



EAST AFRICAN COMMUNITY

**5TH MEETING OF THE 1ST SESSION OF THE
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**Kigali, Rwanda
12th – 26th April 2013**

**PRIORITY QUESTIONS FOR ORAL
ANSWERS**

16th April 2013

1.0 QUESTION : EALA/PQ/OA/3/O1/2013 (By Hon. Abubakar Zein Abubakar)

Based on the challenges of coordinating the construction of the Arusha – Namanga – Athi River Road, including delays and the lack of maintaining same standards of road constructions:

Could the Chairperson of the Council inform this August House:

- (a) What measures have been put in place to ensure that the Arusha – Holili/Taveta Voi project does not suffer the same challenges and consequent delays?***
- (b) When will the planned construction of the Arusha – Holili/Taveta Voi project begin?***
- (c) What measures have been put in place to ensure the local communities benefit directly during the construction of the project?***
- (d) Whether the request made by the Lumo Community Wildlife Sanctuary to the East African Community concerning the implementation of this project has been considered?***
- (e) Is there any funding gap for this project?***

Madam Speaker,

The Council of Ministers agrees that the implementation of the Arusha – Namanga – Athi River Road Project faced a number of challenges and delays during its implementation phase. Some of these delays related to design revisions, procurement issues, delayed replacement of contractor staff who resigned during construction (due to work permit issues) and delayed approvals for change of construction methodologies where required, resettlements among others. These challenges were pronounced at the commencement of the Project due to the fact that this was the first infrastructure project of a multinational nature for the Community. As the implementation progressed and the regional capacities were enhanced, the challenges became minimal.

Fortunately all the issues relating to the Arusha – Namanga – Athi River Road project implementation were not only captured in the reports of the project's Supervision and Resident Engineers but were also considered by the Project's Steering Committee (chaired by the Secretary General and comprising the Permanent Secretaries of Roads/Works, Finance and the EAC Affairs of the two Partner States

and the Chief Executive Officers of the Tanzania National Roads Agency and the Kenya National Highways Authorities) and all the steps and measures taken to address them are documented. The Secretariat has the custody of these documents which will be used as reference points during the implementation of the Arusha – Holili/Taveta - Voi road project to quickly resolve similar challenges if they occur.

Madam Speaker,

The Steering Committee of the Arusha – Holili / Taveta – Voi Road Project has ensured that the design consultants for the road project have addressed all the design issues to minimize the need for design reviews during the construction phase. On the issues of resettlements, a Resettlement Action Plan of the project has already been prepared and agreed upon by the Governments of Kenya and Tanzania and the project affected persons and households. It is, therefore, not envisaged that resettlement will be an issue at project commencement stage.

Madam Speaker,

The Community is at an advanced stage of harmonizing various standards in roads development. As you are aware, an EAC Vehicle Load Control Bill, 2012 is already in the House. Once enacted, the harmonized axle loading will become a common basis for EAC roads pavement design. Further, the Community is considering the final report on the EAC Transport Facilitation which among others contains recommendations on harmonization of road and bridge designs and construction and roads maintenance standards; and the optimal locations for weighbridges in the EAC road corridors. All these developments will lead to the harmonization of roads design, construction and development standards.

The involvement of the Ministries Coordinating EAC Affairs in regional project implementation has added a very important capacity in resolving many of the challenges that otherwise these projects would face. The new multinational road projects will benefit from this capacity.

Madam Speaker,

Regarding the second part of the Question, I wish to inform this august House that works for some of the components of this road project have already commenced. The reconstruction of Voi – Mwatate road section, 24.7 km commenced on 12th April

2011 under Government of Kenya financing and 10.8 km of the reconstructed road is complete and opened to traffic. The One - Stop – Border – Post at Holili/Taveta is under construction with grant funding from World Bank/Trade Mark East Africa (TMEA).

The design works for the major component of the road project comprising the Arusha City Bypass, the dualing of the Sakina – Tengeru section (18km) of the road from Arusha – Kilimanjaro Airport junction, the reconstruction of the road section from Tengeru to Holili and upgrading of Taveta – Mwatate road section have been completed and the negotiations for works financing are ongoing between the two Partner States and the African Development Bank. The two Partner States have requested for advance contracting of works and services ahead of other processes. The negotiations with African Development Bank were successfully completed in March 2013. The ADB Board of Directors is expected to consider the funding of the project during April 2013. It is expected that construction will commence by end of July 2013

Madam Speaker,

On measures put in place to ensure the local communities benefit directly during the construction of the project, I wish to inform this august House that the development of this road project has been inclusive through extensive stakeholder consultations. Out of these consultations, the Resettlement Action Plan (RAP), the Environmental and Social Impact Analysis, the Economic Feasibility Study Reports have been prepared. The foregoing reports have detailed among others benefits enhancement measures to be implemented during the construction phase of the project. These measures take into account youth employment (targeting also gender issues), rehabilitation of construction materials, borrow pits to be used as water collection pans during the rainy seasons, sensitization and outreach on HIV/Aids and other project related health issues, reconstruction of churches and Mosques affected by the constructions and access to boreholes that will be left after the construction among others. The implementation of these benefit enhancement measures will be one of the key responsibilities of the Supervision Engineers.

Madam Speaker,

Regarding the request made by the Lumo Community Wildlife Sanctuary to the East African Community concerning the implementation of the project, I wish to inform

this august House that groups of stakeholders that have been extensively consulted during the development of this project and in particular in coming up with environmental impacts mitigation measures and animal rights protection measures were the sanctuaries, wildlife services, environmental conservation agencies, and animal rights protection groups. All these bodies and agencies agreed on measures they would like to see taken on board during the implementation phase of the project. The measures contained in the project's Environmental and Social Impact Assessment Reports are subject to approval by the National bodies responsible for environmental management and conservation. These measures are further subject to public scrutiny upon official publication (usually running for 90 days) by the African Development Bank.

The benchmarks for the mitigation measures that the consultants and stakeholders agreed upon in terms of animal and vehicular conflicts are those obtaining for the Mikumi National Park in Tanzania which is traversed by a major highway. The measures proposed for the Arusha – Voi road have been substantively agreed to by the parties.

Within the measures agreed by the respective wildlife and environmental stakeholders consulted, the issues raised by the Lumo Community Wildlife Sanctuary are fully addressed.

Madam Speaker,

On the last part of this question allow me to inform this august House that there is a funding gap on the Tanzanian side of the project of approximately US\$ 100 Million dollars for which the Government and the Community are trying to plug. In the meantime, in order not to delay the commencement of the project as a result of this financing shortfall, the project in Tanzania will be apportioned into Lot I to commence first and Lot II to commence upon confirmation of the additional resources.

Lot I will cover the Arusha Bypass and the dualing of the Sakina – Tengeru road section while Lot II will cover the reconstruction of the road section between Tengeru and Holili at the border with Kenya.

2.0 QUESTION : EALA/PQ/OA/3/03/2013 (By Hon. Abdulkarim Harelimana)

You are well aware that in the past three years, the negotiations on the conclusion of the EAC Protocol on Good Governance were on an advanced stage. You may recall that during the 17th Meeting of the Sectoral Council of Ministers responsible for East African Community (EAC) Affairs and Planning among others: "(m) agreed that the Republics of Burundi, Kenya, Uganda and Rwanda should proceed with the conclusion of the Protocol on Good Governance and referred the matter to the 26th Meeting of the Council (in Nairobi, Kenya - Nov. 2012) to allow the four Partner States to proceed";

Can the Council of Ministers update this august House:

- (a) On the current status of the negotiations prior to the conclusion of the EAC Protocol on Good Governance?***
- (b) On the existing challenges working against the Community to have the Protocol on Good Governance in place?***

Madam Speaker,

The negotiation of the Protocol on good governance dates back to 2006. Its development was based on various decisions of the Council, anchored on Articles 6, 7, 123 and 151(1) of the Treaty. The negotiation of the protocol was unanimous by all Partner States. In November 2012, a team of experts was convened to address issues of Corporate and Economic governance that had initially been left out of the Protocol. The Team came up with some divergences and reservations that were considered by the 17th Meeting of the Sectoral Council for Ministers Responsible for EAC Affairs and Planning. It is at this meeting that the Sectoral Council of Ministers Responsible for EAC and Planning decided on the issue of the 4 Partner States (Burundi, Kenya, Rwanda and Uganda) proceeding to conclude the Protocol if The United Republic of Tanzania was non- committal.

Madam Speaker,

The United Republic of Tanzania maintained that the protocol does not meet the requirements of the Treaty stating that the articles of the Treaty quoted in support, do not warrant conclusion of a protocol. Moreover, that Tanzania was in the process of constitutional reform and the protocol on good governance would only be viable if the national constitutions are harmonized. The Republics of Burundi,

Kenya, Rwanda and Uganda, committed to the conclusion of the Protocol argued that all Partner States had negotiated the protocol to its present form. They added that the protocol is paramount to consolidating the other strategies of integration and reiterated that the articles of the Treaty highlighted above are enabling enough for its conclusion.

Madam Speaker,

At its 26th Meeting, the Council considered the divergent positions and had the options. Either to seek for an advisory opinion from the East African Court of Justice on the legality of concluding protocols on matters other than those spelt out as areas of cooperation; or refer the matter to the sectoral Council on Legal and Judicial Affairs for advice. The second option was taken. It was decided that the matter be referred to the Sectoral Council on Legal and Judicial Affairs to advise on the legality of concluding the protocol on good governance. The issue is reserved on the agenda of the next Meeting of the Sectoral Council on Legal and Judicial Affairs which is scheduled for July 2013.

Madam Speaker,

The third option was based on principle of variable geometry proposing that the 4 willing Partner States could conclude the Protocol. The Counsel to the East African Community, citing an Advisory Opinion made by the East African Court of Justice in 2010, advised that the principle could only be applied in the implementation and not negotiation of the Protocol. Thus, the fact that the protocol has not yet been concluded renders the option invalid unless the United Republic of Tanzania agreed to conclude the protocol but register a reservation on its implementation until such a time that they were ready to implement.

Madam Speaker,

A number of challenges present themselves in working against the conclusion of the protocol. First, the main objective of the Protocol is to establish regional standards and benchmarks on sensitive political governance issues such as promotion of democracy, anti-corruption, human rights, rule of law, constitutionalism, conflict management etc.

With the EAC vision of attaining a political federation as the ultimate goal of its integration agenda, the protocol on good governance is paramount in laying a firm foundation. This calls for deliberate resolve and concerted efforts by the Partner States' political leaders and technocrats to advocate and engage, purposively. There is no doubt that good governance is a crosscutting issue that will promote a peaceful and stable region, which would consequently complement successful economic integration.

3.0 QUESTION : EALA/PQ/OA/3/05/2013 (By Hon. Susan Nakawuki)

The EAC Protocol on Peace and Security is crucial for our integration process as well as the peace and security architecture of our region. Aware that the EAC Heads of State have already pronounced themselves on this very important protocol which, has also been signed by the EAC Partner States;

Could the Chairperson of the Council Ministers inform this August House the status of ratifications and how the Council intends to operationalise it.

Madam Speaker,

The 5th Joint Meeting of the Sectoral Councils in Cooperation in Defence, Interstate Security and Foreign Policy Coordination directed the Partner States to ratify the EAC Protocol on Peace and Security by 28th of February 2014. Council intervention will only be necessary in the event that the deadline given is not met. So far no Partner State has concluded the ratification process.

Elements of the Protocol are already under implementation through direct mandate provided by Article 124 of the Treaty and the Regional Strategy for Peace and Security as adopted by the 13th Meeting of the Council of Ministers. In order to facilitate full operationalisation of this provision -

- a) The Strategy for Regional Peace and Security and its Implementation Plan was reviewed at an Experts Meeting held on 12th-15th March 2013 to ensure consistency with the Protocol and upon adoption by the 27th Meeting of the Council of ministers will form the operational basis for the Protocol; and
- b) Subject to the conclusion of the ongoing institutional review, a Directorate responsible for Peace and Security may be established to undertake overall sectoral coordination and implementation of the Protocol on Peace and Security.