



## EAST AFRICAN COMMUNITY

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### IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

#### The Official Report of the Proceedings of the East African Legislative Assembly 84<sup>TH</sup> SITTING – THIRD ASSEMBLY: FOURTH MEETING – THIRD SESSION

Thursday, 22 January 2015

*The East African Legislative Assembly met at 2:32 p.m. in the EALA Chambers, EAC  
Headquarters in Arusha, Tanzania*

#### PRAYER

*(The Speaker, Mr Daniel .F. Kidega, in the Chair.)*

*(The Assembly was called to order)*

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#### COMMUNICATION FROM THE CHAIR

**The Speaker:** Good afternoon, hon. Members. I welcome you to this afternoon's sitting. Allow me take this opportunity to introduce our special guests who are in the gallery: The President; the Board; the staff and members of the Eastern African Farmers Federation. *(Applause)*

Eastern African Farmers Federation has been a good partner of the Assembly for some time now. We have had a couple of activities together and this afternoon as you Members are aware, on the Order Paper we have the Cooperative Society Bill. They have been very instrumental and supportive to the process and we thank them for that. *(Applause)*

Hon. Members, I would also like to inform you that our promotional materials are out; ranging from calendars, the magazine and the diary. The office of the Clerk will undertake to distribute them to your respective offices. Please, critically look at them, in case of necessary corrections for future improvements will be most welcome. Thank you so much.

#### PAPERS

The following Paper was laid on the Table: -

(by the Chairperson, Committee on Accounts (Mr Jeremie Ngendakumana) (Burundi):

The Report of the EALA Accounts Committee on the Review of the EAC Financial Statements for the year ending 30<sup>th</sup> June 2013

**MOTION FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND CONFLICT RESOLUTION AND THE AFRICAN LEADERSHIP CENTRE CONFERENCE ON “EAST AFRICAN SOCIETIES AND REGIONAL SECURITY”.**

(Debate interrupted on 4 September 2014, resumption)

**The Speaker:** Honourable Members, you will remember that debate on the Report of the Committee on Regional Affairs and Conflict Resolution was interrupted on 4 September 2014. The report was presented but it is the debate, which was interrupted. I will invite the Chair to refresh the minds of the Members on this matter and thereafter we shall proceed as per our Rules of Procedure.

**The Chairperson of the Committee on Regional Affairs and Conflict Resolution (Mr Abdallah Zein) (Kenya):** Thank you, Rt. hon. Speaker, Sir. I stand to represent the Chair of Regional Affairs and Conflict Resolution, the hon. Abdullah Mwinyi.

This House will recall that this report was introduced in Dar es Salaam when I was the Chair then but since Tuesday, we have had elections and it is the turn of Tanzania. If I may say so, myself, it gluts my heart with pleasure that it is hon. Mwinyi who is the Chair now. *(Applause)* We could not have a more excellent and able Member to take over the running of this Committee.

Secondly, Mr Speaker, Sir, he has requested me to complete the process that we started in Dar es Salaam. I intend to be very brief but I must point out four necessary things.

The first one, Mr Speaker, Sir, with your permission, there is something on the record that cannot be allowed to stand; it must be corrected. If you look at the uncorrected *Hansard*, it will show that the interruption of the business was caused by lack of quorum. The problem is not that there was lack of quorum, but rather the final sentence characterising why there was lack of quorum.

You will recall that in Dar es Salaam, we were meeting under a heavy cloud. I am glad now the weather is clear. That sentence reads as follows -and I am just reading; people do not kill messengers. It says, “*It is the Republic of Burundi and the Republic of Rwanda who have denied this House quorum. So the House stands adjourned sine die.*” I would like this to be corrected because it is not right to say that these two great republics in our integration process caused a lack of quorum.

The record would show that the Members from these two great republics were booked on a flight to leave that same afternoon, and so the business was interrupted. Therefore, it is not right to put it that way.

**The Speaker:** Hon. Member, can you help this House? Are you suggesting that this statement be expunged from the journals of the House? Can you get categorical on this?

**Mr Zein:** Absolutely, and I will give the reasons why - *(Applause)*. I will then now move that when we are finally going through the report, this particular sentence is deleted and expunged from the records of the House - *(Applause)*.

**The Speaker:** Thank you.

**Mr Zein:** The second issue that I would like to point out is that this report was read verbatim and so we had great chance to hear it but only two Members were given an opportunity to respond; the hon. Mike Sebalu and hon. Sarah Bonaya.

Thirdly, it was the great feeling that this report was well delivered and well written, and it touched on important issues. Just to remind Members that it was about a conference that we held jointly with the African Leadership Centre and it touched on ideas of rethinking about peace, security and stability within our region- the East African Community and the neighbouring regions.

It also touched on specifically issues touching on what was one of the areas of discussion within the conference, that is, borderline communities in the sense of those who are in the marginal areas of our region.

It also touched on the youth bulge and the consequences it can have to peace and security, but also the opportunities that it grants to peace and security.

It also sought to identify points of intervention that Parliaments and parliamentarians can create for themselves in the contribution towards peace and security.

Lastly, Mr Speaker, let me touch on two or three recommendations of this report: one was that Parliaments in our region - and EALA is to take leadership - need to build their capacities in handling matters of peace and security. Two, Parliaments should invest in capacity to develop parliamentary diplomacy, as well as opportunities for engaging the public on matters of peace and security. Three, Parliaments should also exercise fully their oversight responsibilities on matters touching on peace and security.

Finally, Mr Speaker, sir, we appreciated the two countries in our integration process that have already ratified the Peace and Security Protocol and encouraged the three that were in the process of ratifying to increase the pace so that we are able to conclude the business of ratifying that important instrument for peace and security in our region fairly quickly.

Therefore, I would like to stop there, Mr Speaker, Sir.

**The Speaker:** Thank you so much, hon. Zein standing in for the Chair, Regional Affairs. Hon. Members, I think it is only fair that I can give two people to contribute to this debate such that it comes up to four Members who will have contributed in totality then I can ask the Chair to come in and we adopt this report. Debate is open. However, in the interest of time - you see we have a long Order Paper, and so whomever I am going to give a chance to debate should not take more than five minutes.

**Ms Dora Byamukama (Uganda):** Thank you, Rt. hon. Speaker and I would like to thank the Chair of the Committee Emeritus, hon. Zein for the comments made.

I would like to just state that I appreciate his time in office because he started the culture of inviting chairpersons from other committees to attend activities of the Regional Affairs Committee, which was very enriching because some of the issues we touched on were cross cutting.

Having said that, I would also like to thank hon. Zein and the Committee for the partnership that they established with the African Leadership Centre. I believe, Rt. hon. Speaker, that this partnership can benefit the whole House and at an opportune time, maybe, they will be invited to

address the House on the issues that they work on, which are also pertinent to the leadership of the Assembly and of the Members as a whole.

Mr Speaker, Sir, the hon. Chairperson has touched on the East African Community Peace and Security Protocol. I believe that maybe the Council of Ministers might be having a report on this because it is very important; it hinges on Article 104 of the Treaty. We could maybe have a status report on who has ratified and who has not because it has been a while since this workshop was held.

With those few comments, I would like to also note that this Peace and Security Protocol touches on issues of terrorism; touches on issues of trafficking in persons; and was also very much mentioned in the Nanyuki Series, which was held in Kigali. It is, therefore, very important that we hear about the status of its ratification because it impinges on all these issues and of course the issue of genocide whereby we agreed that each Parliament should establish a committee, or a caucus or a forum to discuss this issue of genocide in the Kigali Meeting.

I would like to stop here and urge Members to support this report. Thank you. *(Applause)*

**The Speaker:** Thank you, hon. Dora Byamukama. Chair, Council, you were mentioned, would you like to say something about the report and the debate that has ensued? It is not a must. If there is nothing, we could as well proceed.

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson, EAC Council of Ministers (Mr Abdallah Saadalla) (Ex-Officio):** Thank you, Mr Speaker. It is not a must but there is something that has been mentioned here about the Peace and Security Protocol. As far as Council of Ministers is concerned, we have already forwarded it for ratification and currently it is only two countries, which have ratified but the others are in high levels of consideration. That is the only thing we can say as the Council of Ministers. Thank you, Sir.

**The Speaker:** Thank you very much, Chair, Council of Ministers. It is the prayer of this House that the Council of Ministers will help in the processes of pushing to ensure that the process is concluded. We thank you so much. *(Applause)*

I now call the Chair of the Committee to give his brief reply before I put the question.

**The Chairperson of the Committee on Regional Affairs and Conflict Resolution (Mr Abdallah Zein):** Thank you, Rt. hon. Speaker, Sir. In the interest of time, and given that we had a long time to debate this report, I would like to only say two things; one, I would like to thank all those who have contributed to the debate of this report: hon. Mike Sebalu, hon. Sarah Bonaya, hon. Dora Byamukama and the hon. Chair, Council of Ministers. *(Applause)*

Lastly, Mr Speaker, Sir, with your kind permission, I will just refer to developing of partnerships with strategic partners in the region. This Assembly has started a tradition of working with institutions and organisations in the region, which are doing great work. In addition, we would like to appreciate - as hon. Dora Byamukama has said- the role of the African Leadership Centre and the partnerships that we have developed with them and they have developed with the wider East African Community in matters of peace and security.

Allow me, Mr Chairman, lastly to thank all the former member of this Committee and welcome the new ones to this Committee. Thank you very much, Mr Speaker, Sir. *(Applause)*

**The Speaker:** Thank you so much, hon. Zein. However, before I put the question, I would like to state categorically that your prayers to correct the record of this House in respect to the Republic of Rwanda and the Republic of Burundi is granted. *(Applause)*

**The Speaker:** Honourable Members, the motion on the floor is that the Report of the Committee on Regional Affairs and Conflict Resolution and the African Leadership Centre Conference on East African Societies and Regional Security be adopted. I now put the question.

*(Question put and agreed to.)*

**MOTION FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON ACCOUNTS ON THE EAC AUDITED ACCOUNTS FOR THE FINANCIAL YEAR ENDING 30 JUNE 2013**

**The Speaker:** I call upon the Chairperson of the Committee on Accounts to move the motion.

**The Chairperson of the Committee on Accounts (Mr Jeremie Ngendakumana) (Burundi):** Thank you, Mr Speaker. I beg to move that the report of the Committee on Accounts on the EAC Audited Accounts of the financial year ending 30 June 2013 be adopted. I beg to move.

**The Speaker:** Seconded by hon. Mulengani, hon. Yves, hon. Straton, hon. Mumbi, hon. Sarah, hon. Nengo, hon. Rwigyema, hon. Nkanee and all those standing.

I now call the Chair to present the report.

**The Chairperson of the Committee on Accounts (Mr Jeremie Ngendakumana) (Burundi):** Thank you, Mr Speaker. Let me proceed by reading the report:

PART I

1.0 INTRODUCTION

In accordance with the provisions of Article 134 (3) of the Treaty for the establishment of the East African Community (EAC), the Chairperson of the EAC Council of Ministers on 24 October 2014 in Kigali, Republic of Rwanda laid before the Assembly the following reports of the Audit Commission:

- i) The Audited Consolidated Financial Statements of the EAC organs for the year ended 30<sup>th</sup> June, 2013;
- ii) The Audited Financial Statements of the Lake Victoria Basin Commission (LVBC) for the year that ended 30<sup>th</sup> June, 2013;
- iii) The Audited Financial Statements for the Lake Victoria Fisheries Organization (LVFO) for the year ended 30<sup>th</sup> June, 2013;
- iv) Audited Financial Statements of the Inter University Council for East Africa (IUCEA) for the year ended 30<sup>th</sup> June, 2013; and

- v) The Audited Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the year that ended 30 June 2013.

In accordance with *Rule 77, Rule 79 and Annex 5 (A)* of the Rules of Procedure of the Assembly, the Rt. Hon. Speaker referred the reports to the Committee on Accounts for review. The Committee met for this purpose and produced a report.

The report covers the Committee's findings and recommendations on the main issues raised. This report is sub-divided into seven (7) parts.

Part I: Introduction

Part II: Audit Findings on the Consolidated Financial Statements of the EAC Organs for the Year Ended 30<sup>th</sup> June, 2013

Part III: Audit Findings on the Consolidated Financial Statements of the Lake Victoria Basin Commission (LVBC) for the Year Ended 30<sup>th</sup> June, 2013

Part IV: Audit Findings on the Consolidated Financial Statements of the Lake Victoria Fisheries Organization (LVFO) for the Year Ended 30<sup>th</sup> June, 2013

Part V: Audit Findings on the Consolidated Financial Statements of the Inter – University Council for East Africa (IUCEA) for the Year Ended 30<sup>th</sup> June, 2013

Part VI: Audit Findings on the Consolidated Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the Year Ended 30<sup>th</sup> June, 2013

Part VII Acknowledgements

#### Executive Summary

Finalization of the institutional review of the EAC has been delayed and this has had major setbacks regarding the operations of the EAC especially in the areas of the structure and recruitment. Accordingly, the EAC has several unfilled staff positions and to bridge the gap, management has been forced to offer short-term renewable contracts, which have several disadvantages to both the staff and the organization.

The EAC Secretariat Internal Audit function still has major capacity challenges and consequently performance gaps.

The Community spent beyond budget on several budget lines without seeking approval of Council for re-allocation as required under Regulation 19(4) of the EAC financial rules and regulations. The most notable over expenditure was on international air tickets and daily subsistence allowances (DSAs) with expenditure reaching 300% of the budgeted amount.

The Audit noted excessive payment of DSAs, with some staff receiving up to 200 nights a year. Some of the meetings were purely administrative e.g. evaluation of bids and did not guarantee holding meetings outside the EAC premises. In addition, excessive salary deductions for payment of loans and advances went up to 80% for some staff.

Payment in lieu of leave was done contrary to staff regulations and with no evidence that officer requested for leave earlier. Invitation of disqualified candidates for interviews; huge gaps in the management of air ticketing are all issues to be addressed.

It was also found that the Community advanced a total of USD.384, 834 to staff at the close of the financial year for activities which were to be undertaken in the subsequent year; however, this amount was inappropriately captured in the books as expenditure for the year under review, contrary to the accrual basis of accounting that was adopted by the Community.

More to the above, some institutions are not meeting their mandates and there was Doubtful expenditure of \$60,000 in LVFO.

During the Audit review, documentation relating to the construction of the EAC HQ building, a number of contract management weaknesses were found. Notable among these was the failure to prepare the project final statement within the stipulated time, with the resultant implication that management is unable to establish the total project cost.

The Audit Commission noted instances where Partner States were sending inappropriate delegates for technical meetings, arranged by the Community resulting in little or no value addition during the meetings as well as a risk of failure to implement resolutions in the Partner States.

Partner States have continuously failed to honour their obligations in time and as such, the EAC Institutions continue to be underfunded. This has had a direct effect on their capacity to deliver on their respective mandates effectively.

Nevertheless, the Accounts presented fairly, in all material respects, the financial position of EAC Organs and Institutions for the year ended 30 June 2013; it is financial performance; and its cash flows for the period in accordance with the International Public Sector Accounting Standards (IPSAS). This was done in compliance with the Treaty for the Establishment of the EAC and Regulation 80-85 of the EAC Financial Rules and Regulations (2006).

## PART II

### AUDIT FINDINGS ON THE CONSOLIDATED FINANCIAL STATEMENTS OF THE EAC ORGANS

#### 2.0 CURRENT YEAR AUDIT FINDINGS

##### 2.1 Significant Issues

##### 2.1.1 Over Expenditure (*Appendix 1 of Management Letter on the Audit of the Financial Statements for the East African Community for the Year Ended 30 June 2013 at Page 68 of 95*)

The Audit Commission reported that Regulation 12(1) of the EAC financial rules and regulations, 2012 required that all commitments and disbursements must strictly be in accordance with the appropriations of the budget of the Community, which has been passed by the Assembly.

On the contrary, the Audit revealed that the Community had spent beyond budget on several budget lines without seeking approval of Council for re-allocation as required under Regulation 19 (4) of the EAC financial rules and regulations. The most notable over expenditure was on international air tickets and daily subsistence allowances.

The EAC Management responded that it has addressed this matter, by correctly posting the budget. Indeed there was no overspending on the budget, which is activity based, and any un-spent funds were transferred to the General Reserve Fund. The Audit Commission confirmed this by reviewing the Adjusted Ledger, Budget Performance, and Financial Statements.

The Committee observed that whereas the Assembly passes the budget at the line item level, the EAC Management spends the budget at the activity level especially on daily subsistence allowances and air tickets. It is clear that funds are diverted to pay items that were never budgeted for, resulting into wide variances of expenditure and actual expenditure. This indicates weaknesses in budgetary controls and undermines the intentions of the appropriating authorities.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to -*

- i) direct EAC Management to always adhere to the provisions in the Financial Rules and Regulations and avoid incurring over expenditures on budget lines without the requisite approvals.*
- ii) direct EAC Management to table before this Assembly measures taken to ensure budgetary controls.*

#### 2.2.2 Expenditure Cut-off - USD 384, 834

The Audit Commission reported that the EAC Financial Rules and Regulations as passed by Council, state that appropriations shall only be available to meet obligations incurred during the financial year to which they relate and shall remain available for three months following the end of the financial year to discharge obligations in respect of goods and services rendered during the financial year which have not been settled.

The Audit review revealed that the EAC Management was overriding this control by making substantial advances to staff at the close of the year for activities not undertaken. For example, during the year under review, a total of USD 384, 834 was advanced to staff in this manner. The activities would then be undertaken in the new financial year but presented in the financial statements of the preceding year, making it appear as if an obligation existed by the close of the Financial Year.

The EAC Management responded that it recognizes that in some instances, meetings crossover the financial year (e.g. Meetings held from the last week of June 2013 but continued to 1st week of July 2013). In addition, some other meetings, which were scheduled to take place in May or June 2013, were postponed due to reasons beyond EAC Secretariat's control, and they took place in July or August 2013.



Management further commits to comply with the cut-off point in closing the current and coming Financial Years by circulating in time clear Year End Closing Guidelines approved by the Secretary General.

The Committee observed the irregularity of advancing funds on weekends (Saturday and Sunday) to several accounts staff at the yearend, which constitutes an unauthorized budget roll over. The act may have been done to circumvent the involvement of the Assembly to approve funds when put in reserves. To this end, the institutional capacity of managing finances is weak, and breaches Financial Rules and Regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) stop advancing funds to the Staff at the Year End for activities not undertaken, but rather comply with the Financial Rules and Regulations;*
- ii) invite the Audit Commission for a re audit based on Management response.*

### *2.2.3 Anomalies in Accountabilities for Imprest Advances (Appendix 2 Management Letter on the Audit of the Financial Statements for the East African Community for the Year Ended 30 June 2013)*

The Audit Commission reported that from the review of the imprest accountability records, the following matters have been noted:-

- i) In cases of advances for meetings and conferences both within and outside Arusha, Audit Commission noted that the majority of the accountability records do not have invitations for such meetings; this limits the extent of our review procedures since we are not able to establish the funding arrangements for such meetings.
- ii) Where invitations are filed, there is no formal communication from responsible recipients indicating the names of officers who have been formally nominated by the person to whom the meeting request has been addressed. As a result, the same persons keep attending most of the meetings organized by the Secretariat.
- iii) In addition, minutes of what was discussed and any resolutions arrived at (apart from those recommending subsequent meetings) are not filed.
- iv) There are no signed attendance registers filed.
- v) There were several incidences of unutilized tickets, which had been paid for by the Secretariat.
- vi) Not all imprests are fully accounted for although they are retired.

The EAC Management responded that participation from Partner States is coordinated by the respective Ministries of EAC Affairs with consultation from the EAC Secretariat to ensure that the appropriate delegates attend the meetings they have been invited. For those meetings for which tickets have been issued though not utilized, EAC makes payments first and then seeks for refund of the same from the service provider. The refunds for the same are usually obtained and offset from subsequent payments to the supplier.

All EAC meetings have meeting reports that as an appendix have the list of all invited participants supported by a daily attendance register, which control was introduced later in the FY of audit. All meetings now have attendance lists signed off daily.

The Committee observed laxity of EAC accountability practice, irregularities in accountabilities of imprest and lack of seriousness to ensure that meetings attain the intended purpose.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) ensure that EAC meetings are appropriately attended to achieve the intended purpose;*
- ii) exercise proper accountability of imprest; and*
- iii) ensure strict actions are taken against those who fail to comply.*

#### 2.2.4 Institutional Review of the EAC

The Audit Commission reported that at its 24th meeting held on 26 November 2011, the Council directed the Secretariat to engage a consultant to undertake a detailed institutional review of the EAC (EAC/CM24Directive 38). This arose from the fact that the EAC mandate had greatly evolved since the establishment of the Permanent Tripartite Commission in 1993 including the progression into deeper levels of integration of the Common Market and Monetary Union.

Accordingly, a contract was signed on 24 January 2013, between the EAC and a consultancy firm, to undertake a detailed Institutional review of the EAC at a contract sum of USD 116,500 excluding reimbursable. The consultancy was to be concluded within a period of four (4) months from the effective date with the following deliverables:-

##### Deliverables by the Institutional review Consultancy

	Details	Timeline
1	Acceptable Inception Report (IR)	2 weeks after effective date
2	Acceptable Draft Report	2 months after submission of IR
3	Validation workshop	1 month after submission of draft report
4	Acceptable Final Report	2 weeks after validation workshop

However, the following matters have been noted:-

- i) There have been delays in finalization of this review. The consultant submitted an Inception Report to the Secretary General on 20 March 2013 (i.e. over one-month late) and the first draft report on 4 June 2013 (i.e. about two months late). This despite the fact that the contract period expired in May 2013.
- ii) There is no evidence that a validation workshop has been held although the draft report was issued nine months ago.
- iii) There is no evidence to show that the contract period has been formally extended, since, by the time of audit in February 2014, the consultant has not yet been given a green light to proceed to the next stage of the consultancy.

The EAC Management responded that there are pending policy issues on which Partner States must pronounce themselves before the Consultant can proceed with Phase 2 of the exercise. In

November 2013, the summit directed the Council to conclude the EAC institutional review and report to the Summit at the 12th extra-ordinary meeting in April 2014. At its 29<sup>th</sup> Extraordinary Meeting, the Council directed -

- i) Partner States to finalize the consultation and submit the comments to the Secretariat by 30th May, 2014 (EAC/EX/CM 29/Directive 08);
- ii) Secretariat to convene a Meeting of Experts comprising one Expert per Partner State by early June 2014 (EAC/EX/CM 29/Directive 09);
- iii) Secretariat to submit the Report of the Experts to the Sectoral Council of Ministers Responsible for EAC Affairs and Planning scheduled for June 2014 and thereafter report to the 29th Meeting of the Council scheduled for August 2014 (EAC/EX/CM 29/Directive 11)

It is therefore expected that Council will complete the Institutional Review after the Consultant receives the harmonized policy guidance and Submit Final Report for consideration in November 2014. This was also accepted by the Summit, which on April 30, 2014, considered the Report of the Council on Institutional Review. The Summit noted that more work and consultations are to be done by Partners States and the Council of Ministers.

The Summit directed the Council of Ministers to finalize and report at its 16th ordinary Summit in November 2014.

It is imperative to note that the Institutional Review exercise has cost the Community a lot of money characterized by overspending over and above the budget.

The Committee observed unnecessary delays in finalization of Institutional Review and was concerned about the endless costs of the exercise on the Community.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to-*

- i) expedite processes and activities for Institutional Review and treat the same with the attention it deserves; and*
- ii) Table the addendum of the contract with the contractor before the Assembly.*

## 2.3 OTHER MATTERS RELATING TO THE EAC SECRETARIAT

### 2.3.1 Payment in Lieu of Leave

The Audit Commission reported that Regulation 71 of the staff rules and regulations prohibits a member of staff from accumulating leave days beyond 30 days and the accrual should be done under special circumstances approved by the Secretary General. The rules further provide for payment in lieu of accrued leave with approval of the Secretary General.

However, documentation revealed that a total of USD 35,651 was paid to officers in lieu of leave. In all instances, there was no evidence that special permission to accrue the leave had been obtained as is required by the regulations. The personal files for the officers in question had no evidence that such officers were denied leave due to the office exigencies.

Further noted was that there was no budget provision for such expenditure; instead, this was charged to salaries and wages as indicated in *Annex I*.

The EAC Management reported that full approval from the SG's delegate – the DSG (F&A), was given on recommendation for all the above payments; recommendation by the Department of Human Resource prior to the payments above being made was also sought but the extra information required about the leave applied but denied will be provided in similar subsequent payments.

The fact that the approved EAC budget is an accrual in nature, and it has an amount “Payment in Lieu of Leave”, the principal of paying staff that have accrued leave days and which leave needs to be paid off before start of a new contract, such approval has been given in principal.

The Committee noted the anomaly and observed that approvals were given in breach of regulation 71 of the staff rules and regulations.

The Committee further observed that EAC has no sufficient staff leading into budgeting for payments in lieu of leave to senior staff, leaving out the junior staff, a practice that indicates institutional discrimination.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to -*

- i) direct the EAC Management to always adhere to the regulations in place; and*
- ii) direct the EAC Management to develop leave roaster to enable all staff attain their leave.*

### 2.3.2 Excessive Salary Deductions

The Audit Commission noted that Regulation 55 of the staff rules and regulations allows staff to get salary and housing advances as well as bank loans but with deductions not exceeding 50% of the employee's salary. However, review of the secretariat payroll revealed a number of staff whose deductions exceeded 50% with some reaching as high 80%.

The EAC Management reported that a number of staff have negotiated loan/credit facilities with banks whose monthly repayment consumes up to 50% of their Gross Salary payments. The extra deduction (more than the 50%) usually happens when Accounts department makes other deductions like unretired imprest, which subsequently increases the staff total deductions percentage of their Gross pay. This though is usually for a period of a month or two and then percentage deductions revert to the 50%, which is mainly that of the loan/credit facilitates.

The Committee noted with concern that extreme deductions of staff salaries may affect the performance of staff and may lead to staff resorting to finding other irregular ways of survival, such as unjustified allowances.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always comply with the staff rules and avoid authorizing advances and guaranteeing loans in instances where the ensuing deductions will exceed 50%.*

### 2.3.3 Performance of the Internal Audit Department

A review of the Internal Audit Unit revealed the following significant matters:-

a) Capacity Gaps in the Department

The Department is currently manned by an Acting Principal Internal Auditor who was recruited as an Internal Auditor, assisted by two Internal Auditors who are engaged on short-term contracts (annual contracts) that have been renewed several times since their initial engagements in 2010.

b) Approved Work Plan

The audit Commission was not provided with evidence that the following activities included in the annual work plan for the Internal Audit department for the year under review were undertaken:-

- a) Carry out Quarterly internal audit of all Organs, Institutions, Projects and Programmes
- b) Financial processes reviewed bi-annually
- c) Draft Financial Statements reviewed before submission to the Audit Commission
- d) Processes over the Acquisition, Recording, Maintenance and Disposal of Assets reviewed
- e) Controls over cash and cash equivalents reviewed
- f) Controls over receivables and other current assets reviewed
- g) Physical and financial control over Fixed assets reviewed
- h) Train 30 professional staff on Risk Management Strategy
- i) Undertake investigation as and when required
- j) Servicing the Accounts Committee of EALA
- k) Sensitization of Executive and Professional Staff on Risk Management Framework carried out
- l) Risk Management Operational Manual produced
- m) Follow up on previous assessments of systems and processes in the Community

It was further noted that critical activities to the organization such as the review of the SUN System and the review of the performance measurement systems within the organization had not been planned to be undertaken by the Internal Audit unit during the year under review:-

The EAC Management responded as follows:-

a) Absence of an Approved Structure and Clear Reporting Lines

Management reported that at its 12<sup>th</sup> Meeting of Council of Ministers held on 25<sup>th</sup> August 2006, the position of the Internal Audit Structure was approved and the Position of the Chief Internal Auditor (P4), which position was later on frozen by the 13<sup>th</sup> Meeting of the Council of Ministers.

b) Approved Work plan

Management further reported that the Unit had a work Plan that was approved by the EAC Audit and Risk Committee in October 2012 during its 1<sup>st</sup> Meeting. Performance is evaluated through the performance contracting process.

The Committee noted that the Internal Audit Unit lacks sufficient capacity to undertake its plans and relevant reviews effectively. The understaffing may not justify non-review or implementation

of any of the approved work plan. This could have exposed the organization to a risk of errors and omissions going undetected for a long period.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to:*

- i) direct the EAC Management to ensure the Internal Audit Unit to implements its activities and provide the organization with the requisite guidance for improvement of the internal control systems to enhance security of its resources.*
- ii) direct the EAC Management to undertake a holistic organizational review to establish the number of staff adequate to man the department and ensure proper recruitment.*

#### *2.3.4 Performance Contracting Process*

The Audit Commission reported that following the directives of the 21<sup>st</sup> and 23<sup>rd</sup> meetings of the Council of Ministers, the East Africa Community (EAC) Secretariat initiated and introduced a process of performance contracting for all professional staff across the EAC Organs and Institutions with a view to direct EAC staff's attention towards the EAC agenda, objectives and expected outputs and to ensure that all individual action plans are in tandem with these broader goals.

During the audit, it was observed that nine departments did not present their performance reports to the Committee for review. It was further noted that there was no action taken by management on performance contracting evaluation process, especially for the poorly performing directorates or those that did not submit their results for evaluation by the committee.

The EAC Management responded that performance contracting had been implemented in EAC starting with the Professional staff and eventually to the General staff. A program had been designed to roll out the exercise to the EAC Institutions. It was further reported that a retreat for Executive and Senior staff held in February 2014 came up with a number of resolutions aimed at addressing issues related to the process.

The Committee appreciates performance contracting initiatives but non-participation by some Directors/Heads of Department implies noncompliance to the Council's directive. The Committee also noted lack of commitment to the performance contracting process.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to -*

- i) take action on those who have not complied to the new requirements of performance contracts;*
- ii) show commitment to the performance contracting process as it provides an independent and objective assessment of staff performance; and*
- iii) implement the recommendations of the committee regarding the way forward for the performance contracting process.*

#### *2.3.5 Unfilled Staffing Positions*

The Audit Commission observed that staffing position for the EAC revealed several unfilled positions within the Secretariat as indicated in *Annex II*

The EAC Management responded as follows:

- i) Many of the positions being referred to, particularly the positions at Assistant Director Level were created and frozen in 2006. They can only be filled with the express approval of the Council. Unless, the Secretariat is given both the approval and the resources to fill in the positions in question, there is not much that can be done, for now.
- ii) The position of Senior Librarian was advertised and a candidate recruited. However, the candidate who was appointed turned down the offer. Management will present to the Council Meeting a request to consider the second best candidate for the position.

The Committee observed that the Community might not perform to the expectation given the gaps in staffing positions.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) ensure the filling of the unfilled staffing positions;*
- ii) follow up on the restructuring process of the EAC to establish the relevancy/justification of such vacant positions on the approved structure.*

#### *2.3.6 Short-term Renewable Contracts*

Staff regulation 22(2) (c) provides that temporary employment can only be for up to a maximum of three (3) months. During the audit, it was noted that the staffs in *Annex III* have been maintained on short-term contracts for prolonged periods including the year under review.

The audit further revealed the following:-

- i) Some of these staff have held temporary positions for more than 3 years.
- ii) Some staff who are employed on temporary positions are paid at higher rates than those on permanent arrangements.
- iii) There is no formal appraisal of a staff's performance prior to renewal of these contracts.
- iv) It is also not possible to establish whether these temporary staffs are recruited in a fair, equitable and transparent manner.
- v) Some positions are on very short term contracts; however, the nature of their work is such that their roles will be required for a long time. It may also be expensive if the same persons work for several years on 3-month renewable contracts.

The EAC Management responded that given the lengthy recruitment processes at EAC compels the Secretariat maintain some temporary staff to fill the capacity gaps. It was further reported that the Secretary General instituted the Human Resources Advisory Committee in March 2013 to advise on staff matters including the issues raised by the Audit Commission. New contracts (not renewal) are issued if required. The Committee was also informed that the position of Senior Documentation Officer was competitively filled. However, the retirement of the Principal Internal Auditor leaves the Internal Audit Unit with only one established Staff at P1 level. The current capacity gaps in the Unit are so acute that even the hiring of the 2 temporary staff is not sufficient to meet the current needs of the Unit.

The Committee noted irregularities in hiring all short-term renewable contracts since there is no indication of how the staff are initially identified. The Committee further observed that there are no proper recruitment procedures aimed at ensuring that one is technically competent and professionally qualified. The process is subject to abuse and nepotism is evident.

*The committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) put the vice to an end;*
- ii) ensure proper recruitment to avoid promotion of short term contracts; and*
- iii) initiate and put in place appraisal procedures for holders of short-term contracts.*

### 2.3.7 Un-authorized Budget Roll Over

The Audit Commission took note of a meeting with stakeholders to the design of Arusha-Voi road, an activity that had been budgeted the financial year 2011/2012 at USD 47,400. The activity was not undertaken in that financial year and was subsequently rolled over to the subsequent financial year 2012/13.

It was further noted that this meeting was rolled over without Council authorization. Besides the requesting officer varied the budget to reflect the new rates of subsistence allowance, which had, been passed for the new year, hence increasing the budget from USD 47,400 to USD 70,600. The new activity budget was never approved; the requesting officer also acted as the budget officer and confirmed availability of the budget.

The EAC Management responded that the said activity had been planned for in the FY 2011/12. The failure of the meeting to take place was also because the officer had exhausted his budget. Finance advised the officer-in-charge of the project to use his budget of a similar activity in the FY 2012/13. Officer did as advised and since the DSA rates in the new FY 2012/2013 had been reviewed, the implementation of the activity in the new FY 2012/2013 had to use the new DSA rates.

The Committee noted the comment of the Audit Commission and observed laxity and irregularities in the management of funds of the Community.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) always adhere to the approved budget and work plan to avoid misuse of funds;*
- ii) always seek for authorization before rolling over of the budget; and*
- iii) avoid the practice of advancing such big amounts of funds to individuals and always directly pay the beneficiaries whenever possible.*

### 2.3.8 Wasteful Expenditure during Staff Interviews

The Audit Commission reported that the Secretariat entered into a contract with M/S Crown Agent for undertaking a short listing exercise for the twelve (12) vacant project positions at a total cost of USD 40,854.



The Consultant submitted a report to EAC Secretariat containing a summary of all applications received and a list of qualified candidates. The consultant further made a recommendation of the qualified candidates whom the Secretariat could consider for the final interviews. Accordingly, the interviews were undertaken from 19<sup>th</sup> to 20<sup>th</sup> March 2013 from East African Community Headquarters in Arusha. However, the candidates who were disqualified by the Consultant were called to appear for the interviews and the Secretariat paid for their travel expenses as detailed in *Annex IV*.

The EAC Management responded that there was an error in submitting the short listing report. The Auditors requested for the Report of the Short listing Exercise for donor-funded positions. However, the document, which was provided at first, was a Draft Report. The Secretariat later submitted the final report from the Consultant containing the names of the shortlisted candidates from which the final list of candidates who were invited for the interviews were drawn.

The Committee observed glaring inconsistencies in policy implementation by the EAC Management that always led to misuse and wasteful expenditure of Community funds. The Consultant could always be given clear terms of reference.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) Always call and facilitate only qualified candidates for interviews;*
- ii) Always engage consultants with clear terms of reference for desired results and avoid decisions that are at variance with the consultant reports.*

#### 2.3.9 Inappropriate Delegates for Technical Meetings

During the period under review, it was noted that some technical meetings organized by the EAC are frequently attended by delegates whose positions and job descriptions are not suitable such meetings as they would not make meaningful contributions. It was further noted that officers attend the meetings from country Ministries responsible for East African Affairs other than technical experts from the countries in question. Besides, invitation letters to the respective Permanent Secretaries did not detail the purpose as well as the calibre of delegates expected. Also missing were nomination letters, meeting agenda or even reports of proceedings. For example, there are several meetings where secretaries were nominated to attend as technical experts.

The EAC Management responded that participation from Partner States is coordinated by the respective Ministries of EAC Affairs with consultation from the EAC Secretariat to ensure that the appropriate delegates attend the meetings they have been invited.

The Committee observed that same delegates from Ministries of EAC affairs in Partner States have been attending almost all technical meetings and the EAC Secretariat has not done anything to avoid inappropriate delegates for technical meetings. Many times, such delegates do not add value to the meeting deliberations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to -*

- i) always include in the invitations details regarding the technical capabilities of the potential delegates to be nominated by Partner States;*
- ii) develop and put in place a policy on EAC technical meetings to be enforced while EAC Ministries nominating delegates*

### 2.3.10 Expenditure on DSAs

During the audit, two sampled projects (PAF and RISP II) revealed that certain staff were paid up to almost 200 nights in one year. Although all expenditures were properly authorized, the payments appeared to be excessive, given that a year has 250 working days and staff have to undertake deskwork at their stations in addition to 30 days leave.

The EAC Management responded that EAC activities are implemented in the five Partner States and the Calendar of activities clearly indicates where meetings should be held. To this effect, The Council directed that save for self-accounting EAC Institutions, EALA, and EACJ, statutory/policy and technical meetings for Organs and Institutions of the EAC should rotate and be shared between Headquarters and Partner States on a ratio of 50/50 basis; subject to further review and finalization of the Study on Equitable Sharing of the Costs and Benefits of the Community (EAC/CM 25/Directive 12). It was reported that EALA for example has six (6) Sittings a year of for 14 days each. Furthermore, a number of Committee meetings have to be facilitated by members of Staff from EAC Secretariat to provide information or defend submissions tabled to the Assembly. It was further noted that facilitation of staff attending training, results as well into payment of DSA. From the above, it is clear that one should not simply count the number of days spent out of duty station, but rather the purpose of the trip as well as the results thereof.

The Committee noted both the Audit Commission and EAC Management comments.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to place a limit on the number of days for which an officer can be away from his/her duty station, and only lift such a limit in exceptional circumstances.*

## PROCUREMENT IRREGULARITIES

### 2.3.11 Procurement of Air Tickets

The Audit Commission reported that the Secretariat spent a total of USD 3,469,083 on air travel, which translates to about 10% of its total expenditure for the year under review. Such a category of expenditure is a critical cost item on which management is expected to institute strong internal controls to guard against any possible abuse. A review of the travel arrangements and payments for air tickets revealed a number of control weaknesses as outlined below:-

- a) Lack of Authorization
  - i) names of people to whom air tickets were issued differed from those on the authorization forms;

- ii) staff were issued with tickets based on meeting authorization forms rather than travel authorization forms;
- iii) tickets were issued to destinations different from the venue specified on the authorization forms.

b) No clear Channels of Information Flow

The Secretariat sends invitations to delegates from Partner States through the Ministries of East African Community Affairs. A review of the ticketing process revealed that the official responses from Partner States regarding the nominated officers were not availed to the air ticket officers, as such; it was not easy to confirm if tickets were issued to the rightful delegates.

c) Lack of Competition at Procurement Stage

Despite several firms shortlisted by the Secretariat for provision of air tickets, the booking officer requested for a quotation from only one travel agent as opposed to a minimum of at least three, which is irregular as repeated single sourcing has the risk of unfair prices and poor quality of service due to absence of competition.

d) Non-Authorized Changes in tickets, which resulted into extra costs to the Secretariat, not authorized by the responsible officer.

e) Other irregularities noted include; staff destined for the same meeting and traveling from the same location had different routings, duplication of tickets as well as procurement of very expensive tickets(out of range for given routes). (*See Appendix 3 of the Management letter for the East African Community for the year ended 30<sup>th</sup> June 2013 at Page 75 Of 95*)

The EAC Management responded as follows:

- i) There was confusion of titles as some members of staff cut and paste an old email and use it for a new booking request. The information presented on the travel requisition is therefore not the same as that provided on the itinerary provided.
- ii) This also happens for travels, which require visas. Most visa applications are done in staff respective countries because the visa issuing countries require the officers to present themselves for physical verification and presence.
- iii) The meeting being referred to was distributed around different countries since they were national activities and officers had to go to the countries hence the different routing provided.
- iv) The case being referred to the individual was booked on direct flight, and due to exigencies of the assignment, the individual missed that flight and a new ticket issued through a different routing while the old ticket was put up for refund.
- v) This is a normal occurrence in the airline industry whose business dynamics dictates that prices increase with the advancement of time the earlier you book the cheaper the ticket and the closer you book to the travel date the more expensive it is. This is because the airline industry has developed different prices for different seats in the same class the

cheaper tickets are booked earlier. The forces of demand and supply determine this. This happens because of last minute booking and issuance of ticket.

vi) In many cases staff/delegates are very particular on their mode and time of travel (e.g. this airline/ at this time).

vii) A travel policy will be developed to address the weaknesses.

viii) The ticketing office is a procurement office and which is in the process of being strengthened. An institutional review of structures is being conducted and this will be considered.

The Committee noted the irregularities and misuse of funds with concern.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to Direct EAC Management to -

- i) investigate all irregularities and the individual issues raised in the audit report;
- ii) sanction value for money audit in the matter;
- iii) develop a travel policy to address the weakness;
- iv) institute and enforce prompt recovery measures for unutilized tickets; and
- v) always book staff and delegates to the most direct and economic flight routes.

### 2.3.12 *Disposal of Old Motor Vehicles*

The Audit Commission reported that on 13<sup>th</sup> June 2012, two valuers i.e. M/S Tanzania Electrical, Mechanical and Electronics Services Agency (TEMESA) who are the government valuers, and M/S Peterson Estate Agency and Property Consultancy Co. Ltd, a private company, issued valuation reports for five vehicles of the East African Community. The Secretariat then internally advertised for their disposal on 10<sup>th</sup> September 2012 where they stated that the vehicles would be given to the best-evaluated bid. The adopted reserve price was the higher of the two reserve prices.

Bids were received on 24<sup>th</sup> September, 2012 and evaluated on the 18<sup>th</sup> March 2013 by the EAC procurement committee who found that in four out of the five cases, the best evaluated bid failed to meet the reserve price as shown below:-

#### Disposal of old vehicles

No	Vehicle	TEMESA Reserve price (Us\$)	Peterson Estate Agency's Reserve price (B)	Best offered price (Us\$)
1	Toyota Station Wagon	1,389	5,384	2,000
2	Mercedez Benz	4,743	11,538	4,500
3	Mercedez Benz	5,715	25,000	4,500
4	Mercedes Benz	6,411	730	5,625
5	Toyota Station Wagon	2,295	5,385	5,625

Following the above, a decision was made not to proceed with the disposal on the basis that the bids received were generally not sufficient in number and recommended that the tender be cancelled and re-advertised. Accordingly, the procurement committee sitting on the 17th May 2013 recommended that a fresh valuation of the assets be carried out.

The EAC Management responded that it has noted the recommendation of the Audit Commission and will adopt it.

The Committee noted inefficiency and delays on the part of the EAC Management to advertise and dispose old vehicles in good time. This will certainly result into a huge loss.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) swiftly attend to the sale and disposal of old vehicles to avoid more losses;*
- ii) open up the disposal to the public and include the non-staff as recommended by the Audit Commission; and*
- iii) present progress of the matter to the Audit Commission for verification in the subsequent audit.*

#### 2.3.13 Payment to M/s New Safari Hotel without a Valid Contract

The Audit Commission reported that the EAC Secretariat had a contract with M/s New Safari Hotel for provision of office space to EALA, which expired on 30<sup>th</sup> July 2011. However, a total of USD 36,556.80 was paid to the same company via cheque no.013758 dated 29<sup>th</sup> January 2013, in respect of rent for EALA offices from July to December 2012. There is no evidence that a binding contract was in existence for the period in question.

The EAC Management responded that EALA rented the New Safari Hotel premises until December 2012 when they moved to the EAC Headquarters Wing. EAC Management had decided that the approved memo from the DSG (F&A) to the Clerk of EALA for the period July – December 2012 be paid by the Secretariat through its Partner States budget and this evidences the rent. The approval for payment of the same was given by the same DSG (F&A). However, the advice of the Audit Commission is taken and next time on all similar payments, such approvals by DSG (F&A) will be supported by signed agreements.

The Committee noted noncompliance with regulations as big sums of money were paid irregularly.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) always ensure that all renewable contracts and agreements are renewed on time; and*
- ii) provide justification for the payment in question.*

## 2.4 ENGINEERING AUDIT ISSUES

#### 2.4.1 Unsatisfactory Finishes in Some Parts of the Building

The Audit Commission reported that during a physical inspection of the completed works to verify whether the auditors' recommendations to fix the noted defects had been properly implemented, it was noted that the quality of the finishing is still not good. Walls have swelling paint spots both internally and externally and wall tile works in the wet rooms have not been properly done. Furthermore, the general inspections conducted during the site visit to EAC building revealed the following:-

- i) The painting works generally for both walls and concrete ceiling were not satisfactorily done. Walls were not adequately prepared (skimmed and sanded) before painting. It was also observed that most of the internal and external walls have patches of colours that bring an undesired look for the newly constructed EAC building.
- ii) Tiling works to wet areas and at the edge of skirting were not well grouted which leaves the surface unfinished and allows dirt to settle.
- iii) For the joinery work especially to door frames, the contractor's work was unsatisfactorily done. It was observed that frames plugged to the wall leaves spaces between walls and doorframes.
- iv) Trunking for services (ICT and electrical installations) was not properly mounted to the walls.
- v) Eaves filling at the summit were not properly done.
- vi) Screeding at the top of the summits have a lot of fair cracks and potholes that may result to leakage and hence increase maintenance costs.
- vii) Roof leakage was also observed in some areas such as roof sky light.

#### 2.4.2 Inadequate Workmanship on External Works

The Audit Commission reported that physical inspection revealed that external works at both main entrances of the EAC Building were unsatisfactorily done. Stone slates have not been properly placed, levelled, and grouted. Kerbstones were not aligned properly and some were defective and need to be replaced.

On the Staff's Parking Lot, it was observed that there is no drainage outlet. These weaknesses have been observed despite the fact that the contractor has done some improvements. This poor work done may allow water to percolate underneath and destabilize the underneath layers (soil) and finally result into damage to the whole work.

The Management reported that basing on the Inspection Report of 5<sup>th</sup> October 2012; the snags observed by the Project Management Team (PMT) are captured in the final snag list. The main contractor was also tasked to repair all the identified defects under the snag list before KfW could make final payment.

The Committee noted that there is a risk that the Community will incur higher maintenance costs than expected due to the poor workmanship.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Secretariat to -*

- i) *ensure that the works which were noted to be of unsatisfactory quality are properly rectified; and*
- ii) *deduct payment during the final account preparation from those which could not be rectified to the satisfaction of the Engineer.*

### 2.4.3 Planning for Construction Works

The Audit Commission reported that the planning for the construction works for the EAC HQ Building appears to have been inadequately done as evidenced by the following:-

- i) The financial analysis conducted prior to the commencement of the project was not satisfactorily done. This is evidenced by the fact that two different financing agreements were entered between EAC and KfW (Project Donor Agency). The one dated 17<sup>th</sup> March, 2005 with amount of EUR.8,000,000 was replaced by another agreement with amount of EUR.14,000,000 which was entered on 25<sup>th</sup> September, 2008 and signed on 10<sup>th</sup> February, 2009;
- ii) Final design report recommends the use of raft foundation but in Bills of Quantities (BoQ), the foundation used was pile foundation. This indicates that the brief design and actual works contradicts with one another. The Construction drawings and BoQ were quantified on pile foundation, which was contrary to the brief design report. Therefore, there is a possibility that the EAC building foundation was over designed and hence contributed to cost escalation of the building.
- iii) The other main reasons cited for inadequate planning of the construction work at the EAC include:-
- iv) EAC has no building policy. This policy could guide the Secretariat to plan and manage the construction work (buildings). The Senior Estate Management Officer acknowledged that EAC has been asked to prepare the building policy but this is still not in place;
- v) A Procurement Manual and Procurement plan were not in place during the planning and execution of the project. The Secretariat was lacking clear procurement plan to guide the procurement of Main Contractor, sub-contractors and suppliers. Similarly, the audit commission learnt that the exercise of preparing the procurement plan is now underway; and
- vi) The nominated subcontractor delayed in executing the assigned works due to delays in obtaining registration certificate from the Contractors Registration Board of Tanzania, yet this was one of the requirements of the bidding documents.

Furthermore, it is however acknowledged that in fact, best practice was employed in administering the project using FIDIC conditions of contract and member state guidelines.

The Management reported that cost escalation of the project from 8.0 million EURO to 14.0 million EURO is related to the escalation of the hosted staff. However, Management (through

GBC introduced a non-standardized state of the art foundation method which is the Combined Piled Raft Foundation (CPRF), a method that combines load bearing features of a raft foundation with those of a piled foundation, whereas the load on the subsoil from the raft activates additional bearing capacities of the friction piles.

The Committee took note of the fact that the over designing of the foundation of the EAC Headquarter Building contributed to cost escalation, which could have been avoided was unnecessary.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) ensure that a Building Policy and a Procurement Manual for the EAC Secretariat are developed ready for use; and*
- ii) ensure that in future building projects, the EAC Secretariat should revisit the designs by involving independent experts to safeguard the interest of the Community.*

#### 2.4.4 Questionable Payments - TShs. 180,811,457.74 (TShs. 180.81 Millions)

##### a) Preliminary Item on Provision of Offices, Stores, etc. TShs.104, 805,251.33

The Audit Commission observed that in the preliminary Item D3 bill number 1 on page 5/1/6 in the contract for the main contractor, there was a provision for offices, stores etc. and all other buildings required to be used by the Main contractor and Nominated Sub Contractors. The same item for provision of offices, stores etc. were found in the sub contracts and were paid.

This is despite of the fact that the preliminary item was supposed to be charged only once since the Main Contractor was supposed to provide office space, stores etc., for themselves and all other nominated subcontractors. In the main contractors contract the item was priced at TShs.175, 000,000 (175 Millions). *Annex V* shows the breakdown for the rate in the Nominated Subcontractors" BoQ under preliminary item.

The Management concurs with the audit finding and recommendation to investigate the matter.

The Committee took note of the anomaly incurred on additional costs of TShs.104, 805,251.33 (104.8 Millions) for the preliminary item (shed, stores, offices etc.) which could be avoided.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover TShs.104, 805,251 from the subcontractors. The recovery can be made during the preparations of the Final statement (Account) of the project.*

##### b) Payment for Work not performed though provided for in the BoQ - TShs.3, 654,050.00

A review of the Bills of Quantities (BoQ) and the site visits showed that an item of architrave, which is provided in the Main Contractor Bills of Quantities and paid for, has not been executed at the following areas: Plenary Hall, VIP block, Kitchen, Restaurant, Conference, Courts, Library,



and Archives blocks. The table below shows the detail of the item of the EAC building which has not been executed though provided in the BoQ.

Item, not executed but paid for

Verified Item	Description of item in the BOQ	Amount in BOQ (TShs.)	Observed Weaknesses
35x19mm architrave with two labours plugged	Item F Bill number 3 page 5/3/13 (588,000) Item C Bill number 4 page 5/4/11 (582,050) Item E Bill number 8 page 5/8/14 (1,188,000) Item C Bill number 9 page 5/9/10 (930,000) Item E Bill number 10 page 5/10/15 (366,000)	3,654,050.00.	Despite of the item being included and paid for to the main contractor, no architrave has been fixed to flush doors. This problem occurred to the following blocks: Plenary Hall, VIP block, Kitchen, Restaurant, Conference, courts, library and Archives blocks. A total of TShs 3,654,050.00. was priced for Architraves in the Bills of Quantities (BoQ).

It was further observed that the subcontractor, M/s Furniture & Carpet World Ltd, who was subcontracted to manufacture, supply, deliver and install furniture to the newly constructed EAC HQ Building was paid TShs.72,352,156.41 vide Certificate No.4 with no clear justification. This amount was set aside as a contingency and its utilization and payments ought to be supported by clearly defined tasks. This was contrary to the contract requirement, which specified that the contractor be paid according to the work done. However, in this aspect the contractor was paid the lump sum amount as appeared in the BoQ.

The Management reported that it concurs with the Audit Commission recommendation and undertakes to set up a team of officers to analyse and review all the documents that were used to pay the amount.

The Committee took note of the Audit Commission concern of the risk of overpayment to the subcontractor since the amount was paid as lump sum (contingency amount as in the BoQ) rather than as per detailed work done.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management:-

- i) *to ensure that the amounts paid for the unexecuted works are recovered; and*
- ii) *to set a deadline for the team of officers who will analyze and review the documents that were used to pay the amount.*

#### 2.4.5 Inadequate Description of Some Items in the Main Contractor's BoQ

The Audit Commission reported that the Bills of Quantities for the Main Contractor's contract showed that some items were not properly described. The weaknesses noted were on the descriptions, which were found to be vague and items especially reinforcement bars not measured identifying sizes as per standard method of measurement requirements.

The EAC Management noted the recommendation and undertook to raise the matter with the GBC Consultants and the Contractors in a meeting scheduled in June 2014 so that the matter of the replacement of flush doors can be addressed.

The Committee noted the Audit Commission's concern that:-

- i) The contractor might execute the construction works according to his understanding and the final product might be different from what is desired.
- ii) The final price/cost of the constructed work might not match the final product of the executed work.

*The Committee recommends to the Assembly to urge the EAC Council to direct the EAC Management to ensure that:-*

- i) For any future projects, independent experts before implementation to safeguard the interest of the Community should review the BoQ.*
- ii) Flush doors are replaced with hardwood doors, which last longer to minimize maintenance costs.*

#### 2.4.6 Project Final Statement

The Audit Commission reported that the Project Final statement for the EAC HQ Building project has not been prepared. The defect liability period ended on 4<sup>th</sup> October 2013, but by the time of audit (14<sup>th</sup> February 2014), this was yet to be submitted. According to the FIDIC General Conditions of Contract clause 14.11, within 56 days after receiving the performance certificate, the contractor shall submit to Engineer, six copies of draft statement with supporting documents showing in detail in a form approved by an Engineer.

The Committee was concerned that in the circumstances, the EAC Secretariat cannot establish the total project cost until the final statement (final account) is in place. The Committee also noted a breach of FIDIC general conditions of contracts.

*The Committee recommends to the Assembly to urge the EAC Council to direct the EAC Management to ensure that a detailed Final statement for the EAC Headquarters Building is prepared with all supporting documents such as instructions, valuations, approvals etc. This will enable the EAC Secretariat to understand whether the project has savings or require more money to its completion.*

#### 2.4.7 Variations of TShs.1, 173,197,392 for Subcontractors and TShs. 599,078,158.17 for the Main Contractor without Supporting Documents

The Audit Commission observed that a review of the payments made to the subcontractors revealed that there were variations amounting to TShs.1, 173,197,392.00. These variations were raised from the payments made to seven (7) different subcontractors. The following matters were noted in the review of payments certificates:-

1. Variations were not detailed but also instructions and approvals for the same were not availed for audit review. The instructions, details and approvals are necessary for justifying the adequacy of any variation raised during the construction work. *Annex VI* shows the details of the variations for each subcontractor:
2. A review of payments made to the main contractor (M/S ARECO) revealed that it has variations worth TShs.599, 078,158.17. The table below provides the details of the payments made to the main contractor.

Variations with no supporting documents Contractor's

Name	Contract Price (TShs.)	Gross payment (TShs.)	Interim Certificate No.	Variations (TShs.)
M/s ARECO	20,741,506,735.22	12,536,693,720.53	11	599,078,158

EAC Management reported that it took note of the issue and undertook to ensure that GBC consultants will be requested to prepare a detailed variation account as recommended during the preparation of the final statement.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to ensure that:-

- i) during the preparation of the Final statement, a detailed variation account is prepared and attached with relevant instructions and approvals to minimize unnecessary costs of paying for variations which lack merit; and*
- ii) The Final Account is prepared as soon as possible in order to check and verify this issue as computed by the Audit Commission.*

#### 2.4.8 Notice of Intention to Commence Arbitration

Audit Commission reported that the Contractor claimed prolongation costs for 435 days amounting to Tshs. 3,847,587,690, which involves site administration, equipment, operator costs and financial charges. Regardless of several clarifications on which consultants tried to resolve the matter, it reached a point where the Main Contractor decided to refer the matter to arbitration. However, the position of the arbitration remains unclear.

The EAC Management reported that a meeting was held in March 2014 to resolve the matter amicably, and the Consultants requested the Contractor to provide more documentary proof before

the matter was resolved. On March 06, 2014, a meeting with regard to an amicable settlement of the dispute was conducted in Arusha. The content of the meeting was captured in the minutes of meeting, forwarded to the Main Contractor, ARECO, on 13<sup>th</sup> March 2014. On 21<sup>st</sup> March 2014, ARECO gave notice that he had some reservations with the minutes. However, he did not deliver comments on the items where he had reservations.

*The Committee recommends to the Assembly to urge the Council of Ministers to direct EAC Management to:*

- i) expeditiously explore options of getting the contractor's reservations on the minutes and try to resolve the case amicably; and*
- ii) Look for ways to handle the case amicably to minimize cost overruns of the project.*

#### 2.4.9 Weaknesses in the Project Administration for the EAC Buildings

The Audit Commission reported that most of the information employed during the contract administration was either missing, present or scattered in various places. They could not go further to assess whether EAC complied with the contracts. This was due to difficulties in obtaining various contractual records. For example, they failed to establish how the Client managed to assess and approve the variations without referring to various contractual documents. Further analysis of site meeting minutes revealed the following:-

- i) Delay of approving contractor addendum for fence works; the Contractor submitted his quotation in November 2011 but it was approved five (5) months later, in April 2012;
- ii) Delay in approving addendum for a transformer with ODD-MAC subcontractor; the addendum was submitted on 24<sup>th</sup> January, 2012 but signed in June 2012, five (5) months later;
- iii) Delay in approving additional works for ICT subcontractor. The addendum was signed on July 2012;
- iv) Delays in the Contractor's payments: Payment Certificate No.3 of the Main Contractor was delayed for two month, from 23<sup>th</sup> August, 2010 to 27<sup>th</sup> October, 2010;
- v) Pending approval of Addendum No.3 for consultancy from September 2011 to 31<sup>st</sup> July, 2012; and
- vi) Delay in issuance of Import duty and VAT exemption for 23 days, from 30<sup>th</sup> January, 2010 to 22<sup>nd</sup> February, 2010

The EAC Management acknowledged the existence of some weaknesses in administering the project. They noted that in most cases the development and history of events, additional contracts etc. was captured in the monthly reports, showing very clearly reasons why certain decisions could not be forced to an immediate result. For example:

- i) The process of the approval of the originally omitted item of the fencing works took 5 months. The reason was that the first quotation of the Main Contractor could not be accepted;
- ii) The delay in approving the additional works for the ICT subcontractor was because the scope of works had to be financed from other sources than the KfW funds. In addition the value of additional works was higher than the original contract value; and
- iii) Some payments, to not only the Main Contractor, experienced delays, but also this were rather exceptions. According to the conditions of the Contract, the Consultant had 28 days for the processing. In addition, as all Payments had been paid from KfW directly to the Contractors, there was a granted time frame of 4 weeks for KfW. This issue was discussed in many meetings and all Contractors were aware that the processing of a payment might take up to nearly 60 days.

The Committee reiterates the Audit Commission observation that weaknesses in project administration may cause delays in the completion of the project, increase in costs, and failure to meet the intended objectives of the project.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) strengthen the Estate Management Office, so as to enable them to perform the estate functions more effectively; and*
- ii) ensure that the Head of the Estate Management Office has all the information regarding the EAC Building project compiled in soft copy as well as hard, to make it easily accessible whenever needed.*

#### 2.4.10 Unclear Payments to Subcontractors

The Audit Commission reported that two different payments were made to subcontractors (M/s Odd-Mac Engineering Ltd for the Electrical installation and M/s Furniture & Carpet World Ltd for the supply and installation of furniture) that were each found to have two different figures as explained below:-

##### a) Payment to M/s Odd-Mac Engineering Ltd

The review of the two Interim Certificates (Nos.8 & 9) to M/s ODD MAC subcontractor revealed that Certificate No.8 showed that the subcontractor was paid TShs.126,426,160.32. However, for certificate No.9 (On the side of previous certified amount), it was noted that the amount for Certificate No.8 was reflected as TShs.100,242,160.32 as opposed to the correct amount of Tshs.126,426,160.32.

Below are details of the two Certificates:-

- i) Certificate No.8 was certified by the Engineer on 31<sup>st</sup> October 2012, forwarded to German on 2<sup>nd</sup> November 2012, with letter of reference F&A/210/4. The amount due to the subcontractor was TShs.126,426,160.32; and

- ii) Certificate No.9 was certified by the Engineer on 26<sup>th</sup> April 2013, and forwarded to German on 3<sup>rd</sup> February 2014 with letter of reference F&A/210/4. The amount due to the subcontractor was TShs.373, 858,268.40. On summary of previous certified amount for certificate No.9, it shows certificate number No.8 was wrongly quoted as Tshs.100,242,160.32 instead of Tshs.126,426,160.32

b) Payment to M/s Furniture & Carpet World Ltd

A review of Certificate No.4 (Final Certificate) showed that two different final certificates were certified by the Engineer and forwarded to German for payment. The first certificate amounting to TShs.144, 653,771.32, and the second one has TShs.140, 413,559.32, as detailed below:

- i) Certificate No.4 was certified by the Engineer on 21<sup>st</sup> January 2014 and was forwarded to German on 28<sup>th</sup> January 2014 with letter of reference No. F&A/210/4 costing TShs.144,653,771.32; and  
Another Certificate No.4 was certified by the Engineer on 21<sup>st</sup> January 2014 and was forwarded to German on 3<sup>rd</sup> February 2014 with letter reference No. F&A/210/4 costing TShs.140, 413,559.32

The EAC Management responded that payments to M/S ODDMAC Engineering is correct and that the Engineer's Interim Certificate of Payment No. 8 shows an amount of TZS 126,426,160.30 to be paid to the Contractor. Unfortunately, KfW had a reservation on the envisaged amount and on 16<sup>th</sup> Jan 2013 only transferred TZS 100,242,160.32. Evidence being Certificate No. 9. F&CW have so far been paid a total amount of TZS. 140, 413, 55.32.

The Committee is concerned on the risk of irregular payments.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -

- i) *reconcile the figures noted above for verification and provide clarification as to why that occurred; and*
- ii) *Initiate recovery measures in case of overpayment.*

## 2.5 EAST AFRICAN COURT OF JUSTICE (EACJ)

### 2.5.1 Wasteful Expenditure

The Audit Commission reported that a total of USD 116,000 was spent on Daily Subsistence allowances at the rate of USD 350 per person for meetings to evaluate bidding documents and review the strategic plan among others. The meetings were held in Moshi, which is two hours' drive from the duty station.

No proper justification was availed for holding such meetings in Moshi yet they could have been held in-house at minimal cost. In case management wanted to maximize concentration for officers, then they would have booked all officers in a hotel nearby the duty station.

The EAC Management responded that a retreat out of office was found inevitable and the Court budget envisaged this situation by making relevant provisions to cater for the said undertakings out of office.

The Committee observed that although the activity was genuine, Moshi does not seem the only place to hold such meetings. Alternative place that does not require payment of DSA could have been sought.

The Committee considers the above expenditures wasteful as they could have been avoided and funds expended on more critical purposes, had propriety been exercised.

*The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to -*

- i) amend Financial Rules and Staff Regulations with the aim of discouraging meetings in Moshi and put an exception clause to really justify the necessity; and*
- ii) always exercise prudence while authorizing expenditure.*

#### 2.5.2 Accounts Receivable

The Audit Commission reported that an increase in the receivables figure of USD 368,299 due from EAC PAF. It was also observed that the figure had more than doubled when compared to last year, implying an upward trend. During the audit, the Management did not provide evidence of recoverability of these amounts.

The EACJ Management reported that collectability evidence would be availed to the Audit Commission.

The Committee observed that although the EAC Management claim that the receivable incurred has been paid since 16<sup>th</sup> June 2014, the current audit shows no indication of how the receivable was incurred.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) always share evidence of collectability of such monies; and*
- ii) avail proof of payment of receivables to the Audit Commission in the next Audit exercise.*

#### 2.5.3 Non-Compliance with the Human Resource Rules and Regulations Criteria

The Audit Commission reported that Regulation 60, of the EAC Staff Rules and Regulations, stipulates that acting in a position shall not exceed six months before the post is substantively filled. However, a total of USD 9,144 was paid as Acting Allowance to the Court Accountant who has been acting as the Court Administrator since November 2011.

The EAC Management reported that Mr. Stanley Mono has held the position of Court Administrator in acting capacity to-date due to delays by the Council of Ministers to approve recruitment of a substantive position holder. The Management also concurs with the audit finding that acting for such a long time may compromise the efficiency and effectiveness of the officer because of an excessive workload but the Court has no alternative solution but to rely on Mr. Stanley Mono until such time when the Council of Ministers will recruit a substantive position holder.

The Committee observed that the Accountant has also acted as the Court Administrator for over three (3) years. The officer also confessed before the Committee that the workload is indeed much.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to expedite the recruitment process aimed at filling the staff positions.*

#### 2.5.4 Vacant Posts within EACJ

A review of the EACJ staff establishment revealed the vacant positions indicated in Annex VII have been vacant for the last four (4) years.

The EAC Management is in agreement with the concerns of the Audit Commission that having vacant positions implies having inadequate human resource, which may negatively impact on the effectiveness and efficiency of the organ.

The Committee observed that the EAC Council of Ministers is yet to approve the recruitment process.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to coordinate and expedite the recruitment process.*

#### 2.5.5 Delays in Banking of Case Filing Fees

Fees received as income are supposed to be banked immediately as per Financial Regulation 47(3), which stipulates income received shall be banked immediately and receipts shall be recorded in the books of accounts on the date the remittance is received and deposited in the bank by the next working day.

The Audit Commission reported that filing fees charged by EACJ were not being banked promptly. In some instances, balances were banked after 13 to 98 days. Failure to bank all fees collected promptly, they are exposed to risk of misuse or loss.

The Management concurs with the auditors observations. However, it should be noted that the same observation was pointed out in the previous audit, which concluded in March 2013.

The Management of the EACJ assured the meeting that mechanism is now in place for instant banking.

The Committee observed that most of the anomalies are caused by understaffing.



*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) recruit more staff for the Court; and*
- ii) avail the status of Audit report and recommendation compliance during the next audit, for verification.*

#### 2.5.6 Training

The Audit Commission reported that the EACJ paid USD 33,350 for training various members of staff as follows:-

##### Training Expenditure at EACJ

DATE	Cheque NO.	NAME OF COURSE	Amt (Us\$)
31/01/2013	004108	Training in Advanced Management – in Swaziland from 18/02-16/03-2013	4,575
17/05/2013	004288	IPSAS and Accrual basis of accounting-Swaziland from 17/06-12/07/2013	4,950
24/05/2013	004297	Advanced program for senior executives and professionals.	4,575
24/04/2013	004241	Training of 11 Jurists on interpreting EAC Treaty and Protocol at International Law Institute	19,250
<b>TOTAL</b>			<b>33,350</b>

The audit revealed that EACJ had no approved training plan during the FY under review. Besides, the staffs themselves identified the training needs and the training to be undertaken.

The Management reported that during the period under review, the Court had set aside in its budget funds for the training of Judges and the Registrar on Treaty and Protocol Interpretation. This planned activity was carried out as per budget implementation plan, but not all funds were spent as the Court negotiated with the Institute. Since the funds were budgeted for training, the management decided to use the realized savings by allowing training of few support staff in their respective areas of duties after assessing the needs.

The Committee observed that EACJ had not set down criteria and so the training was irregular.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:-*

- i) always undertake needs assessment trainings and seek approvals to avoid building slacks in the budget to enable diversions; and*
- ii) issue circular or develop and initiate policy on adherence to approved plans and budgets of the Community.*

## 2.6 EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

### 2.6.1 Irregular Payment of per diem to Facilitate Attendance of Funeral Ceremonies

The Audit Commission reported that the EAC Staff Rules and Regulations only provide for a paid leave of nine days in case a member of staff loses a close relative with no other benefits. Although it can be justified for the EAC to send an official representative in case a member of staff passes on, a review of accountability documents revealed instances where facilitations were extended to staff to attend funeral ceremonies of different categories of persons, with one such instance where a total of USD 9,084 was paid as Subsistence Daily Allowances of up to nine days as shown below:-

#### Irregular Per Diem paid by EALA

Cheque No	Voucher Amt (Us\$)	Amt Queried (Us\$)	Reason
8136	8,900	5,200	Paid as per diem to EALA MPs and staff
7530	3,775	1,634	Paid as per diem to EALA MP and staff
	3,040	2,250	Paid per diem for 9 days to driver; no justification provided
Total		15,715	9,084

The Management reported that authorization was granted on a compassionate basis and after nomination by the EALA leadership. The EALA Management concurred with the proposal by the Audit Commission to refer this matter to the Commission for guidance on representation at funerals. The driver remained on official duty with the speaker in Uganda and had to be facilitated.

The Committee observed that although the EALA Management justified the expenditure, it was wrong to approve it without proper guidelines.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to:-*

- i) direct the EAC Management to form guidelines on death related expenditure for all EAC Organs and Institutions; and*
- ii) urge the EALA Commission to finalize the proposal before them.*

## 2.7 PAF PROJECT:

### 2.7.1 Flouting of Procurement Regulations

#### a) Printing of the East African Community Partnership Fund Annual Report

The Audit Commission reported that a tender for printing of the EAC Partnership Fund Annual Report was awarded to M/S Majestic Printing Works Ltd at a contract price of USD 2,517.35. Several inconsistencies were noted regarding this procurement as shown below:-

- i) The evaluation committee report was dated 16<sup>th</sup> May 2013 but signed on 12<sup>th</sup> May 2013;
- ii) M/S Majestic Printing Works ltd was awarded the tender for the job although they were not the lowest in terms of price rating for the same works. Majestic was paid USD 2,517.35 Vide cheque No.005209 for the works; and
- iii) Further review of the payment voucher revealed that the procurement requisition was dated 13<sup>th</sup> May 2013, and the LPO Ref: PON/SEC/002456 is dated 21<sup>st</sup> May 2013. However, the invoice for the works was dated 16<sup>th</sup> May 2013, which was the same day as the receipt of funds by supplier.

The above analysis points to the fact that the evaluation report was made on the same day that the invoice was raised and settled.

The Management reported that under the Evaluation report there was a mix-up of dates as the report was finally prepared on the 16<sup>th</sup> of May while the Committee had sat on the 12<sup>th</sup> of May 2013. That is why the signatures reflect the 12<sup>th</sup> of May. Further, it was reported that the contract went to the second bidder because Majestic work that had been seen earlier was more striking than Speedy.

The Committee observed inconsistencies in the tender awarded to M/s Majestic Printing Works Ltd who was not the lowest bidder. The transaction is occasioned by inconsistent dates as observed by the Audit Commission.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:-*

- i) always adhere to the Procurement Regulations and Procedures;*
- ii) always prepare documents and present them properly to avoid suspicion of the process; and*
- iii) implement the recommendations of the Audit Commission.*

b) Procurement of Promotional Materials

The Audit Commission reported that the EAC procured promotional materials for the observer mission expected to run from the 24<sup>th</sup> February to the 8<sup>th</sup> March 2013 in Rwanda. The contract was awarded to M/S Creative Media Ltd to supply branded promotional materials at a cost of USD 10,920.90. It was further noted that Delivery Note No.0179 from M/S Creative Media revealed that goods were delivered on 5<sup>th</sup> February 2013; although the Goods Received Note No.2454 by the Secretariat reflects that goods were received on the 29<sup>th</sup> June 2013, and that the LPO No.07449 was issued on 28<sup>th</sup> June 2013, months after the activity had ended.

Further noted was that Invoice No.221 was presented on 29<sup>th</sup> June 2013 and as such remained unpaid as at the end of the financial year. The entries on the General Ledger do not reflect the expenditure charge for this purchase, neither was there a reflection of a liability for the same.

The Management reported that the goods were received as per the delivery note. These items were t-shirts and jackets for the election observer team, which were actually used for the event. The expenditure is captured correctly as per JN 28794.

*The Committee noted the inconsistency and non-adherence to the proper posting of accounts.*

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to -*

- i) consider seriously the issue of accounts posting and keeping of the books; and*
- ii) adjust the transaction for verification by the Audit Commission in the next exercise.*

c) Irregularity in Conduct of Procurement Committee Meetings

The Audit Commission reported that on 13<sup>th</sup> November 2012, the 19<sup>th</sup> Extra-ordinary Procurement Committee meeting was held at Lake Turkana Hall - KICC Nairobi. Included on the Agenda were deliberations on the Procurement of logistical items for the F&A, Council, Summit and opening of the New EAC Headquarters Complex. A review of this transaction showed that there was no quorum for the meeting. Despite lack of quorum, the meeting went on to discuss and approve the procurement methods and also award contracts for the supply of various items, works and services for an amount of USD 91,677 as shown in *Annex VIII*.

Further, there was no justification provided as to why the procurement committee had to sit in Nairobi whereas their station is in Arusha.

The EAC Management reported that there was a Council meeting on going during those dates and majority of the members on the Procurement Committee were involved in those meetings. For this reason, it was prudent for the meeting to be held in Nairobi.

The Committee noted that the Procurement Committee meetings were irregular since they lacked quorum. Given the amount of money involved, such an oversight and contempt of rules could not have been allowed to happen.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always avoid such breach of rules and regulations.*

2.7.2 Training in Microsoft Office in Dubai - USD 15,507.6

The Audit Commission revealed that a sum of USD 15,507.6 was spent to facilitate two staff for training in Microsoft Office Specialist, running from 7th to 16th October 2012 in Dubai as shown below:-

Training of Staff in Microsoft Office IN Dubai

Description	Base Amount (Us\$)	Transaction Reference	Remarks

DSA w/in EAC- Staff Training for Microsoft Office Specialist	3,000.00	IMP/SEC/00186 1	Training for MOS specialists 7-19 <sup>th</sup> Oct 2012 (12 days).
DSA w/in EAC- Staff Training for Microsoft Office Specialist	3,000.00	IMP/SEC/00186 0	Training for MOS specialists 7-19 <sup>th</sup> Oct 2012 (12 days).
Training Fees in Microsoft Office Specialist for Helen & Caroline	7,200.00	PON/SEC/00167 9	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows-2010
Training Fees-Visa fees	520.00	PON/SEC/00168 4	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows-2010.
Return Air Ticket -Staff	1,787.60	PTT/SEC/00179 5	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows-2010.
Total	15,507.6		

It was further noted that this training had not been planned for. Besides, there was no evidence that the Human Resource Department was involved in the approval process. There was no proper needs assessment to establish the skill gaps. Given that basic nature of the training in question, this could have been locally provided to avoid unnecessary costs of travelling to Dubai.

The EAC Management reported that there was an approval and the Director of Human Resource and Administration under whom the Docket of HR falls, recommended the training and the approval of the training course outline were availed to the Audit Commission.

The EAC Management take note of the deficiencies in planning for training, a matter that is being handled by the Human Resources Advisory Committee (HRAC), which will advise the Management on requisite changes. It was further noted that all training requests are now considered by the HRAC, which makes recommendations to the Management.

The Committee observed misuse of funds on trainings not planned for. The training in question did not justify flying to Dubai without requisite approvals.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:-*

- i) stop such misuse of funds; and*
- ii) always undertake planned and approved activities and seek proper approvals where unplanned activities are considered very necessary.*

### 2.7.3 Purchase of Two Mobile Phones - USD 1,791

The Audit Commission observed that a total of USD 1,791 was spent to acquire two mobile phones: (1) a Samsung Galaxy SIII at USD 769 on 31/7/2012, and (2) an iPhone at USD 1,022 (Tshs.1, 640,200) on 23<sup>rd</sup> January 2013. No evidence was availed to justify that these items had been properly budgeted for. Besides the iPhone was purchased using part of the imprest, which was meant to facilitate Donor Mission while in Dar es Salaam. This action can be construed as a diversion of funds.

The EAC Management reported that the phones were purchased to aid in the effective implementation of activities.

The Committee observed that the EAC Management breached the Financial Rules and Regulations by spending on unbudgeted for funds on unnecessary items.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to-*

- i) recover the amount in question from the responsible officer and report to the Committee on the implementation of the directive by June 2015; and*
- ii) develop a policy on acquisition of assets for use in the service of the Community.*

## 2.8 FSDR PROJECT

### 2.8.1 Avoidable Expenditure on Planning Meeting to Restructure the Project – USD 8,750

The Audit Commission reported that the Project Accountant was advanced USD 8,750 (vide reference no. IMP/SEC/001683) to cater for per diem and other sundry expenses during the Planning Meeting to Restructure the Project held from 28<sup>th</sup> to 29<sup>th</sup> August 2012, in Moshi, Tanzania. Given that the meeting was for only eight (8) people, it was not justifiable to hold such a meeting outside Arusha.

The EAC Management concurs with the audit recommendation on prudence and value for money activities. It was argued that the meeting under discussion was both a retreat for the project staff that needed bonding to enhance teamwork, and secondly was to give the team an opportunity to review the project activities given the challenges the project had gone through since its effectiveness.

Considering the two objectives of the meeting, the EAC Management was of the view that they could be fully achieved outside duty station environment where the team could have a maximum concentration. Apart from bonding, the Project Administration Team was also tasked to concentrate on project redesign and restructuring and to have justifiable output especially in the Executive Committee recommended areas of:

- i) Re-prioritization of project activities;
- ii) Review the project activities costing;
- iii) Restructure the project to consider the extension of the project life span; and
- iv) Revisit the project to reallocate or cancel the funds that may not be required in the first phase of the project.

The output of the meeting was shared with the EAC Management, Project's Executives and Steering Committee, and the World Bank. It was further noted that the EAC Management has indeed put more controls to implement the Audit Commission's recommendation on enhancing the achievement of value for money. In March 2014, the Secretary General issued a Circular emphasizing that "no EAC meetings should be held in Moshi without his clearance".

The Committee observed that the expenditure was indeed wasteful because the same objectives could have been achieved by holding such meeting in a nearby hotel and only paying for meals and venue.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to desist from causing financial loss to the organization.*

### 2.8.2 Project Budgetary Performance for the Year under Review

During the audit, it was noted that the project had been planned to be implemented in phases and phase one had six (6) components, which were to be completed, by end of the FY 2012/13. The committed amount by the donors from inception to completion of phase one is USD 16,000,000. Further analysis of specific activities under the six (6) components revealed that the project planned to undertake 44 key activities with a total budget of USD 7,495,000, during the year under review, out of which only 17 were carried out. The actual expenditure amounted to USD 2,013,214 translating into a meagre 27% of the budget.

The EAC Management agreed with the audit observation and recommendation, and further reported that the Project Management faced a number of challenges from the project inception as hereunder:-

- i) Changed factors since the design of the project that include costing figures adopted for budgeting; some of the amounts were too low to support regional consultancy work;
- ii) The evolving regional Agenda which necessitated a need for restructuring of the project ;
- iii) In appropriate design of some components (e.g. the IOSCO activity under component 3) which led to implementation difficulties;
- iv) Delay in recruitment of key personnel; and
- v) Long procurement processes, in particular the long drawn out negotiation processes among others.

The EAC Management reported that the Project Administration Team has since taken the following steps to ensure that the project is brought on track:-

- i) Re-costed all the project activities to reflect the market rates;
- ii) Develop mechanisms for reducing the long procurement process;
- iii) New technical staff recruited; and
- iv) Have agreed with the World Bank for a project extension for 15 months to give the project team a chance to achieve the project development objectives.

The Committee observed the slow pace of implementing project objectives and took note of the Management's undertaking.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to-*

- i) Always plan realistically and ensure implementation of planned activities; and*
- ii) Present progress and improvement for verification to the Audit Commission in the next audit exercise.*

### 2.8.3 Unjustified Procurement of Fixed Assets

During the auditing, it was noted that the project paid M/s Compucat Technologies USD 40,790.00 vide cheque No.00320 with LPO Ref: POA/SEC/001542 for the supply of 15 Toshiba satellite C850-B890 laptops, 16 iPad and two printers. The audit further noted that this procurement of extra laptops and iPad was not justified, considering the number of staff under this project. The fixed asset register and distribution schedule also showed anomalies of some staff being issued with several IT related equipment such as a desktop computer, HP laptop, Toshiba laptop and iPad.

The EAC Management reported that the procurement of the 15 laptops and 16 iPad was to meet the staff needs of the project. The staff complement of the project currently stands at 14 after two members of staff, Joseph Rugari and Dr. Sigei resigned for greener pastures. Currently two positions are at the short listing stage and staff expected to report on duty before the end of the current fiscal year.

The EAC Management however agreed with the audit observation that the distribution shows some anomalies and confirmed to the Committee that the anomalies had since been corrected as shown in the adjusted Asset distribution list available for verification by the Audit Commission.

The Committee observed that the Project Management has unnecessarily procured fixed assets where for instance laptops outnumbered the staff of the project.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:-*

- i) avoid unjustified procurement of fixed assets;*
- ii) withdraw laptops from those who received more than one and iPad; and*
- iii) present the adjusted asset distribution list to the Audit Commission for verification.*

## 2.9 USAID-CSERI PROJECT

### 2.9.1 Project Budgetary Performance for the Year under Review

The Audit Commission reported that the EAC/USAID project comprises four components with each having a distinct budget in line with the identified activities. During the year under review it was noted that the overall budget utilization was low with only one component being above 50%. The entire expenditure for the year was USD 819,355 against a budget of USD 2,201,386 resulting into a meagre 37% utilization, as detailed below:-



## Budgetary Performance under USAID-CSERI Project

Donor activity analysis code/ department	Donor activity description	Budget - \$	Actual - \$	Variance – \$	Variance in %
US01	Establishment Of The East African Common Market	518,362.00	325,748.79	192,613.21	63

The EAC Management responded that the under spending was because of limited technical and administrative capacity arising from non-recruitment of three project staff mainly for US02, US03 and US04. These staffs were on board from July 2013, there has since been a notable improvement in the project activities implementation.

The Committee observed low budget utilization, caused by the delay to recruit project staff. It was further noted that low utilization could limit the Community from receiving more donation.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:-*

- i) improve on budget performance in all projects; and*
- ii) present the progress of implementation of activities to the Audit Commission for verification.*

## 2.10 HIV-AIDS PROJECT

### 2.10.1 Poor Budget Performance

A review of the project budgetary performance by the Audit Commission revealed that the project performed poorly in utilization of budgeted funds and only managed to spend 47% of total funds earmarked for its programs during the year under review.

The EAC Management noted the audit find and highlighted the following reasons that led to poor budget performance: - the Management notes this.

- i) The HIV and AIDS project did not implement most of the planned activities for the period under review due to unavailability of funds. Attempt to borrow funds within the organization were futile. So the unit was unable to achieve the desired budget utilization due to none or low implementation. Funds from SIDA were received on 2<sup>nd</sup> December 2013, which was rather late for implementation.*
- ii) During the period under review, due to none availability of funds, the project was able to mobilize technical support inform of consultants from the UN agencies (UNDP and UNAIDS). The consultants have been hired by UNAIDS and UNDP to write the EAC Annual HIV Epidemic; and conduct a comprehensive analysis of HIV and AIDS Laws,*

policies, strategies of the EAC Partner States and develop a Regional HIV Legal and Policy reform framework, respectively. This work is in advanced stages. We had budgeted for these expenses under the EAC HIV and AIDS project and they form part of the analysis. Since these are not incurred by EAC they are not reflected in the EAC accounts but under the accounts of the supporting organizations. This has contributed to the observed low budget utilization. The project team undertook to improve in the budget performance during the current FY 2013/14.

The Committee observed that poor budget performance undermines credibility of the EAC as an Institution.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to ensure that activities planned for are always executed at all costs.*

## 2.11 APSA PROJECT

### 2.11.1 Budget Performance

During the period under review, the analysis of APSAs budget performance by the Audit Commission revealed over expenditure on the following budget lines:-

#### Budget Performance under APSA Project

Item	Budgeted Amount (USD )	Actual Amount (USD)	Amount Available	Budget Utilization
Salaries and other related costs	69,900	81,732	(12,132)	117%
Promotion of Dialogue, Tolerance &	72,800	82,501	(9,701)	113%

There is no evidence that over expenditures noted above was properly authorized by way of approved reallocations as is provided for under Regulation 20 of the Financial Rules and Regulations.

The EAC Management reported that salaries and related costs were under budgeted and hence the over expenditure. Management however concurs with the recommendation and undertook to ensure that there will be no budget overruns in future.

The Committee observed that there was spending beyond budget and breach of Regulation 20 of the Financial Rules and Regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to-*

- i) adhere to the financial rules and regulations; and*

- ii) *always budget appropriately and seek approval for re-allocation from appropriate authorities.*

## 2.12 ARNM PROJECT

### 2.12.1 Weaknesses in Consultancy Contract Management

#### a) Contract Agreement No. P&P/1/1/4(01)

The Audit Commission reported that Contract Agreement No. P&P/1/1/4(01) for the provision of Consultancy Services for Feasibility Studies and Detailed Engineering Design of the Multinational Arusha – Holili/Taveta - Voi Road was signed between the East Africa Community (The Client) and M/S Egis Bceom International (The Consultants) on 27<sup>th</sup> August, 2009 for Euro.1,400,052.98 and Local Currency of KSh. 32,916,743. The effective contract date was noted to be the date of contract signing as per Clause 2.1 of the Specific Conditions of Contract (SCC); commencement of services was to be within thirty (30) days from the contract effective date as per Clause 2.2 of the SCC. In addition, Clause 2.3 of the SCC specified that the contract period shall be eighteen (18) months.

During the audit, payments totalling USD 929,282.41 were made by the project. However, the following matters were noted:-

- a) The technical contract performance reports/minutes, invoices, Certification and acceptance of work done were not availed; and
- b) The Consultant's report was submitted in March 2013 having delayed for more than 40 months. It is worth noting that there was no clause included in the contract for penalties in the event of delays by the consultants.

The EAC Management concurred with the audit finding and held that the matter in question was similar to the Malindi – Bagamoyo project but in reverse order. The scope of works was for full design on the Tanzanian side and design review on the Kenyan side. However, when the consultant (Egis BCEOM) was reviewing the Kenyan side of the design, it was discovered that the previous design had serious shortcomings that required full re-design. A contract addendum was negotiated, with additional costs sourced from Grant savings, and the consultant was granted extension of time to do the new designs. In addition to the re-design, environmental issues with regard to the Tsavo National Park took time to resolve. Several stakeholder workshops were held in order to reach consensus with regard to the section of the road passing through the National Park.

The Committee noted probable laxity in the Contract management, which may negatively affect the achievements of the set objectives. The Committee further took note of Management claims that an addendum was negotiated and signed and so the delay was agreed upon.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to avail a copy of the addendum for verification by the Audit Commission.*

### 2.12.2 Weaknesses in Managing Receivables and Payables

#### a) Receivables and Payables

The Audit Commission revealed that the Statement of Financial Position as on 30<sup>th</sup> June, 2013 reflects outstanding receivables detailed in the table below:-

#### Receivables under ARNM Project

Description	Year ended 30th June 2011 (Us\$)	Year ended 30th June 2012 (Us\$)	Year ended 30th June 2013 (Us\$)
Staff imprest for Activities		16	16
Receivables, Tanzania Roads Authority	40,383	40,383	40,383
VAT Claims		100	100

Further review of these receivables revealed that they have been outstanding for more than one year and they are not supported. The respective invoices and efforts made by the management on follow up and recovery of these receivables were not availed.

#### b) Payables

A review of this project, by the Audit Commission, revealed that the Statement of Financial Position as on 30<sup>th</sup> June, 2013 reflected accrued expenses of USD 2,480 and other current liabilities of USD 11,028 as shown in the table below:-

#### Payables under ARNM Project

Description	Year ended 30th June 2012 (Us\$)	Year ended 30th June 2013 (Us\$)
Accruals	2,480	2,480
Contributions received in Advance, Kenya	11,028	11,028
TOTAL	13,508	13,508

The EAC Management undertook to liaise with the concerned National Road Authorities and make the necessary reconciliations to be reflected in the subsequent financial year Financial Statements.

The Committee observed that receivables and payables have not been claimed and settled as required.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to initiate and follow up the claiming of receivables and settlement of payables and avail the evidence of action to the Audit Commission for verification.*

## 2.13 IBAR PROJECT

### 2.13.1 Unsupported Receivables and Payables

A review, by the Audit Commission, of the Project Receivables and Payables Accounts revealed a total of USD 11,878.92 and USD 7,989 respectively that were not supported. In addition, no breakdown was provided for the amounts in question.

The EAC Management reported that supporting documents for receivables and payables in questions were availed to the auditors who verified them accordingly.

The Committee observed that the EAC Management does not cooperate with the Audit Commission during the audit exercise.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always exercise maximum cooperation during the audit exercise and implement the audit Commission Recommendation without any hesitation.*

#### 2.13.2 Unsupported Expenditure

A review of Project expenditure revealed unsupported transactions totalling to USD 20,678.69. The relevant payment vouchers were not provided for audit review.

The EAC Management reported that all relevant documents were availed for review to the auditors.

The Committee noted non-compliance by the EAC Management during the audit exercise.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover all the monies spend without requisite supporting documents and avail the implementation of the directive to the Audit Commission.*

#### 2.13.3 Overpayment of Daily Subsistence Allowances

A review by the Audit Commission revealed that a payment for daily subsistence allowances (DSA) of total USD 815 was overpaid during the year under review.

The EAC Management took note of the finding and promised to institute recovery of funds.

The Committee noted with appreciation the undertaking by the EAC Management.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to avail evidence of recovery to the Audit Commission in the next audit.*

#### 2.13.4 Debit Note to M/S Wing Link Travel Agent neither Recovered nor Recorded as Receivable

The Audit Commission reported that during the year under review, the IBAR Veterinary Governance Project paid for an unutilized ticket amounting to USD 668 to M/s Winglink Travel Agent and a corresponding debit note of USD 668 was prepared on 19<sup>th</sup> April 2013 for a refund by the firm. The Accounts Assistant explained that for any unutilized ticket a debit note would be prepared by EAC to M/S Wing Link Travel Agent so that the later can refund to EAC the amount involved.

At the time of audit, in February 2014, no refund had been made by the travel agent and debit note was not recognized in the books of account as a receivable as on 30<sup>th</sup> June 2013.

The Contract between the EAC Secretariat and M/s Winglink Travel Agent was also not availed for confirmation of payment in the event of unutilized tickets.

The EAC Management noted the audit concern and undertook to follow up with the supplier to ensure recovery of USD 668.

The Committee observed that the EAC Management does not pay attention or follow up recoveries for the community.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover all receivables and present evidence to the Audit Commission for verification.*

## 2.14 MRH PROJECT

### 2.14.1 Unaccounted for Advances and/or Allowances to Staff

The Audit Commission reported that imprest amounting to USD 18,288 vide cheque No.000075 was paid to Mr. Eric Sanga to cater for the Technical Working group held in Kigali from 3<sup>rd</sup> to 5<sup>th</sup> December, 2012, but no document was availed to support the retirement.

The Committee noted that the file that contained the retirement of the funds in question had been misplaced but later discovered, verified and cleared.

### 2.14.2 Poor Budget Performance and Project Implementation

Performance budgets use statements of missions, goals and objectives. It is a way to allocate resources to achieve specific objectives based on program goals and measured results. Hence, the level of implementation of the project is expected to correspond closely to the percentage of utilization of funds allocated to the activity. *Annex IX* attached reveal poor budgetary performance of MRH project.

The following matters arose from the analysis:-

- a) Although the overall percentage utilization was 62%, the Project had overspent on two budget lines up to 215% and 306% of the allocated amounts; there was no evidence that the over expenditures in question was properly approved as is required by the financial regulations.
- b) Many planned activities were not undertaken at all.

The EAC Management reported that the budget spending level of about 62% resulted from a number of factors beyond the Project Management control, such as:-

- i) Delay of fund disbursement from the World bank, while the funding agreement was signed on 21<sup>st</sup> March 2012, the first disbursement came 26<sup>th</sup> September 2012 (6 months later);
- ii) Delay in recruitment of 10 Project Staff, namely six National Medicines Regulatory Officers (NMROS) and 4 staff at EAC Secretariat namely Senior Health Officer, e-Health and Informatics Officer, Accountant & Pharmaceutical Program Assistant. The six National Officers were recruited in April 2013 (3 months before year end) while four staff at Secretariat were recruited on 1<sup>st</sup> July 2013 (soon after year end); and

- iii) With no staff at National level, no substantial activities were implemented apart from three months staff salaries.

The EAC Management further reported that the Project Management was currently reviewing the current Project performance especially the analysis of the amount spent against the budget, spending per the components as preparation for the Project mid-term review planned mid-March 2014. The review team involving all stakeholders (Donors, EAC & other Partners like WHO, NEPAD and Bill gate & Melinda Foundation) will review all spending against budget and suggest the reallocation of funds among budget lines, activities and project components.

The Committee noted poor budget performance and overspending on particular budget lines without approvals.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to seek proper approvals always to spend the EAC funds.*

## 2.15 RISP PROJECT

### 2.15.1 Unbudgeted Expenditure - USD 6,900

The audit review showed that on 29th July 2012, the East African Community signed a contract with Amanda Magamba to monitor and report on behalf of EAC the electoral process towards ending the Somalia transitional Federal Government. The contract was scheduled to be undertaken from 22<sup>nd</sup> July 2012 to 20<sup>th</sup> August 2012 at a fee of USD300 per day while on the mission.

The audit further revealed that a total of USD 6,900 was paid to the Consultant vide Cheque No.000898 from the RISP Fund. Further scrutiny of the RISP annual work plan and the approved budget revealed that such an activity had not been budgeted for.

The EAC Management reported that expenditure was occasioned by the emergency nature of the transition in Somalia, a country that had applied to join the Community and in view of the EAC obligation; this should have been reflected under RISP work plan. The Management however undertook to ensure that such lapses do not occur in the future.

The Committee observed the anomaly and consistent abuse of funds by the officers who take decisions to revise work plans and create activities outside the EAC Management.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover the said funds from the officers involved and report back to the Audit Commission.*

### 2.15.2 Irregular Payment of VAT - USD 12,379.35

The Audit Commission reported that Article 4 Sect. 7 (f) of the MOU between the COMESA and EAC states that the Project Funds shall not be considered eligible for taxes, duties and charges

(unless the implementing party is not able to claim them and if allowed by the applicable regulatory provision of the European Union).

However, the Audit Commission noted that VAT paid to suppliers was fully expensed with no evidence provided of any efforts by the EAC Management to submit claims for refund of the amount spent. Failure to recover VAT contravenes the provisions of the Agreement between EAC and the United Republic of Tanzania. Besides, RISP may not be able to recover the whole amount of tax paid.

The EAC Management reported that it concurs with the audit finding and reported that the matter is being handled by the EAC Administration Office to set up a modality that will ensure that EAC is able to claim Taxes from the other EAC Partner States.

The Committee noted with concern lack of efforts by the EAC Management to claim VAT levied on EAC transactions in all the EAC Partner States.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to adopt a prompt measure of claiming refundable VAT in all the EAC Partner States.*

## 2.16 MISCELLANEOUS PROJECTS

### 2.16.1 Miscellaneous Projects Dormant Funds

The Audit Commission reviewed the use of funds for Miscellaneous Projects and noted dormant funds totalling to USD 2,063,679.81 for six projects. These funds were on the bank account from the beginning up to the end of the year under review. It was also noted that EAC Secretariat under absorbed the funds of six of the Miscellaneous Projects as it utilized only 10% of the available funds during the year under review.

The EAC Management reported that the unutilized funds from the Miscellaneous Projects was from SIDA- EPA negotiation. Most activities did not take place because of technical challenges within Partner States. Some funds were transferred directly to Partner States, but eventually returned to EAC Secretariat. The unutilized funds (USD 2, 121,000) were transferred back to Sweden on 29<sup>th</sup> April 2014, as the project phased out on 30<sup>th</sup> June 2013.

The Committee noted that the dormant funds were mainly donated by SIDA to facilitate EPA negotiations, which EALA refused to approve owing to the fact that the competitor being our funder, would compromise the negotiating power. The funds were consequently transferred back to Sweden.

### *COMMITTEE RECOMMENDATIONS*

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to:*



- i) *always provide conclusive information with evidence to the Audit Commission;*
- ii) *show evidence of monies transferred to Partner States and Sweden; and*
- iii) *change the account name to EAC General Project Account.*

#### 2.16.2 Unsupported Receivables and Payables

A review, by the Audit Commission, of the Receivables and Payables Accounts for the Miscellaneous Projects revealed a total of USD 228,349.10 and USD 1,084,184.40 respectively was not supported.

The EAC Management reported that total payables under the Miscellaneous Project, as on 30<sup>th</sup> June 2013, was USD 217,509.65. This include unpaid air ticket and amount due to consulting (MA Consulting Group) and total amount receivable was USD 372,102; this amount includes inter-project/Secretariat indebtedness of USD 361,083 from Secretariat to SIDA- EPA negotiation Project. Relevant documents were presented to the Auditors for verification.

The Committee took note of Management's response.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to ensure that such issues are settled with the auditors by provision of relevant documents for verification.*

#### 2.16.3 Weaknesses in Procurement Management

The Audit Commission reported that procurements of office equipment, office furniture and computer equipment worth USD 14,575.03 (vide Chq.100386 of USD 7,660.13 and Chq.100399 of USD 6,914.90) were made from the Miscellaneous Project Account. However, the procurement was authorized by the 10<sup>th</sup> Extra Ordinary Procurement Committee Meeting held on 29<sup>th</sup> June 2012, which lacked the required quorum of members from all five Partner States as per item No.3.4.1.4 of the EAC Procurement Policies and Procedures Manual, 2011.

The Committee noted the procurement anomaly.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to-*

- i) *stop breaching EAC procurement policies and procedures manual 2011; and*
- ii) *Always endeavour to avail requisite documents for verification by the Audit Commission.*

#### 2.16.4 Unsupported Transactions on the Miscellaneous Projects Account

A review, by the Audit Commission, of the cash book of the Miscellaneous Projects, revealed other unsupported transactions as detailed in the table below:-

##### Unsupported Transaction on Miscellaneous Projects Account

Project code	Base Amount	Transaction Amount	Currency Code	Journal No.	Transaction Date	Transaction Reference
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NA01	36,690	36,690.00	USD	3097	8/24/2012	Nordic Africa/RFB/3752- 22356
FA01	-135,513	-135,513.00	USD	2161	9/28/2012	100363 - Correction of A/C
UN06	-170.38	-267,500.00	TZS	2162	9/28/2012	
ID01	1,000	1,000.00	USD	4728	11/9/2012	100332
SI01	-180	-180	USD	10967	5/9/2013	100451
GC01	100,000	100,000.00	USD	21130	6/30/2013	065JV/JUN'13

The Auditors could not confirm the validity of the above transactions due to absence adequate supporting documents although EAC Management claims to have availed documents to the Audit Commission.

The Committee observed that EAC Management failed to account fully for the transactions.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to-*

- i) always provide documents supporting all financial transactions to the Audit Commission for verification; and*
- ii) hold officers involved accountable for non-adherence to the requirement.*

## 2.17 CLIMATIC CHANGE PROJECT

### 2.17.1 Budget Performance

The Audit Commission reported that the Climatic Change Project had been budgeted to spend a total of USD 676,880. By close of the period under review, a paltry USD 297,570 (44%) had been spent, with some activities having 0% overrun.

The EAC Management reported that the under spending due to delays in recruitment of 5 project staff to constitute the Program Management Unit which had only 1 staff out of the 6 projected staff. Although interviews were held in November 2013, the process of recruiting the staff is yet to be concluded as the project also experienced difficulties in terms of disbursements. Successful candidates will be appointed as soon as funds are remitted by the Development Partners supporting the project.

The Committee observed that poor budget performance is caused by understaffing of the project staff.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to devise strategies to ensure that all planned activities are always implemented within the set timelines.*

### 2.15.2 Refundable VAT not claimed

Article 4 Section 1 Sub-Section (d) of the EAC Headquarters Agreement with the United Republic of Tanzania provides for exemption of EAC from all taxes, including withholding tax (WHT) and Value added tax (VAT). A review, by the Audit Commission, of the Receivable Ledgers of several projects revealed that VAT totalling to USD 18,781.93 had not been claimed from Tanzania Revenue Authority as detailed in *Annex X*.

The Committee noted the delays by EAC Management to claim refundable taxes from EAC Partner States.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to:-*

- i) *always submit claims for VAT paid by the project promptly; and*
- ii) *ensure that all the related transactions recorded in its books of Accounts are fully supported.*

### PART III

#### LAKE VICTORIA BASIN COMMISSION (LVBC)

### 3.0 CURRENT YEAR AUDIT FINDINGS

#### 3.1 Weaknesses in Management of Accountable Imprest

The Audit Commission reported that the review of the trial balance, imprest registers and notes to the financial statements revealed that imprest amounting USD 115,136 remained unaccounted as at 30<sup>th</sup> June, 2013, contrary to *Section 6.5 (e), (h) and (j)* of EAC financial procedures manual. The audit further noted that imprest is still being issued to staff with unretired balances from previous years in total disregard of the above requirements. The table below shows the details:-

The EAC Management reported that measures have already be taken to recover outstanding imprest from the payroll while other imprest holders have since made cash refunds for outstanding balances. Reallocation of recovered amounts will be done to the properly analysed codes and respective projects.

The Committee observed laxity in the Management of Accountable imprest but was informed that the outstanding imprest at end of FY 2012/13 was recovered in full from staff salaries and subsequently accountability has been greatly enhanced and as a matter of fact, as at close of FY 2013/2014 outstanding imprest is less than 40,000 and is mainly attributed to activities that were due to take place in the subsequent month of July 2014.

*Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present progress to the Audit Commission for verification in the next audit.*

#### 3.2 Poor Budget Performance

A review, by the Audit Commission, of the activities of the Commission revealed that there was a low level of budget performance during the year under review as shown in the table below:-

## Budget Performance by LVBC

PARTICULARS	Budget Utilization
LVBC Secretariat	43%
Partnership Fund	60%
LVEMPII	42%
Overall Budget Utilization	44%

The above analysis reveals that the Commission performed poorly in utilization of budgeted funds and only managed to spend 44% of total funds earmarked for its programs during the year.

The Management reported that there was a delay in release of funds for various activities from Development Partners. LVWATSAN program budget was inclusive of funds sent directly to Partner States by the donor, which were contributing about 88% of the budget. Out of the 12% of the budget to LVBC, over 65% was for Training and Capacity Building (TCB) – a program component that was contracted to UNHABITAT. The TCB component was paid to UNHABITAT and therefore treated as spent, and overall, the budget component to LVBC spent was about 92%.

The Partner States budget allocated was pegged on the expectation that various procurements would be completed to facilitate expenditure, but the same were delayed and expenditure was slowed. Given the larger contribution of the Partner States' budget in the overall budget, the aggregated expenditure significantly reduced resulting to the low absorption rate.

It was further held that strategies employed to monitor progress on project work plans regularly had changed this trend. All the Implementing Agencies (IAs) in each Partner State have contracted national consultants for design and supervision of works in majority of the cases. With the engagement of consultants and contractors, heavy goods and construction works, where the bulk of the budget lies will be consumed. We therefore expect a total shift in the consumption trends in the immediate past and coming months.

The Committee noted poor budget performance but was informed in addition to the response that funds disbursed to Partner States directly no longer included in the Commission is budget performance is expected to improve.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management present budget performance progress to the Audit Commission for verification in the next audit.*

### 3.3 Excessive Payment of Travel and Daily Subsistence Allowances (DSA)

The Audit Commission reported that the Commission spent USD 1,597,208 as DSA during the FY 2012/2013. Analysis of the DSAs paid during the year revealed that some Commission staff were out of the office for between 100 to 272 days as shown in *Annex XI*

The above analysis reveals that:-

- i) Some Cadres of staff (for example Accounts Department staff) were out of the office for unreasonably many days while their main job description may not involve a lot of work being done out of the office; and
- ii) The Commission's Senior Management has been out of the Working Station for significantly many days.

The Management responded that the primary mandate of the Commission is to coordinate all actors within the lake region with a view to implementing planned activities in a coordinated and sustainable manner. The activity of coordination to a large extent involves organizing and facilitating workshop and seminars. LVBC does not per se directly implement field activities but has a key role in monitoring and facilitating the implementation of those activities, which mainly involves workshops and seminars.

To enable the Commission carry out its mandate as a Secretariat, it assembles teams with various specialties to help validate reports from the various consultancies before submission to the relevant Sectoral Councils for approval.

Furthermore, Development Partners fund the LVBC at 90% and this requires management to keep networking exercise in different international forums for resource mobilization purpose. There is obviously cost effectiveness between the resources used to undertake these missions and the outcome of the same missions that is continuous support by Development Partners the Commission enjoys.

However, the Commission will always be stringent to ensure that only relevant key staff attends meetings to ensure value for money in all expenditures

The Committee observed that much as LVBC Management attaches the excessive payment of DSAs on the nature and mandate of the organization, wrong computation, directive to distribute activities to the EAC Partner States, it was noted that DSAs are still excessive. This is therefore an indicator of poor performance.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to-*

- i) immediately develop travel guidelines and reduce excessive payments of DSAs;*
- ii) present progress implementation of the directive to the Audit Commission for verification;*  
*and*
- iii) rectify the system to avoid wrong computation if the claim of wrong computation is indeed true.*

### 3.4 Weaknesses in the Management of the IT Function

The Audit Commission reported that a review of sustainability of services of the Commission revealed that the IT Officer resigned from the post on 31<sup>st</sup> October 2013. IT functions were then contracted to M/S Bygrace Technologies vide an addendum to a prior contract with the firm for maintenance services for computers and IT equipment signed on 1<sup>st</sup> July 2013.

It was noted that Contract Clause No. 1 (7) provides that “*In case the spare parts that need to be replaced, the client shall be responsible for buying and availing the spares to the service provider*”. Under the current arrangement, the service provider will be the one to suggest the spare parts to be procured and what is to be fitted or replaced, pointing to a possible conflict of interest since it’s the same person maintaining the IT system as well as overseeing its function.

Although Management has in place an ICT Steering Committee, no minutes of its meetings were availed for audit review.

The Management took note of the Auditors’ concern and reported that the Commission has advertised the position of ICT Officer to be filled in before the end of the current financial year. This will help in effective and efficient operations of the IT functions with regard to segregations of responsibilities.

It was further reported that the Commission currently has only one (1) established position in IT department, which fell vacant following the resignation of the previous office occupant. The ICT Steering Committee activities were negatively affected by the absence of the IT Officer. The Committee will be reactivated to help guide the ICT functions.

The Committee observed that IT function at LVBC has had significant challenges. The LVBC management however informed the Committee that recruitment of the ITO was concluded and Council has approved his appointment.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to:*

- i) Effectively render the best management of the IT function by increasing the number of IT staff; and*
- ii) Revitalize the management of the IT function and present report of improvement to the Audit Commission for verification in the next audit.*

### 3.5 Fixed Deposit Accounts

A review of the Commission’s investments records revealed the following:-

- i) The Commission had two Fixed Deposits investments accounts namely; LVBC FDR Account (Kshs)-KCB Kisumu with a balance of USD 300,000 and Gratuity FDR Bank Account-NIC Bank with a balance of USD 299,984 as at 30<sup>th</sup> June, 2013. It was however noted that the Commission does not maintain an investment register, contrary to the EAC Financial Rules and Regulations. In addition, Fixed Deposits certificates were not availed for audit verification.
- ii) It was noted that the Gratuity FDR (NIC) bank statements had a nil balance as at 30<sup>th</sup> June 2013, although the financial statement reflected USD 299,984.
- iii) It was further observed that all the interest earned from the two investments accounts are posted to an interest earned account number 4900001, which consolidates all interests earned from all the Commission’s bank accounts. This made it difficult to ascertain from

the interest account which interest earned relates to which investment accounts. No reconciliations on the same account were being done to ensure that all the fixed deposits have earned their correct interests as per the rates specified in the certificates and at the correct time.

The LVBC Management took note of the audit concern for necessary action and reported to the Committee that an Investment register will be opened to keep track of all investments and the interest earned from fixed deposits will be segregated from other interests received and a reconciliation done. It was further reported that Management is following up on the Certificates of Fixed Deposits with the Bank.

Adjustment has been done in the gratuity account in the financial statements to reflect the balance of USD 310,475.93 as supported by the bank certificate of balance.

The LVBC management also reported that the fixed deposit certificate has also been secured and in the custody of the Senior Accountant.

The Committee noted the reports by the Audit Commission and LVBC Management.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to-*

- i) always carry out proper reconciliations to confirm fixed deposit balances with their respective interest earned; and*
- ii) present the fixed deposit certificate to the Audit Commission for verification in the next Audit.*

### 3.6 Imprest Accounting and Management

During the period under review, the system for managing accountability documents for imprest was found inadequate in that the documents were filed in different files other than being attached to payment vouchers used to advance the money to staff for different activities.

Another weakness observed was that reference numbers allocated to imprests accountability documents could not be traced to the original payment vouchers. In such circumstances, the files or individual supporting documents could be misplaced. Furthermore, the audit trail is lost, as these documents are not properly referenced to the payment vouchers through which the imprest was paid.

The LVBC Management reported that it concurs with the audit recommendation to reorganize the filing system accordingly, to enable cross-referencing of imprest advances and corresponding accountability documents.

The Committee observed that the LVBC filing system on imprest accounting is faulty and requires reorganization.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC to-*

- i) *develop a proper system of filing imprest accounting that would easily enable audit trail; and*
- ii) *present the undertaking in their response to the Audit Commission for verification.*

### 3.7 Fuel Management

During the audit, records verified indicated that during the FY 2012/2013, the Commission drew fuel worth USD 3,312.75 from M/S Desnol Investments Limited. However, the following internal control weaknesses were noted with regard to fuel management:-

- a) The Tender Committee in its Minutes No.05/15/06/2012 dated 15<sup>th</sup> June, 2012 recommended that the Commission procures the services of M/S Total Fuel station for the provision of petrol, diesel, oils, lubricants and cooking gas for the FY 2012/2013. However, the Commission single sourced M/S Desnol Investments Limited to supply fuel, contrary to the recommendations of the Tender Committee;
- b) M/s Desnol Investments Limited is situated 13kms from the Commissions offices; and
- c) There is no contract between the Commission and the said company.

The LVBC Management agrees with the Audit Commission observation and reported that the Commission entered into Contract with Total Fuel station for the services provisions as per the Tender Committee recommendation, but the effectiveness of its Service Provision took long due to delayed process of getting Fuel Cards by Total, an element that had triggered their selection for purpose of economy and efficiency in fuel management.

The Management also held that there have been limited instances whereby drivers who were used to fuel from Desnol Investments kept procuring fuel from the same. The Fuel Cards were eventually provided by Total and now fuel is fully being procured from the selected Services Provider. Such oversight will not occur again.

The Committee observed inconsistencies in fuel management at LVBC, as Fuel is not only drawn from the approved service provider. In addition to usage of Bon Voyage cards, imprest is still issued to drivers to buy fuel, although this is justified for drivers who facilitate activities in places where total petrol station does not exist.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to streamline fuel management and present progress report to the Audit Commission for verification.*

### 3.8 Avoidable Expenditure on Evaluation of Tenders and Prequalification

The Audit Commission reported that LVBC paid a total of USD 13,705 for DSA, fuel and conference cost on evaluation of tenders and pre-qualifications for 2013/2014 done in Gisambai and Vihiga, instead of paying sitting allowances only had the exercise been carried out at LVBC Headquarters or within Kisumu City.

The LVBC Management reported that it concurs with the Audit Commission observation and is at the forefront towards rationalized use of the financial resources. The LVBC Management also reported that some activities are very demanding in terms of time and require a high level of



secrecy and concentration. The activity in question related to annual pre-qualification whereby the committee had to open and evaluate numerous tender documents for various categories of Commission's services provision needs. It was not possible to undertake this exercise in the Office already constrained with space.

The Committee noted that the expenditure was indeed avoidable as observed by the Audit Commission.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to discourage payments of DSAs where necessary.*

### 3.9 Facilitation for the Scientific Conference

The Audit Commission reported that during the period under review, the Commission spent a total of USD 100,350 on the Scientific Conference under Partnership Fund Project, incurring an additional cost of USD 40,350 over and above the activity budgeted cost of USD 60,000 that was to be financed under this component. The source of the extra funds has not been explained. The payments were made as analysed in Annex XII.

The analysis implies that the Commission makes unnecessary provisions in its budget and the excess funds are subsequently used to pay for unplanned for activities, contrary to budgetary control procedures.

The LVBC Management took note of the audit recommendation and reported that the scientific conference was funded by several projects. Each project was allocated the amounts and activities to be funded. The amount of USD 40,350 was paid by Partnership Fund to be refunded from the other projects. The anomaly in charging the allocation to Partnership Fund is noted and relevant reallocation and refund from other projects will be done.

The Committee took note of the management's response but concurs with the audit finding that evidence is required to show that overcharge from Partnership Fund refunded.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to present evidence of refund to the Partnership Fund budget for audit verification.*

### 3.10 Payroll Management - Donor Funded Staff

The Audit Commission reported that during the audit it was observed that the LVBC Management did not maintain a separate payroll for the projects' staff but instead lumped-up all projects' staff emoluments under one line item-project costs. The audit team was not able to verify projects' payroll and the related cost of staff emoluments and thus could not ascertain whether payments were made to bona fide staff and within the approved rates.

The LVBC Management upheld the Auditors' recommendation and reported that the payroll for Projects staff is prepared like the one for established/core staff though the Projects' staff costs were posted to the general projects costs account.

The LVBC Management also held that effective July 2013; the posting will be done to each segregated expenditure account. The Chart of Account has been redesigned to enhance this. This will facilitate expenditure reporting based on expense line items and hence, facilitate variance analysis.

The Committee observed that LVBC Management was wrongly posting staff emoluments. The Committee was however informed that a new GFS Chart of Accounts that comprehensively segregates all activities is currently being implemented. This will enhance the reporting functionality of the Sun Accounting System.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present the new GFS Chart of accounts to the Audit Commission for review and verification in the next audit.*

### 3.11 Weaknesses noted in Service Contracts

The Audit Commission reported that the review of LVBC contracts with service providers revealed the following unsatisfactory matters:-

- a) Provision of security services Contract No. LVBC/SRVC/001/2011-2012 – Riley Falcon Security Services LTD:-
  - The contract was entered on 3rd September 2012 but was indicated under Item 4 of the contract agreement to commence on 1st July 2012 and ends on the 30th June 2013. There was therefore no valid contract between 1st July, 2012 to 2nd September, 2012
  - The contract reference is for the prior FY 2011/2012.
- b) Provision of Office Cleaning Services Contract No. LVBC/2012-2013 – Metro Cleaners & Renovators LTD:-
  - The contract was entered on 14<sup>th</sup> December 2012 but was shown under Item 3 of the contract agreement to commence as 1st July 2012 to 30th June 2013. There was therefore no valid contract from 1st July, to 13th December, 2012
  - The contract reference is not indicated other than the financial year.
- c) Provision of Air Ticketing Services Contract No. Srvs/Air Ticketing/2011-12–PEL TRAVELS Ltd:-
  - The submitted contract is an addendum entered on 2<sup>nd</sup> November 2011 to the previous contract signed on 9<sup>th</sup> July 2011, which expired on 31<sup>st</sup> October 2011. The contract was extended to 30<sup>th</sup> June 2012. This implies that the Commission did not have any contract with the said company during the year under review yet it continued doing business with it.

The LVBC Management took note of the Auditors recommendation and reported that the position of Legal Officer fell vacant, following the resignation of the office holder, which led to poor drafting of the contracts including such types of errors in dates and references. However, the contracts awards were notified to the successful bidders with correct reference, which is also

legally binding to the same, and therefore the risk of legal challenges is mitigated. The aforementioned contracts will be reviewed in consultation with the other parties to the contracts to correct the errors.

The Committee confirmed weaknesses in the previous contracts between LVBC and service providers but was assured that contracts with service providers have been reviewed to ensure consistency.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to exercise prudence while engaging service providers.*

### 3.12 Risk Assessment

The Audit Commission reported that the Commission has a Risk Management Policy but no Risk Assessments have been done in the year under review. In the absence of this practice, Commission may not be able to estimate the likelihood and significance of the risks it is exposed to.

The LVBC Management reported that it has already embarked on development of Results Based Management System (RBMS), which embeds Risk assessment component in its implementation. The RBMS was presented to the 12<sup>th</sup> LVBC Sectorial Council of Ministers for approval and the final draft is currently being reviewed by Partner States for inputs before its adoption. Furthermore, the Risk Assessment is currently being piloted at EAC Secretariat and the Commission will immediately scale it up. It is planned to undertake staff training on risk assessment up to departmental level.

The Committee observed a shortfall on Risk Assessment at LVBC. The Committee was informed that comments on the Initiated Based Result Management System (IBRMS) by the Partner States are pending. However, LVBC is undertaking an exercise to harmonize LVBC with the EAC Risk Management Policy framework.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present evidence of risk assessment management tools for audit verification during the next audit.*

### 3.13 Accounts Payable

#### a) Purchase Invoices

The Audit Commission revealed that during the period under review, the following observations were made on accounts payables records:-

- i. The Commission uses cash basis of accounting for its payables whereby all invoices are expensed upon being received. This contradicts proper accounting treatment for payables as stipulated in the EAC Financial Procedures Manual that payment of all invoices for creditors must be made within 30 days of receipt of the invoice.

- ii. Also noted was that all unsettled invoices for the various suppliers that are yet to be expensed at the end of the financial year are all lumped in an Accrued Expenses Account. There are no individual ledgers maintained for each supplier.
- iii. No aging analysis is done for the creditors therefore making it difficult to know how long the creditors have been outstanding in the Commission's books.
- iv. Included in the accounts payable figure is an amount of USD 9,671 relating to unapproved purchase invoices. These invoices relate to services already consumed by the Commission but were lacking all the required approvals. Existence of unauthorized invoices raises doubts on validity of the Commission's creditors

The LVBC Management informed the Committee that currently, LVBC is accruing all creditors, the lump sum accrued expenses was utilized in transition. Individual supplier ledgers were subsequently created.

The Committee noted improper accounting for payables and poor reconciliation of invoices.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to-*

- i) always comply with the EAC Financial procedures manual; and,*
- ii) present implementation of the Audit Commission recommendations for review and verification in the next audit.*

### 3.14 Staff Imprest

The Audit Commission observed that included in the Creditors and Accrued expenses figure is an amount of USD 67,399 relating to Staff Imprest. These amounts are reflected as payables in the Financial Statements since they are to be refunded to staff who presented their accountability documents after recoveries for unaccounted for imprest were effected from their salaries, contrary Section 6.5 (0) of the financial rules and regulations.

The LVBC Management responded that when deductions were made from staff salaries, there were cases of over-deduction for some staff. Therefore, refund of imprest from recovery will only be done in cases of over-deduction. For imprest retired after the deduction was effected, no refund will be affected as a deterring measure for late retirement. Management undertook to adjust the creditors figure to reflect the correct position.

Meanwhile, USD 14,517 to USD 67,399 adjusted the imprest figure of USD 81,916. The adjustment relates to proper donor and project analysis in financial statements. USD 67,399 will be reconciled against receivables of USD 115,236.

The Committee observed that LVBC Management erroneously recovered unaccounted for funds contrary to section 6.5 (o) of the EAC financial rules and regulations. The creditors figures was not adjusted to reflect the correct position LVBC Management informed the Committee that credit

balances were adjusted and accountabilities which were submitted subsequent to the deductions are not eligible for refund.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to present the adjusted credit balances to the Audit Commission for verification in the next audit.*

### 3.15 Accounts Receivables

The Audit Commission reported that the statement of financial position as at 30 June 2013 reflected an amount of USD 1,521,999 relating to account receivables and prepayments. The amount comprised of unpaid Partner States' contributions, unaccounted for advances to projects implementing agencies and outstanding imprest and staff advances.

Further review of the advances to projects implementing agencies revealed that USD 6,050 advanced to TACAIDS/UNFPA had not been accounted for as at 30 June 2013 this amount, relates to the year 2011/2012. However, no effort appears to have been made by the management on follow up and recovery of the long outstanding advances.

The LVBC Management reported that outstanding amount of USD 103,229 has been accounted for in full and the accountability availed to the Audit Commission for verification.

The LVBC Management further reported that efforts have been made to recover the outstanding amount of USD 3,200 advanced to NFP Uganda. However, the officer who took the imprest passed on. The Management will consider ways addressing the issue, including possibility of writing off as per the existing Financial Rules and Regulations of EAC.

The Committee noted that the outstanding advance of USD 6,050 advanced to TACAIDS/UNFPA is still outstanding and LVBC Management has not initiated the recovery.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to recover the USD 6,050 advanced to TACAIDS/UNFPA and report evidence to the Audit Commission for verification.*

### 3.16 VAT Claimable

The Audit Commission reported that although Article IV Point (4) of EAC Headquarters Agreement with the Republic of Kenya provides for exemption of the Commission from Value Added Tax (VAT) and all taxes, it was noted that the Commission has not taken any initiative to recover from Kenya Revenue Authority (KRA) VAT outstanding balance amounting to USD 87,238 as at 30 June, 2013 as analysed here below:-

#### VAT Claimable

Type	Outstanding balance as at 30/06/2012	Net movement during the year	Outstanding balance as at 30/06/2013
	USD	USD	USD

VAT	66,707	20,531	87,238
Total	66,707	20,531	87,238

According to the ledger entries, some of the amounts relate to June 2009 and no evidence was made available to confirm that the Management has made efforts to recover VAT outstanding.

The LVBC Management reported that arrangements have already been made to claim for VAT due. Exemption is on case-by-case basis. KRA does not give a blanket exemption. This issue is being addressed at the level of EAC Secretariat and discussions with all Partners States on VAT exemption treatment are underway. The Management will ensure that all claims are lodged when due.

The Committee observed that refund of VAT claimed from EAC Partner States where EAC Organs and Institutions are housed has been made impossible.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to convene a meeting with tax bodies of the Republic of Uganda, Republic of Kenya and the United Republic of Tanzania to iron out issues of claimable VAT and other taxes.*

### 3.17 Deferred Income from Donors

The Audit Commission reported that a figure of USD 3,301,677 being reported as deferred income from donors in the consolidated statement of financial position cannot be confirmed as included within the figure is a deferred asset of USD 541,041 under Partnership Fund, which has not been explained. Besides, note 14 of the financial statements related to this component have not clearly explained how the asset or the liability arises.

The LVBC Management took reported that funds received by PF were less than actual expenditures of the year. Funds expected during the year for implementation of activities were received after the year under review while PF had already borrowed funds of USD 297,272 for the implementation of its activities as reflected in the accounts. This is the cause of a debit balance of USD 297,995 under deferred income. Management further reported that the amount had been refunded in the current FY 2013/14.

The Committee was however informed that the borrowing that gave rise to negative deferred income on PF has been refunded. There is no outstanding balance between the two projects. LVBC management undertook to exercise diligence in future to avoid such incidences.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to-*

- i) always adjust their financial statements; and,
- ii) present adjusted financial statements to the audit Commission verification in the next Audit.

## PART IV

### LAKE VICTORIA FISHERIES ORGANISATION (LVFO)

#### 4.0 CURRENT YEAR AUDIT FINDINGS

##### 4.1 Doubtful Expenditure - US\$ 61,547

The Audit Commission reported that expenditure amounting to US\$ 61,547 was not properly accounted for, contrary to the financial regulations; examination of the accompanying supporting documents revealed several inconsistencies that point to a possibility of misuse.

Management agreed with the audit findings and promised to investigate further the transactions.

The Committee noted doubtful expenditure but was informed that only USD 8,450 was found doubtful and recovered.

*The Committee recommended to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to come to report to the Audit Commission for verification in the next audit.*

##### 4.2 Irregular Out of pocket Allowance US\$ 2,980

The Audit Commission reported that during the audit, it was noted that in a number of instances, LVFO officers were invited for workshops and conferences and the organizers categorically stated that they would provide air tickets and subsistence allowances in cash form, implying that the officers were not entitled to an out of pocket allowance. Audit review revealed that a total of US\$ 2,980 was irregularly paid to officers in form of out of pocket allowance.

LVFO Management responded that LVFO Staff Rules and Regulations, Rule No.9.3 (i) provide that where staff is travelling on duty and his travelling expenses including board and lodging paid for by another organization, the Executive Secretary may authorize 20% of the DSA Allowance up to a maximum of 15 days to cater for incidental expenses. This has been the practice over the years. The US\$2,980.00 is a total of different allowances in this category paid to staff.

The Committee noted that the LVFO Management misinterpreted Rule No. 9.3 of the Staff Rules and Regulations for double benefit. The misinterpretation continues to be a practice, which signifies incompetence and fraud.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to put an end to the practice and recover the amount spent irregularly from the officers involved.*

##### 4.3 Wasteful Expenditure - Us\$ 7,850

The Audit Commission reported that the audit review revealed a number of instances where the organization spent funds that could have been saved; such expenditure could have been avoided had management been more prudent in the utilization of the organisations resources. The highlights of the instances in question are shown below:

A three day budget workshop attended by three officers was held in Seeta, which is located only one hour's drive from the Jinja office; each officer was paid full per diem for the three nights at a rate of Us\$.300 per night, which amounted to Us\$.3,000 in total. There is no justification for the payment of such an allowance, given that ordinarily, the participants would have been provided

full board accommodation in the hotel, which would even be cheaper than paying officers the full daily per diem of US\$ 300.

Having six people, including the executive secretary, to accompany two auditors for a field visit and all the six staff are paid allowances for two nights at a rate of US\$ 300 per night.

Invitation for a workshop for which the organizers but the officer pay for an air ticket opts to travel by road to a venue more than 800 km away. A total of US\$ 300 plus cost of fuel was expended in the process

The LVFO Management responded as that:-

Submission of the budget to EAC for approval was running late and the team needed to get off site to prepare without interruption. During the time, the team put in effort until late in the night in order to submit the budget on time.

Management has noted the wasteful expenditure and will ensure that in future such cases will not arise again.

The staff travelled to Kisumu by road and then flew to Nairobi, and returned to Jinja from Kisumu by road.

The Committee observed that LVFO Management understands the mistake and undertakes to avoid the practice in future.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to ensure that all unnecessary expenditures are avoided at all costs.*

#### 4.4 Unclaimed VAT – Uganda Shs.5, 903,331

The Audit Commission reported that Section (1) subsection 1(e) of the Annex to the convention establishing the LVFO and assented to by cabinet Ministers of the three partner states exempts the Organization from any kind of direct or indirect taxes. In this regard, the organization is expected to pay for only goods taken or services provided and in case taxes are paid directly or indirectly, the organization should claim for a refund from the tax body.

Audit review revealed that in the year under review the organization paid a total of Ug. Shs. 5,903,331 in taxes. However, there is no evidence that any attempt to reclaim these funds from the tax body have been made.

LVFO Management reported that it acknowledges the audit observation and has already embarked on the procedure to claim the taxes in arrears.

The Committee observed that LVFO Management has not put any effort to enforce the Headquarters Agreement.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO to:*



- i) *Seek and convene a Meeting with URA Commissioner in charge of tax exemptions and institute a mechanism of timely refund of taxes, and report progress to the Committee;*
- ii) *Ensure enforcement of the Headquarters Agreement.*

#### 4.5 Budget Performance

##### a) Delayed approval of the annual budget

The Audit Commission reported that the LVFO convention requires the organization's budget to be approved by the Sectoral Council Ministers before execution of the activities. The essence of such a provision is to provide a chance for the ministers to have an input into the activities to be implemented in the subsequent period.

The audit noted that the budget for the financial year 2012/2013 was approved in November 2013, five (5) months after the close of period to which the budget relates. This denied the ministers the chance to have input into the organization's activities, and this translates into approval as a mere formality.

The LVFO Management reported that it acknowledges the audit observation. The convention stipulates that the Council of Ministers (CMs) will be sitting once every two years. The next sitting was scheduled for 3<sup>rd</sup> to 7<sup>th</sup> December 2013 in Jinja, Uganda (letter LV2009/CM/1/99 of 23<sup>rd</sup> November 2012) but it did not take place because Kenya was preparing for her elections, which were due in March 2013. Due to logistical issues, the earliest the event could be held was in November 2013.

The Committee observed that elections in the Republic of Kenya led to the delayed approval of the Annual Budget. The LVFO Management could have however overseen the schedules of other activities in Partner States and schedule the meeting conveniently.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management always to consider Partner States activities while planning for annual meetings to avoid coincidence and disruption.*

##### b) Revenue performance

The Audit Commission noted that the entity budgeted to receive a total of Us\$.3,191,891 of which Us\$.810,150 was expected from Partner States and US\$ 2,381,741 from development partners. However, by the close of the year, no revenue had been realized from the Partner States in respect of the current year and US\$ 172,775 had been received from the donors. This represents a paltry performance of 5%. With such a poor revenue performance, the entity had challenges in implementing planned activities and indeed a number of planned activities were not undertaken.

The LVFO Management reported that it concurs with the audit observation and reported that several and timely reminders about the contribution arrears in form of letters, telephone calls and visits have been made to the Permanent Secretaries of the respective countries. Corrective actions or adjustments can only be undertaken following the CM's decision.

The Committee observed that non-remittances of the committed funds by Partner States and donors are a challenge to LVFO.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to ensure that committed remittances are indeed paid on time.*

c) Budget control

The Audit Commission reported that during the audit, it was observed that comparison of amounts approved in the budget for each budget line with amounts actually spent under each budget line revealed expenditure beyond budget in particular line items as shown in the table below (all figures relate to recurrent expenditure) :-

Overspent budget lines

Budget Line	Budget (Us\$)	Actual (Us\$)	Variance (Us\$)
Subsistence allowances	12,200	108,776	96,576
Motor Vehicle repair	5,850	36,771	30,921

The LVFO Management acknowledged the audit observation and reported that the budget for LVFO for the FY 2012/2013 was restricted to zero increment as communicated by F&A. This compelled management to under budget in order to fit within the ceiling. The vehicles used by LVFO were old and this necessitated frequent repairs. In addition, the process of mainstreaming the LVFO in the EAC called for frequent travels to the EAC to attend meetings, which was not envisaged during the planning. The LVFO Council of Ministers raised the Country Contribution from US\$270,050 to US\$320,000 starting from FY 2014/2015 in their meeting of November 2013. In the process of coming up with a realistic budget, Management has prepared a supplementary budget for 2013\2014 to be presented to F&A.

The Committee observed non-adherence to the budget lines, explanations notwithstanding.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to always seek reallocations from competent authorities and comply with the budget ceilings.*

4.6 Gratuity Contributions

The Audit Commission reported that the organization makes gratuity contributions to its staff at a rate of 25% of the basic pay. The gratuity contributions are transferred on a monthly basis to a gratuity account thereby accumulating the asset and the liability. A review of the gratuity operations however revealed a number of shortcomings highlighted here below:-

a) Asset not matching Liability

Whereas the liability due to be paid has accumulated to US\$ 464,800, the asset to match this liability stands at US\$ 109,514 as of 30<sup>th</sup> June 2013. Excessive borrowing from this account during the current and previous years without corresponding refunds created the situation; it was noted that in the year under review a total of US\$ 40,000 was actually borrowed to pay salaries and was not refunded.

The LVFO Management concurs with the audit observation and further holds that the borrowings were made to meet the gap arising from countries' failure to honour their annual obligations. As at 30<sup>th</sup> June 2013, a total of US\$.1,627,593 was still outstanding. Management however will refund the borrowed funds upon receipt of the contributions, which are in arrears.

The Committee noted the LVFO management undertaking to refund the borrowed monies from gratuity.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to refund money borrowed from gratuity account and always follow up Partner States contribution to avoid continuous borrowing.*

b) Interest Earned on Fixed Deposit Accounts

The Audit Commission reported that during the period under review, it was noted that management decided to transfer idle gratuity funds to fixed deposit accounts to earn some revenue in form of interest. By June 2009, management had accumulated US\$103,650 and Ug. Shs. 28,763,324 on these accounts. The following matters have however been noted:-

- i) Thereafter the Uganda shilling account has not earned any interest for 4 years now; interest amounting to Ug. Shs. 8,544,080 supposed to have been earned on this account requires explanation.
- ii) The interest earned on both accounts is being subjected to withholding tax at source; however, since the organization is tax exempt this amount can be recovered; however, the organization has not attempted to recover such monies since inception.
- iii) The interest earned is disclosed in the financial statements on cash basis rather than accrual basis. This contradicts the accounting policy adopted by the organization.

The LVFO Management reported that the bank routinely credited the interest directly to the Operations Account, and therefore management thought it prudent to recognize it on a cash basis. However, in future, the treatment will be recorded on an accruals basis. Management undertook to notify the bankers of the anomaly in the failure to deposit interest on to the shilling account and reclaim the tax deducted at source.

The Committee noted the LVFO management undertaking.

*COMMITTEE RECOMMENDATIONS*

The Committee recommends to the Assembly to urge the EAC Council of Ministers to urge the LVFO management to:

- i) *Always record and keep books of accounts properly and professionally;*
- ii) *Claim the interest earned on the Uganda Shillings account and tax deducted from both accounts.*

#### 4.7 Unserviceable Motor Vehicles

The Audit Commission reported that during the audit, it was noted that the annual board of survey for the year ended 30<sup>th</sup> June 2012 declared 10 vehicles grounded and beyond repair. Also noted was that the 2013 board of survey maintained the same status for these vehicles. Further audit revealed that during the year under review, invoices amounting to Ugshs.16, 061,000 were presented for repair and servicing of grounded vehicles.

The LVFO Management reported that the disposal process was concluded at the beginning of the FY 2013/14 and there was no successful bidder for the three vehicles, which are still on ground. Management intends to start on the process of reselling these vehicles once funds are secured.

It was further reported that although the organization retained five Vehicles for routine operations, such vehicles were also not in the best condition and therefore used to break down more often. Moments when such vehicles were in the garage, pending activities needed to be continued which prompted temporally use of the boarded off vehicles and hence the repairs.

The Committee observed that LVFO Management lack proper planning and efficiency. It is indeed logical to suspect 16,061,000 UGX spent on repair of vehicles that were declared unserviceable and grounded.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to-*

- i) Immediately dispose of the three grounded vehicles;*
- ii) Always execute LVFO mandate prudently and diligently.*

#### 4.8 Honoraria

The Audit Commission reported that during the audit, it was noted that the organization paid a total of US\$ 17,500 in the year under review without the express permission of Council yet all the payments were in excess of Us\$.1,000 and were made to employees, contrary to rule 5.6 (c) of *staff rules and regulations*. The audit also noted instances where the justification given appeared unsatisfactory; for instance paying accounts staff honoraria for preparation of yearend financial statements, yet this is supposed to be part of their normal schedule of duties. The details are shown in the table below:-

Unjustified payments for honoraria

Date	Reference	Description	Beneficiary	Amount (Us\$)
8/16/2012	091231	Honoraria for preparation of LVEMP Financial statements	Various staff	2,500
2/1/2013		Honoraria for Implementing the IFMP W/shop. Vr 212		4,500
3/15/2013	083379	Honorarium for successful implementation of the pr	Various staff	8,000

3/15/2013	083380	Honorarium for successful implementation of project. vr 9034	Various staff	2,500
		Total		17,500

The LVFO Management reported that the honoraria was given to staff for handling project activities and responsibilities outside their normative responsibilities. Management however concurs with the audit observation and promised to seek express permission of Council such expenses are made in future before.

Although LVFO Management informed the Committee that payment of Honoraria is no longer a practice, the Committee noted breach to rule 5.6 of the staff rules and regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to put to an end irregular expenditure of institution funds and breach of regulations.*

#### 4.9 Receivables

The Audit Commission reported that included in the receivables amount is US\$ 1,627,593 due from Partner States. The figure has been increasing over the years. Management did not provide evidence of recoverability of these amounts.

The LVFO Management reported that although reminders in form of letters, telephone calls and personal visits have been made to the responsible personnel of the respective Partner States, the amount outstanding has continued to grow. The Partner States have not shown any indication that they will not settle their obligations. In the Eighth Regular Session of the LVFO Council of Ministers meeting in November 2013 in Arusha, Tanzania, they requested Partner States to pay outstanding balances of country contributions. Writing off such debts would call for the decision of LVFO Council of Ministers for management to act accordingly.

The Committee appreciates the reminders done by the LVFO Management but proof of recoverability is important and an obligation on the part of LVFO.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to:*

- i) follow up and recover the receivables;*
- ii) always keep records of such monies owed to the institution.*

#### 4.10 Payment in lieu of leave

The Audit Commission reported that a total of US\$ 28,800 was paid to all staff as compensation for leave not taken in the previous calendar year ended 31<sup>st</sup> December 2012. The justification given was that not all staff could go for leave due to the heavy schedule of duties. However, it is worth noting that for the major part of that year, the entity was very much underfunded with less than 50% of the activities running. In addition, a review of the personal files showed no evidence that any staff had requested for leave and it had not been approved.

The LVFO Management responded that initially, the organization employed an additional staff of more than six running on projects and when the LTTA who were handling some of the activities of the IFMP Project departed, it was foreseen that the remaining staff on ground (2 executives and 6 professionals) would be handling activities and responsibilities outside their normative ones. The situation was further made worse the terms of office for one executive staff and one professional staff ended, leaving only three professional staff with one Executive on ground. This left the team without any option of being away on leave. Management will however ensure that in future, all staff take their respective annual leave days and if possible in a fragmented manner.

The Committee noted that payment in lieu of leave was irregular for it never observed any procedures and did not have any justification. The payment also breached staff rules and regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to-*

- i) always justify such payments;*
- ii) put in place a leave roster;*
- iii) recover the amount in question or write off the figure from the books of accounts.*

#### 4.11 Consultancy Services

##### a) Overpayment

The Audit Commission reported that during the year under review, it was noted that LVFO hired a Consultant Mr. OTIENO OKOTH Richard for preparation and development of Terms of reference for the study on formation of the East Africa fisheries Commission at a contract price of Usd\$.20, 000. However, LVFO paid a total of Usd\$.20, 200 by the cheque numbers 000016/18/29.

The LVFO Management reported that it concurs with the audit recommendation to recover US\$ 200, which is over and above the contract amount paid as transport refund to the Consultant. Management intends to recover the same from the staff who approved the payment.

The Committee observed that the overpayment was irregular and noted the LVFO undertaking.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to recover the overpaid amount and report evidence to the Audit Commission for verification.*

#### 4.12 Non-compliance with Procurement laws

The Audit Commission reported that audit review revealed that LVFO incurred costs amounting to US\$ 3,781 for purchase of air tickets, by way of direct procurements, contrary to Section 10.6 of the financial rules and regulations of the LVFO. This practice if not checked will undermine the fundamental principles of transparency, efficiency, economy and fairness in the management of public funds.

The LVFO Management reported held that the purchase of air tickets through direct procurement arose because of the provider being able to issue the organization with tickets on credit, given the financial situation on ground. Management has since embarked on soliciting quotations from at least three providers for any service/goods requested.

The Committee observed that the purchase of air ticket breached section 10.6 of the financial rules and regulations of LVFO.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management always to comply with procurement regulations.*

#### 4.13 Weaknesses in Procurement

The Audit Commission reported that a review of the procurement function within the organisation revealed that the tender committee has never been fully reconstituted after the departure of the two members that is the former Deputy Executive secretary and the former head of Finance and Administration.

The LVFO Management concurs with the audit observation and it undertook to reconstitute the tender committee immediately.

The Committee observed that LVFO does not have a procurement committee, creating a very strong weakness in procurement.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to constitute the tender committee and report evidence to the Audit Commission for verification.*

#### 4.14 Convention Establishing LVFO

The Audit Commission reported that the Convention establishing LVFO was signed in 2001 by the EAC, which by then only included the three (3) Republics of Kenya, Uganda and Tanzania. Currently, the EAC is comprised of five (5) member states, after it was expanded to include the two (2) Republics of Rwanda and Burundi. However, the Mandates, Objectives and activities of LVFO are still limited to the first three partner states.

The risk noted is that the other two member states are denied benefits that accrue from the organisation. Conversely, the organisation may also be missing the positive contributions of the other two member states.

The LVFO Management reported that the mainstreaming Rwanda and Burundi is in progress. A meeting was held on 22<sup>nd</sup> January 2014 where the three Partner States unanimously agreed to mainstream Rwanda and Burundi into LVFO and Kenya being the chair of LVFO Council will sponsor the process to amend the plan.

The LVFO management also informed the Committee that the LVFO convention was amended to include the Republics of Rwanda and Burundi and submitted to the depository of FAO who is its

Director General. The FAO Director General passed over the proposed amendments to the Legal Department for inputs.

*The Committee commends progress and recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to follow up the conclusion of amendments urgently.*

#### 4.15 Mandate of the Organization

The Audit Commission reported that the Convention creating the LVFO stipulated that a Council of Ministers, under whom are several committees that is; the policy steering committee, the executive committee, the scientific committee, will head the Organisation and the Fisheries Management committee, each with well-defined roles, collectively meant to achieve the objectives of the Organisation.

The Convention further provides for a permanent Secretariat headed by the Executive Secretary whose function is to organize sessions and meetings of all the other bodies of the organization and to disseminate the outcomes of such meetings to the different stakeholders.

A review of the LVFO activities for the year revealed that all expenditure was in relation to Secretariat staff, who apparently attempted to undertake the roles of the above bodies of the organization. Given that the secretariat only has three professional staff who are so thin on the ground, they cannot effectively accomplish these roles. There was no evidence that the Secretariat organized any meeting or session for any of the Committees of the organisation.

The LVFO Management held that the formal meetings of the LVFO Statutory Committees for the FY 2012/2013 were not convened mainly because of budget constraints. It was further held that the Secretariat maintained its coordination role through support from other collaborators, the Regional Working Groups and members of the Scientific Committee, Management Committee and Executive Committee who were actively involved to provide technical and management guidance. Some of the activities which LVFO Secretariat coordinated and brought together the members of the sub-Committees and the Committees included Activities coordinated under ACP FISH II, Activities supported under LVEMP II, EALP HIV/AIDS Project, Activities under Smart-Fish Project, Support to strengthen the LVFO – RISP 2 funding through EAC Secretariat, etc.

The Committee noted that the mandate of LVFO is not efficiently executed.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to rejuvenate its committees immediately to promote segregation of duties and effective execution of their roles.*

#### 4.16 Inconsistencies in Procurement Process

The Audit Commission reported that the organisation procured printing services for two publications that is, the LVFO convention (38 pages) and the LVEMP regional action plan (23 pages) at a unit cost of Ug. Shs.15, 000 and Ug. Shs.12, 000 respectively. The total cost amounted to Ug. Shs.15, 930,000 (equivalent to US\$ 6,527). The procurement method used was restrictive bidding where three suppliers i.e. M/s Intersoft Business Services Ltd, M/s the leading edge Ltd



and M/s Kanstrac Business System Ltd, were invited to provide quotations. The tender was awarded to Kanstrac Business System Ltd. A review of the proforma invoices presented revealed the following irregularities:-

It was noted that M/s The leading edge Ltd, issued pro-forma Invoice No.13294 on 5<sup>th</sup> April 2012 for printing the LVFO convention books and pro-forma No.13293 on 19<sup>th</sup> April 2012 for preparation of a regional action plan.

M/s Intersoft Business Services Ltd also issued two pro-forma invoices No.2029 and No.2026 on 4<sup>th</sup> April 2012 and 18<sup>th</sup> April 2012 respectively for printing the LVFO convention and the regional action plan.

It is not conceivable how two independent companies can both consistently issue proforma invoices in reverse order.

The above inconsistencies create doubt as to whether the proforma invoices from the two companies are genuine and creates suspicion that this was a direct procurement from M/s Kanstrac Business System Ltd.

The LVFO Management reported that the reversing Pro-forma Invoice numbers was an oversight, which was not noticed at the time. Management promised to be keen on such anomalies in future.

The Committee noted the inconsistency claimed to be an oversight.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to investigate the source of invoices and report the outcome to the Audit Commission for onward reporting to the EALA Committee on Accounts.*

## PART v

### INTER-UNIVERSITY COUNCIL FOR EAST AFRICA (IUCEA)

#### 5.0 CURRENT YEAR ISSUES -2012/13 FINANCIAL YEAR

##### 5.1 SHORTFALLS IN FUNDING OF IUCEA

The Audit Commission reported that during the review of the financial statements, it was noted that the amount of contributions collected from Partner States was US\$ 2,856,466 while the total expected was US\$ 4,015,560. In addition, the arrears from the Partner States as at 30<sup>th</sup> June 2013 amounted to US\$ 12,853,915 as shown in Annex XIII.

Failure by member states to remit promptly their annual contributions negatively affects performance of the Council to fulfil its mandate. It was also noted that increased non-remittance raises uncertainties regarding the capacity of the Council to survive as a 'going concern'.

The IUCEA Management responded that:-

- i) The Secretariat issues debit notes to Partner states only after EALA approval of the budget;
- ii) According to the practice of funding to EAC, *Partner States are required to have remitted 50% of the approved budget by end of Q2.*

The Committee was informed that to improve the situation, some Partner States have started to channel their contributions through the Ministries of East African Community Affairs.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA Management to:*

- i) Follow up, verify and ensure that channelled through the Ministries of AC Affairs;*
- ii) Verify and ensure from Partner States are included in the budgets of respective Partner States annually;*
- iii) Follow up with reminders on debit notes.*

## 5.2 DOUBTFUL RECOVERABILITY OF CONTRIBUTION ARREARS - US\$ 12,853,914.80

The Audit Commission reported that pursuant to section 4.1.11 of Financial Rules and Regulations of IUCEA, a review of contribution history for the last two financial years revealed that all member states, with exception of Rwanda, had accumulated arrears to the tune of US\$ 12,853,914.80 as at 30<sup>th</sup> June 2013. Further noted was that there is no policy in respect of recoverability as well as any enforcement provisions.

IUCEA Management reported that several reminders and letters have been written to Partner States, backed by EAC Council directives to the effect. Besides, the matter has been presented and discussed in several meetings including the 24<sup>th</sup> Meeting of the EAC Council of Ministers where directive EAC/EX/CM24 was issued, directing Partner States to remit their contributions timely.

The Committee was informed that later, the EAC Council of Ministers directed Partner States to pay their arrears and the Republic of Kenya complied by remitting USD3,367,280.

The Committee observed that IUCEA lacked the policy on the usage of recovered funds; importing the risk of misuse.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to:-*

- i) direct Partner States to enforce the Council directive on payment of arrears;*
- ii) direct IUCEA management to develop and put in place a policy on recoverability of arrears and remittances due;*
- iii) direct IUCEA management to develop guidelines on usage of recovered funds/arrears.*

### 5.3 OUTSTANDING BALANCES OF ANNUAL SUBSCRIPTIONS FEES

The Audit Commission reported that subscriptions from member Universities and Corporate Institutions as defined in the IUCEA Act 2009 are accounted for on an accrual basis. The revised membership fees structure with effect from 1<sup>st</sup> July 2010 shows the following:-

Student Population	Annual Fee for Full Membership (Us\$)	Annual Fee for Associate Membership - (Us\$)
1-1000	2000	1500
1001-5000	4000	2000
5001-10000	5000	2500
10001 and above	6000	3000

During the audit review, it was noted that the total amount of fees collected from Public Universities, Colleges and Private Universities as members of IUCEA was Us\$.244,314 while the total budgeted amount was Us\$.331,000 occasioning an outstanding balance of Us\$.86,686.

The audit further noted that the total outstanding arrears of annual subscription fees for the financial year ended 2011/2012 was Us\$.145,408 giving total outstanding balance of Us\$.232,094 for financial year 2012/2013 as analysed in the table below:-

Item	Arrears b/f 1 <sup>st</sup> July 2012	Memberships towards arrears	Arrears c/f as at 30 <sup>th</sup> June 2012	Expected Membership fees for F/Y 2011/2013	F/Y 12/13 Membership fees received	Current years outstanding as at 30.6.13	Total arrears c/f as at 30.6.13
	A	B	C=A-B	D	E	F=D-E	G=C+F
Membership Fees	145,408	-	145,408	331,000	244,314	86,686	232,094

The IUCEA Management reported that quarterly reminders had always been sent to members and that during IUCEA Governance Meetings, the status of membership fee subscription is presented with an analysis of the aging of each outstanding amount. Management further undertook to review the current guidelines where members who are in arrears for 4years are expunged from being members of IUCEA and present a proposal for review to the Executive Committee in June 2014.

The Committee was informed that IUCEA Management has written to Member Universities reminding them of their dues and the balances are being received from Member Universities.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to-*

- i) formulate a policy on usage of recovered arrears from Member Universities;*
- ii) present progress reported and implementation of the directive to the Audit Commission for verification.*

## 5.4 RISK MANAGEMENT

The Audit Commission reported that during Assessment of internal controls, it was revealed that IUCEA Management has not evaluated the significance and the likelihood of business risks that may affect the achievement of its targeted objectives. Such risks could include-

- i) Employees related problems (training, attitudes, misconduct, and grievances)
- ii) Assets protection incidents (inadequate system, untrained personnel),
- iii) Natural disasters (tornados, floods, severe weather),
- iv) Information system difficulties (lack of back up), and
- v) Other events and incidents.

The Audit Commission was not provided with any evidence of risk assessment processes to mitigate risks. This was attributed to absence of a risk management policy at IUCEA.

The IUCEA Management acknowledged the importance of the Risk Management Framework and importance of this document. It reported that there was a plan to engage a Consultant to customize the EAC Secretariat Risk Management Framework. The activity however was not undertaken due to lack of resources. Management plans to get funds for this year 2013/2014 to carry out the activity as a priority.

The Committee was informed that a risk management framework has been developed and approved by the 16<sup>th</sup> Executive Committee Meeting. A report on the progress of implementation of the framework will be presented to the Executive Committee in June 2015.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA Management to report progress on the matter with evidence to the Audit Commission in the next audit for verification.*

## 5.5 BANK RECONCILIATIONS

### a) Unsupported Bank Balances

The Audit Commission reported that a review of bank reconciliation statements revealed three bank account balances which were not supported by bank certificates to confirm them as shown in the table below:-

Account	Adjusted Balances as per F/S (Us\$)
National bank of Kenya - Nairobi	14,362.00
National Bank of Commerce – Arusha	178.00
National Bank of commerce – DSM	73.00
<b>TOTAL</b>	<b>14,613.00</b>

There is a likelihood that the certificates were not obtained from the respective banks and Confirmation of the balances as appearing in the bank statements is therefore impossible.

The IUCEA Management responded that it is in discussion with these banks to have the said accounts closed.

The Committee observed that IUCEA does not have a policy on its banks accounts – causing dormancy. The IUCEA Management justified the matter that the balance in National Bank of Kenya – Nairobi has been supported by a bank statement as of 30<sup>th</sup> June 2014 and that the account in Arusha and Dar es Salaam are dormant and management is in the process of closing them.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to-*

- i) Initiate a policy on bank accounts*
- ii) present evidence of the closure of dormant accounts to the Audit Commission for verification in the next Audit.*

b) Non - clearance of Long Outstanding Elements

The Audit Commission reported that the review of the bank reconciliation statements revealed some long outstanding elements/ transactions, which are not cleared up by the close of the financial year. These are as listed below-

Transaction Details	Transaction date	Transaction amount (Us\$)	Bank
Outstanding – ref 2682	16/8/2012	893	Citi bank - \$
<b>TOTAL</b>		<b>893</b>	

It was noted that there appears to be absence of review of bank reconciliations to identify such exceptions.

IUCEA Management concurred with audit recommendation and promised to investigate and make adjustments accordingly.

The Committee noted the anomaly but it was informed that adjustments have been made by reversal. The long outstanding item has been cleared in the FY 2013/14.

*The Committee recommends the Assembly to urge the EAC Council of Ministers of to direct IUCEA management to present evidence of cleared long outstanding element to the Audit Commission for verification in the next Audit.*

c) Withholding Tax deductions

The Audit Commission reported that from the review of the bank reconciliations, it was observed that there is a withholding tax charged to the interest earned on the deposits held by the IUCEA with the bank. These taxes are remitted to the Uganda Revenue Authority and are to be supported with a withholding tax certificate to show confirmation of remittances and fulfilment of tax obligations.

It was noted that these withholding tax certificates were not availed for audit confirmation. Besides, since the Council as an entity of the EAC is tax exempt, such deductions are meant to be claimed from URA.

The IUCEA Management reported that the Secretariat is making a follow up with Stanbic bank to provide tax certificates; a letter had been written to the bank to demand these certificates. In addition IUCEA staff (Bank Agents) have been following up through visits to the bank.

The Committee observed breach of Headquarters agreements by EAC Partner States housing EAC Organs and Institutions but was informed that with difficulty, IUCEA obtained a credit certificate of Ug. Shs. 13,926,498 out of a total UGX 47,042,594 withholding tax payable to URA. The certificate of the balance is being followed up, assisted by the Ministry of EAC Affairs, which is handing the tax exemption certificate.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct tax bodies of the EAC Partner States to comply with the Headquarters Agreements.*

d) Unsupported Differences in Fixed Deposit Accounts

The Audit Commission reported that the Council maintains fixed deposit accounts with different banks for purposes of investment. These deposits are subject to earning interest for the period that they are held. Some differences were noted in the financial statements as detailed below:-

Bank	Balance at 01.07.12 (Us\$)	Balance at 30.06.13 (Us\$)	Difference (Us\$)	Remarks
National bank of Commerce – DSM	1,923	1,923	0	No supporting documentation availed for audit review.
Stanbic Uganda	461,430	454,979	6,451	Reason for such a decrease was not explained
Stanbic Hqts	430,444	271,839	158,605	The reason for such decrease was not explained.

In addition, the summaries of the fixed deposit account held at Stanbic bank in US\$ had some variances as shown below:-

Account No.	Date invested	Maturity date	Amount invested (Us\$)
9030004317395	12/4/2013	14/10/2013	70,439.69
9030003966800	15/1/2013	15/7/2013	100,647.40
9030003968854	12/10/2012	12/7/2013	100,646.94
Total			271,734.03
Balance at 30 <sup>th</sup> June 2013			271,839.00
Variance			104.97

As per the above table, an amount of US\$ 271,839 was reflected in the financial statement thus giving a difference of US\$ 104, 97, which needs to be explained. There was no proper monitoring through regular reconciliation of the outstanding balances.

IUCEA Management responded as follows:-

NBC-DSM funds held having the same opening balance with the end balance is because this account is inactive. The Executive Committee approved the closure of this account and management is processing closure of the account.

The reduction on balance of the UGX Stanbic account from US\$ 461,430 at 30. June 2012 to US\$.454, 979 at 30 June 2013 is due to a system GL Revaluation that resulted in a book loss (unrealized) entry of US\$ 6,451.

The variance (US\$.158,710) shown between US\$ Stanbic Headquarters fund of Us\$.430,444 and Us\$.271,734, represents the amount retired to meet the expenses of work in progress for the project.

The variances on Stanbic bank of US\$.104.97 is the overstatement of interest earned from Stanbic FDR computed manually and recognized in the books and the actual interest earned and credited on account by the bank on maturity of the FDR. Management proposes to adjust as indicated below:

Adjustment:-

Dr. 1410102	104.97
Cr. 6320709	104.97

The Committee noted that the misstatement is the source of confusion and an adjustment has to be done.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to process, confirm adjustment, and present to the Audit Commission in the next Audit.*

## 5.6 ABSENCE OF COMPREHENSIVE FIXED ASSET REGISTER

The Audit Commission reported that during the audit, a review of the fixed assets register revealed that the register lacked significant asset details such as Date of acquisition, Type of the assets, Description, Manufacture part no, IUCEA assets code Number, Cost of the assets, original and addition, location, expected useful lifetime, Depreciation rate charge for the year, accumulated Depreciation to date and Net book value.

The IUCEA Management concurred with the audit recommendation and further reported that information on fixed asset register are maintained by two units: Administration (date of acquisition, type of the assets, description, manufacture part no, IUCEA assets code Number, location), the Accounts unit records show cost of the assets, any additions, expected useful lifetime, depreciation rate charge for the year, accumulated depreciation to date and net book value. It was also noted that in May 2013, the Secretariat acquired a Fixed Assets module, which will be implemented during 2013/14, and all those features mentioned shall be put in place.

The Committee discovered non-compliance with section 12.6 of the IUCEA staff rules and regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to update the register using the acquired module with all the required details and present to the Audit Commission for verification in the next Audit.*

#### 5.7 CONSTRUCTION OF THE IUCEA HEADQUARTERS

The Audit Commission reported that a review of the documentation in respect of the above project revealed the following observations:-

##### Delayed construction and Co-ownership of Land Title

The Committee was further informed that the construction contract was signed on the 10<sup>th</sup> June 2014, and that construction started on the 1<sup>st</sup> July 2014 and it is expected to be completed by the end of March 2015.

The Committee noted that the delay was caused by architectural designs and other negotiations before entering into the contract. The IUCEA Management later produced a letter from the Uganda Land Commission confirming transfer of ownership to IUCEA.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present progress of construction and land title to the Audit Commission for verification in the next audit.*

#### 5.8 INADEQUATE STAFFING

The Audit Commission reported that during the audit for the financial year 2012/2013, it was noted that, IUCEA has a significant staff shortage, which adversely affects the Councils' capacity to deliver according to its mandate.

The IUCEA Management held that the cost of recruitment for the priority positions was not budgeted for in the financial year 2013/14 except for the Chief Principal Planning, Finance and Administration for whom interviews are scheduled to take place on 17<sup>th</sup> February 2014. Other positions to be subject to the availability of funds.

The committee observed that there is indeed inadequate staffing at the IUCEA causing non-segregation of duties.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to expedite review of the structuring, prioritize recruitment and present progress to the Audit Commission for verification in the next audit.*



### 5.9 WEAKNESSES IN HUMAN RESOURCE FUNCTION

The Audit Commission reported that a review of the Councils' Human Resource functions revealed the following matters:-

It was noted that the Council does not have a fully staffed Human Resource (HR) Department. Currently, the HR functions of the Council are undertaken by an administrative officer with no requisite experience to handle such assignments.

The Executive Meeting at its fifth meeting held in Kampala, Uganda in September 2011 approved the IUCEA salary structure that is aligned to the framework of the East Africa Community (EAC) effective 1<sup>st</sup> July 2012. The Council however did not properly undertake this exercise since it lacked the requisite HR personnel to manage the process.

The Committee noted that applications for the post of Principal HR Officer have been received, awaiting shortlisting and interviewing.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA Management to expedite the recruitment of a Human Resource Officer.*

### 5.10 WEAKNESSES IN BOOK KEEPING

The Audit Commission reported that a review of the general ledger supporting the financial statement balances revealed anomalies noted below:-

The references used/quoted in the general ledger were not consistent since several reference notations were used. For instance, the references for expenditure were by payment voucher numbers, system generated numbers, bank transaction reference numbers, Journal voucher number, reference numbers, invoice numbers, LPO numbers and in some instances, the reference numbers were not defined. Sampled transactions without reference numbers are listed below-

Date	Debit (Us\$)	Credit (Us\$)	Account	Detail of transaction
12/4/2012	208.00	0.00	2210502	Accommodation for Workshop Part
5/23/2013	600.00	0.00	2210502	Accommodation for Workshop Part
3/5/2013	282.26	0.00	2210509	Training Fees
3/5/2013	141.13	0.00	2210509	Training Fees
12/4/2012	398.00	0.00	2210513	Hiring of Training Facilities
1/8/2013	420.26	0.00	2210806	Photocopying & Binding Service
12/4/2012	600.00	0.00	2230106	Road Transport (i.e Buses, Pri
5/23/2013	600.00	0.00	2230106	Road Transport (i.e Buses, Pri
12/4/2012	1,600.00	0.00	2240105	Honoraria
5/23/2013	0.00	2,400.00	6310401	Staff Imprest (EAC Activities)
6/28/2013	0.00	30.00	6310401	Staff Imprest (EAC Activities)
12/4/2012	0.00	5,306.00	6310401	Staff Imprest (EAC Activities)
12/31/2012	0.00	389.75	6320101	IUCEA Petty Cash Imprest (Shs)
7/31/2012	539.06	0.00	7110101	Accounts Payable Control

3/5/2013	0.00	423.38	7110101	Accounts Payable Control
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There were several reversals in the general ledger, implying improper data capture and absence of counter checks or controls before posting to the general ledger.

The Committee noted the weaknesses but it was informed that the matter has been resolved in the Accounts of 2013/2014 and that there are no more reversals as compared to the previous year.

For the case of Citibank, with an online banking system, PV Numbers are now the only reference used as control measure while for the other Accounts, the Cheque Numbers are the references used as control measures.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present with evidence the correction of the anomaly in the next audit for verification.*

#### 5.11 ANOMALIES IN SALARY ADVANCES

The Audit reported that reconciliation of the Salary Advances Register and the Financial Statements with the General Ledger revealed that for some staff, the amounts reported in the Financial Statement as salary advance differs from the amounts recorded in the Salary Advance Register. Details are as presented below-

Staff Name	STAFF I.D	Salary Advance (Us\$)	Salary Retired (Us\$)	Outstanding From Financial Statement(Us\$)	Register Issues
Ms Irene Wassawa	EST-P-053	1,443.00	1,888.00	-445.00	Zero balance seen, credit bal per ledger
Fiddy Dungutse			166	-166.00	Not seen in the register, credit bal per ledger
Rose Nasanga	EST-P-118	1,529.00	1,516.00	13.00	Zero balance
Benedict Mtassiwa	EST-P-144	305.00	0.00	305.00	Advanced on 20/8/13
Balyagati Wihelemia	EST-P-145	4,727.00	0	4,727.00	Zero balance
Reuben Tumbwene	EST-P-150	3,658.00	3,408.00	250.00	Zero balance
	Total	10,219.00	6,978.00	4,684.00	

It was noted that there was no evidence of regular reconciliation of the salary advances ledger.

The Committee observed a mismatch reported in the Financial Statements and the Salary advance register an indication of incompetence and lack of training. The IUCEA Management informed the Committee that the matter has been resolved in the Accounts of 2013/2014.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present the corrected financial statements and the Register to the Audit Commission for verification.*

#### 5.12 EFFECTIVENESS OF THE INTERNAL AUDIT UNIT

The Audit Commission reported that a review of internal audit reports for the year ended 30<sup>th</sup> June 2013 and the annual work plan revealed that some planned activities were not undertaken or concluded within the planned timelines since there are no reports to that effect.

The IUCEA Management informed the Committee that recruitment of two temporary Internal Auditors is underway; investigations on Citibank direct payment system has been completed and a Risk Management framework has been developed and approved by the 16<sup>th</sup> Executive Committee meeting.

The Committee observed that there is understaffing, ambitious planning, lack of resources to execute planned activities, weak systems and controls and delay of submissions of financial statements to the Internal Audit Unit.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to:-*

- i) procure audit tools and improve on systems and controls;*
- ii) always plan realistically and in consideration of availability of resources and time;*
- iii) present the status of implementation of the Audit Commission and Committee recommendations in the next audit.*

#### 5.13 REVIEW OF CONTROL ENVIRONMENT

The Audit Commission reported that several weaknesses that include lack Risk Management Policy, lack of proper segregation of duties and lack of proper records of staff engaged on temporary basis.

The Committee noted the report by the Audit Commission but IUCEA informed the Committee that a Risk Management framework has been developed and approved by the 16<sup>th</sup> Executive Committee meeting, a VICRES Project Accountant has been recruited since 1<sup>st</sup> April 2014, job definitions and specifications for all established positions are provided for in the functional job analysis report as at March 2013 and new furniture has been acquired.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management always to strengthen internal controls and present progress of implementation of the directives and recommendations to the Audit Commission for verification in the next audit.*

#### 5.14 VICRES ACCOUNT ADVANCES FOR RESEARCH FUNDS

The Audit Commission reported that a review of the accountability for research funds advanced revealed that there are still some weaknesses, which need to be addressed. These include the following:-

There were delays in accountability for funds advanced; this was particularly noted for researchers who had received their last instalments. This puts the Council at risk of having to repay unaccounted for funds to SIDA when such researchers fail on their obligation of submission of accountability.

Some researchers still do not follow the agreed accountability format while accounting for funds. Some researchers only submitted activity reports without financial accountability format as provided in the VicRes Operations manual. This has made the analytical review based on comparison of budgeted and actual expenditure figures impossible, as it is difficult to establish the extent of deviations (if any). The sampled cases are shown below-

Researcher	Amount accounted for US\$
Walter Odongo	16,209
Omari Amuka	8,381
John Radull	16,827

It was noted that the agreement between SIDA and the IUCEA states under article 4, that deviations in the researchers plan presented and budgets can lead to SIDA having to claim from IUCEA wholly or in part the amount so advanced.

The audit noted instances where funds advanced were accounted for in good time only to be expensed in another period. Such cases included the following:-

Researcher	Host Institution	Accounted for	Expensed	Amount (Us\$)
Deogratus Ojiambo	Mbarara University of Science and Technology	8 <sup>th</sup> of July 2011	30 June 2013	10,952
Francis Kariuki	Kenyatta University	24 <sup>th</sup> Nov 2011	30 June 2013	20,586
Grace Kyeyune	Nkumba University	10 <sup>th</sup> Dec 2008	21 <sup>st</sup> Dec 2012	12,923

The Committee observed inadequate and late accountability of research funds. The IUCEA informed the Committee that so far imprest has reduced from US\$3,093,538 to US\$493,690 as at 31<sup>st</sup> December 2014.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to-*

- i) always ensure measure are in place to enforce accountability of research funds;*
- ii) ensure the recovery of the said accountabilities with emphasis on quality;*
- iii) present the recovered accountabilities to the Audit Commission for verification in the next Audit.*

#### 5.15 ABSENCE OF FUNDS RECOVERABILITY GUIDELINES

The Audit Commission reported that the Council does not have a policy in place to ensure recoverability of funds or accounting thereof in the case of a demise of a researcher. Funds are advanced to a researcher on a tripartite agreement involving the researcher, the IUCEA and the host institution. There are no provisions for recoverability of funds should the situation warrant it. A case in point is when a researcher from Sokoine University of Agriculture passed away; the researcher had been advanced funds to facilitate his research project but had not accounted for funds amounting to US\$ 5,455 by the time of his death.

The Committee observed the existence of the weakness occasioned by lack of recoverability guidelines. IUCEA however updated the information on policy and steps taken on the case of the deceased researcher and informed the Committee that a Research and Innovations Policy has been developed and approved in June 2014, guidelines on implementation, recoverability, accountabilities or unused funds are also being developed.

On the issue of the death of the Research Officer, the project Investigator/Team Leader was contracted but replied that he does not have any information regarding the funds.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to-*

- i) Urgently develop the policy on funds recoverability;*
- ii) Present the tools developed to the Audit Commission for verification.*

#### 5.16 LONG OUTSTANDING CURRENT LIABILITIES

The Audit Commission reported that the review of staff creditors shows a balance of US\$ 318 due to a staff which has appeared in the general ledger from the beginning of the financial year 2011/2012. It is not clear why it was not cleared during the financial year. In addition, among the creditors for the year, there are some which have been outstanding for quite a long period and the reason for their non-settlement was not given, as listed below:-

Creditors as at 30 <sup>th</sup> June 2013	Amount (Us\$)
--	---------------

Publications Nyakaana	1,200.00
Reviewers	1,140.00
Karibu	615.00
Kibazohi	117.00
Totals	3,072.00

It was further noted that the project management does not carry out ageing analysis for the creditors.

The Committee noted long outstanding liabilities and observed irregular procurement.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to-*

- i) always exercise due diligence while procuring for the Institution; and*
- ii) present course of action to the Audit Commission for verification in the next audit.*

#### 5.17 UNCLEAR REGULATION ON SALARY DEDUCTIONS

The Audit Commission reported that Regulation 9.4 on salary deductions states that ‘deductions from salary shall be made with regard to loans/advances, any pecuniary loss caused by the employee to the Council (if an employee has no reasonable defence), and PAYE, as required by the Income Tax Act: no deductions should exceed 50% of employee’s take home pay’. The observation is that the regulation is ambiguous.

The Committee observed that Regulation 9.4 on Salary deductions is indeed ambiguous and may not be interpreted to serve the purpose it was intended for but the IUCEA Management informed the Committee that amendments to correct the regulation were tabled and approved by the executive Committee in June 2014.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present the amended Staff Rules and Regulations to the Audit Commission for verification in the next audit.*

## PART VI

### THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY (CASSOA)

#### 6.0 CURRENT YEAR AUDIT FINDINGS

##### 6.1 Non-disclosure of Assets in the Financial Statements

The Audit Commission reported that the Agency owns land and buildings in Entebbe town, in Uganda, where its offices/headquarters are located. According to documents availed, the land and buildings thereon was leased to CASSOA. However, the Agency does not hold title to the land, but has gone ahead to erect another office block which is now operational. A review of the balance

sheet however revealed that the land and buildings were not reported as noncurrent assets, contrary to the provisions of IPSAS 1 and 17.

CASSOA Management responded that the lease offer was given to CAA Uganda for use by CASSOA. However, this is contrary to the Council directive that the title must be in the names of CASSOA. The Agency has brought this to the attention of CAA Uganda. The Agency is also in the process of valuing the land and buildings in anticipation of the transfer of title to enable proper disclosure in the financial statements.

The Committee was informed that a meeting was held between CASSOA, CAA and MEACA in the presence of CTC to follow up the matter. The meeting will be reconvened again in the last week of January or first week of February 2015.

The Committee noted that CASSOA erected buildings on the land whose title is yet to be transferred in its name. The Committee was however informed that CASSOA had been given the lease offer.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite acquisition of the Certificate of Title to avoid ambiguities.*

## 6.2 Irregular Budgeting For Reserves

The Audit Commission reported that a review of the statement of comparison of budget and actual amounts for the year revealed the following anomalies:-

The original budget of US\$ 1,520,346 is inclusive of US\$ 266,346 being transfers from reserves, implying that the budget team had anticipated the transfer.

The specific nature of related expenditure was not described to determine whether it falls under Regulation 22-4 above.

CASSOA Management reported that the Board and the Council approved the original budget in April 2012. However, in July 2012 it became apparent that the CAAs could not contribute the whole amounts passed in the budget. The Board at its 6<sup>th</sup> Extraordinary meeting approved the budget of US\$.1,520,346 and the use of reserves of US\$.266,346, to fund the budget deficit arising. This was in line with Regulation 22(2), which allows utilization of the Reserve Fund in accordance with a decision of the Board. Mindful of the going concern of the Agency, the Board took note of the adverse effect the use of reserves would have and directed the Agency to review the strategic plan to be able to carry out only activities that could be funded by the available funds. The Strategic plan was reviewed and subsequently in FY2013/2014 and FY2014/2015, the Agency has not budgeted for the use of reserves to fund the budget. Since the reserve was used to fund the budget deficit in its entirety, it is not possible to isolate transactions for which funds were drawn.

The Committee noted the Audit Commission report and CASSOA response.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to improvise alternative budget deficit.*

### 6.3 Idle funds on the Reserves Account No.6003614873

The Audit Commission reported that a review of the bank statements for the year revealed that at the close of the financial year, the above account had a credit balance of US\$ 120,929.62, deposited on 2<sup>nd</sup> October 2012. There were no other credits or debits on the account during the year, apart from the bank charges.

CASSOA Management held that the Reserves account was opened in June 2012 and remained dormant until October 2012 when the balance of reserves of US\$ 120,929.62 was transferred from the US\$ current account No.6002220456. The reserve account is exempt from charges. All fees that had been charged to the account were reversed by the bank.

The Committee noted that CASSOA has not greatly considered investing the idle funds on both accounts to earn interest.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite the process of identifying a suitable financial institution where idle funds can be safely invested to earn interest.*

### 6.4 Idle funds on Account No.6002376715 CASSOA US\$ – Staff Gratuity

The Audit Commission reported that during the period under review, it was noted that this account had a balance of US\$ 155,848.26 as at 30<sup>th</sup> June 2013. The account is credited with staff gratuity every month and has an increasing credit balance. It was further noted that this account also does not earn any interest, yet the money is only withdrawn to pay the staff gratuity at the end of the contract.

The Committee noted that CASSOA has not greatly considered investing the idle funds on both accounts to earn interest.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite the process of identifying a suitable financial institution where idle funds can be safely invested to earn interest.*

### 6.5 Irregular Recognition of Accumulated Leave - US\$ 14,144

The Audit Commission reported that the Agency recognized accumulated staff leave to the tune of US\$ 14,144, contrary to Regulation 71(1) of the EAC Staff Rules. However, there was no evidence to show that authority was sought for accumulating leave as provided for under staff regulations.

CASSOA Management responded that Regulations 71 of the Staff Rules and Regulations allows staff to accrue up to 30 days for Executive and Professional staff and 21 days for General Staff. The amounts accrued were for amounts within this provision except for three staff for US\$ 3,278. The Agency will adjust the expenditure to correct this overstatement.

The Committee observed that CASSOA had indeed irregularly recognized accumulated leave. CASSOA Management however informed the Committee that the irregular recognition was done in error but later corrected.



*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite always exercise diligence in the management of financial statements and adhere to staff rules and regulations.*

#### 6.6 Service Delivery by the Agency

The Audit Commission reported that review of the CASSOA activities for the year revealed that 51% of the total expenditure was in relation to personnel emoluments to secretariat staff, who apparently undertook the above roles of the Agency.

However, given that the secretariat has only six professional staff that is so thin on the ground, this implies that they may not effectively accomplish these roles. This happened at the expense of the coordination role and in the year under review, there was no evidence that the secretariat made efforts in the development of harmonized regulations in the area of air navigation services as well as developing applicable technical guidance materials and assisting the Partner States in re-certification of the existing operators and personnel to the harmonized regulations.

CASSOA Management reported that the Agency is financially constrained and hence is not able to increase its staffing levels. Furthermore, attraction and retention of technical aviation personnel is a big challenge globally. That notwithstanding, the Agency has been using the available technical expertise from the Partner States to perform its functions. For the year under review, the Agency carried out all the planned activities as per its mandate.

The Committee observed that although CASSOA is using CAA's technical staff and the innovation to engage technical on consultancy basis, the CASSOA technical arm is not perfectly executing its role.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management:-*

- i) initiate steps to get out of the EAC main structure and scale up salaries of technical personnel to attract experts;*
- ii) initiate and negotiate with CAAs and agree on an appropriate and sustainable funding mechanism.*

#### 6.7 Control Environment Issues

The Audit Commission reported the following matters in respect of the agency's operations and systems:-

##### Staff Recruitment

For the financial year under review, the Agency's organization structure provided for the recruitment of key staff, including Director Resource management, a Principal Internal Auditor, Principal legal officer, Principal Information Technology officer and Senior Monitoring and evaluation officer among others. However, the Audit Commission noted that management had failed to recruit the mentioned staff.

### Segregation of Duties

Segregation of duties is an internal control measure, which ensures that critical functions in a process are not concentrated to an individual, with a view of minimizing the risk of any mistakes or deliberate action going undetected.

It was however noted that the Agency's management arrangements at the time did not favour the existence of a good internal control environment. There were no segregation of duties among staff. For instance, the Principal Human Resource and Administration officer, apart from exercising the function of human resource management, also doubled as the procurement officer in the Procurement department and the respective departmental heads act as stores personnel.

The CASSOA Management responded that due to financial constraint the Agency has been unable to recruit additional support staff. Furthermore, attraction of technical staff has also been a big challenge because of the EAC rates paid for technical staff cannot compete with market rates paid within the industry. The Agency is compelled to engage technical staff, who are critical to the execution of the Agency's mandate, on consultancy basis to be able to attract them and to make the support function leaner until a more sustainable funding mechanism is identified.

The Agency currently has a complement of 10 staff, three of which are general support staff and the Executive Director. This leaves only six staff to be able to form the various procurement teams. Out of the six, two are accounts personnel who are not allowed to engage in procurement issues while the others are in the Procurement Committee/ Board of Survey and hence restricted to perform only limited functions pertaining to the requirements of the committee membership. In the absence of additional staff, the issue of segregation of duties becomes a challenge. The Agency has endeavoured to ensure that the procurement process includes several parties (originating officer/accounts/ procurement) before the approval by the accounting officer.

The Committee noted lack of budget to recruit additional staff in CASSOA to ensure segregation of duties.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to-*

- i) direct the CAAs of Partner States to source for more funds for CASSOA;*
- ii) direct CASSOA Management to initiate resource mobilization activities.*

### 6.8 Information Technology (IT) Issues

The Audit Commission reported that the organization does not have an IT steering committee.

The CASSOA Management responded that the Management and the IT Officer are carrying out this role. Where additional expertise is needed, the Agency co-opts members from the CAAs or other EAC organs and institutions. In the year under review, there were no major IT projects to warrant steering committee meetings.

The Committee was informed that CASSOA has now put in place the Steering Committee. The Committee commends this progress.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to present progress to the Audit Commission for verification in the next audit.*

a) **Inadequate IT Continuity Plan (ITCP)**

The Audit Commission reported that CASSOA has not developed, maintained, communicated, and tested an IT continuity plan to ensure continuous IT services in case of disaster. It was further noted that although regular backups of system data are taken and kept at an offsite location for safety in case of disaster, there is no formally communicated plan in place to restore services in case a disaster that involves breakdown of major hardware infrastructure struck.

The CASSOA Management reported that the Agency requires expertise in risk management to develop an organization business continuity and disaster recovery plan and intends to use expertise from the CAAs and EAC organs and institutions to develop it by Dec 2014. The Agency requires expertise in risk management to develop an organization business continuity and disaster recovery plan and intends to use expertise from the CAAs and EAC organs and institutions to develop it by Dec 2014.

The Committee observed that IT Continuity Plan is very crucial for CASSOA yet the plan is yet to be put in place. The Committee was informed that CASSOA is highly dependent on Partner States where CASSOA is housed. Understaffing is also still a challenge.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to-*

- i) enhance IT Continuity Plan;*
- ii) recommend on strengthening of incidents and accidents units in CAAs of the EAC Partner States and create such unit in CASSOA.*

**GENERAL OBSERVATION:**

*The Committee observed that a number of avoidable issues, which were raised in the previous audits, were again raised in the current audit.*

*To this end, the Committee recommends to the Assembly to urge the EAC Council of Ministers to address the following recurrent and current challenges in the EAC Organs and Institutions urgently.*

- 1. The Partner States who host the EAC organs and institutions and expedition of issuance of exemption certificates should put consorted efforts in place to enforce refund of VAT and Withholding Tax (WHT).*
- 2. All disbursements to EAC Organs and Institutions should be channelled through Ministries in charge of EAC affairs and the Ministries should ensure follow up to remit the contributions on time.*
- 3. EAC Staff Rules and Regulations are inadequate in nature and need up scaling to empower the Secretary General to reprimand indiscipline staff members.*

4. *EAC Council of Ministers' Rules of Procedure require amendment to dissolve Council into a Board of Directors to enable them follow up of EAC activities.*
5. *EAC Council of Ministers should recommend that Audit Commission undertake value for money audit in the next audit exercise.*
6. *EAC Council of Ministers should urgently decide on alternative funding mechanism to thwart the alarming trend of EAC donor dependency.*
7. *EAC Council of Ministers should fast track institutional review process to enhance human resource capital and provide job security to the staff of the Community by providing pensionable terms of service.*
8. *EAC Council of Ministers should follow up implementation of Assembly recommendations and Summit decisions and submit quarterly reports to the Assembly.*

## PART VII

### 7.0 ACKNOWLEDGMENTS

The Committee wishes to thank the Rt. Hon. Speaker, the Clerk and the entire Management of EALA for the excellent facilitation accorded to it while executing its mandate. Despite limited time, the Committee finalised the bulky and demanding exercise within the financially dictated timeframe.

The Committee further wishes to thank the Audit Commission for fulfilling their mandate bestowed on it by *Article 134* of the Treaty.

Finally, the Committee commends the EAC Secretariat and other EAC Organs and Institutions for the continued cooperation.

Mr. Speaker Sir, I beg to move - (*Applause*).

**The Speaker:** Thank you so much, hon. Jeremie the Chairperson of the Committee on Accounts. This has been a baptism of fire; first engagement as the Chairperson of the Committee. I congratulate you and your Committee upon delivery of very good work.

**Mr Ogle:** Thank you, Mr Speaker. I am rising on a point of procedure. Mr Speaker, this is not an ordinary report. It has far-reaching recommendations and content. It is touching on the very crux of this Community.

On just casting a glance at this report, it will give you the impression that there appears to be a kind of conspiracy between all the institutions and organs to assault; to plunder; to pirate; and to do everything about this Community.

Nonetheless, much as I appreciate the Committee's report, what is missing is something very significant and that is why I would like to call it incomplete. We need to get the Secretariat's response to the contents of this report. I am sure they must have had some position about this report. Some of these things you are talking about – an air ticket being issued to London and then

the journey ends in Bujumbura, possibly an action was taken. Therefore, Mr Speaker, I am suggesting that this report be completed and the Committee be asked to bring the Secretariat to respond so that we have a complete picture of what happened. Thank you.

**Mr Opoka:** On a point of information – (*Interruption*) -

**The Speaker:** Just a second. He rose on a procedural matter. I will give you the information later.

Hon. Ogle, you realise that the Committee on Accounts has been working on this report for some time now. They have met with all the Institutions of the Community and the Organs and indeed, they interfaced with the Chairpersons, Council and the entire membership of the Council of Ministers. I think at an appropriate time, when the debate has ensued on the floor, you will be given chance to substantively debate this report, raise your issues and the Chair, Council of Ministers will be tasked to respond to the issues appropriately. I think that is how we should proceed on this report. Thank you very much.

Hon. Chris Opoka, you had some information. I do not know whether you are informing him or me.

**Mr Opoka:** Hon. Speaker, I was rising to inform the hon. Member who rose on a point of procedure that if you read the report fully, contained inside is management response. Therefore, there is really no need because a management response is there in the report, only that the hon. Chair of Accounts Committee was reading quickly due to the issue of time.

**The Speaker:** Thank you very much; hon. Chris Opoka who I guess has been a member of that Committee. However, hon. Members, you realise that this report is huge and then secondly, this is a very important role of this Assembly on the function of oversight.

It is cardinal that we give serious scrutiny to this report and allow Members to go through; read, digest and have meaningful debate on the matter. (*Applause*) Therefore, I will defer debate on this report until next week and I direct the Clerk to avail the details of the attachments related to this report including the Audit Commission report for Members to refer to where this report is coming from and I do not think it can be business as usual. I thank you so much.

Hon. Members, your rules allow me to adjust the Order Paper. I have deferred this debate to next week to allow Members confer and adjust the report. I would like to adjust the Order Paper to bring Order No. 8 forward to allow one of our Members to seek leave of this House to move a Private Member's Bill. He has to go somewhere because the Speaker has sent him on some assignment. Therefore, I will adjust and move straight to ask the hon. Member to move as per Order No.8.

#### **MOTION FOR INTRODUCTION OF A PRIVATE MEMBER'S BILL**

**The Speaker:** Honourable Christophe Bazivamo.

**Mr Christophe Bazivamo (Rwanda):** Thank you, Rt. hon. Speaker. I beg to move that this Assembly, pursuant to the provisions of Article 59 (1) of the Treaty and Rule 64 of the Rules of Procedure of this Assembly, do grant me leave to introduce a Private Member's Bill entitled "*The East African Community Forest Management and Protection Bill.*" I beg to move.

**The Speaker:** Seconded by hon. Leonce, hon. Patricia, hon. Bernard, hon. Isabella, hon. Sarah and all the Members standing.

Hon. Members, the motion on the floor is that the hon. Member be granted leave to move a Private Member's Bill entitled "*The East African Community Forest Management and Protection Bill.*" Debate is open, however, hon. Members, I would guide that in the interest of time, since this matter is substantively coming back to the House, we will have time to debate the merits and demerits of the Bill.

**Mr Zein:** Procedure. Is it not procedural for him to justify first, before we debate it?

**The Speaker:** Hon. Zein, I was actually giving him the justification, which entails part of the debate and then I was communicating to the Members that we allow him to justify and then we conclude at that. We grant him leave and then further debate by Members will be done when the substantive Bill is before the House. (*Applause*) So, that being acceptable, I now invite the hon. Member to give us the justification.

**Mr Bazivamo:** Thank you, Rt. hon. Speaker. Actually we passed a Bill here last year dealing with climate change and we have been witnessing that one factor that is influencing climatic change is lack of inner forests. And in a bid towards mitigating climate change, reforestation could be at the foremost front.

We know that in this Community, deforestation is on the increase due to changes in land use, especially through crop farming in areas where forests have been.

We also know that forests play a big role in water regulation and that they have a big influence on what we have in agriculture especially when it comes to ground water regulation.

But also because of lack of sufficient energy in our Partner States, we witness over 90 percent of the energy that is used in our areas comes from firewood, which has a big impact on agriculture due to lack of sufficient forest coverage in our region. What we normally see is that instead of using trees, they use other crops; they burn them and use them for cooking.

This causes a serious deficit in organic matter, which is needed to support our agricultural production, which results into an increase in food insecurity.

We know that in our region, when infrastructure development is increasing, we need many forest products to use, and this increases the level of deforestation.

Rt. hon. Speaker we also know, that we need forests for water catchment. When we lack them, the problem will of course lead to lack of water, both fresh and groundwater, which causes us problems.

Rt. hon. Speaker, for all those reasons, we think that even if we have laws in our different Partner States, some are old while others are not well known or inconsistent and at end of it all, we face different problems. In addition to that, in some areas we have a problem of capacity; institutions which are weak to support forest management and protection.

This Bill is needed because if it is in place, it will help in harmonisation of the management of forests in the East African Community, which is a very crucial issue especially because forest management and protection are among the most important proposed measures in the implementation of climate change mitigation and adaptation policy.

For all those reasons, and in accordance also with Article 112 (1) (A) (c) and 2(c) and Article 114 of the Treaty, which requests Partner States to collaborate when it comes to management of natural

resources in a sustainable manner, if this Bill is in place, it will help to cure all these weaknesses we are facing and also help to improve the management of our forests.

Here, I have not highlighted but you know it is very important in regulating cross border trade in as far as forests products are concerned.

Rt. hon. Speaker, I thank you, and I beg for support in as far as this Bill is concerned. Thank you. *(Applause)*

**The Speaker:** Thank you so much. I had recognised hon. Leonce rising but I advised that we shall substantively debate this matter when the Bill is before the House.

Hon. Members, the motion before us is that this Assembly pursuant to provisions of Article 59 (1) of the Treaty and Rule 64 of our Rules of Procedure of the Assembly do grant leave to hon. Christophe Bazivamo to introduce a Private Member's Bill entitled "*The East African Community Forest Management and Protection Bill.*" I now put the question.

*(Question put and agreed to.)*

### **THE EAST AFRICAN COMMUNITY COOPERATIVE SOCIETIES BILL, 2014**

*(Debate interrupted on 28<sup>th</sup> October 2014 resumed)*

**The Speaker:** Of course, the hon. Members will be assisted by the Counsel to the Community and the relevant offices to make sure the Bill is before the House soon.

Hon. Members, you are informed that hon. Mike Sebalu moved and justified the Second Reading of this Bill on 28<sup>th</sup> October, 2014 in Kigali, Rwanda. In accordance with our Rule 68(2), the next stage was for presentation of the Committee report on the Bill. At that juncture, the Committee Chair moved the motion to defer the report and it is my humble opinion that we begin from this point where we had ended. I, therefore, invite the Chairperson of the Committee to take the floor and present the report on this Bill. Chairperson, Committee on Agriculture, the floor is yours.

**The Chairperson, Committee on Agriculture, Tourism and Natural Resources (Mr. Abdul Karim Harelimana) (Rwanda):** Thank you, Mr Speaker, Sir for giving me this opportunity. As you have rightly mentioned, we all recall that during the Kigali session in October 2014, the House deferred the presentation, consideration, and adoption of the report of the Committee on Agriculture, Tourism and Natural Resources. It is now my duty to present the report of the Committee on public hearings on the EAC Cooperative Societies Bill, 2014 held from 12<sup>th</sup> to 22<sup>nd</sup> September 2014 in the EAC Partner States.

However, Rt. hon. Speaker, before I do that, since this is my first time to take the floor in this session, which is ongoing in Arusha, I beg to first congratulate you upon being elected to that highest Chair in the East African Legislative Assembly. And I take this opportunity to wish all Members of the Assembly a Happy New Year, 2015 that should be the year of blessings and grace from God and the year of abundant yield for ourselves and pleasant for the people of the East African Community. *(Applause)*

Mr Speaker, sir, I also take this opportunity to thank hon. Members of the Committee on Agriculture, Tourism and Natural Resources for bestowing to me all their trust and electing me to be the Chair of this Committee for the rest of our term of 2<sup>1/2</sup> years.. *(Applause)*

Mr Speaker, you have just mentioned that the Bill was tabled and read for the first time in Kigali. We know the reasons why it was deferred then and why the debate was suspended up to today.

I thank Members and you, Rt. hon. Speaker for creating and establishing a conducive atmosphere for us to do our business smoothly and as usual.

Mr Speaker, Sir, the report is not long and it should take me five to six minutes to read. Hoping that hon. Members will adopt it of course after debating it.

## REPORT OF THE PUBLIC HEARINGS ON THE EAC COOPERATIVE SOCIETIES BILL, 2014

### I.0. INTRODUCTION AND BACKGROUND INFORMATION

For the purpose of operationalizing Article 128 of the Treaty for the Establishment of the East African Community, in which the Partner States shall endeavour to adopt programmes that would strengthen and promote the role of private sector as an effective force for the development of their respective economies, the East African Legislative Assembly is in process of legislating on promotion of cooperatives in East African Community region. The EAC Co-operative Societies Bill, 2014 sponsored by Hon. Mike Sebalu is intended to harmonize national co-operative laws in the EAC Partner States, and to provide a framework for co-operatives to exploit the EAC regional integration agenda.

The Bill is based on the understanding that each Partner State shall undertake to encourage the efficient use of scarce resources and to promote the development of private sector organizations, which are engaged in all types of economic activity, such as, the chambers of commerce and industry, confederations and associations of industry, agriculture, and manufacturing, among others. At national level, co-operators bear the primary responsibility to develop themselves but it is worth mentioning that regional and international support and cooperation may sometimes be required to supplement domestic efforts. The Bill is the result of thorough consultations between the EALA Committee on Agriculture, Tourism and Natural Resources and the national co-operative organizations, which are recognized by national law, as umbrella organizations for all co-operatives, in all sectors. These national co-operative organizations are all members of the Eastern Africa Farmers' Federation (EAFF). EAFF played a key role in coordinating the Public Hearings.

The captioned Bill was read for the first time in January 2014 in Kampala, Uganda. It has therefore been referred to the Committee on Agriculture, Tourism and Natural Resources for scrutiny. For purposes of involving the East African citizens in the legislative process, the Committee undertook in the five EAC Partner States Public Hearings, which followed a series of stakeholder consultations on this Bill at the national and district level, coordinated by the national co-operative organizations and EAFF. In most cases, these consultations involved representatives from the Ministry of EAC Affairs and Ministry in charge of Co-operatives. The output of the consultations was a report, compiled by a technical team. Copies of these reports were availed to all participants during each Public Hearing. These consultations started after the Bill was read for the First time.



The objective of the Public Hearings was to get views of relevant stakeholders in a bid to enrich the Bill and engage citizens in the legislative process.

Participants to the Public hearings included various co-operatives organizations from the different sectors including savings and credit, agriculture, transport, and housing, among others, representatives from the Ministries in charge of Co-operatives and EAC Affairs, Parliamentarians, private sector associations, other government ministries and Development Partners. The legal Draftsman from the EAC Secretariat, legal advisors from Partner States and from EAFF attended to guide Members and stakeholders from other sectors in their amendments and consideration of the Bill. The national media have also been significantly involved in these activities in all Partner States. The list of participants is attached to this report as Annex I.

## 2.0. METHODOLOGY

The Public Hearings were carried out in a participatory way and included:

- technical presentations by the mover of the Bill;
- presentation on the background to the Bill, from 2009 when EAFF member organizations expressed the need for a regional response to the challenges facing co-operatives in the region. This was delivered by a representative of EAFF;
- detailed presentation on the report of the national stakeholder consultations. This presentation was usually delivered by a representative of the national co-operative organization;
- discussion on the presentation of the stakeholder consultation report and additional submissions from stakeholders. These submissions were both oral and written; and
- Press conference involving members of the local media.

## 3.0. PROCEEDINGS AND FINDINGS OF THE PUBLIC HEARINGS

### 3.1. Proceedings

In all Partner States, proceedings started by welcoming remarks by the Committee Chairperson, followed by official opening by a representative of the EAC Ministry. These were followed by technical presentations by the mover, the Eastern Farmers' Federation, the apex cooperative organization at national level as well as the experts who consolidated the comments from national consultations. The presentations were followed by interactive sessions to allow additional submissions from stakeholders. At the end of interactions, press conferences were held to bring to the attention of the public the EAC Cooperative Societies Bill, 2014.

### 3.2. Findings

#### 1. General observations from stakeholders' submissions

- i. Need for the Law: The consensus from all the Partner States was that this law is necessary. This was clearly expressed by all the stakeholders who acknowledged the importance of co-operatives, the need for improvements in existing legislation and the need to exploit the EAC integration agenda.
- ii. The need to "regionalize" the Bill: The law should have clear sections that bring out the regional focus of the Bill. This is important to add value to the national laws clearly. The Bill does not have specific clauses that allow co-operatives to exploit the regional integration agenda.
- iii. The need for clear objectives in the Law: The law needs to have clear objectives. Currently, a few objectives are only mentioned in the Memorandum, while the Bill outlines objectives for co-operative societies, and not for the Bill itself.
- iv. Regulations versus law: There is need to review certain clauses in the Bill and separate what would appear under "regulations" from clauses that would appear under the law.

#### 4. 0 GENERAL COMMITTEE OBSERVATIONS FROM THE PUBLIC HEARINGS

1. Overall support for the Bill: Overall, the Bill is supported by the whole region and Members even got more than what they were expecting because wherever they went, all stakeholders were in support of it. The Committee resolved to go through all raised issues and respond accordingly. It is also important to note that the stakeholders have very high expectations for the Bill. That is, the co-operative movement across the five Partner States is eager for the Bill to be passed into law so that they can fully engage in the integration agenda. Therefore, the Committee concluded that the law is needed.
2. High expectations from the stakeholders: It was very clear that the stakeholders have high expectations that the Bill will be passed by EALA. The comments that were submitted showed that there is need to revise the current draft of the Bill considerably.
3. Regionalizing the Bill: The stakeholders clearly expressed the need to ensure that the Bill enables co-operative societies to exploit the regional agenda at the EAC. For example, the co-operatives are keen to be able to have membership from the different EAC partner states.
4. Endorsement of the Council of Ministers: The Committee agreed on the need to consult the Council and the sectoral council in charge of cooperatives at national level once the Schedule of Amendments has been made. This is to ensure that the Bill has the full support of the Council of Ministers, as well as the relevant ministries in each of the Partner States.
5. The United Republic of Tanzania: There was a misunderstanding in Tanzania, where the Ministry in charge of Co-operatives played a key role in the national stakeholder consultation and was party to the report of the consultations, and yet the Ministry in charge of East African Cooperation informed the Committee that the government had another position. The Ministry expressed three main concerns, which have since been addressed by the EAC Legal Draftsman during the preparation of the amendments captured in the schedule.

- a. Agency: The Bill proposes the establishment of an Agency. The Ministry feared the fact of having an Agency which can cause additional expenditures to the Community;
- b. Land: The Bill proposed to provide land incentives to co-operatives. The Ministry was concerned that this provision would go against the Common Market Protocol, where land is not a cooperation matter;
- c. Taxes: The Bill had proposed to provide tax incentives to co-operatives. The Ministry was concerned that this provision would be difficult to accept at the national level.

The Committee referred the three issues to the Legal Draftsman for consideration during the preparation of the Schedule of Amendments.

6. International Co-operative Alliance (ICA): The Committee noted that there exists an International Co-operative Alliance (ICA), which is an international organization for co-operatives. ICA has a regional office for Africa, based in Kenya. ICA Africa has been involved in the processes related to the Bill, since 2011. However, there is a need to ensure that the ICA Africa processes are continually informed of the developments related to the passing of this Bill.

7. Land and tax: Stakeholders from all Partner States were not supportive of including land and tax benefits for co-operatives in the Bill and the technical team addressed this.

#### MEMBERS'OBSERVATIONS ON SPECIFIC PROPOSALS OF AMENDMENTS TO THE BILL

- On the proposal to provide for an Ethics Commission, Members were of the view that there is need to avoid multiplication of institutions to avoid bureaucracies. This is entering too much into national matters. This should not be in the law. The ethical commission should be within the cooperatives themselves. Then, the Agency may be called to look into these commissions.
- On the idea of providing for the Diaspora in the Bill, the Committee agreed to leave it out saying that if they wish to be in cooperatives they can register as nationals.
- On decentralization and delegation, it belongs to the policy in place for the country. It will be very difficult to capture in the Bill.
- In Membership of an Agency, it was noted that an ICA representative from another region would not be the proper person to represent the EAFF or ICA. It was needed to precise that the member of the EAFF and ICA has to come from the EAC region.
- Youth was not welcomed in the Public hearings though one Partner State insisted on providing for it. The views of Committee Members were that youth and EAFF should be removed from the Bill but gender balance shall be preserved though.
- Savings and Credit Co-operatives (SACCOS): Out of the five Partner States, it is only Kenya, which has a separate SACCOS Act. A few other countries are in the process of developing legislation for SACCOS. However, it is important to note that the Kenya SACCOS Act only licences SACCOS for deposit taking. These SACCOS first need to be registered under the Kenya Co-operatives Act.
- Another idea the Committee exchanged on was the issue of age of cooperative members. Therefore, children below 16 can be members through guardians. The Committee agreed on the need to borrow from the Canadian law to cater for this demand, and the technical team has done this.

- On the concern of bringing a Bill without Policy on which the law can be based, the Committee was of the view that all Laws do not necessarily come from policies. They also come out of needs. By bringing this bill, EALA was responding to a need, the need of co-operators to work jointly at regional level. According to the Committee, even if there should be a must of first having the policy before bringing a bill, there is no rule without exception. EALA's mandate is not policy making but legislating. So, this should not stop Members to legislate when there is need expressed by stakeholders/citizens.
- On the concern of stakeholders' fear on embezzlement of their moneys by cooperatives, the Committee was of the view that there is no founded reason to be afraid.

### 5.0 SPECIFIC OBSERVATIONS

Specific observations are proposals for amendments, which have been considered by the technical team. Relevant ones have been catered for and captured in the schedule of amendments to be moved during the Committee stage. They have been captured in the schedule attached to this report as Annex II.

### 6.0 RECOMMENDATIONS

From the experience of the Public Hearings and the interactions with the stakeholders in the co-operative movements from each of the Partner States, the Committee recommends the following:

- i. To meet with the Council of Ministers for two main purposes:
  - (a) To update them on the conclusions from the Public Hearings, and the main proposals and clauses in the Bill, and,
  - (b) To confirm their support of the Bill. It is important that the Council of Ministers support the Bill to ensure that the Bill does not meet resistance on its way to the Heads of State.
- ii. The Assembly to adopt this report with the schedule of amendments; due to the significant efforts made by the stakeholders in critiquing the Bill, it is important that EALA reciprocates this effort by debating the Schedule of Amendments and let the Bill pass during the 2<sup>nd</sup> meeting of the 3<sup>rd</sup> session to be held in Kigali in October 2014. This would ensure that the Bill is voted on and forwarded to the Council of Ministers before the end of the year.

### 7.0. CONCLUSION

The Public hearings were very successful as the Members met the expected outcome. They needed inputs from stakeholders and they have come up with a much-enriched Bill with views from various relevant stakeholders who include co-operators, relevant Ministry Representatives, Legal Advisors and Parliamentarians. The Committee noted that this Bill was unique in its nature as it was a demand driven Bill on which main relevant stakeholders have brought inputs.

## 8.0. ACKNOWLEDGEMENT

The Committee would like to thank the officials from the Ministries of the East African Community of the Republics of Burundi, Kenya, Tanzania, Rwanda and Uganda, for the mobilization of stakeholders, warm welcome and all courtesies accorded to Members of the East African Legislative Assembly during their stay in the East African Community Partner States.

It also expresses thanks to all the Stakeholders met during the Public hearings for having responded positively to the invitation and for their inputs to the EAC co-operative Societies Bill, 2014. It also thanks

Specifically, the Committee commends the Eastern Africa Farmers' Federation (EAFF) for making available means to allow the Members undertake their Public Hearings in all EAC Partner States with respect to the East African Legislative Assembly approved legislative calendar.

The Committee also expresses its appreciation to the apex Cooperative Associations at national level for coordinating stakeholders to respond massively to the Public Hearings of EALA Members.

The Committee would like to appreciate further all the participants who attended the Public Hearings for having brought amendments to the Bill to enrich it.

Lastly, the Committee would like to express thanks to all those who made this important activity a success. These include EAFF officials namely Mr. Philip Kiriro, Mr. Stephen Muchiri and Mr. Mainza Mugoya, Ms. Stella Kamuyu – Wanjau and Mr. Robert Lang’at, EAC and EALA staff for their determination to furnish Members with all the required support while discharging their duty.

**The Speaker:** Thank you so much, Chairperson of the Committee on Agriculture, Tourism and Natural Resources. I am very sure that the Committee on page 2 has no intention absolutely to call me Madam Speaker – (*Laughter*) - I am sure it has been overtaken by events and those who have the report should take it at such.

Hon. Members, at the beginning of this session, I extended my appreciation to Eastern Africa Farmers Federation and told you the President, the Board and the Staff are in the gallery here. (*Applause*) They have been supportive to the process of this Bill reaching this stage and they are still here with us.

I would also like, in a special way, to recognise the farmers -we have farmers in the gallery here - (*Applause*) – and the Farmers Association that comprised EAF; we thank you so much for being with us.

Hon. Members, debate is open.

**Mr Abubakar Zein (Kenya):** Thank you, Mr Speaker. Allow me first to record a date of gratitude by this House to the distinguished guests seated in the gallery for their partnership and their participation. (*Applause*)

Secondly, allow me to record – (*Interruption*) -

**The Speaker:** Hon. Zein, sorry for the interruption but I would like to just inform the Members that if you can speak for less than five minutes, it would be very good. Thank you.

**Mr Zein:** I will speak for three minutes, Sir. (*Laughter*) I was just saying that I also wanted to want to record our thanks and gratitude to the outgoing Chair of this Committee, hon. Isabelle Ndahayo for her service to this Assembly and to the Community. I would also like to thank hon. Sebalu for introducing this Bill to this Assembly. (*Applause*)

Having said that, I support this Bill for three reasons; one, because it seeks to build solidarity among the people of East Africa and particularly the people who struggle in life through very difficult circumstances to pull their resources together based on the African philosophy of solidarity. These farmers, traders and other are seeking to uplift themselves and our Community through development.

Secondly, I support this Bill because it seeks to organise us. It is a requirement for development for us to organise ourselves, not only to have solidarity, but also to organise ourselves in a way that will be able to negotiate and bargain for the best terms that we can in our different sectors.

Lastly, Mr Speaker, I support it because it seeks to give financial and economic independence to our people. It is based on two principles that are dear to me; the principle that *Mwalimu* Julius Kambarage Nyerere espoused of *kugitegemeya* – to depend on one’s self and the other principle that we now want to instil, which is *kutegemeyana*, meaning to depend on each other. I thank you because I have used my three minutes.

**The Speaker:** Thank you so much, hon. Zein. Hon. Patricia and then hon. Isabelle then I will come that side.

**Ms Patricia Hajabakiga (Rwanda):** Thank you, Rt. hon. Speaker. I am not going to speak for very long because the Bill is self-explanatory. I just want to thank EAFF for the support and collaboration they have had with this Assembly and particularly the Committee on Agriculture, Tourism and Natural Resources right from the Second EALA to date. I acknowledge that I was a Member of the Second EALA and a member of the Committee to date.

I would also like to thank our colleague, hon. Mike Sebalu who has been with us and remains a legacy in this Committee. He was counting – it is almost seven and a half years that we have both been members of the Committee on Agriculture.

I also pay tribute to our former Chair, hon. Isabelle Ndahayo who has taken us through the process of public hearings and chaired the Committee very well for the past two and a half years.

Rt hon. Speaker, I narrated this whole issue because I have been part of this Committee and we have moved quite a good number of Bills. We have also done quite a number of public hearings and you can witness that because you were a member of our Committee.

The enthusiasm of the stakeholders during the process, especially during the public hearings, in all the five Partner States was different from any other Bill we have ever had a public hearing on. This shows that the matters, which are contained in the Bill, are in the hearts of the people of East Africa.

The Bill seeks to solve the problems, which the people have. The Bill seeks to enrich their pockets. It touches an individual and it touches the Community and the co-operators in general.

Rt. hon. Speaker, I don’t want to - since the mover elaborated on this earlier on and since we have a very short time, I want to once again support the motion and request other Members who are not

members of the Committee on Agriculture, Tourism and Natural Resources to support this motion and to pass this Bill.

Finally, let me go to the Council of Ministers. We have had a history where the Ministers agree with us, we pass Bills but the moment we leave this room, they go and advise their Presidents otherwise- not to assent to our Bills. I hope this is not going to happen as we are dealing with a Bill of this nature. Thank you.

**The Assistant Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Mr Abdallah Saadalla):** Thank you mu sister, hon. Hajabakiga. I would just like to inform you and for future reference that the presidency is not an individual; the presidency is an institution. A President has their own advisors; they have their own criteria; and they have their own policies on how and when to assent or not on a Bill. They have never been and the Executive will never influence them; poor people like us, ministers. *(Laughter)* Thank you so much.

I would also like her to withdraw that because it abuses our offices and they are high calibre offices. Thank you.

**The Speaker:** Hon. Patricia, can you conclude? I think she has finished.

**Ms Hajabakiga:** Rt. hon. Speaker, at any one point I did not say that the presidents do not have their own advisors. However, we have noticed - and there is a Standing Order of the Council of Ministers if you are aware that they have asked the CTC once we pass a Private Member's Bill and that is an outstanding guideline for the Council of Ministers that they will give a recommendation to Partner States on that particular Bill. Therefore, I am referring to that.

**The Speaker:** Thank you so much. I hope the Chair, Council of Ministers and hon. Patricia are aware that this is not the main subject of debate here. What is on the floor is the report of the Committee. We shall handle these administrative issues somewhere when we meet. *(Applause)* Thank you so much for the information.

Hon. Isabelle, I would like you to debate later. You know the journey you have taken through this Bill. So, I would like to give hon. Nancy first.

**Ms Nancy Abisai (Kenya):** Thank you very much, Mr Speaker, Sir. Allow me first and foremost before I make my contribution to this Bill, this being the first time I am speaking during this session, I would like to take this opportunity to also officially congratulate you upon your election as the Speaker and to wish you well and God's wisdom, knowledge and understanding. I am sure that you are going to move this Assembly to the next level. *(Applause)*

Allow me also to convey warm greetings from friends. Mr Speaker, you served with us on the CTI Committee and I remember once at the Lake Side City, we had a conversation about colleagues who you worked with very closely when you were a Member of Parliament in the Parliament of Uganda and they were very excited. They called to say that this message must get to you and so, I officially just want to convey the congratulations from those friends who you know well. Thank you very much.

Having said that, I would like to congratulate the mover of this motion and the Bill and to say that it is actually very timely for three reasons; one, cooperatives is the way to go in terms of development. If you look at many institutions that have grown, most of them that are helping the

ordinary people have grown out of cooperatives. Therefore, it is important for us to look at the various sectors. I see the Bill has proposed operation of these cooperatives from the aspect of commercial cooperatives, consumer cooperatives and savings, which is actually very popular.

Why I think that this Bill is very important...but because of the time limit we have been given, I want to say that the idea of pooling together has seen development, especially for women empowerment. The economic empowerment of women has largely come from cooperatives. This I say from all aspects of development because one, when it comes to borrowing, you know that we have very high interest rates when we borrow from other institutions. So, when we have the cooperatives, people are able to borrow at very low interest rates.

I know the debate on high interest rates is one, which has taken place in most of the countries within the region, and many people are not able to access credit. So, cooperative societies is the way to go.

Two, when it comes to development initiatives from all sorts of aspects, it is very important to note that cooperative societies have actually been a milestone in helping farmers in terms of equipment and other aspects of agriculture. So, I think that this is a very important Bill and from the onset, I think that we should actually support it.

Based on that, I support the motion and I strongly support this Bill. I think it is the right step in the right direction. Thank you.

**Mr Leonce Ndarubagiye (Burundi):** Thank you very much, Rt. hon. Speaker for giving me the floor. I just want to touch two aspects of the cooperatives. I want to emphasise the universality of cooperatives when it goes beyond ideologies.

In the capitalist systems, you find cooperatives; in social –democratic systems, you find cooperatives; and in communist system, you find cooperatives. This shows how popular and universal the idea of pooling together is.

In many different countries with different backgrounds, you find very successful cooperatives. It is the backbone and was the beginning of the development of Israel.

The Soviet Union of that time- Russia was a very backward country in 1917 but developed through cooperatives. That is how they managed to become industrialised within a period of only 20 to 30 years after developing their Soviet Cooperatives System. So, the fact that they produced together; they managed together and they enjoy the benefits together is very different from the system that some of the members of our Community would like to enjoy and benefit without producing; without saving; without investing and then they enjoy the benefits much later when production is there. Unfortunately, that has kept our countries backward to date.

Had we thought of enhancing cooperatives immediately after independence, we would be very developed countries by now.

I can give you an example, in Burundi, the hero of our independence, Prince Louis Rwagasore's first proposal even before he thought of creating a political party was to create cooperatives for the people. The Colonial system fought against that idea because they knew it would uproot their system by doing so. I support the motion, Rt. hon. Speaker and I support the Bill.

**The Speaker:** Thank you so much.



**Mr Celestin Kabahizi (Rwanda):** Thank you, Rt. hon. Speaker, Sir. I rise to support this Bill but as it is my first time to take the floor, let me convey my gratitude and empathy to you as our Speaker. I also convey my New Year greetings to my colleagues.

I congratulate the mover of the motion and rise to support it because when you go through it, it is comprehensive in all manner. If you look at the economic side of it; in economics we look at the credit and saving of house livelihood of the population and also in the social sector, we see that it will enhance the social fabric among the people who are together for a common interest.

It also empowers people to negotiate because it is through cooperative associations, credit societies and consumer societies and so the whole value chain of production leading to financial sectors. So, there must be an organisation, which helps people know the exact duties and negotiate for their rights. So, the rights of the population will be realised and it will strengthen and rally the population in order to be able to negotiate for their rights. I support the motion.

**The Speaker:** Thank you so much.

**Mr Ole Nkanae (Kenya):** Thank you, Rt. hon. Speaker. I stand to support this motion and I am a member of this Committee.

Mr Speaker, sir, may I first congratulate you upon occupying that apex in this Assembly? (*Applause*) You have started so well that something, which took us seven and a half years, was passed yesterday- the Rules of Procedure. (*Applause*) I know everything else will be like jumping or hoping, stepping and jumping.

I stand here as a creature of cooperatives. I am a co-operator up to date. When I left to come to EALA, everything I own came from Mwalimu Cooperative Society, which is the biggest cooperative society in Kenya. By the time I left, it had 30 billion in assets.

Mr Speaker, Sir, may I urge the Members to pass this thing without wasting a lot of time? If you want – (*Laughter*) – integration in East Africa to be fast tracked, this is the way we can do it. This cooperative will be from the village as a primary cooperative; it will go to the county as a secondary cooperative; it will go to the national as a cooperative union. Now we want to promote regional cooperative unions. (*Applause*) I say those few words and I sit down. Thank you.

**The Speaker:** Thank you so much, hon. Ole Nkanae. I am sure you did mean to call this a thing but it is the Bill. (*Laughter*) Thank you so much.

**Ms Mariam Ussi Yahya (Tanzania):** Thank you very much, Rt. hon. Speaker. I also congratulate you upon your election. I am happy our fellow youth is representing us in the Chair. (*Laughter*) I would also like to wish all the Members a Happy New Year and thank you personally, Rt. hon. Speaker and all of you, Members for your prayers and congratulatory messages. We really appreciated that. (*Applause*)

I will not indulge much in this motion. I am not a member of this Committee but I remember in September 2014 when it was first introduced, I naively debated this motion prematurely when it was just a time to allow this motion to be presented for the first time on the floor. And after reading it, that is why I stood then, because I found some discrepancies and I am happy to say that what I am reading now, Rt. hon. Sebalu – my tongue- I am now calling everyone from Uganda “Rt. hon.”- (*Laughter*)- hon. Sebalu has changed, especially in Part III “the rights and duty of members.” I

suggested to him through writing to amend this because the age he had put before in some Partner States is regarded as a minor and I am happy to say that he has changed it to 18 years.

Also in Part VI, “*Assets and Funds of a Society*,” there was some contradictory part of it that he had put in there; it contradicts some Partner States laws regarding assets and funds. But I am happy to say that he has amended all of them. I promised that when he amends them, I would support this motion. So, that is why I stand here today to support this motion. Thank you. (*Applause*)

**The Speaker:** Thank you.

**The Counsel to the Community (Mr Wilbert Kaahwa) (Ex-Officio):** Thank you, Rt. hon. Speaker. Mr Speaker, Sir, let me begin by congratulating you upon your deservedly assuming the Office of Speaker. (*Applause*)

Let me also express my hope that you will live by your oath and your commitment to the Treaty for the Establishment of the East African Community and the Rules of Procedure so that at no one time you will be tempted to cause me to be involved in lengthy litigation –(*Laughter*) – should you, God forbid, be involved in misconduct.

Mr Speaker, Sir, let me also explain that by the indulgence of your observation, I shifted from my normal seat, without your permission, to where I am sitting, not because I was seeking the comfort of hon. Zein, hon. Ogle and hon. Ndahiro, but simply because the rays of the sun were affecting me, adversely affecting my eye sight and that is why I am sitting here for the time being.

**The Speaker:** Granted.

**Mr Kaahwa:** Mr Speaker, Sir, I also join issue with all those hon. Colleagues who have thanked hon. Sebalu and the Committee on Agriculture, Tourism and Natural Resources for having introduced this Bill, which is quite important in the development of the integration process.

I will be very brief and three aspects inform my brevity. First, it is my view upon reading of the clauses of this Bill that it does meet *in extenso* the ethics; the values; and principles of the Cooperative Movement.

The Bill, in its various clauses, meets such values as self-help, self-responsibility, democracy, autonomy, equality, equity and solidarity.

It also fits the Bill of such a well-established cooperative principles as voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education training and information, cooperation among co-operators and concern for the wider community.

Secondly, my support is based on the realisation that the Bill actualises the principle provided in Article 7 of the Treaty, the Principle of Subsidiarity, which enables different stakeholders to participate at different levels in the development of the integration process.

Thirdly, I am prompted to support the Bill upon my having established that the Bill is largely in tandem with obtaining Partner States’ legislation on cooperatives. And I have in mind, Mr Speaker, The Cooperative Societies Act No. 12 of 1979 of Kenya; Law No. 50 of 2007 (As Amended) of the Republic of Rwanda; The Cooperative Societies Act No. 20 of 2003 of Tanzania; and The Cooperative Societies Statute No. 8, 1991 of the Republic of Uganda.

For those reasons, I feel obliged to support the motion and the Bill well knowing that once it comes into force, and by the provisions of Article 8 (4) of the Treaty, it will take precedence over all national laws relevant to cooperative societies and the Cooperative Movement.

Mr Speaker, Sir, I am taking a bit long because I am also utilising the time, which you had allotted hon. Nkanae – three minutes but he used two minutes –*(Laughter)*- so, I am taking full advantage of his generosity, now to propose amendments on the Bill.

As required by the rules of this august House to which I fully subscribe, I have circulated a list of proposed amendments taking into account also that the Committee has a schedule of amendments. With your permission, I could very quickly present those proposed amendments, which are eight in number.

On clause 2, which is the Interpretation Provision – *(Interruption)* -

**The Speaker:** Hon. Counsel to the Community, I know you are very well acquainted with the rules. I hope you will remember to move them at the Committee Stage.

**Mr Kaahwa:** Mr Speaker, Sir, I wanted during the Second Reading to highlight them and then on the basis of Rule 69 I will be bringing them to the Committee at the Committee Stage.

**The Speaker:** Proceed.

**Mr Kaahwa:** Mr Speaker, Sir, regarding clause 2, the definition of member, which appears on page 4 of the Bill. Member is defined to mean “a physical person.” I find that difficult to appreciate. I do not know whether there are non-physical persons. I would not even want to imagine physical as opposed to non-physical persons. I, therefore, propose that for purposes of proper nomenclature, the House could consider replacing the word “physical” with the words “natural and juridical” in their designation of a member.

Secondly, on clause 3, which provides for the objectives of the cooperative society and taking into account the content provided, and basing myself on the feeling that this category cannot be closed, I would propose that the House considers including a residual clause whereby a cooperative society can also handle any other responsibilities incidental to those listed or incident to those listed. I will give the proper wording during the Committee Stage.

Thirdly, Mr Speaker, Sir, on clause 5, and particularly clause 5(1), the Bill provides that: “*A cooperative society may according to its nature be established at different levels as may be determined by the members.*” At the time of establishment, you cannot legally have members; you have promoters. It is my humble suggestion that the House considers replacing the word “members” with a more appropriate word “promoters” because once a society is not yet established it cannot have membership. People become members only after a society is established. Before then they are promoters and that word is used elsewhere.

On clause 5(2), I am proposing another amendment for purposes of clarity of purpose. Sub-clause 2 reads, “*A primary society shall be established by persons who live or work within a given area.*” A given area for purposes of legislation is quite a wide concept. It is my humble proposal that we insert the word “geographical” between the words “given” and the word “area” because reading other provisions suggest the geographical placement of promoters of a given society.

Mr Speaker, Sir, my next proposed amendment will be on clause 6 (2). It now provides that: *“The words cooperative society and limited liability shall appear in the name of every society.”* I think that will not only be a mouthful but will not also be tenable with the nomenclature you find for cooperate purposes. Therefore, I suggest to the House to consider dropping the word “liability” for purposes of avoiding superfluity in the law so that the words contained shall be “cooperative society” and “limited” to appear in every name of every society. I am about to finish.

Mr Speaker, Sir, this is on clause 7 (6), which reads as follows: *“A society registered under this section shall engage in any business as from the date of registration without the necessity of securing an additional trading licence.”* The last words, “without the necessity of securing an additional trading licence,” in my humble view imports a mischief and they may create a conflict of laws. Because granting of trade licences to trading entities within which category even the cooperative society may fall, is a requirement of specific legislation. This law would be better off without including the words “without the necessity of securing an additional trading licence.” If those words are left in the Bill and in the Act, they may cause a conflict with existing laws relating to the granting of licences, which this House would not want to venture into that undeserving territory.

Mr Speaker, Sir, the other proposed amendment I am suggesting is on clause 12 (2) (f) which among the rights and duties of a member is one, to promote “gender equity.” I stand to be corrected but I think the proper nomenclature should be “gender equality.” I am proposing that the word “equity” be replaced with a more appropriate word, “equality.”

Mr Speaker, Sir, the last amendment I have in my proposed amendments is not a very serious one on clause 13 where you find that the marginal notice refer to dismissal from membership. Those marginal words are not in tune with the contents of the clause because the contents of the clause refer, not only to dismissal, but also to secession of membership for any other cause. That is what is reflected in sub-clause 1, *“A member of the society may leave the society on his or her own initiative.”* If he or she does that, then she is not being dismissed. So, the proper wording there could be “secession of membership.”

Mr Speaker, Sir, I have taken a bit of time in my submission but as indicated to you earlier, I took advantage of the generosity extended to me by hon. Ole Nkanae. Having said that much, I support the motion. I thank you. *(Applause)*

**The Speaker:** Thank you so much. Hon. Members, you realise that I am a bit constrained by our Rules of Procedure - Rule 12 (1) but I am not going to break it rather bend it a bit because of the importance of this debate. I will allow hon. Tiperu, three minutes; hon. Peter, three minutes, Dr Ndahiro three minutes and then I call the mover to reply after the Council of Ministers.

**Ms Nusura Tiperu (Uganda):** Thank you very much, Rt. hon. Speaker for giving me this opportunity. I would like to first, I thank the hon. Sebalu for this very good Bill.

Mr Speaker, when we delayed to move in past one year, this is one of the Bills that many of the stakeholders have been asking us about.

However, I wish to take this opportunity, like the rest of my colleagues, to congratulate you, Rt. hon. Speaker upon your assumption of office as the Speaker of this august House. I wish to use this opportunity to convey to you congratulatory messages from members of our generation from Uganda.

Hon. Members, as you know – (*Laughter*) - hon. Kidega has rare qualities. It is interesting to note that at the age of 41, we have a Speaker with 20 years' experience. It is rare to find that but from the country I come from, it is possible because our Constitution allows this.

Fifteen (15) years ago, he was the Chairman of the Uganda National Youth Council. (*Applause*) Five years later, he served as the Member of Parliament representing the youth of Northern Uganda. When you look at that experience and knowing that that generation, then who we youth, are now the critical players in our country, I must confess that they told me to use this opportunity to convey their appreciation to this House for enabling them and you witness the quality of a leader in hon. Dan Fred Kidega. (*Applause*)

As the Ugandan Chapter Chair, I am proud and since I have very short time and I am hearing some murmurs from hon. Kiangoi. I wish to stop there but wish you a successful term because I believe you will make it. (*Applause*)

**The Speaker:** Thank you.

**Ms Tiperu:** Hon. Members, I support the motion because this gives us an opportunity to have an impact on the local population. It is a big step towards the development of East Africans.

I support the Bill because it is a fulfilment of Article 105 and 128 of the Treaty; it gives us an alternative module to local business responsiveness to community needs.

It gives the East Africans a platform for community organisation, talent identification, resource mobilisation, job creation, social mobilisation, service provision, loan access, income generation, linkage with other established societies, an opportunity for using labour as a form of capital, hon. Members.

This is an opportunity to help the East African Farmers Federation and other farmers' organisations in our respective countries to have a platform to organise their farmers in groups to have an impact and access loans and other services that they can be able to get.

Hon. Members, I am a supporter of cooperative societies; to have an opportunity to serve in Parliament when we are passing a Bill like that, at least when we leave, we will say that there is something we left for the people of East Africa. Therefore, as legislators, it would be our responsibility to create strong and competitive cooperative societies in our respective communities.

We have a responsibility to support our governments to revamp the old cooperative societies that have existed. I am sure in your respective countries you have cooperative societies existing and you will participate in the formation of new ones.

This gives us an opportunity when interfacing with our universities to help them have students as interns supporting the respective cooperative societies in our countries.

This is the time, hon. Members, for us to talk about value addition for the crops that are being produced in our respective communities. It is a time for our farmers to talk about improved methods of farming among others, after all, they will be having an organised mechanism of they will be handling it.

**The Speaker:** Hon. Member, just help us and summarise because of time constraints.

**Ms Tiperu:** Hon. Members, I had much to talk about because I am a co-operator; I love anything to do with cooperative societies. Hon. Speaker, you are part of a cooperative society that I belong to in Uganda. If I had the opportunity, I would say all that I want in as far as this topic is concerned. But because I am constrained by time, allow me to conclude but to support the Bill and urge all Members to do so because it is the way to go as far as integration is concerned. *Asanteni sana. (Applause)*

**Mr Peter Mutuku Mathuki (Kenya):** Thank you very much, Rt. hon. Speaker. You gave me three minutes; I will use 11/2 so that I can donate the 11/2 to hon. Isabelle who is actually more competent in this.

Let me start by honestly thanking our partners who have supported in this, particularly the EAFF who hosted us to a very good dinner yesterday that I gate-crashed. I can assure you that I am not regretting. *(Laughter)* I again thank hon. Sebalu, the mover of this motion for the efforts he made.

Rt. hon. Speaker, when you look at the four pillars of integration, that is, the Customs Union, the Common Market Protocol, the Monetary Union and the Political Federation, somebody would be tempted to think that of course the social issues were not taken care of because the first three pillars are economic and the last one is political.

Therefore, these cooperatives stand now to be the fifth pillar on the social integration. So, I think if we take it very seriously, this can be a platform to promote social integration, Rt. hon. Speaker because it is the only platform promoting cooperatives, which as you heard from the report, when we become members of cooperatives, we don't have to consider any form of discrimination. So, I think that is the way to go.

Rt hon. Speaker, I would stand, of course, to say this because even at the EAC, we used to encourage hon. Sebalu to do this- how to start our own cooperative at the Community level, which again would take care of the aspects of bridging and solving problems collectively. That includes, Members actually when I listened to the report of the Committee on Accounts, most of the problems in that report can be sorted out if we had a cooperatives, call it a SACCO, at the East African Community level. *(Applause)*

So, I would encourage hon. Sebalu and all of us to go this way because I am sure as Members, we shall benefit; as staff, we shall benefit and I can assure you, that is the way to go. I thank you very much. I support the motion.

**The Speaker:** Thank you so much.

**Mr James Ndahiro (Rwanda):** Thank you, Mr Speaker. Let me also join my colleagues to congratulate you upon assuming the prestigious seat, congratulations.

**The Speaker:** Thank you.

**Mr Ndahiro:** Rt. hon. Speaker, I will not use three minutes; I will use one minute because I want the other two minutes to be used by hon. Ogle who is going to present my amendments. I have looked at this Bill and I am totally in support, but I have done a quick audit and there are areas that concern all of us, although they concern hon. Zein here and me more particularly. These are issues of persons with disabilities.

I have two amendments and hon. Speaker, I would ask for your guidance so that hon. Ogle presents them but I will justify during the Committee Stage. Thank you very much.

**The Speaker:** Thank you so much, hon. Dr Ndahiro. Hon. Ogle, you can highlight the two amendments that shall come later. Please, write them and keep ready for the Committee Stage.

**Mr Abubakar Ogle (Kenya):** Thank you, Rt. hon. Speaker. I have them.

On behalf of my good friend and brother, hon. Dr Ndahiro and on behalf of the unofficial bench of the Opposition, we will make a formal application to be recognised at a later stage. *(Laughter)*

**The Speaker:** Hon. Ogle, this House has no sides; we have only one side. *(Laughter)*

**Mr Ogle:** Mr Speaker, the amendments we wish to propose are as follows; we propose to amend Section 4(2) on the third line by inserting the word "... disability" between the words "gender" and "social" so as to read this way: "*4(2) Cooperative societies are voluntary organisations open to persons able to utilise their services and willing to accept the responsibilities of membership without gender, disability, social, racial, political or religious discriminations.*"

The second proposal by Dr Ndahiro is to amend the Bill itself by introducing a new clause under Section 4 after clause 2. The proposed 4(3) shall then read this way, "*Societies shall make provisions for flexible structures that are specifically intended to empower disadvantaged and persons with disabilities and develop community involvement for successful empowerment through access to information, inclusion and participation.*" That is the amendment we are suggesting and we will elaborate and give the justification at the Committee Stage. Thank you.

**The Speaker:** Thank you so much, hon. Dr Ndahiro for those critical amendments. We will wait for them at the Committee Stage. I now invite hon. Isabelle, the former Chair of the Committee to debate. I deliberately took her later because she has been at the forefront of this thing.

**Ms Isabelle Ndahayo (Burundi):** Thank you, Mr Speaker. First of all, allow me to congratulate you, Mr Speaker, Sir upon being elected the fourth Speaker of this Assembly. *(Applause)*

**The Speaker:** Thank you.

**Ms Ndahayo:** Mr Speaker, Sir, I would also like to congratulate the new Chair of the Committee on Agriculture, Tourism and Natural Resources upon assuming his new job and I would like to assure him that should he need my assistance, I will always be available and that is why I remained a member of the Committee.

Secondly, I would like to thank all the members of this House because during the hard times that this Bill faced, when we were very busy with this Bill, I was seriously sick but they gave me a lot of support. They prayed for me, and I think that is why I am still alive here with you. I thank you very much. *(Applause)*

I would particularly want to thank you, Mr Speaker, because seeing that I managed to conduct the public hearings from the beginning up to the end, it was because of the support you gave me. There is a book entitled: "*The Power of your Subconscious Mind*" from which I realised that you could conduct these public hearings through friends up to the end and indeed, I did. Thank you very much.

Coming back to this Bill, I would like to thank EAFF very much. It is a very good partner to our Assembly. They supported us to get the fruit we have on this Bill to date. They availed to the Committee technical support and financial support so that we could have this Bill ready. So, I would like to say that this Bill is a very popular Bill.

I would just like to emphasise one word, which was mentioned by all Partner States' stakeholders. The stakeholders from the different Partner States were asking us what we were waiting for to have this Bill adopted in the House. To them, we are delaying the integration process because they are already integrated since they have a cross border association. What they need is just a legal instrument, which can help them for the smooth running of their business.

So, this is a very important issue, which will help us to understand the importance of this Bill and that stakeholders in the East African Community Partner States are waiting for this Bill to enhance their cross border business through cooperatives and associations.

So, this Bill will help in the development and economic growth of the East African Community because it will solve the problem of poverty and unemployment.

Once it is assented to, I am sure a number of cross border associations of cooperatives will emerge and we encourage them to do so.

I am sure that the youth will be employed and it will contribute so much to economic growth because it will all the social sectors of life.

During the public hearings, some people were of the view that this Bill is concerned only the cooperatives in the agricultural sector. But we assured them that all sectors are involved. It will be easy to have cooperatives in agriculture, health, transport, communication et cetera. I think this is a very good Bill, which needs to be supported and adopted immediately. So, Mr Speaker, Sir, I would like to support the report. Thank you.

**The Speaker:** Thank you so much. I now invite the Chair, Council of Ministers.

**The Chair, Council of Ministers (Mr Abdallah Saadalla Abdallah):** Thank you, Rt. hon. Speaker, Sir. I as Chair, Council and the Council in general, I stand here on their behalf to support the motion.

But it will be worthwhile to start by thanking the ex-Chair of the Committee, hon. Isabelle for chairing, initiating, conducting, partly funding – yeah, I mean seeking for funds- in kind- this Bill. And I am happy to hear from her that she will always be ready and available because I know that she is a member of that Committee and the institutional continuity and skills are still going to be utilised from her.

Mr Speaker, Sir, I also thank hon. Members of that Committee and specifically, I thank hon. Mike Kennedy Sebalu for having deemed it necessary to introduce this Bill at the point of the integration process.

It is a timely Bill; it was introduced very timely and well thought out. The enactment of which should be supported and supportive of the progression and development of key aspects of the integration agenda.

In the same vein, I applaud the Committee on Agriculture, Tourism and Natural Resources for having ably considered the Bill and conducted resourceful public hearings on the same.



This Bill spelt out in the memorandum and it is clear and self-explanatory. It largely reflects the objectives of the East African Community Partner States to ensure that the practical achievements of the objectives of the Community must be market and private sector driven and involve all stakeholders' participation in the different schemes of integration and in various fields.

The Council of Ministers scrutinised the Bill through their Partner States, consolidated the policies and we came up to a common consensus. However, we urge this august House to examine and establish that the contents within this Bill will assist the Partner States to, and we believe that it will, encourage the efficient use of scarce resources to promote the development of the private sector's organisations, which are engaged in all types of economic activities.

(b) Encourage and sponsor practical and resourceful methods of income generation in the private sectors and Community as a whole; and

(c) Establish a quality information system, which allows collection, harmonised processing and timely dissemination of data and information.

Mr Speaker, Sir, in the concept of cooperative societies, it is not new that we should be projecting and extending efforts on what or where but this Bill clearly stipulates that in principle, all Partner States have something in common. We have common views; we have converged, and almost 90 percent of us converged into bringing this Bill together, however, we critically urge the Members on the Second Reading to examine the following provisions:

(a) The formation and registration, clause 5 to 10;

(b) Rights, duties and voluntary services together of members clause 11 to 12;

(c) Settlement of disputes, clause 44 to 50;

(d) Organs of cooperative societies as established clause 18 to 25; and

(e) Management clause assets, fund management, audit and inspection establishment, clause 44 to 50.

Mr Speaker, Sir, these are just a pointer of caution when we pass through the Second Reading but in general, we had no point of divergence as Council. As I said, 90 percent had common consensus and we are very happy for those points of divergence we had common sittings with the Committee and they accommodated almost 95 percent of what we suggested. Thank you so much, Sir. *(Applause)*

**The Speaker:** Thank you so much, Council of Ministers. We salute your cooperation and commitment to the Bill. I now take the opportunity to invite the mover, hon. Mike Sebalu to respond, conscious of the time constraint.

**Mr Mike Kennedy Sebalu (Uganda):** Thank you very much, Rt. hon. Speaker. I would once again like to join the rest of my colleagues I congratulating you upon the assumption of the highest office in the Assembly and trust that you will as always, definitely be a good leader.

I also want to say that you are a lucky leader. You know, so many things are happening in your first month of undertaking this work. Bills are being passed and those are deliverables. So, that is a very good way of beginning.

I want to say that this law would have been passed yesterday. The demand for it has always been there, but it was a major victim of the circumstances that we went through. Because the farmers needed it and the speed at which we were moving, we had wanted to pass it much earlier. But it is never too late. Even now, is good enough if they get the law.

Rt. hon. Speaker, I want to thank the Members that have contributed. Actually, I would have been shocked if any one rose up without any shame to oppose this law. (*Laughter*) I would have been shocked out of my belief. Thank God, I have not been put to that level of shock. Members have responded in the measure that I expect them to be; the progressives that we are in this House, definitely we have supported this overwhelmingly and it is something to write home about.

So, allow me to acknowledge very good support and good ideas from hon. Zein- (*Applause*) - with the issues of solidarity, financial and economic independence. Those are very good ideas.

Hon. Patricia has always been a supporter of this Bill. Hon. Nancy gave a very good recommendation that cooperatives are the way to go. Hon. Leonce is a veteran of this business- (*Laughter*) - and his idea of universality of cooperatives was spot on. Hon. Kabahizi brought very good dimensions to the debate and I would like to thank you for that. Hon. Ole Nkanae just wanted the thing - sorry, the law- to be passed immediately - (*Laughter*) - and definitely that was the measure of urgency that even mentioning the law was delaying him. So, he chose the short term.

Hon. Ussi Yahya being on board is the best thing. I was also praying for you that you deliver well so that we join hands and pass the law. I want to congratulate you again.

The Counsel to the Community...when you are passing a law or when you are passing a Bill and you don't get the CTC's comments, you can be a little cagey. But when he came out in the affirmative, I am energised and I feel that it is a done deal. So, thank you for those complements and the ideas that you brought on the floor. Those are indeed very good amendments. We are going to give them due consideration. I want to say that the office of the Counsel to the Community and that of the draftsman have been very critical in the entire process. They have guided the process technically and they have walked along with us all the way.

Hon. Tiperu gave very good support and it was only shortage of time. She was still giving quite a good account of the cooperatives. I want to thank her for that.

Hon. Mathuki, definitely you have already had advantage of enjoying the fruits of a co-operation and definitely your support cannot be taken for granted. The whole idea of a fifth pillar is a good dimension.

I just want to say that the idea of a regional cooperative – EALA Cooperative- is already underway. (*Applause*) We already have promoters in place; we have a chairperson and we have everything working. We have already started doing some serious savings. So, at an appropriate time, we are going to call upon all Members of EALA to be part of this cooperative society. But the promoters are already there. This cooperative was formed in a bus in Dar es Salaam. So, it is the “East African Community Pioneer Cooperative.” That is the name. (*Applause*) So, we are already in business and definitely, you will be given some work in terms of coordination.

Hon. Ndahiro, definitely the disability dimension is a must. I am one of those that do respect accommodation of all East Africans in whatever we do. Definitely at an appropriate time, we will

work together to get the right provisions to bring out those concerns so that the law is accommodative of all the East Africans.

Hon. Isabella; definitely has a long history and association with this law. She provided very good leadership during the process of the public hearings and we are always indebted to your leadership, giving us that length and breadth.

The Chair, Council of Ministers, definitely your concluding remarks were encouraging. We are together in this law and I believe that with your support, and you have always been a good supporter of progressive ideas like this one, I have no doubt that we are going to move well.

Rt. hon. Speaker, my patting shots are just simple; one I just want to seriously thank you for having availed time and given this law priority. We have a bust schedule but the fact that it was given space on the Order Paper today, is one thing that we cannot take for granted. On behalf of the stakeholders that include the Eastern African Farmers Federation, through me, I want to give a word of appreciation for your due consideration, concern and to have this on the Order Paper.

This law is people centred. We are simply addressing the needs of the people and this law is demand driven. It is the only law that has been demanded by those that are supposed to use it.

It attracted overwhelming support in all Partner States and a lot of very useful information was given, which allowed us to go into extensive amendment because we wanted to accommodate and make a law that would be owned by the stakeholders, that will be easy to implement and that will be user friendly to all those that will benefit from it.

So, it is a tool of transformation. We want to transform our societies and we can only do this by empowering them, by giving them knowledge, by organising them so that then they can go about their business without any ado.

We simply provide an avenue for primary producers to participate in regional integration. We want them to partake of the Common Market. 140 million people is such a huge market. So, we are creating regional space for them to interact. They have been interacting informally but they have been confined to national jurisdictions. We are simply unlocking their potential by giving them wider space of interaction through trade and activities of cooperatives.

Finally, Rt. hon. Speaker, this law seeks to empower primary producers. All they need is a legal framework to do their business; they do not need handouts. They only need an enabling environment and this law seeks just to do that.

Finally, I want to thank all the Members for the support. I want to salute EAFF who are in the House. *(Applause)* This is the only law that we have ever made when the users are in the House.

These farmers are not poor farmers; they picked air tickets and came over just to see the law being passed. Last night they were even gracious enough to throw a bush as a catalyst of the passing of this Bill. However, that was not influence peddling; they were in town doing business. So, Rt. hon. Speaker, I beg to move and to submit. I thank you for your kind attention and indulgence. *(Applause)*

**The Speaker:** Thank you so much, hon. Mike Sebalu. Hon. Chair of the Committee, I do not know whether you have any comment to make.

**The Chairperson of the Committee on Agriculture, Tourism and Natural Resources (Mr Abdul Karim) (Rwanda):** Rt. hon. Speaker, I think what I wanted to say was said by the hon. Mike Sebalu only that I have to pass my appreciation to the members of the Committee on Agriculture who worked on this Bill and the Chair Emeritus of the Committee and the mover of the Bill, hon. Ssalongo plus the EAFF members. Thank you, Rt. hon. Speaker. *(Applause)*

**The Speaker:** Thank you so much, hon. Abdul Karim. Hon. Members, at this stage, I should have gone to move the motion – I am advised to move to the next stage and then we adjourn. Hon. Members, I now put the question that the East African Community Cooperative Societies Bill, 2014 be read a Second Time. I put the question.

*(Question put and agreed to.)*

**The Speaker:** Hon. Members, I apologise for stretching you this long- sitting in here- but you are conscious of the fact that we are racing against time. I appreciate your cooperation. I now adjourn the House to next week, Tuesday 2.30 p.m. House stands adjourned. Thank you so much.

*(The House rose at 6:11 p.m. and adjourned until Tuesday, 27 January 2014 at 2.30 p.m.)*