EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

Official Report of the Proceedings of the East African Legislative Assembly

39TH SITTING - SECOND ASSEMBLY: THIRD MEETING – SECOND SESSION

Tuesday, 2 December 2008

The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Parliament of the Republic of Uganda,

PRAYER

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

The Assembly was called to order.

PROCEDURAL MOTION

The Chairperson, Committee on Legal, Rules and Privileges (Mr. Abdullah Mwinyi): Mr. Speaker, sir, I beg to move_

> THAT, Pursuant to the provisions of Article 55 of the Treaty for the Establishment of the East African Community, this House do resolve to hold its Third Meeting in the Parliament of the Republic of Uganda.

Ms. Zziwa: Seconded.

Mr. Mwinyi: Mr. Speaker, sir:

WHEREAS Clause 1 of Article 55 of the Treaty provides that 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 Rule 11(7) provides that the Assembly may, on resolution adopted by a majority of its Members, decide to hold one or more sittings elsewhere within the Partner States other than at its Seat;*
>
> *NOW THEREFORE, this Assembly resolves as follows:*

THAT, pursuant to the provisions of Rule 11(7) cited above, the Assembly shall hold sittings in the Chamber of the Parliament of Uganda from Tuesday, 2 December up to Thursday, 11December 2008.

(Question proposed)

The Speaker: Is there any honourable Member wishing to debate; yes, Hon. Zziwa?

Ms. Margaret Zziwa (Uganda): Honourable Speaker, sir, I rise to second this Motion seeking to offer the opportunity to the East African Legislative Assembly to sit in Kampala as per our Rules of Procedure, and as per the Treaty for the Establishment of the East African Community.

Mr. Speaker, sir, it is very noble for the East African Legislative Assembly to meet in the capitals of the Partner States. In addition to increasing the awareness of the people on the activities of the East African Community, it also improves the integration process. For that reason, I want to take this opportunity to welcome you, Mr. Speaker, sir, and the distinguished Members of the East African Legislative Assembly, to Kampala, and to Uganda. I also extend our appreciation to the Speaker of the Parliament of Uganda for according us this opportunity to sit in this beautiful Chamber. I thank you very much, Mr Speaker, sir – *(Applause).*

(Question put and agreed to)

The Speaker: Honourable Members, amidst us here today is the Rt. Hon. Edward Kiwanuka Ssekandi, Speaker of the Parliament of the Republic of Uganda. I have, in accordance with the provisions of Article 55 of the Treaty, invited him to address this Assembly. Before I formally invite him to address us, please allow me, on your behalf to most sincerely thank the Rt. Hon. Edward Ssekandi for accepting to host the Third Meeting of the East African Legislative Assembly here in Kampala – (*Applause).* We thank you, hon. Speaker, for the hospitality we have received from your Parliament since our arrival here in Kampala. We are also very grateful to you, Mr. Speaker, for all the facilities you have accorded us, more especially the Chamber, despite the fact that your Parliament still had business to consider.

Honourable Members, I would now like to make the following proclamation to welcome the presence, in the Assembly, of the Speaker of the Parliament of the Republic of Uganda – *(Applause).*

PROCLAMATION

WHEREAS Clause 1 of Article 54 of the Treaty provides that the Speaker of the Assembly can invite any person to attend the Assembly, notwithstanding that he or she is not a Member of the Assembly, if in his or her opinion, the business of the Assembly renders his or her presence desirable;

AND WHEREAS in the opinion of the Speaker, the attendance in the Assembly of the Hon. Edward Ssekandi, Speaker of the Parliament of the Republic of Uganda is desirable in accordance with the business now before the Assembly;

NOW, THEREFORE, it is with great pleasure and honour, on your behalf, honourable Members, that I welcome the presence of Right Hon. Edward Ssekandi, Speaker of the Parliament of the Republic of Uganda in this Chamber

Right Hon. Speaker, I would now like to invite you to deliver your address – (*Applause*).

ADDRESS BY THE RT. HON. EDWARD SSEKANDI, SPEAKER OF THE PARLIAMENT OF THE REPUBLIC OF UGANDA

The Speaker of the Parliament of the Republic of Uganda (Mr. Edward Ssekandi): Rt. hon. Speaker of the East African Legislative Assembly, honourable Members of the East African Legislative Assembly, the staff of the East African Legislative Assembly here present and distinguished visitors in the Strangers Gallery, it gives me immense pleasure to welcome you to the Chamber of the Parliament of Uganda in particular, and to the Republic of Uganda in general. Indeed, it is a great honour for the Parliament of Uganda to host you from 1st – 12th December 2008, for the 7th Session of the East African Legislative Assembly.

Allow me, Mr. Speaker, to commend the decision of the East African Legislative Assembly to rotate its plenary sittings among the capitals of the Partner States of the East African Community. This practice takes the Assembly to the people of the East African Community, thereby enabling them to know and appreciate the role and work of the East African Legislative Assembly. It also enables the Members of this august House to understand and appreciate the contemporary political, economic, social and other issues, which are high in the minds of the people of East Africa.

Over the recent years, the people of East Africa have witnessed an unprecedented move towards democracy in every Partner State of the East African Community. I can, with confidence, state that all the countries in the East African Community have embarked on an irreversible journey towards multi-party democracy, with elected parliaments at the centre. Indeed, the East African Legislative Assembly is the highest manifestation of this historic journey. *(Applause)*

Consequently, permit me, Mr. Speaker, to state the obvious, that the House you preside over, is the collective voice of the people of East Africa as they strive for peace, democracy and development. Therefore, it is my hope, and the hope of the people of East Africa, that the East African Legislative Assembly will now, and in the future, continue to play its important role of promoting democratic governance in the region. *(Applause)*

To do this effectively, it must be effectively representative of the people's social and political diversity; it must encourage full participation of all the sections of the people of East Africa; it must ensure equal rights among them; it must work in a way which the people of East Africa can see and understand; it must be accessible to the people of East Africa; it must be accountable to them, and last but not least, it must be seen to be effective.

Mr. Speaker and Honourable Members, I do not wish to abuse the opportunity you have given to me to deliver a short goodwill message to the Assembly by giving a long sermon. Allow me, therefore, to stop here by assuring you that the Parliament of Uganda is committed to extending to the East African Legislative Assembly its full co-operation and support, not only on this occasion when it is sitting here, but always – *(Applause).*

I wish you a successful meeting, and I encourage you, Mr. Speaker and the honourable Members, to feel free to take full advantage of the traditional hospitality of the people of Uganda – *(Applause).*

Mr Speaker, also, allow me to congratulate you because this last week, the African Parliamentary Union, of which I am the chairman, approved your application for an "observer" status during its meetings. Congratulations, and I wish you well – *(Applause).*

Thank you very much for your kind attention, and for allowing me to sit in this august Assembly of the East African Legislative Assembly. May God bless you! *(Applause)*

The Speaker: I now call upon the hon. Leonce Ndarubagiye to give a vote of thanks.

Mr. Leonce Ndarubagiye (Burundi): Thank you very much, hon. Speaker, for giving me the Floor and this opportunity to express our thanks to our highly respected and esteemed host, the Rt. hon. Edward Kiwanuka Ssekandi, Speaker of the National Assembly of the Republic of Uganda.

It is with great honour and humility that I stand here to express, on behalf of all members of the East African Legislative Assembly, our sincere gratitude to you, right hon. Speaker, for taking some of your precious time out of your busy schedule to come and open the Third Meeting of the Second Assembly of the East African Legislative Assembly

Rt. Hon. Speaker of the National Assembly of Uganda, sir, we must admit that it has always been a pleasure to all of us to be here in Uganda. So we are therefore very glad to sit, once again, in this beautiful capital city and country and to enjoy, as always, the kind hospitality of the National Assembly of the republic of Uganda, and that of the people you represent – *(Applause).* We are very much aware of your deep commitment to the cause of the integration of the East African Community. The commitment of the people of Uganda, whom you represent, was also proved by the successful conduct of the consultative process on fast-tracking the political federation.

Rt. hon. Speaker, sir, while expressing our gratitude, we also wish to assure you of our sincere, deep and engaged commitment to the cause of the integration of the East African Community, yesterday, today and tomorrow, until we successfully reach the vision of the founder members and elders of the East African Community – *(Applause).*

With these few words, I beg to move a vote of thanks. I thank you - *(Applause).*

The Speaker: Honourable Members, Mr Speaker, I do not think there is anything else I can add to that, but allow me to say *"asante sana"* again. With that, I think the hon. Speaker may now take his leave at his pleasure. *(Applause)*

PAPERS

The following Paper was laid on the Table: -
by the Chairperson, Committee on Accounts (Mr Christopher Nakuleu):

> The Report of the Committee on Accounts on the Audited Accounts of the East African Community for the Year ended 30 June 2007.

MOTION

FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE ACCOUNTS COMMITTEE ON THE AUDITED ACCOUNTS OF THE EAST AFRICAN COMMUNITY FOR THE YEAR ENDED 30TH JUNE 2007

The Chairperson, Committee on Accounts (Mr Christopher Nakuleu) (Kenya): Hon Speaker, I beg to move_

> "THAT the Report of the Committee on Accounts on the Audited Accounts of the East African Community for the year ended 30th June 2007 be adopted."

Ms. Dora Byamukama (Uganda): Seconded.

Mr. Nakuleu: Hon Speaker, allow me to go through the Report of the Accounts Committee on the Audited Financial Statement of the East African Community for the year ended 30th June 2007.

While considering the report, we had to split the report into subsections; the first part is the introduction.

In accordance with the provisions of Article 134(3) of the Treaty for the Establishment of the East African Community, the Chairperson of the Council of Ministers, on 16 September 2008, in Kigali, laid before the Assembly the following reports of the Audit Commission:

i. The Audited Financial Statements of the EAC for the year ended 30th June, 2007;
ii. The Audited Financial Statements of the Mt. Elgon Regional Ecosystem Conservation Programme (MERECP) for the year ended 31st December, 2007;
iii. The Audited Financial Statements of Lake Victoria Basin Commission for the year ended 30th June, 2007;
iv. The Audited Financial Statements of Lake Victoria Environment Programme II for the year ended 30th June, 2007; and,
v. The Audited Financial Statements of Lake Victoria Basin Commission Partnership Fund for the year ended 30th June, 2007.

In accordance with the provisions of Rules 77, 79 and Annex 5(A) of the Rules of Procedure of the Assembly, the Hon. Speaker referred the five reports to the Committee on Accounts for scrutiny. The Committee met in Kampala from 17th – 28th November, 2008 for this purpose.

This report covers the Committee's findings and recommendations on the main issues. The report is sub-divided into eight parts: Part I is the introduction; Part II is on the Audited Accounts of the East African Community for the year ended 30th June, 2007; Part III is on the Audited Accounts of Mt. Elgon Regional Ecosystem Conservation Programme (MERECP) for the year ended 31st December, 2007; Part IV is on the Audited Accounts of Lake Victoria Basin Commission for the year ended 30th June, 2007; Part V is on the Audited Accounts of Lake Victoria Environment Management Programme II for the year ended 30th June, 2007; Part VI is on the Audited Accounts of Lake Victoria Basin Commission Partnership Fund for the year ended 30th June, 2007; Part VII is on General Observations; and, Part VIII is on Acknowledgements.

PART II

2.0 AUDIT FINDINGS ON THE EAC AUDITED ACCOUNTS FOR THE YEAR ENDED 30TH JUNE, 2007.

2.1.0 Follow up on Previous Year's Audit Findings.

The Audit Commission reported that during the previous year, ten recommendations were issued as well as two outstanding from the previous years, out of which seven had been satisfactorily dealt with. Five remained outstanding as detailed below:

2.1.1 Construction of the EAC Headquarters.

The Audit Commission had advised Management to ensure that implementation of the Project was done within a reasonable timeframe to avoid uncertainties and associated risks.

The EAC Management reported that progress had been made but some delays were occasioned by the need to incorporate necessary review/amendments to the project to take into account the admission of Rwanda and Burundi. This included adjusting the preliminary designs and establishing the actual spatial and functional requirements, and the new cost estimates. This exercise was done and concluded by end of June 2007. The project size and cost increased by 46 per cent, and this translated into the need for an additional €5.524 million, which the financier, the Federal Republic of Germany, agreed to.

Other important activities leading to the award of construction contracts like the Environment Impact Assessment study, detailed topographic site survey and soil investigations on project site, final design report, short listing for main works contract and the final tender documents were reported to have been successfully concluded.

The Final Agreement in respect of the approved additional funding was signed in Bonn on 3rd November 2008 between the EAC Secretariat and the Federal Republic of

Germany. The award of the construction contract awaits the no objection clearance from the financier. The actual construction is expected to commence in March or April, 2009 and it is estimated to take 30 months which includes 6 months defects liability period. The Committee was assured that the Project will take off as planned and will be practically completed by September 2010.

The Committee noted with dissatisfaction that this project had dragged on for far too long with changing deadlines every year for four years now. The reasons cited for the delay reflected lack of futuristic planning in the initial stages of the project design because the admission of Rwanda and Burundi into the EAC was not a secret but a fact well known by the Secretariat. The delay in the construction of the headquarters has meant continued payment of rent and other associated costs, which would have been avoided had the project planners taken care to design the project appropriately by taking into account the then very likely admission of the two new Partner States into the EAC family. The Committee calls upon the Secretariat to envisage future expansion of EAC and this should be taken in account when designing other programmes and projects.

The Committee recommends to the Assembly to direct that:

a] *the Secretariat do submit all the relevant project documents to the Assembly by February, 2009.*

b] the Secretariat do submit a detailed revised implementation plan to the Assembly to act as a reference point and for ease of monitoring the project progress by February, 2009.

c] the Secretariat do submit to the Assembly the cost implications arising out of the delay in the implementation of the project.

d] the Secretariat should ensure that they submit to the Assembly project implementation progress reports at each Plenary Sitting of the House.

2.1.2 Review of the SUN Accounting System and the overall control Environment.

The Audit Commission reported that EAC was yet to establish an Information Systems (IT) Policy. As a result, the Audit Commission could not establish whether the Community has instituted the relevant security measures such as a disaster recovery plan to protect the system against natural disaster; power outages, structural collapse or systems shutdown.

The Audit Commission further reported that there is no evidence that a post implementation system audit had been conducted and as a result, it was not possible to establish the adequacy and reliability of the SUN Accounting System.

The EAC Management reported that they have a draft IT Policy in place now that will be polished through a short term consultancy to be procured under the RISP Project before it is adopted and implemented. This policy would, among other things, address the disaster recovery plans.

The Committee noted with concern that the issue of the Sun Accounting System had not been resolved for over three years. The Committee was of the considered view that possibly the Sun Accounting Software was not the right application to be adopted by the EAC owing to the fact that:

- EAC has failed to fully utilize the system;
- there is no evidence of whether a statement of user requirements was ever made;
- a post implementation audit on its effectiveness has never been carried out, yet the EAC management continues to award contracts to upgrade the system and train staff in its application.

The Committee observed that EAC does not have a procurement policy in place. Lack of a procurement policy resulted into a procurement which did not take into account training and upgrade of the system which are normally part of an IT package.

The Committee recommends to the Assembly to direct that:

a] *the EAC Secretariat should develop a comprehensive IT Policy which takes into account the dynamic nature of the IT industry, by February 2009;*

b] a post implementation audit and cost analysis of the SUN Accounting System be carried out by February, 2009 and the report submitted to the Assembly.

2.1.3 Inadequate Staffing of the Internal Audit Unit and lack of an Audit Committee.

The Audit Commission had recommended that owing to the growth of the Community, there was need to upgrade and expand the Internal Audit Unit so that it can effectively monitor the Community programmes. Management had also been urged to put in place an Audit Committee to enhance the Community's control environment and to promote good governance within the Community.

The EAC Management reported that so far, they have managed to recruit another Internal Auditor at Professional Scale (P1) to enhance the capacity of the Internal Audit Unit. The EAC Management further reported that a Consultant has commenced work on the institutional strengthening of the Internal Audit Unit and the development of a corporate governance policy, anti-fraud policy and a risk assessment and risk management policy.

It was reported further that the terms of reference for the Consultant for strengthening of the Internal Audit function include the proposals for the establishment of an Audit Committee, the upgrading of the Unit into a directorate with the adequate human capacity to effectively handle the following audits; financial, operations, systems, value for money, performance, IT, projects and programmes audits as well as carrying out investigations.

The Committee noted with concern that the inadequacies of the Internal Audit Unit at the EAC remain unresolved irrespective of the importance of this office.

The Committee further observed that:

- the internal audit office, critical as it is, is staffed by only 2 officers;
- the adequate staffing levels of this unit are not yet ascertained;
- the timeframe for the ongoing consultancy was not given;
- the current reporting mechanism were the internal audit reports to the Secretary General inhibits the independence of the Internal Audit office; *and*
- There is a proposal to establish an Audit Committee at EAC.

The Committee recommends to the Assembly that:

a] *the Council of Ministers be urged to consider the report of the Consultant and address the capacity issues of the Internal Audit office as a matter of urgency;*

b] more consultations be undertaken before the establishment of the proposed Audit Committee to avoid the possibility of creating a non-effective entity and parallel structures.

c] each organ of the Community should have an Internal Audit Unit of its own.

2.1.4 Lack of Accounting and Procurement Manuals.

The Audit Commission had recommended the need to establish accounting and procurement manuals to provide guidance on accounting and procurement procedures to enhance accountability and proper management of the Community's financial resources. The Audit Commission reported that the manuals had not yet been developed.

The EAC Management reported that a Consultant has been procured on the overall institutional strengthening that will include the development of EAC Accounting and Procurement Manuals based on the contemporary best practices and in line with International Financial Reporting Standards and International Accounting Standards. Management undertook to have the manuals ready by March 2009.

The Committee was concerned that the development of accounting and procurement manuals had taken unnecessarily long yet these are very fundamental and basic tools in enhancing internal controls. It was also the considered view of the Committee that the development of these manuals did not require the services of a consultant, but should have been developed by the Directorate of Finance, the Internal Audit Office and the Procurement Unit of the EAC Secretariat.

The Committee recommends to the Assembly to:

a] *direct the Secretary General to ensure that these manuals are in place by end of March 2009.*

2.1.5 Outstanding Claims, Deposits and Pre-payments not recovered.

The Audit Commission had reported that claims, deposits and pre-payments amounting to USD.599,011 were outstanding as at 30th June 2006. Although recovery has been made, it was reported that some of the deposits and claims (a total of US$2,057) remained un-recovered for more than two years.

Particulars	**Previous Year (2005/2006) balance USD**	**Current Year (2006/2007) balance USD**
Ministry of Transport - Kenya	450	450
PriceWaterhouse Coopers	360	360
MCO	2,914	1,232
Fuel Consumption	15	15
Total	**3,739**	**2,057**

The EAC Management reported that amounts in respect of advance for purchases, housing advance, staff advance, MCOs, are running accounts which are cleared and incurred on a continuous basis. There will therefore always be a balance at the end of the year. All the outstanding claims, deposits and pre-payments have now been fully recovered.

The Committee noted with concern that the recovery of most of the claims was within the control of the EAC Management and could not comprehend why in some instances, this had not been done for over two years.

The Committee recommends to the Assembly to:

a] direct the EAC Management to institute effective means of recovery of outstanding claims, deposits and pre-payments.

2.2 CURRENT YEAR'S (2006/07) AUDIT FINDINGS AND RECOMMENDATIONS.

2.2.1 Vehicles Fully Depreciated still in use.

The Audit Commission reported that two vehicles (Toyota Land Cruiser TCD 35 EAC and Nissan Patrol TCD 41 EAC) are fully depreciated but one of them was still in use. However, no valuation had been carried out to reflect a fair value of the vehicle in accordance with International Accounting Standards (IAS) No. (6). The implication of this is that the value of plant assets and equipment in the financial statements is not fairly stated.

The EAC Management undertook to carry out a review of its depreciated assets to determine which of those assets have economic life and can be revalued in compliance with IAS. Those assets found to be uneconomical will be disposed off in line with the EAC financial rules and regulations.

The Committee noted that this has arisen due to lack of a comprehensive transport and vehicle management policy at EAC. As a result, a practice of replacement after breakdown is applied, a very poor and archaic method of assets management.

The Committee recommends to the Assembly to direct that:

a] *the EAC Secretariat develops a comprehensive transport and vehicle management policy by March, 2009.*

b] the EAC Secretariat develops a policy that ensures regular revaluation of its assets in order to fully comply with the requirements of the IAS and thus reflect a fair value of its assets in the financial statements.

c] the EAC Secretariat develops a comprehensive assets management and disposal policy by March, 2009.

2.2.2 Unrealistic Depreciation Rates.

The Audit Commission reported that the rates of depreciation used at EAC are unrealistic. Buildings are depreciated at a rate of 1% while motor vehicles, furniture, computer equipment, office equipment and telecommunications equipment are depreciated at the rate of 20%. These rates imply that buildings will last for at least 100 years and other assets for only 5 years. The Audit Commission noted that with the ever changing technology, telecommunication and computer equipment for instance are likely to become obsolete before the estimated period of 5 years lapses. The implication is that use of such unrealistic rates may not give true values of assets in the financial statements.

The EAC Management undertook to study, review and revise the depreciation rates in line with the current and best practices.

The Committee noted that depreciation rates policy is a matter that should have easily been handled by the Accounts Department and incorporated in the EAC Financial Rules and Regulations.

The Committee recommends to the Assembly to:

a] *direct the EAC Management to expedite the review of this policy and submit realistic depreciation rates immediately.*

b] In the meantime, the EAC Management should adhere to internationally applicable standards in order to arrive at realistic rates.

2.2.3 Non Recovery of VAT.

The Audit Commission reported that the VAT Account increased from USD382,951 at the end of 2005/2006 to USD447,300 at the end of 2006/2007. Worse still, no recovery had been made in the year under review. The implication was that funds which could have been used to undertake other EAC Programmes have been held up.
The EAC Management reported that Tanzania Revenue Authority (TRA) has started clearing the backlog of outstanding claims and to-date, over Tshs100,000,000 (One hundred million) had been paid and more claims were being settled. The Committee noted that if this figure is converted at the current exchange rate of Tshs1250 to USD1, it only amounts to USD80, 000, which is only 20% of the claimable amount.

The Committee observed that_

- the issue of VAT refunds seems to have been resolved between the EAC and TRA
- that that the provisions of *Article 138* of the Treaty that confer immunities and privileges on EAC including non payment of taxes has never been operationalised
- the current practice of payment of VAT and then claim refunds is tedious and unnecessarily holds up precious funds that could have been used in the implementation of planned activities.

The Committee recommends to the Assembly to:

a] *urge the Secretariat to enhance the rate of VAT refunds, especially the outstanding claims.*

b] direct the EAC Management to invoke the provisions of Article 138 of the Treaty on status, privileges and immunities so that EAC is exempted from payment of VAT or any other tax.

2.2.4 Outstanding Imprest Balances

The Audit Commission reported that imprest balances amounting to USD69,122 remained outstanding as at the end of the Financial Year and that there was no evidence that the money had been retired.

The EAC Management reported that the money relates to the cash imprest carried by officers to facilitate meetings in Partner States just prior to the end of the Financial Year. Accountability including refunds is done in the next financial year.

The Committee found the response by the EAC Management unacceptable. The finalization of accounts and audit is done about three months after the close of the financial year. This should give ample time to the Accounts department to finalize all accounts including ensuring that all imprests are retired, before the audit is undertaken. Moreover, the Audit Commission insisted that what was reported relates to outstanding un-retired imprest and not that taken only at the end of the Financial Year.
The Committee noted further that the EAC Financial Rules and Regulations require that accountability of funds is made within one week after the implementation of the activity, and that an officer who has un-retired imprest should not be advanced another imprest. Lack of accountability on time therefore connotes weakness on the part of Management to enforce the existing rules.

The Committee observed that retirement of imprest should have a cut-off point and failure to account for the funds on time should attract punitive action.

The Committee recommends to the Assembly to:

a] *direct the EAC Management to institute more effective means of recovery of imprest and other pre-payments.*

b] direct EAC Management to ensure that salaries of offending officers are deducted to recover the ammount advanced if the money is not accounted for within thirty days after the due date.

c] request the Audit Commission in future to append the lists of the offenders and the unretired amounts in their reports.

d] *Request the Audit Commission in future give a report on the unretired imprests and to append to their report the lists of the offenders and their corresponding amounts.*

2.2.5 Review of the Budgetary Performance.

The Audit Commission reported that during the year under review, a sum of USD20,341,874 was budgeted for recurrent and development expenditure. However, only USD12,601,788 was utilized, representing 62.5% of the budgeted expenditure.

It was further noted that the flow of funds from Partner States, donors and other income was about 68.7% of the expected funds. According to the annual work plan and budget, USD20,341,874 was expected from Partner States, donors and other income. However, only USD13,976,557 was received.

Details	**Actual**	**Budgeted**	**Variance**	**%**
INCOME	USD	USD	USD	
Contribution from Partner States	11,456130	11,456,130	-	100
Other Income	1,948,070	6,558,800	4,610,730	29.7
General Reserves	496,218	2,297,373	1,801,155	21.5
Miscellaneous Income	76,139	29,571	(46,568)	257%
Total	13,976,557	20,341,874	6,365,317	68.7
LESS EXPENDITURE				
Staff Emoluments	5,895,313	7,738,062	(1,842,749)	76.2
Administrative and Consultancy Expenses	6,562,478	10,317,783	(3,755,305)	63.6
Depreciation Charged				
Total	**12,457,791**	**18,055,845**	**(5,594,247)**	**69**

The EAC Management reported that in future, they will ensure that only committed funds from donors where agreements have been signed are incorporated in the budget.

The Committee observed that unsecured funds to the tune of USD6,365,317 were incorporated in the budget. The implication is that many activities which were expected to have been undertaken could not be carried out, reflecting poor performance on the part of EAC Secretariat. On the other hand, it was noted that even where the funds were secured, there was inability to utilize all the money within the year. The implication of this is that there is either a problem of absorption capacity or lack of allocative efficiency, which have a direct relationship with poor planning.

Late remittances and under utilization of funds leads to accumulation of what is called the *"float";* and the utilization of this "float" is not governed by any policy but expended as and when Council authorizes the Secretary General to do so, albeit selectively. The Committee is of the considered view that the issue of the "float" fund should be stopped forthwith pending a clear policy on its governance.

The Committee observed that in the period under review (2006/2007), opening cash and bank balances accruing from the previous year stood at US$ 7,761,800. If this amount is added to the US$ 13,976,556 that was received as remittances, the Community had at its disposal a total of US$ 21,738,356 of which only US$ 12,601,788 was utilized. At the close of the year, the closing cash and bank balances rose to US$ 11,630,998.

The EAC Management did not provide any credible reasons as to why they failed to utilize the funds. Therefore, the impression commonly given by the EAC Management that delay in implementation of planned activities is occasioned by late remittances is not entirely true. It is the considered opinion of the Committee that there is a problem of poor planning and cash flow management at EAC.

The Committee recommends to the Assembly to direct that:

a] *in order to get a comprehensive picture of where the problem exists, the EAC Management should ensure that in future, they submit comprehensive status reports alongside the audited accounts.*

b] Council do develop a cash management policy which will lead to better management of the funds received. In the meantime, the selective use of the "float" should be halted forthwith.

c] the Secretariat should ensure that in future, there is proper planning and implementation of planned activities.

d] the Secretariat should ensure that there is effective monitoring and evaluation of implementation of planned activities.

e] in future, the budget should incorporate only committed funds where there is proof of funding.

2.2.6 Non Capitalization of Property, Plant and Equipment.

The Audit Commission reported that the Community purchased equipment worth USD.8,384 using funds from ACBF. However, this expenditure was reflected as revenue expenditure in the financial statements instead of being capitalized. The implications of this are that while the item of property, plant and equipment representing the same amount has not been reflected in the financial statements, the revenue expenditure is overstated by the same amount. Further, the total project expenditure is understated by an amount equivalent to depreciation charge for the item which has neither been calculated nor included in the financial statements. This does not conform to the requirements of the IAS No.16.

The EAC Management reported that the treatment of assets purchased from donor funds depends on the financing agreement between the donor and the Community. In this particular case, the purchase was treated as revenue expenditure because the assets still belong to ACBF and not EAC and cannot therefore be treated as assets in the EAC accounts.

The Committee observed that;

- the agreement between EAC and ACBF does not explicitly state that assets purchased under the project cannot be treated in the books of accounts of EAC as assets;

- much as the bulk of the project money is from ACBF, there is counterpart funding from EAC which essentially makes EAC a part-owner of the assets; and

- the non capitalization of assets makes it impossible to ascertain whether the assets were purchased or not.

The Committee recommends to the Assembly to direct that:

a] *the EAC Management should in future prepare separate books of accounts regarding ACBF funds for EAC Auditors and the ACBF Auditors in accordance with the financial regulations of each institution.*

b] the EAC Management do comply with the recommendations of the Audit Commission and amend the financial statements accordingly.

c] the EAC Management should ensure that the assets are recorded in an inventory and a report submitted by February, 2009.

d] the Management should submit all the documentation relating to the purchase of these assets to the Committee by February, 2009.

e] the audited accounts of the project for the current year (2008) be finalized and submitted for audit by December 2008.

PART III

3.0 AUDITED FINANCIAL STATEMENTS OF MT. ELGON REGIONAL ECOSYSTEM CONSERVATION PROGRAMME (MERECP) FOR THE YEAR ENDED 31ST DECEMBER, 2007.

3.1 Introduction.

MERECP is an EAC regional programme initiated in response to the conservation and development needs of the Mt. Elgon Ecosystem. This is a trans-boundary ecosystem that spans the border between Kenya and Uganda. It has over 180,000 hectares of forest and supports many hundreds of thousands of people, directly or indirectly. It is the catchments area for important water systems contributing to the Turkwell River, Lake Turkana, Lake Victoria basin and the Nile river basin via Lake Kyoga.

On 3rd February 2004, the EAC entered into a financing agreement with the Norwegian government for a grant of USD.4,874,342 to be extended by governments of Norway and Sweden to the support of the inception phase of the MERECP for a period of 4 years from September 2005 - 2009.

On 2nd September 2005, the EAC then entered into a cooperation agreement with the World Conservation Union (IUCN) for the provision of technical, advisory, programme and financial management services to MERECP. The IUCN is therefore responsible for the provision of the overall technical backstopping, supervision and coordination of programme activities carried out by the implementing institutions and consultants.

A mid-term review of the project has been done and the project life has been extended to December, 2010.

3.2 AUDIT FINDINGS AND RECOMMENDATIONS.

3.2.1 Review of Implementation of Previous Recommendations.

The following issues remained outstanding from the previous audit findings:

3.2.2.1 Non Opening of a Specific Bank Account for MERECP by IUCN.

The Audit Commission had reported that IUCN had not opened a separate MERECP bank account as required by the financing agreement, but instead all funds received from the donors are banked on the same account with other IUCN funds. As a result, an independent verification of the bank balances could not be carried out due to lack of reconciliation specifically relating to the programme. In the previous year’s audit, the Audit Commission and the Assembly recommended that IUCN should open and operate a separate MERECP bank account according to *Article VIII* of the financing agreement and *paragraph 10.6.4* of the MERECP Implementation Manual.

The Committee noted that non opening of a separate bank account including failure to prepare bank reconciliations significantly limited the ability of the Audit Commission to appraise the programme cash flows and the related year end cash balances.
The Committee noted with concern the fact that instead of IUCN adhering to the terms of the financing agreement between EAC and donors, the Project was being run under terms dictated by IUCN.

The Committee recommends to the Assembly to:

a] *direct that IUCN should ensure that the bank account is opened immediately and a report be submitted to the Assembly by February, 2009.*

b] that there is need to put in place systems that will enable an independent review of the programme financial transactions including bank reconciliations.

3.2.2.2 Non Opening of MERECP Bank Account by Implementing Institutions.

Arising from the previous recommendations, the Audit Commission reported that the Ministry of Environment and Natural Resources (Kenya) and the Ministry of Water and Environment (Uganda) had not opened up specific bank accounts into which programme funds could be deposited.

It was further reported that some provisions of the agreement which the IUCN and the government of Kenya entered into to enable the above Ministry to open the account conflict with the main agreement signed between EAC and IUCN. The area of conflict relates to the need for a subsidiary financing agreement with LVBC and Ministry of Finance, Kenya.

With regard to the Ministry of Water and Environment (Uganda), IUCN reported that the process of opening the bank account had been initiated but still awaited clearance from the Ministry of Finance, Planning and Economic Development, which had initially withheld permission because the project funds were only USD10,000, an amount regarded too little to warrant a separate account.

The EAC Management reported that a mid-term review had been undertaken and most of all these shortcomings have been addressed. The project has been redesigned and will now be run by LVBC.

The Committee observed that the issue of non opening of bank accounts by implementing agencies has remained outstanding for more than 2 years despite the recommendations of the Audit Commission and the Assembly. The responsible offices should take this mater seriously as it is wastage of resources and time to keep repeating the same issue for 2 years.

The Committee recommends to the Assembly to;

a] call upon the governments of the Republics of Uganda and Kenya to take up this matter and ensure that the bank accounts are opened and the matter resolved once and for all.

3.2.2.3 Late Accountability of Funds disbursed to Implementing Institutions.

The Audit Commission reported that two institutions, Mt. Elgon district (USD18,576) and NEMA – Kenya (USD4,375) had not accounted for funds totalling to USD22,951 disbursed to them. It was further reported that IUCN had disbursed to World Agro-forestry Centre (ICRAF) a total of USD67,170, but according to financial reports, ICRAF purports to have spent USD90,968 although the accountability for the expenditure was not available.

The IUCN Management reported that by the time of audit, the money was still on the account of the Mt. Elgon district. The money was shared out between the districts of Mt. Elgon and Trans-zoia in October 2007 and accountability will be done in the new Financial Year. It was further reported that NEMA (Kenya) has accounted for the funds. With regard to ICRAF, it was reported that as part of the agreement, ICRAF only submits financial statements to IUCN and not actual accountability. Detailed accountability by ICRAF can only be done on demand.

The Committee noted with concern that the issue of late accountability of funds has become a perennial problem to the project. This makes it difficult to verify whether funds were spent properly. The Committee could not in particular comprehend how IUCN could sub-contract ICRAF but was powerless to demand accountability from its agent.

The Committee recommends to the Assembly to direct that:

a] *IUCN to submit all the accountabilities received from the implementing agencies to the Audit Commission for verification;*

b] *the Secretary General to take responsibility and demand for accountability from ICRAF and submit the same to the Audit Commission for verification. In the meantime, no more funds should be disbursed to ICRAF until the accountability has been verified by the Audit Commission and cleared.*

c] *all Implementing Institutions which have not submitted their accountabilities should be compelled to do so before further disbursements are made.*

3.3 CURRENT YEAR'S AUDIT FINDINGS.

3.3.1 Absence of Rental Agreement.

The Audit Commission reported that a sum of USD18,000 was paid by MERECP Uganda Office as cost of rent and utilities for January to December, 2007 at a monthly rate of USD1500. However, there is no agreement between EAC and IUCN that provides for rental expenses as part of the programme implementation costs. It was therefore difficult to ascertain whether the rental expense was a proper charge to the programme.

The EAC Management undertook to investigate whether the rental expenses were a proper charge to the programme.

The Committee recommends to the Assembly to direct that:

a] *the EAC Management expedites its investigations and submit a detailed report on this matter, including a breakdown of costs, by February, 2009.*

3.3.2 Financial and Physical Performance Evaluation.

The Audit Commission reported that a sum of USD2,099,515 was budgeted for the implementation of the programme activities for the period under review but only USD1,114,610 (53.1%) had been spent by 31st December, 2007. The flow of funds was only 70%. For instance, donors paid up only USD587,511 instead of the expected USD1,208,371.

Implementation of the 2007 Work Plan was delayed and most of the activities were rolled to 2008 work programme. Although the life span of the project has been extended to December 2010, from September 2009, such delays may lead to failure to attain intended programme objectives.

The EAC Management reported that the issue of non-adherence to the work plan was a genuine concern. This is occasioned by the numerous challenges facing the programme. These challenges include:

- the late approval of annual work plans (which in this case was done in June, 2007);
- the late disbursement of funds from donors (the first semi-annual disbursement was done in December 2007);
- the late finalization and approval of institutional work plans and budgets;
- the delay in opening of bank accounts by some implementing agencies; and
- the fact that the project financial year runs from January to December and not aligned to that of EAC, which runs from July to June.

The EAC Management further reported that these issues have now been addressed in the mid-term review which has proposed significant changes to the management of the project.

The Committee observed that although the EAC Management is supposed to supervise implementation of this project, it has abdicated its supervisory role leading to the partial failure of the project.

The Committee recommends to the Assembly to:

a] direct the EAC Management to ensure that they play their required supervisory role in the project.

b] direct the EAC Management to take necessary steps so that the current challenges bedevilling the project are comprehensively addressed.

c] direct the EAC Management to align the project financial year to that of the EAC.

3.3.3 Overcharging of Staff time.

The Audit Commission reported that according to *Section 5.2* of the programme document, IUCN is supposed to charge 3% of staff time cost on total expenditure incurred by the programme. It was however noted that an analysis of this cost revealed that staff time expenses should have been USD27,633.07 (3% of total expenditure of USD1,144,610), yet IUCN instead charged USD96,806.57, an overcharge of USD69,173. The overall staff time charged including management fee totalled to USD193,507.

IUCN reported that in their negotiations with Norwegian Embassy before approval of the overall MERECP budget, it was agreed that the 3% staff time is to cover the costs of supervising, management and due diligence only. Other additional costs associated with specific deliverables were to be charged separately and that is why there was an extra charge of USD45,550.

The IUCN Management reported that they have revised the staff time charged at 3% of the programme activities, excluding staff time charged per activity and the final figure is USD28,642. Further, IUCN has revised the staff time charged for technical back stopping to USD.45,550, thus giving total staff time charged to the programme for year 2007 as USD74,192.

The Committee noted with concern that IUCN, an agent of EAC, managed to negotiate new terms of service with donors directly without input or prior permission of its Principal. More surprisingly was the fact that the financiers (Norwegian Embassy) could agree with IUCN such significant shifts in the contract terms without recourse to EAC with whom they have a financing agreement. It should further be noted that IUCN does not have any agreement with Norway and it is difficult to comprehend the basis upon which the two held negotiations. It is EAC and Norway which have a financing agreement, and in turn, EAC sub-contracted IUCN to run the programme on its behalf. The extra amount therefore remains unfairly charged on the project.

The Committee recommends to the Assembly to:

a] hold that the negotiations between IUCN and Norway in this respect are null and void since IUCN was not privy to the agreement between EAC and the financiers.

b] direct that the extra amount charged for staff time be refunded to the Project immediately and a report submitted to the Assembly by February 2009.

c] direct EAC Management and IUCN to renegotiate a more comprehensive contract that will give no room for the current loopholes.

3.3.4 Loss of a Digital Camera.

The Audit Commission reported that the Programme Management Unit (PMU) purchased 9 Digital Cameras at a sum of USD3,655. However, one of the Cameras, a DSC-w 35 valued at USD415 was lost under unclear circumstances and neither was a report made to that effect.

The IUCN Management reported that the Camera got lost during the handover function of MERECP equipment to the implementing institutions at the Ministry of Water and Environment headquarters' boardroom, Kampala, Uganda. All equipments by then were initially in a temporary store provided by the Ministry.

IUCN admitted that there was laxity on the part of the responsible officer and management has asked the officer to replace the same model of the Camera by 1st December 2008, failure of which further steps will be taken to recover the Camera.

The Committee recommends to the Assembly that:

a] In case there is failure to recover the Camera, deductions should be made from the concerned officer's salary and a report submitted by February, 2009.

3.3.5 Late Accountability for Funds by Implementing Institutions.

The Audit Commission reported that a total of USD135,015 disbursed to implementing institutions in Kenya remained unaccounted for at the time of audit as follows:

a]	LVBC	USD105,692
b]	Mt. Elgon District	USD18,576
c]	NEMA Kenya	USD4,697
d]	KWS	USD6,050
		USD.135,015

The IUCN Management reported that LVBC and NEMA Kenya had fully accounted for the funds. Mt. Elgon district is expected to start spending and subsequently account for the funds in the course of 2008 Financial Year. KWS was also reported not to have finished the funds but IUCN will follow up to ensure that the entire amount is accounted for.

The Committee recommends to the Assembly that:

a] the LVBC and IUCN should submit the accountability to the Audit Commission by mid December 2008 for verification.

PART IV

4.0 AUDITED FINANCIAL STATEMENTS OF THE LAKE VICTORIA BASIN COMMISSION FOR THE YEAR ENDED 30TH JUNE, 2007

4.1 Introduction.

Lake Victoria Basin Commission (LVBC) is a specialized institution of the EAC that is responsible for coordinating the sustainable development agenda of the Lake Victoria Basin.

The LVBC was established by the protocol on the sustainable Development of the Lake Victoria Basin Commission which was ratified by Partner States in December, 2004. The LVBC became fully operational in April 2006. It relocated to its headquarters in Kisumu, Kenya from Arusha in January 2007.

4.2 FOLLOW UP ON PREVIOUS YEAR'S AUDIT FINDINGS

4.2.1. Non Insurance of RV Jumuiya

In the previous year, the Audit Commission reported that the Department for International Development (DFID) offered a Vessel (RV Jumuiya) worth £700,000 to the EAC for use in the Lake Victoria Basin towards improvement of safety of navigation, research and education and related activities on the lake. It was noted that the vessel had not been insured because its seaworthiness had not been certified as it lacked some important safety equipment.

The LVBC Management reported that the vessel has now been fitted with the necessary navigation equipment, except the installation of the secondary eco-sounder which is still pending. The vessel is not yet insured because under the relevant law in Tanzania, such a vessel can only be insured if, among other things, it has a Permanent Master and Engineer. The delay in the recruitment of these two personnel was occasioned by the freezing of recruitment at EAC by Council of Ministers. The two staff will however be recruited soon following the unfreezing of recruitment of staff.

The Committee noted with concern that the Council of Ministers could issue a blanket ban on recruitment without due regard to certain urgent cases such as this one. This jeopardized the planned services of the vessel in the area of navigation and has forced the vessel to operate illegally without a license and permanent staff. The risks of navigation without insurance are enormous and continued delay in insuring the vessel is a serious anomaly and the Council of Ministers should be held responsible should a problem arise.

The Committee recommends to the Assembly that the process of recruitment of the two staff be expedited and a report on the status be submitted to the Assembly by February, 2009.

4.3 CURRENT YEAR'S AUDIT FINDINGS.

4.3.1 Internal Control Systems.

The Audit Commission reported that the Finance and Account Section of LVBC is manned by one person at the level of an Accountant who performs all the accounting function for LVBC as well as for the two projects, LVEMP II and the Partnership Fund. There is no segregation of duties and thus, a single person handles transactions from inception to conclusion and as such, errors and omissions are bound to occur without detection.

Similarly, the Audit Commission reported that LVBC did not have an Internal Audit Unit in place and therefore the system in place is not internally reviewed.

The LVBC Management reported that the weaknesses have been addressed as Council of Ministers approved in April 2008 the recruitment of a Senior Accountant, an Accounts Assistant and Internal Auditor. The posts have been budgeted for and will be filled in the year 2008/2009.

Similarly, the LVEMP II Project will now have its own Accountant and Accounts Assistant.

The Committee noted with concern that the Council of Ministers created and allowed LVBC to relocate to Kisumu without the requisite staff and due acknowledgment of the LVBC's constraints. Worse still, it is more than $1^1/_2$ years later that Council has approved the recruitment of the staff.

The Committee recommends that the Assembly:

a] *holds the Council of Ministers responsible for any current weaknesses in the management of the LVBC.*
b] *that in future, any relocation of offices should be done systematically in order not to jeopardize the proper functioning of that office.*

4.3.2 Financial Rules and Regulations.

The Audit Commission reported that the LVBC, as an institution of EAC adopted the Financial Rules and Regulations of EAC. However, these rules spell out the roles of certain staff of EAC in financial management of the Community according to the EAC structure, but not specific to LVBC. Without customized Financial Rules and Regulations that clearly spell out the role of the members of staff of LVBC in financial management, the financial affairs of the LVBC may not be properly managed.

The LVBC Management reported that the Rules have been customized to suit the needs of LVBC and were presented and approved by the Sectoral Council on LVBC. The rules are awaiting the final approval of Council through the normal endorsement procedures of Council.

The Committee recommends to the Assembly to take note of the positive developments in this regard and urge Council to expedite the approval process.

4.3.3. Procurement Systems

The Audit Commission reported that the LVBC established a Contracts Committee as required by the EAC financial rules and regulations. A review of the minutes revealed that in order to evaluate the bids, the Contracts Committee members would constitute themselves into an Evaluation Committee which would then present a report to it. Further, due to the absence of a detailed procurement policy, the Committee determines its own evaluation criteria.

The LVBC Management reported that the situation has now changed. All procurements are done with the help of the EAC Procurement Unit in Arusha. The

LVBC is also in the process of recruiting a Procurement Assistant and the recruitment of more staff has eased the situation.
The Committee recommends to the Assembly to:

a] take note of the issues raised and direct the LVBC management to expedite the development of accounting and procurement manuals.

b] direct EAC Management to ensure that they provide adequate staff to all its organs and institutions to avoid occurrence of such grave practices which may lead to fraud.

4.3.4 Budget Performance.

The Audit Commission reported that in the year under review, the LVBC's budget was USD888,933 as contributions from Partner States and USD94,623 as miscellaneous income. However, only USD610,872 (68%) was received from Partner States, while no money was received at all as miscellaneous income.

The LVBC Management reported that there were delays in disbursement of funds particularly in 2007 by Partner States. This delay affected Programme Implementation. The miscellaneous income was expected mainly from the *RV Jumuiya* but since it was not yet operational, this income was not realized.

The Committee noted with concern the continued delay of disbursement of funds to EAC by Partner States. This has continued despite the fact that the Council had decided in June 2006 that full disbursement should be made in the first 6 months of the Financial Year. Further, the LVBC Management made an unrealistic budget by expecting income from *RV Jumuiya* well knowing that the vessel was not yet fully operational.

The Committee recommends to the Assembly to:

a] urge the Partner States to ensure that they make timely disbursements to EAC if implementation of planned programmes is to be achieved on time.

b] direct the LVBC Management to ensure that they make realistic budget estimates.

4.3.5 Expenditure.

The Audit Commission reported that there was over expenditure of a total of USD58,130 relating to staff emoluments, administration and consultancy, and finance costs.

The LVBC Management reported that the over expenditure on staff emoluments of 6.2% was occasioned partly by the effecting of new terms and conditions of service of EAC Staff from January 2007. This had not been provided for in the 2006/2007 budget but the money was derived from the EAC revenue float as per the directive of Council.

Management further reported that the administration expenditure variance of 10.2% was reportedly due partly to the unforeseen appreciation of the Kenyan Shilling against the US dollar of up to 12%. All expenditures were made in Kenya Shillings while the budget was pegged to the dollar. At the time of budget, the exchange rate was KShs.67 to USD1 but at the time of expenditure, the exchange rate averaged KShs.59 to USD1. The launch of LVBC in Kisumu also made the LVBC incur expenses that were unforeseen at the time of the budget.

The Committee observed that the LVBC Management was unable to readjust its salary budget to take into account the Council decision on the new terms and conditions of service of staff. Secondly, the explanation given that the administration expenses rose as a result of mainly appreciation of the Kenya Shilling against the US dollar does not give a complete picture about over expenditure on that item as a quick calculation would show that the difference out of the exchange rate losses was only about USD3,400 well below the over expended amount of USD26,207

The Committee recommends to the Assembly to:

a] ***direct the LVBC Management to adhere to the provisions of the Financial Rules and Regulations and where unforeseen expenses are incurred, they should always seek authority from Council for re-allocations;***

b] ***direct the LVBC Management to adjust its budget in relation to staff emoluments accordingly.***

4.3.6 Motor Vehicle Running Expenses.

The Audit Commission reported that motor vehicle running expenses increased from USD10,643 (2005/2006) to USD16,012 (2006/2007), an increase of USD5,369. It was further noted that vehicle No. TCD 64 EAC was always in garage for repair. The Audit Commission observed that either the vehicles were too old or the garages where the repairs are carried out are not competent.

The LVBC Management reported that by then LVBC had 2 vehicles, with TCD 64 EAC being the oldest but still in sound condition. The increase in expenses was occasioned by the relocation to Kisumu, which required frequent movements between Kisumu and EAC Headquarters in Arusha. The LVBC Management further stated that the garage in question is competent as it was selected through a competitive bidding process. The vehicle is now grounded waiting to be disposed off, but Management insisted it is still in a good running condition.

The Committee recommends to the Assembly that:

a] ***since the vehicle can still serve the institution, a cost-benefit analysis be done to determine whether the car should be sold or not.***

b] ***there is need to develop a comprehensive transport policy at EAC.***

4.3.7 Outstanding Advances.

The Audit Commission reported that at the close of the financial year, outstanding advances amounted to USD36,308, made up of: miscellaneous imprest (USD1,997), Staff advances (USD6,296) and Staff housing advance (USD28,015).

The management of LVBC reported that advances remained outstanding because they were taken at the end of the financial year and were yet to be accounted for by the time of audit. All the advances were now reportedly fully accounted for. As for the staff housing advances, the practice is that these are normally given for 6 months and recovery of the same takes six months and this in most cases spills over to the new financial year.

The Committee recommends to the Assembly to direct that the relevant documents regarding the money accounted for be submitted to the Audit Commission for verification.

PART V

5.0 AUDITED FINANCIAL STATEMENTS OF THE LAKE VICTORIA ENVIRONMENT MANAGEMENT PROGRAMME II (LVEMP II), FOR THE YEAR ENDED 30TH JUNE, 2007.

5.1 Introduction.

The programme is composed of 3 Projects; the Tran-boundary Diagnostic Analysis and Strategic Action Plan (TDA), Policy Human Resource Development (PHRD) and Promotion of Sustainable Development in the Lake Basin area (LVEMP II). The TDA Project is financed by the International Bank for Reconstruction and Development (IBRD) of 7th September 2004, the PHRD by the Japanese grant of 29th January 2003 and the LVEMP II by SIDA agreement of 27th May 2004.

The programme objectives are mainly to maximize environmentally and socially sustainable economic benefits associated with natural resource use in the Lake Victoria Basin; to conserve bio-diversity and genetic resource in the Lake Victoria Basin; and to reverse environment degradation through the harmonization of national management programmes in Kenya, Uganda and Tanzania. The programme is managed by the LVBC.

5.2.1 Purchase of Computers and other Accessories.

The Audit Commission reported that LVEMP II paid for the purchase and delivery of desktops worth KShs.120,000, laptops worth KShs.300,000 and computer accessories worth KShs.243,595 all totalling to KShs.665,595. The purchase was to be done and paid for by the Ministry of Environment and Natural Resources of the Republic of Kenya on the understanding that LVEMP would reimburse them. However, LVEMP instead of reimbursing the Ministry, made direct payment to the suppliers, which implies that double payments may have occurred.

The management of LVBC reported that there was no double payment as the Ministry never paid the suppliers. Much as the Ministry was to pay, they ran short of funds and forwarded the payment vouchers and other documents to LVEMP for payment. The LVBC reported that they have received a letter from the Ministry confirming that they did not pay the supplier and have submitted the letter to the Audit Commission.

The Committee recommends to the Assembly to request the Audit Commission to investigate whether there was double payment and report back.

5.2.2 Outstanding Claims, Deposits and Pre-payments not recovered.

The Audit Commission reported that debtors' claims, deposits and pre-payments amounting to USD253,264 were outstanding as at 30th June 2007 compared to USD77,729 as at 30th June 2006. No evidence was availed to show that the amounts had been recovered.

The Management of LVBC reported that all the advances have now been fully accounted for.

The Committee recommends to the Assembly to direct the LVBC to submit the necessary documents to the Audit Commission for verification.

PART VI

6.0 AUDITED FINANCIAL STATEMENTS OF THE LAKE VICTORIA BASIN COMMISSION PARTNERSHIP FUND FOR THE YEAR ENDED 30TH JUNE 2007.

6.1 Introduction.

The Lake Victoria Basin Commission Partnership Fund (LVBC-PT) is a specialized institution of the EAC that is responsible for coordinating the sustainable development agenda of the Lake Victoria Basin. The LVBC-PT is established under the general provisions of *Article 114* of the Treaty for the establishment of the East African Community, but was specifically established under the protocol for the Sustainable Development of Lake Victoria Basin.

Pursuant to the provisions of *Article 33(2)* of the Protocol, the mandate of the LVBC-PT is to promote equitable economic growth; promote measures aimed at eradicating poverty; promote sustainable utilization and management of natural resources; promote the protection of environment within the Lake Victoria Basin and to promote compliance on safety of navigation.

The LVBC-PT operates within the umbrella of the LVBC, utilizing the existing management and personnel of the Commission.

6.2 Audit Findings for the Year under Review.

The budget for the Partnership Fund for the year 2006/2007 was USD1,559,100 all to be funded by Development Partners. However, actual income realized was USD1,024,853 of which only USD316,765 was spent. The management of the LVBC-PT reported that there was minimal performance in the year because the budget and activities were approved in the middle of the financial year.

The Audit Commission reported that due to the very few activities undertaken, no audit query was raised.

The Committee noted the minimal performance in the year and the late disbursement of funds which jeopardized the performance of the LVBC-PT.

The Committee recommends to the Assembly to direct the LVBC-PT Management to ensure that budgets and implementation of activities are done on time to avoid under performance.

PART VII

7.0 GENERAL OBSERVATIONS.

7.1 Management Reports (Statement of Purpose)

As part of the audit, management prepares what is called *"Statement of Purpose"* which attempts to explain among other things the main activities, achievements and challenges during the year under review.

The Committee noted that the report is more of a narration of a few activities and not an analysis of how the funds were actually spent. Further, what was provided was not sufficient and did not cover the main activities of all organs. The Committee expected that since EAC has adopted an output-based and activity-based budgeting, the status report should have summarized key objectives of the year, planned activities and their implementation thereof, and implications or impacts to EAC.

It was also noted that the report mainly talks about the activities of three organs; the Secretariat, the East African Legislative Assembly, the East African Court of Justice as well as the LVBC. There is no mention of activities of other organs especially Council or Summit despite the fact that activities for the operations of the two organs are budgeted for. It is more surprising to have no mention of Council activities yet most decisions at EAC are made by Council or its specialised bodies that meet quite regularly.

The Committee therefore recommends to the Assembly to direct that:

a] in future, the EAC Secretariat should prepare a comprehensive "End of Year Report" that gives an analysis of: key objectives of the year, the budget, activities planned, achievements, constraints encountered, and plans for implementation of all delayed activities. The report should be able to provide direction as to where EAC is moving and as such a selling document for the EAC agenda.

b] ***the Secretariat should ensure that the report covers the activities of all organs and institutions of EAC.***

7.2 The Audit Timeframe.

The Committee noted that the Audited Accounts for June 2007 were finalised and signed in June 2008, one year later. The delay was blamed on the Secretariat.

The Committee noted that the standard international practice is that accounts should be ready within 3 months and forwarded to the Auditors, who should audit within 3 months. The Assembly should therefore be able to receive the report of the Audit Commission by December of each financial year. Otherwise, this undue delay renders audit findings impotent if they are not considered within a reasonable timeframe. This problem has arisen because EAC has not been adhering to the provisions of the international accounting and auditing standards.

The Committee recommends to the Assembly that the EAC Financial Rules and Regulations be amended to provide for a timeframe for audit. This should also be included in the Accounting and Auditing Manuals under preparation.

7.3 Delayed Disbursement of Funds.

The Committee noted with concern the continued delay in disbursement of funds by Partner States despite the June 2006 decision of Council to the effect that all disbursements should be made within the first 6 months. In the financial year 2006/2007 the Audit Commission noted that the flow of funds from Partner States, donors and other income was about 68.7% of the expected funds.

The Committee noted that the delay in the disbursement of funds has dire consequences for the EAC. It leads to:

- Delay in implementation of activities;
- Creates overlap of activities from one year to another;
- Creates paralysis;
- Leads to the creation of the “float” fund; and
- Is in breach of Council directives and other relevant provisions of the Treaty.

There is therefore need to ensure that this problem is addressed comprehensively by ensuring that funds are disbursed to EAC on time.

The Committee recommends that the Assembly do urge the Council to ensure that funds are disbursed to EAC within 6 months of each financial year.

PART VIII

8.0 ACKNOWLEDGEMENTS

The Committee wishes to thank the Hon. Speaker, Clerk and the entire Management of the Parliament of Uganda for the excellent facilitation accorded to it which enabled the Committee to finalise its work within the given timeframe.

The Committee also wishes to thank the Audit Commission for once again fulfilling its mandate as bestowed on it by Article 134 of the Treaty.

Finally, the Committee would like to commend the Secretariat for its cooperation this time although the Secretary General did not appear in person as required by the treaty. Mr Speaker, I beg to move - *(Applause).*

(Question proposed)

ADJOURNMENT

The Speaker: Honourable Members because you have just received this report, which is 40 pages, and in order for you to better internalise it, I adjourn the house until tomorrow Wednesday the 3rd of December at 2.30 p.m.

(The House rose at 4.00 p.m. and adjourned until Wednesday, 3 December 2008 at 2.30 p.m.)