SECOND REPORT OF THE COMMITTEE ON ESTIMATES FOR THE FOURTH SESSION OF THE TENTH NATIONAL ASSEMBLY APPOINTED ON 23RD SEPTEMBER, 2009

Consisting of:

Mr H H Hamududu, MP (Chairperson); Mr S Chisanga, MP; Mrs E K Chitika-Molobeka, MP; Mr E M Hachipuka, MP; Mr G Lubinda, MP; Mrs S T Masebo, MP; Mr J P L Mulenga, MP; Mr A M Nyirenda, MP and Mr E M Sing'ombe, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee now has the honour to present the Second Report on their deliberations for the Fourth Session of the Tenth National Assembly.

Functions of the Committee

2.0 The functions of your Committee are:

(a) to examine the Estimates and Excess Expenditure Appropriation Bill;

(b) to report on the economies, improvement in organisation, efficiency or administrative reform, consistent with the policy underlying the Estimates, examine whether the money is well laid out within the limits of the policy implied in the Estimates;

(c) to suggest alternative policies in order to bring about efficiency and economy in administration;

(d) to carry out regular examination and scrutiny on budgets, estimates and management thereof, and conduct budget hearings; and

(e) to make recommendations and report to the House for formulation and implementation of future budget estimates.

Meetings of the Committee

3.0 Your Committee held sixteen meetings during the year under review to consider submissions from various stakeholders, including five Permanent Secretaries and the Secretary to the Treasury in the Ministry of Finance and National Planning.

Committee's Report

4.0 Your Committee's report is divided into four parts. Part I outlines the findings, observations and recommendations with regard to the Review of the Performance of Mining Taxation during the Period 2007 to 2009. In Part II, the report outlines the findings and recommendations on the quarterly review of the Government's Budgetary Performance for the 2010 fiscal year. Part III contains the observations and recommendations of your Committee on the outstanding matters from the Action-Taken Report on your previous Committee's report and Part IV is the Conclusion.

PART I

REVIEW OF THE PERFORMANCE OF MINING TAXATION DURING THE PERIOD 2007 TO 2009

5.0 Your Committee was concerned about the Government's position to maintain the current mining tax regime even when prices of copper are high. This is despite strong representations by Members of Parliament from the backbench and other stakeholders for the Government to review the mining tax regime. In order to appreciate the challenges facing the Government in reviewing these taxes, your Committee resolved to study this subject in detail. In doing so, they requested both written and oral evidence pertaining to the review of the performance of mining taxation during the period 2007 to 2009. In this regard, submissions were received from the Zambia Institute of Chartered Accountants (ZICA), Caritas Zambia collaborating with 'Publish What You Pay Campaign', the Economics Department and the School of Mines of the University of Zambia, the Chambers of Mines of Zambia (CMZ) and the Ministry of Finance and National Planning. The summary of their submissions is outlined hereunder.

Overview of the Mining Taxation Policy during 2007 to 2009

5.1 Your Committee was informed that the period under review witnessed a number of policy shifts in the mining sector. In 2000, the Government legislated tax concessions to support the privatisation of the remaining major assets of the Zambia Consolidated Copper Mines (ZCCM). The objective then was to facilitate new investment and recapitalise the mining industry which was very critical for its survival. The Government extended the concessions to Konkola Copper Mines (KCM) Limited and Mopani Copper Mines (MCM) Limited which are successor companies of the Zambia Consolidated Copper Mine (ZCCM) with whom the Government had concluded negotiations. The concessions that were given to these mining companies are set out below:

a) reduction of mineral royalty rate from 2 percent to 0.6 percent of gross value;

b) reduction of corporate tax rate from 35 percent to 25 percent and the period for loss carry forward increased up to twenty years in the case of Konkola Copper Mines (KCM) and fifteen years for Mopani Copper Mines (MCM);

c) reduction of Withholding Tax (WHT) on interest, dividends, royalties and management fees paid to shareholders and affiliates from 15 percent to 0 percent; and

d) allowing for the deduction of 100 percent of capital expenditure in the year it is incurred.

Granting of these incentives led to Konkola Copper Mines (KCM) Limited and Mopani Copper Mines (MCM) Limited enjoying favourable tax regimes compared to other mining companies. Realising this imbalance, the Government undertook a comprehensive review of the taxation of the mining sector with a view to levelling the playing field. Given that the Development Agreements (DA's) signed with KCM and MCM had locked the applicable taxes until after the stability period, the Government had to extend the concessions to all base metal mining companies by 2006 in order to level the playing field in the mining industry.

Your Committee was informed that in 2007, the Government again revised the tax regime for the mining sector. This decision was supported by the rising metal prices and the need for the country to benefit from increased earnings from the mining companies.

However, because of the stability clauses in the Development Agreements, the Government decided to renegotiate the contracts so that there was mutual consent by contracting parties on the new tax regime. At that point, the understanding was that the Government would proceed to negotiate with the mining companies on the basis of the legislated 2007 fiscal regime. The Minister of Finance and National Planning then constituted a team from the Government to renegotiate the Development Agreements with the mining companies. The team, with the assistance of some international consultants, examined the revenue impact of the implementation of the 2007 tax regime. After careful examination of the said regime, it was noted that its implementation would bring very minimal revenues to the Treasury because it had some inherent deficiencies such as the following:

(a) the 100 percent capital allowance or immediate expensing of capital expenditure transfers too much risk to the Treasury and leads to highly variable revenues to the Government; this makes fiscal planning difficult;

(b) the non-responsiveness of the tax system to price and, therefore, non-capture of windfall profits that are due to market forces and not due to the abilities of the company;

(c) the absence of a mechanism for the Government to participate in economic rents in the mining sector;

(d) the lack of reference prices with respect to related party transactions, which makes compliance much more difficult than necessary; and

(e) the mechanism of hedging in the mining profit leads to non-mining business activities affecting mining profits.

As a result of these deficiencies, the 2007 tax regime would not have given maximum benefit to Zambia. The re-negotiating committee, therefore, decided that the 2007 tax regime be strengthened by including additional elements and putting in place a new regulatory framework. In this regard, in 2008, a new fiscal regime was introduced as set out hereunder:

(a) a corporate tax rate of 30 percent including, a variable profit tax of up to 15 percent on taxable income, which is above 8 percent of the gross income;

(b) a windfall tax to be triggered at different price levels for different base metals; for copper, the windfall tax was 25 percent at the copper price ranging from US $2.50 per pound to US $3.00 per pound, 50 percent at the price between US $3.00 per pound and US $3.50 per pound, and 75 percent for the price above US $3.50 per pound;

(c) mineral royalty was increased from 0.6 percent to 3 percent;

(d) withholding tax on interest, royalties, management fees and payments to affiliates or subcontractors in the mining sector was maintained at the rate of fifteen percent while withholding tax on dividends was reduced to 0 percent;

(e) hedging, as a risk management mechanism, was treated as a separate activity from mining and was, therefore, taxed separately;

(f) capital allowance was reduced from 100 percent to 25 percent per annum;

(g) a "reference price" was introduced for purposes of assessing mineral royalties and any transaction for the sale of base metals, gemstones or precious metals between related or associated parties; the reference price is the price tenable at the London Metal Exchange or any other commodity exchange market recognised by the Zambia Revenue Authority (ZRA); and

(h) capital expenditures on new projects were to be ring fenced and only become deductible when the projects start production.

The 2008 mining tax regime was premised on the fact that the country should get a fair return on its mineral resources and that the mining sector should still remain viable for the investor. However, the 2008 tax regime was withdrawn by the Government in 2009.

Government's Arguments for the Withdrawal of the 2008 Tax Regime

5.2 Your Committee was informed that during the implementation of the 2008 tax regime, it became apparent that this tax regime was very punitive to the mining companies and, as such, it was a disincentive to investment. In order to address these challenges and also taking cognisance of the problems that the mining companies faced in the wake of the global financial crisis, the Government decided to change the mining fiscal regime in 2009 as outlined hereunder:

(a) removal of windfall tax and retaining of the variable profit tax to capture any windfall gains that might arise in the sector;

(b) allowing hedging income to be part of mining income for tax purposes; and

(c) increasing capital allowance to 100 percent as an investment incentive.

Your Committee also learnt that the decision to introduce the new tax regime was necessary because it became apparent during implementation that some mining companies would end up paying higher taxes on an annual basis beyond what was projected. This was, mainly, because of the escalating cost of production, which was unprecedented and was not assumed when

developing the 2008 mining tax regime. It was argued that the cost of petroleum products increased by more than 100 percent while labour costs increased by about 50 percent. This adversely affected the mining companies, particularly, with regard to windfall tax which was based on the selling price and was triggered at US$2.50 per pound without taking into account the cost element. When metal prices reached US$4.00 per pound, it meant windfall tax would be triggered at the higher rate of 75 percent, even when some of the mining companies could not have made profits as expected due to the escalating cost of production.

The Government realised that the 2008 fiscal regime for the mining sector had not only affected the ongoing mining operations, but also future investments and expansion programmes rendering it to be punitive. It was demonstrated that the marginal tax rates in some instances were as high as 107.1 percent. This meant that as companies got revenues of US$1 from increased prices above US$3.50, they had to pay US$1.07 in taxes. It was argued that this was clearly not the intention of the Government and demonstrated that the 2008 tax system with windfall taxes could not attract investment.

As a result, prospecting investors withheld their investments while new investors abandoned their plans altogether. It was further explained that Mopani Copper Mines (MCM) Ltd suspended investments which should have extended the life span of the mine.

In addition, your Committee was informed that the formulation of windfall tax did not take into account the cost structure of the different mines and, therefore, lacked the basic tax principle of equity. Given that Zambia has two types of mines, that is open pit and underground, the design of the windfall tax meant that the tax system was more punitive to underground mines, which are high cost compared to open-pit mines. Therefore, once the cost structure is taken into account in designing windfall taxes, there is a very thin line between the variable profit tax and windfall tax. This is the reason that led to the Government's decision to do away with windfall tax and remain with the variable profit tax.

Stakeholders' Concerns on the Mining Tax Regime

5.3 In their interaction with various stakeholders, your Committee received concerns on the 2009 mining tax regime. Some of the concerns raised are highlighted below.

(a) ***Profit Based Taxes Vs Revenue Based Taxes***

Various stakeholders were concerned about the Government's insistence on the application of profit-based taxes which are targeted at profits by the mining firms. They explained that profit based taxes, such as the variable profit tax, take into account the cost of production. They argued that the application of these taxes would not benefit the country because it was difficult to ascertain costs associated with mining activities. In addition, the Zambia Revenue Authority (ZRA) lacks the capacity to monitor and assess costs in mining companies for tax purposes. This makes it easier for the mining companies to hide costs and avoid tax. A further disadvantage was that it might take a long time before firms could make a profit and, as such, the Government would not receive tax revenues immediately. Considering the complex nature of mining operations, the lack of capacity created room for possible tax evasion through management fees, shareholder loans and transfer pricing.

On the other hand, the revenue based taxes such as windfall tax and mineral royalty tax, which are targeted at sales revenue, are preferred. They explained that these types of taxes are

payable whenever the firm earned revenue, whether a profit is made or not. Lastly, it was argued that the administration of revenue-based tax is easier than the highly technical profit-based tax. Therefore, it is difficult for firms to avoid these taxes.

(b) ***Inadequate Capacity to Undertake Tax Audit of Mining Companies***

Several stakeholders were concerned about the limited capacity by tax authorities to accurately assess the costs and to undertake tax audit of mining firms. This gives mining companies latitude to avoid tax through management fees, shareholder loans and transfer pricing. Stakeholders were, particularly, concerned that relying on the variable profit tax would make it difficult for the tax authorities to ascertain the correct amount of taxes because it required that the costs are ascertained before imposing tax.

(c) ***Generous Incentives***

A concern was raised regarding the generous incentives granted to the mining companies. It was feared that, being a wasting asset, minerals would soon be depleted while leading to environmental degradation. Moreover, it was argued that the primary focus of investors is not tax incentives, but the ease of doing business and a favourable investment climate. In this regard, they strongly advised on the need to come up with uniform taxation.

(d) ***Non Compliance* with Mining Tax**

Stakeholders were concerned about the non compliance by some mining companies with the mining tax regime of 2008, which ushered in the windfall tax and removed the incentives provided for under the Development Agreements (DAs). They argued that Zambia was a sovereign nation and, as such, any persons or body corporate required by law to pay taxes should be compelled to do so. It was regretted, therefore, that some companies refused to pay the tax with impunity.

(e) ***Inconsistency with Mining Tax***

The shift by the Government from one tax regime to another within a short period of time demonstrated that the tax policy in Zambia was unpredictable. It was explained that this might work against the promotion of Zambia as a favourable investment destination.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

5.4 After careful consideration of the various submissions from the witnesses, your Committee wishes to make the observations and recommendations outlined hereunder.

(a) ***Review of the Mining Incentives***

Your Committee observes that mining companies receive generous incentives while other sectors such as manufacturing do not. It dispelles the notion that granting incentives to the mining companies will attract and retain investors. It contends that Zambia has comparative advantage in copper and only needs to create a predictable and favourable investment climate.

In this regard, your Committee recommends that, as a long-term plan, the Government should review the incentives provided to the mining companies and create a favourable investment climate by reducing the cost of doing business in Zambia, such as improving the roads, railway and telecommunications infrastructure.

(b) ***Reinstate the 2008 Mining Taxation Regime***

Your Committee is dismayed by the Government's decision to amend the 2008 mining tax regime, which effectively removed the windfall tax while retaining the variable profit tax. It is aware that the decision to introduce the 2008 mining tax regime was arrived at after thorough studies were conducted by technocrats in the Ministry of Finance and National Planning. Therefore, its removal amounts to disregarding the findings of the technocrats and a waste of resources. Your Committee is also concerned that the decision will not benefit the Zambian people because of the complex nature of the mining tax regime, which makes it difficult for tax authorities to accurately ascertain the costs and undertake tax audits. In addition, most of the mining companies are large multinationals with various subsidiary companies giving them the latitude to hide costs through transfer pricing.

In this regard, your Committee recommends that the 2008 mining tax regime should be restored to ensure that Zambians benefit from their resources. The revenue from mining tax should be used to improve the road, railway and telecommunication infrastructure. It should also be used to mitigate against environmental degradation.

(c) ***Capacity Building***

Your Committee observes that the Zambia Revenue Authority (ZRA) does not have the capacity to accurately conduct tax audits of the mining companies. This is because of the specialised nature of, and the complex processes involved in, mining. This creates room for these companies to avoid tax through transfer pricing.

Your Committee, therefore, recommends that capacity should be built in the Zambia Revenue Authority (ZRA) in order for them to conduct accurate tax audits of mining companies.

(d) ***Non Compliance with the Windfall Tax***

Your Committee observes that some mining companies did not pay the windfall tax to the Government even when they were obliged by law.

Your Committee recommends that the Government should enforce the law requiring all companies to pay taxes. It urges the Government to take advantage of the goodwill of the Zambians and the multilateral cooperating partners such as the International Monetary Fund (IMF) and the World Bank (WB) to impress on the mining companies to pay windfall tax.

(e) ***Unpredictable Tax System***

Your Committee observes that the Government has regularly amended the tax regime which might discourage investors.

Your Committee, therefore, recommends that the Government should come up with a stable and predictable tax regime.

PART II

REVIEW OF THE BUDGETARY PERFORMANCE IN THE FIRST QUARTER OF 2010

6.0 One of the mandates of your Committee is budget tracking. This requires ascertaining that funds appropriated by Parliament are used for purposes for which they were intended. In order to assess the implementation of the 2010 national budget, your Committee resolved to review the budgetary performance in the first quarter. The exercise provided an opportunity for your Committee to appreciate the levels of performance of both revenue and expenditure programmes during the first quarter of the year. Further, it assisted your Committee appreciate the challenges faced in the implementation process. Selected Ministries were considered, namely, Home Affairs (MHA), Health (MoH), Communications and Transport (MCT) and Works and Supply (MWS). Your Committee also reviewed the budget performance of the Ministry of Local Government and Housing (MLGH), including Mpongwe District Council and Ndola City Council. Below is a summary of the findings of the review of the budgetary performance of the first quarter of the 2010 for selected Ministries.

Overview of the Revenue Performance

6.1 Your Committee was informed that the objective for the period January to March, 2010, was to attain an overall fiscal balance of K469.7 billion with total revenue and grants estimated at K3,613.4 billion and total expenditures at K4,083.0 billion. In this regard, the overall fiscal balance is revenue plus grants less expenditures. By the end of March, 2010, however, preliminary figures indicated that total revenues and grants amounted to K2,959.5 billion while total expenditures amounted to K3,260.7 billion resulting in a deficit of K301.2 billion. Thus, the overall deficit was below the target by K168.5 billion.

Your Committee was informed that the total revenue and grants for the first quarter amounted to K2,959.5 billion. The collection was below the target of K3,613.4 billion by K653.9 billion or 18 percent.

Tax revenues underperformed by K291.0 billion or 11.2 percent while non-tax revenues under performed by K208.7 billion or 64.2 percent. Sector Budget support also under performed by 98.4 percent with receipts amounting to K0.9 billion against the projection of K53.3 billion. However, General Budget Support receipts were K521.5 billion and above the projected receipt of K323.0 billion by K198.5 billion or 61.5 percent.

Your Committee was informed that the total tax revenue collections amounted to K2,312.5 billion against a target of K2,603.5 billion and were K291.0 billion or 11.2 percent below target. It was explained that all tax types recorded lower than projected outturn. The under performance of Income Tax, Value Added Tax (VAT) and Customs and Excise Duties was mainly due to non-payment of the third quarter provisional taxes by taxpayers on company tax, a high level of VAT refunds in the first quarter which were more than actual domestic VAT collection and an accumulation of debt by large taxpayers coupled with a general delay in credit settlements by importers with credit facilities, respectively.

Your Committee was informed that during the first quarter, it was projected that a total of K684.6 billion would be received in terms of General Budget Support, Sector Budget Support

and Project grants. Of this amount, K323.0 billion was to come as General Budget Support, K53.3 billion as Sector Budget Support and K308.23 billion as project grants.

Total General Budget Support grants received amounted to K521.5 billion and were above the programmed level of K323.0 billion by K198.5 billion or 61 percent. On the other hand, receipts for Sector Budget Support was only K0.9 billion against the profile of K53.3 billion. This was mainly on account of the delay in the release of the profiled amounts by Cooperating Partners.

On expenditure performance, your Committee was informed that preliminary data indicated that releases for the first quarter of 2010 amounted to K3,260.7 billion and were below the programmed level of K4,083.0 billion by 20.1 percent. It was further explained that this performance was mainly attributed to lower than programmed releases on both foreign and domestically financed expenditures. Domestically financed expenditures at K3,259.8 billion were 10.8 percent below the target of K3,655.6 billion on account of lower than programmed releases to personal emoluments, use of goods and services, interest payment, social benefits, other expenses and assets.

Your Committee was informed that of the total releases, current expenditure releases accounted for 86.9 percent while asset releases accounted for 13.1 percent. Current expenditure releases in the first quarter amounted to K2,832.1 billion and were below the target of K3,402.9 billion by 16.8 percent.

Further, of the first quarter releases, personal emolument accounted for 48.9 percent, 22.4 percent for use of Goods and Services; and 14 percent for Grants and Other Payments. The balance of 14.7 percent was utilised as payments for interest, social benefits, liabilities and other expenses.

With regard to assets, disbursements were at K428.6 billion compared to the projected figure of K680.1 billion, thus representing a deficit of 37.0 percent. This shortfall was mainly attributed to lower than projected releases of domestically financed non financial assets, financial assets and foreign financed non-financial assets. Releases towards Government roads stood at K193.2 billion against a target of K123.7 billion while ordinary Non-Financial Assets received K220.8 billion compared to a target of K280.7 billion.

Under the Non-Financial Assets category, items which were under-funded include the Rural Electrification Programme and ordinary non-financial assets mainly on account of non disbursement of some Ministries' profiles due to inadequate revenues. On the other hand, GRZ Roads were over-funded by 18 percent and this was in order to hasten the implementation of the Road Infrastructure Development and Rehabilitation Programme.

At the close of the first quarter of 2010, the overall balance stood at a deficit of K301.2 billion which was slightly lower than the programmed deficit of K469.7 billion. The budget deficit was covered by financing from both domestic and foreign sources at K331.3 billion and K17.5 billion, respectively.

REVIEW OF THE FIRST QUARTER OF THE 2010 BUDGET FOR THE MINISTRY OF HOME AFFAIRS

6.2 Your Committee undertook a review of the first quarter of the 2010 budget for the Ministry of Home Affairs as set out below.

(a) ***Revenue Performance***

The revenues collected by the Ministry of Home Affairs were mainly through the Departments of Immigration and Passports. During the period under review, the Department of Immigration collected below target by about K2.3 billion or 12 percent, thereby affecting the overall revenues. The impact of the global financial crisis and the weather conditions resulted in a decline in the number of tourists and other visitors coming to Zambia. This was because the Immigration Department depended on tourists and other visitors for its business.

(b) ***Expenditure Performance***

In the first quarter (January to March, 2010), the Treasury released K71.18 billion against the institution's profiled allocation of K82.12 billion for non-personal emolument programmes. This was partly attributed to the non-capture of releases to the Immigration Department, which is a beneficiary of Appropriation-In-Aid, and less than anticipated revenues.

(c) ***Programmes Performance***

Table 1 highlights the status of the major infrastructure projects under the Ministry of Home Affairs. In the area of prison infrastructure development, K6.134 billion has been released against the budgetary provision of K17.67 billion.

Table 1: Ministry of Home Affairs Project Status

MINISTRY OF HOME AFFAIRS			
HEADQUARTERS			
Programme: 08 Prisons Infrastructure Development			
	Budget	**Releases (as at 30 April 2010)**	**Balance**
001 Completion of Mwembeshi Prison	4,670,000,000	1,335,000,000	3,335,000,000
002 Construction - Livingstone	1,000,000,000	500,000,000	500,000,000
003 Construction - Luwingu	2,500,000,000	250,000,000	2,250,000,000
004 Departmental Housing Projects	4,500,000,000	2,299,444,743	2,200,555,257
005 General Prison Rehabilitation	1,500,000,000	1,250,000,000	250,000,000
006 Construction - Kalabo	2,500,000,000	0	2,500,000,000
007 Sinking Boreholes	1,000,000,000	500,000,000	500,000,000
Total	**17,670,000,000**	**6,134,444,743**	**11,535,555,257**

Your Committee was further informed that the contracted works at Mwembeshi were expected to be completed by 30 August, 2010, whilst those at Livingstone would be carried forward into

2011 due to budgetary constraints. Works in Luwingu and the construction of houses for prison staff would be supervised by technical experts from the Ministry of Works and Supply and not private contractors.

With regard to infrastructure development under Immigration, your Committee was informed that the Treasury released K2.922 billion against the budgetary provision of K6.490 billion as set out in Table 2. The projects were currently supervised by the respective provincial administrations.

Table 2: Ministry of Home Affairs Project Status

MINISTRY OF HOME AFFAIRS HQS			
Programme: 13 Immigration Border Control Development			
	Budget	**Releases**	**Balance**
001 Construction of Kamapanda Border Control	805,000,000	402,500,000	402,500,000
002 Construction of Kilwa Island Border Control	755,000,000	188,750,000	566,250,000
003 Construction of Kambimbi Border Control	800,000,000	400,000,000	400,000,000
004 Construction of Namafulo Border Control	536,125,000	134,031,250	402,093,750
005 Construction of Sindamisale Border Control	636,125,000	318,062,500	318,062,500
006 Construction of Kanyala Border Control	636,125,000	318,062,500	318,062,500
007 General Rehabilitation	936,131,049	468,065,524	468,065,525
008 Construction of Imusho Border Control	636,125,000	318,062,500	318,062,500
009 Construction of Immigration Headquarters Offices	550,000,000	275,000,000	275,000,000
010 Construction of Vubwi Border Post	100,000,000	50,000,000	50,000,000
011 Construction of Chikalawa Border Post	100,000,000	50,000,000	50,000,000
Total	**6,490,631,049**	**2,922,534,274**	**3,568,096,775**

Other selected programmes included the construction of a National Registration Office in Kapiri Mposhi, the construction of a drug rehabilitation centre and the rehabilitation of the nine records centres in the nine provinces. The budgetary performance of the selected programmes is outlined in Table 3:

Table 3: Ministry of Home Affairs Project Status

MINISTRY OF HOME AFFAIRS			
HEADQUARTERS	**Budget**	**Releases**	**Balance**
Programme: 09 National Registration Passport and Citizenship	2,163,543,682	1,000,000,000	1,163,543,682
Programme: 10 Construction of Drug Rehabilitation Centres	1,947,000,000	531,457,868	1,415,542,132
Programme: 12 National Archives – Rehabilitation and Construction	432,708,736	342,346,236	90,362,500
Total	**4,543,252,418**	**1,873,804,104**	**2,669,448,314**

REVIEW OF THE FIRST QUARTER OF THE 2010 BUDGET FOR THE MINISTRY OF HEALTH

6.3 Your Committee undertook a review of the first quarter of the 2010 budget for the Ministry of Health as set out hereunder.

(a) **Expenditure Performance**

Your Committee was informed that the total approved budget to the Ministry of Health for the fiscal year 2010 was K1, 371.7 billion. Of this amount, a total of K366.1 billion, representing 27 percent of the total budget for the Ministry was profiled to be released in the first quarter of 2010. However, by the end of the first quarter, K289.1 billion or eighty-one percent of the targeted amount for the quarter was released. The shortfall of nineteen percent was mainly attributed to the non release of the March, 2010, profile to the Ministry due to revenue challenges.

(b) **Infrastructure Development**

Your Committee was informed that a total of K158.3 billion was approved for infrastructure development in 2010 and, of this amount, K36.2 billion was projected to be released during the period January to March 2010. The releases at K21.1 billion were below the profiled amount by 42 percent on account of revenue challenges experienced in the first quarter. During the period under review, releases under the infrastructure development programme included construction of hospitals at K9.4 billion, construction of health posts at K2.7 billion and rehabilitation and extension of health facilities at K3.4 billion and were below the profiles by 40 percent, 29 percent and 50 percent respectively.

During the period under review, the Ministry continued with the construction of district hospitals, namely, Chiengi, Samfya, Mpulungu, Nakonde, Chama, Chadiza, Choma, Shang'ombo, Lumwana, Lufwanyama, Kaoma, Isoka, Kapiri-Mposhi, Mumbwa, Serenje, Mufumbwe and Kaputa. These district hospitals had been under construction since 2005.

In addition, construction of the Lusaka District Hospital at the Chainama Hills Hospital premises through a grant from the Government of the People's Republic of China was continuing. Construction of this hospital commenced in October, 2009 and was projected to be completed in February, 2011. It was expected that congestion at UTH would significantly reduce once the construction of this hospital was completed.

Further, construction of health posts countrywide continued with a total of fourty-two constructed in 2008 and eighteen commenced in 2009. This brought the total number of health posts constructed to 231 since the time that the health post programme commenced in 1999.

Your Committee was informed that in order to decongest the University Teaching Hospital and Ndola Central Hospital, the Ministry of Health was upgrading five health centers in Lusaka District through the construction of theatres. The health centres are Chipata, Chawama, Chilenje, Matero and Kanyama. As for Ndola, the Ministry was constructing a theatre at Lubuto health centre.

(c) **Universal Access to HIV and AIDS Treatment**

Your Committee was informed that during the period January to April, 2010, the Treasury released an amount of K0.5 billion compared to the profiled amount of K0.4 billion. It was explained that Zambia had made tremendous progress towards achieving set targets on universal access to HIV and AIDS treatment since the introduction of the free anti-retroviral therapy (ART) in public health facilities in 2005. As of December, 2009, a total of 283,863 patients were on ART out of the 359,391 patients requiring treatment in 2009. This represented seventy-nine percent of people requiring ARV treatment in 2009. Zambia's universal access target for ART is to reach at least 80 percent of those in need by 2015.

(d) **Drugs and Medical Supplies**

Your Committee was informed that under the Drugs and Medical Supplies Programme, an amount of K42.7 billion was profiled to be released during the period under review and, of this amount, K22.2 billion was released, representing a deficit of 48 percent.

(e) **Training of Health Staff**

On the training of health staff, your Committee was informed that total releases towards the training of health personnel was K5.6 billion compared to the projection of K5.4 billion. These funds were targeted to health training institutions as part of an on-going programme of building capacity and these training institutions churn out about 1,700 graduates for the health sector every year.

REVIEW OF THE FIRST QUARTER OF THE 2010 BUDGET FOR THE MINISTRY OF COMMUNICATIONS AND TRANSPORT

6.4 Your Committee undertook a review of the first quarter of the 2010 budget for the Ministry of Communications and Transport.

(a) **Revenue Performance**

The main source of revenue for the Ministry of Communications and Transport is the Road Transport and Safety Agency, which accounts for 99 percent of total revenues collected. The other sources collectively account for just 1 percent. During the first quarter, the Ministry collected about 13 percent over the target mainly as a result of good performance by the Road Transport and Safety Agency (RTSA). It was reported that the revenue collected by RTSA was earmarked for the road sector and formed part of the Road Fund.

(b) **Expenditure Performance**

Your Committee was informed that during the period January to April, 2010, the Ministry of Communications and Transport requested the release of funds amounting to K44.1 billion in order to facilitate implementation of its various programmes and activities. A total of K27.1 billion was, however, released resulting in a shortfall of 38 percent.

The shortfall was mainly with regard to the New Railway Development Programme and the Airports Rehabilitation Programme, for which the substantial funds profiled for February and April, 2010, respectively, were not released. This was on account of the need to rationalise the

available revenues during the period under review. There were also revenue shortfalls experienced during the first quarter of 2010 and this restricted the ability of the Ministry of Finance and National Planning to fully honour all profiles as submitted.

(c) **Programme Performance**

Your Committee was informed that the Ministry of Communications and Transport undertook a number of major activities and programmes through its various departments during the first quarter of 2010 as highlighted below.

(i) ***Tripartite ministers' meeting on transport and trade facilitation***

The Ministry facilitated a tripartite ministers' meeting on Transport and Trade Facilitation between the Democratic Republic of Congo, Namibia and Zambia.

(ii) ***Procurement of dredging machines and a passenger ferry boat***

The Ministry, under Maritime and Inland Waterways, procured dredging machines and a passenger ferry boat.

(iii) ***Meteorological observation and establishment of marine meteorological stations***

Your Committee was informed that approximately 99 percent of the funds profiled during the period under review were released. These are expected to facilitate continued works at the Mpulungu and Samfya Marine Stations for which the time frame for completion was two years.

With the 2010 budget allocation, the Ministry of Communications and Transport was focusing on the construction of staff houses at Mpulungu. At Samfya, the provision would go towards the procurement of equipment and staff houses as the office block which was already under construction and was expected to be completed by July, 2010.

(iv) ***Establishment of new meteorological stations in farming blocks (Nansanga and Kafulafuta)***

Your Committee was informed that the total funds amounting to K500.00 million were released in the first quarter of 2010 to facilitate the procurement of vehicles for monitoring and evaluation. A further K1.4 billion was released in April, 2010, and was expected to facilitate required works during the rest of the year.

(v) ***Construction of Mansa control tower***

The construction of the Mansa Control Tower commenced in 2007 with the award of the contract to Nelkan Contractors at the contract sum of K1.3 billion in April, 2008. The project has now been completed.

(vi) ***Mansa terminal building project***

The project to construct a terminal building at Mansa Airport commenced in 2009. The construction of the terminal building had progressed and was above ring beam level.

(vii) ***Serenje and Senanga aerodrome project***

The project to rehabilitate the Serenje and Senanga Aerodromes would commence during the second quarter of 2010. However, the feasibility studies had already commenced.

(viii) **Construction of Chipata-Mchinji Railway**

During the first quarter of 2010, the Government continued with the construction of the Chipata-Mchinji Railway with works being done on the three kilimetres of the shunting yard line and the terminal building. However, the 2010 allocation of K5.0 billion was yet to be released to the Ministry of Communications and Transport.

(d) **Tour of the *Kasaba Bay Runway Project***

Your Committee undertook a verification tour in relation to the Government's budgetary performance for the Ministry of Communications and Transport during the first quarter of the 2010 financial year. In particular, they visited Kasaba Bay Runway Project which commenced during the first quarter of 2010. The project involved extension of the runway from the existing 1,500 metres to 2,100 metres which will enable the handling of aircraft of the size of a Boeing 737-800. The project was expected to be completed by December, 2010.

The findings of your Committee are highlighted hereunder.

(i) The total estimated sum for the completion of project at Kasaba Bay is K86 billion.

(ii) The budget for 2010 is K5 billion and only K1 billion has been released.

(iii) The funding for 2009 of K10 billion to the project was varied from Solwezi and Kasama Airports budgets.

(iv) The works are likely to be washed away by the rains if the project is not completed before the onset of the rain season, thus derailing the project.

(v) The transformation of the Kasaba Bay Airport into an international airport will require corresponding infrastructure such as accommodation for airport staff, health and education facilities.

(vi) Kasaba Bay is in the Game Park Area and as such, might not warrant the development of an international airport. The huge planes, such as a Boeing 737-800, envisaged to land in the area might disturb its ecology due to noise.

Part of the runway being constructed at Kasaba Bay

(e) ***Tour of Kasama Airport***

Your Committee was also privileged to tour the Kasama Airport. The contract to design the runway pavement, produce engineering drawings and contract documents for the Kasama Airport Project was awarded in 2009. The consultant completed the drawings within the first quarter of 2010, which have been approved by the Department of Civil Aviation and are ready for construction.

The findings arising from the tour are highlighted hereunder.

(i) The terminal building which has been built to accommodate both local and international passengers was completed in December, 2009, at a total cost of K2.4 billion.

(ii) The runway is in a deplorable state and works have not started.

(iii) Funding meant for Kasama and Solwezi airports amounting to K10 billion was varied for the construction of Kasaba Bay International Airport.

(f) ***Road Transport and Safety Agency (RTSA) in Nakonde***

Your Committee was privileged to tour the Road Transport and Safety Agency (RTSA) offices in Nakonde and its findings are highlighted hereunder.

(i) RTSA in Nakonde does not have a proper building for an office. They are currently operating in a make-shift structure (container).

(ii) RTSA offices for the Northern Province are only found in Nakonde and Kasama.

REVIEW OF THE FIRST QUARTER OF THE 2010 BUDGET FOR THE MINISTRY OF WORKS AND SUPPLY

6.5 Your Committee undertook a review of the first quarter of the 2010 budget for the Ministry of Works and Supply as set out hereunder.

(a) **Revenue Performance**

The main source of revenues for this Ministry was the sale of personal-to-holder vehicles and the supply of printing services under the Government Printing Department, which collectively contributed about 88 percent of its total revenues. During the first quarter of 2010, the demand for printing services declined due to the general slowdown of economic activities in the country. As a result, the Ministry registered an under-performance of 44 percent as the outturn was K744.6 million compared to the projection of K1.3 billion.

(b) **Expenditure Performance**

Your Committee was informed that the Ministry projected to spend K61.5 billion in the first quarter of 2010 on various programmes and projects in the budget. Against this projection, the Treasury released K52.2 billion to the Ministry, leaving a balance of K9.3 billion. The under funding experienced in the first quarter was due to revenue shortfalls experienced during this period.

(c) **Programme Performance**

Some of the major projects and programmes under the Ministry of Works and Supply which received funding from the Treasury during the first quarter are set out hereunder.

(i) ***Construction of new office block in Lusaka***

The construction of new office blocks received a total funding of K7.2 billion against the total profiled figure of K9.1 billion, representing a deficit of K1.9 billion. It was explained that the total shortfall was as a result of revenue constraints in the period under review.

(ii) ***Maintenance of VIP houses and other leaders***

The programme for the maintenance of houses received a total funding of K1.4 billion against the total profiled amount of K1.3 billion. This showed an over funding of K0.1 billion which was necessitated by the urgent need to rehabilitate houses which were in a deplorable state.

(iii) ***Public buildings infrastructure management – state house renovations***

During the period under review, a total of K2.1 billion was released towards the Public Infrastructure Management compared to the total profiled amount of K2.6 billion.

(d) **Tour of One Stop Border Post (OSBP) in Nakonde**

In order to verify expenditure on the construction of the One Stop Border Post (OSBP), your Committee toured the Zambia Revenue Authority offices in Nakonde. The findings of your Committee are highlighted hereunder.

(i) The customs border collects an estimated amount of about K40 billion per month.

(ii) The construction of the One Stop Border Post (OSBP) has reached an advanced stage. The building will accommodate both ZRA and RSTA offices.

(iii) At the time of the tour, there was communication that the construction of the border post would be suspended because of limited funds.

(iv) The cost implication of suspending the construction of the One Stop Border post is high.

(v) The Mpika-Nakonde road is in a deplorable state thereby discouraging importers to use the Border.

(vi) The border is porous and a lot of revenue is being lost.

Part of the One Stop Border Post building under construction in Nakonde

REVIEW OF THE FIRST QUARTER OF THE 2010 BUDGET FOR THE MINISTRY OF LOCAL GOVERNMENT AND HOUSING

6.6 Your Committee considered the quarterly review of the budgetary performance of the Ministry of Local Government and Housing. Your Committee also reviewed the impact of the Government's decision to withdraw grain levy on the performance of selected councils. In order to get the full picture of the impact of the decision to withdraw the grain levy, your Committee undertook a comparative analysis of two councils, namely, Mpongwe District Council, which depends on grain levy for the major part of its revenue, and Ndola City Council which does not.

(a) **Expenditure Performance**

Your Committee was informed that the Ministry of Local Government and Housing projected to spend K82.5 billion in the first quarter of the year on various programmes and projects using domestic resources. Against this projection, the Treasury released K48.6 billion to the Ministry leaving a balance of K34.0 billion. This under funding experienced in the first quarter was due to revenue shortfalls during the review period.

(b) **Programme Performance**

Some of the major projects and programmes under the Ministry of Local Government and Housing which received funding from the Treasury during the first quarter of the year are outlined below.

(i) ***Water supply and sanitation***

Your Committee was informed that under the water supply and sanitation programme, several national urban and peri-urban water supply projects progressed well in the first quarter. Some of the key milestones attained in the quarter included a 65 percent completion of the construction of commercial utility offices for Lukanga Water and Sewerage Company and the completion of a business investment plan for Luapula Water and Sewerage Company. In Western Province, the tender for the construction of water supply and sanitation works in Mongu was issued in the print media and rehabilitation works were expected to commence by July, 2010.

(ii) **Markets Development Programme**

Under the Urban Markets Development Programme, several outstanding projects were concluded by the end of the first quarter using funding from the European Union (EU) and some Government resources that were released in 2009.

(c) **Impact of the Removal of Grain Levy on Councils**

Your Committee was informed that in September, 2009, the Government abolished the collection of crop levies by councils due to the escalating levels of inefficiency associated with the levy. Following this decision, an assessment of the revenues foregone by each affected council was immediately undertaken. Using the 2009 budget submissions from all councils, it was deduced that a total of K16.2 billion was projected for collection as crop levy revenues by the sixty-two collecting councils. The Government, therefore, resolved to set aside K16.6

billion in the 2010 budget to be used as a crop levy compensation grant to all the sixty-two affected councils. The grant would be disbursed to the affected councils in accordance with actual revenue collections, as budget projections on crop levy have always been higher than actual collections in all collecting councils.

Since the crop levy has always been collected by councils after the end of the rainy season, the Government planned to disburse this grant during the second or third quarters of 2010 in order to forestall disruptions in the councils' cash-flow patterns which existed prior to the removal of the levy. Further, the budget items on which these funds were to be spent had been left to the discretion of the councils as the crop levy compensation grant would not be part of the conditional grants which Central Government was already giving to councils.

(i) **Ndola City Council**

Your Committee was informed that Ndola City Council had not been collecting crop levy revenues prior to the removal of the levy and was, therefore, not expected to benefit from the disbursement of the crop levy compensation grant in 2010.

(ii) **Mpongwe District Council**

Your Committee was informed that farming was the main economic activity in the district and that the abolishment of grain levy which was a tax on buying crops from the district had adversely affected the operations of the Council. In this regard, service provision had been affected in that the initial proposed allocation of K1,218,915,000 had been reduced to K526,157,200, which is 43 percent of the initial council budget for 2010. It was explained that 57 percent of service provision activities planned for 2010 would not be done and this would adversely affect the community.

In addition, failure by the Council to pay workers would de-motivate them and this would in turn affect the performance of the Council. This would also result in the Council accumulating debts to utility companies and pensions.

Your Committee was informed that removal of the grain levy has led to the following challenges:

(i) agriculture was the major economic activity in the district and exemption of traders from paying grain levy has left the district with limited resources;

(ii) the council has become wholly dependant on support from the Central Government;

(iii) the council has started accumulating debt to workers in terms of salaries and wages and also to other institutions due to inadequate resources; and

(iv) the releases of Government grants have been inadequate and have not been timely.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

6.7 After careful consideration of various submissions on the quarterly review of the budgetary performance of the Ministries of Home Affairs (MHA), Health (MoH),

Communications and Transport (MCT), Works and Supply (MWS) and Local Government and Housing (MLGH), your Committee notes that most challenges besetting the Ministries regarding budgetary performance are similar. However, there are some that are unique to certain Ministries. In view of this, the observations and recommendations of your Committee are divided into general and specific ones as outlined below.

(a) **General Observations and Recommendations**

(i) **The Budget Bill**

Your Committee observes that the Government assured the House that it would introduce the Budget Bill during the July sitting of the House. Your Committee commends the Government for this decision as it will go a long way in enhancing the budget process and insuring transparency and accountability. Your Committee, therefore, urges the Government, as a matter of urgency, to fulfill the assurance by introducing the Budget Bill in the House in the July sitting.

(ii) **Inadequate and late release of Funds**

Your Committee observes that most of the projects in the Ministries are not completed on time due to late and non-release of funds by the Ministry of Finance and National Planning. This situation poses a major challenge to the implementation of capital projects, making it very costly to the Government as, sometimes, the incomplete projects are destroyed completely or the Government is required to pay remobilisation costs. Your Committee recommends that the Government should ensure that adequate resources are available before commencing major projects. The Government should also ensure that releases for such projects are on time.

(iii) **Limited capacity by contractors**

Your Committee observes that one of the challenges leading to the non-completion of capital projects is the limited capacity by some contractors. Sometimes, Ministries engage contractors who are not able to do the work within the required period of time because they lack the capacity to do so. Your Committee is aware that with the change in the budget cycle that provided for a twelve month implementation period, Ministries should have sufficient time to implement developmental programmes. Your Committee, therefore, recommends that care should be taken when engaging contractors so that reliable ones are awarded contracts.

(iv) **Lack of title to land**

Your Committee observes that most of Government properties are built on land without title, thereby encouraging encroachment. Your Committee recommends that titles should be acquired for the property owned by Government Departments and Ministries.

(v) **Lack of Coordination by Government Departments in Construction Projects**

Your Committee observes that most of the projects being undertaken by Government Ministries and Departments are of poor standards. This is mainly attributed to failure by various Ministries and Departments to involve the Ministry of Works and Supply in ensuring that construction projects are of acceptable standards. Your Committee recommends that all

construction projects should involve the Ministry of Works and Supply to avoid waste of resources through substandard construction projects.

(b) **Specific observations and recommendations**

(i) **Ministry of Health**

Your Committee observes that although there is inadequate funding to the Ministry of Health from the Treasury, substantial additional funding is received from various cooperating partners. However, your Committee is aware that the Ministry has had difficulties in the area of transparency and accountability over public resources, causing donors to limit and, sometimes, withhold funding. Your Committee wishes to encourage the Ministry of Health to continue instituting measures to control abuse of resources. This will instill donor confidence and ensure steady flow of donor funding.

In addition, while your Committee appreciates donor funding to the Health Sector, in general, and the Ministry of Health, in particular, it is concerned about the over-dependency by the Government on donor funding. It is alive to the fact that health is a critical sector requiring steady and predictable funding to avoid adverse effects in the event that donor funds are withheld. Your Committee, therefore, recommends that the Government should begin to increase funding to the Ministry through local resources.

(ii) **Ministry of Communications and Transport**

Your Committee observes that the Government intends to turn Kasaba Bay Airport into an international airport. Your Committee wonders whether thorough studies were undertaken to establish the economic and environmental impact of putting up such a huge infrastructure in a game park area. It is concerned that the establishment of an international airport accommodating big planes such as a Boeing 737-800 might disturb the ecology of the area. The development will also require the development of corresponding infrastructure, such as accommodation for airport staff, immigration, and revenue authorities, including education and health facilities for their families. In addition, your Committee does not appreciate the economic rationale for establishing an international airport in Kasaba Bay, which has limited bed spaces. In this regard, your Committee recommends that the decision to establish an international airport in Kasaba Bay should be reviewed so as to come up with other options, such as turning the Kasama Airport into an international airport.

Your Committee observes that there are only two offices for the Road Transport and Safety Agency (RTSA) in the Northern Province, namely, Kasama and Nakonde. This creates a challenge for people in other districts who have to travel long distances for the registration of vehicles. Your Committee recommends that RTSA should be decentralised to all the districts by collaborating with local authorities.

Finally, your Committee is dismayed that RTSA officers in Nakonde have no proper offices and are operating in a make-shift structure (container) which is poorly ventilated and not conducive for office accommodation. Your Committee recommends that proper office space should be provided for RTSA in Nakonde.

(iii) **Ministry of Works and Supply**

Your Committee observes that the construction of a One-Stop-Border-Post (OSBP) at Nakonde is progressive. They are, however, concerned about the reports that the Government intends to suspend construction activities on the same. They are aware that the suspension of the project will delay the completion of this important project, thereby allowing congestion as a result of delays in clearing. Your Committee is also aware that it will be more costly to suspend the project than it will be to complete it within the required period of time because of the remobilisation costs. Your Committee recommends that the decision to discontinue the project should be reviewed and ensure that the project is completed within the stipulated period of time.

Your Committee also observes that the Mpika-Nakonde road is in a deplorable state, thus discouraging potential importers from clearing goods through Nakonde Border. Your Committee recommends that the Mpika-Nakonde road should be rehabilitated as a matter of urgency.

Your Committee bemoans the loss of Government revenue because the border at Nakonde is very porous. They recommend that measures should be put in place to ensure that traders are compelled to declare their goods through customs.

(iv) **Ministry of Local Government and Housing**

Your Committee observes that the removal of grain levy has adversely affected councils that are mainly dependent on agricultural activities. Your Committee recommends that the decision to suspend the levy should be reviewed to prevent these councils from accumulating unsustainable debts. It also recommends that, in future, the Government should make adequate consultations with the relevant authorities before coming up with such important decisions.

PART III

STUDY OF OUTSTANDING ISSUES ARISING FROM THE ACTION-TAKEN REPORT FOR 2009

7.0 Your Committee considered the Action-Taken Report on the first Report of the Committee as set out below.

Taxation of the Gemstone Mining Sub-Sector

7.1 Your previous Committee had observed that there was need to increase the Government's off-take from the gemstone mining sub-sector in terms of taxation and they insisted that this was an achievable objective. They had agreed that most gemstone miners operated in an informal manner, but stressed that this needed not continue to be the case as this was supposed to be a fairly well organised industry and one through which the Government's revenue could be significantly increased. Your previous Committee had been shocked that while faced with serious deficits in successive budgets, the Government had, hitherto, not made any efforts to bring this sector into the tax net.

In light of this, your previous Committee had reiterated that it was imperative for the Government to work out mechanisms of taxing the gemstone sub-sector without further delay.

In this regard, your previous Committee had called for close collaboration between the Zambia Revenue Authority, the Ministry of Mines and Minerals Development, which is the licensing authority for this sub-sector, and other stakeholders to generate and maintain an up-to-date and accurate database on the operators in the sector as well as their production levels and values for tax purposes.

Your previous Committee had noted that gemstone mining operations were licensed by the Government to exploit minerals in specific geological areas which were known to the Ministry of Mines and Minerals Development and could easily be located through the use of geological maps. Your previous Committee had argued that there should, therefore, be no excuse of failure to locate the gemstone miners for purposes of taxation.

Your previous Committee had argued further that the Government must seriously consider fencing off the gemstone mining areas and make them restricted areas so that there was strict control and accountability for all production and exports. They called for a serious study of the management of gemstone mining in neighboring countries such as Botswana, Namibia and South Africa which continued to earn large amounts of foreign exchange from this sector.

In response, the Government explained that the gemstone mining sector in Zambia is dominated by small-scale miners whose operations are labour-intensive. Most of them are not mechanised, resulting in very low production. The Government has recognised the lack of access to capital as one of the two major bottlenecks (the other being marketing) hindering the development of the gemstones sub-sector. In order to address this bottleneck, the Government had been planning for the establishment of a plant hire scheme and a revolving fund.

In 2007, the Government started a Mining Sector Revolving Fund, but it was discontinued after one payment while the issuance of loans now falls under the Citizen Economic Empowerment Commission. However, the need for the setting up of a plant hire scheme was necessitated by the cost of purchasing mining equipment which could not be afforded by the individual miners.

The Government's plans for the gemstone sub-sector were, mainly, centered on integrating it into mainstream mining. The Government realised the need to promote value addition in the gemstone sector and was encouraging the setting up of lapidaries for cutting and polishing gemstones and for the making of jewellery by combining cut and polished gemstones with precious metals such as gold and silver. In this regard, the Government had been advocating for the formation of a private sector driven gemstone exchange. Currently, there was one being set up in Ndola through a private initiative.

On the possibility of fencing all gemstone mining areas, it would be costly and logistically impossible because, in some areas, the individual mines are situated very far apart from each other. This was the case in Lundazi, Mkushi and Mumbwa. However, the Government had designated the Ndola Rural Emerald Restricted Area as a restricted area with strict rules for entering and exiting the area and the area was patrolled by armed officers from the Zambia Police Para-Military wing.

Committee's Observations and Recommendations

While noting the submission, your Committee wishes to be updated on specific measures being taken by the Government to ensure gemstone mine operators are registered and taxed accordingly.

Re-activation of the Property Market

7.2 Your previous Committee had implored the Government to re-activate the property market and collect appropriate taxes from this source through withholding tax. Your previous Committee had observed that this tax had acquired added significance following the Government's policy on home ownership and sale of houses through which many urban residents had become real estate owners and had rented out their properties. Therefore, these new property owners were liable to pay withholding tax under the *Income Tax Act*. Your previous Committee had noted that although withholding tax was not new in the Zambian tax system, it had not been effectively enforced. It was cheered by reports that ZRA was re-emphasising its collection with a view to increasing compliance and wished to be availed a comprehensive report on these efforts.

In response, the Government explained that in the 2009 budget, it amended the *Property Transfer Tax* in order to enhance revenue collections on related parties' transactions. The measure was intended to curb the undervaluation in accordance with provisions under thin capitalisation. The Government was committed to strengthening the enforcement of collection of withholding tax administration through the Zambia Revenue Authority.

Committee's Observations and Recommendations

Your Committee notes the submission, but wishes to know the specific measures that had been taken to strengthen the enforcement of withholding tax and how many additional properties had since been captured on the ZRA database.

Taxing the Informal Sector

7.3 Your previous Committee had noted that the informal economy in Zambia, currently, accounted for a very large population of urban residents. Your Committee had noted further that, according to the Living Conditions Monitoring Survey (2004), 83 percent of the labour force in the country was engaged in some form of economic activity in the informal sector. Of this number, 56 percent were based in the urban areas. Your previous Committee had emphasised that it was incumbent upon the Government to design policies aimed at imposing taxes on the informal sector in order to equitably distribute the tax burden and to implement them with the requisite political will and resolve. According to your previous Committee, this was the only way that the revenue targets under the Government's fiscal policy could be attained. While appreciating the efforts made in respect of Advance Income Tax, Turnover Tax and Presumptive Tax, your previous Committee had maintained that these efforts were inadequate. It wished to be availed a comprehensive report on other initiatives being undertaken with a view to broadening the tax base.

In response, the Government explained that in the medium term, its key objective remained to expand the tax base. As indicated, the bulk of the tax burden fell on formal sector workers through personal income tax. This meant that broadening the tax base would largely focus on the following:

(i) broadening of the VAT base by strengthening VAT administration;

(ii) expanding the income tax base by limiting tax concessions;

(iii) eliminating or reducing ad hoc exemptions on the import duty tax base; and

(iv) ensuring efficient customs administration so as to facilitate the movement of goods and services.

On the non-tax revenue front, the Government would strengthen all revenue points by adequately providing the necessary logistical support and monitoring system. Further, various laws relating to fees and other levies would continue to be reviewed periodically so as to reflect the cost of providing the related services.

Committee's Observations and Recommendations

Your Committee notes the submission, but reiterates its earlier recommendation to be availed a comprehensive report on specific initiatives being undertaken to broaden the tax base.

Import Duties

7.4 Your previous Committee had noted that the scope for eliminating import duty exemptions was limited as most of the foregone revenue was from protected items by special agreements (such as in the mining industry) or conventions (diplomats). The shift from trade taxes, like customs duties, to income taxes since 1994, had also been fueled to a significant extent by trade liberalisation arising from progressive tariff reductions under regional initiatives like COMESA and SADC and, globally, the World Trade Organisation and the European Union. However, your Committee maintained that there were a number of exemptions that could be considered for elimination.

Your previous Committee had been concerned that there had been a proliferation of exemptions granted to various would-be taxpayers, pursuant to the provisions of Section 89 of the *Customs and Excise Act*, which gave the Minister powers to grant exemptions without recourse to Parliament. Your Committee had stressed that there was a critical need to be very strategic in giving incentives to foreign investors, particularly tax exemptions. It argued that Zambia needed to reduce tax incentives as this narrowed the avenues for tax collection.

Additionally, your previous Committee had argued that through tax cuts and frequent tax exemptions for foreign investors, developing countries like Zambia forewent revenues without ensuring the corresponding development benefits of the investments thus promoted. It recognised that these incentives were not free as the Zambian Government had to give up some programmes which could benefit the majority of the population. It was of the view that rather than overloading the tax system with exemptions, it would be more effective for the Government to directly address impediments to investment, such as poor infrastructure and the high cost of doing business.

In light of the foregoing, your previous Committee had urged the Government to review Section 89 of the *Customs and Excise Act* with a view to limiting its use.

The Government responded that it had taken note of the observations raised in respect of eliminating import duty exemptions. Prior to the establishment of the Zambia Development Agency (ZDA), the Minister of Finance and National Planning exercised his powers to grant exemptions under Section 89 of the Customs and Excise (General Regulations) to grant rebate,

refund or remission of duty on goods for establishment, rehabilitation, or expansion of business enterprises, that were registered with the Zambia Investment Centre prior to 1996.

Following vigorous efforts to foster economic growth and development by promoting trade and investment through an efficient and coordinated private sector led economic development strategy, in 2005, the law provided for the granting of customs duty exemptions on materials used in the assembly of motor vehicles, trailers, bicycles and trailers for a period not exceeding five years.

The enactment of the *Zambia Development Agency Act,* through the Ministry of Commerce, Trade and Industry and the establishment of the Zambia Development Agency as a 'one stop' facility to attract and facilitate inward and after care investment and promote green field investments through joint ventures and partnerships between local and foreign investors, championed the granting of import duty exemptions to priority sectors.

It was further reported that the amendment of the Customs and Excise legislation to grant import duty exemptions, had been undertaken in order to implement the provision contained in Part VIII, Section 56 and Section 58 of the *Zambia Development Agency Act.* However, while it was acknowledged that the objective in granting tax incentives was to make Zambia a preferred destination for investment, establish an environment for increased industrial growth, promote exports and develop the private sector, the recent surge in demand for generous requests to exempt existing businesses from import duty posed a threat to Government revenue.

Committee's Observations and Recommendations

Your Committee notes the submission however, it wishes to be informed about the levels of actual investment that has been brought into the country as a result of the policy of granting rebates to foreign investors, the numbers and quality of jobs created by such investments and how many local investors have benefited from such incentives. It strongly recommends that all tax incentives should be abolished and uniform taxation should be introduced.

PART IV

CONCLUSION

8.0 In conclusion, Sir, your Committee wishes to thank you for the guidance rendered throughout its deliberations. It is indebted to all the witnesses who made both oral and written submissions. It also wishes to place on record its sincere gratitude to all the officers in the various institutions that were visited by your Committee for their cooperation which enabled your Committee to effectively carry out its duties.

Finally, your Committee wishes to place on record its gratitude for the unfailing assistance and advice rendered by the Office of the Clerk of the National Assembly during the Session.

H H Hamududu, MP — June 2010
CHAIRPERSON — **LUSAKA**