

EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

95TH SITTING – SECOND ASSEMBLY: SECOND MEETING – FOURTH SESSION

Tuesday, 7 December 2010

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

PRAYER

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

The Assembly was called to order.

PROCEDURAL MOTION

Mr. Frederic Ngenzebuhoro (Burundi): Mr Speaker, I beg to move that this House, pursuant to the provisions of Article 55 (1) of the Treaty and Rule 11 of the Rules of Procedure, do resolve to hold sittings in Kampala in the Republic of Uganda.

Mr Speaker, I beg to move.

The Counsel to the Community (Mr. Wilbert Kaahwa): Seconded.

Mr. Ngenzebuhoro: Mr Speaker, Sir:

"WHEREAS Clause 1 of Article 55 of the Treaty provides that the meetings of the Assembly shall be held at such times and places as the Assembly may appoint and

WHEREAS Rule 2 of the Rules of Procedures provides that the seat of the Assembly shall be at Arusha in the United republic of Tanzania and

WHEREAS sub rule 7 of Rule 11 provides that the Assembly may, on the 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 do resolve as follows:

That pursuant to the provisions of the Treaty and sub rule 7 of Rule 11 stated above, the Assembly shall hold sittings in the Chamber of the Parliament of Uganda from Monday 6^{th} December to Thursday 16^{th} December 2010."

Mr Speaker, I beg to move.

(Question proposed)

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. Members, amidst us today are three new Members. Firstly; Hon.Samuel Sitta, who is the new Minister for EAC Affairs for the United Republic of Tanzania. (*Applause*) By virtue of his appointment, he becomes an ex-officio Member of this Assembly.

Secondly, we have two new Members from the Republic of Burundi. They are Hon. Eve Nsabimana and Hon. Emerance Buchumi. In accordance with our Rules of Procedure, they cannot take part in proceedings of this House before they are sworn in. I therefore call upon any two Members who happen to know the new Members to bring them forward to the podium. We will begin with Hon. Samuel Sitta.

ADMINISTRATION OF OATH

The oaths were administered to the following Members:

- 1. Samuel Sitta
- 2. Emerance Buchumi
- 3. Eve Nsabimana

The Speaker: Hon. Members, amidst us in this Chamber are three new Members; Hon. Samuel Sitta, who comes to replace Hon. Kamala who was the immediate outgoing Minister for EAC Affairs of the United Republic of Tanzania. (*Applause*) By virtue of his appointment and subsequent to the oath he has just taken, hon. Sitta will be an ex-officio Member of this august Assembly. We congratulate you upon your appointment and warmly welcome you to this Assembly. (*Applause*) We look forward to a good working relationship with you and we are indeed very lucky because as the immediate former Speaker of the Parliament of Tanzania, we now really have a very strategic ally in the Council of Ministers.

I would also like to take this opportunity to extend our deepest appreciation to hon. Kamala for the good work he undertook in this Assembly and the Community at large. (*Applause*) This House will always have very fond memories of Dr Kamala and indeed we shall truly miss him.

In the same vein, I would like to extend our appreciation to the National Assembly of Burundi for electing two new Members to fill the Burundi quota in the Assembly. We warmly welcome you here and please feel at home, *karibuni sana*. (*Applause*)

PAPERS

The following Paper was laid on the Table: -

By the Chairperson, Committee on Accounts (Mr. Bernard Mulengani)(Uganda)

The Report Of The Committee On Accounts On The Onsite Visit To The RV Jumuiya And The MERCEP Projects In Kenya

MOTION

FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON ACCOUNTS ON THE ONSITE VISIT TO THE RV JUMUIYA AND THE MERCEP PROJECTS IN KENYA

The Chairperson of the Committee on Accounts (Mr. Bernard Mulengani) (Uganda): Mr Speaker, Sir, I beg to move that the report of the Committee on Accounts on the onsite visit to RV Jumuiya and the MERECP projects in Kenya be adopted. I beg to move.

Mr. Christopher Nakuleu (Kenya): Seconded.

Mr. Mulengani: Hon. Members, I beg your indulgence, the report is coming. The committee is aware of the procedures of the House but in the interest of time allow me proceed as the copies get here. I also hope that The Speaker will avail you enough time to read and internalise this report. With your permission, Mr Speaker, I beg to proceed.

Mr. Speaker, I would like to use this opportunity to also welcome the new Members to this Chamber, but most specifically, a senior citizen who has been in that chair for some period of time. I also congratulate our colleagues from Burundi for having filled up their positions. (*Applause*) To that extent, Mr Speaker, allow me also welcome the traditional Members of the East African Legislative Assembly to this Chamber; that is those who have been here before. (*Applause*)

Mr. Speaker, I have before us, a report of 13 pages, but I will try to summarize where need arises. The report is on the onsite visit to the RV Jumuiya and the MERECP Projects in Kenya that were held from 14 to 19 of November 2010.

On page 1, we have the introduction. In here, I would like to report that the accounts committee met in Bujumbura, Burundi from 7 to 13 September 2010 to review and scrutinise Audited Financial Statements of the East African Community Organs and Institutions.

During the review of the East African Community Audited Accounts, the RV Jumuiya and Mount Elgon Regional Ecosystem Conservation Programme (MERECP), which are managed by the Lake Victoria Basin Commission, had had audit queries since 2007. The committee was concerned with the manner in which the RV Jumuiya and MERECP projects are being managed, which prompted the Assembly to recommend for an onsite assessment on MERECP and RV Jumuiya Projects.

Focusing on our visit to the RV Jumuiya in 2004, the Department for International Development (DFID) offered a vessel to the East African Community to use in the Lake Victoria Basin to improve safety of navigation, research and education-related activities on the lake. The audit queries that were raised by that commission for the year ended 30 June 2008 showed that the auditors classified the status of the ship as not being seaworthy. This called for the attention of the Assembly to exercise its oversight role and cause the ship to be repaired to an operational level.

The vessel that docked at the Port of Mwanza in Tanzania was not insured because it had been found not to be seaworthy due to lack of basic navigation and safety equipment and the absence of permanent staff in the form of a captain and marine engineer for the ship.

The 2008 accounts committee report recommended the recruitment of the two staff and the report on the status was to be submitted to the Assembly by February 2009. This directive was not adhered to, Mr Speaker, at that point in time. The Lake Victoria Management however, later reported that RV Jumuiya had since been fitted with basic navigation equipment and was tested during the exploratory hydrographic survey of Mwanza, Kisumu and Port Bell ports.

They also reported that the insurance would be secured after installing the secondary eco-sound. The committee had noted with concern that the commission had not been satisfied with the report, which necessitated visiting Mwanza. Upon verification by the auditors, the report revealed the following:

1. The vessels two engines, the gearbox and the generator are old and obsolete.

2. The vessel's life boat was destroyed during the exploratory hydrographic survey of Mwanza, Kisumu and Port Bell ports.

3. Fire extinguishers and inflatable life rafts had been serviced.

4. The vessel lacked trans-users and flares. Weather forecast equipment like Helicor Antennae. This one gives signals on weather updates.

5. The CCTV camera system was not working and the binoculars were old.

6. The commission also found that the floor deck point was also peeling off.

The auditors, therefore, concluded that the authorities may not issue the Certificate of Seaworthiness and also insurance may not be attained given the current status of the vessel. The vessel was, therefore, not operational at the time of the audit.

The Lake Victoria Basin Commission Management had earlier on reported that the engine and generator needed to be replaced but had no budget. However, proposals were written and money secured in April 2009.

A contract was concluded by a firm based in Mwanza to repair the vessel and that would be completed after 12 weeks.

The committee noted the importance of having RV Jumuiya in operation for research and rescue because of other projects like LVEMP II. It was on this premise that the committee made a site visit to Lake Victoria Basin Commission Secretariat in Kisumu to verify and ascertain the status of the ship as directed by the Assembly.

Mr. Speaker, the other programme that was included in the on spot assessment was the MERECP. MERECP is an East African Community regional programme initiated in the response of the conservation needs and development needs of Mount Elgon Eco-system. This is a trans-boundary eco-system that spans the border between Kenya and Uganda.

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

Mr. Speaker, as you are aware, MERECP was redesigned after going through IUCN. We now captured the MERECP under IUCN that on 2nd September 2005, the East African Community then entered into a cooperation agreement with the World Conservation Union (ICUN) for the provision of technical advice, programme and financial management services to MERECP. The ICUN was, therefore, responsible for the provision of the overall technical back stopping, supervision and coordination of programme activities carried out by the institution and consultants.

Mr. Speaker, at that point in time the audit query was that while in Kampala, the Committee on Accounts in 2007 reviewed the concerns of the auditors on the weaknesses that existed in the management of MERECP Project.

The Assembly sitting in Arusha in the same year adopted the recommendations of the committee and directed the committee to meet in Nairobi in order to follow up and consider the following year audit reports of MERECP to establish if the recommendations had been implemented as well as carrying out a review of other projects supported by East African Community development partners.

Specific weaknesses that were found include:

(a) The non-opening of a specific bank account by IUCN and the partner institutions, leading to comingling of funds. With partner institutions, Mr Speaker we mean the line ministries like the Ministries of Environment in the Member States, Kenya and Uganda.

- (b) Non-opening of MERECP bank accounts by the partner institutions.
- (c) Uncompetitive procurement of NEMA in Uganda.
- (d) Delayed implementation of programme activities.
- (e) Late accountability for funds disbursed to implementing institutions.
- (f) Avoidable high operation costs.
- (g) Lack of supervision of programme activities.

(h) Ploughing down of the Leuceana and Calliandra seed orchard by Sironko Prisons.

(i) The Assembly directed that MERECP activities be harmonised with ADB activities that were being carried out at the same time in the same region.

(j) The Assembly also directed that there be a mid-term review of the project. This mid-term review, Mr Speaker resulted into a redesigning of the MERECP Programme.

(k) As a result of the Assembly's recommendation, a mid-term review of the project was carried out and a number of changes including extension of the project life from December 2009 to December 2010 and transferring responsibility of the management of the project to Lake Victoria basin Commission effective January 2010.

It is, however, unfortunate that the directive given to address weaknesses in internal control and record keeping in the financial year 2006 were not implemented and the same weaknesses were raised by the auditors for the accounts of 2007. This situation even deteriorated further such that the auditors could not even form an opinion for the accounts of MERECP for the financial year ending June 2008. The auditors issued a disclaimer report at that point.

Mr Speaker, while reviewing and scrutinising audited financial statements for the year ended June 2009, the Assembly had noted with concern that the Audit Commission could not form an opinion on the accounts of MERECP and, therefore, directed that:

(1) Lake Victoria Basin Commission management draw up terms for the forensic audit in consultation with the Audit Commission.

(2) Lake Victoria Basin Commission management to institute and carry out a forensic audit of the project by advertising and engaging independent audit firms of only EAC Partner States of the United States Republic of Tanzania, Republic of Rwanda and that of Republic of Burundi.

(3) The committee carries out an on spot assessment visit to Sironko and any other MERECP projects to inspect and confirm implementation.

It is largely, Mr Speaker in the provision of Article 59 (2) (c), (d) and (g) of the Treaty which stipulates: "The functions of the Assembly and in accordance with rule 79 of the Rules of Procedure that the Assembly directed the Committee on Accounts to carry out an on spot assessment visit to the MERECP projects on both the Ugandan side and Kenyan side.

The Ugandan side was visited in May 2010 and similarly the committee visited MERECP Kenyan side to establish the following among others:

(1) The status of implementation of the Assembly directives;

(2) Assess the performance and impact of the MERECP Project on the Kenyan side;

(3) Assess the value for money;

(4) Establish whether MERECP Kenya side leadership and mountain community are knowledgeable of the MERECP project;

(5) Identify challenges facing the implementation of the programme and carry out a comprehensive review of RV Jumuiya and MERECP and report to the Assembly.

Mr. Speaker, in executing that obligation, we used the following methodology. As a method of getting information and data for the on spot assessment of MERECP in Kenya, the committee applied observation methods through field visits, interactive interviews, meeting with the assistant Minister in charge of Environment and Natural Resources and the MERECP focal person in the Ministry of Environment. We used the Assembly reports on accounts, MERECP Program Strategy, MERECP annual reports and the Ministry of Environment and Natural Resources Kenya Annual Report on MERECP, MERECP brochures and MERECP briefs.

The committee also used written and oral presentations by the Lake Victoria Basin Management, district leadership, Kenya Wildlife Services and the Community Based Organisations.

The committee conducted an on spot field visit to Lake Victoria at Kisumu to inspect the RV Jumuiya, MERECP activities in Tuibei and Kapsokwony in Mount Elgon district, Endebess and Chorlim of Mount Elgon National Park in Kwanza district.

In 5.0 page six, we now go into the detailed field visits. The field visits started on the 15th November 2010 and ended on the 18th November 2010 during which the Committee on Accounts made the following inspection visits.

Meeting with the Lake Victoria Basin Management.

The coordinator of MERECP gave an introduction and background on MERECP and gave a Project Justification and Agreement Framework, briefed the committee on program approach and current policy, legal framework, geographical focus, program strategy and expected impacts, program phasing and the ongoing program on project implementation and coordination. He also gave us the fund flow, accounts and auditing, estimated program costs.

The committee was further briefed about other five ongoing major projects and programs as listed below in the report.

While at Kisumu, the committee recommended the Lake Victoria Basin Commission in the area of the hydrographic survey benchmark that was rediscovered by the Lake Victoria Basin Commission. While at this hydrographic benchmark, the committee was shown a historical suite that was used to survey Lake Victoria waters; a cardinal point in the region that was installed in

1895 by the British Government then. They actually got mappings and we encouraged that they should go further and get extra mappings from the archives in Britain.

This site hydrographic benchmark is used to map out the Lake Victoria but also to determine the depth of Lake Victoria and the location of such issues on the lake that would require a point of origin.

Somebody is echoing Migingo, I am not going to say that.

Visit to RV Jumuiya.

The Committee on Accounts made a site visit with a specialised technical marine engineer from Lake Victoria Basin Commission to verify and ascertain the status of the ship RV Jumuiya. The committee made a site visit to Kisumu and went to Lake Victoria shores to see RV Jumuiya. The committee was guided to a ride onto the lake on RV Jumuiya and witnessed that the ship was operational.

Observations

The committee observed the hydrographic survey benchmark that was discovered for measuring water levels. It was a positive thing for the Community and the committee also observed that RV Jumuiya is available for hire at \$ 150 per hour other than the traditional tasks of rescue and research missions.

The committee further observed that the following on RV Jumuiya had been installed; the vessel's two engines, the gear box and the generator had been installed, fire extinguishers and inflatable life rafts were installed, vessels trans-users and flares, weather forecast equipment like Helicor Antennae. These are signal receivers for weather updates. They had acquired Third Party Insurance for the vessel but they had not insured the vessel itself though the committee was informed that the procurement process is on.

The following had not been installed and secured: CCTV camera system and the binoculars. Much as the committee was informed on questioning that it was not a necessary requirement, the Audit Commission raised it in its audit queries.

The committee recommends to the House the following; that the Lake Victoria Management ensure that CCTV camera systems and binoculars are installed or provide to the Assembly a justifiable reason, in writing, why CCTV cameras and binoculars are not required for installation on the RV Jumuiya.

That the Lake Victoria Commission Management should ensure that the vessel is insured by March 2011 and that the Lake Victoria Basin Commission Management provides a policy on regularising of the vessel usage, prioritising research and rescue missions.

Field visits to Mount Elgon district.

The committee made a courtesy call on the district commissioner and shared information on MERECP programs. The district commissioner appreciated MERECP funding as it made positive changes to the district despite some challenges, which have been overcome with government assistance. The zonal forest manager present during the meeting informed the committee that MERECP has, among other activities, provided revolving funds to CBOs who have undertaken livelihood improvement activities like tree planting and bee keeping.

The committee sought clarification in respect of MERECP projects from district administration and institutions like Kenya Forest Services and Kenya Wildlife. Most questions were responded to largely with the help of the Lake Victoria Basin Commission MERECP coordinator and MERECP focal person at the Ministry of Environment, Kenya.

Meeting with Tuibei CBO

The members of the CBO informed the committee that the project started in 2006. The committee membership was 40 people but had later reduced to 20 with only eight women. The committee was also informed that the community has a revolving fund, modern storage facility for Irish Potatoes and other food stuffs, tree nurseries and woodlots. According to the beneficiaries, over 9000 trees had been planted.

Committee's observations

The committee observes that the revolving fund given to communities was not accompanied by sufficient training, that there was limited involvement of female members, that the district leadership was supportive of MERECP projects, that no project identification was done for the communities and therefore there was also need to come up with a marketing strategy for the communities involved in the programme.

Recommendations

The committee recommends that training of CBOs be carried out with immediate effect, that MERECP Coordinators sensitize and ensure increased membership of both increasing numbers in size and the involvement of women.

There is need to review the policy on revolving fund to ensure livelihood improvement and sustainability.

MERECP Coordinators should ensure that project identification is done for the communities and a market strategy be developed for the goods produced by the CBOs.

Site visit to Trans Nzoia District

The committee made a courtesy call to the district commissioner, interacted with him on how MERECP has intervened to support the communities for better livelihood and the ecosystem conservation.

Observations:

There is no harmonised policy and legal framework on trans boundary ecosystems between Uganda and Kenya and the EAC Partner States as a whole.

The Kenya Wild Life Services and Uganda Wild Life Authority have an ongoing cooperation in tourism and carrying out security patrols.

Recommendations:

There is need for a legal framework at the regional level that champions all trans-boundary ecosystem concerns in and out of the region.

There is need to establish an institutional framework on trans-boundary ecosystem concerns.

There is need to involve local politicians to scale up local funding for these activities.

The committee urges the local leadership to participate in monitoring and supervision. There is need to operationalise Articles of the Treaty on trans-boundary issues.

Site Visit to Kwanza District

The district commissioner informed the committee that Mt Elgon has many MERECP activities, which have reduced poaching and cutting of trees. The communities are today involved in seedling multiplication, poultry and farming.

The committee proceeded to Mt Elgon MERECP intervention activities at Chorlim, Endebess and Elephant Platform. The committee also met the communities bordering the Mt Elgon National Park.

Meeting with the Chorlim CBO and Kenya Wildlife and Kenya Forest Services

The committee was informed about the challenges of fire affecting the forest and the CBO, in conjunction with KWS and KFS, are involved in reforestation of degraded areas of the forest and to date they have covered around 67 hectares.

Meeting with Endebess CBO at Elephant Platform

The committee visited the Elephant Platform in Mt Elgon forest. The CBO informed the committee that MERECP has been instrumental in facilitating reforestation. Some of the trees planted included *syzigium guineese*, *nuxia congesta*, bamboo, Elgon peak and *prunus africanum*. Mr Speaker, the committee got interested in this particular *prunus africanum* as it is a medicinal tree that cures prostrate cancer and we encouraged them to circulate this tree in the region to help curb this problem amongst the Community. The survival count of these trees was at 75% and it is considered a success therefore.

Meeting with communities at Mt Elgon Community Fence

The Mt Elgon Community Fence forms the boundary of Mt Elgon National Park and the communities. The community we met included with the following groups:

- 1. Mt Elgon Guides and Porters Youth Group
- 2. Tingey Project
- 3. Kimothon Community Fence Association

4. Chepnyalil Youth Group

The Mt Elgon Guides and Porters Youth Group carry out their activities with the assistance of MERECP and are involved in tree nursery planting, porting, tour guiding, horticulture and HIV/AIDS awareness.

The Tingey project is also facilitated by MERECP in carrying out their activities of horticulture, bee keeping and nursery establishment.

Observations

A forestation is ongoing through joint efforts with the KWS, CBOs and KFS.

MERECP has provided facilities for intervention activities, which include tents, motor bikes, camping beds, digital cameras, GPS and computers. GPS systems are systems that show locations on the ground.

There was reduction of animal encroachment on the communities' crops because of the fence that was built.

Relationship between the communities and KWS has improved because of the fence that was built but also involvement of the communities in the activities of MERECP.

There is need for more training to the Community on project financing and management.

The committee found that there was no clear understanding of the mode upon which activities were costed in the redefined program.

Recommendations:

The committee recommends that LVBC Management expedites training of CBOs.

The committee recommends that LVBC Management produces a due diligence reports for activities taken over from IUCN.

The committee recommends to the Assembly also that LVBC Management develop and submit to the Assembly the model upon which MERECP activities are costed.

The committee finally recommends that LVBC Management champion marketing of CBOs produce by designing a marketing strategy.

The committee strongly recommends for a policy and institutional framework that will operationalise Chapter 19 of the Treaty on the cooperation in environment and natural resources management.

Meeting with the Assistant Minister of Environment and Natural Resources

Mr Speaker, on the fourth day the committee interacted with the minister and the Committee on Accounts held an internal meeting to synchronise findings. The committee interacted with the

Assistant Minister in the Ministry of Environment and Mineral Resources who expressed gratitude on what EALA is doing; a measure to make people improve on their performance and to ensure implementation of MERECP projects. The minister told Members that the Government of Kenya is making a follow up on projects and ecosystems between Kenya and Uganda with their counterpart on the Ugandan side.

The minister further said that the ministry had written to all concerned authorities to ensure that all activities related to MERECP are successfully carried out. The minister also informed the committee that to date the audit queries that were raised in the areas of non-opening of accounts and commingling of funds was sorted out when they managed to open up an account for the program.

RV Jumuiya and other projects were presented to the committee. The minister informed the committee that the Government of Kenya is emphasising on training and capacity building on ecosystem issues and cross border cooperation between Kenya and Uganda.

The minister also informed the committee that there has been an understanding between Kenya and Tanzania to hand over the management of Jipe River to be managed by Lake Victoria Basin Commission, a move that has been commended by the committee to serve as a model of management of trans-boundary ecosystems.

In conclusion, the committee appreciates the impact of the redesigned MERECP project. The committee was generally satisfied with the follow up and the level of the implementation of the recommendations by the Assembly on RV Jumuiya and MERECP. The committee is awaiting a report of the Auditors on the forensic audit so that it can pronounce itself.

Acknowledgements

The committee wishes to thank the Assembly for allowing the committee to carry out its oversight function. The committee further wishes to thank Lake Victoria Basin Commission staff, the Government of Kenya particularly the assistant Minister for Environment and Natural resources, hon. Ramadhan Kajembe and Members of the committee for diligently and consistently being available. I want to thank you, Mr Speaker and I beg to move. (*Applause*)

The Speaker: Hon. Members, the proposal on the floor is that the report of the Committee on Accounts on the onsite visit to RV Jumuiya and the MERECP projects in Kenya be adopted. Debate is open.

Hon. Members, I think it would not be fair on the Committee of this House for us to start debate on this report. First and foremost, while I know that the Members can stand up and debate this document, we don't have any ministers. I don't want to say any ministers, we do have two ministers and they are new. One was just sworn in a few minutes ago. The other minister was sworn in, in Burundi. I think she was only with us for the second week and she is with us today.

The ones who are missing are the ones who have been here the longest and the ones who know the MERECP project and who have been consistently following the Accounts Committee report from 2008 and 2009 and when the last report that was brought here. We don't have the Secretary-General of the Community here and I think the committee knows what happened last time when we adopted a report in Kigali. So I don't think it is very fair on this committee and this House for us to debate this report. To go even further, I don't see a single technocrat from the Lake Victoria Basin Commission who could even advise these ministers on anything in this report.

I think we should adjourn debate on this issue until tomorrow 2.30 p.m. We would also require some sort of explanation from these ministers as to why they are not here and the Secretary General himself. (*Applause*) We should not hold this House in contempt, people knew about this program a long time ago. It was not something that was decided recently so I think it is only fair on all of us for them to come and give us an explanation as to why they are not here.

I would also like to commend the two ministers who are here and tell them not to follow in the bad steps of their colleagues who have been serving here for the last three years.

ADJOURNMENT

The Speaker: Hon. Members, I would like to adjourn this House until tomorrow 2.30 p.m.

(The House rose at p.m.)