



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly

91ST SITTING – SECOND ASSEMBLY: FIRST MEETING – FOURTH SESSION

Thursday, 16 September 2010

The East African Legislative Assembly met at 2.30 p.m. in the Chambers of the National Assembly of Burundi, Bujumbura.

PRAYER

(The Speaker, Mr. Abdirahin Abdi, in the Chair)

(The Assembly was called to order)

PAPERS

The Chairperson, Committee on Accounts (Mr Bernard Mulengani (Uganda)): Mr Speaker, I beg to lay on Table, the Report of the Committee on Accounts on the Audited Financial Statements of the East African Community for the Financial Year ended 30 June 2009.

MOTION

FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON ACCOUNTS ON THE AUDITED FINANCIAL

STATEMENTS OF THE EAC FOR THE YEAR ENDED 30 JUNE 2009

Mr Mulengani: Mr Speaker, I beg to move that the Report of the Committee on Accounts on the Audited Financial Statements of the East African Community for the Financial Year ended 30 June 2009 be adopted. I beg to move.

Ms Jacqueline Muhongayire (Rwanda): Seconded

Mr Mulengani: Mr Speaker, before I read the report, I want to appreciate the contributions by the Members of the Committee on Accounts, the Clerk and the Secretary of the Committee for the support they accorded to me while

chairing the session on the Audited Accounts of 2009. (*Applause*)

Secondly, I want to add my voice to those that rose to thank the Speaker of the National Assembly of Burundi, and to congratulate His Excellency, Pierre Nkurunziza for his overwhelming victory during the recent elections. (*Applause*) In the same breath, I want to thank His Excellency Nkurunziza for having seen the talent within Dr Sabine Ntakarutimana who has been a Member of this Committee. (*Applause*) Much as we shall miss her contributions, I am sure that where she is, she is in the best position to enhance the aspirations of the Assembly, and the Community at large. (*Applause*)

Mr Speaker, before I read the report, I want to re-emphasise the issue of the timing for tabling the audited accounts reports, which has now moved out of the timing set in the Treaty. The report that I am going to present this afternoon was tabled in the House, fifteen months after the end of the Financial Year, which was on 30 June 2009. It is my humble request that the Council of Ministers looks at tabling the subsequent audited accounts on time to enable the relevant committees to do their oversight roles, and for the application of recommendations from the Committee. (*Applause*)

Mr Speaker, sir, let me now return to the report.

Introduction

In accordance with the provisions of Article 134(3) of the Treaty, the Chairperson of the Council of Ministers, in September 2010, in Bujumbura, laid

before the Assembly the following reports of the Audit Commission...I am not going to enumerate them because the Chairperson of the Council of Ministers already did it when he was laying the Audited Accounts.

In accordance with the provisions of Rules 77, 79 and Annex 5(A) of the Rules of Procedure of the Assembly, the hon. Speaker referred the eight reports to the Committee on Accounts for scrutiny. The Committee met in Bujumbura from September 8 – 13, 2010 for this purpose. This report covers the Committee's findings and recommendations on the main issues.

The report is sub-divided into nine parts enumerated as follows: On page 2 we captured the methodology, and as Members can see, we reviewed the Audited Financial Statements of the EAC Organs and Institutions for the year ended 30 June 2009.

The Committee held internal consultations on the way forward before meeting the Audit Commission; the Secretary General; the Deputy Secretary General (Finance and Administration); the Executive Director of the Civil Aviation Safety and Security Authority; the Executive Secretary of the Lake Victoria Basin Commission, and other officers of the East African Community to discuss the audited accounts.

After the review of the EAC Financial Statements, the Committee reconvened to write the report.

Audit Findings on the EAC Audited Accounts for the Year ended 30 June 2009:

Follow up on Previous Year's Audit Findings

During the audit of the Financial Year 2007-2008 in February 2009, the Audit Commission informed the Committee that twenty recommendations were made, which included five from 2006-2007. As at the date of that audit, thirteen of the recommendations had been addressed satisfactorily, leaving six of them pending. The pending issues concerned manuals. However, the EAC Management informed the Committee that the draft manuals and policies were already approved and were awaiting the input of the Sectoral Council on Legal and Judicial Affairs.

The Committee considered the issue and generally found no reason why they have been pending for such a long period. The Committee further noted that previous recommendations on the strengthening of the capacity of the Internal Audit remain unattended to.

The Committee therefore recommends to the Assembly that:

- i. The Council of Ministers should ensure that the process of having the manuals in place is finalized and the manuals operationalised.
- ii. Even in the absence of the manuals, EAC Management should at least apply the internationally accepted procedures and standards.
- iii. EAC Management should strengthen the capacity of the Internal Audit.

The Current Year's Audit Findings and Recommendations:

Financial and Budgetary Performance Review

Mr. Speaker, the Committee was informed that the Community spent US\$22,203,797 against a budget of US\$23,433,324. However, the total income for the year was below because they received only US\$22,203,797 against a budget that was actually spent of US\$23,433,324. As a result, at the end of the year, a sum of US\$2,279,873 was outstanding from two Partner States.

Mr. Speaker, this shows, and it is very well indicated, that the Partner States had not met their commitment. After the Committee examined the financial performance of EAC, it was concerned about the budget utilization.

The EAC Management responded that late release of money by Partner States was the main cause of deficiencies in their budget utilization.

The Committee therefore recommends that:

- i. The Council of Ministers should ensure that Partner States make timely disbursement of their contributions as per the Council of Ministers resolution.
- ii. The Council of Ministers should urge development partners to respect their commitments by timely honoring the assistance.

Implementation of the EAC Activities

Mr. Speaker, the review that ended on 30 June 2009 revealed that several

activities were not implemented according to the Annual Operational Plan, and the Audit Commission enumerated them as follows:-

- i. In some cases, the reports did not show the level to which the planned targets were achieved;
- ii. There is no formal and structured line of reporting between other Directorates and the Directorate of Planning and Infrastructure;
- iii. There was no evidence that progress reports were being considered and discussed at both the directorate and senior managerial levels;
- iv. The monitoring and evaluation officer hardly carries out the monitoring of implementation of activities. The Audit Commission noted that the officer had always been involved in consolidating reports from other Directorates and Projects;
- v. In some cases, the process of procuring consultants and contractors took too long to finalize. The Examples of this include Arusha-Holili-Voi road (260 km) and Malindi-Lunga Lunga-Bagamoyo Road (400 km), where, according to the reports, the procurement of consultancy services had not been concluded by the time of the audit, which was 13 February 2010.

The EAC Management responded that late disbursement of funds by the EAC Partner States and Donors, and the

rescheduling of meetings for lack of quorum caused this.

The Committee notes with a lot of concern that slow-implementation of EAC activities undermines the performance of EAC in totality. The Committee further observed that donor funds come with conditionality that undermine the EAC Treaty and the integrity of its Institutions, leading to breach of the Treaty provisions. In this particular case, the Audit Commission was not able to audit some project reports because Private Auditors had audited them.

The Committee also notes the laxity on the part of the EAC Management to supervise this activity of the Community. The Committee is therefore in agreement with the Audit Commission that:

- a) Management should ensure that all programmes and projects are closely monitored and supervised.
- b) Management should streamline the reporting structure between other directorates and control of projects implementation.
- c) Procurement processes should be fast-tracked to avoid any cost overruns.

The Committee therefore recommends to the Assembly that the Council of Ministers should direct the EAC management to take initiatives to harmonize the auditing exercise as per the Treaty provisions on audit (Article 134) while carrying out audits on all projects and programs of the EAC.

Physical Verification of the Arusha-Namanga-Athi River Road Project

Mr. Speaker, a physical verification of the project was conducted from 20 - 21 February, and on 10 March 2010, revealing the following: -

- i. There was a delayed process of procuring project auditors.
- ii. The Drainage system is not aligned to the landscape, for example at Kimokoowa area in Longido District (Km 89-90), at Km 41, and 12-24 Km.
- iii. Change of method of construction without approval of the Consultant (Engineer), which the Committee took as a breach of contract.
- iv. A Project Dispute Resolution Expert (DRE) was not appointed.
- v. Office equipment for the Consultant was not supplied by the Contractor.
- vi. An environmental impact assessment was not done.
- vii. HIV/AIDS awareness and preventive measures were not implemented as stipulated in the contract; and
- viii. There slow overall progress of the project on Arusha-Namanga Road.

Mr. Speaker, the implication of these, and just to highlight a few of them, is that the quality of the road is likely to be compromised. The absence of a Dispute Resolution Expert may hamper the entire process of resolving disputes and claims submitted to parties concerned, resulting in delays in the completion of the project. The Committee also observed that a delay in employing the project auditor denies the EAC and the Partner States the advantage of timely evaluation

of the execution and management of the projects.

EAC management responded that they are making effort to take action taken on all the issues highlighted above. The Committee noted that faults outnumber achievements registered with the progress performance scoring below average. On several occasions, the contract has been breached. The Committee noted further that the currencies used are inconsistent with the Treaty requirement of Article 132.

The Committee therefore recommends to the Assembly that the Council of Ministers:

- i) urges the EAC management to liaise with the African Development Bank to ensure that an auditor for the project is procured as quickly as possible;
- ii) instructs the EAC management to collaborate with the two governments of Kenya and Tanzania to monitor closely the implementation of the contract;
- iii) ensures completion of the project in the agreed timeframe;
- iv) advise EAC Management to ensure quality of construction and value for money audit in such ostensible projects;
- v) directs the EAC Management to submit progress reports to the Audit Commission for verification;
- vi) directs the EAC Management to follow up the matter, together with the two governments to ensure that issues highlighted above are rectified.

Construction of the EAC Headquarters

The Committee was informed that the Contractor could not start the work as expected due to delays in getting tax exemption from the Tanzania Revenue Authority. The Committee also observed that Item D3 of the Bill of Quantities requires the contractor to provide sheds for storage, but they did not comply with it. The Committee actually found some materials just lying outside. Moreover, the mobilization of equipment is going on at a very slow pace.

The EAC Management responded that all the necessary procedures were executed on time as detailed in the audit report, but there was a problem in securing duty and tax exemption from the government of Tanzania. For the contractor to bring in the necessary equipment, plant and machinery for the project, he required duty and tax exemption on both imports and locally procured items. This was not allowed until serious follow-up and high-level intervention, which included the involvement of the office of the Prime Minister.

Mr. Speaker, I think the implications of this are very clear to everyone, and I would like to say that the Committee was concerned about the delays and tasked the EAC Management to confirm whether the contractor would be able to complete the work within the agreed time. The Committee was further concerned with the continued use of currency not recognized by the Treaty.

Mr. Speaker, the Committee noted the following:

- i. Non-compliance to the contract and Bills of Quantities amounted to breach of contract;
- ii. The delay by the Government of Tanzania, especially on the part of Tanzania Revenue Authority and the Ministry of Finance, to exempt the Contractor License Fee.
- iii. The Government of Tanzania contravened Article 138 of the Treaty on privileges and immunities at the point in time.

Mr. Speaker, the Committee therefore recommends to the Assembly that:

- i. the Council of Ministers urges the EAC Management to ensure that the contractor complies to all provisions of the contract and Bills of Quantities;
- ii. the Council of Ministers ensures that the government of the United Republic of Tanzania and other Partners States do comply and respect the provisions of the Treaty.

Review of Contract for Rent of Office Buildings

Mr. Speaker, the Audit Commission reported that a review of the tenancy contract in respect of office space occupied by EAC within the Arusha International Conference Centre revealed the following weaknesses:

- (i) The contract was signed on 9 June 2009, indicating that during the period under audit, there was no rental contract. However, the contract submitted was entered into retrospectively to begin on 1 July 2008. The previous contract had expired on 16 May 2006.

- (ii) Room 625 with 16 square meters was double-counted when computing the office space to be rented.
- (iii) According to the Internal Audit Report, rooms 208, 232 and 233 were rented to the East African Court of Justice from 30 April 2007 while the same office space was rented to the EAC Secretariat as an additional office space with effect from 15 June 2007, with room 208 being occupied by the African Court of Human Rights.
- (iv) The report also revealed a difference of 48 square meters between the areas shown in the contract of 3,906 square meters.
- (v) According to the contract, the total square meters being paid for in respect of the fifth floor of Kilimanjaro Wing is 1,124 square meters, which includes 267 square meters occupied by corridors and lavatories.

The Audit Commission is of the view that this is contrary to Article 1 of the contract agreement between the EAC and the Arusha International Conference Centre.

Mr. Speaker, the implication here is that the EAC is incurring unnecessary and avoidable costs in paying for extra non-contractual office space. The EAC management responded that the Secretariat had already constituted a Board of Survey, which included an architect, to take office space measurements on which payments should be based. The Committee is in agreement with the Audit Commission that the EAC Secretariat should constitute a Board of Survey, which

should include a qualified architect/valuer to carry out a thorough investigation in order to establish the legality of the rental agreement, and to come out with the correct office space on which to base payment.

The Committee discussed the matter and questioned the manner in which the board was constituted.

Mr. Speaker, the Committee noted the following:

- (i) There is a high probability that there was double payment to the AICC management.
- (ii) There might be conflict of interest in carrying out space measurements by the Board of Survey.

The Committee therefore recommends to the Assembly that:

- (i) For similar activities and engagements in future, procurement guidelines should be followed;
- (ii) Recovery for double payment of office space, if any, should be done immediately.

Segregation of duties between Finance and Procurement Functions

The Audit Commission reported that the Deputy Secretary General for Finance and Administration and the Director of Finance are members of the EAC Tender Committee and Procurement Committee respectively, which implies that the two senior officials of the EAC involved in the procurement process are performing approval, authorization and other financial management functions.

The EAC Management is in agreement with the Auditor's recommendation that in the proposed Procurement Manual, which is due for consideration and approval by the Council, the Deputy Secretary General (Finance and Administration) and the Director of Finance should not members of these Committees.

Mr. Speaker, the Committee noted the anomaly and recommends to the Assembly that:

- (i) The manuals should be approved and submitted to the Audit Commission for verification;
- (ii) The EAC Management should employ preventive measures to avoid such practices.

Management of Stores

The Audit Commission reported that the storeroom used by the EAC Secretariat, EALA, and the EACJ is so congested that items are piled up in that small room. This implies that stocks of some items are likely to be damaged because of lack of adequate storage space and facilities. Furthermore, it can prevent the smooth carrying out of physical stock count, which is part of the control and evaluation of assets.

Mr. Speaker, the Committee therefore recommends that the EAC Management should make a follow-up with the AICC to ensure that it secures adequate space for the store.

Control over Payments and Procurement Procedures

The Audit Commission reported that a review of the internal control over payment procedures revealed that there

were inadequate internal checks, resulting in double payment. For instance, invoice numbers 28292, 28293, 28295, and 28296 in respect of air tickets from one travel agent, M/s Akarim Agencies Company Limited was paid through Cheque Number 003983 to support a payment of US\$ 8, 752. The same invoices were used to support another payment of the same amount through Cheque Number 003959. However, management later noticed this anomaly and took corrective measures by recovering the overpaid amount from another payment due to that supplier via Cheque Number 004033.

The Committee further noted that the supplier M/S Akarim Agencies Company Limited was not on the approved list of suppliers.

Mr. Speaker, the Committee recommends to the Assembly that:

- (i) EAC Management should provide for recruitment of internal auditors in respect of EALA and the EACJ for systems improvement.
- (ii) The sub-accounting powers extended to EALA and EACJ should be accompanied by relevant capacities.

Lack of a Resource Mobilization Policy

The Audit Commission reported that the Community has a Resource Mobilization Office, which is responsible for sourcing for and mobilizing funds from various Development Partners, but the Community does not have a resources mobilization policy, such that in some instances, they deposit the mobilized

funds in the EAC bank accounts without indicating the exact source of the funds. In addition, apart from the Resource Mobilization Officer, there are no other officers designated to coordinate the projects and programmes.

The Auditors also reported that in some cases during negotiation for funding, the negotiations do not take into account the requirements of the EAC Treaty regarding the audit of funds raised. An example is of a program or project documents specifying that private and independent audit firms should audit those projects and programmes. This is contrary to Article 134 of the Treaty for the Establishment of the East African Community and Part XV of the EAC Financial Regulations, which gives the Audit Commission the mandate to audit all the activities of the EAC Organs.

Mr. Speaker, the Audit Commission recommended that the EAC management should develop a Resource Mobilization Policy to ensure the proper management of the funds mobilized from the Development Partners.

The EAC Management Responded that:

- i. The Community does not have a resource mobilization policy, but will expedite development of the resource mobilization strategy.
- ii. Project assistants coordinate the Partnership Fund and RISP; the office does not have coordinators.
- iii. Negotiations of agreements will always take into account the provisions of the Treaty despite contrary requirements

Mr. Speaker, the Committee is in agreement with the Audit Commission recommendation that the EAC Management should speed up the finalization of the Resource Mobilization Policy and Strategy. Further, any change of auditors by donors is contrary to the requirement of Article 134 of the Treaty for the Establishment of the East African Community, and Part XV of the EAC Financial Regulations, which clearly stipulate that the Commission shall audit the accounts of the Community, including that of its projects and programs.

Mr. Speaker, the Committee considered management response regarding negotiation of agreements and was not satisfied with it. The Committee therefore resolved that noncompliance with the Treaty provisions is not acceptable. Procedures for negotiating and signing projects or financing agreements should take into account and defend the requirements of the Treaty.

It came to the attention of the Committee at that point in time that private external auditors were auditing the following projects:

- i. EAC Partnership Fund;
- ii. Regional Integration Support Project;
- iii. Avian Flu;
- iv. African Capacity Building Foundation;
- v. Conflict Resolution (CPMR); and
- vi. HIV Project.

The Committee therefore noted with concern that:

- (i) The manner in which the EAC Secretariat is procuring private

external auditors contravenes Articles 132, 133 and 134 of the Treaty. Where it is necessary to procure a private external auditor, this should be the mandate of the Audit Commission. The practice has been that the Secretariat has been procuring these services in some instances in contravention of Article 134 of the Treaty.

- (ii) The EAC Financial Rules and Regulations are in contravention of the Treaty provisions in Articles 132, 133 and 134.

Mr. Speaker, the Committee is in agreement with the Audit Commission, and recommends to the Assembly that:

- (i) EAC management should ensure that financial regulations and donor agreements should always be in conformity with the provisions of the Treaty Establishing the East African Community, specifically Articles 132, 133 and 134.
- (ii) EAC management should urgently consider reviewing all agreements entered into and are in contravention with the Treaty.
- (iii) The Audit Commission should go back to re-audit the financial statements audited by private external auditors.
- (iv) EAC management finalizes the resource mobilization policy.

Review of Governance Issues: Approval Procedures

The Audit Commission reported that an overview of the financial management and approval procedures revealed that the Deputy Secretary General in charge of Finance and Administration is responsible for approving most of the expenditures and leave for the EAC staff. This work looks overwhelming. It is the Auditors view that some of these duties should be delegated to the Director of Finance and the Director for Human Resource and Administration. As the EAC expands and its mandate increases, it is necessary to revise the control systems in place to reflect this dynamism.

The Audit Commission also reported that the Secretary General on 5 September 2007 issued semi-autonomy, giving sub accounting powers to EALA and the Court of Justice. The Auditors noted the inadequate staffing of these Organs in terms of accounting staff responsible for checking and approving payments. The Audit Commission therefore recommends that the EAC Management should try to revisit some of the approval levels, ensure the adequate staffing of the two organs, and ensure clear definition of the roles and limits within the accounting functions among the three Organs.

The Committee discussed the matter, noted the need for separation of powers, and upheld the recommendation by the Audit Commission that management should ensure adequate staffing of the two Organs. The Committee recommends to the Assembly that the Council of Ministers should ensure

adequate staffing of the organs with immediate effect.

Delay in Approving the Management Manuals

The Audit Commission reported that in the previous audit report the Commission recommended that the Community should develop manuals relevant to Procurement, Accounting, Financial Rules and Regulations, Human Resource, and Risk Management, among others. However, the process of finalizing and approving these manuals has taken too long.

Mr. Speaker, the EAC Management reported that at its Twentieth Meeting held from the 19th - 26th March 2010 in Arusha, the Council considered the manuals, but that the EAC Human Resource Policies and Procedures Manual, and EAC Risk Management Strategy are yet to be completed, so they will be considered at the next meeting of the Finance and Administration Committee.

Mr. Speaker, the Committee noted that the EAC Management gave the information on the approval of some of the manuals to the Auditors without providing physical evidence. The Committee discussed the matter and expressed concern on the delay by the EAC Management to approve the manuals, because the Committee noted that the Sectoral Council on Legal and Judicial Affairs was responsible for the delay. The Committee observed that the EAC should put documents with no legal implication put into use on approval by the Council of Ministers. The EAC Management should not subject such documents to the Sectoral Committee on

Legal and Judicial Affairs. The Committee therefore recommends to the Assembly that the Council of Ministers should direct the EAC management to have the manuals operational with immediate effect.

THE AUDITED FINANCIAL STATEMENTS OF THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY (CASSOA) FOR THE YEAR ENDED 30 JUNE 2009.

Mr Speaker, there is an introduction, which honourable Members can read during their free time.

Follow up of Previous Years' Audit Findings

The Audit Commission reported that during the previous year's audit, the Commission made six recommendations, three of which were satisfactorily dealt with, and the following three were not: Governance of CASSOA; internal audit review, and the segregation of duties.

Governance of CASSOA

The Audit Commission reported that CASSOA did not constitute a full governing board during the year under review because only the Republics of Burundi and Uganda had nominated the members to the Aviation Experts Board.

Mr. Speaker, the Committee recommends to the Assembly that the Council of Ministers should urge the Partner States of Tanzania, Kenya, and Rwanda to nominate Aviation Experts to the Board of CASSOA as soon as possible.

Internal Audit Review

Mr. Speaker, it was noted that there was no internal audit review carried out or biannual reports produced as required by regulation 72 of the EAC Financial Rules and Regulations (2006), which CASSOA has adopted in the interim period. The EAC Management reported that the Board approved the appointment of an Internal Auditor at its Seventh meeting held on 28th and 29th May 2009. However, the EAC Internal Auditor is carrying out quarterly reviews of the Agency in the interim, and reports to the Board.

Mr. Speaker, the Committee recommends to the Assembly that:

- (i) The management of CASSOA should expedite the recruitment of a substantive Internal Auditor.
- (ii) CASSOA should submit progress reports to the Audit Commission.

Segregation of Duties

The Audit Commission reported that the existing staff structure in the financial accounting function did not allow for delegation of accounting activities during the year under review. The accountant performs all the accounting functions with no chance of internal checks.

The CASSOA Management reported that an additional position was approved in the five-year Strategic and Organization Development Plans, and it was included in the budgetary estimates for the Financial Year 2010/2011, approved by the Board at its Tenth Meeting held in Arusha from 21 to 22 January 2010.

Mr. Speaker, the Committee noted with concern that CASSOA had not implemented the decisions of the Council and the Board, and, therefore, recommends to the Assembly that the Management of CASSOA should expedite the recruitment of the relevant staff, and put in place a functional staff structure.

CURRENT YEAR'S AUDIT FINDINGS AND RECOMMENDATIONS

Budgeting of CASSOA

The Audit Commission findings reveal that CASSOA under spent its budget in most of the budget lines as shown in the Table on page 28 of our report. Most of the figures are below 60 percent utilisation, which means underperformance.

The CASSOA Management agreed with the recommendation, and promised to ensure that henceforth they will prepare budgets that are more accurate. However, the meeting was informed that some of the under expenditures were attributed to delayed relocation to its headquarters in Entebbe due to incomplete remodelling of facilities and conclusion of the Headquarters Agreement.

The Committee is in agreement with the Audit Commission recommendations that the Management of CASSOA should endeavour to prepare budgets that are more realistic by focussing their proposals to the circumstances of each budget period. However, the Committee also appreciated the explanation by the CASSOA Management because the Committee noted that circumstances beyond the control of the CASSOA

management caused the under expenditure, however, the Committee also noted that since CASSOA had relocated to its headquarters, it should, therefore:

- (i) Discharge its duties appropriately;
- (ii) Carry out proper performance of budgets and activities.

A Procurement Manual

The Audit Commission reported that CASSOA had not developed a procurement manual, which would contain detailed guidance on procurement procedures. Mr Speaker, the Management of CASSOA concurs with the recommendation but awaits the approval of the EAC procurement manual to align to as directed by the Council of Ministers that all EAC organs and Institutions should adopt uniform policies.

The Committee recommends to the Assembly that the Council of Ministers should finalise the approval of the manuals.

Lack of a Procurement Plan

The Audit Commission reported that CASSOA had neither prepared a procurement plan nor produced a report of the execution of the procurement plan for the period under review. The CASSOA Management agreed with the recommendation to develop a procurement plan each financial year, and will implement the same in the current financial year.

The Committee recommends to the Assembly that the Management of

CASSOA should develop and execute a procurement plan annually.

Human Resource Management

The Audit Commission reported that CASSOA does not have a Human Resources Management policy to give proper guidelines on the recruitment process. The Management of CASSOA agreed with the observation, but now it is waiting for the approval of the EAC Human Resource Manual to align its manual as directed by the Council of Ministers.

Mr Speaker, the Committee recommends to the Assembly to urge the Council of Ministers to expedite the process of approving the manuals.

Performance of CASSOA

CASSOA had eight key deliverables as enumerated on page 31, and they did not accomplish five of them because of the relocation of offices to Entebbe.

AUDITED FINANCIAL STATEMENTS OF THE EAST AFRICAN TRADE AND TRANSPORT FACILITATION PROJECT FOR THE YEAR ENDED 30TH JUNE 2009

Financial Performance and Budgetary Control

Mr Speaker, the Audit Commission reported that the budget for the period under review was US\$197,832, while the actual expenditure was US\$25,217.15, a variance of US\$172,614.85 or 13 percent of the approved budget. The Commission noted that except for one budget line, "Implementation of the Customs

Union”, the other activities were not executed.

Mr Speaker, when you look at the Table on page 34 of our report, under “percentages” where you see a zero, it means that that activity was not executed. This also implies that most of the planned project objectives were not achieved. Therefore, the Committee is in agreement with the Audit Commission recommendation that the EAC Management should ensure that activities are implemented in accordance with the annual plan and budget. The EAC Management agreed with this recommendation, and undertook to ensure that the implementation of activities is done in accordance with the annual plan and budget.

The Committee took note of the non-implementation of planned activities and further raised the following issues:

- (i) Only one item was audited by the Audit Commission
- (ii) The larger component that goes directly to Partner States was not audited, neither was it captured in the accounts of the project’s audited accounts. It is the view of the Committee that there should be total disclosure of the activities that constitute the EAC projects.

The Committee therefore recommends to the Assembly that:

- (i) The Council of Ministers should direct the EAC management to adhere to the planned activities.
- (ii) There should be a meeting between the Audit Commission and the EAC to agree on the way forward with regard to capturing and auditing of all project activities.

Implementation of Project Activities

The Audit Commission reported that the submitted implementation report did not clearly show the extent of implementation of the planned activities. This implies that there may be difficulty in performance evaluation of the planned activities.

The EAC Management reported that in future, progress reports would be prepared and reviewed on a quarterly basis.

The Committee recommends to the Assembly that:-

- (i) The EAC Management should prepare performance reports that clearly give the status of the level of implementation of the planned activities, to facilitate performance assessment.
- (ii) Quarterly progress reports should be prepared and regularly reviewed by senior officials.

Mr Speaker, now I want to turn to Part V of the Report on page 36.

FINANCIAL STATEMENTS OF THE AFRICAN CAPACITY BUILDING PHASES I AND II FOR THE YEAR ENDED 30TH JUNE 2009

Mr. Speaker, as you may see, there is an introduction just to enlighten you about these programs.

Audit Findings and Recommendations

The EAC Management informed the Committee that:-

- (i) The amounts disbursed during the period under audit under

- Phases II and I was Euros 218, 961 and 142,154 respectively.
- (ii) The low absorption of funds is due to delayed recruitment of staff.

The Committee noted the following:

- (i) The currency used is inconsistent with the Treaty requirement of Article 132
- (ii) Euros 120,000 was budgeted for Training but the funds spent was Euros 10,812
- (iii) There was no equipment procured for training.

Mr Speaker, this implies that planned programme objectives were not achieved, so the Committee therefore recommends to the Assembly that:

- (i) The EAC Management should ensure that activities are implemented in accordance with the annual budget.
- (ii) The EAC Management should ensure that all financial statements of the EAC are kept in United States Dollars, as stipulated in the Treaty (Article 132).

Implementation of Project Activities

The Audit Commission reported that the submitted implementation report did not clearly show the extent to which planned activities were implemented. The EAC Management informed the Committee that a number of planned activities could not be undertaken because of the untimely disbursement of funds.

Mr Speaker, challenges notwithstanding, the Committee is of the view that EAC management should implement all project activities and perfect financial

performance. The Committee further recommends to the Assembly that:-

- (i) EAC Management should prepare performance reports that clearly give the status of the level by which the planned activities were implemented, to facilitate performance measurement.
- (ii) Senior officials should prepare and regularly review quarterly progress reports

AUDITED FINANCIAL STATEMENTS OF THE LAKE VICTORIA BASIN COMMISSION FOR THE YEAR ENDED 30 JUNE 2009

Follow up on Previous Year's Audit Findings:

RV Jumuiya

Mr Speaker, a site visit made on 23 February 2010 by the Audit Commission revealed the following:-

- (i) In June 2009, the LVBC entered into a contract agreement with KAMKLA SINNAUTIC LTD for the study and installation of two new marine vessel engines and a new marine generator to the RV Jumuiya in a period of ten (10) weeks.
- (ii) Save for the two new marine vessel engines and one marine generator, which were being fitted at the time of the visit, other basic navigation and seaworthiness equipment as noted in the previous year's report, have neither been fitted nor supplied.

- (iii) Up to the time of the visit, management had not yet insured the vessel as promised
- (iv) The vessel therefore was still not seaworthy.

Mr Speaker, in the previous Committee report the Committee had recommended a site visit, together with a specialized technical marine engineer, to verify and ascertain the status of the ship after 12 weeks, as had been requested by LVBC Management.

Mr Speaker, the LVBC Management reported that with the assistance of Development Partners through the Partnership Fund, US\$200,000 was secured to procure two new engines and a generator. LVBC had entered into a contract to supply and install the engines and generator with M/s Kamakal, who has since supplied and installed the equipment.

The Committee appreciates the positive steps taken by the LVBC management. However, verification is eminent, and recommends to the Assembly that:

- (i) LVBC should make a closer follow up with the contractor to ensure that the repairs and the fittings of other basic navigation and sea safety equipment are completed within the agreed period.
- (ii) The report of the LVBC Management that the Vessel is fully refurbished and operational should be subjected to the Audit Commission for verification.
- (iii) Make an onsite visit on its planned activities in November 2010 as scheduled.

Lack of an IT Security Policy and Strategy

Mr Speaker, the Committee recommends to the Assembly that the Council of Ministers should ensure early adoption of an IT security policy and strategy, and maintain an up to date record of hardware and equipment.

Adoption of the International Public Sector Accounting Standards (IPSAS)

Mr Speaker, Lake Victoria Basin Commission Management responded that the EAC Secretariat presented the Financial Policies and Procedure Manual to the Council of Ministers in which a provision for the adoption of IPSAS has been included. LVBC shall therefore implement IPSAS after its adoption.

The Committee recommends to the Assembly that the Council of Ministers should expedite the finalization and approval process of the financial policy and procedure manuals for use.

Land not valued

The Audit Commission noted that the Lake Victoria Basin Commission land of 2.8 hectares located at Kisumu/Kogony/4337 obtained from the Government of the Republic of Kenya at a lease term of 99 years from May 2006 was neither valued nor reflected in the financial statements as part of its property, plant and equipment.

Mr Speaker, LVBC Management responded that the land where the proposed LVBC Headquarters will be built was granted by the Kenya Government ex gratis. Valuation of the land has been completed as reported in

the Board of Survey report. The parcel of land has a market value of Kshs.42 million (US\$560,000), and this value will be reflected in the statement of the financial position of the Lake Victoria Basin Commission for the period 2009/2010 as a grant in accordance with IAS20, Accounting for Government Grants. The Audit Commission will verify in the next year's audit whether the land will have been captured in the financial statements.

Mr Speaker, the Committee recommends to the Assembly that the LVBC should ensure that the value is reflected and recognized in the financial statements.

AUDIT FINDINGS AND RECOMMENDATIONS OF THE CURRENT YEAR

Mr Speaker, the Audit Commission reported that a review of the Lake Victoria Basin Commission financial performance revealed that the Commission made expenditures on some activities, which were not in the annual budget, while in some cases expenditures were by far either below or above the budgeted levels. The Audit Commission also noted that the flow of funds from the Partner States and donors was not commensurate to the planned contributions/pledges.

Mr Speaker, this implies that:-

- i. The LVBC budget might be unrealistic;
- ii. Non adherence to the approved budget may result in expenditure on non key activities, undermining the importance of budgetary control;
- iii. Delays by Partner States and donors to release funds might

have affected the implementation of the EAC planned activities.

Mr Speaker, the LVBC Management responded that the budget was realistic, and the overall expenditure was only 10 per cent below the budget. Non-implementation of some Council directives was beyond management control, and over and under expenditure was caused by budget reallocation whose approval was obtained from the Council.

Mr Speaker, the Budgetary control is detailed in the Audit Commission Report, which is attached to this report as Appendix I. Honourable Members can, at their own time, go through Appendix I and see what the Committee is saying.

The Committee noted inconsistencies in budget execution by LVBC. The Committee held the practice as unprocedural and inappropriate as such, reallocations would require approval of the Assembly.

The Committee recommends to the Assembly that the Council of Ministers should direct LVBC to regularize the anomaly by tabling a supplementary budget.

Accounting for Imprest

The Audit Commission reported that by the end of the year some of the imprest had been outstanding for more than a month (refer to Appendix II attached) without being retired, and some staff continued to receive imprest before retiring the outstanding one. The LVBC Management reported that the outstanding imprest was actually

accountabilities received but not posted to the respective accounts of the imprest holders. The delay was due to the low level of staffing in the Accounts Section.

The Committee noted that imprest should be retired within 7 days after the completion of an activity, and failure to do so is a violation of financial regulations. The Committee therefore recommends to the Assembly that the Council should direct that:

- (i) Imprest accounts should be carefully monitored and reviewed and necessary adjustments made.
- (ii) All funds not accounted for should be charged to the respective imprest holders and no fresh imprest should be issued before the concerned officers have retired the outstanding ones.

VAT Not Claimed

The Audit Commission reported that from a sample of the procurement transactions examined, some suppliers charged valued added tax (VAT) contrary to Article VI paragraph 4 of the Headquarters Agreement between the Government of the Republic of Kenya and the East African Community for the Lake Victoria Basin Commission. There was also no Debtors Ledger Account for value added tax as detailed in Appendix III of the Audit Commission report.

Mr. Speaker, the LVBC Management responded that VAT claimable of Kshs.915,076.62 (US\$12,201) was compiled and submitted to the Kenya Revenue Authority (KRA) through the Ministry of Foreign Affairs seeking recovery. The figure has not been included in the financial statements as a

debtor because no confirmation to refund the money has been received from KRA.

The Committee observed that this is a contravention of the Headquarters Agreement, and constitutes unnecessary expenditure to LVBC/ projects. The LVBC management should therefore enter the VAT claims in the books of accounts as a debtor.

The Committee was not satisfied with the response of the LVBC Management, and recommends to the Assembly that the Council of Ministers should: -

- (i) urge the Government of the Republic of Kenya to comply with the provisions of the Treaty, especially Article 138, and implement its obligations under Article IV, paragraph 4 of the Headquarters Agreement;
- (ii) Direct LVBC to incorporate the debtor in the financial statement.

Stale Cheques not being timely adjusted

Mr. Speaker, the Audit Commission reported that according to bank rules require the presentation of a cheque for payment within 6 months, after which it becomes stale. During the review of the MERECAP bank reconciliation, the Audit Commission noted that Cheque Number 0001 worth US\$4,000 issued on 27 July 2007, which, as at 30 June 2009, had become stale, still appeared in the list of cheques not presented.

The LVBC Management responded that, that situation was brought about because of the bank charging the wrong account. However, the error has since been corrected.

The Committee noted the matter with concern and blamed it on failure of LVBC to control and follow up with the bank since it failed to carry out regular (monthly) reconciliation of the bank statements.

Mr. Speaker, the Committee therefore recommends to the Assembly that the Management of LVBC should take charge of the internal control function and strengthen it appropriately.

Lack of Adequate Accounting and Internal Audit Staff

Mr. Speaker, this issue is recurring in almost all institutions and organs of the EAC. The Committee therefore recommends to the Assembly that the Council of Ministers should approve recruitment of staff in the Accounting and Auditing functions expeditiously.

THE AUDITED FINANCIAL STATEMENTS OF THE LAKE VICTORIA ENVIRONMENT MANAGEMENT PROGRAMME II (LVEMPII) FOR THE YEAR ENDED 30 JUNE 2009

Follow up of Previous Audit Findings

The Audit Commission reported that during the year 2007/2008, three issues, including two from the year 2006/2007, were raised, and that all the three issues were properly addressed and resolved.

Audit Findings and Recommendations of the Current Year

Accounting for Imprest

Mr. Speaker, as earlier mentioned in Part (VII) of this report, the Audit

Commission reported on the issue of imprest. In this particular case, imprest balances of US\$6,681 and US\$8,681 were shown as unaccounted for as at 30 June 2008 and 30 June 2009 respectively, despite the fact that the same members of staff with outstanding imprest balances continued to receive imprest replenishment.

The Committee reiterates its earlier recommendation on Part (VI), paragraph 6.2.2 on page 44 of this report.

Control over Payments

Mr. Speaker, the Audit Commission reported that LVEMP paid a sum of US\$14,825 to M/s Rajair Holidays Ltd by cheque number 100022 in respect of air tickets for officers attending a consultative workshop on Lake Victoria Water Release Policy. The Commission further noted the use of photocopies of the same invoices from the same supplier to support another payment of US\$12,143 made through a LVEMP Cheque number 100024, while the balance of US\$2,682 was paid through Cheque Number 300018 from the Safety of Navigation Project, making the total of the already paid sum of US\$14,825.

The LVBC Management reported that they had informed the supplier of this payment, and a credit note for the said amount issued. Furthermore, the LVBC Management has put in place a new measure to register all invoices received.

Mr. Speaker, the Committee noted that the second payment was made using two cheques, from different accounts, on a photocopy, and by split cheques, which could make audit trails difficult. The Committee also took note of the fact that

the institution still maintained the same supplier.

The issue of double payments consistently re-occurring further concerned the Committee. Mr. Speaker, sir, the Committee therefore recommends to the Assembly that: -

- (i) Such service providers should be blacklisted; and,
- (ii) Internal controls should be strengthened.

AUDITED FINANCIAL STATEMENTS FOR THE LAKE VICTORIA BASIN COMMISSION PARTNERSHIP FUND (LVBC-PF) FOR THE YEAR ENDED 30 JUNE 2009.

Mr. Speaker, the Audit Commission reported the depreciation of Property, Plant and Equipment of the Partnership Fund relating to computers and telecommunication equipment at the unrealistic rate of 20 percent for all assets.

LVBC Management responded that rate adjustment has been proposed in the new EAC Financial Policies and Procedures Manual, and management has no control over the timeframe of the decision making process of the East African Community.

The Committee was satisfied with the response of the LVBC Management, and urges the Council of Ministers to finalise all issues regarding the manuals.

AUDIT FINDINGS AND RECOMMENDATIONS OF THE CURRENT YEAR

Lack of Adequate Control over Payments and Recording Transactions

The Audit Commission reported that according to Part XIII, Regulation 75 of the Financial Rules and Regulations, the LVBC should maintain books of account and records, which is necessary for the proper recording of its transactions. However, contrary to this, the following weaknesses were observed: -

- (i) Some expenditure lines detailed on several payment vouchers examined had no General Ledger (GL) Codes;
- (ii) Imprest is issued without indicating the related imprest numbers to facilitate control and follow up during retirement of the same;
- (iii) A register of contracts is not maintained, and contracts are not sequentially numbered to facilitate follow up and enhance proper management of the contracts.

Mr. Speaker, the LVBC management appreciated the observation by the Audit Commission, but informed the Committee that the problem was a result of under staffing.

The Committee recommends to the Assembly that:

- (i) LVBC Management should maintain accounting and financial data and records in a complete and chronological order and in a manner that will facilitate verification and

- extraction of data for financial statements;
- (ii) A register of contracts should be established where contracts will be recorded and appropriately followed up.

Funds Transferred to National Focal Point Offices (NFPOs) Not Accounted for

Mr. Speaker, during the period under review, the unaccounted for funds from NFPOs amounted to US\$129,524.94 as shown in the table on page 51 of our report. I will not go into the details; members can go through the Table and see the balance that is not accounted for.

The Committee also commended the manner in which financing and management agreement was prepared and concluded, making it possible for the Audit Commission to audit the project in accordance with the requirements of the Treaty.

The Committee noted with appreciation the Management response but further recommended that LVBC Management continue following up on the unaccounted for funds from the National Focal Point offices.

Acknowledgements

Mr Speaker, before I conclude, I need to put on record that all the Audited Accounts of the EAC Organs and its Institutions were unqualified, meaning that we are moving in a positive direction. *(Applause)*

The Committee extends its appreciation to the following persons and institutions that enabled it to execute its mandate:

The Hon. Speaker, the Clerk and the entire management of EALA for the facilitation that enabled the Committee to finalise its work within the limited timeframe; *(Applause)*

The Secretary General, the DSG (F and A) and his technical teams from the Secretariat, the LVBC, and CASSOA, for availing themselves to clarify issues raised by the Audit Commission on Financial Statements of the EAC organs and Institutions; and,

The Audit Commission for fulfilling its obligations pursuant to the provisions of Article 134 of the Treaty, and for guiding the Committee on the Financial Statements of the EAC Organs and its Institutions.

Mr Speaker, I beg to move. *(Applause)*

(Question proposed)

The Speaker: Honourable Members, perhaps I should only allow hon. Kimura, even though I was going to say that only Committee Members should stand up

Ms Catherine Kimura (Kenya): Mr Speaker, thank you for the opportunity to contribute to this important discussion. Let me join my colleagues here in thanking the entire leadership of Burundi, including the National Assembly we are sitting in this afternoon, for the very warm welcome that they have given us, and for the good facilities that we are enjoying. *(Applause)*

Mr Speaker, let me also acknowledge the congratulations extended to us, the

Republic of Kenya for a well-conducted referendum. (*Applause*) I would also like to thank the Partner States for their support, and those who participated in the observation exercise, for giving us a clean bill of health. I would like to say that what Kenya has put in place as a new constitution is just the beginning for the rest of East Africa. We have set the pace. So I thank you all who have wished Kenya goodwill in this exercise. (*Applause*)

Mr Speaker, I want to echo the words of the Chairperson of the Committee that indeed we are heartened that the Accounts of the EAC have been given a clean bill of health. (*Applause*) We have clean audit reports for our institutions, and that is no small task, particularly when you go through the reports and realise the kind of challenges that the Organs and Institutions are facing.

The other thing that I want to commend the management of EAC for is that for the last three years, the Audit Commission has been pointing out a number of financial irregularities, but those have reduced considerably in the current audit report. (*Applause*) Three years ago, we had very many issues to deal with in the Accounts Committee, but most of them have now been resolved. However, I would also like to raise a critical issue raised repeatedly in other financial statements that we have dealt with. It is the issue of internal control.

We cannot overemphasise the important role of the audit function. We noted that because of weak internal controls, there were certain double payments, which could have been avoided. The Secretariat tells us that they are in the process of

recruiting the right people for this particular function, but it is difficult to understand how long it takes the Council of Ministers to approve a post for such an important function in the financial management of the EAC. The approval process seems to be taking forever, because it is now three years since the Committee recommended the strengthening of the audit department, but other people are being recruited, posts are being created, but the matter of the audit unit does not seem to be treated with the urgency it requires.

Mr Speaker, the external auditors rely very heavily on the work of the internal auditors. Where there is a weakness in the internal audit function, it means that even the external auditors will have difficulties in ensuring that the funds of the Community have been used in a manner that they should have been used. The internal audit function is the one that is the eye and ear for both this Assembly in its oversight role, and the Council of Ministers to ensure that the funds of the Community are properly used and accounted for.

The Audit Commission mentioned that this is a governance issue, and, therefore, I wish that the Council of Ministers recognise this, and ensures that the internal audit functions in a standard manner that is internationally recognised. It should be well equipped with the right people because this region has very qualified auditors and accountants. This is one area in which this region does not lack skills. Now with the Common Market in place, and particularly with the free movement of people, we should utilise this opportunity to ensure that the skills available in this region are fully

exploited. Therefore, we urge the Council of Ministers to make sure that the right people are put in place.

As a member of the Committee on Accounts, I will not go any further, but as I sit down, let me say it again that we are greatly heartened by the kind of financial statements that we have seen. I commend the management of the EAC for financial statements that indicate that the funds of the Community have been managed properly. The only thing that we are not happy about is the fact that there are some reports that have not been presented to the Committee on Accounts because the Audit Commission has not audited them as per the requirement of Article 134(1) of the Treaty. I think the Council of Ministers should address itself to this.

Thank you Mr Speaker and I beg to support the motion. *(Applause)*

The Speaker: Honourable Members, to allow you to read the 63-page report, I will adjourn the House so that you can read the report over the weekend. *(Applause)* But before I adjourn the House, I want to inform members that we will have a meeting for members of the Assembly. After I adjourn, I will do the necessary ceremonies and then come back. The meeting is only for the elected members and not ex-officio members. *(Laughter)*

ADJOURNMENT

The Speaker: I now adjourn the House until Tuesday, at 2.30 p.m.

(The Assembly rose at 3:45 p.m. and adjourned until Tuesday, 21 September 2010 at 2.30 p.m.)