



## EAST AFRICAN COMMUNITY

### EAST AFRICAN LEGISLATIVE ASSEMBLY

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

#### 40<sup>TH</sup> SITTING – FIRST ASSEMBLY: SECOND MEETING – THIRD SESSION

Tuesday, 1 June 2004

*The East African Legislative Assembly met at 2.30 p.m. at the Chamber of the Assembly, Ngorongoro Wing, Sixth Floor, AICC Complex, Arusha*

#### PRAYERS

*[The Speaker, Hon. Abdulrahman Kinana in the Chair]*

*The Assembly was called to Order.*

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#### MOTION

#### FOR THE APPOINTMENT OF A RESEARCH OFFICER FOR THE ASSEMBLY

**Mr Ochieng-Mbeo (Kenya):** Mr. Speaker, sir, I beg to move\_

THAT, this Assembly, pursuant to the provisions of Article 49(2)(f) of the Treaty, do recommend to the Council of Ministers the appointment of Mrs. Susan Mlangwa Nangwala as Research Officer.

**Mrs. Beatrice Shellukindo (Tanzania)** seconded.

**Mr Ochieng-Mbeo (Kenya):** Honourable members, you may wish to recall that on 3<sup>rd</sup> December 2003, this House, upon a recommendation from

the House Business Committee, resolved to recommend to the Council of Ministers the appointment of one Samuel Bwana as Research Officer for the Assembly. The Council of Ministers, indeed at its meeting held in January 2004, appointed Mr Bwana accordingly. The Secretary General issued the necessary appointment letters to Mr Bwana, giving him a period of three months, up to the end of April, within which to report.

Mr Bwana acknowledged receipt of the appointment letter, and in fact wrote back that he would report for duty by 1 May 2004. The deadline has long passed, but Mr Bwana has not bothered to confirm to the Secretary General whether he would take up the appointment after all.

The Secretary General brought this fact to the attention of the Speaker, who put the matter to the House Business

Committee. The House Business Committee sat on Wednesday 26 May 2004 to deliberate on this issue. A list of all those who were interviewed together with Mr Bwana was called for review. At the end of it, the House Business Committee decided to recommend to this House Mrs. Susan Mlangwa Nangwala as the next suitable candidate for the post of Research Officer.

But, Mr Speaker, who is Susan Mlangwa Nangwala?

She is a 36-year-old female sociologist. She holds both a Bachelor of Arts in Sociology and a Master of Arts in Medical Sociology and Social Policy, both attained from the University of Dar-es-Salaam. She is married. She is fluent in English, Portuguese, French, and needless to say, Kiswahili.

All her employment life, Mrs. Susan Mlangwa Nangwala has been nothing else but a Researcher. From October 1994 to July 1996, she has worked as a researcher with the Dar es Salaam City Council. From July 1996 to April 1998, she joined Ifakara Health Research and Development Centre, Tanzania, still as a researcher. From November 1998 to November 2000, she was mainly an independent consultant with Norplant-Uganda and COWI Denmark.

She joined Research International East Africa a market and social research firm in March 2001 and she has since risen to the position of Associate Director in charge of Tanzania and Uganda.

On the basis of the strength of her Curricular Vitae, the House Business Committee was satisfied that Mrs. Susan Mlangwa Nangwala was

suitable for appointment as Research Officer for the Assembly. Mr Speaker I beg to move.

*(Question put and agreed to)*

### **MOTION**

#### **FOR THE APPOINTMENT OF STANDING COMMITTEES OF THE ASSEMBLY**

**Amb. Isaac Sepetu (Tanzania):** Mr Speaker, I beg to move\_

THAT, this Assembly, pursuant to the provisions of Article 49(2)(e) of the Treaty, and Rules 77, 78 and 81 of the Rules of Procedure of this House, do appoint the following Standing Committees for the efficient discharge of its functions.

Mr Speaker, the proposed membership of the Committees of the Assembly as at June 2004 till November 2006 is as follows: -

#### **Accounts Committee**

Hon. Said B. Jecha  
 Hon. George F. Nangale  
 Hon. Beatrice M. Shellukindo  
 Hon. Bagalaaliwo Sarah Nanziri  
 Hon. Kanyomozi Yonasani Bankobeza  
 Hon. Maj. Gen. Mugisha Muntu Oyera  
 Hon. Mwatela Calist Andrew  
 Hon. Abdi H.H. Abdirahin  
 Hon. Zubedi Mohammed Abdalla

#### **Communication, Trade and Investment Committee**

Hon. Mabere N. Marando  
 Hon. George Nangale  
 Hon. Amb. Isaac Abraham Sepetu  
 Hon. Bagalaaliwo Sarah Nanziri  
 Hon. Kanyomozi Yonasani Bankobeza

Hon. Ovonji Odida Irene  
 Hon. Zubedi Mohammed Abdalla  
 Hon. Abdi H.H. Abdirahin  
 Hon. Waruhiu W. Rose

### **Legal, Rules and Privileges**

Hon. Mahfoudha A. Hamid  
 Hon. Dr. Harrison Mwakyembe  
 Hon. Mabere N. Marando  
 Kaggwa Med Kiwanuka Sozi  
 Hon. Kawamara Mishambi Sheila  
 Hon. Ogalo Daniel Wandera  
 Hon. Kangwana Jared B.  
 Hon. Shamala Maxwell  
 Hon. Prof. Kamar J. Margaret

### **Agriculture, Tourism and Natural Resources**

Hon. Dr. Harrison Mwakyembe  
 Hon. Beatrice M. Shellukindo  
 Hon. Mahfoudha A. Hamid  
 Hon. Ddudu Richard Baker  
 Hon. Kawamara Mishambi Sheila  
 Hon. Wanyoto Lydia Mutende  
 Hon. Ochieng Mbeo Gilbert  
 Hon. Prof. Kamar J. Margaret  
 Hon. Mwatela Calist Andrew

### **General Purpose**

Hon. Kate Kamba  
 Hon. Mahfoudha A. Hamid  
 Hon. Amb. Isaac Abraham Sepetu  
 Hon. Kaggwa Med Kiwanuka Sozi  
 Hon. Ogalo Daniel Wandera  
 Hon. Wanyoto Mutende Lydia  
 Hon. Waruhiu W. Rose  
 Hon. Lt. Gen. Adan Abdullahi  
 Hon. Kangwana Jared B.

### **Regional Affairs and Conflict Resolution**

Hon. Said B. Jecha  
 Hon. Kate Kamba  
 Hon. Beatrice M. Shellukindo  
 Hon. Ddudu Richard Baker  
 Hon. Mugisha Muntu Oyera

Hon. Ovonji Odida Irene  
 Hon. Lt. General Adan Abdullahi  
 Hon. Shamala Maxwell  
 Hon. Ochieng Mbeo Gilbert

### **House Business Committee**

Hon. Abdulrahman O. Kinana  
 Hon. Tom Butime, Chairperson  
 Council of Ministers  
 Hon. Dr. Harrison Mwakyembe  
 Hon. Kate Kamba  
 Hon. Bagalaaliwo Sarah Nanziri  
 Hon. Mugisha Muntu Oyera  
 Hon. Waruhiu W. Rose  
 Hon. Kangwana Jared B.

Mr Speaker, Article 49(2)(e) of the Treaty provides that the Assembly “may, for purposes of carrying out its functions, establish any Committee or Committees for such purposes, as it deems necessary.”

Rule 77 provides that “the Assembly shall appoint relevant committees for the efficient discharge of its functions.” Rule 78(2) provides for the nature of the committees to be appointed, while Rule 78(3) provides that the members of the committees so appointed “shall serve for a term of two and half years, and thereafter fresh nominations shall be done”. Further, Rule 81(3) provides for the functions of the House Business Committee, one of which is “to nominate members of the standing and other committees”.

Mr Speaker, it is two and a half years since the current standing committees were appointed. We are therefore required to have fresh nominations.

The House Business Committee has duly made its nominations as I read above. I therefore, beg to implore this House to accordingly appoint the standing committees as I moved earlier. Mr Speaker, I beg to move.

**Prof. Margaret Kamar (Kenya)** seconded.

**Amb. Isaac Sepetu:** Mr Speaker, I think you are all aware that on 18 May 2004, the Clerk did communicate the decision of the House Business Committee that the Country Chairpersons should nominate members to the Standing the Committees of this House in accordance with Rule 78(3) of our Rules of Procedure. This was duly done on 24 May 2004 under the chairmanship of the Speaker, and the list of names was submitted. Therefore, I do not need to labour on this, but to request honourable members to formalise what the country chairs have already submitted so that we can move forward. With those remarks, I beg to move.

**Ms. Irene Ovonji-Odida (Uganda):** Mr Speaker, sir, I seek your indulgence and that of the Members of this House.

Mr Speaker, sir, as it has been brought to your notice on a number of occasions, there have been discussions and disagreements within the Uganda Chapter over membership of committees. Two meetings were held in an attempt to settle this matter. In those meetings, the members of that Chapter tried to work out the placement of individuals in the various committees. Following the second meeting, there was an election held within the Uganda Chapter, and in that meeting it was agreed by consensus that the Chair of the Ugandan Chapter, which I note from what has been moved, should be taken by hon. Capt. Ddudu. Since that time, hon. Ddudu has been holding discussions with Members of the Chapter in an attempt to break the impasse, which had been reached in the two meetings.

There is a letter, which was written to the Speaker by three members of that chapter; hon. Kawamara, hon. Ddudu and myself. We have also circulated this letter to Members of the Uganda Chapter. We brought to your attention the disagreements,

Mr Speaker, my understanding, based on briefings given to us by the incoming Chair, is that finally there has been a break-through in the interest of compromise, which we first begun to negotiate in the second meeting. In that second meeting, there were discussions initiated by hon. Maj. Gen. Mugisha Muntu and other members.

Based on those negotiations as well and the discussions with the incoming Chair has been holding with individuals within the chapter, the new position is that Maj. Gen. Mugisha Muntu offered to leave the House Business Committee, and I accepted to take up that position. Secondly, I agreed that if that was the case, I would yield my first preference to remain in the Legal, Rules and Privileges and move to the Trade Committee. Also, an understanding was given that another member, whose name was proposed for the Chair of the Tourism Committee, was interested in that position.

Mr Speaker, sir, I am raising these issues because that understanding which has been negotiated within the Uganda Chapter has taken time. You know very well, and I believe that other Members of this Assembly from Kenya and Tanzania are well aware of the difficulties that have plagued that Chapter. Those difficulties have impacted on our work as individuals, it has been alluded to several times here, especially in informal meetings and we are really desirous of moving forward from that position. So, what has been

proposed here seems to take us back to the position we had in the first meeting in the Ugandan Chapter and, in my view, will not assist us in continuing with that spirit of compromise.

I make a request that the position negotiated be accepted in the interest of our working relations, both within the Chapter and in this House. Secondly, I would like to state very clearly that the preferences that I indicated for committees, particularly between the Legal and Trade, were premised upon membership in the House Business Committee, and that was very clear within the Uganda Chapter, and was part of that negotiated settlement. Therefore, I cannot support what has been proposed here because it does not reflect the current position and agreements that had been negotiated.

I wish that all the Members of the Uganda Chapter were here, including hon. Ddudu, so that they could peak. Hon. Maj. Gen. Mugisha Muntu is here, and possibly he will be able to speak on this issue. I am sorry that I have to raise these issues here, but I am concerned that what had been agreed in the interest of our working relations is not being reflected in the documentation sent forward to you. Thank you.

**Maj. Gen. Mugisha Muntu (Uganda):** Mr Speaker, sir, it is really unfortunate that I have to get engaged in this discussion here. I had hoped that it would not come up at all in the plenary.

Mr Speaker, you may be aware that there have been problems in the Uganda Chapter, but it is my wish that we resolve it internally within the Uganda Chapter. We have discussed this matter, and there are different

positions, and I am not going to go into details. But I would not really want to be caught up in a precedent.

As I indicated in the debate here last about consolidating country chapters, unless we have got stable country chapters and we built towards stability, even when there are problems within a chapter, we should try the best we can to resolve whatever issues there might be within the chapter itself. Mr Speaker, there are commitments that I have made personally within the Uganda Chapter, and when we get into the Chapter, we will discuss whatever positions there will be. But I am hesitant to bring that debate in this plenary, and that is consistent with my view that country chapters should be strengthened.

There are those who may not see the importance of country chapters in this point in time and the focus might be that we only work within and use more often the committees, which are within the law, that the chapters are not recognised anywhere, but as I indicated last week, it is these chapters that co-ordinate with the national assemblies, and it is these chapters that organise country meetings.

Today we may not see any problems within the country chapters but who knows, down the road we may need them. We have not hit any inter-country issues. The issues we are talking about are person-to-person issues but tomorrow we may hit on an issue that may cause turbulence beyond an individual, and even cause problems between countries. I would not want to be involved in a situation like that. I would rather that we try everything within our human capability to resolve whatever issues there are within the country chapters. Thank you.

**Mr Maxwell Shamala (Kenya):** Mr Speaker, sir, this is a young assembly, and we are creating some precedents which may be good or otherwise. I think we have mature people in the Uganda Chapter, and I think they should be given an opportunity to sit again, perhaps with the assistance of the Office of the Speaker, and come up with a position that will be acceptable to them and the Assembly. We must have the spirit of give and take.

Mr Speaker, there might be some nitty-gritty issues that the Chapter may not want to bring into this Assembly, and that is why I am requesting that they be given an opportunity this afternoon, either by way of an adjournment or something, so that they can discuss this matter and come back with a position that is going to be acceptable to us. But as I said, we cannot have everything written that this is the way things will be done. Some of these things are by practice, and we are establishing practice here. If we instruct a particular Chapter to go and do something and it becomes something that works out well, this will be a precedent. And that is the way it works.

Mr Speaker, it is my view that the Uganda Chapter should be allowed to go back and put its house in order.

**Mr Ochieng-Mbeo (Kenya):** Mr Speaker, sir, as a matter of fact, I did not want to debate because the issue that has been raised has completely brought a new dimension to the debate. I wanted to seek your indulgence to adjourn the debate on this Motion until some other time so that we can proceed with the other matters, or put it to the House again for vote.

**Dr Harrison Mwakyembe (Tanzania):** Mr Speaker, I rise to join my colleagues in proposing that we

defer debate on this Motion until tomorrow. Rule 82(2) of Rules of Procedure, which states, "Where any matter is not expressly provided for by these Rules or any law, that question shall be decided by the Speaker", guides me. So I ask the Speaker to use his judgement so that this Motion is deferred. Thank you.

**Amb. Isaac Sepetu:** Mr Speaker, I would like to thank the honourable members who have taken the Floor to discuss this Motion before us. I would like to recognise hon. Ovonji-Odida, Maj. Gen. Mugisha Muntu, Maxwell Shamala and Dr. Mwakyembe.

In discussing this Motion, three things have come up: Hon. Ovonji-Odida did not support the Motion, reason being that the list which I read out, which was duly presented to the office of the Clerk and the House Business Committee, appears not to reflect the spirit which prevailed in her Country Chapter while discussing and making nominations to the standing committees. Also, during the discussions two or three suggestions were made in order to accommodate the views presented by hon. Ovonji-Odida.

Mr Speaker, it is my understanding that the other members who contributed to this Motion actually supported the motion, but the views that came out, and which need the decision of this House culminating in the judgement of the hon. Speaker is that this discussion should be deferred to allow the Chapter in question to sit again and reconcile its positions so that it can submit a list that is acceptable to Members of the Chapter. The other suggestion is that the hon. Speaker should make a judgement as to how we proceed.

Mr Speaker, I think it was made clear by hon. Maj. Gen. Muntu, Ochieng-Mbeo and hon. Shamala that there are issues that really need to be taken up in the country chapters although this arrangement is not reflected in our Rules of Procedure. It would be good, and it would show good facilitation for the work of this Assembly.

I therefore appeal to my dear sister hon. Ovonji-Odida whom I respect very much to save this House the agony of going back to nominate people to the standing committees and agree with whatever ruling the Speaker will make. With those remarks, I beg to move.

**The Speaker:** Honourable members, before I put this motion to vote, let me say that I received names proposed to sit in the standing committees of this House from the Tanzania Chapter, and the list begins by saying: *“At its meeting held on 24 May 2004, in the Chamber of the Assembly, the Tanzanian Chapter Members of EALA agreed that representation in the Assembly’s standing committees be as follows...”* The names are given there as read out by Amb. Sepetu.

I also received another letter from the Kenya Chapter saying: *“At its meeting held on 24 May 2004 in Committee Room A, the Kenyan Chapter of the EALA agreed that representation in the Assembly’s standing committees be as follows...”* The names are given there as read out by Amb. Sepetu. Hon. Kangwana signed the Kenyan letter and hon. Beatrice Shellukindo, on behalf of hon. Sepetu, signed the Tanzanian one.

I also received another letter from the Uganda Chapter stating as follows: *“At its meeting held on Friday, 21 May 2004 in Committee Room B, the*

Ugandan Chapter of the EALA agreed that representation in the Assembly’s standing committees be as follows...” The names are given there as read out by Amb. Sepetu. Capt. Ddudu, the Chairperson of the Uganda Chapter, signs the letter. So those are the names I have, and they were presented to the House Business Committee for approval.

Let me also take you to the provisions of Rule 81(3) (c), which explains the work of the House Business Committee. It is not the business of the country chapters to nominate members to the various Committees of this House; I think we are just being prudent to give this authority to the Chapters.

I have also received another note signed by Capt. Ddudu copied to me, and it reads as follows: *“I am calling a meeting today, 1 June 2004 after the plenary for the Ugandan Chapter to finalise nomination of the country’s representation to the Committees. I have held discussions in the interest of compromise on the following positions...”*

I have not received minutes to say whether the meeting was held or not. So I hold to the position that there was a meeting on 21 May 2004 where representation in the committees was agreed, the process was followed i.e. it was presented to the House Business Committee who presented it to the august House and it is for the House to decide now. I will therefore put this question before the House to decide.

*(Question put and agreed to)*

**MOTION****THE ACCOUNTS COMMITTEE  
REPORT ON THE AUDITED  
FINANCIAL STATEMENTS OF THE  
EAC FOR THE FINANCIAL YEARS  
2001/2002**

**The Chairperson, Committee on  
Accounts (Mrs. Sarah Bagalaaliwo)  
(Uganda):** Mr Speaker, I beg to move\_

THAT this House do adopt the Report of the Committee on Accounts on the Audited Financial Statements of the East African Community for the financial years ended 30 June 2001 and 30 June 2002 respectively.

**Mr Calist Mwatela (Kenya)** seconded

Mr Speaker, sir, on behalf of the Standing Committee on Accounts, allow me to thank you for the opportunity availed to us to present our report to this House on the above accounts.

The role of this Committee is to assist the legislature in exercising its oversight function in respect of the financial management of the EAC. Oversight is a crucial role of the legislature in monitoring and reviewing the actions of the executive and administrative organs. It therefore traverses a wide range of activities and the concept of accountability. This role emanates from the principal of separation of powers in a democratic process that enables the executive and the administration to be checked and held accountable to an organisation distinct from it. The oversight role must therefore be seen as central to the

tenets of democracy, and complementary to the effective delivery of services.

At times there is a view that oversight role is to police and expose maladministration and corruption. But this tends to be limited and deficient. It is meant to act as checkpoint against human tendencies of negligence, carelessness or arbitrariness. Hence it is called the “watchdog”. This role is also meant to add value, as opposed to witch-hunting. It is meant to examine the results of any programmes, enable the executive set their priorities right and promote the flow of resources towards worthwhile projects.

Mr Speaker, there are two sets of accounts dating back to June 2001, before our inauguration. This was in keeping with the financial practice in keeping with the principle of looking at where you are coming from.

Our introduction outlines the factors that necessitated deference of this report. These included the delayed tabling of the audited financial reports, the absence of a legal framework to conduct business in the committees, procedural matters, the unavailability of the Accounting Officer, and facilitation. The House will therefore note that this report, which should have been dealt with and presented to the Assembly before June 2003, could not be dealt with due to the following factors: -

1. The Audited Financial Reports for the year ending 2001 and 2002 were tabled before the Assembly on 13 February 2003.
2. The Assembly’s rules that regulate the mandate and procedure for conduct of business in the committees



- were approved on 18 February 2003.
3. The East African Legislative Assembly (Powers and Privileges) Act, which declares and defines powers, privileges and immunities of the members and regulates admittance to the precincts of the Assembly, provides for summoning and examination of witnesses and protection of officers of the Assembly was passed on 13 March 2003 and assented to on 9 October 2003.
  4. The committee never had the opportunity to interview the Accounting officer of the Community.

In the beginning, the committee was frustrated by the non-availability of information, presentation of incomplete documents and reluctance to part with information. I am however happy to report that since Sopa I, our relationship with the Secretariat has tremendously improved. This committee also belaboured the issue of not being availed ample time and facilitation to audit. Allow me to emphasize that due consideration should always be given to facilitation of the Accounts Committee.

Mr Speaker, our committee derives its general powers by virtue of Articles 48(3) and 49(e) and (g) of the Treaty, which empower the Assembly to form its own Committees and allocate duties to them. By virtue of the powers provided for under the above quoted articles, the Committee on Accounts is established by Rule 78(2)(a), and its functions are set out in Annex 5 of the EALA Rules of Procedure namely:

“To carry out a post audit review and scrutiny of the expenditure by the EAC of the

sums appropriated in an annual budget approved by the Assembly”

We have construed that the main work of this Committee is to examine the reports produced by the Audit Commission in order to ascertain value for money, the efficiency and effectiveness with which the EAC has used the resources to further its objectives. Our presentation of this report follows the requirements of the provisions of Annex 5(A) (v) of the EALA Rules of Procedure, which stipulates that:

“At the end of each post audit review and scrutiny of an audit report of the Audit Commission, the Committee shall present a report with recommendations to the House for debate and adoption.”

Mr Speaker, financial rules and regulations of 1996 govern the examination of these accounts. As you will appreciate, these rules were in place to govern the accounts of the Tripartite Commission, but were adopted in 1999 under the transitional provisions of the Treaty, Article 140(3) which states as follows:

“Until the Community adopts its own staff rules and regulations and terms and conditions of service and financial rules and regulations, those of the Secretariat of the Tripartite Commission shall apply.”

Mr Speaker, despite our misgivings about the applicability of these rules to the current East African Community and its organs, despite our concern about the delayed establishment of new

rules and associated shortcomings, these are the applicable rules.

Mr Speaker, I wish to note that two representatives from the Auditors General's offices from Tanzania and Uganda assisted the Committee. The Secretary General was also interviewed for the first time, as were other staffs of the East African Community.

The committee examined the accounts of the EAC and was satisfied that they gave a true and fair view of the state of financial affairs of the East African Community however the committee observed that there were cases of breach as a result of failure to adhere to the financial rules and regulations in place. Cases of irregularities in procurement and contracting for goods and services and consultancies were highlighted in the two reports issued by the Audit Commission.

Mr Speaker, let me start with the Financial Year 2000-2001. The East African Community was officially inaugurated on 15 January 2001. The total budget approved by the Council of Ministers amounted to US\$ 2,103,000, with each Partner State contributing US\$ 701,000.

The Audit Commission examined these accounts and highlighted the following specific irregularities that occurred during the course of the accounting year:

### **Budget Performance**

The Committee noted that despite the recommendation by the Audit Commission in their earlier report to provide for donor funds in the annual budget, no provision was made in the subsequent financial year. A total of US\$ 748,922 was received from the

donor community and spent without budgetary approval. This undermines budget monitoring and control of expenditure.

The Committee wishes to amplify the recommendation of the Audit Commission that the EAC should in future identify and programme activities which need financing well in advance. The EAC should forecast explicit financial requirements so that they are included in the budget. This will provide an opportunity to monitor mobilisation, remittance and disbursement of the resources of the Community.

### **Violation of Competitive Bidding**

The Audit Commission reported cases where management did not comply with the established procurement regulations. The Committee wishes to emphasize the need to adhere to established financial rules and regulations for economic and efficient use of the East African Community resources.

### **Accountable Documents**

The Committee concurred with the Auditors' observation that accounting documents, which are of a security and risky nature, were being printed at the Secretariat. Documents such as receipts, local purchase orders and payment vouchers are items that can lead to great losses for the Community. This poses an internal control deficiency as the documents so printed can be misused for purposes other than those for which they were rightfully intended. The committee noted that there was still continued occurrence of this irregularity in the Secretariat. For example, payment vouchers were still being printed in the Secretariat.

The Committee upholds the recommendation made by the Audit Commission in this respect that printing of all accounting documents should be contracted to reputable printing establishments, and should be serialised.

### **Stores**

The Auditors highlighted a serious anomaly that not all store purchases and issues were being recorded in the respective stores records. As a result of this, the Auditors could not confirm whether there were any purchases made, or whether even the goods purportedly delivered were utilized for the intended purpose.

The Committee upholds the Auditors recommendation that stores records be maintained diligently to ensure proper accountability of stocks and assets procured. In the meantime, since a Stores Assistant has been recruited, the Committee recommends that the unrecorded stores should be reconstructed and brought up to date.

### **Lack of Supporting Documents**

The Committee noted with concern that a sum of US \$ 413,343 was paid directly by a donor in form of consultancy service and technical assistance outside the Secretariat's financial system. The donor only notified the Secretariat without providing the supporting documentation. The Accounting Officer pointed out that there was a difficulty in extracting accountability from some donors. There is a lot of confusion emanating from the treatment of donor funds throughout all the accounts. This problem is compounded by the power of donors over their funds as reflected in Article 7 of the Financial Rules and

Regulations. This too reflects an inadequacy of a policy in place to govern donor funding, mobilisation, utilisation and accountability for such funds.

### **Computerisation of the EAC Accounts**

This is another area where the reasonable recommendation of the Audit Commission was ignored. Whether it was inadvertent or for failure to source funds is difficult to ascertain.

Mr Speaker, in the 2001/2002 Financial Year, there was an increment in the approved budget to support the newly established organs of the Community, namely the East African Court of Justice and the East African Legislative Assembly.

### **Review of the Financial Year 2000/2001 Audit Report**

Mr Speaker, this Committee needs to emphasize that there has been repeated flouting of financial regulations in some cases, and the following two cases will suffice as examples:

#### **i. Computerisation of EAC Accounts**

Despite the emphasis that had been made by the Auditors and the limitation in manpower resource at the East African Community and the need to enhance the quality of accounts, the process does not seem to have been completed three years down the road.

#### **ii. Non-accountability of stores**

Management had failed to maintain proper stores records, and as such purchases and issues were largely unrecorded. This was not only erroneous but it could also appear fraudulent as no audit trail can be

carried out. Despite the previous recommendation, not only were the stores not recorded but also an unqualified officer was handling the stores management function at that time. I can only leave this to the imagination of the honourable members.

The committee recommends that crucial departments should always have qualified staff. This recommendation is very much in line with the sentiments expressed by the Committee on General Purpose during the Budget Debate. The Committee further recommends that the stores records must be reconstructed and subjected to an audit.

Mr Speaker, if honourable members looked at the present financial rules and regulations, Article 12(9)(b) on losses stipulates that the Commission, after full investigation of the case may authorise the writing-off of the losses or such other adjustments of the records as to bring the balance into conformity with actual quantities.

### **Residential Assets**

Mr Speaker, in addition to flouting the rules, the directive of the Council on residential assets seems to have also been flouted. The Committee concurs with the Auditors' recommendation that an independent and professional valuer should always value all goods and assets of the EAC before any cash sale can be effected.

### **Depreciation Policy**

The Community maintains a depreciation policy of 20% per annum on all assets. The Committee however noted that the rate of wear and tear differs from one asset to another depending on its nature and use. The

Committee therefore recommends that the depreciation policy should be reviewed to reflect the nature and use of the assets.

### **Unauthorized Re-allocation – US\$ 3,720**

During the auditing, it was revealed that a total of US\$ 3,720, which had been allocated for purchase of books and publications for the East African Court of Justice, was re-allocated to purchase computers without the authority of the Council as required by the financial regulations.

The Committee emphasizes the need to ensure that the funds are spent as per the items budgeted for.

### **Land and Building**

The Committee is grateful to the government of the United Republic of Tanzania for the generous donation of 9.85 acres of land with a building to EAC. The land has been valued at US \$ 2.4m and the funds have been mobilised from donors for the Construction of the East African Community Headquarters. This Committee also wishes to register its appreciation to the Secretary General for this effort.

Mr Speaker, there has been extensive debate and wide coverage of this issue during the debate on the Budget. I wish, as the Chair of the Standing Committee on Accounts, to request this House to address this matter as an investment issue for accountability purposes, and a number of questions would arise. What are the guidelines on investment? What criteria should be applied? Were these decisions to be uneconomic and unviable, who is responsible and to what extent? I noted that despite the valued argument of viability, despite the availability of

more acreage, and the willingness of the Tanzanian Government to consider granting us more acreage, despite the site visits and promised access to amenities, the response of the minister, and that of the Chairman of the Council of Ministers implied some conditionality. This Committee cannot adequately comment, as it was not clear about the terms of the donation.

### **Sub-Accounting Officers for other organs**

Mr Speaker, the Committee agreed with the recommendation of the Auditors and wishes to add further that even without this directive, the Secretary General, under Article 71(1)(o) of the Treaty is charged with establishing practical working relations with the East African Court of Justice and the East African Legislative Assembly.

### **General Observations**

Mr Speaker, the general observations are in respect of issues that the Committee deems to be most fundamental in the exercise of the oversight role of the Assembly, the strengthening of financial regulations in view of the rapid expansion of the East African Community, and more particularly, in view of the establishment of the Customs Union. There is also need to cater for donor funding which is likely to be central and crucial in the implementation of most of the programmes of the Community organs. There are general observations with respect to three, which include:

#### **1. Financial Rules and Regulations**

The Committee noted with concern that the Secretariat still applies the 1996 Financial Rules and Regulations that were applicable during the

Tripartite Commission. Article 140 (3) provides for their application until new rules are adopted. It is inconceivable that four years down the road the transition is still on going. It is also absurd to learn that several consultancies have been commissioned for the purpose of drafting the new rules, none of which have been approved.

The Committee also noted that in many aspects the financial rules and regulations contradict the Treaty. For instance, Article 49(2)(c) of the Treaty empowers the Assembly to consider the annual reports and the audit report, yet the provisions of Article XIII of the Financial Rules and Regulations require the Secretary General to submit the Audit Reports to the Commission.

Mr Speaker, the above are not the only areas of divergences, inconsistencies or controversies. The Committee did not have the time to examine the existing financial rules and regulations, but it cannot be doubted that there will be many others still. The Committee was made aware of the three studies that have been undertaken to date, none of which has been presented. The Committee unfortunately has not had access to any of these draft reports to give a comprehensive audit assessment. We were also made to understand that the offices of the Auditors General have not been involved in this exercise. Mr Speaker, we did not know the composition of the Committee handling this review process. There is need to emphasise specific expert involvement.

#### **2. Donor Funds and Services**

The Committee noted the comments of the Auditors in respect of donor funding. It appears that substantial sums of money have been and continue

to be received from various donors in the absence of adequate financial regulations to govern their mobilisation, receipt, accumulation, expenditure and accountability.

For instance, there were some irregularities in the procedure and accountability for the funds from AWEPA, UNDP and FES, Action Aid etc received by EALA for different programmes.

The Committee concurred with the Auditors that the rules do not have adequate provisions to cater for the acquisition, utilisation of and accountability of donor funds, assets or services. Given the amount of funds now flowing into all the organs and institutions of the Community, there is urgent need to establish a transparent system to regulate and account for donor funds.

These continued occurrences distort the process of accountability and transparency. There is an urgent need for the House to address this matter since it affects the organs of the Community.

Mr Speaker, we cannot overemphasise the need to address this area explicitly enough, but the attention of the House may be drawn to some provisions of Article 7 of the Financial Rules and Regulations. Rules 2 and 3 there under define donor funds as trust funds whose account may be established outside the Annual Budget. The Commission or donor defines the purpose and limit of these accounts. The donor or Commission have a right to determine how the funds are administered, hence the problem of lack of supporting documents and inclusion in the budget of accountability but without regulation.

### **3. Accountability of the Secretary General**

Mr Speaker, there is no doubt as to who the Secretary General is accountable to under the Treaty. However, the concern of this question is in respect to the generally acceptable principles and purpose of accountability, the principle of separation of powers and provision of sound checks and balances.

In Article 3 of the Financial Rules and Regulations, the Executive Secretary is charged with the preparation of the Budget and presentation to the Commission. The Executive Secretary can divide the Budget into titles he deems necessary, hence the power to determine the inclusion or exclusion of a vote.

Under Rule No.6 of the Financial Rules and Regulations, the Executive Secretary has authority to incur commitments relating to unforeseen and extra ordinary expenses. As Secretary to both the Summit and the Council, the Secretary General is privy to their deliberations. He presents the reports of the Audit Commission and has to record their directives to himself. In the practical absence of a functional Council, who is their delegate? Can there be any issue of exercise of power beyond his authority, and when is this determined?

Mr Speaker, Article 12(1)(b) states that in the absence of clear financial rules and regulations, the Executive Secretary is empowered to establish the detailed ones to ensure financial administration and exercise of economy. In Article 12(3)(b) the Executive Secretary may disallow any proposal for obligation or expenditure of obligation. I wonder, therefore, in the absence of an annual report for

debate, how shall we ever know the Council directives to the Community or actions taken?

### **Recommendations**

#### **1. New Financial Rules and Regulations**

In their next meeting the Council should consider the absence of new rules as crucial to the financial management of funds in the Community. In that regard, the proposed new rules should be considered and approved as soon as possible.

#### **2. Delegation of accounting powers**

Due to the increased nature of work by other organs of the Community, the Council should enforce its directive on the appointment of sub-accounting officers for the other organs of the Community.

#### **3. Policy and guidelines on donor funding**

The Council should work out defined guidelines and policy on how to regulate and account for donor funds.

#### **4. Facilitation of Auditors**

The Assembly should budget for the audit function.

#### **5. Resident Ministers**

There is need for a full time Council of Ministers who would promptly attend to various issues that keep emerging in the Community.

#### **6. Self- Accounting Institutions**

The budgets and audit reports of Self-Accounting Institutions of the

Community provided for under Article 9(3) of the Treaty should be brought before the Assembly for approval and consideration respectively.

#### **7. Interest Accrued from Gratuity.**

Interest earned on gratuity should be paid to the beneficiaries.

#### **8. Facilitation of the Accounts Committee.**

The Accounts Committee should be adequately facilitated to enable it carry out its functions diligently.

Mr Speaker, in calling for accountability, information and the strict regulations of financial practice and procedure, the Committee is trying to make the examination of programmes and services delivered a meaningful process that would benefit the people of East Africa.

Mr Speaker, allow me to acknowledge the able membership of this Committee without whom this arduous task would not have been completed. They are: Hon. Sarah N. Bagalaaliwo, hon. Said. B. Jecha, hon. Calist Andrew Mwatela, hon. George F. Nangale, hon. Sheila Kawamara Mishambi, hon. Kate S.M. Kamba, hon. Mohammed A. Zubedi and hon. Abdirahin Haji H. Abdi, hon. Yonasani B. Kanyomozi.

Mr Speaker, the other accomplishment of the Committee was the three-day workshop on the role of a public accounts committee, which I believe was beneficial to all Members of the Assembly. It was also at this meeting to which other Chairpersons of Public Accounts Committees from our National Assemblies were invited that the idea of a joint meeting for PACs was conceived.

Mr Speaker, once again I wish to register my sincere appreciation to all Members of the Committee for their patience and contribution. On behalf of the Committee, we are grateful to the Auditors General for their assistance, and the co-operation of the Secretary General and staff of the Secretariat. With those remarks, I beg to move.

**Mr Calist Mwatela (Kenya):** Mr Speaker, sir, I stand to second this motion, and I will try to be as brief as possible because most of the areas have been covered by hon. Bagalaaliwo. But before I do that, may I just record my displeasure for the absence of the Council of Ministers in this House and the Secretariat. So, whom are we talking to?

Mr Speaker, we are a young assembly, but with a very tall aim and intention of having to represent more than 100 million people, assuming Rwanda and Burundi will join us the next few years.

Mr Speaker, Article 6(d) talks about accountability and transparency. The function of this Committee, therefore, forms a major fibre of how we want our Community to run. We want it to be transparent and accountable. The Committee on Accounts is therefore a crucial Committee for the future of the Community. I just wanted to quote that because we have had problems at the very beginning. As a young Parliament, we did not even have the law that we could use to interview the Accounting Officer. At one stage there were murmurs that the Committee on Accounts was not functioning. But really, we were not able to function without the law. After the law was put in place, you can now see the results.

Mr Speaker, yesterday we had an informal meeting here, and a few

things were said about land donation by the Government of Tanzania, as well the donation of money by the Germans for construction of the EAC headquarters. The Chairperson of the Committee has adequately referred to this as an investment issue.

The donation that has been given by the German Government to construct the headquarters of the EAC will be a bigger investment if that headquarters was placed in an adequate place. I say this because the same building on the ten acres would be of less use than that building on 200 acres. We have to look for the value that we get, even from the donors.

I am sure the German Government understands this, and they will be willing to co-operate with us when it comes to applying the funds. They should apply them where they will be most useful, and not on the 10-acre plot but on a 200-acre plot that the Tanzania Government has given as an alternative. And the Speaker alluded to it yesterday.

Mr Speaker, donors will always remain donors, and there is no way we will get a donor unless he envisages getting something from that donation. So, that being the case, negotiations with donors must be done carefully, and must be subjected to scrutiny by East Africans through their representatives in this Assembly. It is a bit questionable as to why we should have an agreement fully concluded between an officer of the Secretariat and a donor before that matter has come to this House.

I say this because I do not want us to mortgage ourselves on the signature of an individual. We want this to be open to scrutiny. We want partnership and not situations where we end up being



disadvantaged as a Community and as Partner States of the East African Community because somebody has not looked at things critically, or possibly somebody is gaining from the side from that kind of agreement. We do not even know why there is so much emphasis that this headquarters has to be built on the ten acres. Everybody seems to see it differently.

Without alluding to any corruptive activity, I am a bit confused as to why there is so much emphasis on the small acreage rather than the big one. I believe this House is here on behalf of East Africans, and whatever East Africans are being committed to, this House should be made aware of. We cannot be setting the correct pace by deciding that things will be done under the carpet and we only come and rubber stamp and things go ahead like that. That is not the way we should be leading this Community.

Mr Speaker, we need a policy on donor funding, and the Treaty itself does provide under Article 132(4), which states as follows: -

“The Budget of the Community shall be funded by equal contributions by the Partner States, and receipts from regional and international donations and any other sources as may be determined by the Council.”

Article 132(5) states as follows: -

“The resources of the Community shall be utilised to finance activities of the Community and shall be determined by the Assembly on the recommendation of the Council.”

It is therefore clear that the Council should determine who our donors should be, and secondly, after that determination, the Assembly should be involved in making that decision as to how those funds should be applied. It is upon the Council of Ministers to play its role by making sure that they comply with Article 132. If we get a donor, that money should not be applied before this House considers and approves it.

There are dangers on that because we may be compromising the interest of the Community and getting into a difficult position if the thing has not been properly negotiated - and we need to see the contracts. We shall be encouraging lack of accountability by allowing things to proceed without scrutiny of the House.

Mr Speaker, on the self-accounting institutions, while contributing on the Budget Speech, hon. Kaahwa made a spirited effort to convince this House that the institutions mentioned in Article 9(3) of the Treaty, that is the East African Development Bank, Lake Victoria Fisheries Organisation and other surviving institutions of the former East African Community, do not fall under the scrutiny of this Assembly. The reasoning put forward is that these institutions have been established under certain acts within the Partner States. I beg to differ with that kind of argument.

The Treaty overrides the laws of the Partner States, and as such, even if the East African Development Bank is an institution whose shareholding is by Partner States and the African Development Bank, the interest of the Partner States should be transferred to the EAC. That is what this Treaty implies! When it states very clearly that those institutions shall be

designated and function as such, that means they are part of the East African Community. As you know, the provisions of the Treaty state that these institutions must have their budgets come through this House. In any case, if the shareholding is by Uganda as a country, Kenya as country and Tanzania as a country, in the final analysis, that money belongs to the taxpayers of East Africa. So, that right should be transferred to the East African Community.

Mr Speaker, sir, I would like to comment on the issue of interest accruing from gratuity. The argument has always been that the interest should go back to the accounts of the Community rather than to the beneficiary. I am glad that the auditors did agree that the interest accruing from these accounts should be shared proportionately among the staff of the Community because in the final analysis, it will make a difference in what people get as gratuity.

Mr Speaker, one disturbing thing has been the surplus from the previous years. We have a problem here. We have money amounting to US\$ 1 million. The explanation given is that Partner States delay in making their contributions. This necessitates having this fund, which in effect covers the Partner States when they have delayed to pay. But there seems to be no policy whatsoever on how to spend the surplus fund. It seems as if it depends on what somebody feels. Somebody could wake up in the morning and spend that money on anything! There is need to agree on what to do with this money. This is a lot of money and there is need for a policy to be drawn on how that money should be spent. Where is it invested? Is it on a normal account or on a fixed deposit account?

Mr Speaker, on the question of assets, it is important that assets of different institutions of the Community be designated as such. If the EALA gets donations of computers, they should be designated as EALA property, although in the final analysis they will be designated as Community property. Similarly, vehicles should be designated as such. There should be vehicles for the Secretariat, EALA and the EACJ.

If you look at Article 14(3) of the Treaty it states as follows:

“Subject to this Treaty, the Council shall\_

- (c) give direction to the Partner States and to all other organs and institutions of the Community other than the Summit, the Court and the Assembly;
- (d) Make regulations, issue directives, take decisions, make recommendations and give opinion in accordance with provisions of the Treaty.”

Mr Speaker, we were informed here that the denial of the prudent use by the Speaker and the President of the EACJ of their official vehicles was by a Council directive. A council directive cannot apply to the Assembly. The Speaker is part of the Assembly and the President of the Court is part of the EACJ! This dichotomy is there for the sake of separation of powers. The use of property by the Court and the Assembly has to have independent rules. The Treaty itself provides for this!

Mr Speaker, I am sure hon. Mbeo will expound on that issue if he gets an opportunity to contribute on this

motion, because he feels very strongly about the Auditor's sentiments. We need to adhere to the principle of separation of powers because the Staff Rules and Regulations of the Community do not govern us, neither are the Judges of the EACJ. Even the Financial Rules and Regulations of the Community do not apply to the Assembly; we have to make ours! With those remarks, I beg to second the Motion.

**Mr George Nangale (Tanzania):** Mr Speaker, sir, first of all I would like to congratulate our colleague, Mr Dan Manganga for being re-elected to the Tanzanian National Assembly.

Mr Speaker, sir, I would like to support the motion and say something about facilitation of the Accounts Committee. It has not been adequately facilitated to enable it to discharge its functions properly. We have had meetings and seminars but the role of this Committee is immense as it is the backbone of the operations of the Community.

So, it is important that the Committee should be adequately facilitated to enable it to reach institutions which are outside Arusha, like the East African Development Bank, the Lake Victoria Basin Commission and so on. Mr Speaker, the Committee should also be able to summon the chief executives of such institutions so that the Committee understands what they are doing.

Mr Speaker, the other issue that I want to talk about is the computerisation of the East African Community. For the past two and half years, we have been told that computerisation of the EAC Accounts is in process, and it is still in process to date. I keep wondering when this process is going to be completed so that the accounts are

fully computerised. There is an outcry every time that the staffs are overworked, but they are not completing the computerisation process.

So, the Secretariat should be serious in the computerisation of these accounts, and if there is any problem, they should seek consultants from elsewhere. With those remarks, I beg to support.

**Mr Ochieng-Mbeo (Kenya):** Mr Speaker, I would like to thank the Committee for the thorough job they have done under very difficult circumstances. You must realise that this Committee started work before we passed the Bill, which is now an Act of this Assembly – that is the Powers and Privileges Act, which gives them the power to summon witnesses. When they started, it was not there. It took them time to really understand the grips and summon all those concerned. Unfortunately, we are speaking to ourselves.

It is amazing that when debate of this magnitude is before the House, nobody from the Secretariat is sitting here, even the Information and Public Relations Officer is not here. This is something that really hurts my feelings. Mr Speaker, judging by the busy schedule of the management, they might not even read the *Hansard* because the Press will not even pick it if it is not a serious affair.

I want to reiterate the need and urgency of having our own financial rules and regulations as mentioned and stated by the Chairperson. We want financial rules which will assist us when we are analysing what is being done out there. Right now, there is nothing. Those financial rules you saw are outdated and, therefore, we need to

start the processes of having our own financial rules and regulations.

I say this because apart from the Assembly, I am shocked to read that a former member of the management team of the Secretariat up to now has some personal effects, which were bought by the Community, valued at over US\$ 9,000. We are being told that the book value is only US\$ 650 but this amount too has not been paid. In other words, there is a conduit here – *(Interjection)*.

**Mr Haither Abdi (Kenya):** On a point of information, Mr Speaker, if hon. Mbeo read the report properly, an amount of US\$ 650 was paid. He paid for the goods!

**Mr Ochieng-Mbeo:** Mr Speaker, maybe I did not pick the payment of US\$ 650, but the amount US\$ 9,000 is such a huge amount - how could that officer pay only US\$ 650? I expected the Committee to recommend that this particular officer should be surcharged. If his gratuity has been paid or not paid, we must recover.

Mr Speaker, there is something that has been mentioned on surplus funds. It is disturbing that up to now we cannot really balance the activities of the so-called surplus funds in all the organs of the Community versus the 65 per cent which was not paid by the time the Budget was being read last year. What happens to this money? How does it get used? Maybe the Committee needs to get down to it and again report back to the House.

Mr Speaker, I am also concerned about donor funding and contracts that go along with donor funding. This reminds me of the statement by the Secretary General to this House during those good old days, that there was perhaps some money that could be

used for capacity building for the Assembly, and that some of these donor funds are attached to capacity building exercise for all the entire of this Community. None of that has happened here. We do not know what the contract says, and I am glad that this Committee has seen it fit to start questioning, and it should be made clear that any donor funds together with the contract signed must be brought before this House for scrutiny and approval.

Mr Speaker, you will find that there is something wrong in practically every line we read. I was looking at the consultancy services sought for by the Community, and the amounts involved are huge. Maybe these are about the studies that continue to be made and nothing is coming out of them. Some of them are consultancies being paid to the same donors that give us money. So they give us using one hand and take it using the other hand through consultancy. We need to re-evaluate and confirm what is happening in these consultancies. Are they tendered for properly, did they follow the right procedures to hire consultants to do this kind of work?

Mr Speaker, I am disturbed that procurement of services in the Community is wanting. For instance, if you check the amounts involved in insurance, they are big amounts. Do we have proper procurement procedures for getting into such kinds of contracts as insurance for our properties and group insurance policies for the officers of the Community? But it looks like something is happening here that raises eyebrows. Somebody is eating here! Normally we look at these things and wonder as to what is happening.

I would like the Committee to start looking into the procurement procedures for all the organs of the Community. It all starts off from the monies we get from donors. There could be another “Goldenberg” here. So, I advise the Committee to look into the issues of donor funded monies to be put in one kitty and be brought here as suggested so that we know what is going on and how it is going to be used and what happens to the surplus.

Mr Speaker, I would like to emphasize what hon. Mwatela said. Some of the things here, if left unchecked, will embarrass us one day. I said here the other day that the Auditors General get their information from somebody within the Secretariat, the Court of Justice and the Assembly before they arrive at their recommendations. Certain recommendations, even though not presented properly before the House, must be corrected. The issue of the motor vehicles came up and it keeps on coming up, but if you leave it for another year, it might end up being a cancer and somebody might end up being victimised along the road.

Mr Speaker, the Registrar of the EACJ saw it prudent to allocate one Nissan Patrol vehicle donated to the EACJ by the hon. Speaker of EALA, who also promised to bring some mini buses to the Community. I hope the offer still stands and the three mini buses will be brought to the Community, and one will be stationed in each Partner State, and maybe we will bring the fourth one here. We do not want the Speaker to be discouraged because of the kind of things that are happening, and we must clear the air now to give him room to bring those vehicles.

Mr Speaker, the vehicle registration number TCD41 EAC, engine number TDU2-163930 was allocated to the

President of the Court of Justice along with those others which are now purportedly stolen from the Community – *(Interjection)*.

**Ms. Kawamara Mishambi:** Mr Speaker, the hon. member has talked about vehicles that are purportedly stolen. Could he substantiate that?

**Mr Ochieng-Mbeo:** Mr Speaker, it is common knowledge that a Community vehicle was stolen in Nairobi while on a trip to pick up some dignitaries of the Secretariat. It disappeared into thin air and it has not been recovered to date. It was an official vehicle of the Community and the police have got the records. If you want, I can produce the police abstract report.

Mr Speaker, a letter written to the Kenya Revenue Authority on 1 July 2002 reads as follows:

*“This is to inform you that the above mentioned motor vehicle, property of the East African Community, has been assigned to hon. Justice Moiwo Mataiya ole Keiwau for use in his capacity as President of the East African Court of Justice. Justice ole Keiwau is presently based in Nairobi Kenya, where he works also as Judge of the Court of Appeal. This letter, therefore, seeks to request for a permit allowing the said vehicle to stay in Kenya, where the Judge-President permanently resides, to enable him perform his duties, including travelling to and from Arusha, Tanzania. We have attached photocopies of a permit of temporary importation of motor vehicle valid until July 2007 as endorsed by the Kenya Revenue Authority at the Namanga border, a permit for the temporary exportation of a Tanzanian registered motor vehicle to Kenya, issued by Tanzania Revenue Authority, and the*

*motor vehicle registration card, for ease of reference and necessary action.*

*Signed*

*Dr. John Ruhangisa  
Registrar East African Court of  
Justice.”*

Mr Speaker, the authority to write this letter is derived from the Articles mentioned by hon. Mwatela. The documents are attached here, and I will table them. It is important to protect those who are being abused and not protected by the organ that is supposed to protect them. Therefore, I would like to request this Assembly to quickly inform those who inform wrongly the Auditors General about facts.

Let us not personalise issues here. If somebody wants to drive your beautiful Benz, let him buy his own! We are not stopping anybody from driving their vehicles whether to Kampala or to Arua or anywhere else, as long as they are officially entitled to do that! So, the Judge President whom the Speaker allocated a vehicle, which was not even there, deserves that car. What they need to do is to revise the rules and include the vehicle because it is supposedly not in his terms of service, and yet the vehicle is there. With those remarks, I beg to support.

**Mr Yonasani Kanyomozi (Uganda):**

Mr Speaker, sir, I will try to be as brief as possible. Let me thank the Chairperson for her able presentation of the report, and I associate myself with all that she said. As a member of that Committee, I would like to say that despite the difficulties that we had, we have been able to produce a worthwhile report.

My areas of concern are very few: We would like to see the ability of this Committee to oversee projects being undertaken in the EAC, which at the moment; we are not able to do because we are inadequately facilitated. I request that this matter be looked into.

Under Article 135 of the Treaty, the Council is expected to produce Financial Rules and Regulations. We are now two and half years old and we are even changing the composition of the Committees and yet we have not seen any draft of the Financial Rules and Regulations. I am requesting that this be done as soon as possible.

Mr Speaker, on the self-accounting institutions of the Community, I would like to say that although they may have their rules and regulations, they are expected to be accountable and responsive to these items. I am sure in the EU, for example, the European Investment Bank and all other institutions do submit their reports to the European Parliament, and that is what we are requesting for from those organs - and the Treaty stipulates that.

Mr Speaker, sir, I want to touch on the aspect of donor funds just lightly. While it is true that we are looking for support because we do not have enough resources, we are looking for support to assist us in those things that we want to do. Therefore, we should be the ones responsible for those funds and how they are utilised. I think the donors would not refuse that.

Mr Speaker, we met the Auditors General's representatives, and knowing the strain and the stress the Auditors General's offices have, I would like to propose that while the Auditors General are responsible for Accounts, they should have the liberty to appoint auditing firms which can

come here and audit the funds and operations of this Community. This is in order to be on time in the delivery of services. If you have got to stop fraud or any misappropriation, you have got to do it early. At the moment, the Auditors General's staffs come here for two weeks, and in two weeks they cannot do much. But if we had an auditing firm appointed by the Auditors General reporting to them, it would be a very helpful proposition. I would like us to take this matter up.

Lastly, we would like to see the Secretariat in this House. You can see the civil servant's benches behind you there are empty, and there are no staffs of the Community, except this young man. This is the most important debate on the funding and operations of this Community. How is this message going to get across to the Secretariat so that they know and deliver the same information on the issues that are being raised here? I think we need to organise for another Sopa retreat to bring these people to their senses. They have got to be in place to listen to the debate!

Mr Speaker, it appears as if they do not care about us passing the Budget since we threatened not to pass the Budget last year but in less than one minute, we did it in Nairobi. With those remarks, I support the Motion.

**Mr Mabere Marando (Tanzania):** Mr. Speaker, I wish to begin by congratulating the Committee on Accounts chaired by my good friend, hon. Sarah Bagalaaliwo. The report is characteristic of her ability, which I have known for two and half years now. It is a good report and reflects what the business of this Committee should look like.

Mr Speaker, on Page 16 of the report, my good friend is referring to self-accounting institutions, which were also referred to by hon. Mwatela when he seconded this motion. I wish to reiterate what I said in the budget session that the Treaty under Article 9(3) does not refer to and does not establish what are called self-accounting institutions. It is absolutely clear in the law. It established institutions of the Community and it is mentioning these particular institutions without qualifications. So whoever wants the EADB to be a self accounting institution must first amend the Treaty.

Before any amendment of the Treaty, whichever Act that established the EADB in so far as it purports to remove the EADB from the supervision of this Assembly, then that law is *ultra vires* to the Treaty, and is null and void and should be recognised as such. So these institutions that are created under Article 9(3) as stated by the Committee, reference to them as self-accounting is against the Treaty, and those concerned should get the message.

Mr Speaker, on the issue of the headquarters of the Community, I think the Federal Republic of Germany should be availed a copy of the *Hansard* of this House for the debate on the Budget Speech, and this one. In so far as the people of East Africa are concerned, we sincerely believe that this money can be better utilised if it commences the process of putting up a headquarters at a place other than the ten acres that we already have from the Government. Maybe the Government of Germany is not properly informed, and I think the good office of our Clerk can do very well in conveying the *Hansard* on the debate on the Budget Speech and the one on this motion to

know what we are saying on behalf of the people of East Africa whom we represent. We believe that that money would be put into better use if the headquarters were built on a bigger piece of land that can easily be made available by the Government.

Mr Speaker, being a product of an election in the National Assembly of Tanzania, what is happening there is always of great interest to this House. Two days ago, we had an election in Bariadi Constituency in which one Dan Maganga has been declared the winner. Through the Chair, I wish to convey my heartfelt congratulations to hon. John Momose Cheyo who was declared not to have won the elections.

He campaigned against great odds; numerous functionaries of UDP are still languishing at police custody today. Hon. Cheyo was also arrested and incarcerated for several hours, if not days, and with all these, he got over 49 per cent of the votes. That is incredible. Political victory is a 1000-mile journey. Sometimes you win the hearts of people but lose numbers. Sometimes you win the numbers but you do not win the hearts of the electorate. Having scored that much during the election in Bariadi District, I know that hon. Cheyo has the hearts of the electorate in Bariadi Constituency and we encourage him to do better next time and continue. Let him not lose heart.

**Lt. Gen. Aden (Kenya):** Mr Speaker, I congratulate the Committee, which has produced this detailed and specific report on the Accounts of the Community. They have done a wonderful job, and they have also highlighted many areas that require attention and action to rectify the anomalies that are going on. On that

note, I would like to refer to Rule 72(4), which states as follows:

“Each year the Assembly shall consider, before the presentation of the budget for the following financial year, the problems involved in the implementation of the current budget where appropriate on the basis of a Motion for a Resolution tabled by the relevant Committee.”

Mr Speaker, this report comes after we have debated the budget, and it has been the trend throughout. I do not think there is any time we have taken the debate on the previous year's budget as a lesson for the whole House when we are debating the current budget. I hope this will be rectified in future.

Mr Speaker, I would like to mention what appears to me to be an arbitrary decision that the properties of the East African Community depreciate by 20 per cent. This is something funny, and I have never heard of that. A building, a vehicle and a television set depreciate at the same rate of 20 per cent? This is ridiculous!

There must be a procedure for each and every equipment and asset that provides for the rate of depreciation that must be followed; otherwise this will open the properties to abuse because anybody could discharge property of the Community at a throwaway price. I believe that this must be reviewed immediately, and the relevant correction applied.

Mr Speaker, another area that I would like to address is the violation of competitive bidding. I am not clear here where procurement was done without competitive bidding. If it



happened, then that would be a very serious omission for an individual to allow a vendor to sell his goods or services to the Community despite the offers, which are of benefit to the Community at the price that is negotiated between the two. And this ought to be discouraged.

Related to that is the issue of accountable documents. I am shocked to read here that the Community prints its own Local Purchase Orders, Payment Vouchers, and Receipts and so on. I think in every government department, Local Purchase Orders are strictly controlled. They are serialised, ordered and received according to those serial numbers and kept by an officer who maintains the record of the vouchers under his control. They should not be printed and issued as and when an individual wishes. I do not know how this happened – *(Interjection)*.

**Mr Maxwell Shamala (Kenya):** On a point of order, Mr Speaker, I wish to draw your attention to Rule No.13 about Quorum. The quorum of the House shall be 12 elected Members but we are only ten!

**Mr Speaker:** Honourable members, it is true we do not have quorum. Therefore I suspend the House for ten minutes for the Whip to summon Members back to the House.

*(The House was suspended at 3.40 p.m. and resumed at 3.55 p.m.)*

*(On resumption\_)*

*(The Speaker in the Chair)*

**Mr Speaker:** Lt. Gen. Adan was on the Floor. Please, proceed.

**Lt. Gen. Adan:** Mr Speaker, it is also indicated in the report that some stores were procured and never accounted for because they are not recorded in any of the store record books. I wonder how we can accept that expenditure. If it is purported to be payment for a specific item and that item has not been received and recorded in the record books, then that expenditure, as far as I can say, is improper and should not have been allowed. Whoever made that payment should be surcharged. With those comments, I support the motion.

**Dr Harrison Mwakyembe (Tanzania):** Mr Speaker, may I begin by commending hon. Sarah Bagalaaliwo, the Chairperson of the Committee on Accounts, for the articulate manner in which she presented her committee's report.

Secondly, I have been disturbed by the conspicuous absence of the five Ex-officio Members of this House. Since I do not want to dwell on this matter from an uninformed position, I wish to know from you if they obtained your express leave of absence as per Rule 84(1) of our Rules of Procedure. Rule 84(1) says:

“Every member shall, during the session of the Assembly or any special sitting, attend the sittings of the House unless leave of absence has been granted to him or her by the Speaker.”

Having said so let me join hands with the committee to express serious concern on the Council's failure to initiate the adoption of new financial rules and regulations of the Community. I have learnt with surprise that we have had so far four consultancies to draft new financial rules and regulations of the

Community, and I am sure we paid for them. I simply wish to use this opportunity to call upon the Secretariat to hand over these draft regulations by the consultants to the Committee on Legal, Rules and Privileges so that we can come up with the financial rules and regulations ourselves.

Mr Speaker, we may recall that in the 2002/2003 Budget Speech when a number of honourable members complained about the failure by the Secretariat to include certain monies from donors in the proposed budget, we were told that that was in order under the Financial Rules and Regulations of 1996 which were carried over by the Treaty in 1999. Indeed, the financial rules, which hon. Bagalaaliwo talked about very eloquently, allow the Secretary General, under Rule 86, to establish accounts outside the annual budget allotment, and this is terrible! This contradicts the provisions of Article 132(4) of the Treaty.

Mr Speaker, my colleague, hon. Marando made a very good proposal as regards the small plot behind here meant for the headquarters of the Community. He proposed that a copy of the *Hansard* should be given to the Ambassador of Germany so that he knows - or she knows - the mood of this House regarding that project. I would like to go further than that and suggest that I - and my colleague hon. Sepetu, because of his fluency in the German language - will pay a courtesy call to the German Ambassador in Dar es Salaam. If he is the one holding a gun to our heads so that we build the headquarters on this small plot, we will report our findings to this House at a later stage.

Maybe it is also important to put this matter in its proper perspective. The

ten acres we are talking about were not just given to the Community by the Government of Tanzania, it is the Secretariat that asked for ten acres of land and we were given those ten acres of land. I believe that if the Secretariat asked for more land, there is plenty of it. The Hon. Minister for Foreign Affairs here said very clearly that if we asked for it, we would get it. We asked for ten acres and we got it. So, we should go and ask for more land!

Mr Speaker, I sincerely believe that the Secretariat will look beyond the Customs Union with three countries. They should do things here with some sense of anticipation that this may soon be a region of more than 16 member states. With those remarks, I beg to support the Motion.

**Mrs. Lydia Wanyoto Mutende (Uganda):** Mr Speaker, I wish to join my colleagues in supporting the motion and in congratulating the Committee on Accounts for a job well done.

Mr Speaker, I just wanted to add my voice in respect of the work of this Committee. Now that they have been able to perform their long awaited duty because we were able to empower them, I would like to see a more clear-cut mechanism on how they are going to follow up the implementation of the budget that they receive and the monies so that they are not post-mortem in nature. Otherwise this will remain an occasion when we will only come to listen to post-mortem reports, money would have been spent and sometimes we might not be able to recover the money which was not well spent.

Mr Speaker, I am saying this because the role of our Assembly is to ensure value for money. Our Partner States

commit themselves on behalf of taxpayers to send money here, but also on behalf of our countries. We also have development partners committing monies from their own people's taxes. So, it goes without saying that money that comes to this Community should be used for value to enhance the integration process.

Mr Speaker, I want to emphasise that this Committee should be given facilitation, but also be empowered to have powers of oversight and implementation of decisions on a shorter period basis than the annual one. They should be able to come here quarterly so that they know what is going on so that we do not suffer from post-mortem effects. With those remarks, I support the Motion.

**The Speaker:** I now call upon the Mover of the Motion to reply.

**Mrs. Sarah Bagalaaliwo:** Mr Speaker, sir, allow me to acknowledge the contributions made by the various members. I would like to particularly thank the following members: Calist Mwatela, George Nangale, Ochieng-Mbeo, Kanyomozi, Marando, Lt. Gen. Aden, Dr. Mwakyembe and Wanyoto.

Mr Speaker, in response to the issues raised, I profoundly thank the honourable members in that most of their contributions have been worthy and most constructive to this debate on the financial accounts of the East African Community. I am very grateful for the standard of debate, and the suggestions made as to the way forward.

I would like to thank hon. Mwatela for expounding the report and for realising that the inconsistencies in the Treaty require immediate action in order to address them, and also the urgent need

to put in place new financial rules and regulations.

I would like to recognise hon. Nangale's contribution about the facilitation of the Accounts Committee to enable the committees' work go out to other institutions where due to lack of facilitation we were not able to.

Mr Speaker, I also note hon. Ochieng-Mbeo's concern over the valuation of the residential assets and the Surplus Fund. What all these suggest is that there is urgent need to have in place acceptable and purposeful financial rules and regulations.

The issue of donor funds has been well debated by members, and I am sure we all agree that there is also urgent need. In the absence of clear guidelines, this House might need to find ways of regulating how it receives and accounts for its donor funds. While we lay our concern on the other institutions of the Community, we need to take stalk of ourselves as well.

On the issue of assets of the Community, I do concur that there is need to identify the assets as belonging to the separate institutions. We know that the terms of their contracts did not stipulate that the Speaker of this Assembly or the President of the Court should have access to a vehicle, but whose vehicles were these? Did they not belong to the EALA? I think they should be treated as such.

Hon. Kanyomozi expressed the need for expansion of the oversight role, and again this needs facilitation. The suggestion that the self-accounting institutions of the Community should open up to this Assembly is a requirement that is given in our mandate in overseeing whatever takes place in the East African states. There

is also need to have independent accounting to enable more thorough audit. We hope that the new Accounts Committee will look into the possibility of these concerns.

I would like to concur with my learned friend, hon. Marando on his observations about Article 9(3) that the Treaty has not even established self-accounting institutions. On the issue of investment, I cannot agree any more in that hon. Marando proposes that the records of our debate, both at the Budget level and today, be availed to our prospective donors. I am sure they all appreciate the concern expressed by Members of this House.

I would like to thank Gen. Adan for his foresight in seeing that we need to rectify whatever has gone wrong in the depreciation policy, the accountable documents and the stores. I appeal to the Secretariat to amend whatever the Auditors General's report has recommended.

Allow me to thank hon. Mwakyembe for his proposal that there is urgent need to adopt new financial rules and regulations. I think most honourable members dwelt on these issues and I do not need to over emphasise them. All the problems that we are faced with emanate from the absence of established financial management procedure. Until we rectify this position, we shall continue to read reports with defects, and we shall still be handicapped on the way forward on how to bring up penalties and also how to resource for better funding for the organs of the Community.

Mr Speaker, honourable members should look at the Staff Rules and Regulations, which encompass the Financial Rules, and Regulations. They will be shocked at the level of

absurdity contained therein. I would also like to thank hon. Dr. Mwakyembe for his suggestion to go and have a discussion with the German Ambassador.

Lastly, I would like to thank hon. Wanyoto for proposing the need to have the oversight role as an on-going process. Indeed the Committee would like to have it because we realise that any value for money audit cannot only be taken at the end, but as a continuous process. It enables us to identify whatever shortcomings have been in place. I know that the Committee needs empowerment, and I believe that the next House Business Committee will look into this matter properly. With those remarks, I beg to move.

*(Question on the motion put and agreed to)*

### ADJOURNMENT

**The Speaker:** Honourable members, that brings us to the end of our business today. This House, therefore, stand adjourned *sine die*.

*The House rose at 4.15 p.m. and adjourned sine die.*