



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**COMMITTEE ON AGRICULTURE, TOURISM  
AND NATURAL RESOURCES**

**REPORT OF THE WORKSHOP ON GOVERNANCE OF NATURAL  
RESOURCES IN THE EAC REGION**

**13<sup>TH</sup>-15<sup>TH</sup> DECEMBER 2012**

**NAIROBI – KENYA.**

## **1.0 INTRODUCTION**

In collaboration with the East African Community Secretariat and with the financial support of the UNDP Eastern and Southern Regional office, the Committee organized " **The workshop on Governance of Natural Resources in the East African Region**" in Nairobi from 13<sup>th</sup> – 15<sup>th</sup> December 2012.

The theme of the workshop was anchored on the understanding that the EAC Partner States undertook to manage natural resources in the Community in accordance with the principles set out in articles 5, 6, 7 and 8 of the Treaty for the establishing the East African Community.

Moreover, Parliaments both national and regional play a significant role in natural resources governance and in the transformation of the economy. Key roles being Legislation (formulating, reviewing and passing laws) that ensures equity, justice, sustainability, inclusion, transparency and accountability in the use of natural resources; Representation (designing inclusive consultative process for development of strategic visions, development plans, MTF, Budget Cycle and PFM frameworks) Oversight and Enforcement (ensuring compliance with set down rules, procedures and developmental plans in their implementation).

The main objective of the workshop was to engender a holistic approach that addresses good governance including political, economic and corporate sectors in the management of natural resources.

The specific objectives were to :

- a) ensure understanding of the progress reached so far in the management of natural resources in East Africa as the basis for future policy development;
- b) ensure a collective understanding of existing ownership and revenue models;
- c) ensure a collective understanding of revenue risks inherent in existing policies;

- d) facilitate a collective understanding of what regional Parliaments can do to complement national efforts in ensuring equitable, accountable and sustainable utilization of natural resources;
- e) facilitate exchange of experiences, challenges and knowledge /innovations on natural resources governance; and
- f) develop policies and programmatic recommendations on governance of natural resources for the EAC region.

In addition to Honorable Members the East African Legislative Assembly of the Committee on Agriculture, Tourism and Natural Resources, the workshop was also attended by representatives from Ministries of Natural Resources and Tourism, Energy and Mines, Forestry and Wildlife and EAC Affairs and Planning. Other institutions represented include Lake Victoria Basin Commission, Lake Victoria Fisheries Organization, UNDP Regional Office, Tax Justice Network-Kenya, Parliament of South Africa and EAC Secretariat and EALA staff working with the Committee.

## **2.0 METHODOLOGY**

The workshop was carried out in a participatory approach that included technical presentations and exchanges of experiences on key various issues linked to Governance of Natural Resources.

## **3.0. PROCEEDINGS**

### **3.1. Opening remarks**

#### **3.1.1. Remarks by Dr Julius Tangus Rotich**

The Workshop was addressed by Dr. Julius Tangus Rotich, Deputy Secretary General - Political Federation at the East African Community Secretariat. In his remarks, Dr. Rotich noted that the workshop was timely in view of recent discovery namely exploration and extraction of minerals in the East African Community region. He also emphasized the need for a concerted effort among organs and institutions of the Community in developing regional standards, policies and strategies in the governance of natural resources. Dr. Rotich was

optimistic that the recommendations from the Workshop will inform and complement other on- going initiatives in the region. He expressed his appreciation to the financial and technical support and was optimistic that UNDP will continue to support regional initiatives especially implementation of the recommendations from the workshop.

### **3.1.2. Remarks by Hon. Ndahayo Isabelle**

The Chairperson of the EALA Committee on Agriculture, Tourism and Natural Resources, Hon. Isabelle Ndahayo also addressed the opening session. In her remarks, she noted that the mining sector has the potential to lift the Partner States to middle and high level income States. She underscored the role of national and regional parliaments played in the governance of natural resources. She informed the Workshop that the Committee on Agriculture, Tourism and Natural resources has embarked on the process of developing a regional legislation in the management of natural resources, through workshops on setting benchmarks and standards for a model law for the region in the sectors of Minerals and petroleum coupled with learning from good examples such as from the Ghana Petroleum Legislation, the Tanzanian Mineral Law 2010 as well as on the draft law on Oil introduced already introduced in the Parliament of Uganda.

### **3.2. Experts Presentations**

The following presentations were made; due to their bulky nature, they cannot be attached to this report; they can only be accessed under this report, on the EALA website:[www.eala.org](http://www.eala.org)

- a) The first series of presentations aimed to ensure understanding of the progress so far in the management of Natural Resources by East Africa as the basis for the future policy development .They highlighted the efforts towards governance of Natural Resources in EAC : **Progress, Opportunities, Challenges and the Way Forward by EAC Organs and Institutions.**

The presentations made are the following:

- ***Governance of Natural Resources in East Africa, progress reached so far by East African Legislative Assembly:*** by Hon. Mike Kenneth Sebalu , Member of the EALA Committee on Agriculture, Tourism and Natural Resources;

Hon. Sebalu highlighted main activities carried out by the Committee namely the following:

- the initiation workshop into Extractive Industry Transparency Initiatives (EITI) held in February 2008 from which came out a 21 points Resolution on Extractive Industries adopted by the Assembly;
- consolidation of the Inter-Parliamentary Relation Liaison Committee idea and building consensus on the EALA Extractive Industry Resolution; the IPRLC resolution aims at improving legislative oversight , lawmaking and representational functions of IPRLC members;
- Official launching of the Constitution of the IPRLC in Bujumbura, November 18th, 2011;
- the site visits to mineral companies of Tanzania in Shinyanga, Kahama and Mwanza in November 2009 respectively in El Hilal Diamond extractive industry, Barrick Gold Mine operating in Bulyankulu and Geita Gold Ashanti company based in Mwanza Region;
- the Oil field visits in Uganda, Hoima district, to assess oil companies namely Tullow Oil Company followed by interaction of Committee Members with the Uganda Minister of Energy and Minerals, with civil society and the Committee on Natural Resources of the Parliament of Uganda; the two countries were chosen based on their production levels, on the existence of policy and legal frameworks on EI, on the significance of the EI sector to the country's economy and on budgetary provisions.
- various building capacity workshops on mining legislation ,oil , gas and other natural resources in view to enhance the Capacities of the

IPRLC on legislative, oversight and representational functions of Members of Parliaments;

- on-spot assessments on EAC Projects and Programs on Environment and Natural Resources for follow up of the level of implementation and for guidance where needed;
- Close collaboration with EAC Secretariat in the development of policy and proposals for legislation on Natural Resources.
- the role of Agriculture in the changing Climate, issues of adaptation and mitigation of Climate Change , livestock development as a strategy towards food security and Foreign Direct Investment in Agriculture;
- Participation in so many important international conferences related to Management of Natural Resources where good ideas to improve the sector have been discussed.

Main challenges encountered by the Committee while undertaking its activities were namely lack of financial resources to execute properly its legislative, oversight and representational mission.

- ***Efforts Towards Natural Resources Governance in East Africa Region:*** by Wivine Y. Ntamubano, Principal Environment and natural Resources Officer, EAC Secretariat. ***Annex I***

The presentation highlighted that in 2006, the EAC Partner States signed a Protocol on Environment and Natural Resources Management; however, the Protocol is yet to be operationalized pending full ratification. The Protocol has the objectives to foster closer cooperation for judicious, sustainable and coordinated management; conservation, protection and utilization of the environment and natural resources and deepen integration and poverty alleviation; promote shared responsibility and cooperation in the management of environment and natural resources including those that are trans-boundary in nature among Partner States; and promote development and harmonization of policies, laws and strategies for environment and natural resources management to support sustainable development.

- ***Governance of Natural Resources in LVBC - Opportunities and Challenges:*** by Ally –Said Matano, Principal Program Officer (Projects and Partnerships) Lake Victoria Basin Commission. ***Annex II***

The Commission's activities are focusing on the harmonization of policies and laws on the management of the environment in the Lake and its catchment area; continuation of the environmental management of the Lake including control and eradication of the water hyacinth; management and conservation of aquatic resources, including fisheries; economic activities in the development of fishing, industry, agriculture and tourism; and development of infrastructure, including revamping the transport system on and around the Lake.

- ***The Role of LVFO in the Governance of the Fisheries of Lake Victoria:*** by Dr. Olivia C. Mkumbo, Senior Scientist, Lake Victoria Fisheries Organization. ***Annex III***

Lake Victoria Fisheries Organization (LVFO) is implementing fisheries co-management on Lake Victoria by legally empowering fisheries communities to become equal and active partners with government in fisheries management and development. LVFO is guiding, supporting and implementing the building of the capacity of communities to participate in management and is making a real difference to their lives. The operations of the LVFO are guided by the LVFO Strategic Vision which aims at having a common system/resource management among contracting Parties in matters regarding Lake Victoria with the goal of restoring and maintaining the health of the eco-system and assuring sustainable development to the benefit of the present generation by harmonizing activities towards a healthy Lake Victoria eco-system and sustainable resources; integrated fisheries management; coordinated research programs; information generation, flow and exchange; and institutional/stakeholder partnership. Generally, the Strategic Vision acknowledges the collective responsibility of member states towards the lake and need for joint decision making and action.

**Measures to improve the governance of fisheries natural resources** and she evoked the following:

- Support to establish/strengthen the co-management institutions at all levels including the Beach Management Units ( BMU) and its networks; and empower them to govern;
- Operationalization of the Fish Levy Trust Fund to ensure sustainable funding; for research & management and other social services to the communities;
- Active engagement of all players to control pollution loading - point source and non-point sources (User-/polluter pay principles); alternative sources of energy;
- Address Corruption and interferences –Policies on ownership and equity issues and
- Active collaboration among the different actors in Governance of the natural resources -Ecosystem Approach to management.

**The second set of presentations aimed at ensuring collective understanding of existing ownership and revenue models and choice available for East Africa.**

- b) *The Law, Justice and Governance of Natural Resources Extraction- Overview and Critique of African Mining Vision and its work plan:*** by Brian Kagoro, OIC Governance, UNDP Regional Centre for East and Southern Africa. ***Annex IV***

The African Mining Vision consists of transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development.

The vision highlights the critical constraints and success factors for realizing the Vision and these are , the level/ quality of resources potential data; contract negotiating capacity ; improving the capacity to manage

mineral wealth ; addressing african infrastructure constraints and management of the case of artisans and small scale mining.

- c) ***Natural Resources Governance- Harnessing Revenue flows challenges and lessons from East Africa:*** by Alvin Mosioma, Director, Tax Justice Network- Africa. ***Annex V***

This presentation informed participants on the existence of legal frameworks on Natural Resources in East African Partner States. The presentation touched the strengthening process of the Tanzania mining law and the Uganda oil legislation. The main task now for EAC secretariat is to fast track approximation and harmonization of those frameworks to allow the East African Legislative Assembly to enact a regional harmonized Legal framework to govern the Natural Resources in the East African Region for the welfare of east african citizens.

- d) ***Effective Parliaments in Legislation and Oversight of Natural Resources:*** by Fred Matiangi, Regional Representative, Centre for International Development, SUNY Africa. ***Annex VI***

**This presentation aimed at facilitating collective understanding on what respective country parliaments can and should ensure equitable, accountable and sustainable natural resources utilization.**

Parliament's Role in Economic Governance is 3-Fold:

1. Legal and Policy Frameworks that ensure the principle of democratic governance: Parliament has a responsibility of formulating, reviewing and passing laws that ensure that there is equity, justice, sustainability, inclusion, transparency and accountability in the use of natural resources.
2. Economic Planning: as representatives of citizens, Parliaments have the obligation for designing inclusive consultative process for development of strategic visions, development plans, MTF, Budget Cycle and PFM frameworks. In addition, they are responsible for representing citizen

interests in certain policies, treaties and contracts processes. They also have a responsibility of effectively participating in this process.

3. Oversight and Enforcement: Parliaments have a responsibility of ensuring compliance with the letter and spirit of the contracts, policies and development plans in their implementation.

With the discovery of mineral resources in all the countries of East Africa, there is urgency for articulating a common approach to resource utilization for development, preventing corruption risks throughout the extractive stages and enhancing opportunities and benefits for citizens and communities in the value chain.

### **3.3. Emerging issues**

Apart from technical presentations, participants had an opportunity to share experiences from Partner States on governance of natural resources. From discussion sessions, the following observations came out:

- a) The East African Community Partner States have put in place policies, laws and strategies in natural resources sectors. Whilst there are areas of convergence with some countries that are regarded as good practices that Partner States can learn from, there are also areas of divergence. There is a need for harmonization and approximation of laws to establish regional standards and benchmarks that will strengthen governance and ensure sustainable development.
- b) Good governance entails respect for human rights, accountability and transparency and participation of stakeholders in policy development and execution. Applying principles of good governance in the management of natural resources is fundamental in ensuring that the exploitation thereof, sets the EAC region on to the path of sustainable development.
- c) The East African Legislative Assembly's core mandate is legislation, oversight and representation and that similar mandate exists in the national parliaments. These functions should complement each other,

especially, in legislation and implementation of laws and policies governing natural resources.

- d) There is need to have a legislation on Natural Resources;
- e) The workshop was timely and the outcome will inform the law making process in the region.;
- f) The EAC Protocol on Environment and Natural Resources that was signed in April 2006, is not yet ratified by all Signatory Parties and as such, it can't enter into force. This delayed ratification poses a threat to natural resources Management;
- g) The ***Inter Parliamentary Relations Liaison Committee on Extractive Industries*** already exists. The forum has so far conducted a number of field visits and meetings; However there is need to strengthen its capacity and enhance the partnerships between Partner States and the Committee to enrich discussions on Governance of natural resources in the region.
- h) While the Committee Members recognize that Natural Resources are Sovereignty linked issues, they also recognize that the deepening and widening of the EAC integration, effective and efficient management of natural resources should be a priority as contribution of natural resources to the economies of the EAC Partner States.
- i) The extractive industry is a key area of concern especially with the recent discoveries of oil in Kenya and Uganda and Gas in Tanzania. The discovery of these natural resources has created excitement and high expectations from citizens while internationally the region is the focus of international forces with interest in mining. The existence of weak and multiple legislation in the region poses a great challenge on the governance of this crucial resource. There is need of joint concerted efforts at the regional level to ensure that East Africans benefit out of exploitation of their natural resources.
- j) The adoption of the Africa Mining Vision 2050 by the AU Heads of State in Africa shows Africa's commitment in transforming the minerals sector into tangible gains for citizens through improved mining regimes by ensuring

that there is transparency, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable development at local, national and regional levels.

- k) Research and studies show that all EAC Partner States are losing billions of money yearly from natural resources sectors due to low royalties, resulting from corruption in contracting processes, weak negotiation skills and techniques, lack of enough and adequate data on natural resources among others. Finding solutions to these challenges should be a top priority for EAC Partner States.
- l) There is huge discrepancy in the earnings that accrue to governments and those to mining companies in such a way that continue to undermine the economic growth of the Partner States.
- m) Observance of human rights in mining sectors was highlighted as a challenge with mine workers being characterized by low wages, poor housing conditions, lack of safety gears among other deplorable conditions.
- n) Engagement of communities affected or impacted upon by resource extraction processes is critical for effective management of natural resources. It was further noted that natural resources are diverse with equally, diverse stakeholders. There is need for the EAC to engage with stakeholders in governance of natural resources for purposes of information sharing, peer learning and drawing best practices and lessons.
- o) There is need for regional forum which will bring together all sectors in natural resources to share experiences and exchange ideas with a view of having common understanding and avoiding overlaps and contradictions.
- p) Despite the fact that there is a lot of information on natural resources, the same has not been effectively shared amongst Partner States and widely publicized and circulated to inform the members of Parliament and citizens in general to enable them to confidently ask questions and demand for answers. Information Communication and Technology and especially the Internet, could be used for information sharing by posting the various legislation, policies and strategies at regional and national levels.

- q) On the management of Genetic Resources, the workshop was informed that East Africa is very rich in biodiversity and the associated traditional knowledge that have, over the years been accessed without any benefit in substantive way. The Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of benefits accruing from their utilization is an instrument, which helps protect resources from bio-piracy and enable community to gain from their Genetic Resources and Traditional knowledge through proper benefit sharing arrangements. It is high time for all Partner States to sign and ratify the Protocol to enable communities to gain from the genetic resources.

#### **4.0. RECOMMENDATIONS**

From the technical presentations by experts, exchanges of experiences on the status of governance of on natural resources by representatives from Partner States and emerging issues from those, the Committee recommends the following:

- i. The EAC Secretariat in collaboration with EALA Committee on Agriculture, Tourism and Natural Resources should organize study tours in order to allow deeper and better understanding on laws relating to governance of natural resources from other jurisdictions. This will enable Members to learn more on the governance of Natural Resources especially from countries that have done well.
- ii. National Parliaments are encouraged to strengthen existing capacity and follow up to ensure compliance and adherence to good Governance in the Management of Natural Resources;
- iii. EALA Committee on Agriculture, Tourism and Natural Resources through the *Inter-Parliamentary Relations Liaison Committee on Extractive Industries* and Partner States National Assemblies strengthen the partnership and participate in each other's activities for exchange of information and knowledge sharing
- iv. The EAC Secretariat establishes an institutional framework / mechanism that will facilitate the implementation and effective utilization of natural

resources governance and development of regional guidelines and standards that reflect good practices.

- v. The Partner States that have not ratified the EAC Protocol on Environment and Natural Resources are encouraged to expedite the process.
- vi. The EAC Secretariat should initiate and develop programmes that will ensure continuous interaction with strategic partners in natural resources management.
- vii. The EAC Secretariat, LVBC and LVFO in collaboration with EALA convene regular sessions and facilitate study tours for the *Inter Parliamentary Relations Liaison Committee on Extractive Industries* for knowledge sharing with a view of learning from each other.
- viii. The EAC Secretariat should fast track the process of development of an EAC Mining Policy taking into consideration the Partner States' mining policies, Codes and share - holding agreements Africa Mining Vision and International instruments in the harmonization of mineral policies.
- ix. EALA urges Partner States to develop Human Resources capacity in the extractive industry sector in order to acquire the relevant competencies, knowledge and skills for effective exploitation.
- x. EAC Secretariat should conduct Studies on extractive industries are conducted to provide evidence for sound policy formulation of natural resources. This will inform the negotiation and development of policies that ensure sustainable development in the region.
- xi. EALA urges Partner States to invest more revenues accrued from natural resources exploitation in social infrastructures and other strategic investments that will promote economic growth and sustainable development for the region.
- xii. EALA urges the Council to establish a regional forum on Natural Resources to serve as a platform for dialogue and sharing of information and experiences in the EAC region geared towards

- strengthening economic development and good governance in Natural Resources Management;
- xiii. The EAC Secretariat should develop an EAC Information, Education and Communication Strategy on natural resources to include a one-stop data shop for natural resources management in East Africa, a web portal with all relevant information including laws and policies relating to exploration and extraction of natural resources; and
  - xiv. EALA urge Partner States that have not yet signed and ratified the Nagoya Protocol to expedite the process.

## **5.0 CONCLUSION**

As Africa's natural resources wealth carries a great potential for economic development, employment creation and poverty eradication , therefore, there is need for joint concerted efforts in natural resources governance to allow these opportunities to become reality.

Further, the workshop was timely in the sense that participants extensively interrogated the status, the challenges and opportunities and possible way forward. The participants were optimistic that the outcomes of the workshop will inform regional initiatives, policies and strategies towards efficient governance of natural resources in the region.

## **6.0 ACKNOWLEDGEMENT**

I wish to end my presentation on a thankful note to those who supported the Committee and made the workshop successful.

The Committee express its gratitude to the Rt. Hon. Speaker and the office of the Clerk for granting us time and space to undertake this activity.

Thanks are also extended to EAC secretariat department of Political Federation.

Finally, we thank the UNDP Eastern and Southern Regional Office for the technical and financial support towards the successful organization of the workshop. We hope that this partnership would be sustained to help in the implementations of some of the recommendations made from this workshop.

**Madam Speaker, I beg this House to adopt this report with its recommendations.**

**Madam Speaker, I beg to move.**