



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

17TH SITTING – FIFTH MEETING – FIRST SESSION: FOURTH ASSEMBLY

Wednesday, 30th May 2018

*The East African Legislative Assembly met at 2:30 p.m. at the Mini Chamber,
County Hall Chamber, Nairobi, Kenya.*

PRAYER

(The Speaker, Mr. Martin K. Ngoga, in the Chair)
(The Assembly was called to order)

The Speaker: Procedural Motion,
honourable Fatuma Ndangiza.

PROCEDURAL MOTION

UNDER RULE 10 OF THE RULES OF PROCEDURE

Ms Fatuma Ndangiza (Rwanda): Thank you, Mr. Speaker, Sir. I beg to move a Motion for a resolution of the Assembly to hold its sittings in Kenya.

I beg to move:-

THAT, This House pursuant to the provisions of Article 55(1) of the Treaty and Rule 10 of the Rules of Procedure, do resolve to hold Sittings in Nairobi, in the Republic of Kenya.

(Ms Fancy Haji Nkuhi and Mr Jean Claude seconded)

The Speaker: Thank you, Ms Fatuma. Please, give the justification.

Ms Ndangiza: Thank you, Mr Speaker, Sir. Whereas Clause 1 of Article 55 of the Treaty establishing the EAC provides that the meetings of the Assembly shall be held at such times and places as the Assembly may

appoint; and, whereas Rule 2 of the Rules of Procedure provides that “The seat of the Assembly shall be at Arusha, in the United Republic of Tanzania and whereas Sub Rule 5 of Rule 10, provides that the meetings of the Assembly shall be held at such times and places as the Assembly may appoint and shall meet at least once in every year at Arusha in the United Republic of Tanzania at a time to be determined by the Assembly”; now, therefore, this Assembly resolves as follows:-

That, pursuant to the provisions of Sub Rule 5, Rule 10, cited above, the Assembly shall hold its sittings in Nairobi, in the Chamber of the County Hall from today, Wednesday 30th May up to Thursday, 14th June 2018.

Mr Speaker, Sir, I beg to move.

The Speaker: Thank you, honourable Fatuma. I do not think there is any need for further justification. The Motion is detailed enough.

(Question proposed)

Honourable Mbugua, you have the Floor. Please, be brief.

Mr Simon Nganga Mbugua (Kenya): Thank you Mr Speaker, Sir. On behalf of my Kenyan colleagues, I would like to take this opportunity to welcome Members to Nairobi. Please, enjoy the beauty of the flora and fauna of Nairobi. Nairobi is a good city. We have our national park, which is just next to us. You can go and enjoy the wildlife there. We also have *nyama choma* and good women; men you can savour them, but as you do so, make sure that you take care of yourself because they might run away with your clothes and per diem. So, on behalf of my colleagues, welcome to Nairobi. Let us continue with the spirit of integration by integrating more and getting to know one another more as we develop our Community.

I support the Motion.

Thank you.

The Speaker: Thank you, honourable Simon Mbugua. Let us have honourable Fatuma Ibrahim. Please, be brief.

Ms Fatuma Ibrahim Ali (Kenya): Mr Speaker, Sir, I also join honourable Mbugua from Kenya in welcoming Members to Nairobi in one of the senior countries of the EAC alongside Uganda and Tanzania. I believe that Members are keen to deliberate in this Fifth Meeting. I want to concur with the previous speaker that Nairobi is the ideal location to meet, interact and deliberate. Enjoy the precincts of our beautiful Parliament and the hospitality of Kenyans. I welcome all the EALA Members.

Thank you.

The Speaker: Thank you, honourable Fatuma Ibrahim. Honourable Fatuma Ndongiza, do you need to reply?

Ms Ndongiza: No, Mr Speaker, Sir.

The Speaker: Thank you.

(Question proposed)

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

WELCOME REMARKS BY THE SPEAKER

The Speaker: Honourable colleagues, I welcome all of you to the Fifth Sitting of the First Session. I thank you for your efforts and

vigour with which the Assembly continues to undertake its mandate. As you may be aware, this is an important session for us. We shall transact important business. We have continued to be lucky. As we said the last time we met in Dodoma, in our rotational arrangement we will be inviting Members of the Summit to come and address us on important issues about our integration process. I am glad to report that His Excellency, the President of the Republic of Kenya, President Uhuru Kenyatta, has agreed in principle that during our sittings here, he will create time to come and address us on a date to be confirmed. We thank him for that.

- (*Applause*)

I wish to also thank the Speakers of the respective Houses, the management and staff of Parliament of Kenya for availing and putting at our disposal all the facilities of the Parliament of Kenya. We are grateful. While on that, I condole with the Speaker of the National Assembly of Kenya, The Rt. hon. Justine Muturi, who lost his beloved mother over the weekend. May her soul rest in eternal peace.

Honourable colleagues, we are grateful to the almighty God for the good health of all the Members and Staff of this Assembly. This is something we should not take for granted. A good number of the Members had certain challenges during the last one month and the most notable challenge was the hospitalisation of one of our colleagues, honourable Aburu Mpurii. We pray for good health for each of us. We also understand that one of the Members, honourable Kim Gai, lost his father-in-law. We pray that the old man's soul will rest in eternal peace and we condole with our colleague.

INVITATION TO NATIONAL PRAYER BREAKFAST

Tomorrow, 31st May, 2018, is a National Prayer Breakfast for Kenya. EALA has been invited and I have dully nominated some Members to accompany me to the occasion at the Safari Park Hotel. The invitation to EALA is one. We shall be accessing the premises using one invitation card. I am going to give you the travel arrangement to that place. Those who will accompany me will be picked from their respective hotels and we shall converge at the Intercontinental Hotel, latest at 6.30 a.m. from where we shall travel together to Safari Park Hotel. This has to do with security arrangements that are in place because the Head of State will be coming to participate in the prayer breakfast. Therefore, it is important that we are punctual.

INVITATION TO MADARAKA DAY CELEBRATIONS

I have invited one Member from each chapter and the entire Kenyan chapter to accompany me to that engagement. On the same note, 1st June 2018 is Madaraka Day. When I was meeting his Excellency the President of the Republic of Kenya, he invited EALA to participate. Honourable colleagues, you know that when we have such a coincidence when we are meeting in a particular Partner State and they have national days, we have always participated. We did that in Uganda and Tanzania. I believe we will be able to participate in Madaraka day in Kenya, which will take place in Meru County. I will announce to you the travel arrangements to Meru.

INVITATION TO HOME- COMING
CELEBRATION
OF HON. PETER MUNYA

The following day, one of our colleagues, an ex officio Member, hon. Peter Munya who comes from Meru County will be having a homecoming function and he has invited us. I request that we go and participate in his home coming function and support him. We are all politicians and we know what that means. When you go back to your constituents to thank them for the support they continue to give you, you need to be flanked by your colleagues. It will mean a lot for our colleague, honourable Munya, if we will attend his homecoming function. We will also announce to you the travel arrangements for that function.

Finally, honourable colleagues, I will request that when we finish with this Plenary, we stay behind for not more than 20 minutes, to discuss some important issues in an informal way. It will not take long but they are of such(b) nature that we cannot discuss them here, but we need to discuss them before we disperse to our respective places. Therefore, I will(c) request that when we adjourn the House we stay behind for not more than 20 minutes.

(d)

Thank you.

Is there any brief comment that anyone wants to make about this communication even(e) though there will be an opportunity to do so at the end? I could welcome that at this point.

Thank you.

Next Order.

PAPERS LAID

AUDITED FINANCIAL STATEMENTS
OF THE EAC (ORGANS,
PROJECTS AND PROGRAMMES) FOR
FY YEAR ENDED 30TH JUNE 2017

The Second Deputy Prime Minister /Minister for EAC Affairs, Uganda and Chairperson, Council of Ministers (Dr A.M. Kirunda Kivejinja) (Ex *officio* Member): Rt. hon. Speaker, honourable Members, in accordance with the provisions of Article 134(3) of the Treaty for the Establishment of the EAC, I beg to lay on the table the following audited financial Statements of EAC Organs, Institutions and Projects and for the Financial Year ended 30th June 2017.

(a) The Audited Financial Statements of the EAC Secretariat and Projects.

The Audited Financial Statements of the EAC Medicine Regulatory harmonisation project.

The Audited Financial Statements of the EAC Financial Sector Development under Regionalisation project.

The Audited Financial Statement of the EAC Payment and Settlement system and Regularisation Project.

The Audited Financial Statement of the EAC Africa Capacity Building Foundation Project.

(f) The Audited Financial Statement of the EAC One Stop Border Post, Soft Infrastructure.

(g) The Audited Financial Statement of the EALA

(h) The Audited Financial Statement of the EACJ

(i) The Audited Financial Statement of the Lake Victoria Basin Commission.

- (j) The Audited Financial Statement of the Lake Victoria Environmental Management Project.
- (k) The Audited Financial Statement of the Civil Aviation Safety and Security Oversight Agency.
- (l) The Audited Financial Statement of Inter-University Council of East Africa.
- (m) The Audited Financial Statement of the Lake Victoria Fisheries Organisation.
- (n) The Audited Financial Statement of the East African Health Research Commission.
- (o) The Audited Financial Statement of the East African Science and Technology.
- (p) The Financial Statement of East African Kiswahili Commission.
- (q) The Audited Financial Statement of the East African Competition Authority.

Mr. Speaker, Sir, each of the organs, institutions and projects has a management letter, which forms an integral part of the Audit Report.

Mr. Speaker, Sir, I beg to lay.

(Dr Kirunda Kivejinja laid the documents on the Table)

The Speaker: Honourable colleagues, the audited Financial Statements of the EAC organs, Projects and Programmes for the Financial Year ended 30th June, 2017 is referred to the Committee on Accounts.

(The Reports were referred to the Committee on Accounts)

Dr Maghembe: Thank you, honourable, Speaker. On behalf of my Committee, I beg to lay on the Table:-_

Report of the Committee on Accounts on the EAC Audited Financial Statements for the year ended 30th June, 2016.

Thank you.

(Dr Jumanne Ngwaru Maghembe laid the document on the Table)

MOTION

THE EAC AUDITED FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE, 2016

The Second Deputy Prime Minister /Minister for EAC Affairs, Uganda and Chairperson, Council of Ministers (Dr A.M. Kirunda Kivejinja) (Ex officio Member): Rt. hon. Speaker, Sir, I beg to move:-

THAT, The EAC Audited Financial Statements for the Financial Year ended 30th June, 2016 be adopted.
I beg to move:-

(Dr Susan Kolimba, Ms Isabelle Ndahayo and Dr Jumanne Ngwaru Maghembe seconded)

(Chairperson Committee on Accounts spoke off record)

The Speaker: Please, move to a working microphone. The microphones at the front are working.

Ms Mary Mugenyi (Uganda): On a point of order, Mr. Speaker, Sir.

Honourable Mary Mugenyi, what is your point of order?

Ms Mugenyi: Mr Speaker, Sir, is it in order for the honourable Member to move the Report yet some of us do not have a copy of it? We may not be able to follow as he presents.

The Speaker: Fair enough. By show of hands, how many Members do not have the Report?

(Several Members put up their hands)

Was the Report distributed?

Honourable Members, please, allow me to do some administration about it so that we do not spend a lot of time on it.

Honourable Members, I hereby suspend the House for 10 minutes for the Reports to be distributed. Honourable Members, it is a brief break, not the normal adjournment.

(The House was suspended at 14.50 p.m.)

(The House resumed at 15.05 p.m.)

The Speaker: Honourable Members, I understand that the Chairperson of the Accounts Committee and our staff have been working hard to get copies done. The work has been going on until just a few minutes ago. Therefore, I want to assume that everyone has a copy now.

Thank you.

We regret the delay.

Chairperson Committee on Accounts, proceed.

The Chairperson, Committee on Accounts (Dr Ngwaru Jumanne Maghembe) (Tanzania): Thank you, hon. Speaker. I will now present my Committee's Report on the

Audited Financial Statements for the Financial Year ended 30th June, 2016. As you can see, Mr Speaker, and you indulged me before I begin reading the Report, the Report is over 147 pages long. It is the wish of the Committee that every quarry in this Report is disposed of herewith on the Plenary Floor. So, we are in for a bit of reading. I will do my best to condense my reading to about 70 to 80 pages. I will identify the query then go to the Committee observations and recommendations. However, on issues that are controversial that the Committee has asked me to specifically outline in detail, I will read them in their entirety.

Secondly, the issues are repetitive. For example, an issue such as low budget absorption by the institutions of the Community is something that repeats itself throughout the whole report. Therefore, once I have read the first 30 to 40 pages, you will notice the trend of repetition, therefore, you will allow me, honourable, Speaker to dispose of these issues a lot quicker.

Third, you will note that at the end of the Report, there are signatures of the Committee Members. Out of the 18 Members, I got 11 signatures. The Committee Members have begged me to explain that it was not a question of them refusing the Report but rather, this Report was done in such a hurry. We have been dealing with these issues for almost one month now and not all the Members were able to take part in all the meetings, especially the last meeting where some of the Members did not have an opportunity to sign. - *(Interruption)*

The Speaker: Sorry, honourable Ngwaru Maghembe, allow me to interrupt you.

Honourable Members, I understand the difficulties that may be associated with having to debate a Report that you have not

read entirely. I agree with the approach that the Chairperson of the Committee has proposed given the voluminous nature of this Report.

Therefore, because of that, today we will only have the moving and reading of the Report and the debate on the report will be tomorrow. This is for you to take time to read the report so that you do not rely only on what the Chairperson is going to read. He will not read everything. – (*Applause*)

Thank you.

Dr Maghembe: Thank you, Mr. Speaker, Sir for that direction. During the review and consideration of the Audit Commission Report on the Financial Statement of the EAC Organs and Institutions for the year ended 30th June 2016. Issues presented were examined and recommendations have been proposed.

The Community had a budget of US\$112,233,039 and the actual expenditure totalled to US\$59,664,208 hence an overall budget performance of 65 per cent. Overall, the financial position of the Community remained reasonably healthy, with sufficient liquid assets to meet its maturing liabilities as they fell due.

Largely across the EAC institutions, projects and Programmed have a big issue of budget absorption requiring proper budgetary planning, coherence and consistency in the budgeting process. An EAC single project unit is required to harness projects coordination of growing EAC projects. EAC Organs and Institutions did not recover from Revenue Authorities of Partner States accumulated VAT refund, leading to forfeiture of activities that could have been undertaken using the un-refunded VAT refunds.

Finally, gross irregularities were noted in recruitment and award of short-term contracts, a process that contravenes Staff Rules and Regulations and the Treaty. Similarly, many procurement processes in the EAC organs and institutions contravene procurement procedures.

Nevertheless, the Accounts were presented fairly, in all material aspects, the financial position of EAC Organs and Institutions for the year ended 30th June 2016; their financial performance and cash flows for the period were in accordance with International Public Sector Accounting Standards (IPSAS).

PART I

1.0 INTRODUCTION

In accordance with the provisions of Article 134 (3) of the Treaty for the establishment of the EAC (EAC) and rules 74(i) and 8(i)(c) of the Rules of Procedure, the Chairperson of the EAC Council of Ministers on 18th April, 2018 in Dodoma, the United Republic of Tanzania laid before the Assembly the following reports of the Audit Commission:

- (i) The Audited Financial Statements of the EAC organs, projects and Programmes for the year ended 30th June, 2016;
- (ii) The Audited Financial Statements of the Lake Victoria Basin Commission (LVBC) for the year ended 30th June, 2016;
- (iii) The Audited Financial Statements of the Lake Victoria Environmental Management Project II (LVEMP II) for the ended 30th June, 2016;

- (iv) The Audited Financial Statements of the Lake Victoria Basin-Partnership Fund for the year ended 30th June, 2016;
- (v) Audited Financial Statements of the Inter University Council for East Africa (IUCEA) for the year ended 30th June, 2016;
- (vi) The Audited Financial Statements for the Lake Victoria Fisheries Organisation (LVFO) for the year ended 30th June, 2016; and
- (vii) The Audited Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the year ended 30th June, 2016.

In accordance with Rule 74(1), Rule 81 (c) and Annex 5 (A) of the Rules of Procedure of the Assembly, the Rt. Hon. Speaker referred the reports to the Committee on Accounts for review. The Committee met for this purpose and produced a report.

The report covers the Committee's findings and recommendations on the main issues raised. This Report is sub-divided into eight (8) parts. They are enumerated and defined as it appears in the Report.

PART II

AUDIT FINDINGS ON THE CONSOLIDATED FINANCIAL STATEMENTS OF THE EAC ORGANS, PROJECTS AND PROGRAMMES

2.0 CURRENT YEAR AUDIT FINDINGS AND RECOMMENDATIONS

2.1 EAC SECRETARIAT

2.1.1 Follow up of the previous year's audit recommendations at EAC

The Audit Commission reported that the assessment of the status on the implementation of the previous audit recommendations of the last two years revealed that 41 per cent of the audit recommendations made in the 2013/2014 audit were not implemented while 57 per cent of the audit recommendations made in the 2014/2015 were not implemented.

The Committee noted non-implementation of some of the previous audit recommendations leads to persistent weakness in the internal control system of the Community.

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

1. Ensure that the different organs, institutions and projects fully and promptly implement Audit recommendations across the EAC in order to ensure that the Community resources are prudently, meaningfully put to good use. Develop a mechanism of tracking the implementation status of the audit recommendations.
2. Subject approval of funds to various Organs and projects to the implementation of the audit recommendations for audit issues, which are within one year's financial audit exercise. A certificate of implementation of previous audit recommendation must be issued before funds are disbursed to the respective Organs, Institutions and projects.

2.1.2 Fully depreciated assets still in use

Side bar; this is one of the issues that you find is reoccurring. Therefore, I am going to deal

with it fully here. Later I will gloss through it.

A review of the EAC Secretariat Fixed Assets Register revealed that assets totalled to 1,701 items worth US\$3,153,792.53 were fully depreciated yet they were still in use as at the time of the audit. When the EAC Management interacted with the Committee, they concurred with the Audit finding and informed the Committee that management has subsequently undertaken an asset evaluation exercise in order to update the asset inventory of the EAC.

Committee Observations:

The Committee observed that having to maintain a Fixed Assets Register totaling to 1,701 depreciated items leads to the Community to incurring high maintenance costs and loss of space.

There is no policy in place to guide asset management in the EAC.

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

1. To ensure that fully depreciated assets are disposed of immediately in order to avoid the Community incurring depreciation storage charges.
2. To immediately initiate and commission an asset evaluation and inventory exercise with a view of assessing the assets that are still of economic value to the Community.
3. As a matter of urgency the Council should put in place an EAC policy on management of assets.

2.1.3 Delay in payment to Creditors

The Audit Commission report pointed out that as at 30th June 2016, an amount of US\$ 667,763 representing 18.60 per cent of total creditors had not been paid contrary to regulation 83 (6) of the EAC Rules and Regulations.

Committee Observations:

(i) Whereas the Committee appreciates the current financial challenges facing the Community, delayed payments not only reflect negatively on the image of the Community but also can have a negative effect on the businesses of the creditors and threaten their survival.

(ii) None payment of creditors can lead to arbitration and litigation costs.

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

(i) Ensure timely and prompt payments to creditors of EAC Institutions and Organs.

(ii) To put in place prudent public financial Commitment and expenditure mechanisms whereby before any specific vote controller commits the Community, the funds for that specific line item budgeted for must be in place.

2.1.4 Outstanding VAT Claimable

This issue is under all the Institutions of the Community.

During the year under review, it was noted that the Community did not recover from the relevant revenue collection bodies outstanding VAT claimable amounting to US\$1, 579,538 contrary to Article 4 Section

1 Sub-Section (d) of the EAC Headquarters Agreement.

The Committee observed that non-recovery of the funds from the revenue collection bodies in Partner States, accumulated VAT balance amounting to US\$1,579,538, is depriving the Community of the scarce resources to implement its Programmes and activities.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to liaise with their respective Ministers responsible for finance to ensure that the issue is brought to their attention such that the VAT refunds are promptly remitted to the Community.

2.2 REVIEW OF EXPENDITURE

2.2.1 Avoidable Expenditure

During the Audit, some avoidable expenditure amounting to US\$29,630 was noted. A number of meetings involving EAC staff were held in Nairobi and Machame in Moshi respectively, which could have been held at the EAC complex in Arusha. The expenses were mainly made up of the daily subsistence allowances and conference facilities for meetings.

The Committee concurred with the response the Management provided and recommends to the Assembly to urge the EAC Council of Ministers to endeavour to hold meetings in the Community premises in Arusha Tanzania in order to save Community resources.

2.2.2 Unauthorised Expenditure

The audit revealed that a sum of US\$ 29,360 was paid to police officers guarding the EAC Headquarters without the appropriate authorisation.

The EAC Management informed the Committee of the importance of provision of security to the EAC Headquarters complex. They further explained that the duty of providing security to a foreign/international mission like EAC is the mandate of the host country. In this case, the United Republic of Tanzania, specifically the Tanzanian Police force provides armed security personnel whereas KK Security provides non-armed security personnel and the security vetting machines and equipment. A token of US\$10, per shift per officer, is given to the Tanzanian Police for the service rendered.

The Committee Observations:

Whereas the Committee appreciates the necessity and importance of maintaining security at EAC premises to protect the assets, facilities, and safety of the Community, authorising payments, which are not formally approved and authorised, is against regulation 7(1) and 12(2) of the EAC Financial Rules and Regulations (2012). The Committee considers this payment irregular.

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

- (i) Establish a formal and structured engagement with the Government of the United Republic of Tanzania on how security can be maintained at the EAC premises.
- (ii) Establish a formalised payment system for the security personnel providing security at EAC premises including electronic transfer of funds to their respective bank accounts.

2.2.3 Short-term employment contracts without sufficient funds

The Audit Commission reported that the EAC Management signed two short-term contracts with Mr Lubili Macro Gambamala and Ms Nadine Bizimana in October 2014, for monthly salary of US\$4,000 and US\$1,000 respectively. Both contracts were for one year ending by 26th November 2015. The officers were not paid until the end of the contract (November 2015) when they were paid a lump sum of US\$48,000 and 12,000 for the whole contract period respectively. Available documents indicate that the officers were given contracts expecting that they would be paid funds from a Development Partner's fund, but later the donor withdrew funding, and ended up being paid using EAC Secretariat Budget.

Committee observations:

- (i) The Committee observed that lack of formalised structure in policy for short-term contracts was susceptible to abuse and corruption.
- (ii) The Committee further doubted the explanation given by the management of the EAC in regard to the rationale of keeping staff for one year without pay.

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

- (i) To put in place a formal and structured policy to govern short term contracts
- (ii) To put advertisements for the short-term contracts in all the major newspapers including use of electronic media across the Partner States as directed in regulation 23(2) of Staff Rules and Regulations.

- (iii) To borrow the best practices from the African Union and the United Nations regarding the management of short contracts.
- (iv) Before any vacancies and contracts for short term are filled or renewed the above recommendations or any other pertinent recommendations which Council deems necessary should first be reviewed.

2.2.4 Short term Employees still engaged by EAC Secretariat

A review of documents regarding short term employees as of 30th June 2016 revealed that some employees at EAC were appointed on short term contracts for a period of more than 6 months and that there were no rules and regulations in place to govern short term contract employment. Furthermore, there was no evidence that interviews were done for the initial contracts, contrary to principles of competition and transparency in process of recruitment and regulation 23(14) of the staff rules and regulations. It was further noted that the organisation incurred costs amounting to US\$736,250 as salaries paid to staff who were appointed on short-term contracts.

Committee Observations:

- The Committee observed that having staff accessing employment at the EAC without following the internationally competitive recruitment procedures portrays the Community in bad image and yet it is supposed to be the beacon of established good governance practices.
- The Committee further observed that this issue has been recurrent. The Committee could not comprehend how personnel can access employment in any of the EAC,

organs, and institutions without undergoing a formal interview process. This is susceptible to abuse and corruption and contravenes Regulation 23 (14) of the staff rules and regulations (Appointment Authority and Procedures) which directs that all appointments at the Community shall be subject to interviews.

- The Committee was not in agreement with the response of the Management that the short-term staff is a temporary measure as the Community awaits the completion of the institutional review and the job evaluation and analysis by the ad-hoc Service Commission. The regulation, which the Management based on to recruit short-term employees, does not mandate them to undertake recruitment. It calls for the Human Resource Advisory Committee to provide advisory services on human resources matters but not to undertake recruitment of staff in the Community

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

- Direct the Secretariat to comply with staff rules and regulations and stop recruitment and renewals of short term contracts in all departments, organs, institutions of the EAC and
- Convene the Service Commission to phase out short term contracts and draw a road map to fill all positions that were previously held by short-term contract holders with substantive staff.

2.3 REVIEW OF PROCUREMENT & CONTRACT MANAGEMENT

The first item is of great interest to the Committee and the Members. So, bear with me, I will read it in entirety.

2.3.1 Award of contract for EAC Staff Medical Insurance to M/s AAR Insurance at US\$545,628.5

The Audit Commission reported that the Procurement Policies and Procedures Manual (2011) clause 6.2.2, states that a contract shall be awarded to the qualified bidder whose bid substantially conforms to the requirements set forth in the solicitation documents.

Furthermore, Financial Rules and Regulations 77(1) of 2012, states that evaluation of tenders shall be conducted in accordance with the methodology and criteria stated in the bidding documents and shall not be altered during the evaluation process.

The Committee was informed that during the year under review, EAC undertook a procurement process to engage a service provider for staff medical insurance. Only two bidders submitted their bids and the Procurement Committee recommended and awarded the contract to M/s AAR Insurance on 27th June 2016. Documents relating to the procurement process of this contract were reviewed and the following anomalies were noted

- The tender was advertised for 30 days (i.e. from 17th April 2016 to 16th May 2016). This was contrary to the procurement manual 6.2.1 which states that bidders shall have a minimum of 45 calendar days from the date of initial publication to respond to an open call for bids. This happens quite regularly in all the procurements. They wait for 30 days instead of doing it at after 45 days.
- Under preliminary evaluation; on the criteria of audited financial statements for the last three years, (2013 to 2015) audit noted that M/s AAR Insurance in their bid document did not submit audited financial statements for 2015. The Evaluation Committee proceeded to state that the two bidders passed the

preliminary examination yet M/s AAR Insurance had not submitted all the required mandatory document (2015 audited financial statement) as per the TOR and thus should not have proceeded to the technical evaluation stage.

- Under technical evaluation stage; on the criteria of evidence of 5 clients with premiums of US\$500,000 and above and prompt claims settlement, the evaluation team evaluated Jubilee Insurance (bidder No.1) as having failed yet a review of the firms' bid document revealed that the firm had indeed attached the required evidence. On the other hand, AAR Insurance was evaluated as having passed based on the two noted criteria's yet a review of their bid document found no proof that AAR Insurance did provide evidence of five clients with premiums of over US\$ 500,000. This unfair evaluation put Jubilee Insurance at a disadvantage contrary to the provision of section 2.4.3.1 in the procurement manual, which requires that procurement processes be carried out with fairness.
- Since M/s AAR Insurance did not submit their previous year's (2015) audited financial statements, gross premiums in the previous year of at least US\$5million in medical insurance could not be confirmed. The firm did not provide evidence for accommodation for parent/guardian accompanying a child below seven years and AAR members would not be allowed to access out-patient services from in patient hospitals yet these were technical features in the TOR that were to be met by the winning bidder. Furthermore, the bidder provided a paid up capital of US\$ 416,285 which was way less than the required paid up capital of at least US\$5 million. Despite this material deviation from the requirements in the TOR for this tender, AAR was recommended to have passed the

technical evaluation and even recommended for award of the contract.

- Grid of evaluation: It was also noted from the evaluation report that the evaluation team did not consider the technical criteria given in the bidding document.
- Lack of quorum in the Procurement Committee that awarded the tender to M/s AAR Insurance.
A review of the 20th Ordinary Procurement Committee meeting held on 9th June 2016 revealed that the procurement team that awarded the tender to M/s AAR Insurance comprised of three members contrary to requirements of section 3.4.1.4 of the procurement manual, which states that the quorum for procurement meeting shall be five out of seven.

At its meeting with the Committee, the EAC Management reported that the tender Committee was advertised for 30 days instead of statutory 45 days because the request was forwarded late to the Procurement Office. The Director of Human Resources Department at the EAC Ms Ruth Simba admitted that there was a shortcoming on the part of the Human Resources department for initiating the procurement late.

The Committee observed that the above situation could not have arose if EAC was following a procurement plan. The Committee further noted that this was deliberate and it was designed to flout the procurement guidelines to facilitate the fraudulent process through which AAR was awarded the tender.

Committee Observations:

- (i) Non-compliance with procurement procedures in force may have denied

EAC the benefit of purchasing services of high quality at prices that are competitive.

(ii) The Committee further observed that despite material/substantial deviation from requirements in the Terms of Reference for this tender; AAR was still recommended to have passed the technical evaluation and was even recommended for award of the tender.

(iii) There was violation of regulation 43 of the financial rules and regulations of the Community, which prohibits fraudulent practices, corruption and other unprofessional tendencies.

(iv) The evaluation team did not consider the technical criteria given in the bidding document.

(v) There was lack of quorum in the procurement Committee that awarded the tender to M/S AAR on 9th June 2016 only three members out of seven were present instead of five out of seven.

(vi) Non-compliance with procurement procedures undermined the fundamental principles of transparency, value for money and fairness in management of the Community funds and this further undermined the quality of service.

COMMITTEE RECOMMENDATIONS:

- The Council of Ministers should institute a forensic audit into this procurement with a view of taking punitive action against those who were involved in this procurement exercise. During this special audit the following Officers of the EAC should be investigated and held accountable for presiding over what appears to be a fraudulent procurement process;

- Mr. Ochwada Joseph former Director of Human Resource for initiating the procurement process request in 30 days when the regulations stipulated 45 days.

- Mr. Anjimbi Ponventra, Senior Procurement Officer and Head of Procurement at the EAC, for presiding over a botched procurement process.

- The procurement Committee members that awarded AAR the tender.

At this juncture in the report, we were supposed to give names. Forgive me for that.

1. The Council of Ministers should ensure that Contract Managers are put in place to manage and follow up on the procurement processes.
2. The EAC Management should strictly adhere to the Procurement plan to ensure that the stipulated dates and guidelines spelt out in the procurement guidelines are followed.
3. The EAC Management should ensure strict adherence to the procurement policies and procedures.
4. The EAC Management There is need to review the legal framework to streamline all procurement procedures and processes in the EAC.
5. AAR should be investigated for allegedly colluding in this procurement contract;
6. The Secretary General should present quarterly reports on the implementation of the Assembly directives and recommendations.

2.3.1 Award of tender for EAC group Life insurance and personal accident cover to M/s BRITAM insurance at US\$480,008.

1. The Audit Commission observed the following in the of award of tender for EAC Group Life Insurance and Personal Accident cover to M/s BRITAM insurance at US\$ 480,008;
2. The tender was advertised for 30 days (i.e. from 17th April 2016 to 16th May 2016). This was contrary to section 6.2.1 the procurement manual which states that bidders shall have a minimum of 45 calendar days from the date of initial publication to respond to an open call for bids.
3. Under preliminary evaluation, the evaluation report recommended that all the seven bidders met the preliminary requirements. However, review of the bid documents especially for the four firms recommended for further evaluation noted that; on the criteria of audited financial statements for the last three years, (i.e. 2013 to 2015), Liberty Life Assurance (K) Ltd submitted incomplete financial statements for the last three years whereas Jubilee Insurance did not submit audited financial statements for the year 2015.
4. Under technical evaluation stage, four firms namely Britam Life Assurance, Liberty Life Assurance (K) Ltd, ICEA Lion Assurance and Jubilee Insurance were evaluated to have met the technical requirements and were recommended for further evaluation. Review of their bid documents revealed the following anomalies. These anomalies are similar; you can read them as they are enumerated in the Report.

5. In light of the anomalies in the bidders failing to meet the necessary criteria as stated in the TOR document on technical evaluation, the four firms should not have proceeded to the financial evaluation stage.
6. The grid of evaluation is similar to the AAR one.

The Committee made the following observations:-

1. In light of the above noted anomalies, the bidders failed to meet the necessary criteria as stated in the TOR document on technical evaluation, the four firms should not have proceeded to the financial evaluation stage.
2. The contract for provision of group life insurance and personal accident cover expired on 30th June 2016. EAC commenced a procurement process to engage a service provider for the group life insurance and personal accident cover of EAC staff for the Financial Year 2016/2017.

COMMITTEE RECOMMENDATIONS:

1. The Council of Ministers should institute a forensic audit into this procurement with a view of taking punitive action against the officers who were involved in this procurement exercise.
2. The EAC should adhere to the procurement process and should strictly observe the guidelines as stipulated in the bidding document and the EAC procurement policies and procedures manual, 2016.
3. The evaluation team should ensure that they consider the technical criteria given

in the bidding document for easy ranking of bidders.

2.3.3. Irregular revocation of notice of award of contract to M/s Britam Insurance and extension of six months contract to M/s Liberty Life Assurance Co. (K) Ltd

The audit of the procurement process of the staff group life insurance and personal accident cover further revealed that:

1. Negotiations with the best-evaluated bidder M/s Britam Insurance were held on 23rd June 2016 and the outcome was approved by the 53rd extra ordinary procurement meeting on 27th June 2016.
2. On the 28th June 2016 a notification of award of the contract for the provision of EAC group life and personal accident Insurance was sent to M/s Britam Life Assurance Company (K) Ltd, and in their letter dated 4th July 2016, they acknowledged the award and informed EAC that they had opened an account with effect from 1st July, 2016.
3. On the 8th July 2016, EAC secretariat revoked and rescinded the letter of notification of award of contract to M/s Britam Life Assurance dated 28th July 2016 and no justification was given for the cancellation.

On the same day, 8th of July 2016, EAC extended the contract for group life and personal accident Insurance to Liberty life Assurance (K) who was the third best evaluated bidder and who did not meet the preliminary and technical specifications as contained in the TOR bidding document on unclear circumstances, as there were no procurement minutes to justify the decision for extension of the contract nor the terms of engagement with Liberty life Assurance (K) for a period of six months.

Committee Observations:

1. The decision to revoke the award of contract to M/s Britam with no detailed reasons nor recommendation from the Procurement Committee contravened provisions of the EAC rules and regulations. The executive decision to extend the contract of provision of group life to Liberty life Assurance without following due procurement procedures was a serious contravention to the provisions of the EAC and is an indicator of lack of a transparent management system and a procurement unit that is operating outside its mandate.
2. The failure by the Management of the Community to officially communicate to M/s Britam informing them of EAC's position of extending the contract to M/s Liberty life Assurance (K) who was party to the tender process and emerged third best exposed the EAC at a risk of facing litigation by the firms that participated in the tender.
3. The Committee further observed that the implication of this non-compliance with procurement procedures in force meant that, the EAC was denied the benefit of purchasing goods and services of high quality at prices that were competitive.

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

- (a) Institute a Forensic Audit against the officers who were involved in this procurement exercise.
- (b) Ensure that a proper planning and structured procurement calendar should be put in place to ensure that procurement process are initiated way

before the expiry of the existing procurement contracts in order to avoid a vacuum.

- (c) Direct the EAC Management to adhere to existing rules and regulations to avoid unnecessary loss of Community resources.

2.3.4 Supply and installation of the Assets management Software- US\$102,924

The Audit Commission revealed that the EAC contracted M/s Impax Business Solutions on 2nd June 2015 to supply and install an asset management software at a contract price of US\$102,924.

A number of procurement issues arose; they are captured there.

Appearing before the Committee, the EAC Management reported that the procurement was guided by the procedures and practical guide (PRAG) of the European Commission, not the EAC Procurement Regulations. It was further revealed that the procedure used was a competitive restricted tender procedure, which was carried out in close consultation with the EU delegation who gave no objection at every stage of the procurement.

The Committee observed that non-compliance with the procurement procedures might have denied the Community the benefit of high quality services at prices that are competitive. This undermined the fundamental principles of transparency, efficiency, economy and fairness in the procurement process and in the management of Community funds.

The Committee recommends the Assembly to urge the Council of Ministers to direct the EAC Management to always ensure compliance with procurement procedures in

dealing with all procurements of goods and services in order to enhance compliance and transparency and obtain high quality services at reasonable prices.

Honourable Members, the trend of procurement anomalies continues this way. It is wide spread procurement anomalies and the rules were not followed. I have read three of them, but from here on, I will go to the recommendations to save time.

Pardon me, honourable Members; my document is different from yours because I had to mark it for my own purposes. They added a table of contents.

The Speaker: Well, it is the same document. You should always assist Members to know where you are going.

Dr Maghembe: My apologies for that. The query is No. 2.3.5 page 28.

The Speaker: Mentioning the page will be much easier. When you skip some details, always give the page number so that they follow.

Dr Maghembe: We are on page 28, audit query No. 2.3.5

Supply of ten Del laptops and printers by M/s. JR Electronics Limited at US\$ 14,509

During the year under review, the following anomalies were noted in procurement of 10 laptops and printers by M/s JR Electronics Ltd at US\$14,509:

- Instead of restricted tendering (from US\$10,000 to US\$49,999); request for quotation (from 1,000 to 9,999) was used;
- Supporting documents had mismatching dates, which brings doubts to the genuineness

of the documents contrary to regulation 66(3) of the Financial Rules and Regulations.

- There was no proof that all the bidders were requested to submit their quotations.

The Committee observed-

1. None adherence to procurement and Financial Rules and Regulations.
2. Unfair award of the contract due to lack of competition.

As in all procurement transactions, the Committee recommended that Management should at all times ensure that procurement and financial regulations are strictly adhered to.

2.3.6 Supply of office furniture for Kiswahili Commission in Zanzibar– US\$29,845

The audit finding revealed that M/s. Mbasha Holdings supplied furniture to the Kiswahili Commission at a cost of US\$29,845, under restricted tendering method of procurement. The following anomalies were noted:

1. Lack of evidence that the request for quotation was sent to three firms.
2. The bids were opened by two staff (procurement assistant and a hardware technician), contrary to regulation 3.4.2(3&4). That states that the procurement unit should not have any Members opening the bids.
3. Non-use of the evaluation grid despite having been provided, contrary to Regulation 8.5.2(1).
4. Lack of contract management file, no proof of contract manager to monitor and certify the performance of the contract.

The Committee observed-

- Non-compliance with the procurement procedures may have denied the Secretariat

the benefit of purchasing goods of high quality at prices that are competitive.

- The Directorate of Finance approved the procurement payments despite the obvious anomalies in the procurement process.
- There was lack of evidence that requests for quotation were sent to three firms and that two tenders from M/S Sherry Furniture and Mbasha were received and evaluated.
- The Procurement regulation provides that a bid panel as appointed by the Secretary General shall have at least three staff members who shall not be members of the staff of the Procurement Department or originating unit. To the contrary, only two staff in the procurement department opened the bids.
- There was lack of Management File.

The Committee was not convinced with the response of the EAC Management and recommended that the Council of Ministers:-

1. Institute disciplinary proceedings on the Director of Finance for processing payments, which did not meet the procurement guidelines.
2. Management should comply with the procurement procedures and guidelines while dealing with all procurements of goods and services in order to enhance compliance and transparency and to obtain high quality goods and services at reasonable prices.

2.3.7 Consultancy services for the preparation of regulations for the EAC One Stop Border (OSBP).

During the year under review, the audit noted that the EAC management signed a contract with M/s Corridor development Consultants

(Namibia) of US\$222,952.8 for the preparation of regulations for the EAC one-stop border posts for duration of twelve (12) months from 12th July 2014 to 24th July 2015. There was however, no proof that consultancy services had been completed by the time of the audit in November 2016.

The EAC Management reported that M/s Corridor Development Consultants completed their work in August 2015 and the Council approved the Regulations prepared in February 2016.

The Committee observed that:-

1. EAC did not obtain value for money of the consultancies undertaken. Delays of deliverables denied the Community timely implementation of one stop border post for all EAC Partner States, leading to underperformance of the planned activities.
2. Paying the consultant using EAC Secretariat funds instead of the Partnership Fund indicated lack of proper budgetary control.
3. The Committee further observed that the regulation, which the management of the EAC used to pay the money to M/S consultants, was fraudulent and the level of impunity and the casual manner in which the staff of the Community contravened the procurement regulations is an indicator of lack of a seriousness and commitment.

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

- (i) Make appropriate follow-ups to ensure that execution of the required services are completed without further delay;

- (ii) Institute disciplinary proceedings against the staff who were involved in this procurement.

2.3.8 Irregular Procurement for meeting expenses – US\$118,433

- (i) The Audit Commission observed that several tenders amounting to US\$ 118,433 were awarded by direct procurement contrary to Section 6.6.5.i of procurement policies.
- (ii) Besides, most suppliers did not appear on the prequalified list of suppliers and service providers for the period. Some of the tenders were awarded without involvement of Procurement Committee Members.

I am now going to skip the next paragraph and move to the Committee observations next page.

The Committee observed non-compliance with procurement procedures in force denied EAC the benefit of purchasing goods and services of high quality at prices that are competitive.

The Committee recommends to the Council of Ministers that the EAC Management should streamline the operations of the procurement unit such that all procurements are handled as per the procurement manual in order to enhance compliance and transparency.

2.3.9 Supply and installation of CCTV cameras and Biometric finger print access control systems

1. The Audit Commission reported that the contract for the supply and installation of CCTV cameras and Biometric finger print access control systems for Secretary

General's Office and EAC server room was given to M/s. Sentinel Alarms. Consequently, a payment of US\$13,490 was made to the supplier. The Audit Commission noted the following anomalies. They are noted there and I am going to skip them.

2. When the Committee interacted with the EAC Management, they informed the Committee that the procurement requisition was raised on 31/03/2015 after receiving the approval memo from DGS F&A. The Direct Procurement method was used and was approved by the Procurement Committee on 15th May, 2016.
3. The Management further clarified that the quotations given by M/s Scantronic Technical Systems and M/s Security World Technology on diverse dates were not part of the bidding process but request for Information (RFI) therefore the discrepancy in dates did not apply to this bidding process, which was a direct procurement procedure.
4. Management, however, concurred with the Audit finding that EAC had a contract with M/s AVTECH Systems Ltd for supply and installation of Security equipment. This contract faced problems and it was handed over to the Counsel to the Community (CTC's) Office to commence legal action against the contractor. Due to the risk that the headquarters was being exposed to due to incomplete contract between EAC and AVTECH Systems Ltd, selected measures needed to be urgently implemented which were approved by the management before the installation of the systems were completed.

5. They informed the Committee that the urgency to secure the Secretary General's Office and the server room which are very crucial offices in the Community necessitated the action management had to take.

The Committee made the following observations:-

1. The presence of irregularities noted makes the supporting documents for this procurement doubtful and implied that the procurement was not subjected to competition to benefit from competitive prices and better quality services.
2. The EAC Management is in the perpetual habit of flouting procurement regulations while hiding under the defence of "emergencies".
3. EAC Management failed to justify the threats that existed in order for it to flout the procurement processes.
4. The non-participation and involvement of (CTC) in the procurement processes of the Community denies EAC an opportunity of ensuring that the tenders and contracts are legally scrutinised.

COMMITTEE RECOMMENDATIONS:

1. Management is advised to always ensure adherence to all procurement procedures.
2. The Committee recommends that for any contracts and procurement of the Community, the Counsel to the Community should issue a certificate of compliance in order to ensure that procurement guidelines and regulations are adhered to.

2.3.10 Consultancy services of a due diligence on staff within the employment of the EAC

The Audit Commission reported that EAC signed contract with M/s Ernest and Young (Uganda) amounting to US\$55,225 for consultancy services to undertake a due diligence on staff within the employment of the EAC. The completion of each contract was supposed to be sanctioned by submission of final report for approval. The duration of the agreement was twelve (12) weeks starting from 25th August, 2014 to 22nd November, 2014. However, the Audit noted that the consultancy services were not completed within the contract period as specified in the contracts.

When the Committee met the Management of EAC, it was informed that there was a delay in completion of the due diligence exercise due to late responses from the various training institutions and others were reluctant to divulge any information without the consent of the staff whose information was being requested. The timeline initially set did not anticipate those challenges. However, the final due diligence report was finally submitted to the Secretary General.

The Committee observed that EAC might not have obtained value for money on the consultancies undertaken. The delays of deliverables required under the contract signed with the consultants imply that the EAC was denied the opportunity to enjoy the benefits accruing from the consultancy at the appropriate time.

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

1. EAC Management make appropriate follow up to ensure that execution of the

required services are completed without delay.

2. All contracts should have a provision of liquidated damages in case of delay by service delivery.

2.3.11 Signing of the contracts after bid validity period

The Audit Commission reported that payments amounting to US\$ 109,225 were made to suppliers/service providers without signed contracts between EAC management and suppliers. The services were therefore rendered without duly signed contracts and as such, they could not ascertain the terms under which the services were provided contrary to Section 10.2.1 of the EAC Procurement Policies and Procedures Manual 2011.

I will skip that paragraph and go to the Committee observations.

The Committee made the following observations:-

- Lack of adequate supporting documentation.
- Non-involvement of the Office of the CTC in the procurement processes at the EAC makes the procurement processes vulnerable to possible litigation in cases where the procurements are contested by the both parties.
- Absence of a Contract Manager makes it difficult to follow and implement the procurements decisions; and
- Limited presence of the internal auditor in the procurement processes at the EAC.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that

1. For better management of Community funds, all expenses incurred by EAC should be adequately supported by the necessary documents.
2. The Management of the Community should endeavour to ensure that the contracts are signed within bid validity period.
3. The Management should ensure that all procurements at EAC have a Contract Manager to ensure their implementation and follow up.

2.3.12 Expenditure on the study on developing the framework for monitoring the EAC convergence criteria by Central Banks.

The Audit Commission reported that a payment of US\$20,000 was made to Mr. Audace Niyonzima on 15th December, 2015 for the study on the developing a framework for monitoring the EAC convergence criteria by Central Banks. The audit noted that two similar payments of the same amounts were made but the payment vouchers were not reviewed as they were reported taken by Alex Kamukara. The payment was supported by an engagement letter signed by both the DSG (P&SS) and Mr. Niyonzima on 18th March, 2015, an LPO and an invoice dated 24th June 2015 and 29th May 2015 respectively.

Audit was however not provided with documents in regard to competition and the performance report by the Contract Manager to verify that the consultancy was competed for and properly performed and value for money was achieved.

I will skip the next two paragraphs and go to the next page on Committee observations.

Committee Observations:

1. The fact that the procurement process was not opened to other competition to allow in other players, flouted the procurement procedures. Many experienced consultants may have been procured for a cheaper price.
2. The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of the EAC should adhere to procurement guidelines for consultancy services.

2.2.13 Tenders awarded to Non-prequalified Suppliers – US\$ 218,364

Audit reported that that the Secretariat procured goods and services worth US\$218,364 from suppliers that were not pre-qualified to provide the services to the Community, contrary to regulation 67, the Financial Rules and Regulations and the EAC Procurement Manual 2011 Section 2 (1), (3).

Committee Observations:

The Community exposes itself to risks associated with non-prequalified suppliers, as they are not committed to offer the best quality goods and services at competitive prices.

Committee Recommendations:

The Committee urges the Assembly to advise the Council of Ministers to ensure that;

1. Management should ensure that the procurement unit adheres to the procurement regulations and engages only prequalified suppliers as per the procurement guidelines and procedures to avoid uncommitted suppliers.

2. In the circumstances that some suppliers were found with competitive prices, committed, and with quality goods and services, management is advised to update the pre-qualified list to include them on board.

The next audit query if of interest. I will do my best to read everything. Please, bear with me.

2.3.14 Status of supply, delivery and installation of security equipment-US\$ 582,485.93

The Audit Commission reported that the management of the Community entered into a contract agreement for supply, delivery and installation of security equipment with M/s. AVTECH Systems Ltd on 10th October 2012 at a contract price of US\$582,485.93. The contract was for a period of four (4) to eight (8) weeks. By the time of audit, the contractor had been paid 80per cent of the contract value amounting to US\$.465,987.78.

Audit Commission however, noted the following deficiencies:

- a) Underperformance of the Contract.

According to the meetings between EAC and AVTECH officials held on 31st August 2016 and 1st September, 2016, various equipment items had not been delivered while others had been delivered but not installed. This amounted to a fundamental breach of contract as the project that was meant to be completed by November, 2012, had not been completed five years after agreed completion date; and yet 80 per cent of the contract value had been paid.

In addition, due to failure by the contractor to supply and install the required security equipment, the Community incurred an

additional cost of US\$13,490 to buy cameras to mitigate the security situation at the Secretary General's office and the main server room. This cost would have been avoided if the contracted security equipment were supplied in time. Besides, this puts the security and safety matters at the EAC complex at stake given the terror threat within the region.

- b) Failure to refer the matter to EACJ for settlement.

Clause 1.2 of the agreement states that "any dispute between the parties as a result of the operation of this contract shall be resolved amicably between the parties; failure of which, the matter shall be referred to the East African Courts of Justice for settlement". After five (5) years of failure to fully perform the contract, take the matter to EACJ for settlement. This amounts to breach of duty and due care on part of EAC management. Contrary to Clause 1.3 of the agreement.

- c) Irregular payment of 30 per cent contract price of US\$174,745.78.

According to Clause 1.7(d) of the contract, payment of 30per cent of the contract value would be made after the inspection of goods delivered to the project site in Arusha; or a pre-shipment inspection report from a shipping Agent (SGS or equivalent) has been furnished. This was not done but the amount was paid.

- Lack of Goods Received Notes, Inspection and Receiving Committee report, or a pre-shipment inspection report from a shipping Agency (SGS or equivalent)

Scrutiny of the payment documents did not find any evidence that all the items in the contract were delivered to the project site in Arusha, inspected and acknowledged by

issuing a goods delivery note before the payment was effected. In the circumstances, the payment was not based on the contractual terms and audit could not confirm that all the items were delivered and inspected. Absence of documentations for the receipts and inspection of supplies signified weak management control over the contract management aspect as well as procurement processes.

- Non-delivery of some of the security equipment before payment of 30 per cent contract value:

A review of the inspection audit report by EAC security carried out on 10th August 2013 revealed that some security equipment as shown in the table below had not been delivered although the contract period had ended almost a year ago.

You will find these items on the Table.

- Double standards on payment of 30 per cent.

We are still going through the anomalies.

Audit noted that despite management having received a detailed analysis on the status of implementation of the agreement before the payment of 30 per cent was made, the Principal Administrative Officer acknowledged the excellent analysis made by the security team and Avtech Technician but instead asked the Procurement Officer to attach the analysis to the Avtech payment claim and proceed with the payment process. This portrayed double standards and contravened the agreement clause 1.7(d), which required that 30 per cent of the contract value to only be paid after delivery and inspection of the equipment. Besides, the officer acknowledged the analysis, which pointed out that the items that had not been

delivered were excellent, but the same officer went ahead to recommend the payment instead of advising management to halt the payment until all items were delivered.

- d) Absence of a clause on the delayed performance on the contract.

The contract did not have a specific clause relating to penalties for non-execution, delay in execution of the contract (liquidated damages) and supply of poor/substandard quality materials. As a result, the Community did not have any basis to penalize the provider for the delayed supply and installation of the security equipment.

- e) Failure to submit the requested documents.

I will skip this item, it is self-explanatory.

The Committee made the following observations:

1. The contractor – M/s Avtech Systems Limited breached the fundamental clause of the contract to supply, deliver and install the security equipment within a period of eight (8) months, and the management of EAC failed, ignored to revoke clause 1.2 of the contract and take the matter to EACJ for settlement, thereby putting at risk the security of the Community.
2. As a stopgap measure, implementation delays resulted into the EAC incurring cost of procuring CCTV cameras at US\$.13,390 for the office of the Secretary General and the server room.
3. There was also a risk that the security equipment specified might become obsolete due to technological advancements and

changes before they are fully installed due to the time gaps.

4. The EAC complex is not adequately secured despite payment of 80 per cent of the contractual value yet the complex hosts very important dignitaries, diplomats and staff. Heads of State and other very important dignitaries also access it. This poses a great risk to the Community given the regional terror threats.
5. Just like other procurements at EAC, this procurement lacked a procurement manager who should have ensured that the implementation and management of the procurement was in line with the EAC procurement procedures and guidelines.
 - The following officers of the Community facilitated the irregular payment of 30 per cent to the contractor.

You will excuse us; there are some names that are not supposed to be here. We have been working all night.

The Speaker: You will need to clarify because it is the second time you are saying that some names cannot be mentioned. Are they part of the Report or not?

Dr Maghembe: Hon. Speaker, they are part of the Report.

The Speaker: So, are you skipping them for convenience?

Dr Maghembe: No! Hon. Speaker, some of them had been initially agreed upon our deliberations then they were removed. I would like to apologise – *(Interruption)*

The Speaker: So, do the Members have the right Report?

Dr Maghembe: Yes, hon. Speaker, the Members have the right Report.

The Speaker: Are you reading the same Report?

Dr Maghembe: Yes, hon. Speaker. If I may continue, Mr. Phil Klerru Makini. The Senior Estates Management Officer for his role in confirming on 3rd September 2013 that all the items had been delivered and for recommending for payment of 30 per cent as per clause 1.7(d), whereas, indeed, all items had not been delivered.

Mr. Abdul Katabaro. Principal Administrative officer for his role in acknowledging the excellent analysis made by the security team and Avtech Technician and sanctioning the procurement officer to attach the payment claim and proceed with the payment process.

Dr. Anthony Kafumbe, Principal Legal Officer for failure to forward the case to the East African Court of Justice for settlement as required by Clause 1.2 of the agreement for amicable settlement when it was becoming apparent that the contractor was not delivering the equipment.

Most of the above-mentioned staff have since left the service of the Community with exception of Dr. Anthony Kafumbe who later became the Counsel to the Community.

The Committee recommends the Assembly to urge the Council of Ministers;

1. Liaise Attorney General of the United Republic of Tanzania and bring this matter to their attention, for discuss the modalities of instituting criminal charges against Mr. Phil Klerru Makini and Mr. Abdul Katabaro who have since left the service of the Community and for their

role in facilitating the fraudulent supply of the security equipment which resulted into the EAC incurring a loss of US\$582,485.

2. The CTC should expedite the legal process for recovery of 582,485 US\$ and AVTEC should be blacklisted.
3. Ensure that future procurements of this magnitude are properly insulated against possible breach and fraud by involving contract managers and legal representation from the office of the CTC to oversee the procurement processes and implementation thereof;
4. To adequately staff the department of Internal Audit.

2.4. REVIEW OF INTERNAL AUDIT FUNCTION

2.4.1 Inadequate staffing of the EAC Internal Audit Unit

A review of the Internal Audit Department revealed that the department is being run by Principal Internal Auditor who is assisted by 2 other auditors; one (1) internal auditor with fixed term contract and another Internal Auditor who is serving on short term contract that has been renewed several times since his initial engagement in 2010.

I will skip the next paragraph and move to the Committee observations.

Committee Observation:

The EAC should prioritise the internal audit function to improve the efficiency and effectiveness of the Community.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC should continue

engaging Council to ensure that the department is properly and substantively staffed.

2.5 AUDIT OF PROJECTS

2.5.1 Delay in implementation of the automated clearing house (ACH/Cheque truncation system for the National Bank of Rwanda

The Audit Commission reported that the Contract for supply, implementation and support of the Automated Clearing House (ACH)/Cheque Truncation System was awarded to M/s Small systems AB. Clause 28.1 of the contract stated that the supplier guaranteed to complete the supply, install and commission the system within the time periods specified in the implementation schedule.

However, audit noted that a review of the project implementation timeline revealed that the project was initiated on 14th August 2014 and was scheduled to be completed by 25th February, 2015 and at the time of audit in November 2016 the project was 25 per cent complete and a total of US\$423,755 of the contract cost had been paid during the Financial Year 2014/2015.

I will skip the next paragraph and move to the Committee observations.

Committee Observations:

- Delay in the implementation of the above mentioned contract as per the projects' implementation timeline hindered the realisation of the project objective of developing a robust environment for payment settlement systems and to facilitate market integration.
- There was lack of adequate prior preparation before the project was

launched which affected its timely implementation.

Recommendation:

The Committee recommends the Assembly to urge the Council of Ministers to ensure that in future the EAC should undertake adequate preparations to ascertain that the systems the Commercial Banks are going to use are ready and fit for purpose to avoid unnecessary wastage and expenditures.

2.5.2 Long Outstanding Payables-US\$ 83,479

The Audit Commission reported that during the year under review, PSSIP reported payables amounting to US\$ 92,705. Out of these payables, some US\$ 83,479 payable to M/s Computer Centre (Tz) Ltd had been outstanding since September 2015. Contrary to regulation 83(6) of the EAC rules and regulations.

I will skip the next two paragraphs and move to the Committee observations.

The Committee observed that delay in payment of the amount owed to Computer Centre (Tz) Ltd, may lead to litigation charges against EAC.

The Committee recommends that the EAC Management should endeavour to pay the amount due to Computer Centre (Tz) Ltd to avoid the possibility of facing litigations.

2.6 AUDIT OF MARITIME SECURITY PROJECT

2.6.1 Under Utilisation of Budgeted Project Funds

The Audit Commission reported that the upon review of the 2015-2016 MASE budget performance report showed that the budget

was grossly under-utilised, with some of the planned activities not implemented, while others were poorly implemented.

I will skip the next paragraph and move to the Committee observations.

The Committee observed Management's failure to fully absorb the budgeted funds is an indication of inadequate planning and monitoring.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management is advised to ensure that implementation of outstanding activities is carried out within the remaining project time to avoid project extension costs.

2.6.2 Irregularities in Procurement

Audit Commission reported procurement anomalies under the Consultancy services for development of a service contract for the ESA-10 MASE and Branded bags for the Maritime Security project contrary to regulation 78(1) and 67 of EAC Financial Rules and Regulations.

The EAC Management reported that they used the European Union procurement method because they were using donor funds.

The Committee observed non-compliance with the procurement procedures might have denied the MASE Project the benefit of procuring the services and goods of high quality at prices that are competitive.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of MASE Project should comply with the EAC procurement procedures in dealing with all procurements of goods and services in order to enhance compliance and transparency and to obtain

high quality goods and services at a reasonable price.

2.7 AUDIT OF IBAR PROJECT

2.7.1 Under Utilisation of Budgeted Funds

Hon. Speaker, this is the same issue as before. If you may allow me, I will move to the Committee observations.

The Committee observed that the unspent balances in respect of unimplemented activities indicated non-achievement of the projects' objectives for the year. The under-utilisation also implied unrealistic project budget.

The Committee recommends that the Assembly to urge the Council of Ministers to ensure that the EAC Management should at all times ensure that Project Managers devise strategies to ensure implementation of all outstanding activities as planned.

2.7.2 Implementation of project activities in two Partner States only

The Audit Commission reported that IBAR project activities were implemented only in two EAC Partner States (Tanzania and Kenya) and the Audit Commission was not provided with the explanation about the reasons hindering the implementation of the activities of IBAR project in other Partner States.

The EAC Management informed the meeting that the project design was designed to be implemented in two Partner States. However, it has rolled out to other Countries in order to ensure that it is benefiting other East African Countries.

The Committee observed that the objectives of the project will not be achieved if the

implementation is not extended to all Partner States.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Project Management devises strategies to ensure that activities are implemented in all EAC Partner States.

2.7.3 Partially supported expenses on workshops organised by IBAR Project

The Audit Commission reported that expenses on workshops organised by IBAR project were not properly supported with reports to show that the expected outputs of the workshops were achieved.

Recommendations:

The Committee recommends the Assembly to urge the Council of Ministers to ensure that for better management of Project funds, all expenses incurred should be adequately supported with necessary documents. These documents should be chronologically referenced and properly filed for future reference.

2.8 AUDIT OF APSA PROJECT

I will go straight to the first audit query.

2.8.1 Unsupported Expenditure

Expenses amounting to US\$32, 932 were not supported by any verifiable documents contrary to regulation 4.3.2 of EAC Financial Rules and Regulations.

The EAC Management informed the Committee that the accountant was not doing the returns as he was supposed to do and he eventually abandoned his job leaving behind expenditures, which were not supported with documents. Management has summoned the

accountant to hand over officially and hopes to trace the missing documents when he appears.

Committee observations:

1. Authenticity of the expenses incurred by APSA project is in doubt. Besides, the reluctance to handover raises suspicion that fraud and other irregularities may have happened.
2. Resignation without handover is a sign of poor management of the human resource department and weaknesses in internal controls.
3. The Committee recommends the Assembly to urge the Council of Ministers to direct the EAC Management to engage the authorities of United Republic of Tanzania to ensure that the handover is done urgently by Frederic Sangawe. All missing documents and assets should be reviewed before signing the handover.

2.8.2 Unretired Imprest

The Audit Commission reported that daily subsistence allowance and imprest paid to various staff within financial year 2015/16 amounting to US\$ 10,491 were not retired contrary to regulation 40(3) (4) of the EAC Rules and regulations.

In the same way, the APSA financial statements included salary advance totalling to US\$2,100 as at 30 June 2016, which was long outstanding for more than one year.

I will go straight to the observation.

The Committee observed inadequate control over imprest payments and retirements may lead to misuse of Community funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of the Community ensures that the unretired amount of US\$10,491 and unpaid salary advance of US\$ 2,100 should be recovered from the salaries of all staff who fail to retire their imprest.

2.8.3 Delay in payment of creditors

Hon. Members, this is one of the recurring issues that I allude to earlier. If you allow me, ho. Speaker, I will go to the Committees' recommendations.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to adhere to Financial Rules and Regulations governing the advances and should endeavour to pay creditors on time. All long outstanding creditors should be identified and analysed and paid.

2.9 AUDIT OF HIV PROJECT – MIXED FUNDING FROM HIV/AIDS GROUP

2.9.1 Wasteful Expenditure

The Audit Commission reported that a total of US\$ 38,868 was spent on Daily Substance Allowance, air tickets, conference facilities by 8 EAC Secretariat Staff under the HIV Project who travelled to Uganda to undertake activities for finalisation of Integrated Sexual Reproductive Health and the 11th Joint Steering Committee Meeting.

The Committee observed that the above expenditures were considered wasteful as they could have been avoided and funds expended on more critical purposes, had propriety been exercised while spending public resources.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management exercises prudence and avoid such unnecessary expenditure in future.

2.10 AUDIT OF AUDIT OF UNFPA SUPPORT FOR SEXUAL REPRODUCTIVE HEALTH PROJECT

2.10. Expenditure not properly supported

The Audit Commission reported that a workshop on the regulation of HIV Test Systems was organised by FDA (U.S. Food and Drugs Administration) on December 13-16, 2015 at Mount Meru Hotel in Arusha, where EAC was assigned the daily cash disbursement of per diem funds. Audit noted that supporting documents for US\$ 22,090 relating to payment of some workshop's participants were missing and for US\$ 8,795 was not supported. Contrary to regulation 4.3.2 of EAC Financial Procedure Manual 2013.

If you may allow me, hon. Speaker, I will move to the recommendations of the Committee on the next page.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of EAC adheres to the financial rules and regulations governing the Community and ensure that all payments are properly supported.

2.11 AUDIT OF DANIDA PROJECT

2.11.1 Delays in Finalising the Report on Equitable Sharing of Benefits and cost of EAC integration

The Audit Commission reported that on 13th December 2013 EAC entered into agreement with MA Consulting Group to undertake the

study on Equitable Sharing of Benefits and cost of EAC integration for the contract sum of US\$ 90,950 plus reimbursable US\$ 30,317.

It further reported that the available funds for this project was US\$ 24,403.71 and the consultant needed to be paid US\$ 27,285 being 30 per cent of the contract as final instalment. Hence, a deficit of US\$ 2,881.29 excluding other associated meeting cost and reimbursable that could have been required.

I now move to the next page on Committee observations:

The Committee made the following observation:

- EAC delayed to implement the Council decision for more than 7 years. Delay to implement Council of Ministers decisions/directives indicated a weakness on the part of the Council to implement their own decisions and directives.
- Delays in execution of the study jeopardized the EAC in meeting its objectives. EAC did not gain value for money by contracting for 7 months and then letting 37 months pass without a final study report.
- The Committee recommends the Assembly to urge the Council of Ministers to ensure that in future the management of EAC should undertake proper planning and ensure that the necessary resources are in place such that the contracts are executed in a timely manner.

2.12 AUDIT OF USAID ASSISTANCE FOR COMPREHENSIVE REGIONAL DEVELOPMENT

2.12.1 AUDIT FINDINGS

2.12.2 Low Budget Absorption

The Audit Commission observed that the USAID Comprehensive Regional Development project had a budget of US\$6,862, 896.43. The project had spent US\$2,866,517.52 resulting into unutilised fund of US\$3,996,378.9 equivalent to 58 per cent of the budgeted funds.

The Committee noted Low absorption capacity in implementing planned activities recorded during the year under review could have led to the project failing to utilise available donor funds as planned, which affected the achievements of its strategic objectives.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC should strive to absorb the budget as planned, implement the planned activities within the agreed time frame, and avoid further delays in the implementation of the project.

2.13 AUDIT OF PROGRAMME ON CLIMATE CHANGE ADAPTATION AND MITIGATION IN THE COMESA-EAC-SADC REGION (TRIPARTITE CLIMATE CHANGE PROJECT)

As you may note, the first audit query is the same on Low budget absorption. If you may allow me, hon. Speaker, I will skip it and move to the next query.

2.13.2 Non submission of audited financial statements, this is another one that is reoccurring. I will move to the Committee observation.

The Committee noted that EAC has not complied with the requirement of the agreement.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the EAC Management engages the project team to ensure compliance with the requirement of the agreement and further ensure timely conclusion of audit as stipulated in the agreement.

2.13.3 Non preparation of annual work plans and Performance Review Reports.

Hon. Speaker, if you allow me, I will turn to the next page and read the Committee recommendation. The issue of not preparing the annual work plans is crosscutting.

Committee noted that the absence of an annual work plan and performance review report limits the monitoring and evaluation of the planned results.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that;

(i) The Management of EAC ensures that the annual work plans are prepared as per the requirement of the tripartite agreement of the COMESA-EAC and SADC.

(ii) The management should also prepare the performance review reports which should show the actual results to enable benchmarking with the planned output.

2.14 AUDIT OF REGIONAL ELECTORAL SUPPORT PROGRAMME (RESP)

Mr. Speaker, Sir, with your permission, please, allow me to skip Low Budget absorption audit query and move to the next one.

2.14.2 Late approval of the bank reconciliation statements

Although this is repeated, I would like to read the Committee observations

The Committee noted that non-approval of reconciliations is contrary to the EAC Financial Procedures Manual and this indicates failure in the EAC controls which may subject transactions to the risk of errors.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management abides to the project management requirements of the Financial Procedures Manual on the approval of the bank reconciliation statements.

2.14.3 Absence of meeting for Steering Committee

The Audit Commission reported that section 5.1 of the Rider 1 to the agreement required the Programme to be supervised and guided by the Project Steering Committee. The Steering Committee was supposed to meet every six months i.e. twice a year and more often if necessary.

The Audit Commission observed that the project Steering Committee had not met to discuss the implementation of the Programme activities.

I will skip the next paragraph and go to the next page.

The Committee noted that without the Steering Committee meetings to discuss the overall strategic direction of the Programme, the monitoring of project implementation could have been impaired.

The Committee recommends to the Assembly to urge the Council of Ministers to

direct the EAC Management to institute vigorous controls to ensure that project Steering Committees meet to discuss the strategic direction of the Programmes.

2.15 AUDIT OF THE PARTNERSHIP (PF) FUND

2.15.1 Renewal of contracts for experts

The Audit Commission reported that when it reviewed the payment vouchers for 2015/16 they revealed that a total of US\$24,000 was paid to Samuel Njuru through transaction Description.

The Audit observed the following;

There was no clear indication that the services of the expert were obtained competitively; rather, it noted the progressive renewal of the contract for the same person since 2010.

The contract was signed between the expert and the Community on 14th January 2015 for a period of twenty-four months with effect from 26th August 2014 and the approval was on 9th July 2014. The signing of the contract six months before approval appeared to be abnormal.

I will skip the next three paragraphs.

The Committee made the following observations:

1. There is a risk that the experts engaged were not properly recruited through a transparent process and that the renewals were not based on an assessment of whether the past performance was satisfactory.
2. This is likely to lead to ineligible expenses as the services provided before

contract signature were not legally bound by a contract.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that the services provided by the experts are routinely evaluated and that valid contracts are always in place to guide on their expected deliverables.

2.15.2 Accountability for funds for election observation mission in Dar es Salaam

The Audit Commission reported that upon review of the accountability file on imprest the election observation in Dar es Salaam and it noted that actual expenditure for the activity was only US\$.16,018.69 out of the total funds disbursed to the officer, leaving a balance of US\$.31,131.31. Audit further reported that the unspent balance was banked at the different dates on 2nd and 3rd of November 2015. The above were attributed to weaknesses in scrutinising estimates for such activities and also following up the concerned staff to ensure prompt accountability is filled and any balances banked as required by the regulations. I will skip the next paragraph and go to Committee observation.

The Committee observed that there was unrealistic budgeting for activity and poor planning by the management of the PAF project.

The Committee recommends to the Assembly to urge the Council of Ministers to urge the EAC Management to strengthen the internal scrutiny of budgets compiled by staff for activities to be undertaken so as to mitigate the risk of making payments for unrealistic estimates.

2.15.3 Unplanned Expenditure on training - US\$.20, 800

This item was hotly debated in the Committee. I will read it in its entirety.

The Audit Commission reported that according to the EAC staff training and development policy, chapter 5(xiv), the human resource department shall prepare annual staff training and development plans based on the identified needs.

It was noted that US\$.20,800 was paid for a 10-day training on IT support in France (from 16th to 25th March 2016) to the current Secretary General of the EAC. The funds were paid from Partnership Fund account and yet the training was not planned and budgeted for under the project. Audit further noted that the amount was not charged to staff training account in the Partnership Fund financial statements.

The EAC Management while appearing before the Committee acknowledged the audit finding and reported that following his appointment as Secretary General of the Community, which was a new position, there was need for him to undertake this training prior to assuming the office. The training would empower and equip him to develop the necessary IT skill and help him to deliver his mandate. On 11th March 2016, the Secretary General originated an internal memo himself and forwarded it to the acting Secretary General Mr. Charles Njoroge and approved it on behalf of the SG.

While interacting with the EAC management on the matter, the Committee called for the payment voucher and the documents relating to retirement of this disbursement and questioned the current Director of Finance on the same. It was observed and would appear

that the member of staff in question did travel and partake in the training.

The Committee observed that the Council of Ministers (upon the direction of the 19th Meeting of the Summit) in their 37th Meeting on 2nd May, 2017 had referred this matter to the Audit Commission for a special audit. The Committee with respect, nonetheless, observed that the Parliament had tasked them to investigate all the matters in the Audit Report ending June 2016 and further observed that as an independent Organ, had the right to advise Council on the issue.

The Committee further observed that the Audit Commission was correct, the disbursement was not made following the correct procedure and was thus an illegible payment since it was not budgeted for under the project and was not subsequently ratified by the Council. Furthermore, the EAC Rules and regulations require that all training needs must be considered and approved by the Human Resources Advisory Committee. This particular training was not approved by the Human Resources Advisory Committee.

The Committee recommends that where the special Audit, commissioned by the Council of Ministers finds that the money were improperly used for training in a manner unbecoming as detailed in regulation 12 of the Financial Regulations, the money should be refunded as under regulation 8(1) of the same regulations.

2.16 AUDIT OF THE EAC FINANCIAL SECTOR DEVELOPMENT AND REGIONALISATION PROJECT (FSDRP)

This item was so hot in the Committee. I had to use an old trick I learned from *(Interruption)*

The Speaker: It will be safer if you avoid commentaries. You are reading to us a Report that we assume it has been agreed upon by your Committee.

Dr Maghembe: I stand guided. Indeed, the Committee has agreed upon the Report.

2.16.1 Review of contract agreements with consultants

The Audit Commission reported that that the contract was for a period of seven months and was expected to end on 21st January 2016, but was later extended to 14th May 2016. The terms of the contract provided that the consultant was to be paid advance of 20 per cent upon an approved bank guarantee for the same amount, and thereafter, be paid monthly. audit analysis noted the contract was signed on 28th June 2016, three months after the end of the contract, but there is no evidence that the Procurement Committee approved the extension for the additional sum. This was contrary to the procurement guidelines.

This was not the only contract, there were others. They are detailed in the next two paragraphs.

Mr. Speaker, Sir, if you may allow me, I will move to the Committee observation at the end.

The Committee noted that the procurement guidelines were not adhered to in extending the contract period. Delayed delivery of contracted services denies the project from the timely implementation and achievement of the project planned activities, leading to underutilisation of project funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management adheres to procurement guidelines as well as the

contractual terms to ensure value for money for contracts entered into and avoid scenarios that could lead to legal challenges and loss of EAC resources.

2.17 RAILWAY SECTOR ENHANCEMENT PROJECT

2.17.1 Expired contract for railway Expert
The Audit Commission reported that the EAC (EAC) engaged a consultant as a Contract Coordinator for EAC Railways Sector Enhancement Project. The project commenced on 17th February, 2014 for a period of 24 months. Audit noted that at the time of Audit, the project had been completed and yet the contract expired had expired on 16th March, 2016. The consultant was still in office discharging duties. The arrangements against which the contractor was still in office after the expiry of his contract were not provided.

If you allow me, Hon. Speaker, I will skip the anomalies part in the contract. It is a repetition. I will move to the Committee observation at the end of the page.

The Committee observed that keeping the consultant in office while discharging EAC work is illegal and contravenes the EAC rules and regulations.

The Committee recommends to the Assembly to urge the Council of Ministers to consider renewing the Consultant's contract or he is removed from office. Management should ensure that only staff with valid contracts should be allowed to execute the Community work.

2.18 AUDIT OF MRH PROJECT 2015-2016

2.18.1 Unsupported payment of Salaries \$43,896

The Audit Commission reported that US\$43,896 was paid to six MRH staff members in the form of salaries for April and May 2016.

I will skip the next part.

The audit further observed that the staff were illegally paid salaries for the two months period when their employment contracts had expired. Their salaries were therefore irregularly paid.

At its meeting with the Committee, the EAC Management concurred with the audit observation and reported that the staff were performing their duties as required and there was no loss of funds.

The Committee recommends to the EAC Management to ensure that no salary is paid without an employment contract. It is further advised that Management should timely renew, if applicable and necessary, employment contracts for temporary staff for projects.

2.19 AUDIT OF INTER-REGIONAL COORDINATION COMMITTEE (IRCC) PROJECT

I will skip the first paragraph.

The Audit Commission conducted a performance review of IRCC and noted a number of irregularities in respect of project management as detailed below;

2.19.1 Delay completion of project activities resulted into project closure delay

Audit observed that the status of the project implementation as at 18th November, 2016 revealed that the project was still in progress and some of the activities were still pending

completion; three months after the expiry of the four months extended period.

A review of the General Ledger also revealed that the project had outstanding liabilities due for services rendered by various supplies totalling to US\$238,793, but the available cash on the bank account was US\$49, and the project (IRCC) had received the entire amount from the European Development Fund.

The EAC Management informed the Committee that IRCC was implemented using Programme Estimates (PE) which detailed and summarised all the activities to be implemented until the closure of the project.

The balances as of 30th June 2016 indicated that IRCC EURO1,064.33 was not enough to liquidate the payables at that time. The project however received funding to the tune EURO236,746.09 on 19th July 2016 which was used to liquidate those payables.

Committee Observation that:

1. The project intended objective of strengthening EAC's capacity to coordinate, develop and implement 11th EDF Programmes was not timely achieved.
2. There was over commitment under the project which may have resulted into a risk of utilising the EAC fund to liquidate the liabilities accrued from IRCC suppliers.
3. The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that a detailed comprehensive process for supervision and monitoring of all projects financed by Development

Partners to ensure timely implementation of the planned activities, is established.

2.19.2 Inadequate management of donor funds of €76,000

The Audit Commission reported that EAC signed a financing agreement with the European Development Fund (EDF) on 15th August 2014. A review of the agreement noted that one of the components was to review the EAC procurement manual. The EDF set aside €20,550 for consultancy fees & air tickets and €31,370 for stakeholder's workshop including Partner States, EAC institutions and Organs for a conference of 22 participants for 6 night. A further review of the Contract between Julius Mulera Professional Consultant and EAC for the review of the procurement manual noted that the Consultant was paid a contract fee of €21,615.37 which exceeded the approved EDF contract amount of €20,550 by €1,065.

The following irregularities in respect of IRCC fund and Programme management were noted. They are enumerated in the following page from No. i to v.

Hon. Speaker, if you may allow me, I will skip the page and go to the Committee recommendation in the next page.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC;

- (i) Ensures that the project managers of IRCC project strictly adheres to the financing agreement when implementing projects financed by the Development Partners. In case of any excess expenditure envisaged, authority for approval of such expenditure should be sought from the Development Partners and the EAC Management.

- (ii) The management should ensure that future engagements are strictly attended by the intended beneficiaries' of the project or the technical personnel who are knowledgeable or relevant in that particular area/field.

2.19.3 Deficiencies in the management of the contract for "Asset Management Software and post implementation support"

Hon. Speaker, this is similar to two issue we I read before. If you may allow me, I will move to the Committee observations and recommendation.

The Committee observed the following:

- The intended objective was not timely met since the custodian of the assets was not conversant with the systems application of asset management.
- The Community risked loss of funds in case the consultant failed to complete the remaining scope of works since there was no legal recourse in case of dispute as the consultant had submitted the project final report to the Community.

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

- In future, final payment is effected upon adequate completion and testing of the project.

2.19.4 Long outstanding items on the bank reconciliation

This is an issue that is recurring; therefore, I will read the recommendation.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to carry out regular and timely monitoring and follow up

of long outstanding items with the intention of clearing them from the future reconciliation statements.

2.20 THE EAST AFRICAN LEGISLATIVE ASSEMBLY

2.20.1 Non-Provision of Internal Audit Reports

I will skip the first paragraph and move to the second.

The Financial Rules and Regulations 114(3) provide that the Head of Internal Audit shall prepare quarterly internal audit reports, which shall be discussed with the Secretary General before submission to the Audit and risk Committee.

The Audit Commission found that, the internal audit did not carry out the audit of EALA for Financial Year 2015/16.

I will skip the next two paragraphs. Please, Hon. Members, turn to the page.

The Committee observed that non-provision of audit services might be a cause for errors or losses if not regularly detected through the internal audit function.

The Committee recommends to the Assembly to urge the Council of Ministers;

- (i) To ensure that management complies with guidelines related to the performance of regular internal audits of all organs and institutions of the Community.

- (ii) To establish an Audit department at the East African Legislative Assembly in order to ensure that the auditing function is in place.

2.20.2 Non-Appraisal of Staff Performance

The Audit Commission reported that regulation 32 (3) of the EAC Staff Rules and Regulations (2006) requires that performance evaluations are conducted on annual (calendar year) basis for every confirmed member of staff. For the staff on probation, performance evaluation shall be carried out as stipulated under regulation 30 of the staff rules and regulation. This has not been done as yet.

I will skip the next paragraph and go to the Committee observation.

The Committee observed that non-assessment of staff performance impedes the assessment of the level of achievement of the agreed objectives and output. It also limits performance improvement in areas of weaknesses as well as difficulties in rewarding or recognising good performance.

The Committee recommends to the management of the East African Legislative Assembly to ensure that the Staff Appraisal forms are regularly updated and filled as per Regulation 32 of the Staff Rules and Regulations.

2.20.3 Renewal of the contracts for temporary staff without Due Diligence

The Audit Commission reported that Section 20 (2) (b) of the EAC Staff Rules and Regulations on temporary staff explains that, the persons appointed shall be required to have qualifications applicable to that position. The Commission noted that during the year under review EALA had renewed the contracts for 19 temporary staff/short term contracts. However, there was no due diligence exercise undertaken to ascertain the staff requisite qualifications and experiences for the job.

I will skip the next two paragraphs and move to the Committee observation.

The Committee observed that issuing new contracts without conducting due diligence process suggest that EALA was unable to measure the performance of those staff hence may have affected their overall operational performance.

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

- (i) To compel the management of EALA to ensure that staff appraisal forms are regularly filled and updated as per regulation 32 of the Staff Rules and Regulations.
- (ii) Do a retrospective due diligence exercise on the qualifications and experience of all the temporary staff that were recruited.
- (iii) Urge the EALA Commission to review the EALA structure to establish the positions that are needed and upon establishment, to authorise a competitive recruitment exercise to fill the vacancies.

2.20.4 Items worth US\$.51, 362 not taken in Stores Ledger

This is another issue that is recurring. I will, therefore, skip the following three paragraphs and go to the Committee observation.

The Committee observed that the failure to record all purchases in a stores ledger over and beyond a goods received note presupposes non- verification of the receipt of goods or whether they were entered in the stores.

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

- (i) Advice Management of the Assembly to ensure that all items that are procured are recorded in the stores ledger.
- (ii) Expedite the Institutional Review exercise such that the manpower gaps are addressed at the Assembly including filling the position of the Stores Assistant.

2.20.5 THE EAST AFRICAN COURT OF JUSTICE (EACJ)

2.20.6 Transactions with non-prequalified suppliers- US\$151,157

This is another audit query that is recurring. If you may allow me, hon. Speaker, I will move to what the committee observed and the recommendations on the next page

The Committee observed that the EACJ exposed itself to risks associated with non-prequalified suppliers as they are not committed to offer the best quality goods and services at competitive prices.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to ensure that;

- (i) Procurement unit transacts with only prequalified suppliers as per the procurement guidelines and procedures of 2011.
- (ii) Procurement Unit should periodically pre-qualify or seek for updates from the already prequalified firms; or with the approval of the Procurement Committee identify new suppliers in accordance with Section 5.2.1(14&15) of the EAC

Procurement Policies and Procedures Manual 2011.

- (iii) The institutional review exercise is expedited such that the positions of procurements are filled at the Court of Justice for them to handle their own procurements.

2.20.7 Supply and Installation of ICT Equipment at US\$ 100,949.78

The Commission reported that M/S. Cyberworld was given two purchase orders to supply Desktops, Laptops, Printers, UPSs, Smart TVs and heavy-duty scanners for EACJ on 19th June 2015 at a cost of US\$100,949.78. The items were subsequently delivered and paid for on 30th June 2015 and 21st September 2015 respectively. However, audit review revealed the following nine anomalies. I will not go through them because they are similar to the ones I read before.

I will move to the next page on Committee observations.

The Committee observed that:-

- (i) Non-compliance with the procurement procedures may have denied the EACJ the benefit of purchasing goods of high quality at prices that are competitive,
- (ii) The role of the Counsel to the Community.
The Committees observed that the conspicuous absence of the Counsel to the Community in the tendering and procurement processes was denying the Community the legal guidance. If his input was to be considered, the Committee hopes that the glaring procurement frauds

currently facing the Community could have been avoided.

(iii) Absence of the Contracts Manager. This is self-explanatory.

(iv) Payment of VAT on exempted goods could have caused a financial loss to the Community.

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

(i) Ensure that the management of EACJ should comply with the procurement procedures in dealing with all procurements of goods and services in order to enhance compliance and transparency and also to obtain high quality goods and services at a reasonable price.

(ii) Immediate and mandatory presence of the office of the Counsel to the Community on every procurement at the EAC to ensure that the procurements adhere to the legal and statutory obligations of the Community.

(iii) Immediate and mandatory presence of the Contracts Manager on every procurement to ensure follow up on the implementation of the Contract.

2.20.8 Supply of furniture for the new appointed EACJ Staff – US\$ 29,486

- (i) The Audit Commission reported that purchase order for the supply of various furniture for new staff of EACJ was given to M/s. Mbasha Holdings Ltd at a cost of US\$ 29,486 on 19/06/2015. The Audit Commission noted the following:

(ii) There was no procurement file.

(iii) There was no proof to verify that the same request for quotation was sent to at least three suppliers and those quotations were received and evaluated to benefit from quality products and competitive prices contrary to EAC Procurement Regulation 6.5(14)

(iv) Differences were noted in the items ordered, delivered and invoiced against the items requisitioned for and approved.

(v) A complete evaluation report was not provided, but the evaluation results showed that M/S. Mbasha Holdings was recommended for the award of LOT 4 at US\$22,781.20. The LPO issued on 19th September 2016, however had a different total cost of US\$29,486.20 which was caused by changes on the number of items ordered from the ones recommended under the evaluation price list. The changes lacked approval of the Procurement Committee to be authentic.

(vi) A manual goods received note was issued and yet an official SUNSYSTEM local purchase order was used without justification.

The Committee observed that:-

- (i) The EAC procurement procedures were not adhered to, and as such, this could have denied the EACJ the benefit of purchasing goods of high quality at prices that are more competitive.

(ii) The role of the EACJ in the procurements. Although the regulations require that all the procurements above the US\$10,000 threshold are handled at the Secretariat, the failure by the user department in this case the EACJ an opportunity to get involved in the procurement process renders the entire exercise problematic in the event of not procuring the required items.

(iii) M/s. Mbasha Holdings Ltd. The Committee observed the preferential manner in which M/s. Mbasha Holdings Ltd is treated to the extent that M/S.Mbasha Holdings was recommended for the award of LOT 4 at US\$.22,781.20. The LPO issued on 19th June 2016 however had a different total cost of US\$29,486.20 which was caused by changes on the number of items ordered from the ones recommended under the evaluation price list. The changes lacked approval of the procurement Committee to be authentic.

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

- Direct Management of Court to comply with procurement procedures in force in dealing with all procurement of goods and services to enhance transparency and obtain value for money.
- Work in line with regulation 82, which states inter alia “An official of the Community who willfully purchases or causes to purchase any goods, works and services contrary to this part shall be personally liable for the cost of the purchase” the Senior Procurement

Officer, should be held responsible for this botched procurement process.

2.20.9 Supply of Judges’ Gowns and tyres

Hon. Speaker, these procurement anomalies are recurring. If you may allow me, I will move to what the Committee noted on the next page.

The Committee noted gross violation of the procurement regulations across the EAC Organs and Institutions. It Called for Management to enforce compliance to the procurement procedures in force.

2.20.10 Employees on Short Term Contracts

This is an issue that we have already dealt with extensively; I will just read the recommendations that are at the bottom of the page.

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

- Direct management of Court to always ensure that all appointments strictly adhere to the provisions of EAC Staff Rules & Regulations.
- Expedite the institutional review such that the short term positions are filled and phased out.

2.20.11 Fully depreciated Assets still in use

Hon. Speaker, this is recurring. If you may allow me, I will read the Committee recommendations

The Committee recommends the Assembly to urge the Council of Ministers to;

- (i) Direct that EACJ reassesses its PP&E such that the useful assets are assessed annually before they reach zero value and identify

those assets which are likely to be fully depreciated while they still have a service potential;

- (ii) Direct Management to establish whether their expectations are significantly different from the previous estimates;
- (iii) Ensure that depreciation charge for the current and future periods is accordingly adjusted.
- (iv) Ensure that all assets with zero book value should be disclosed as a way of a note indicating their cost, net book values and their physical status.

PART III

3.0 THE LAKE VICTORIA BASIN COMMISSION (LVBC) SECRETARIAT

3.1 CURRENT YEAR AUDIT FINDINGS

3.1.1 Delayed Funding by Partner States

The Audit Commission reported that LVBC was unable to receive contributions from Partner States during the Financial Year 2015/2016. The budgeted contribution was US\$2,766,394.00, and the Commission received a sum of US\$2,163,640.00 resulting in underfunding of US\$ 602,754 (21 per cent) per cent. Considering the arrears from Financial Year 2014/2015, the outstanding amount was US\$604,012 as at 30th June 2016.

Please, turn over the page and allow me to read the recommendation.

The Committee recommends to the Assembly to urge the Council of Ministers to explore alternative funding mechanisms to rise funding for the Community Institutions.

3.1.2 Lack of Mid-Year and Annual-Results Review Report of 2015/2016. This is one of the items we have dealt with before. I will, therefore go to the recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that LVBC enforces a mechanism, which should be an ideally Results-Based Management implementation policy/Manual within the Planning Department to ensure that Mid-Year and Annual Results Review Reports are issued on the due date.

3.1.2 Weaknesses in Assets Management. We dealt with this.

Hon. Speaker, if you allow me, I will read the recommendation.

The Committee recommends the Council of Ministers to ensure that the Management of the LVBC is advised to timely update its assets register and to conduct periodic reconciliations of the fixed asset register with the general ledger.

3.1.4 Management of Fully Depreciated Assets

Hon. Speaker, if you may allow me, I will read the recommendations at the end of the page.

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

- (i) The LVBC should perform a comprehensive survey to identify active assets, which suffice to be in use and define the nominal value of the active assets and estimate the useful life accordingly.
- (ii) LVBC should develop an asset evaluation and inventory policy to have a proper management of assets of the Commission.

3.1.5 Delayed write-off and disposal of plant, Property and Equipment

Hon. Speaker, if you allow me, I will read the recommendations.

The Committee recommends the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that the LVBC undertakes measures to expedite write-offs and disposals to avoid further wear and tear; and consider other approved disposal methods to expedite the process of disposing spare parts of RV Jumuiya Vessel assets taking into account that, this are specialised assets.

3.1.6 Lack of Monitoring for Fuel Consumption

The Audit Commission reported that LVBC operates 11 motor vehicles that serve 44 staff - *(Interruption)*

The Speaker: Sorry, Chairperson Committee on Accounts. In your estimation, how much time do you still need?

Dr Maghembe: One hour, Mr Speaker Sir. I am half way.

The Speaker: Okay, hon. Members, the Chairperson is doing his best to summarise. However, we are aware that at a particular hour, a section of our colleagues have to observe a religious act. Therefore, if they will be patient with us up to a few minutes to that hour mark, it will be helpful. Those who may wish to leave slightly early, I will request that you do so quietly; we will understand because that is the practice.

Proceed.

Dr Maghembe: Hon. Speaker, Sir, I am one of those Members. In order to dispose with this business on the Order paper, I have to continue. At 6.30 p.m. I will have a glass of water.

The Speaker: That is in order. We have to dispose it. That is why I said if we can wind up as close as possible to that hour mark, it would be helpful.

Proceed.

Dr Maghembe: Hon. Members, do not despair, the rest of the issues are repetitive.

The audit pointed out – *(Interruption)*

The Speaker: Hon. Members, that was not to encourage you to leave now. - *(Laughter)*

I was trying to avoid a commotion that may happen when you start leaving. We will understand any situation from now.

Dr Maghembe: Hon. Speaker, with respect to Lack of Monitoring for Fuel Consumption, the Committee observed that:

The use of imprest for vehicle fleet fuel consumption might expose LVBC into risk of invalid, inaccurate and false data of fuel consumption due to numerous errors that might arise in the records.

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

- (i) Develops a comprehensive policy for vehicle fleet management;
- (ii) Expedites the initiated process to re activate the fuel card system across all the Partner States.

3.1.7 Weaknesses in Procurement and Contracts Management

3.1.8 Understaffing of the Procurement Unit

Mr Speaker, if you allow me, I will read the Committee observations

The Committee observes the following;

- (i) Inadequate staffing levels at the LVBC may result into staff fatigue and hence trigger staff low performance resulting to errors of commission and omission.
- (ii) Current staffing level at the procurement unit duties cannot be adequately segregated as required by the Financial Policies and Procedures Manual.

The Committee recommends the Assembly to urge the Council of Ministers;

- (i) The LVBC Management is advised to ensure that all documents relating to the procurement process are filed in the same tender file;
- (ii) Liaise with to EAC-HQ and consider a comprehensive review of the structure of LVBC such that a Procurement Unit is established at the Commission.
- (iii) Assign or allocate appropriate staff to the Procurement Unit to mitigate potential risk.

3.1.9 Incomplete Annual Procurement Plan (APP). We have dealt extensively with annual plan reviews and procurement plans that have not been provide for. If you allow me, I will read the recommendations on the next page.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the LVBC Management to consider enhancing its review process of APP and ensure that all budgeted activities of procurement nature are incorporated in the APP and Budget Estimates.

3.1.10 Deficiencies in the management of the contract for partitioning and remodelling of LVBC, Nyanza Office. This was a hot issue. I will try to red through it quickly.

The Audit Commission noted that on 26th June 2014 LVBC entered into a contract with M/s Lunao Enterprises to carry out office

remodelling, partitioning and interior fit at contract sum of Kshs20,175,061. The project was to commence on 14th August – *(Interruption)*

The Speaker: Chairperson Committee on Accounts, you have endured this task in a resilient way. To make the task easier, I suggest that you read the item and the recommendation now that we have copies of the Report.

Dr Maghembe: Thank you, hon. Speaker.

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

- (i) To institute disciplinary procedures against the specified officers involved in the execution of the project for negligence of duty and not following the established rules and procedures.
- (ii) To strengthen and improve the current coordination between the user departments and Procurement Unit to ensure that awarding of subsequent contracts must be based on the evaluation of performance appraisal;
- (iii) To establish a pre audit desk within the finance department to carry out pre audits before payments are affected;
- (iv) Initiate stringent procedural recovery of Kshs2,058,337 overpayment from the contractor and investigate the reasons for payment.

3.1.11 Questionable payment for staff medical insurance

The Committee recommends to the Assembly to urge the Council of Ministers to strongly reprimand the Management of LVBC and make sure that payments are made to the legally contracted suppliers, comply

with a valid agreement and investigate the circumstances of these payments.

3.1.12 Failure to recover US\$8,000 from Lift Contractor as penalty for delay in the installation of a passage lift.

The Committee recommends the Assembly to urge the Council of Ministers to ensure immediate and prompt adherence to the contractual requirements and ensure that the US\$8000 is fully recovered from the contractor.

3.1.13 Weaknesses in Financial Management. This is a repetition. I will skip it entirely.

3.1.15 Inadequate Accounting Policies on provision for bad and doubtful debts and on impairment of assets

The Committee recommends to the Assembly to urge Council to ensure that the Management of LVBC to:-

1. Liaises with EAC-HQ to review the Financial Policy and align it with the IPSAS requirements;
2. Reviews the provision estimate criteria basing on the past experiences and likelihood of serviceability of the item for fair and objective presentation.
3. Reviews the whole reporting policy document and align it with IPSASs reporting framework.

3.1.16 Weaknesses in Imprest Management. We dealt with this entirely in a lot of projects. I will not read it.

3.2 LVWATSAN PROJECT

3.2.1 Weaknesses in Project Management

The Committee recommends the Assembly to urge the Council of Ministers

- (i) Institute and commission a forensic audit into how the Lake Victoria Water Supply and Sanitation Programme (LVWATSAN) project has been managed.

(ii) The Management of LVBC as a matter of urgency should strengthen and improve its current annual plan on supervision and monitoring mechanism of the projects on an ongoing basis;

(iii) As a matter of priority, the management should consider establishing an advisory working group to perform an in-depth and comprehensive review of resources needed for supervision and monitoring of IAs for the extended time, ultimately to achieve a more reliable and justifiable budget estimate for the extended programme time frame;

(iv) As a matter of necessity, the management should liaise with EAC-HQ for fund solicitation for LVWATSAN supervision and monitoring;

(v) Management should develop suitability mechanisms and Programmes to ensure there is project continuity and longevity.

3.2.2. Project Field visit Report

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of the LVBC;

- (i) Takes further measures to improve the rate of projects physical visit to ensure that the projects are on track and conduct interventions in case of any project problems;
- (ii) Liaises with Partner States through EAC so as to find the best way for optimal utilisation of the equipment or to make the trade-off where the equipment is needed in exchange with the equipment according to the current capacity of the beneficiaries; and
- (iii) Considers engaging a consultant to carry out the impact assessment to all projects aimed at improving the surrounding life of society and Community and the result of the study should be utilised for formulating outreach for future Programmes.

3.3 USAID PHE PROJECT

3.3.1 Irregularities in the provision of Communication equipment's for PHE Conference

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

- (i) Management is advised to ensure compliance to procurement requirements and in case of emergency procurement a user request to be documented to justify their decision.
- (ii) The Management of LVBC should adhere to the procurement guidelines and ensure that future procurements are within the Procurement plan.

3.4 USAID PREPARED PROJECT

3.4.1 Delayed signing of Implementation letter

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of LVBC enhances liaison between EAC, LVBC and USAID in order to ensure timely signing of the implementation letters.

3.4.2 Planned project activities not implemented. This is similar to that of other projects. I will not read it.

3.5 STATUS OF IMPLEMENTATION OF PREVIOUS YEARS AUDIT RECOMMENDATION

The Committee noted an upward trend in the overall status of implementation of the previous audit recommendations.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to put in more effort and implement the audit recommendations that were not implemented in the previous financial year.

3.6 AUDIT FINDINGS

3.6.1 Weaknesses noted in Activity Budgeting

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of LVBC:

- (i) Make a proper planning of the meeting and all expenditure should be comprehensively budgeted for. Daily Subsistence allowance should be paid at the authorised EAC rate;
- (ii) The Daily Subsistence allowance should only be paid based on days a participant that has attended the meeting and the Management should ensure that all participants sign the attendance list;
- (iii) Management should improve on the coordination of meetings to enhance value for money and address the weaknesses in the initiation, planning and execution of meetings.

3.6.2 Planned project activities not executed. This is similar to the ones I have read. I will skip it.

3.6.3 Review of Cleaner Production Centres' Activities

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that;

- (i) Cleaner Production Centers are prepared with detailed Annual Work Plans and budgets, which form the basis of transfer of funds from LVBC.
- (ii) Cleaner Production Centers should make early request for operation funds and LVBC should equally respond without delay in order to avoid unimplemented annual activities.
- (iii) Kenya Cleaner Production Centers should prepare a detailed financial report to fully inform the users of financial information.
- (iv) A proper mechanism to evaluate the implementation of project activities should be strengthened in order to achieve all deliverables and outputs.

3.6.4 Deficiencies noted in Budget Performance Report. This recurring. It is as result of understaffing and lack of funding. If you will allow me, I will turn the page and go straight to audit query 3.7

3.7 PHYSICAL VERIFICATION

3.7.1 Water hyacinths machine not in use
The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the LVEMP II Management undertakes a closer follow up with the Republic of Kenya to ensure that the machine delivered is put to use and serves the intended purpose.

3.7.2 Kisumu County: KISAT Water Treatment Plant

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

- (i) Ensure that the plant is equipped with incinerator for proper disposal of inorganic substances, generator as alternative power source and providing trainings to the employees of the plant as to improve its operations.
- (ii) Initiate together with the Kenya National Coordination Unit remedial actions to mobilise financial investments to addresses the emerging challenges.

3.7.3 Improvement of Sewerage System in Kirinya-Jinja Waste Water Treatment Plant 4.1.4

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of LVBC take further measures to improve the rate of projects physical visit to ensure the projects are on track and recommend for interventions in case of any problems.

3.7.4. STATUS OF IMPLEMENTATION OF PREVIOUS AUDIT RECOMMENDATIONS

The Committee noted good performance but encouraged LVBC to continuously improve the implementation for the better performance of LVBC.

PART IV

4.0 THE INTER UNIVERSITY COUNCIL FOR EAST AFRICA

4.1 CURRENT YEAR AUDIT FINDINGS

4.1.1 Unexplained difference between confirmations obtained from creditors and financial statements figure

The Committee recommends to the Assembly to urge the Council of Minister to ensure that the Management of IUCEA reconciles monthly and annually with its suppliers. The unexplained difference should be investigated and agreed upon with the related suppliers.

4.1.2 Long outstanding refundable VAT. This is an issue we have dealt with severally. I will skip it.

4.1.3 Doubtful Receivables. This is an issue we have dealt with. I will only read the recommendation.

The Committee recommends to the Management of IUCEA to recover the above receivables and write off the ones that might not be possible since the projects have closed. Delay to recover advances from staff. We have already dealt with this.

Hon. Speaker, if you may allow me, I will skip it.

4.1.5 Avoidable Expenses

The Audit Commission reported that a total of US\$21,060 was spent on daily subsistence

allowances, conference facilities, and accommodation for various meetings held in Entebbe whereas it was possible to hold them at IUCEA Headquarters.

The Committee recommends the Assembly to urge the Council of Ministers to direct the management of IUCEA to always exercise prudence and rationality to avoid such unnecessary expenditures in future.

4.1.6 Overpayment of Housing allowance to Ms Winfred Itamba. This is a recurring issue on overpayment and imprest.

4.1.7 Wasteful expenditures due to costs of double recruitment

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

1. (i) Always make all necessary consultations and refer to the relevant policies and procedures for all recruitments.
2. (ii) Instituted disciplinary measures against the Executive Secretary and the Human Resources Officer for flouting the EAC rules and regulations and the money IUCEA incurred refunded by the Executive Secretary and the Human Resources Officer.

4.1.8 Recruitment without respecting rules and regulations. We have dealt with this. Mr Speaker, if you allow me, I will skip it entirely.

4.1.9 Irregular recruitment and payment of Experts. We dealt with this extensively, especially in the project. Please, allow me to skip it entirely.

4.1.10 Delay in Payment of Creditors. This is an issue we have dealt with across the EAC. I will skip it entirely.

4.1.11 Use of wrong procurement Methods.

I am about to break records. Again, this is an issue we have dealt with sufficiently. If you will allow me, hon. Speaker, I will skip it.

4.1.12 Insufficiently supported tenders. I will skip this issue.

4.1.13 Shortfall in funding of IUCEA. It is a recurring issue. I will only read the recommendations.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of IUCEA always obtains firm undertakings for funding before a budget is commissioned for any given year.

4.1.14 Long outstanding Subscription Fees due from Member Universities

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of IUCEA ensures that;

1. Adequate efforts are made to follow up and recover all the outstanding amounts from the Member Universities.

2. Remind and caution the defaulting Universities on the provisions of the Act.

4.1.15 Non Compliance with NSSF Act.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that Management should involve EAC competent organs to ensure that the matter is concluded as the resolution may affect the whole Community.

4.1.16 Delay to solve issue relating to two houses on plot 55-59

The report noted that there are two houses located on plot 83/85 Prince Charles drive in Kampala that have been in dispute since I was a baby. I will read the recommendation.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the matter is urgently and expeditiously concluded.

PART V

5.0 THE LAKE VICTORIA FISHERIES ORGANISATION (LVFO)

5.1 CURRENT YEAR AUDIT FINDINGS

5.1.1 Non-Alignment of LVFO Financial Rules and Regulations with the East African Treaty.

The Committee applauds LVFO upon the milestone it has achieved, but urges the management of LVFO to adhere to the financial rules and regulations in order to promote good governance and best practices.

5.1.2 Positions not filled despite recruitment approval. This is similar to the issues in other institutions.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the vacancies are filled up without further delay. 2.

5.1.3 Low budget execution. This is a recurring issue.

5.1.4 Long outstanding receivables from partner states. This is an issue we dealt with in regard to remittances from the Partner States.

5.1.5 Delayed banking of unutilised imprest funds. This is an issue we have dealt with regard to the secretariat and all the projects.

5.1.6 STATUS ON IMPLEMENTATION OF PREVIOUS YEAR AUDIT RECOMMENDATIONS

The Committee recommends the Assembly to urge the Council of Ministers to direct the Management of LVFO to take adequate actions that will ensure that audit recommendations are promptly implemented and followed up.

PART VI

6.0 CIVIL AVIATION SAFETY AND SECURITY AGENCY (CASSOA)

6.1 CURRENT YEAR AUDIT FINDINGS

6.1.2 VAT Recoverable US\$ 49,690. We have dealt with this issue extensively. Hon. Speaker, Allow me to skip it.

6.1.4 Lack of segregation of duties. Hon. Speaker, we have dealt with this issue extensively. Allow me to skip it.

6.1.5 Absence of Internal Audit Unit within CASSOA. We gave chronicled and detailed throughout from the beginning of this report that we need more internal auditors. Hon. Speaker, allow me to skip it.

6.1.6 Outstanding Contribution US\$ 40,383.25

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that Management of CASSOA Continue to liaise with the Partner State to recover the outstanding balance.

Engages the Council of Ministers to ensure that the outstanding contribution US\$ 40,383.25 owed to CASSOA from the Republic of Burundi is cleared.

6.1.7 Absence of Resources Mobilisation strategy as a Funding Mechanism

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the agency puts in place a robust resource mobilisation strategy to attract funding.

6.1.8 Planned activities not implemented. Hon. Speaker, this is a recurring issue. I will skip it, with your permission.

6.1.9 Annual Activities Plan and Performance Reports Preparation. It is a recurring issue.

6.1.10 Non-attendance of CASSOA Chair of Board to EALA Accounts Committee meetings.

Although the Committee commends CASSOA for the attendance of Eng. Chris Njenga the Board Member from the Republic of Kenya, the Committee recommends that the Board Chairman or its designated should continuously attend the EALA Accounts Committee meetings during the discussion of the agency audit reports, so that they can own

the resolutions and recommendations of the Accounts Committee.

6.1.11 Funds not accounted for

The Committee recommends the Assembly to urge the Council of Ministers to ensure that

- (i) CASSOA abides to the EAC financial rules and regulations regarding the accounting for funds;
- (ii) The Senior Accountant of CASSOA should refund the 5 million Uganda Shillings which was not accounted for with the interest accrual to-date.

6.1.12 Non Maintenance of Stores supplies records. This is recurring.

6.1.12 Lack of Documentation for repair and maintenance Works. We dealt with this extensively.

PART VII

7.0 THE EAST AFRICAN KISWAHILI COMMISSION

7.1 AUDIT FINDINGS

7.1.1 Lack of Strategic Plan for EAKC. This is a crosscutting issue throughout the EAC.

7.1.2 Understaffing of the EAKC. This is a crosscutting issue throughout the EAC.

7.1.3 Under-absorption of budget by EAKC is a feature in most of the institutions.

7.1.4 Delayed Contribution from the Partner States. This is a crosscutting issue throughout the EAC.

7.1.5 Irregularities in the Procurement of Works on the Renovation of East African Kiswahili Commission Headquarters US\$99,821. 2.

The Committee recommends the Assembly to urge the Council of Ministers to direct Management to ensure that all procurements are handled as per the procurement manual in

order to enhance compliance and transparency.

7.1.6 Inadequate time allowed between the award of a tender and the signing of the contract. As we have seen in most of the other institutions in EAC, there is laxity in contract adherence in management.

7.1.7 Single sourcing of Air Ticketing Services

The Committee observed that although the EAKC was in the process of setting up its offices and had inadequate staff at the Commission offices in Zanzibar, management is advised to ensure that in future, it prequalifies its suppliers to ensure that services are sourced competitively.

7.1.8 Lack of Segregation of duties under Cash and Bank Management. This is a crosscutting issue that is due to understaffing.

7.1.9 Possible fraudulent transactions of US\$38,000 in EAKC bank account.

Unfortunately, we do not have time though I am sure Members will read the Report at their own time. The Committee took a lot of time in investigating this issue of possible fraudulent transaction of US\$38,000 in the East Africa Kiswahili Commission Bank Account. We managed to talk to the Kenya Commercial Bank (KCB) management - I thank the efforts of hon. Mohamed Abdikadir and hon. Wanjiku. You will read this sufficiently at your own time. It will make a good read.

The Committee urges the Assembly to urge the Council of Ministers:-

To direct the Executive Secretary and the Principal Accountant to step aside as the investigations into the fraud are undertaken; Seek interest compensation for the one-month period before the KCB transferred the amount to EAKC account.

Enforce stringent controls on bank transactions.

PART VIII**8.0 THE EAST AFRICAN SCIENCE AND TECHNOLOGY COMMISSION (EASTECO) AUDIT FINDINGS**

8.1 Low absorption rate of budget. This is a crosscutting issue.

8.1.2 Inadequate staffing level. This is a crosscutting issue.

8.1.3 Delay in finalisation of the Strategic plan. This is a crosscutting issue.

8.1.4 ESTABLISHING OF THE GOVERNING BOARD

The Committee recommends the Assembly to urge the Council of Ministers to amend the Protocol establishing EASTECO and other EAC Commissions and down size the number of representatives to the governing board from seven members to two members to make the implementation of the governing boards manageable. In some of the commissions, there are five staff Members and over 50 members of the Board. That needs to change.

8.1.5 Lack of segregation of Duties. This is a similar issue to understaffing. One member of staff needs to be the procurement officer, the accountant and the cleaner. It is an issue we have dealt with extensively.

8.1.6 OUTSTANDING RECEIVABLES FROM PARTNER STATES US\$147,613 and 8.1.7 VAT Recoverable \$ 13,125 are issues we have dealt with extensively. Hon. Speaker, please, allow me to skip them.

PART IX**9.0 THE EAST AFRICAN HEALTH RESEARCH COMMISSION (EAHRCO)**

9.1 Current year audit findings

9.1.1 Low Budget performance. This is a recurring issue.

9.1.2 Expenditure overstated US\$47,250

Management of the Commission should make necessary adjustments of its expenditures to reflect reality. EAHRC management should ensure that it complies in full with IPSAS and EAC financial rules and regulations.

9.1.3 Lack of annual performance appraisal of staff. This is a recurring issue.

PART X

Hon. Speaker, Finally in Part X, we have the recommendations. If you may allow me, I will read this part in entirety.

GENERAL OBSERVATIONS/RECOMMENDATIONS AND ACKNOWLEDGEMENT

1. **IRREGULAR EMPLOYMENTS DUBBED “SHORT TERM CONTRACTS”.** The Committee noted that while “short term contracts” in the EAC are used to fill manpower gaps in the institution they promote corruption and nepotism. The Committee warns that continued use of these contracts would be harmful to the regional integration process and recommends to the Assembly to urge the EAC Council of Ministers to direct the Secretary General to immediately put an end to them by finding a permanent and regulation compliant solution.

2. **IRREGULARITIES AND NON-ADHERENCE TO PROCUREMENT RULES AND GUIDELINES.**

The Committee observed that irregular procurement of goods and services at the EAC create opportunities for fraud and exorbitant prices. There is gross irregularities and non-adherence to the procurement rules and guidelines. The Committee recommends to the Assembly that it;

- (i) Directs the Council of Ministers to take deterrent disciplinary actions against the non-

compliant EAC Officers involved in the procurement process of goods and services at all levels;

- (ii) Cause a Forensic Audit to be done on the identified procurement transactions in this report above.
- (iii) The Council of Ministers moves a Bill of the Community that will regulate Procurement and Logistics Management in the Community.

3. NON-REMITTANCES OF CONTRIBUTIONS BY EAC PARTNER STATES.

The Committee observed that non-remittances of contributions by EAC Partner States is making implementation of EAC Programmes difficult. Besides, when funds are remitted towards the end of the financial year, they are not sent to the specific institution to which the money was budgeted for but deposited to the reserve account.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to engage all stakeholders on the matter and ensure contributions are remitted timely.

4. NON-IMPLEMENTATION OF THE PREVIOUS ASSEMBLY/AUDIT RECOMMENDATIONS

The Committee observed through this process that there was low implementation of the Audit / Assembly recommendations. The Committee recommends;

1. That the EAC put in place a proper mechanism which will enable the Assembly to receive periodical reports on the status of implementation of its recommendations from the Council of Ministers.
2. Direct the Audit Commission to follow up and report on an half year basis to the Assembly through the EALA Committee on

Accounts the status of implementation of the Assembly's recommendations.

5. WEAK AUDIT FUNCTIONALITY

The Committee observed a weak Audit unit in the EAC secretariat where one Auditor has been carrying out the audit function on all the organs and institutions of EAC. Although two auditors have been recruited, the unit is still understaffed.

The Committee recommends the Assembly to urge the EAC Council of Ministers to upgrade the Audit function to a department and ensure that the audit function is properly manned with the necessary personnel to carry out the function.

6. LACK OF PROPER MANAGEMENT OF EAC PROJECTS AND PROGRAMMES

The Committee recommends to the Assembly to urge the Council of Ministers; Direct the EAC Council of Ministers to put in place an established project management unit/mechanism that will ensure all issues for the successful implementation of projects are well addressed;

To make sustainability plans for all projects and align them with EAC the objectives and mission to enhance durability of these initiatives after project/Programme closure; Direct the Council of Ministers to ensure branding of EAC Projects and Programme initiatives is planned for and implemented to enhance the visibility of EAC activities.

7. VAT RECEIVABLES

The Committee observed non-remittance of the VAT receivables across the Partner States by the revenue collection bodies. The Council of Ministers should engage the Ministers of Finance and the Sectoral Committee on finance to ensure that the VAT receivables are remitted timely to the EAC institutions.

8. UNDERSTAFFING

Most of the EAC institutions are grossly understaffed and this has led to non-segregation of duties and violation of staff rules and regulations.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that all the positions at EAC are properly filled as per the staffing structures.

9. Inadequate and Weak Regulatory Framework Governing the Financial and Procurement Regimes At The EAC.

The committee noted that the existing financial rules and regulations currently governing the financial regime in the EAC is weak and does not hold the staff culpable in instances of staff who violate the rules. This has led to violation of the financial rules and regulations. Therefore, the committee recommends that a substantive Financial Management Act is enacted to regulate the financial regime at EAC.

10. ACCOUNTS SIGNATORIES TO EAC ACCOUNTS.

The Committee observed that some of the account signatories of EAC institutions and organs misuse the rule that allows them to transact in cash from their respective accounts thus making a lot of unexplained cash withdraws almost on a daily basis. The Committee therefore recommends that Cash transactions from institutions accounts should be stopped and a new mechanism devised for running these institutions day to day.

11. COMPLIANCE AND VERIFICATION SYSTEM.

The Secretary General should institute a mechanism to ensure that before any payments above of US\$100,000 are made; the Director of Finance/Deputy Secretary

General should ensure that the goods and services being procured have been delivered and authenticated in the stores ledger.

12. The Committee recommends strict verification of academic certificates to ensure compliance.

13. The Committee noted that the senior procurement officer was the Secretary to the procurement committee and thus was likely to lead to a conflict of interest. The Committee recommends that the Senior Procurement Officer or any other staff from the procurement committee should not be involved in the procurement processes at the EAC.

14. The Committee recommends that the Council of Ministers urge the Partner States to ensure timely remittances of funds to the EAC and should further expedite the proposed alternative funding mechanism in order to ensure that the EAC is adequately funded to implement activities.

15. The committee noted that the membership of the governing Councils of the Commissions are big and are making the implementation of the mandate difficult. The protocol provides for seven members of the governing council. The committee recommends that the protocol governing the councils be amended to provide for a sizeable number of representation from the respective Partner States. Additionally, the Committee recommends two members vis a viz the growing number of Partner States.

16. Weak disciplinary mechanism to reprimand staff at the EAC.

The committee noted a weak disciplinary mechanism at the EAC for enforcing staff discipline. The Committee was informed that whenever disciplinary issues arose on specific staff, issues of partner states

overshadow the particular violations the individual staff would have committed. The Committee recommends the Council of Ministers should ensure that strong/stringent disciplinary mechanisms are taken against staff who willingly violate the EAC rules and regulations. And the Committee also recommends that the Secretary General should report to the Assembly on an annual basis regarding staff performance and discipline.

ACKNOWLEDGMENT

The Committee wishes to thank the Rt. Hon. Speaker, the Clerk and the entire Management of EALA for the excellent facilitation accorded to it while executing its mandate. Despite limited time, the Committee finalised the bulky and demanding exercise within the financially dictated timeframe. It is however my place as chairman to state that in future more time is required to dispose of Audit items.

The Committee further wishes to thank the Audit Commission for fulfilling their mandate bestowed on it by Article 134 of the Treaty.

Finally, the Committee commends the EAC Secretariat and other EAC Organs and Institutions for the continued cooperation.

Thank you. I beg to submit. – (*Applause*)

(Dr Jumanne Ngwaru Maghembe laid the document on the Table)

The Speaker: Thank you, Dr Ngwaru Maghembe, Chairperson Committee on Accounts. That is what it takes to chair an important Committee like yours.

ADJOURNMENT

Hon. Members, although we still have half an hour, we need time to read the Report so that we are informed and can debate it when we resume tomorrow. Remember I had earlier requested to have a few minutes with you before we depart.

I will adjourn at this point and request that you stay behind for a short discussion. I will also request the Ex-officio Members and the Council Chairperson to stay because the subject of discussion concerns them. The members of the fourth estate and the staff, except these two, are not welcome in our informal meeting.

Hon. Members, the House stands adjourned until tomorrow, 2.30 p.m. in the County Hall of Nairobi.

(The House was adjourned at 6.00 p.m. to reconvene on Thursday, 31 May at 2.30 p.m.)