a question by the Committee on whether any research had been done to establish the level of demand for bicycles in this country, the Committee was informed that the demand was high but no specific research had been done.

2. **Duty on imported goods similar to those currently produced in Kenya**

The Minister informed the Committee that since the 1990's, the government had embarked on a programme to progressively reduce tariffs.

Whereas about ten years ago, the tariffs were above 100% the government, WTO and Comesa have been working on reducing the tariffs further to 25% by the year 2002/2003. Other trading partners such as Uganda are charging lower tariffs.

Responding to question by the Committee on what percentage of tariff Kenya would be able to compete effectively, the Committee was informed that it would depend on the competitiveness of various sectors of the economy. This would also be determined by forces such as the cost of power and the nature of the infrastructure.

In response to a question as to why Kenyan farmers cannot be protected from cheap food imported from South Africa whereas our farmers cannot access the South African Market, the Minister had the following to say:

(a) That if Kenya makes the tariffs too prohibitive, those goods will still find their way into our market through transshipment to Uganda or other trading partners and then into Kenya.

(b) That protectionism will not assist this country in terms of long term sustainability. The country needs to tackle the root causes of the problem such as power, infrastructure and commercial bank interest rates among others.

(c) With WTO rules and globalization, no country can afford to use artificial means of doing business, as it will be left out of the global market. If Kenya for instance becomes protective, it would be the looser since it is the net exporter in East Africa and also Comesa.

Responding to a Committee question as to why the country cannot access cheap power from Southern Africa, the Minister said that the South African Power Pool is very cheap – about one cent per unit but it requires very high investment. He said that without capital, those issues cannot be addressed as adequately as would be expected. The government is however pursuing the possibility of accessing that power.

The Committee further expressed concern that the above problems are perennial and permanent solutions should be sought to make the country competitive with our trading partners.

3. **<u>Penalty on failure to affix excise stamps on cigarette products – Kshs.1.5 million</u>**

The Committee was informed that the judge has discretionary powers to impose a penalty of between Kshs.1 to 1.5 million depending on the mitigating factors.

Responding to a question as to what prompted such high penalties, the Committee was informed that foreign manufactured products were finding their way into the local market duty free through tax evasion. This posed very stiff competition for the local manufacturers who were paying all the required taxes. The introduction of different stamps for the locally produced and the imported products has created some level playing ground and also reduced infiltration of products from outside the country.

MIN. NO.639/2001 - ANY OTHER BUSINESS

1. The Committee resolved to schedule a meeting with the Minister for Finance and the Governor of Central Bank of Kenya to discuss the Donde Bill.

2. The Committee was informed that the scheduled meeting with the IMF team will be on Thursday, October 25, 2001 at 9.00 a.m.

3. The Committee resolved to schedule a meeting with the Ministry of Tourism and Information on the European Union assistance to market and revive the Tourism Industry.

4. The Committee was further informed that a Chinese Parliamentary delegation of the Finance and Economic Committee would like to meet the Committee during their visit to Kenya in mid November 2001.

   The Committee agreed to take the delegation for a tour of tourist facilities at the Coast and Masai Mara. They would also meet with officials of Kenya Association of Manufacturers, Kenya Tourist Board and the Kenya Chamber of Commerce.

MIN. NO.640/2001 - ADJOURNMENT

And being no other business, the Chairman adjourned the sitting at 6.15 p.m.

Confirmed ______________________________

Date ______________________________