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*By Hon Florence Kajaju, MP,*  
*Chairperson*  
*wed 2/12/15*  
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THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

THE SELECT COMMITTEE ON REGIONAL INTEGRATION

REPORT OF THE COMMITTEE ON CONSIDERATION OF EAST AFRICAN  
LEGISLATIVE ASSEMBLY REPORTS AND BILLS PASSED BY THE ASSEMBLY

1. REPORT OF THE COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENTS ON ON-SPOT ASSESSMENT ON THE EAC SINGLE CUSTOMS TERRITORY;
2. REPORT OF THE COMMITTEE ON LEGAL, RULES AND PRIVILEGES ON RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY AND CODE OF CONDUCT FOR THE MEMBERS OF THE ASSEMBLY;
3. REPORT OF THE COMMITTEE ON ACCOUNT OF THE AUDITED ACCOUNTS OF THE EAST AFRICA COMMUNITY; AND
4. BILLS PASSED BY THE EALA

CLERK'S CHEMBERS  
DIRECTORATE OF COMMITTEE SERVICES  
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DECEMBER, 2015

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## LIST OF ABBREVIATIONS

EAC	-East African Community
EALA	-East African Legislative Assembly
IT	- Information Technology
IUCEA	-Inter-University Council of East Africa
LVFO	-Lake Victoria Fisheries Organization
OBR	- Burundi Revenue Authority
RRA	- Rwanda Revenue Authority
SCT	-Single Customs Territory
TPA	-Tanzania Ports Authority
TRA	-Tanzania Revenue Authority
TWG	-Technical Working Group

## 1.0 PREFACE

### Establishment and Mandate of the Committee

**Mr. Speaker, Sir**

The Committee on Regional Integration is one of the Select Committees of the National Assembly established under Standing Order 212 and is mandated to:-

1. enhance the role and involvement of the House in intensification and development of the integration process in the East African Community and the greater African region;
2. examine the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;
3. examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community;
4. examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific-European Union Joint Parliamentary Assembly and other regional integration bodies;
5. inquire into and examine any other matter relating to regional integration generally requiring action by the House.

### Committee Membership

**Mr. Speaker, Sir,**

The Committee on Regional Integration was constituted by the House on Thursday 2<sup>nd</sup> May, 2013 comprising of the following members:

1. The Hon. Florence Kajuju, MP (**Chairperson**)
2. The Hon. Christopher Nakuleu, MP (**Vice Chairperson**)
3. The Hon. David Ouma Ochieng, MP
4. The Hon. Dan Kazungu, MP
5. The Hon. Bady Twalib Bady, MP
6. The Hon. Robert Mbui, MP
7. The Hon. Anyanga Andrew Toboso, MP
8. The Hon. Florence Mwikali Mutua, MP
9. The Hon. Ogendo Rose Nyamunga, MP
10. The Hon. Charles Mutisya Nyamai, MP
11. The Hon. Alois Lentoimaga, MP
12. The Hon. Anthony Kimaru, MP
13. The Hon. David Kariithi, MP

14. The Hon. Wanjiku Muhia, MP
15. The Hon. Murungi Kathuri, MP
16. The Hon. Ali Wario, MP
17. The Hon. Eric Keter, MP
18. The Hon. Mary Seneta, MP
19. The Hon. Gideon Konchella, MP
20. The Hon. Dido Ali Rasso, MP
21. The Hon. Ann Nyokabi, MP
22. The Hon. Emmanuel Wangwe, MP
23. The Hon. Peter Shehe, MP
24. The Hon. Alex Mwiru, MP
25. The Hon. Mark Lomunokol, MP
26. The Hon. Sarah Korere, MP
27. The Hon. Cyprian Kubai Iringo, MP
28. The Hon. Timothy Bosire, MP
29. The Hon. Joseph Kahangara, MP

#### **Subject matter before the Committee**

##### **Mr. Speaker, Sir,**

Article 65 (a) of the Treaty states *that the Clerk of the Assembly shall as soon as practicable transmit to the Clerks of the National Assemblies copies of the records of all relevant debates of the meetings of the Assembly to be laid before the National Assemblies, by the respective Ministers responsible for East African Community affairs.*

##### **Reports**

It is in furtherance of this that the following reports and bills were tabled in the House on by the Majority leader and subsequently committed to the Committee on Regional Integration for action:

- i. Report of the Committee on Communications, Trade and Investments on the on-spot assessment of the EAC Single Customs Territory (EAC SCT)
- ii. Report of the Committee on Legal, Rules and Privileges on the rules of procedure of the committees of the Assembly and the code of conduct for the Members of the Assembly
- iii. Report of the Committee on Accounts on the Audited Accounts of the East African Community for the year ended 30<sup>th</sup> June 2013

## **Bills**

1. The East African Community Integration (Education) Bill, 2014
2. The East African Community Elimination of Non-Tariff Barriers Bill, 2015
3. The East African Community Customs Management (Amendment) Bill, 2015

## **Mr. Speaker, Sir,**

Standing Order 251(2) provides that whenever the Clerk of the National Assembly receives copies of the records of relevant debates of the meetings of the East African Legislative Assembly, or copies of Bills introduced into the East African Legislative Assembly and Acts of the East African Community, the Clerk shall forward the records of debates, Bills or Acts of the Community to the relevant Committee.

The Committee shall consider this report and submit its report to the House within twenty one days (21) for consideration. Upon consideration of the Committee's report, the Clerk of the National Assembly shall forward the House's resolutions to the Clerk of the East African Legislative Assembly within seven days.

## **Mr. Speaker, Sir**

While considering the reports and the bills, the Committee invited the Attorney General to appraise it on the bills and the Commissioner General, Kenya Revenue Authority to appraise it on the Report on on-spot assessment of the EAC Single Customs Territory.

In considering the reports and the bills, the Committee noted the following:

## **Reports**

### **1. Report of the Committee on Communications, Trade and Investments on the on-spot assessment of the EAC Single Customs Territory**

The East African Community embarked on improving efficient trade facilitation systems in a bid to implement the Customs Union Protocol. One such system is the Single Customs Territory where the Partner States are required to adopt a destination model of clearance of imports whereby the assessment and collection of tax revenues is done at the first point of entry. The implementation of the Single Customs Territory started in October 2013.

The region stands to benefit, in among other ways, the reduced administrative costs and cost of doing business through elimination of duplication of processes. Further, the region will gain from the reduction in smuggling as a result of the mechanism to prevent such that will be established and improvement in the efficiency of the processes.

To effectively increase the volume of trade, there is need to fast-track operationalization of the Single Customs Territory and the full implementation of the EAC Common Market Protocol to enable free movement of people, goods, capital and services.

**2. Report of the Committee on Legal, Rules and Privileges on the Rules of Procedure of the Committees of the Assembly and the Code of Conduct for the Members of the Assembly**

The Committee observed that the Assembly during debate of the proposed new rules adopted the recommendations of the Committee on Legal, Rules and Privileges which urged it to expedite the process of making rules of procedure of its Standing Committees for the effective and efficient discharge of their mandates as per Article 49 (2) (g) of the Treaty for the Establishment of the East African Community (EAC).

The Committee was also tasked with developing a code of conduct for Members of the Assembly to foster posterity and to allow for smooth and proper functioning.

**3. Report of the Committee on Accounts on the Audited Accounts of the EAC for the year ended 30<sup>th</sup> June, 2013**

While considering the report, the Committee observed that the EAC Secretariat Internal Audit function still has major capacity challenges and consequently performance gaps.

The Committee also observed that the Community surpassed its budget on several items without seeking approval from the Council for re-allocation as required under Regulation 19(4) of the EAC financial rules and regulations.

It was further observed that Partner States have continuously failed to honor their obligations under the Treaty in time and as such, the EAC institutions continue to be underfunded. This has had a direct effect on the capacity of institutions to effectively deliver on their respective mandates.

**Bills**

While considering, the Committee noted that the bills were passed by the EALA in its Third Session held in March, 2015 and is awaiting assent by the Heads of States of the Partner States.

### **1. The East African Community Elimination of Non-Tariff Barriers Bill, 2015**

The main objective of the East African Community Common Market Protocol is to expand trade in goods and services; foster investment by means of fair, stable and predictable rules and to eliminate barriers to trade amongst the Partner States.

The Committee observed that the main objective of this Bill therefore is to provide a legal mechanism for identifying, monitoring and eliminating non-tariff barriers within Partner States. The Bill was enacted to give effect to Article 13 of the Protocol on the Establishment of the East African Community Customs Union in which Partner States had agreed to immediately eliminate existing non-tariff barriers to the importation into their respective territories of goods originating from the Partner States.

### **2. The East African Community Integration (Education) Bill, 2014**

The Committee observed that the Bill seeks to provide a framework for ensuring that the citizens of the Partner States are informed of the affairs and the activities of the Community. A large number of the citizens of the Community do not know that they can participate in the affairs and activities of the Community. The Bill, which was a private members bill, aims to ensure that the people of East Africa know of the existence of the Community. The Bill therefore will go a long way in bringing the integration process to the people in a regulated manner.

It was further observed that the main objective of this Bill as set out in Clause 3 is to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for people of EAC to meaningfully participate in the integration process.

The bill had been forwarded to the Committee in 2014 and the Committee, in its report tabled in the House in March 2014 had recommended that the title of the bill be amended to "*the East African Community Civic Education Bill, 2014*". However the Committee noted that their recommendation had not been taken into consideration by the Assembly.

### **3. The East African Community Customs Management (Amendment) Bill, 2015**

The Committee observed that the main objective of the Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the fulfilment of the functions of the Directorate of Customs and Trade and to facilitate smooth implementation of the Act.

#### **Acknowledgement**

**Mr. Speaker, Sir,**

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to

thank the State Law Office and the Kenya Revenue Authority for appearing before the Committee and participating in the process of considering the reports and the bills.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this report.

**Mr. Speaker, Sir,**

It is therefore my pleasant duty and privilege, on behalf of the Committee on Regional Integration, to table this report on the East African Legislative Assembly's Reports and Bills Pursuant to Standing Order 199(6).

Signed .....  .....

**THE HON. FLORENCE KAJUJU, MP  
CHAIRPERSON,  
COMMITTEE ON REGIONAL INTEGRATION**

Date: .....  .....

## 2.0 CONSIDERATION OF THE REPORTS

### 2.1 Report of the Committee on Communications, Trade and Investments on the On-Spot Assessment of the EAC Single Customs Territory (SCT)

The EALA Committee on Communications, Trade and Investments, in exercise of its mandate, conducted an on spot assessment on the Tanzania Ports Authority (Tanga Port) and the Tanzania Revenue Authority (TRA). The main objective of the assessment was to engage the ports and customs authorities and Tanzania Freight Forwarders Association on the implementation of the EAC Single Customs Territory. This is because these stakeholders play a significant role in the operationalization of the Single Customs Territory in the EAC region.

The Committee deduced the following from the report;

- a) Under the Single Customs Territory arrangement, the EAC member states have adopted a destination model of clearance of imports whereby the assessment and collection of tax revenues on consignments are done at the first point of entry. This allows free circulation of goods within the EAC market, with variation to accommodate exports from one partner state to another. In this regard, Customs administrations in destination states retain control over the assessment of taxes. This crystallizes the gains of regional integration characterized by minimal internal border controls and more efficient institutional mechanisms for clearing goods out of customs control.
- b) The benefits that Partner States get from the Single Customs Territory include;
  - i. Reduced cost of doing business by eliminating duplication of processes;
  - ii. Reduced administrative costs and regulatory requirements;
  - iii. Enhanced capacity of the private and public sector agencies;
  - iv. Creation of a mechanism for prevention of smuggling at the regional level;
  - v. Reduced risks associated with non-compliance on the transit of goods;
  - vi. Enhanced application of information technology and data collection at the regional level;
  - vii. Realization of economies of scale and optimal use of resources in clearance of goods in the EAC.
- c) In January 2014, Tanzania Revenue Authority started its involvement in preparations for the SCT implementation and TRA had set aside an additional budget to support SCT implementation. This is an initiative that cuts across different Government and private sector stakeholders. At regional level, coordination has been done by the EAC Secretariat and at National level; there is a steering Committee under the Ministry of Finance. The

EALA committee further reported that the Standard operating procedures covering most of the key customs procedures and control mechanisms have been developed and tested.

- d) To fast track the implementation of the SCT framework, EAC Partner States Revenue Authorities established Technical Working Groups (TWGs) with each Partner State taking a lead to spearhead the work of the TWGs. However, not all the TWGs have completed their work, thus the following challenges:
- i. Amendments to legal provisions to support this initiative have not been completed by the legal TWG. This means there is no way of recovering revenue losses emanating from cargo diversion, theft of cargo, goods destroyed in accidents and many other challenges. Thus the restriction on warehousing should only be fully implemented when the provisions are in place.
  - ii. There are system integration challenges leading to manual release of cargo. This has particularly affected the exporters since they cannot obtain the relevant data to support their VAT refund claim applications.
  - iii. Recommendations done by the Compliance and Enforcement TWG to support SCT have never been enacted.
  - iv. The Revenue Authorities have not been able to provide enough resources at all release and loading terminals to process release of their goods leading to delays and congestion at the port.
- e) Workshops and seminars at national levels were conducted by Tanzania Revenue Authority in April, May and June 2014 to provide awareness and understanding of the procedures. Participants included various stakeholders such as Customs Staff and Clearing and Forwarding Agents (CFA). Further, Customs and Excise Department has been availed with additional staff and 50 recruits had completed Customs basic training in August 2014.

In addition to workshops and seminars, other sensitization programs were also conducted by Tanzania Revenue Authority and EAC Secretariat in April, June and July 2014 for major stakeholders including the Clearing and Forwarding Agents in Dar es Salam, Kabanga/Kobelo and Rusumo.

Training exercises are ongoing and more training sessions are yet to be conducted. In this regard, 82 Tanzanian Clearing & Forwarding agents have been trained by Rwanda Revenue Authority (RRA) on the use of RRA ASYCUDA World; while 37 Tanzanian Clearing and Forwarding Agents and 29 Tanzania Revenue Authority (TRA) staff trained

by Kenya Revenue Authority (KRA) on the use of Simba; and 45 Kenya Revenue Authority staff and 141 Kenyan Clearing and Forwarding agents trained by Tanzania Revenue Authority on the use of Tanzania Customs Integrated System (TANCIS)

- f) On enforcement and compliance procedures, groundwork on a regional framework for interfacing national electronic cargo tracking systems and one for operating a regional customs bond has been done. Customs and Excise Department (CED) is working with COMESA Secretariat and insurance companies on adopting the Regional Customs Transit Guarantee Scheme (RCTGS).
- g) On Inter-Agency Coordination, the following have so far been achieved;
  - i. Tanzania Ports Authority and Tanzania International Container Terminal Services (TICTS) have established direct links with Rwanda Revenue Authority (RRA), Burundi Revenue Authority (OBR) and Uganda Revenue Authority (URA) in clearing cargo destined to these countries;
  - ii. RRA and OBR have stationed their officers at the Port of Dar es Salaam;
  - iii. TANCIS will be interfaced with Kenya Ports Authority System;
  - iv. TRA deployed its officers in Nairobi and Kenya Ports Authority in Mombasa in September 2014;
  - v. National SCT Steering Committee incorporating all key stakeholders was inaugurated on 9<sup>th</sup> July 2014. It comprises all key Government Ministries and Agencies involved in cargo clearance chaired by the Permanent Secretary, Ministry of Finance.
- h) It was further noted that there are challenges affecting the implementation of SCT such as:
  - i. transmission in terms of information and data sharing in all Revenue and Port Authorities;
  - ii. Non-compatibility and difficulties in data sharing under different Electronic Cargo Tracking Systems by Partner States;
  - iii. Compatibility of Revenue Authorities IT systems with Port Authorities;
  - iv. Fears and concerns about lose of business and employment by Clearing and Forwarding agents in Tanzania and Kenya.
  - v. Absence of EAC Regional Bond to facilitate clearance of goods to warehouse and exempted goods.
  - vi. Difficult processes by Revenue Authorities to grant access and rights to Clearing and Forwarding agents and Customs officers.

- vii. Non-implementation of the EAC Common Market Protocol. For example, lack of harmonization of work permit requirements still hindering the business people from operating in any country of their choice within the region

**Committee's observations on the Report on on-spot assessment of the SCT**

Having considered the reports, the Committee made the following observations:

- i. The implementation of the single customs territory allows for free movement of goods within the region, or with minimum border controls. This may lead to dumping of goods in the country if proper check-up systems are not put in place. In the protocol for the establishment of the EAC Customs Union, dumping is defined as the situation where the export price of goods imported or intended to be imported into the Community is less than the normal value of like goods in the market of a country of origin. Though the Protocol provides for Rules against dumping (*Article 16*), enough measures have not been put in place to eliminate dumping. The EAC single Customs Territory may encourage dumping and other unfair trade practices because goods may be declared to be consumed at the destination country but end up being introduced to the domestic markets of other the transit country.
- ii. The operationalization of a single customs territory might lead to smuggling of goods. Deviation from regionally agreed rates, with applicable tariffs for sensitive products sometimes varies from country to country. Such differences in rates can distort trade and encourage smuggling. This can happen through drug trade, illegal immigration and tax evasion.
- iii. There would be difficulty in collection of domestic taxes on cross border trade since it will require better exchange of information between the exporting and importing Partner States in order to follow up on the traders' tax obligations. This might not be achievable soon since there are still challenges in information sharing among institutions of the partner states. Example, there have been challenges of clearance of goods destined for Uganda, through Kenya as a result of the two countries using different ICT systems.
- iv. The implementation of the SCT has also raised fears and concerns among the citizens and the business people within the EAC especially clearing and forwarding agents about loss of jobs and businesses. This can become possibility if proper mechanisms are not put in place to curb such.
- v. The report of the on-spot assessment of the EAC single customs territory was done in Tanzania only. It is important that such assessment is done in all the countries periodically to assess the extent of implementation of the single customs territory.

## 2.2 Report of The Committee on Accounts on the Audited Accounts of the EAC for the year ended 30<sup>th</sup> June, 2013

The Committee on Accounts of the EALA is mandated pursuant to Article 49(2) of the Treaty Establishing the EAC to discharge oversight functions on behalf of the Assembly on all financial matters of the Community. It is in line with this that Committee on Accounts of the EALA reviewed the reports referred to it by the Speaker of the Assembly and prepared its reports.

The Committee ventilated on the report and deduced the following:

1. There were audit issues raised by the East Africa Community Audit Commission on the consolidated Financial Statements of the EAC organs in the financial year 2012/2013. These were:

- i) **Over expenditure**-The most notable over expenditure was on international air tickets and daily subsistence allowance. The committee recommended to the EAC Council of Ministers to adhere to the provisions in the financial rules and regulations and avoid incurring over expenditures on budget lines without the requisite approvals and further directed the EAC management to table before the Assembly measures taken to ensure budgetary controls.
- ii) **Expenditure Cut offs**- The EAC management made substantial advances to staff for activities not undertaken to the tune of USD 384,834 contrary to EAC financial rules and regulations.
- iii) **Anomalies in accountabilities** for imprest advances:
  - In cases of advances for meetings and conferences both within and outside Arusha, majority of the accountability records do not have invitations.
  - Where invitations are filed there is no formal communication from responsible recipients indicating the names of officers who have been formally nominated by the person to whom the meeting request has been addressed.
  - Minutes of what was discussed and resolutions not filed
- iv) Documentations reveal that a total of USD 35,651 was paid to officers in **lieu of leave**. In all instances; there was no evidence that special permission to accrue leave had been obtained as required by regulations. Furthermore there was no budget provision for such expenditure, instead this was charged to salaries and wages.

- v) **Excessive salary deductions:**-Regulation 55 of the staff rules and regulations allow staff to get salary and housing advances but with deductions not exceeding 50% of the employees' salaries. Review of secretariat payroll reveals a number of staff whose deductions exceeded 50% with some reaching as high as 80%.
2. **Performance of the Internal Audit Department:** the internal audit department lacks sufficient capacity to effectively undertake its plans and relevant reviews.
  3. **Audit of staffing position for the EAC** revealed several unfilled positions within the Secretariat.
  4. **Unauthorized Budget Roll Over:** The Audit Commission took note of a meeting with stakeholders to deliberate on the design of the Arusha-Voi road, an activity which had been budgeted for in the financial year 2011/2012 at USD 47,400. However, the activity was not undertaken in that financial year and was subsequently rolled over to the subsequent financial year 2012/2013 without following the due process.
  5. **Expenditures on Daily Subsistence Allowances**-some staff were paid for 200 working nights in one financial year. This implies that the said staff must have been out of office for almost the whole financial year.
  6. There were procurement irregularities on air tickets and disposal of Old Motor Vehicles.
  7. Engineering Audit issues: - Unsatisfactory finishes in some parts of the building and inadequate workmanship on external works.

#### **East African Court of Justice (EACJ)**

The following were reported by the Accounts Committee of EALA on the EAC Court of Justice:

- (i) Wasteful expenditure where USD 116,000 was spent on daily subsistence allowances at the rate of USD 350 per person for a meeting in Moshi which is two hour's drive from the duty station.
- (ii) Non-compliance with Human Resource rules and regulations criteria: - there were cases where officers were acting for positions for more than six months.
- (iii) EACJ paid USD 33,350 for training. Audit reveals that the EACJ had no approved training plan and regulations.

#### **East African Legislative Assembly (EALA)**

The following were some of the findings on the East African Legislative Assembly:

- (i) Irregular payment of per diem of USD 9,084 to facilitate attendance of funeral ceremonies.
- (ii) Flouting of procurement regulations on printing of East African Community Fund annual report and promotional materials.

#### **Lake Victoria Basin Commission (LVBC)**

The following were some of the findings by the Accounts Committee on the Lake Victoria Basin Commission

- (i) Weaknesses in management of Accountable Imprest, where an imprest amounting to USD 115,136 remained unaccounted for as at 30<sup>th</sup> June 2013
- (ii) Poor Budget performance with utilization standing at 44% of total funds earmarked for its programs during the year. This was attributed to delay in release of funds for various activities from development partners. The donors were contributing 88% of the budget.
- (iii) Excessive payment of travel and daily subsistence allowances to the tune of USD 1,597,208 during the financial year 2012/2013. Some of the Commission staff were out of office for between 100 to 272 days. The cadres of staff in question were unreasonably out of the office yet their job description entails working in the office e.g. Accounts Department staff, senior staff and management.

#### **Lake Victoria Fisheries Organisation (LVFO)**

On the Lake Victoria Fisheries Organization, the following were the findings:

- (i) Doubtful expenditure of up to USD 61,547. This expenditure was not properly accounted for, contrary to the financial regulations. Examination of the accompanying documents revealed several inconsistencies that point to possibility of misuse.
- (ii) Irregular out of pocket allowance of up to USD 2,980. It was noted that LVFO were invited for workshops and conferences and the organizers provided for air tickets and subsistence allowances in cash form. The officers were therefore not entitled to any other allowance.
- (iii) The institution had a wasteful expenditure in a case where a three day workshop held in Seeta which is an one hour's drive from the Jinja Office, each officer was paid full per diem for three nights at a rate of USD 300 per night.

### **Inter University Council for East Africa (IUCEA)**

On the Inter University Council for East Africa, the following were reported:

- (i) The Audit Commission reported that during the review of the financial statements, it was noted that the amount of contributions collected from Partner States was USD 2,856,466 while the total expected was USD 4,015,550. In addition the arrears from the Partner states as at June 2013 amounted to USD 12,853,915. Failure by member states to promptly remit their annual contributions negatively affects performance of the Council in fulfilling its mandate. It was noted that the increased non-remittance raises uncertainties regarding the capacity of the council to survive as a 'going concern'
- (ii) Doubtful recoverability of contribution in arrears of USD 12,353,914.80. All Partner States with the exception of Rwanda had outstanding arrears. Several reminders and letters have been sent to Partner States backed by EAC Council directives.
- (iii) Other observations include absence of a comprehensive fixed assets register, delayed construction and co-ownership of the land title for IUCEA Headquarters, inadequate staffing, weakness in human resource function, weaknesses in book keeping among others.

### **The Civil Aviation Safety and Security Oversight Agency**

The Audit Commission reported the following on Civil Aviation Safety and Security Oversight Agency:-

- (i) Irregular budgeting for reserves- The original budget of USD 1,520,346 is inclusive of USD 266,346 being transfers from the reserves implying that the budget team had anticipated the transfer.
- (ii) Idle funds on the Reserves Account No. 6003614873;- The bank statement reveals that at the close of the financial year, the above account had a credit balance of USD 120,929.62 deposited on 2<sup>nd</sup> October 2012. There were no other credits or debits on this account during the year apart from the bank charges.
- (iii) Irregular recognition of accumulated leave of USD 14,144. There is no evidence to show that authority sought for accumulating leave as provided for under staff regulations.

**Committee's observations on the Report on the Audited accounts of the EAC for the financial year ended 30<sup>th</sup> June, 2013**

Having considered the report of the audited accounts, the Committee made the following observations:

- i. There exists a great challenge in regard to management of funds by the Institutions of the EAC that has led to wasteful expenditures. This is also coupled by professional misconduct, abuse of office, poor governance structures and weak internal control systems. The Committee also noted with great concern the absence of specific legislation on finance management and procurement process that has created a loophole of misappropriation of funds. This is in contravention to the Treaty for the Establishment of the EAC and the specific laws of the Partner States.
- ii. Most of the budget for the EAC institutions and for implementation of projects is donor funded. This poses the threat to the type of the projects to be implemented as these have to be compliant with the donor conditionalities. Further, this affects the sustainability of projects.
- iii. The Partner states have failed to honor their obligations under the Treaty in terms of remittance of funds to the EAC, with the exception of the Republic of Rwanda. This has adversely affected the ability of the EAC Institutions to decipher on their mandate.

**2.3 Report of the Committee on Legal, Rules and Privileges on the Rules of Procedure of Committees of the Assembly and Code of Conduct of the Members of the Assembly**

These rules are made pursuant to Article 49 (2) (g) of the Treaty Establishing the EAC. The article provides that the Assembly shall make its rules of procedure and those of its committees. This task was bestowed upon the Committee on Legal, Rules and Privileges. The rules are seventeen in number to guide the operations of standing committees, select committees, ad hoc committees and any other committee the House may establish except the Committee of the whole House.

The important provisions to note are:

**Rule 8: Quorum**

Paragraph (2) provides that unless the issue of quorum is raised during proceedings of a Committee, *quorum shall be required at the commencement of a meeting and for purposes of voting.*

#### **Remark**

This should be discouraged as the Members deliberate on important issues therefore quorum should be required at all times and not just at the commencement of meetings and during voting.

#### **Rule 10: Decisions of Committees**

Paragraph (2) provides that the chairperson presiding at a meeting of a Committee shall have **neither** a deliberative nor a casting vote.

#### **Remark**

It is not clear why the Chairperson who is a Member of the Committee should have neither a deliberative nor a casting vote and an explanation on the same is necessary.

#### **Rule 13: Special Powers of Committees**

Paragraph (1) (d) provides that in the exercise of its function as a Committee it shall have the powers of the High Court for –

- i. Enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- ii. Compelling the production of documents;
- iii. Issuing of a commission or request to examine witnesses abroad; and
- iv. Citing any person for contempt.

#### **Remarks**

These powers are desirable. However, it should be expressly stated where they are derived from as the rules should not bestow on the Committees more powers than those envisaged by the Treaty Establishing the East African Community and the Rules of Procedure of the East African Legislative Assembly.

The numbering of the Rules should be looked at as there are two Rule 4's, namely Functions of Chairperson and Absence or Inability of Chairperson. These need to be renumbered.

## **Code of Conduct for the Members of the Assembly**

The purpose of this Code is to assist all Members in the discharge of their obligations to the Assembly and the public at large. The provisions of the code as drafted are in order and are not in conflict with any other legislation.

### **3.0 THE BILLS PASSED BY THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

#### **3.1 The East African Community Elimination of Non-Tariff Barriers Bill, 2015**

The main objective of this Bill is to provide a legal mechanism for identifying, monitoring and eliminating non-tariff barriers within Partner States. The Act defines non-tariff barriers as laws, regulations, administrative and technical requirements other than tariffs imposed by a Partner State, whose effect is to impede trade.

Non-tariff barriers arise from different measures taken by governments and authorities in the form of government laws, regulations, policies, conditions, restrictions or specific requirements, and private sector business practices, or prohibitions that protect the domestic industries from foreign competition. These can arise from among others, import ban, employment law, import licenses, quality conditions imposed by the importing country on the exporting countries, unjustified Sanitary and Phyto-sanitary conditions, complex regulatory environment and Corrupt lengthy customs procedures.

The Bill was enacted to give effect to Article 13 of the Protocol on the Establishment of the East African Community Customs Union in which Partner States had agreed to immediately eliminate existing non-tariff barriers to the importation into their respective territories, of goods originating in the Partner States. The main objective of the EAC Common Market Protocol is to expand trade in goods and services, foster investment by means of fair, stable and predictable rules and eliminate barriers to trade between the Partner States.

The enacting of the Bill will set the stage for a more concerted effort towards elimination of the negative effects of non-tariff barriers on intra-regional trade. The Bill provides a legal framework for enforcing the removal of non-tariff barriers through the establishment of dispute resolution mechanisms with the possibility of sanctions against offending states.

**Part I** of the Bill contains preliminary provisions of the bill.

**Clause 1** provides for the short title of the Act and commencement date.

**Clause 2** provides for the interpretation of terms.

**Clause 3** sets out the objective of the Act which is to facilitate and enhance trade in the Community by removing conditions that affect and distort trade in goods within the Community.

**Part II** of the Bill provides for the prohibition of activities that create non-tariff barriers.

**Clause 5** prohibits a partner state from engaging in trade practices, customs procedures or imposing any measures that constitute non-tariff barriers.

**Clause 6** prohibits a public officer or an institution of a Partner State from engaging in an activity which is not authorised by the Laws of the Community or of the Partner State and results in any loss, additional cost to the business of the affected party or amounts to a corrupt practice or causes any other impediment to trade within the Community. The clause requires a Partner State whose Officer or institution impedes trade to pay compensation to the affected party.

**Part III** of the Bill provides for the establishment of National Monitoring Committees and National Focal Points.

**Clause 7** provides for the establishment of National Monitoring Committees tasked with, among other things, identifying and monitoring the process of elimination of non-tariff barriers, and advising Partner States on the policies and laws that contain or lead to non-tariff barriers. It further provides the membership of this committee, which includes representatives of the relevant government institutions and the private sector as determined by a Partner State.

**Clause 8** requires each Partner State to designate a Ministry as the National Focal point for matters relating to the non-tariff barriers. It further sets out the functions of the National Focal Point and establishes it as the secretariat to the National Monitoring Committee. The functions include initiating policies and strategies on the elimination of non-tariff barriers in the Partner State, monitoring new tariffs and facilitating the implementation of the East African Community Time Bound Programme for Elimination of Identified Non- Tariff Barriers.

**Part IV** of the Bill provides for the procedure for elimination of non-tariff barriers.

**Clause 9** sets out the mechanisms for the elimination of the non-tariff barriers. These include mutual agreement of the concerned Partner States, implementation of the East African Community Time Bound Programme for Elimination of Identified non-tariff Barriers and regulations, directives, decisions or recommendations of the Council

**Clause 11** requires the National Monitoring Committee, on receipt of a complaint or report, to investigate the report or complaint and prepare a plan for the elimination of the non-tariff barrier.

The plan of elimination must specify the impact of the barrier, the time frame for the elimination and the challenges that may be encountered in the process of elimination.

In addition, a Partner State whose parties are affected by a non-tariff barrier in another Partner State may initiate the process of elimination of the barrier by a notification in writing to the Partner State where the barrier exists and a copy to the Secretary General.

**Clause 12** provides for the Secretary General to refer a matter to the Council where the concerned Partner State fails to eliminate a non-tariff barrier.

**Part V** of the Bill contains general provisions.

**Clause 13** provides that the Act shall not affect the rights of a Partner State to take temporary measures that would otherwise amount to a non-tariff barrier, where the temporary measures are in the interest of defense and security, public safety or public health. The Partner State should, however, endeavor to inform the other Partner States before the introduction of this measure or at the very least, simultaneously to the measure being undertaken.

**Clause 14** requires the National Focal Points of the Partner States to exchange information on matters relating to non-tariff barrier.

**Clause 15** requires the Council to generally coordinate and monitor the elimination of non-tariff barriers.

**Clause 16** provides for sanctions and states that the Council may recommend to the Summit to impose sanctions against a State that fails to comply with a directive, decision or recommendation of the Council.

**The Schedule** provides for the World Trade Organization Categories of Non-tariff Barriers which are applicable to the Partner States.

#### **Committee's observations on the EAC elimination of non-tariff barriers bill, 2014**

The provisions of the Bill are in order save for clause 18 which states that:

*This Act shall take precedence over the laws of the Partner States with respect to any matter to which its provisions relate.*

This is ambiguous as a person cannot with certainty state which particular laws are being referred to. The law should be specific and this clause should be amended to state which specific laws are being referred to.

### **3.2 The East African Community Integration (Education) Bill, 2014**

The Bill seeks to provide a framework for ensuring that the citizens of the Partner States are informed of the affairs and the activities of the Community. This arises from the realization that a large number of people in the Community do not know that they can participate in the affairs and activities of the Community. The Bill, which was a private members bill, aims to ensure that the people of East Africa know of the existence of the Community. The Bill will go a long way in bringing the integration process to the people in a regulated manner.

The main objective of this Bill is set out in Clause 3 which is to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for people of East Africa to meaningfully participate in the integration process.

**Clause 2** contains interpretation of terms and defines integration education as education about the Treaty and the integration process in the Community.

**Clause 4** establishes the Integration Education Unit which is responsible to the Secretary General and its functions include –

- (a) coordinating integration education activities in the Partner States with the competent authorities;
- (b) developing relevant materials for dissemination in the Partner States;
- (c) setting standards and quality control mechanisms in integration education;
- (d) developing curricular for integration education by the education institutions in the Partner States; and
- (e) perform any other functions as may be required to achieve the objectives of this Act

**Clause 6** specifies that the Unit shall receive funds from the budget of the Community and other sources determined by the Council.

**Clause 7** provides for the competent authorities in the Partner States to be the national focal points for the purpose of integration education in the Community. The competent authority refers to the relevant authority responsible for carrying out civic education.

### **Committee's observations on the East African community Integration (Education) Bill, 2014**

The Bill is in order save that the title is misleading. The Bill focuses on the sensitization of the East Africa Community yet the title refers to education. The use of the word education needs to be thought through.

It is also worth noting that this Committee in its report to the House which was laid on March 25, 2014 had also dealt with this Bill and had made similar sentiments. There is need for a follow-up on whether these comments were forwarded to the Clerk of the East African Legislative Assembly.

### **3.3 The East African Community Customs Management (Amendment) Bill, 2015**

The main objective of this Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the fulfilment of the functions of the Directorate of Customs and Trade and to facilitate smooth implementation of the Act. The principal Act makes provisions for the management and administration of Customs.

The Bill seeks to amend the following sections-

**Clause 1** provides for the short title to the Act.

**Clause 2** seeks to amend section 14 of the principal Act in subsections (3), (4) and (5) by deleting the word "owner" and substituting it therefore with the word "operator". Although the amendment is in order, legislative processes should be precise. In this regard, there should be a different paragraph for each of the subsections. The clause should read as follows:

2. The East African Community Customs Management Act, 2004, in this Act referred to as the "principal Act" is amended in section 14 by –
  - a) deleting the word "owner" appearing in subsection (3) and substituting it therefore with the word "operator";
  - b) deleting the word "owner" appearing immediately after the word "depot" and the article "the" in subsection (4) and substituting it therefore with the word "operator";
  - c) deleting the word "owner" appearing in subsection (5) and substituting it therefor with the word "operator".

**Clause 3** seeks to amend section 34 of the principal Act by deleting subsection (5) which provides as follows:

(5) where goods entered in accordance with subsection (1) are not removed from the first point of entry within fourteen days from the date of entry, such goods shall be liable to customs warehouse rent."

and substituting it therefore with a new subsection (5) which provides that:

(5) Where goods are not removed from the port of discharge after the expiry of the twenty one days prescribed under subsection (1), the goods shall be deemed to be in a customs warehouse.

This should be looked at vis-à-vis the provisions of section 42 (3) of the principal Act which provides as follows:

(3) Where any goods have been deposited in a Customs warehouse then they shall be subject to such rent and other charges as may be prescribed.

In this regard, the warehouse rent is still due to the country.

**Clause 4** seeks to amend section 51 of the principal Act in subsection (1) (d) by deleting subparagraph (iii) which provides as follows:

(iii) in respect of any other product as may be prescribed.

and substituting it therefore with the following new paragraph (iii):

(iii) in respect of any other product as may be prescribed by the Commissioner.

This is within the powers of the Commissioner and is confirmed by sub section (1) which provides as follows:

(1) Where any goods are warehoused, the Commissioner may, subject to such conditions as he or she may impose—...

**Clause 5** seeks to amend section 57 of the principal Act in subsection (1) deleting the words "of three months" and substituting them therefore with the words "as he or she may deem appropriate"

Subsection (1) provides as follows:

All warehoused goods which have not been removed from a warehouse in accordance with this Act within six months from the date on which they were warehoused may, with the written permission of the Commissioner, be re-warehoused for a further period of three months:

*Justification: This is to give the Commissioner discretion in this matter.*

Secondly, the proviso to subsection (2) is to be deleted. Subsection (2) provides as follows:

Where any goods required to be re-warehoused under subsection (1) are not so re-warehoused, then they shall be sold by public auction after one month's notice of such sale has been given by the proper officer by publication in such manner as the Commissioner may deem fit:

Provided that any such goods which are of a perishable nature may be sold by the proper officer without notice, either by public auction or private treaty, at any time after the expiry of the initial warehousing period.

*Justification: The effect of this is that even in disposing of perishable goods proper notice must be given. This may result in a lot of losses as the goods may rot during the one month notice period. It is advisable to retain the proviso and seal any loopholes that are in existence which cause its abuse.*

**Clause 6** seeks to amend section 87 of the principal Act by inserting a new subsection which provides as follows:

(2) For the purposes of subsection (1), "office of destination" means any customs office at which a customs transit operation is terminated.

Section 87 provides as follows:

Transit may be terminated by presenting the goods and the relevant entries at the **office of destination** within the time limit specified by the Commissioner, without the goods having undergone any change and without having been used, and with the Customs seals, fastenings and identification marks intact.

*Justification: This amendment is for the purpose of clarity of what an "office of destination" means.*

**Clause 7** seeks to amend section 107 of the principal Act by inserting two new subsections as follows:

(5) Where any obligation that requires the furnishing of a cash deposit has been fulfilled, the Commissioner shall, within thirty days, upon completion of the obligation refund the cash deposit.

(6) Where the Commissioner does not refund the cash deposit, an interest of two per centum per month shall accrue on the deposit for the period it remains unpaid.

Section 107 provides as follows:

(1) Where any security is required to be given under this Act, then that security may be given to the satisfaction of the Commissioner either—

- a) by bond, in such sum and subject to such conditions and with such sureties as the Commissioner may reasonably require; or
- b) by cash deposit; or
- c) partly by bond and partly by cash deposit.

(2) Where any security is required to be given under this Act for any particular purpose then such security may, with the approval of the Commissioner be given to cover any other transactions which the person giving the security may enter into within such period as the Commissioner may approve.

(3) All bonds required to be given under this Act shall be so framed that the person giving the bond, and any surety thereto, is bound to the Commissioner for the due performance of the conditions of that bond; and any such bond may, unless sooner discharged by the due performance of the conditions three years from the date thereof, but without prejudice to the right of the Commissioner to require fresh security.

(4) Where any bond given under this Act is discharged, then the Commissioner shall cause such bond to be cancelled and an endorsement to that effect made thereon.

*Justification: The proposed amendments are advisable as they limit the discretion of the Commissioner by prescribing the period within which he must refund the bond. It also introduces an interest to be paid on the sum as compensation in case of delay by the Commissioner.*

**Clause 8** of the Bill seeks to amend section 218 of the principal Act by deleting the word “council” and substituting it therefore with the word “Commissioner”. Section 218 provides as follows:

Where anything has been seized under this Act then the **Council** may, whether or not the thing has been condemned, direct that that thing be released and restored to the person from whom it was seized or to the owner, upon such conditions as the **Council** may deem fit.

*It may not be advisable to vest such powers on a single individual and it may be better that the provision be retained as it stands. Secondly, omnibus amendments are discouraged and there is need for specificity in describing the location of the words to be deleted.*

**Clause 9** seeks to amend section 243 of the Act by inserting the word “not” after the word “shall”. Section 243 provides as follows:

Where any goods are sold under this Act, then the provisions of any legislation of any of the Partner States relating to auctioneers shall apply to such sale.

*This amendment is ambiguous as it leaves a lacuna on what legislation is to apply. It needs to specify what legislation will apply in such instances.*

**Clause 10** seeks to introduce a new **Section 248A** which provides for the application of advance binding rulings. It states that:

- (1) A person intending to import goods, may make a written application to the Commissioner for advance binding rulings on any of the following –
  - (a) tariff classification;
  - (b) rules of origin; or
  - (c) customs variation.
- (2) Subject to subsection (1) and upon direction from the Commissioner, the applicant shall furnish to the Commissioner sufficient information that may be used to make the decision.
- (3) The Commissioner shall within thirty days of receipt of the sufficient information issue an advance ruling or give reasons for the inability to issue an advance ruling on the application.
- (4) The decision under subsection (3) shall be binding on the Commissioner and the applicant.

*The above provision is advisable. However, more consideration should be given to subsection (4) as the Commissioner has made a decision without the benefit of seeing the items. The Commissioner should be given a leeway to vary the ruling incase there is a variation between the information provided and actual goods imported.*

#### 4.0 RECOMMENDATIONS

Having considered the reports and the bills from the East African Legislative Assembly, the Committee therefore recommends, that;

1. There is need to carry out periodic assessment in all the EAC Partner States to assess the extent of implementation of the SCT.
2. Each Partner States' Revenue Authorities should urge their established Technical Working Groups (TWGs) to fast track the implementation of the Single Customs Territory framework to move with speed to complete their work to enable full implementation of the SCT.
3. There is need for full implementation of the enforcement mechanisms established under the Single Customs Territory to curb the trade malpractices that may arise as a result of the operationalization of the EAC Customs Union such as smuggling and dumping.
4. Just like Tanzania Revenue Authority, other Partner States Revenue Authorities should conduct workshops and seminars at national levels to ensure the citizens are adequately sensitized.
5. The Audit Commission should undertake value for money audit in the next audit exercise. This arises from the realization that most of the institutions incurred wasteful expenditures.
6. There is need to develop proper governance structures and internal control mechanisms to curb misappropriation of funds and professional misconduct within the institutions of the EAC. To this end, the EALA should come up with legislation that will ensure prudent management of the Community's resources and streamline the procurement processes. The Legislation should also provide for enforcement mechanism for non-compliance with the rules. The officers found culpable of wasteful expenditures should be prosecuted and charged by the courts.
7. The Partner States with outstanding arrears should remit the payment in time to enable institutions undertake their mandates effectively. Further, the EAC Secretariat should develop an enforcement mechanism in order to curb non-remittance by Partner States.
8. EAC Council of Ministers should fast track institutional review process to enhance human resource capital and provide job security to the staff of the Community by providing pensionable terms of service.

9. The East African Community Integration (Education) Bill, 2014 is in order save that the title is misleading. The Committee in its report tabled in the House on March 25, 2014 had dealt with this Bill and had recommended that the title of the bill be amended to "*the East African Community (Civic Education) Bill, 2014*". The Committee still holds the same position in regard to the bill.
10. Clause 18 of the East African Community Elimination of Non-Tariff Barriers Bill, 2015 is ambiguous and should be amended to state which specific laws are being referred to.
11. The Committee noted various discrepancies with the **East African Community Customs Management (Amendment) Bill, 2015** which should be addressed before enactment of the Act.

KNA

Laid on table  
24<sup>th</sup> Oct. 2014



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**Report of On-Spot Assessment on the EAC Single Customs  
Territory (EAC SCT)**

**By**

**The Committee on Communication, Trade and Investments**

*28th September to 2nd October 2014  
Dar-es-Salaam and Tanga in TANZANIA*

Clerk's Chambers  
3rd Floor, EAC Headquarters  
EALA, Wing  
Arusha, TANZANIA

October 2014

## **1.0 BACKGROUND**

Members of the business community are engaged in cross-border trade within the East African Community countries although businesses are severely hampered by inefficient trade facilitation systems. In bid to implement the EAC Customs Union Protocol, EAC Partner States have embarked on fast tracking the Single Customs Territory (SCT) whose framework was adopted by the EAC Summit of Heads of States in November 2013. The Summit directed that the SCT commences on 1<sup>st</sup> January 2014 and that all operational requirements be finalized by June 2014.

Under the SCT arrangement, the EAC member states have adopted a destination model of clearance of imports whereby the assessment and collection of tax revenues on such consignments are done at the first point of entry. This allows free circulation of goods within the single EAC market, with variations to accommodate exports from one Partner State to another. In this regard, Customs administrations in destination states retain control over the assessment of taxes. This crystallizes the gains of regional integration characterized by minimal internal border controls and more efficient institutional mechanisms for clearing goods out of Customs control.

Pursuant to Article 49 (2) (e), "the Assembly may for purposes of carrying out its functions, establish any Committee or committees for such purposes as it may deem necessary to exercise both legislative and oversight functions on all matters within the scope of the EAC through meetings, studies, workshops; tours, on spot assessment activities, to mention but a few"

In order to exercise its oversight mandate the EALA Committee on Communications, Trade and Investment has found it imperative to undertake on spot assessment on the Tanzania Ports Authority (TPA) and Tanzania Revenue Authority (TRA) to engage Ports and Customs Authorities, and Tanzania Freight Forwarders Association on the implementation of EAC SCT, since these stakeholders play a significant role in the operationalisation of the Single Custom Territory to improve business environment in the EAC region.

### **1.1 Objectives of the On-Spot Assessment**

The objectives of the on spot assessment were to;-

- (a) Understand the state of play for the operationalisation of the Single Custom Territory;
- (b) Find out the operations and processes that will be involved in the implementation of the EAC Single Customs Territory;
- (c) Identify the expectations, fears/challenges that are involved and recommendations to address them;
- (d) Visit Ports and Customs Authorities site installations and facilities to acquaint themselves with cargo handling and clearance procedures.

## **1.2 Methodology**

The Members of the Committee on Communications, Trade and Investment held meetings from September 29<sup>th</sup> to 2<sup>nd</sup> October 2014 with various stakeholders. Amongst them were Tanzania Revenue Authority (Customs), Tanzania Freight Forwarders Association, EAC Secretariat, Tanzania Ports Authority (Tanga Port). The Committee also carried out a guided tour on site installations and facilities in place including cargo handling and clearance processes and procedures. From these visits and meetings, the committee took stock of the observations and recommendations.

## **2.0 FINDINGS**

### **2.1 The status of Implementation of the EAC Single Customs on the Central Corridor**

The Committee was informed that, in January 2014, Tanzania Revenue Authority started its involvement in preparations for SCT implementation and TRA has set aside an additional budget of TZS 1,668 billion to support SCT implementation. This is an initiative that cuts across different Government and private sector stakeholders. At regional level, coordination has been done by EAC Secretariat and at National level, there is a Steering Committee under the Ministry of Finance.

The Committee was made to understand that the Standard operating procedures covering most of the key Customs procedures and control mechanisms have been developed and tested and the meeting of the EAC Commissioners of Customs took place in Dar Es Salaam on 28<sup>th</sup> – 29<sup>th</sup> August 2014 to consider and adopt the standard operating procedures. The Amendments to East African Community Customs Management Act,

2004 for smooth SCT implementation have been drafted and submitted to EAC Secretariat for processing.

### 2.1.1 Customs Systems Interconnectivity

In terms of Customs Systems Interconnectivity, Tanzania's ASYCUDA++ was interfaced with ASYCUDA World of Rwanda, Uganda and Burundi and Simba of Kenya to allow piloting of SCT that commenced in June 2014. Through this interface, manifests and declarations with subsequent release order information is exchanged electronically and the Information Technology experts are currently working out to fine tune to enable electronic transmission of Exit Notes, declaration and risk selectivity lane, and this is done through emails.

Below is the status of customs systems interconnectivity between Tanzania and other Partner States.

s/n	Revenue Authority	Customs System	Asy++ Interface Status
1	Uganda	Asycuda World	Done
2	Burundi	Asycuda World	Done
3	Rwanda	Asycuda World	Done
4	Kenya	Simba	End of Sept 2014

### 2.1.2 Interface with Tanzania Customs Integrated System (TANCIS)

TANCIS is a robust system that was introduced to replace Asycuda++ currently working with SCT server. The Committee inspected the Control room where TANCIS is operated and members were informed that Automation started since 1997 in Tanzania by introduction of ASYCUDA 2.7 and later migrated to ASYCUDA++ system in 2005. When users' needs and technological developments evolved over time, several weaknesses

were identified in the system. In 2012 TANCIS was developed and implemented in 2 Phases. Phase I - for main customs clearance business and Phase II - other customs functions/modules.

TANCIS was developed to resolve ASYCUDA++ weaknesses, automate Manual Clearance Processes, and to re-align operations and processes to conform with laws, regulations and best practices.

Tanzania Revenue Authority engaged a Consultant in August 2014 to develop a new interface between other Partner States Revenue Authorities Customs Management Systems with TANCIS. Major Benefits of TANCIS include the following;-

1. Simplified and transparent cargo clearance procedures;
2. Reduction of cargo clearance time;
3. Trade facilitation with a view of reducing cost of doing business;
4. Improved/strengthened controls where necessary;
5. More effective / efficient use of resources including staff;
6. Overall improved quality of services;

### **2.1.3 Review of Legal Framework**

Draft Amendments to the East African Community Customs Management Act, 2004 to provide for the legal backing of the SCT initiatives have been developed and submitted to EAC Secretariat for initiating the approval process. The main areas covered include Refunds of duty, Transfer of goods, and security bonds among others.

### **2.1.4 Capacity Building and Change Management**

Workshops and seminars at national levels were conducted by TRA in April, May and June, 2014 to provide awareness and understanding of the procedures to various stakeholders such as Customs Staff, Clearing and Forwarding Agents (CFA). Customs and Excise Department has been availed with additional staff and 50 recruits completed Customs basic training in August 2014.

In addition, sensitization to selected groups of trading communities was done in the regions and border stations of Kagera, Mwanza, Mara, Arusha, Kilimanjaro, Tanga and Dar Es Salaam.

In addition to seminars and workshops, other sensitization programs were also conducted by Tanzania Revenue Authority and EAC secretariat in April, June and July 2014 for major stakeholders including the Clearing and Forwarding Agents in Dar Es Salaam, Kabanga/Kobelo and Rusumo.

Training programs are on-going exercises and therefore more training programs are yet to be conducted. In this regard, 82 Tanzanian Clearing & Forwarding (C&F) agents trained by Rwanda Revenue Authority (RRA) on the use of RRA ASYCUDA World, while 37 Tanzanian Clearing and Forwarding agents and 29 TRA staff trained by Kenya Revenue Authority (KRA) on the use of Simba, and 45 Kenya Revenue Authority staff and 141 Kenyan Clearing & Forwarding agents trained by Tanzania Revenue Authority on the use of Tanzania Customs Integrated System (TANCIS).

#### **2.1.5 Enforcement and Compliance Procedures**

Groundwork on a regional framework for interfacing national electronic cargo tracking systems and one for operating a regional Customs bond has been done. Customs and Excise Department (CED) is working with COMESA Secretariat and insurance companies on adopting the Regional Customs Transit Guarantee Scheme (RCTGS).

#### **2.1.6 Inter-Agency Coordination**

1. Tanzania Ports Authority and Tanzania international Container Terminal Services (TICTS) have established direct links with Rwanda Revenue Authority (RRA), Burundi Revenue Authority (OBR) and Uganda Revenue Authority (URA) in clearing cargo destined to these countries;
2. RRA and OBR have stationed their officers at the Port of Dar es Salaam;
3. TANCIS will be interfaced with Kenya Ports Authority system;
4. TRA deployed its officers in Nairobi and Kenya Ports Authority in Mombasa in September 2014;

5. Kenya Ports Authority is expected in Dar es Salaam for the interface task in October 2014.
6. National SCT Steering Committee incorporating all key stakeholders is functional since July 2014.

### 2.1.7 Piloting the SCT

#### 1. SCT Piloting with Rwanda

The SCT piloting with Rwanda Commenced in June 2014 under Wheat grains and Petroleum Products as shown below; -

S/N	PRODUCT	QUANTITY	NUMBER OF TRUCKS
1	Wheat grains	1650 Mt	54
2	Petroleum Products	38,958,752 Lts	1,064

More products which have been agreed upon to be included in the pilot products include duty paid Maritime trade such as rice, sugar, motor vehicles while products for Intra-Regional trade include cement, sugar and salt.

#### 2. SCT Piloting with Uganda

Products were selected from Ugandan manufacturers such as Mukwano Industries, BIDCO, and MOVIT and also Wet cargo (Petroleum products) are discharged at Dar es Salaam Port cleared under SCT since 1<sup>st</sup> August 2014.

S/N	Product	Quantity	Conveyance
1	Petroleum Products	770,515 lts	20 tankers
2	Rice	438,000 kgs	3 Vessels
3	Cotton seed Cakes	896,000 Kgs	3 Vessels
4	Fertilizer	85,000 Kgs	1 Vessel
5	Spices/cinnamon	1,770 Kgs	1 Vessel

### 3. SCT Piloting with Burundi

Below is the table showing the products that are being piloted under SCT arrangement for Burundi; -

S/N	Product	Quantity	No. of Trucks
1	Wheat	5,368 Mt	181
2	Beer Malt	1,530 Mt	51
3	Phosphorous Acid	17 Mt	1
4	Silicon Dioxide	17 Mt	1
5	Cement	459 Mt	14

### 4. SCT Piloting with Kenya

The table below indicates the products that are being piloted under the SCT arrangement between Tanzania Ports Authority and Kenya;-

S/N	Product	Quantity	Transactions
1	Laundry Soap	5,600 Cartons	4
2	Cooking Oil	3,959 Kgs	2
3	Galvanized Steel Pipes	1,331 Pcs	1

In addition, it was mentioned that arrangements are underway to extend SCT implementation to Tanzania-destined cargo arriving at Mombasa Port and the deployment of Tanzania Revenue Authority staff has been done.

## **5. SCT Coordination at National Level**

The Committee was further informed that the National SCT Steering Committee was inaugurated on 9<sup>th</sup> July 2014 and it comprises all key Government Ministries and Agencies involved in cargo clearance chaired by the Permanent Secretariat Ministry of Finance.

SCT implementation schedule and roadmap for Tanzania has been developed and recommendations have been made to the Ministry of Works on limiting to three, the frequency of weighing trucks transporting SCT-cleared cargo.

A Task Force has been established to come up with mechanism to identify trucks transporting SCT-cleared cargo (Police, Immigration, TANROADS & TRA) and recommendations have been made to the Police and other security organs to carry out any necessary inspections of trucks transporting SCT-cleared cargo only at the designated weigh bridges.

TANROADS has been requested to expedite the process of harmonizing axle load legislation and the Attorney General Chambers to lead agencies involved in cargo clearance in reviewing their respective legislations in line with the agreed SCT framework.

### **2.1.8 Tanzania Ports Authority (Tanga Port)**

The Committee visited Tanga port and the following observations were identified; -

1. Tanga port is one of the six major ports operated by Tanzania Port Authority (TPA) in Tanzania along other major ports, which are Dar es Salaam and Mtwara (along the Indian Ocean), and Mwanza, Kigoma and Kyela on Lakes Victoria, Tanganyika and Nyasa respectively.
2. It is a Government owned parastatal established by the Ports Act of 2004 and operates under the Ministry of Transport of the United Republic of Tanzania
3. The port is located between two deep sea ports of Dar es salaam (Tanzania) and Mombasa (Kenya)
4. Tanga port is the oldest port in the coast of East Africa as it was constructed in 1891. It is currently provided with two shallow water berths with a total length of 380m.
5. It is a lighterage port due to its draft limitation, which range between 3.5 meters and 4.5 meters at low and high tides respectively. Vessels of 1200 GRT capacity can be

handled along the quay. Its draft limitation demands for specialized logistics operation at stream that involves process of cargo discharge from vessels anchored offshore, transport it to shore or a pier using tugs, discharge it and stack it for hinterland logistics and vice versa.

6. The Port is connected with ICT applications such as 24 hour accessible website and Internet banking.
7. TRA is also in the process of linking the port with Asycuda++ to facilitate cargo clearance.
8. There is also a Disaster Recovery site project located in Bandari house.

Tanga Port is faced with the following challenges:-

1. Operation of deep sea vessels at stream which Leads to double handling of cargo and affects productivity in terms of speed of loading/offloading and vessel stability.
2. Ineffective inland transport system as there is no Railway transport therefore all cargo cleared are transported by road.
3. Increase physical capacity through constructing the new port at Mwambani to be linked with a new railway line from Arusha to Musoma (Lake Victoria) and by lake to Uganda is costly.
4. Shipping technological changes whereby ships growing bigger in size with no gears and the Port requires dredging and procure equipment to handle bigger ships.

Despite the challenges, Tanga Port has got future prospects which include:-

1. Implementation of TPA Port Master Plan (2009 – 2028) which includes among others the development of the new port at Mwambani;
2. Prospects for mining activities within the region including Red Nickel, Sulphur, Magnesia, Bauxite, Soda Ash, and the new cement factory in Tanga;
3. Growth of Agricultural activities in the Region ,especially coffee, forestry products which may contribute to growth in cargo;
4. Completion of road Upgrading Minjingu/Babati/Singida road as an alternative to railway connection to Lake Zone may attract more cargo through Tanga port;

5. Road construction plan for Tanga /Pangani /Bagamoyo, Mkata /Handeni /Mvomero (Morogoro);
6. Declaration of land for development of Economic Processing Zone in Tanga;
7. Government declaration of the Northern region as conducive for Foreign Direct Investments.

### **3.0 CHALLENGES AFFECTING THE SCT IMPLEMENTATION**

1. Information Technology interconnectivity: there are still transmission challenges in terms of information and data sharing in all the Revenue and Port Authorities;
2. Non-compatibility and difficulties in data sharing under different Electronic Cargo Tracking Systems by Partner States;
3. Compatibility of Revenue Authorities IT systems with Port Authorities;
4. Fears and concerns by Clearing and Forwarding agents in Tanzania and Kenya of losing business and employment;
5. Absence of the EAC Regional Removable Bond to facilitate clearance of goods to warehouse and exempted goods;
6. Difficult processes by Revenue Authorities to grant access and rights to Clearing and Forwarding agents and Customs Officers;
7. Non-implementation of the EAC Common Market Protocol. For example unharmonized work permits' requirements in the EAC still hindering the business people to operate in any country of their choice;

### **4.0 RECOMMENDATIONS**

1. Capacity building and sensitization programs undertaken to various stakeholders such as Clearing and Forwarding Association, Revenue Authority staff and Other Government Departments on the operations and processes involved in the SCT should be continuous and given timeframes;
2. Fast tracking the finalization of the Draft Amendments to the EAC Customs Management Act, 2004 to ease the SCT Operationalisation;
3. Efforts should be made to fully implement the East African Common Market Protocol to enable free movement of people, goods, capital and services to enable the full operationalisation of the SCT;

4. EALA to come up with pieces of legislations that support the implementation of SCT such as those that provide for the health and education insurances, immigrations, and vehicle registration for staff working in different Partner States;
5. Roll out of more products both intra-regional and maritime goods should be undertaken under Single Customs Territory arrangement;
6. Revenue Authorities need to streamline the process of granting access/views rights to C&F agents and Customs Officers;
7. Fast tracking the finalization of the utilization of the Single Regional Customs Bond by EAC Secretariat;
8. Effective and effecient Systems interface networks should be put in place to address the interconnectivity and data/information challenges.

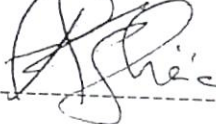

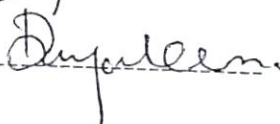
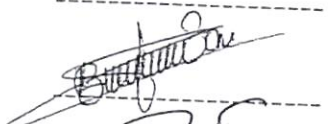

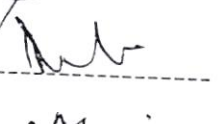
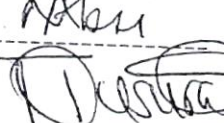
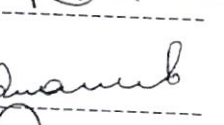

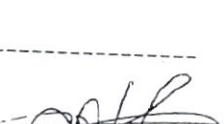
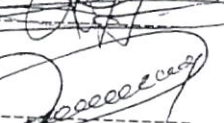



#### **5.0 ACKNOWLEDGEMENTS**

1. The Committee wishes to express its utmost appreciation for efforts and commitment made by EAC Partner States in process of fast tracking the EAC Single Customs Territory.
2. The Committee is also indebted to all stakeholders who spared their precious time to participate in this activity and also for their support and cooperation throughout the activity period.
3. Special thanks go to EALA Management for the tireless efforts in mobilizing resources and all logistical arrangements to make this activity a reality.

MEMBERS OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENT

(Report of On-Spot Assessment on the EAC Single Customs Territory)

28<sup>th</sup> September – 2<sup>nd</sup> October 2014, Dar-es-Salaam, Tanga - TANZANIA

Name	Signature
1. Hon. Angela Charles Kizigha	
2. Hon. Adam Omar Kimbisa	
3. Hon. Dan F. Kidega	
5. Hon. Dr. James Ndahiro	
6. Hon. Emerence Bucumi	
7. Hon. Frederic Ngenzebuhoro	
8. Hon. Joseph Kiangoi Ombasa	
9. Hon. Nancy Abisai	
10. Hon. Nusura Tiperu Omar	
11. Hon. Patricia Hajabakiga	
12. Hon. Peter Mathuki	
13. Hon. Shy-Rose S. Bhanji	
14. Hon. Straton Ndikuryayo	
15. Hon. Yves Nsabimana	

15<sup>th</sup> March 2015



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

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**REPORT OF THE COMMITTEE ON LEGAL, RULES AND  
PRIVILEGES COMMITTEE ON THE RULES OF PROCEDURE OF  
COMMITTEES OF THE ASSEMBLY AND CODE OF CONDUCT  
FOR THE MEMBERS OF THE ASSEMBLY**

**BUJUMBURA, BURUNDI  
17<sup>TH</sup> MARCH 2015**

CLERK'S CHAMBERS  
EAC HEADQUARTERS  
ARUSHA,  
TAZANIA

MARCH 2015

# REPORT OF THE COMMITTEE ON LEGAL RULES AND PRIVILEGES ON THE RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY AND CODE OF CONDUCT OF MEMBERS OF THE ASSEMBLY

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## 1.0 INTRODUCTION AND BACKGROUND

The Committee on Legal, Rules and Privileges is established under rule 80 (2) (b) of the Rules of Procedure of the Assembly (2015 Edition) and derives its mandate under rule 81 and Annex 5 (B) of these Rules.

On Wednesday 21<sup>st</sup> January, 2015 during the 4<sup>th</sup> Meeting of the 2<sup>nd</sup> Session of the 3<sup>rd</sup> the Assembly held in Arusha, Tanzania the Assembly debated and adopted its new Rules of Procedure. The Rules of Procedure however finally took effect at the 5<sup>th</sup> Meeting of the 3<sup>rd</sup> Session in Bujumbura, Burundi on Tuesday 17<sup>th</sup> March, 2015, following a Motion moved by Hon. Dora Byamukama to suspend rule 95 that bring the new Rules of Procedure into immediate effect. The Motion for the transition period was moved to allow for quality control, re-packaging and publishing of the Rules of Procedure by the Committee on Legal, Rules and Privileges.

At its 4<sup>th</sup> Meeting of the 2<sup>nd</sup> Session of the 3<sup>rd</sup> the Assembly held in Arusha, Tanzania the Assembly during debate of the proposed new Rules adopted the Committee on Legal, Rules and Privileges' recommendation, which urged it to expedite the process of making the rules of procedure of its Standing Committees for effective and efficient discharge of their mandates as per Article 49 (2) (g) of the Treaty for the establishment of the East African Community (EAC).

During its sitting on Monday 26<sup>th</sup> January, 2015, the Committee on Legal, Rules and Privileges resolved to implement the aforementioned recommendation by establishing a Sub-Committee comprised of six Members to among other things:

- (a) develop the Committees Rules of Procedure as per Article 49(2)(g) of the Treaty for the establishment of the Community; and
- (b) develop Code of Conduct for Members of the Assembly.

Following this decision, the Sub-Committee undertook this particular activity for five-days from Sunday 1<sup>st</sup> February, 2015 to Saturday 7<sup>th</sup> February, 2015 in Nairobi, Kenya. Thereafter, the draft Committees Rules of Procedure and draft Code of Conduct for Members of the Assembly developed by the Committee were considered and adopted by the whole Committee in Bujumbura, Burundi from Friday 13<sup>th</sup> to Saturday 14<sup>th</sup> March, 2015.

## **2.0 OBJECTIVES**

The objectives of this activity are to cater for growth of the Assembly and its membership; provide for technological advancement; and address unforeseen incidents and developments.

## **3.0 EXPECTED OUTPUT**

- (a) growth of the Assembly and its membership catered for;
- (b) technological advancement provided for; and
- (c) unforeseen incidents and developments addressed;
- (d) new Committees Rules of Procedure of the Assembly and the Code of Conduct for Members of the Assembly considered and adopted.

#### 4.0 METHODOLOGY

While undertaking its mandate, the Committee employed various methods, which included:

- (a) reviewing global literature on Codes of Conducts, Ethics and Integrity;
- (b) reviewing of the EALA Rules of Procedures 2015 Edition and the Treaty for the Establishment of the EAC;
- (c) reviewing Partner States' National Parliaments' Rules of Procedure including Committees Rules of Procedure and Code of Conducts;
- (d) reviewing regional parliaments Rules of Procedure similar to EALA;
- (e) holding a Committee Meeting in Bujumbura, Burundi from Friday 13<sup>th</sup> to Saturday 14<sup>th</sup> March, 2015 to consider the Sub-Committee draft Rules of Procedure of the Assembly and draft the Code of Conduct for Members of the Assembly; and
- (f) considering and adopting the Committee report for onward transmission to the House for debate.

#### 5.0 THE PROPOSED COMMITTEES RULES OF PROCEDURE OF THE ASSEMBLY AND THE CODE OF CONDUCT OF MEMBERS OF THE ASSEMBLY

Arising from the activity undertaken above, the Committee developed Committees Rules of Procedure of the Assembly and Code of Conduct for Members of the Assembly herewith attached as **Annexes I** and **II** respectively.

## **6.0 CONCLUSION AND RECOMMENDATIONS**

### ***6.1 Recommendations***

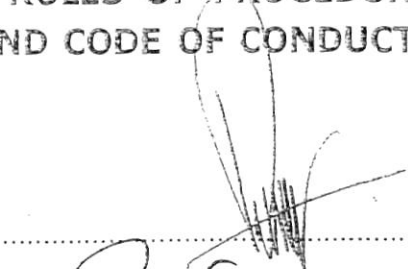
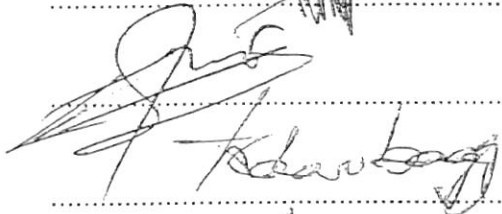

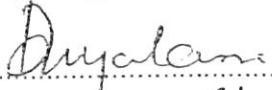

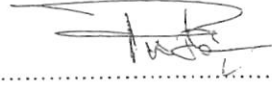
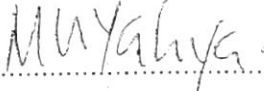
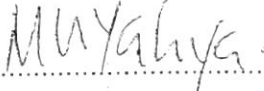
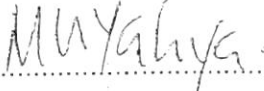
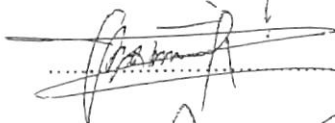
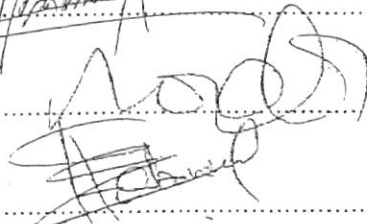
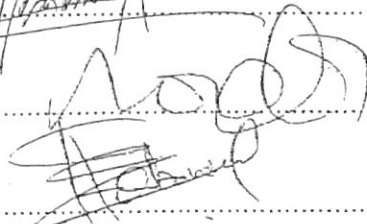
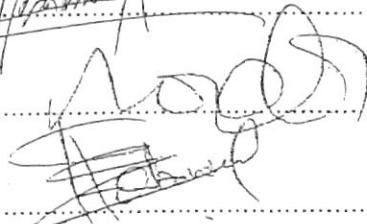
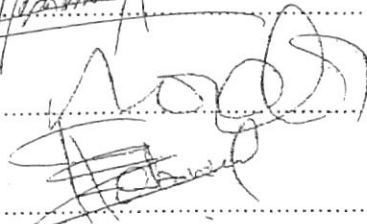
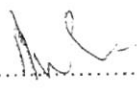
In light of the Committee proposed developed Committees Rules of Procedure of the Assembly and Code of Conduct for Members of the Assembly, the Committee recommends to the Assembly and urge the House:

- (a) to adopt the Committees Rules of Procedure of its Standing Committees for effective and efficient discharge of their mandates as per Article 49 (2) (g) of the Treaty for the establishment of the EAC; and
- (b) to adopt the Code of Conduct for Members of the Assembly to foster posterity, smooth and its proper functioning.

### ***6.2 Conclusion***

The process of developing the Committees Rules of Procedure of the Assembly and Code of Conduct for Members of the Assembly was highly academic, technical, political and participatory and involved wide consultation of various literature on the subject matter through intense research. As such, what is contained in the developed Committees Rules of Procedure of the Assembly and Code of Conduct for Members of the Assembly is a reflection of best practices elsewhere in the sub-region, region and beyond.

REPORT OF THE COMMITTEE ON LEGAL, RULES AND PRIVILEGES COMMITTEE ON THE RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY AND CODE OF CONDUCT FOR THE MEMBERS OF THE ASSEMBLY

1. Hon. Peter M. Mathuki 
2. Hon. Frederic Ngenzebuhoro 
3. Hon. Leonce Ndarubagiye 
4. Hon. Isabella Ndahayo 
5. Hon. Dora C. K. Byamukama 
6. Hon. Mukasa Fred Mbidde 
7. Hon. Susan Nakawuki 
8. Hon. Twaha Issa Taslima 
9. Hon. Charles M. Nyerere 
10. Hon. Maryam Ussi Yahya 
11. Hon. Christophe Bazivamo 
12. Hon. Dr. Odette Nyiramilimo 
13. Hon. Valerie Nyirahabineza 
14. Hon. Judith Pareno 
15. Hon. Joseph K. Ombasa 

# ANNEX I



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY**

**Clerks Chambers  
EAC Headquarters  
Arusha  
TANZANIA**

**MARCH 2015**

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# RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY

(Made under Article 49 [2] [g]) of the Treaty for the  
Establishment of the East African Community)

## 1. APPLICATION

These Rules shall –

- (a) apply to Standing Committees, Select Committees, Ad hoc Committees and any other Committee the House may establish from time to time unless express provision is made to the contrary in the Rules of Procedure of the Assembly.
- (b) not apply to the Committee of the Whole House

## 2. INTERPRETATION

**In these Rules, unless the context otherwise requires –**

Committee: means any Standing Committee specified under Rule 80 of the Rules of Procedure of the Assembly, Select Committee, Ad hoc Committee or any other Committee of the House other than the Committee of the Whole House;

Meeting: means meeting of a Committee duly convened in accordance with the Rules of Procedure;

Member: means a Member of a Committee;

Words and phrases used in these Rules shall bear similar interpretation as provided for in rule 1 of the Rules of Procedure of the Assembly.

### **3. ELECTION OF CHAIRPERSON**

The Clerk of the Committee shall preside over the first meeting of the Committee whose business shall be to elect the Chairperson of the Committee and at any time when the office of the Chairperson shall fall vacant.

### **4. FUNCTIONS OF CHAIRPERSON**

- (1) The Chairperson shall perform the functions and exercise the powers assigned to the office of the Chairperson by the Rules of Procedure of the Assembly, Resolutions of the Assembly and legislation of the Assembly and shall -
  - (a) preside over the Meetings of the Committee;
  - (b) present to the House reports of the Committee;
  - (c) be a spokesperson of the Committee
  
- (2) Without prejudice to the functions of the Chairperson under sub-rule (1), the Chairperson shall -
  - (a) ensure observance of the Rules of Procedure of the Assembly;
  - (b) maintain order in the Committee; and
  - (c) open and suspend meetings.
  
- (3) A Member shall not chair more than one Standing Committee, nor shall the Chairperson of a Standing Committee serve as a Member of the Commission.

### **4. ABSENCE OR INABILITY OF CHAIRPERSON**

- (1) In the absence or inability of the Chairperson to perform the functions or duties of his or her office at any meeting, the Chairperson shall designate another Member to preside over

the meeting or perform such as other duties of the Chairperson.

- (2) In case no Member has been designated under sub-rule (1), the Committee Members present shall elect a Member to chair the meeting or perform such as duties of the Chairperson.

## **5. VACATION OF OFFICE**

- (1) The Chairperson of the Committee shall vacate his or her office –
  - (a) upon the expiry of the period for which he or she was elected;
  - (b) upon death;
  - (c) if he or she delivers his or her resignation to the Clerk;  
and
  - (d) if he or she ceases to be qualified as Member of the Assembly.
- (2) The Chairperson of a Committee may be removed from office by a resolution supported by not less than two thirds of the Members for inability to perform the functions of his or her office, whether arising from infirmity of mind or body or for misconduct.
- (3) A motion for the removal of the Chairperson shall be filed with the Clerk's Office duly signed by not less than one third of the Members of the Committee and shall be debated and voted upon with immediate effect PROVIDED THAT BEFORE A DECISION TO REMOVE THE CHAIRPERSON IS MADE HE OR SHE SHALL BE GIVEN OPPORTUNITY TO BE HEARD BY THE COMMITTEE.
- (4) Proceedings for the removal of a Chairperson shall be presided over by a Member elected by the majority of the Members for that purpose.

- (5) Upon the removal of a Chairperson, the Committee shall with immediate effect elect another Member as Chairperson of the Committee taking into account the principle of rotation.
- (6) The Committee shall make a report in the House on the removal of the Chairperson.

## **6. COMMITTEE CLERK AND OTHER STAFF**

- (1) Each Committee shall have a Clerk designated for that purpose by the Clerk of the Assembly whose duties shall be to-
  - (a) facilitate Committee meetings;
  - (b) take minutes and a record of attendance;
  - (c) keep custody of the records of the Committee
  - (d) prepare reports for the approval of the Committee; and
  - (e) carry out any other such duties as the Committee may direct.
- (2) Each Committee shall have such other staff as the Commission may designate.

## **7. MEETINGS OF COMMITTEES**

- (1) A notice of a meeting of a Committee shall be given by the Clerk to all Members of the Committee, showing the date, time, venue and agenda of the meeting.
- (2) The matters included on the Agenda under sub-rule (1) shall comprise -
  - (a) prayer;
  - (b) communication from the Chair;
  - (c) business as per notice; and
  - (d) any other business as may arise from Members.

- (3) Save for scheduled meetings, the Chairperson of a Committee may in consultation with the Clerk of the Assembly convene a meeting upon request in writing by not less than one third of the Members of the Committee.
- (4) A notice under sub-rule (1) shall be deemed to have been given upon circulation through the official email addresses of a Member, by delivery of the notice in the office of a Member and by posting of the notice in the precincts of the Assembly at least twelve hours before the time designated for the meeting.
- (5) Any Member of the Assembly who is not a Member of a Committee may attend Committee proceedings but shall not be entitled to vote in the Committee.

## **8. QUORUM**

- (1) The quorum of a Committee shall be half of the Members.
- (2) Unless the issue of quorum is raised during proceedings of a Committee, quorum shall be required at the commencement of a meeting and for purposes of voting.
- (3) If at any time during proceedings a Member raises the issue of quorum, the Chairperson shall after ascertaining that there is lack of quorum suspend the proceedings of the Committee for 30 minutes during which the Clerk shall call the Members absent.
- (4) If on resumption of proceedings after the expiry of 30 minutes the number of Members does not constitute quorum, the Chairperson shall adjourn the meeting.

## **9. SUB-COMMITTEES**

- (1) A Committee may establish such sub-Committees as it may consider necessary for the proper discharge of its functions.
- (2) These Rules shall with the necessary modifications apply to a sub-Committee.
- (3) A Sub-Committee shall make reports to the Committee within the timeframe allocated to it by the Committee.

## **10. DECISIONS OF COMMITTEES**

- (1) All questions proposed for decision in a Committee shall be determined by a majority of the Members of the Committee present and voting.
- (2) The Chairperson presiding at a meeting of a Committee shall have neither a deliberative nor a casting vote.
- (3) In the absence of the Chairperson, the Member presiding over the Committee meeting shall retain his or her right to vote.
- (4) If the votes of the Members are equally divided upon any motion before the Committee, the motion shall be lost.

## **11. REPORTS OF COMMITTEES**

- (1) A Committee shall make a report on any matter referred to it or initiated by itself.
- (2) A report of a Committee shall be signed by at least half of all the Members of the Committee before it is laid on the Table.

- (3) A report of a Committee shall be laid on the Table by the Chairperson or any other Member nominated by the Committee.
- (4) The Chairperson or a Member nominated by the Committee may move in the House that the Report of the Committee be adopted.
- (5) The Report shall form part of the record of the House.

## **12. MINORITY REPORT**

- (1) Any Member or Members dissenting from the opinion of a majority report of a Committee may state in writing the reasons for his or her or their dissent, and the statements of reasons shall be appended to the report of the Committee.
- (2) The Member or Members dissenting from the opinion of the majority of a Committee shall be given time to present the minority report at the time of presenting the Committee Report in the House.

## **13. SPECIAL POWERS OF COMMITTEES**

- (1) In the exercise of its functions as a Committee -
  - (a) may call the Council of Ministers or any person holding public office or a private individual to submit memoranda or appear before it to give evidence;
  - (b) may employ qualified persons to assist in the discharge of its functions;
  - (c) may call or invite any person to take part in its deliberations; and
  - (d) shall have the powers of the High Court for -
    - (i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
    - (ii) compelling the production of documents;
    - (iii) Issuing of a commission or request to examine witnesses abroad; and
    - (iv) citing any person for contempt.

#### **14. INVITATION OF PERSONS TO ASSIST THE COMMITTEE**

- (1) The Chairperson of a Committee may invite any person to attend the Committee notwithstanding that he or she is not a Member of the Committee, if in the opinion of the Chairperson the business before the Committee renders his or her presence desirable.
- (2) A Member invited under this Rule may participate in the proceedings of the Committee but shall have no right to vote on any matter to be decided by the Committee.

#### **15. FLEXIBILITY**

In the exercise of the functions of Committees provided for in the Rules of Procedure of the Assembly, Standing Committees shall be flexible and proactive and address unforeseen events or issues of an urgent nature.

#### **16. COMMITTEE BUDGET**

The budget of the Committees shall follow the following order -

- (a) The Clerk shall draw a draft activity work plan for the Committee in consultation with the Chairperson;
- (b) The Clerk shall draft a budget to support the draft work plan for consideration by the Chairperson;
- (c) The Chairperson shall present the draft work plan and budget to the Committee for consideration and approval;

- (d) The Clerk shall forward the draft work plan and budget as approved by the Committee to the Commission which shall consider the allocations to each Committee;
- (e) Upon approval by the Commission, the respective Committees shall review their work plans to fit within the approved allocations;
- (f) During the implementation of the budget, the Committee Clerk may in consultation with the Chairperson of a Committee make request to the Clerk of the Assembly for funding of specific activities in line with the approved work plan; and
- (g) The Committee shall have access to the status of the Committee's funds from time to time.

## **17. MATTERS NOT PROVIDED FOR**

For the avoidance of doubt, the Rules of Procedure of the Assembly shall apply to any matter not expressly provided for under these Rules.

# ANNEX II



EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY

---

CODE OF CONDUCT FOR MEMBERS OF THE ASSEMBLY

CLERK'S CHAMBERS  
EAC HEADQUARTERS  
ARUSHA,  
TAZANIA

MARCH 2015

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# CODE OF CONDUCT FOR THE MEMBERS OF THE ASSEMBLY

## **1. Purpose of the Code**

The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the Assembly, and the public at large by -

- (a) establishing standards and general principles of conduct expected of all Members in undertaking their duties;
- (b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and
- (c) ensuring public confidence in the standards expected of all Members and in the commitment of the Assembly in upholding this rules.

## **2. Scope of the Code**

This Code applies to Members' conduct which relates in any way to their membership of the Assembly. The Code does not seek to regulate the conduct of Members in their private and personal lives or in the conduct of their wider public lives unless such conduct damages the reputation and integrity of the Assembly as a whole or of its Members generally.

## **3. Obligations**

- (1) The obligations set out in this Code are complementary to those which apply to all Members by virtue of the laws of the Community, the Rules of Procedure of the Assembly and the rulings of the Speaker or the Chairperson as the case may be.

#### **4. Duties of Members**

- (1) By virtue of the oath or affirmation of allegiance taken by all Members when they are elected to the Assembly, Members have a duty to give true and faithful service to the Assembly and to be faithful and bear true allegiance to the Community, and preserve, protect and defend the Treaty for the Establishment of the East African Community as by law established.
- (2) Members have a duty to uphold the law, including the Treaty for the establishment of the East African Community, Rules of Procedure of the Assembly and those of its Committees.
- (3) Members have a general duty to act in the interest of the Community and its people.
- (4) Members shall act on all occasions in accordance with the public trust placed in them, and they should always behave with probity and integrity, including in the use of Community resources.

#### **5. Personal Conduct**

- (1) In carrying out their parliamentary and public duties, Members shall observe the following personal conduct -

**(a) Selflessness**

Members shall take decisions solely in terms of the public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**(b) Integrity**

Members shall not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

**(c) Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members shall make choices on merit.

**(d) Accountability**

Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**(e) Openness**

Members shall be as open as possible about all the decisions and actions that they take. They shall give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**(f) Honesty**

Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**(g) Leadership**

Members shall promote and support these principles by leadership for the common good and welfare of the peoples of East Africa.

**(h) Discipline**

Members shall maintain discipline and adhere to the Rules of Procedure of the Assembly, this Code of Conduct, other Community Laws and shall keep time at all the agreed upon schedules and programmes.

**(i) Mutual Respect**

Members shall respect authority in the Assembly and shall keep dignity and respect for each other.

- (2) These general principles will be taken into account when considering the investigation and determination of any allegations of breach of the rules of conduct.

**6. Rules of Conduct**

Members shall observe the following rules of conduct -

- (a) Members shall base their conduct on a consideration of the best public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest;
- (b) No Member shall act as a paid advocate in any proceedings of the Assembly;
- (c) No Member shall accept a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter

submitted, or intended to be submitted to the Assembly, or to any Committee of the Assembly;

- (d) A Member who is a party to or is a partner in a firm or a Company which is a party to any contract or undertaking of any nature with the Community shall, in any proceedings in the Assembly or Committee relating to the contract or undertaking of any nature, declare his or her interest or that of the firm or company and shall not vote on any question relating to that contract or undertaking;
- (e) If a Member fails to declare his or her interest under paragraph (d), a Member may raise the matter in the Assembly and the Speaker may order that the Member mentioned shall not vote on the contract or undertaking of any nature and may refer the conduct of that Member to the Legal, Rules and Privileges Committee;
- (f) Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. Such information must never be used for the purpose of financial or any other gain;
- (g) Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the Community Resources is in accordance with the rules laid down on these matters;
- (h) Members shall not undertake any action which would cause damage to the reputation and integrity of the Assembly, or of its Members generally.

## **7. Upholding the Code**

The application of this Code shall be a matter for the Assembly and particularly for the Commission and the Committee on Legal, Rules and Privileges.

## **8. Investigations**

- (1) The Assembly may refer for investigation any specific matter relating to a Member's adherence to the rules of conduct under this Code to the Legal, Rules and Privileges Committee.
- (2) Members, when called upon, shall cooperate at all the stages, with investigations of an alleged breach of this Code.
- (3) The Committee shall, after investigation, recommend to the Assembly such action on the matter in accordance with the Rules of Procedure of the Assembly and the Laws of the Community.
- (4) The Assembly may impose a sanction or any disciplinary action on the Member in accordance with the Rules of Procedure of the Assembly and the Laws of the Community.

## **9. Influence Peddling**

A Member shall not canvass any Member of the Committee in a manner calculated or intended to influence the Committee's consideration of an alleged breach of this Code.

## **10. Matters not provided for**

Any matter not provided for under this Code shall be referred to the Legal, Rules and Privileges Committee by way of petition.

on 22<sup>nd</sup> January 2015

*[Signature]*

Assumption of  
Debate on 18/3/15  
Adjourned to 19/3/15



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON  
ACCOUNTS ON THE AUDITED ACCOUNTS OF THE EAST  
AFRICAN COMMUNITY**

**FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2013**

**(7<sup>TH</sup> - 17<sup>TH</sup> JANUARY 2015, ARUSHA - TANZANIA)**

**Clerk's Chambers  
3<sup>rd</sup> Floor, EALA Wing  
EAC Headquarters' Building  
Arusha, TANZANIA**

**January 2015**



## ACRONYMS

AFDB	African Development Bank
AICC	Arusha International Conference Centre
CASSOA	Civil Aviation Safety and Security Oversight Agency
CM	Common Market
BOS	Board of Survey
DLP	Defects Liability Period
EAC	East African Community
EACJ	East African Court of Justice
EADB	East African Development Bank
EALA	East African Legislative Assembly
EPA	Economic Partnership Agreement
EU	European Union
GFS	Government Financial Statistics
IPSAS	International Public Sector Accounting Standards
IUCEA	Inter University Council for East Africa
LPO	Local Purchase Order
LVBC	Lake Victoria Basin Commission
LVBC-PF	Lake Victoria Basin Commission – Partnership Fund
LVEMP II	Lake Victoria Environment Management Programme II
M&E	Monitoring & Evaluation
MoU	Memorandum of Understanding
TRA	Tanzania Revenue Authority
TORs	Terms of Reference
URA	Uganda Revenue Authority
WHT	Withholding Tax
VAT	Value Added Tax



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# PART I

## 1.0 INTRODUCTION

In accordance with the provisions of Article 134 (3) of the Treaty for the establishment of the East African Community (EAC), the Chairperson of the EAC Council of Ministers on 24<sup>th</sup> October, 2014 in Kigali, Republic of Rwanda laid before the Assembly the following reports of the Audit Commission:

- i) The Audited Consolidated Financial Statements of the EAC organs for the year ended 30<sup>th</sup> June, 2013;
- ii) The Audited Financial Statements of the Lake Victoria Basin Commission (LVBC) for the year that ended 30<sup>th</sup> June, 2013;
- iii) The Audited Financial Statements for the Lake Victoria Fisheries Organization (LVFO) for the year ended 30<sup>th</sup> June, 2013;
- iv) Audited Financial Statements of the Inter University Council for East Africa (IUCEA) for the year ended 30<sup>th</sup> June, 2013; and
- v) The Audited Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the year that ended 30<sup>th</sup> June, 2013.

In accordance with *Rule 77, Rule 79 and Annex 5 (A)* of the Rules of Procedure of the Assembly, the Rt. Hon. Speaker referred the reports to the Committee on Accounts for review. The Committee met for this purpose and produced a report.

The report covers the Committee's findings and recommendations on the main issues raised. This report is sub-divided into seven (7) parts.

- Part I:** Introduction
- Part II:** Audit Findings on the Consolidated Financial Statements of the EAC Organs for the Year Ended 30<sup>th</sup> June, 2013
- Part III:** Audit Findings on the Consolidated Financial Statements of the Lake Victoria Basin Commission (LVBC) for the Year, Ended 30<sup>th</sup> June, 2013
- Part IV:** Audit Findings on the Consolidated Financial Statements of the Lake Victoria Fisheries Organisation (LVFO) for the Year Ended 30<sup>th</sup> June, 2013
- Part V:** Audit Findings on the Consolidated Financial Statements of the Inter – University Council for East Africa (IUCEA) for the Year Ended 30<sup>th</sup> June, 2013
- Part VI:** Audit Findings on the Consolidated Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the Year Ended 30<sup>th</sup> June, 2013
- Part VII** Acknowledgements

## Executive Summary

Finalization of the institutional review of the EAC has been delayed and this has had major setbacks regarding the operations of the EAC especially in the areas of the structure and recruitment. Accordingly, the EAC has several unfilled staff positions and to bridge the gap, management has been forced to offer short term renewable contracts which have several disadvantages to both the staff and the organization.

The EAC Secretariat Internal Audit function still has major capacity challenges and consequently performance gaps.

The Community spent beyond budget on several budget lines without seeking approval of Council for re-allocation as required under Regulation 19(4) of the EAC financial rules and regulations. The most notable over expenditure was on international air tickets and daily subsistence allowances (DSAs) with expenditure reaching 300% of the budgeted amount.

The Audit noted excessive payment of DSAs, with some staff receiving up to 200 nights a year. Some of the meetings were purely administrative e.g. evaluation of bids and did not guarantee holding meetings outside the EAC premises. Also excessive salary deductions for payment of loans and advances went up to 80% for some staff.

Payment in lieu of leave was done contrary to staff regulations and with no evidence that officer requested for leave earlier. Invitation of disqualified candidates for interviews; huge gaps in the management of air ticketing are all issues to be addressed.

It was also found that the Community advanced a total of USD.384,834 to staff at the close of the financial year for activities which were to be undertaken in the subsequent year; however, this amount was inappropriately captured in the books as expenditure for the year under review, contrary to the accrual basis of accounting that was adopted by the Community.

More to the above, some institutions are not meeting their mandates and there was Doubtful expenditure of \$60,000 in LVFO.

During the Audit review, documentation relating to the construction of the EAC HQ building, a number of contract management weaknesses were found. Notable among these was the failure to prepare the project final statement within the stipulated time, with the resultant implication that management is unable to establish the total project cost.

The Audit Commission noted instances where Partner States were sending inappropriate delegates for technical meetings, arranged by the Community resulting in little or no value addition during the meetings as well as a risk of failure to implement resolutions in the Partner States.

Partner States have continuously failed to honor their obligations in time and as such, the EAC Institutions continue to be underfunded. This has had a direct effect on their capacity to effectively deliver on their respective mandates.

Nevertheless, the Accounts presented fairly, in all material respects, the financial position of EAC Organs and Institutions for the year ended 30th June, 2013; its financial performance; and its cash flows for the period in accordance with the International Public Sector Accounting Standards (IPSAS). This was done in compliance with the Treaty for the Establishment of the EAC and Regulation 80-85 of the EAC Financial Rules and Regulations (2006).

## PART II

### AUDIT FINDINGS ON THE CONSOLIDATED FINANCIAL STATEMENTS OF THE EAC ORGANS

#### 2.0 CURRENT YEAR AUDIT FINDINGS

#### 2.1 Significant Issues

##### 2.1.1 Over Expenditure (*Appendix 1 of Management Letter on the Audit of the Financial Statements for the East African Community for the Year Ended 30<sup>th</sup> June 2013 at Page 68 of 95*)

The Audit Commission reported that Regulation 12(1) of the EAC financial rules and regulations, 2012 required that all commitments and disbursements must strictly be in accordance with the appropriations of the budget of the community which has been passed by the Assembly.

On the contrary, the Audit revealed that the Community had spent beyond budget on several budget lines without seeking approval of Council for re-allocation as required under Regulation 19 (4) of the EAC financial rules and regulations. The most notable over expenditure was on international air tickets and daily subsistence allowances.

The EAC Management responded that it has addressed this matter, by correctly posting the budget. Indeed there was no overspending on the budget, which is activity based, and any un-spent funds were transferred to the General Reserve Fund. The Audit Commission confirmed this by reviewing the Adjusted Ledger, Budget Performance, and Financial Statements.

The Committee observed that whereas the Assembly passes the budget at the line item level, the EAC Management spends the budget at the activity level especially on daily subsistence allowances and air tickets. It is clear that funds are diverted to pay items that were never budgeted for, resulting into wide variances of expenditure and actual expenditure. This indicates weaknesses in budgetary controls and undermines the intentions of the appropriating authorities.

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

- i) *direct EAC Management to always adhere to the provisions in the Financial Rules and Regulations and avoid incurring over expenditures on budget lines without the requisite approvals.*
- ii) *direct EAC Management to table before this Assembly measures taken to ensure budgetary controls.*

### **2.2.2 Expenditure Cut Off - USD 384, 834**

The Audit Commission reported that the EAC Financial Rules and Regulations as passed by Council, state that appropriations shall only be available to meet obligations incurred during the financial year to which they relate and shall remain available for three months following the end of the financial year to discharge obligations in respect of goods and services rendered during the financial year which have not been settled.

The Audit review revealed that the EAC Management was overriding this control by making substantial advances to staff at the close of the year for activities not undertaken. For example, during the year under review, a total of **USD 384, 834** was advanced to staff in this manner. The activities would then be undertaken in the new financial year but presented in the financial statements of the preceding year, making it appear as if an obligation existed by the close of the Financial Year.

The EAC Management responded that it recognizes that in some instances, meetings cross-over the financial year (eg. Meetings held from the last week of June 2013 but continued to 1st week of July 2013). In addition, some other meetings which were scheduled to take place in May or June 2013 were postponed due to reasons beyond EAC Secretariat's control, and they took place in July or August 2013.

Management further commits to comply with the cut-off point in closing the current and coming Financial Years by circulating in time clear Year End Closing Guidelines approved by the Secretary General.

The Committee observed the irregularity of advancing funds on weekends (Saturday and Sunday) to several accounts staff at the yearend which constitutes an unauthorized budget roll over. The act may have been done to circumvent the involvement of the Assembly to approve funds when put in reserves. To this end, the institutional capacity of managing finances is weak, and breaches Financial Rules and Regulations.

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

- i) *stop advancing funds to the Staff at the Year End for activities not undertaken, but rather comply with the Financial Rules and Regulations;*
- ii) *invite the Audit Commission for a re audit based on Management response.*

### **2.2.3 Anomalies in Accountabilities for Imprest Advances (Appendix 2 Management Letter on the Audit of the Financial Statements for the East African Community for the Year Ended 30<sup>th</sup> June 2013)**

The Audit Commission reported that from the review of the imprest accountability records, the following matters have been noted:-

- i) In cases of advances for meetings and conferences both within and outside Arusha, Audit Commission noted that the majority of the accountability records do not have invitations for such meetings; this limits the extent of our review procedures since we are not able to establish the funding arrangements for such meetings.
- ii) Where invitations are filed, there is no formal communication from responsible recipients indicating the names of officers who have been formally nominated by the person to whom the meeting request has been addressed. As a result, the same persons keep attending most of the meetings organized by the Secretariat.
- iii) In addition, minutes of what was discussed and any resolutions arrived at (apart from those recommending subsequent meetings) are not filed.
- iv) There are no signed attendance registers filed.
- v) There were several incidences of unutilized tickets which had been paid for by the Secretariat.
- vi) Not all imprests are fully accounted for although they are retired.

The EAC Management responded that participation from Partner States is coordinated by the respective Ministries of EAC Affairs with consultation from the EAC Secretariat to ensure that the appropriate delegates attend the meetings they have been invited. For those meetings for which tickets have been issued though not utilized, EAC makes payments first and then seeks for refund of the same from the service provider. The refunds for the same are usually obtained and offset from subsequent payments to the supplier.

All EAC meetings have meeting reports that as an appendix, have the list of all invited participants supported by a daily attendance register, which control was introduced later in the FY of audit. All meetings now have attendance lists signed off daily.

The Committee observed laxity of EAC accountability practice, irregularities in accountabilities of imprest and lack of seriousness to ensure that meetings attain the intended purpose.

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

- i) ensure that EAC meetings are appropriately attended to achieve the intended purpose;***
- ii) exercise proper accountability of imprest; and***
- iii) ensure strict actions are taken against those who fail to comply.***

#### **2.2.4 Institutional Review of the EAC**

The Audit Commission reported that at its 24th meeting held on 26th November, 2011, the Council directed the Secretariat to engage a consultant to undertake a detailed institutional review of the EAC (EAC/CM24 Directive 38). This arose from the fact that the EAC mandate had greatly evolved since the establishment of the Permanent Tripartite Commission in 1993 including the progression into deeper levels of integration of the Common Market and Monetary Union.

Accordingly, a contract was signed on 24th January 2013, between the EAC and a consultancy firm, to undertake a detailed Institutional review of the EAC at a contract sum of USD 116,500 excluding reimbursables. The consultancy was to be concluded within a period of four (4) months from the effective date with the following deliverables:-

#### Deliverables by the Institutional review Consultancy

	Details	Timeline
1	Acceptable Inception Report (IR)	2 weeks after effective date
2	Acceptable Draft Report	2 months after submission of IR
3	Validation workshop	1 month after submission of draft report
4	Acceptable Final Report	2 weeks after validation workshop

However, the following matters have been noted:-

- i) There have been delays in finalization of this review. The consultant submitted an Inception Report to the Secretary General on 20<sup>th</sup> March 2013 (i.e over one-month late) and also the first draft report on 4<sup>th</sup> June 2013 (i.e. about two months late). This despite the fact that the contract period expired in May 2013.
- ii) There is no evidence that a validation workshop has been held although the draft report was issued nine months ago.
- iii) There is no evidence to show that the contract period has been formally extended, since, by the time of audit in February 2014, the consultant has not yet been given a green light to proceed to the next stage of the consultancy.

The EAC Management responded that there are pending policy issues on which Partner States must pronounce themselves before the Consultant can proceed with Phase Two of the exercise. In November 2013, the summit directed the Council to conclude the EAC institutional review and report to the Summit at the 12<sup>th</sup> extra-ordinary meeting in April 2014. At its 29<sup>th</sup> Extraordinary meeting the Council directed:-

- i) Partner States to finalize the consultation and submit the comments to the Secretariat by 30<sup>th</sup> May, 2014 (EAC/EX/CM 29/Directive 08);
- ii) Secretariat to convene a Meeting of Experts comprising one Expert per Partner State by early June 2014 (EAC/EX/CM 29/Directive 09);
- iii) Secretariat to submit the Report of the Experts to the Sectoral Council of Ministers Responsible for EAC Affairs and Planning scheduled for June 2014 and thereafter report to the 29<sup>th</sup> Meeting of the Council scheduled for August 2014 (EAC/EX/CM 29/Directive 11)

It is therefore expected that the Institutional Review will be completed after the Consultant receives the harmonized policy guidance and Submit Final Report for consideration by Council in November 2014. This was also accepted by the Summit which on April 30, 2014, considered the Report of the Council on Institutional Review. The Summit noted that more work and consultations are to be done by Partners States and the Council of Ministers. The Summit directed the Council of Ministers to finalise and report at its 16<sup>th</sup> ordinary Summit in November 2014.

It is imperative to note that the Institutional Review exercise has cost the Community a lot of money characterized by overspending over and above the budget.

The Committee observed unnecessary delays in finalization of Institutional Review and was concerned about the endless costs of the exercise on the Community.

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

- i) expedite processes and activities for Institutional Review and treat the same with the attention it deserves; and*
- ii) table the addendum of the contract with the contractor before the Assembly.*

## **2.3 OTHER MATTERS RELATING TO THE EAC SECRETARIAT**

### **2.3.1 Payment in Lieu of Leave**

The Audit Commission reported that Regulation 71 of the staff rules and regulations prohibits a member of staff from accumulating leave days beyond 30 days and the accrual should be done under special circumstances approved by the Secretary General. The rules further provide for payment in lieu of accrued leave with approval of the Secretary General.

However, documentation revealed that a total of USD 35,651 was paid to officers in lieu of leave. In all instances, there was no evidence that special permission to accrue the leave had been obtained as is required by the regulations. The personal files for the officers in question had no evidence that such officers were denied leave due to the office exigencies.

Further noted was that there was no budget provision for such expenditure; instead, this was charged to salaries and wages as indicated in **Annex I**.

The EAC Management reported that full approval from the SG's delegate – the DSG (F&A), was given on recommendation for all the above payments; recommendation by the Department of Human Resource prior to the payments above being made was also sought but the extra information required about the leave applied but denied will be provided in similar subsequent payments.

The fact that the approved EAC budget is an accrual in nature, and it has an amount "Payment in Lieu of Leave", the principal of paying staff that have accrued leave days and which leave needs to be paid off before start of a new contract, such approval has been given in principal.

The Committee noted the anomaly and observed that approvals were given in breach of regulation 71 of the staff rules and regulations.

The Committee further observed that EAC has no sufficient staff leading into budgeting for payments in lieu of leave to Senior staff, leaving out the junior staff, a practice that indicates institutional discrimination.

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

- i) direct the EAC Management to always adhere to the regulations in place; and*
- ii) direct the EAC Management to develop leave roaster to enable all staff attain their leave.*

### 2.3.2 Excessive Salary Deductions

The Audit Commission noted that Regulation 55 of the staff rules and regulations allows staff to get salary and housing advances as well as bank loans but with deductions not exceeding 50% of the employee's salary. However, review of the secretariat payroll revealed a number of staff whose deductions exceeded 50% with some reaching as high as 80%.

The EAC Management reported that a number of staff have negotiated loan/credit facilities with banks whose monthly repayment consumes up to 50% of their Gross Salary payments. The extra deduction (more than the 50%) usually happens when Accounts department makes other deductions like unretired imprest which subsequently increases the staff total deductions percentage of their Gross pay. This though is usually for a period of a month or two and then percentage deductions revert to the 50% which is mainly that of the loan/credit facilities.

The Committee noted with concern that extreme deductions of staff salaries may affect the performance of staff and may lead to staff resorting to finding other irregular ways of survival, such as unjustified allowances.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always comply with the staff rules and avoid authorizing advances and guaranteeing loans in instances where the ensuing deductions will exceed 50%.*

### 2.3.3 Performance of the Internal Audit Department

A review of the Internal Audit Unit revealed the following significant matters:-

#### a) Capacity Gaps in the Department

The Department is currently manned by an Acting Principal Internal Auditor who was recruited as an Internal Auditor, assisted by two Internal Auditors who are engaged on short term contracts (annual contracts) that have been renewed several times since their initial engagements in 2010.

#### b) Approved Work Plan

The audit Commission was not provided with evidence that the following activities included in the annual work plan for the Internal Audit department for the year under review were undertaken:-

- a) Carry out Quarterly internal audit of all Organs, Institutions, Projects and Programmes
- b) Financial processes reviewed bi-annually
- c) Draft Financial Statements reviewed before submission to the Audit Commission
- d) Processes over the Acquisition, Recording, Maintenance and Disposal of Assets reviewed
- e) Controls over cash and cash equivalents reviewed
- f) Controls over receivables and other current assets reviewed
- g) Physical and financial control over Fixed assets reviewed
- h) Train 30 professional staff on Risk Management Strategy
- i) Undertake investigation as and when required
- j) Servicing the Accounts Committee of EALA

- k) Sensitization of Executive and Professional Staff on Risk Management Framework carried out
- l) Risk Management Operational Manual produced
- m) Follow up on previous assessments of systems and processes in the Community

It was further noted that critical activities to the organization such as the review of the SUN System and the review of the performance measurement systems within the organization had not been planned to be undertaken by the Internal Audit unit during the year under review:-

The EAC Management responded as follows:-

**a) Absence of an Approved Structure and Clear Reporting Lines**

Management reported that at its 12<sup>th</sup> Meeting of Council of Ministers held on 25<sup>th</sup> August 2006, the position of the Internal Audit Structure was approved and the Position of the Chief Internal Auditor (P4), which position was later on frozen by the 13<sup>th</sup> Meeting of the Council of Ministers.

**b) Approved Work plan**

Management further reported that the Unit had a work Plan which was approved by the EAC Audit and Risk Committee in October 2012 during its 1<sup>st</sup> Meeting. Performance is evaluated through the performance contracting process.

The Committee noted that the Internal Audit Unit lacks sufficient capacity to effectively undertake its plans and relevant reviews. The understaffing may not justify non review or implementation of any of the approved work plan. This could have exposed the organization to a risk of errors and omissions going undetected for a long period.

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

- i) direct the EAC Management to ensure the Internal Audit Unit to implements its activities and provide the organization with the requisite guidance for improvement of the internal control systems to enhance security of its resources.*
- ii) direct the EAC Management to undertake a holistic organizational review to establish the number of staff adequate to man the department and ensure proper recruitment.*

**2.3.4 Performance Contracting Process**

The Audit Commission reported that following the directives of the 21<sup>st</sup> and 23<sup>rd</sup> meetings of the Council of Ministers, the East Africa Community (EAC) Secretariat initiated and introduced a process of performance contracting for all professional staff across the EAC Organs and Institutions with a view to direct EAC staff's attention towards the EAC agenda, objectives and expected outputs and to ensure that all individual action plans are in tandem with these broader goals.

During the audit, it was observed that nine departments did not present their performance reports to the Committee for review. It was further noted that there was no action taken by management on performance contracting evaluation process, especially for the poorly

performing directorates or those that did not submit their results for evaluation by the committee.

The EAC Management responded that performance contracting had been implemented in EAC starting with the Professional staff and eventually to the General staff. A program had been designed to roll out the exercise to the EAC Institutions. It was further reported that a retreat for Executive and Senior staff held in February 2014 came up with a number of resolutions aimed at addressing issues related to the process.

The Committee appreciates performance contracting initiatives but non participation by some Directors/Heads of Department implies noncompliance to the Council's directive. The Committee also noted lack of commitment to the performance contracting process.

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

- i) take action on those who have not complied to the new requirements of performance contracts;*
- ii) show commitment to the performance contracting process as it provides an independent and objective assessment of staff performance; and*
- iii) implement the recommendations of the committee regarding the way forward for the performance contracting process.*

### **2.3.5 Unfilled Staffing Positions**

The Audit Commission observed that staffing position for the EAC revealed several unfilled positions within the Secretariat as indicated in *Annex II*

The EAC Management responded as follows:

- i) Many of the positions being referred to, particularly the positions at Assistant Director Level were created and frozen in 2006. They can only be filled with the express approval of the Council. Unless, the Secretariat is given both the approval and the resources to fill in the positions in question, there is not much that can be done, for now.*
- ii) The position of Senior Librarian was advertised and a candidate recruited. However, the candidate who was appointed turned down the offer. Management will present to the Council Meeting a request to consider the second best candidate for the position.*

The Committee observed that the Community may not perform to the expectation given the gaps in staffing positions.

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

- i) ensure the filling of the unfilled staffing positions;*
- ii) follow up on the restructuring process of the EAC to establish the relevancy/justification of such vacant positions on the approved structure.*

### **2.3.6 Short-term Renewable Contracts**

Staff regulation 22(2) (c) provides that temporary employment can only be for up to a maximum of three (3) months. During the audit, it was noted that the staffs in *Annex III*

have been maintained on short term contracts for prolonged periods including the year under review.

The audit further revealed the following:-

- i) Some of these staff have held temporary positions for more than 3 years.
- ii) Some staff who are employed on temporary positions are paid at higher rates than those on permanent arrangements.
- iii) there is no formal appraisal of a staff's performance prior to renewal of these contracts.
- iv) It is also not possible to establish whether these temporary staffs are recruited in a fair, equitable and transparent manner.
- v) Some positions are on very short term contracts; however, the nature of their work is such that their roles will be required for a long time. It may also be expensive if the same persons work for several years on 3 month renewable contracts.

The EAC Management responded that given the lengthy recruitment processes at EAC compels the Secretariat maintain some temporary staff to fill the capacity gaps. It was further reported that the Human Resources Advisory Committee was instituted by the Secretary General in March 2013 to advise on staff matters including the issues raised by the Audit Commission. New contracts (not renewal) are issued if required. The Committee was also informed that the position of Senior Documentation Officer was competitively filled. However, the retirement of the Principal Internal Auditor leaves the Internal Audit Unit with only one established Staff at P1 level. The current capacity gaps in the Unit are so acute that even the hiring of the 2 temporary staff is not sufficient to meet the current needs of the Unit.

The Committee noted irregularities in hiring all short-term renewable contracts since there is no indication of how the staff are initially identified. The Committee further observed that there are no proper recruitment procedures aimed at ensuring that one is technically competent and professionally qualified. The process is subject to abuse and nepotism is clearly evident.

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

- i) put the vice to an end;*
- ii) ensure proper recruitment to avoid promotion of short term contracts; and*
- iii) initiate and put in place appraisal procedures for holders of short term contracts.*

### **2.3.7 Un-authorized Budget Roll Over**

The Audit Commission took note of a meeting with stakeholders to the design of Arusha-Voi road, an activity which had been budgeted the financial year 2011/2012 at USD 47,400. The activity was not undertaken in that financial year and was subsequently rolled over to the subsequent financial year 2012/13.

It was further noted that this meeting was rolled over without Council authorization. Besides the requesting officer varied the budget to reflect the new rates of subsistence allowance which had been passed for the new year, hence increasing the budget from USD 47,400 to

USD 70,600. The new activity budget was never approved, the requesting officer also acted as the budget officer and confirmed availability of the budget.

The EAC Management responded that the said activity had been planned for in the FY 2011/12. The failure of the meeting to take place was also because the officer had exhausted his budget. Finance advised the officer-in-charge of the project to use his budget of a similar activity in the FY 2012/13. Officer did as advised and since the DSA rates in the new FY 2012/2013 had been reviewed, the implementation of the activity in the new FY 2012/2013 had to use the new DSA rates.

The Committee noted the comment of the Audit Commission and observed laxity and irregularities in the management of funds of the Community.

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

- i) always adhere to the approved budget and work plan to avoid misuse of funds;*
- ii) always seek for authorization before rolling over of the budget; and*
- iii) avoid the practice of advancing such big amounts of funds to individuals and always directly pay the beneficiaries whenever possible.*

#### **2.3.8 Wasteful Expenditure during Staff Interviews**

The Audit Commission reported that the Secretariat entered into a contract with M/S Crown Agent for undertaking a short listing exercise for the twelve (12) vacant project positions at a total cost of USD 40,854.

The Consultant submitted a report to EAC Secretariat containing a summary of all applications received and a list of qualified candidates. The consultant further made a recommendation of the qualified candidates whom the Secretariat could consider for the final interviews. Accordingly, the interviews were undertaken from 19<sup>th</sup> to 20<sup>th</sup> March 2013 from East African Community Headquarters in Arusha. However, the candidates who were disqualified by the Consultant were called to appear for the interviews and the Secretariat paid for their travel expenses as detailed in *Annex IV*.

The EAC Management responded that there was an error in submitting the short listing report. The Auditors requested for the Report of the Short listing Exercise for donor-funded positions. However, the document which was provided at first was a Draft Report. The Secretariat later submitted the final report from the Consultant containing the names of the shortlisted candidates from which the final list of candidates who were invited for the interviews were drawn.

The Committee observed glaring inconsistencies in policy implementation by the EAC Management that always led to misuse and wasteful expenditure of Community funds. The Consultant could always be given clear terms of reference.

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

- i) Always call and facilitate only qualified candidates for interviews;*

- i) *Always engage consultants with clear terms of reference for desired results and avoid decisions that are at variance with the consultant reports.*

### **2.3.9 Inappropriate Delegates for Technical Meetings**

During the period under review, it was noted that some technical meetings organized by the EAC are frequently attended by delegates whose positions and job descriptions are not suitable such meetings as they would not make meaningful contributions. It was further noted that the meetings are attended by officers from country Ministries responsible for East African Affairs other than technical experts from the countries in question. Besides, invitation letters to the respective Permanent Secretaries did not detail the purpose as well as the caliber of delegates expected. Also missing were nomination letters, meeting agenda or even reports of proceedings. For example, there are several meetings where secretaries were nominated to attend as technical experts.

The EAC Management responded that participation from Partner States is coordinated by the respective Ministries of EAC Affairs with consultation from the EAC Secretariat to ensure that the appropriate delegates attend the meetings they have been invited.

The Committee observed that same delegates from Ministries of EAC affairs in Partner States have been attending almost all technical meetings and the EAC Secretariat has not done anything to avoid inappropriate delegates for technical meetings. Many times, such delegates do not add value to the meeting deliberations.

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

- i) *always include in the invitations details regarding the technical capabilities of the potential delegates to be nominated by Partner States;*
- ii) *develop and put in place a policy on EAC technical meetings to be enforced while EAC Ministries nominating delegates*

### **2.3.10 Expenditure on DSAs**

During the audit, two sampled projects (PAF and RISP II) revealed that certain staff were paid up to almost 200 nights in one year. Although all expenditures were properly authorized, the payments appeared to be excessive, given that a year has 250 working days and staff also have to undertake desk work at their stations in addition to 30 days leave.

The EAC Management responded that EAC activities are implemented in the five Partner States and the Calendar of activities clearly indicates where meetings should be held. To this effect, The Council directed that save for self-accounting EAC Institutions, EALA, and EACJ, statutory/policy and technical meetings for Organs and Institutions of the EAC should rotate and be shared between Headquarters and Partner States on a ratio of 50/50 basis; subject to further review and finalization of the Study on Equitable Sharing of the Costs and Benefits of the Community (EAC/CM 25/Directive 12). It was reported that EALA for example has six (6) Sittings a year of for 14 days each. Furthermore, a number of Committee meetings have to be facilitated by members of Staff from EAC Secretariat to provide information or defend submissions tabled to the Assembly. It was further noted that facilitation of staff attending training, results as well into payment of DSA. From the above, it is clear that one should not simply count the number of days spent out of duty station, but rather the purpose of the trip as well as the results thereof.

The Committee noted both the Audit Commission and EAC Management comments.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to place a limit on the number of days for which an officer can be away from his/her duty station, and only lift such a limit in exceptional circumstances.*

## PROCUREMENT IRREGULARITIES

### 2.3.11 Procurement of Air Tickets

The Audit Commission reported that the Secretariat spent a total of USD 3,459,083 on air travel, which translates to about 10% of its total expenditure for the year under review. Such a category of expenditure is a critical cost item on which management is expected to institute strong internal controls to guard against any possible abuse. A review of the travel arrangements and payments for air tickets revealed a number of control weaknesses as outlined below:-

#### a) Lack of Authorization

- i) names of people to whom air tickets were issued differed from those on the authorization forms;
- ii) staff were issued with tickets based on meeting authorization forms rather than travel authorization forms;
- iii) tickets were issued to destinations different from the venue specified on the authorization forms.

#### b) No clear Channels of Information Flow

The Secretariat sends invitations to delegates from Partner States through the Ministries of East African Community Affairs. A review of the ticketing process revealed that the official responses from Partner States regarding the nominated officers were not availed to the air ticket officers, as such, it was not easy to confirm if tickets were issued to the rightful delegates.

#### c) Lack of Competition at Procurement Stage

Despite several firms shortlisted by the Secretariat for provision of air tickets, the booking officer requested for a quotation from only one travel agent as opposed to a minimum of at least three, which is irregular as repeated single sourcing has the risk of unfair prices and poor quality of service due to absence of competition.

d) **Non-Authorized Changes** in tickets, which resulted into extra costs to the Secretariat, not authorized by the responsible officer.

e) **Other irregularities noted include;** staff destined for the same meeting and traveling from the same location had different routings, duplication of tickets as well as procurement of very expensive tickets(out of range for given routes). *(See Appendix 3 of the Management letter for the East African Community for the year ended 30<sup>th</sup> June 2013 at Page 75 Of 95)*

The EAC Management responded as follows:

- i) There was confusion of titles as some members of staff cut and paste an old email and use it for a new booking request. The information presented on the travel requisition is therefore not the same as that provided on the itinerary provided.
- ii) This also happens for travels which require visas. Most visa applications are done in staff respective countries because the visa issuing countries require the officers to present themselves for physical verification and presence.
- iii) The meeting being referred to was distributed around different countries since they were national activities and officers had to go to the countries hence the different routing provided.
- iv) The case being referred to the individual was booked on direct flight, and due to exigencies of the assignment, the individual missed that flight and a new ticket issued through a different routing while the old ticket was put up for refund.
- v) This is a normal occurrence in the airline industry whose business dynamics dictates that prices increase with the advancement of time the earlier you book the cheaper the ticket and the closer you book to the travel date the more expensive it is. This is because the airline industry has developed different prices for different seats in the same class the cheaper tickets are booked earlier. This is determined by the forces of demand and supply. This happens because of last minute booking and issuance of ticket.
- vi) In many cases staff/delegates are very particular on their mode and time of travel (e.g. this airline/ at this time).
- vii) A travel policy will be developed to address the weaknesses.
- viii) The ticketing office is a procurement office and which is in the process of being strengthened. An institutional review of structures is being conducted and this will be considered.

The Committee noted the irregularities and misuse of funds with concern.

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

- i) investigate all irregularities and the individual issues raised in the audit report;
- ii) sanction value for money audit in the matter;
- iii) develop a travel policy to address the weakness;
- iv) institute and enforce prompt recovery measures for unutilized tickets; and
- v) always book staff and delegates to the most direct and economic flight routes.

### **2.3.12 Disposal of Old Motor Vehicles**

The Audit Commission reported that on 13<sup>th</sup> June 2012, two valuers i.e. M/S Tanzania Electrical, Mechanical and Electronics Services Agency (TEMESA) who are the government valuers, and M/S Peterson Estate Agency and Property Consultancy Co. Ltd, a private company, issued valuation reports for five vehicles of the East African Community. The Secretariat then internally advertised for their disposal on 10<sup>th</sup> September, 2012 where they

stated that the vehicles will be given to the best evaluated bid. The adopted reserve price was the higher of the two reserve prices.

Bids were received on 24<sup>th</sup> September, 2012 and evaluated on the 18<sup>th</sup> March 2013 by the EAC procurement committee who found that in four out of the five cases, the best evaluated bid failed to meet the reserve price as shown below:-

#### Disposal of old vehicles

No	Vehicle	TEMESA Reserve price (Us\$)	Peterson Estate Agency's Reserve price (B)	Best offered price (Us\$)
1	Toyota Station Wagon	1,389	5,384	2,000
2	Mercedez Benz	4,743	11,538	4,500
3	Mercedez Benz	5,715	25,000	4,500
4	Mercedes Benz	6,411	730	5,625
5	Toyota Station Wagon	2,295	5,385	5,625

Following the above, a decision was made not to proceed with the disposal on the basis that the bids received were generally not sufficient in number and recommended that the tender be cancelled and re-advertised. Accordingly, the procurement committee sitting on the 17<sup>th</sup> May 2013 recommended that a fresh valuation of the assets be carried out.

The EAC Management responded that it has noted the recommendation of the Audit Commission and will adopt it.

The Committee noted inefficiency and delays on the part of the EAC Management to advertise and dispose old vehicles in good time. This will certainly result into a huge loss.

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

- i) swiftly attend to the sale and disposal of old vehicles to avoid more losses;*
- ii) open up the disposal to the public and include the non-staff as recommended by the Audit Commission; and*
- iii) present progress of the matter to the Audit Commission for verification in the subsequent audit.*

#### 2.3.13 Payment to M/s New Safari Hotel without a Valid Contract

The Audit Commission reported that the EAC Secretariat had a contract with M/s New Safari Hotel for provision of office space to EALA, which expired on 30<sup>th</sup> July, 2011. However, a total of USD 36,556.80 was paid to the same company vide cheque no.013758 dated 29<sup>th</sup> January, 2013, in respect of rent for EALA offices from July to December 2012. There is no evidence that a binding contract was in existence for the period in question.

The EAC Management responded that EALA rented the New Safari Hotel premises till December 2012 when they moved to the EAC Headquarters Wing. EAC Management had decided that the rent for the period July – December 2012 be paid by the Secretariat through its Partner States budget and this is evidenced by the approved memo from the DSG (F&A) to the Clerk of EALA. The approval for payment of the same was given by the same DSG (F&A). Though the advice of the Audit Commission is taken and next time on all similar payments, such approvals by DSG (F&A) will be supported by signed agreements.

The Committee noted noncompliance with regulations as big sums of money were paid irregularly.

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

- i) *always ensure that all renewable contracts and agreements are renewed on time; and*
- ii) *provide justification for the payment in question.*

## **2.4 ENGINEERING AUDIT ISSUES**

### **2.4.1 Unsatisfactory Finishes in Some Parts of the Building**

The Audit Commission reported that during a physical inspection of the completed works to verify whether the auditors' recommendations to fix the noted defects had been properly implemented, it was noted that the quality of the finishing is still not good. Walls have swelling paint spots both internally and externally and wall tile works in the wet rooms have not been properly done. Furthermore, the general inspections conducted during the site visit to EAC building revealed the following:-

- i) The painting works generally for both walls and concrete ceiling were not satisfactorily done. Walls were not adequately prepared (skimmed and sanded) before painting. It was also observed that most of the internal and external walls have patches of colours that bring an undesired look for the newly constructed EAC building.
- ii) Tiling works to wet areas and at the edge of skirting were not well grouted which leaves the surface unfinished and allows dirt to settle.
- iii) For the joinery work especially to door frames, the contractor's work was unsatisfactorily done. It was observed that frames plugged to the wall leaves spaces between walls and door frames.
- iv) Trunking for services (ICT and electrical installations) was not properly mounted to the walls.
- v) Eaves filling at the summit were not properly done.
- vi) Screeding at the top of the summits have a lot of fair cracks and pot holes that may result to leakage and hence increase maintenance costs.
- vii) Roof leakage was also observed in some areas such as roof sky light.

### **2.4.2 Inadequate Workmanship on External Works**

The Audit Commission reported that physical inspection revealed that external works at both main entrances of the EAC Building were unsatisfactorily done. Stone slates have not been properly placed, leveled, and grouted. Kerbstones were not aligned properly and some were defective and need to be replaced.

On the Staff's Parking Lot, it was observed that there is no drainage outlet. These weaknesses have been observed despite the fact that the contractor has done some improvements. This poor work done may allow water to percolate underneath and destabilize the underneath layers (soil) and finally result into damage to the whole work.

The Management reported that basing on the Inspection Report of 5<sup>th</sup> October, 2012, the snags observed by the Project Management Team (PMT) are captured in the final snag list.

The main contractor was also tasked to repair all the identified defects under the snag list before final payment could be made by KfW.

The Committee noted that there is a risk that the Community will incur higher maintenance costs than expected due to the poor workmanship.

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

- i) ensure that the works which were noted to be of unsatisfactory quality are properly rectified; and*
- ii) deduct payment during the final account preparation from those which could not be rectified to the satisfaction of the Engineer.*

#### **2.4.3 Planning for Construction Works**

The Audit Commission reported that the planning for the construction works for the EAC HQ Building appears to have been inadequately done as evidenced by the following:-

- i) The financial analysis conducted prior to the commencement of the project was not satisfactorily done. This is evidenced by the fact that two different financing agreements were entered between EAC and KfW (Project Donor Agency). The one dated 17<sup>th</sup> March, 2005 with amount of EUR.8,000,000 was replaced by another agreement with amount of EUR.14,000,000 which was entered on 25<sup>th</sup> September, 2008 and signed on 10<sup>th</sup> February, 2009;
- ii) Final design report recommends the use of **raft foundation** but in Bills of Quantities (BoQ), the foundation used was **pile foundation**. This indicates that the brief design and actual works contradicts with one another. The Construction drawings and BoQ were quantified on pile foundation which was contrary to the brief design report. Therefore there is a possibility that the EAC building foundation was over designed and hence contributed to cost escalation of the building.
- iii) The other main reasons cited for inadequate planning of the construction work at the EAC include:-
- iv) EAC has got no building policy. This policy could guide the Secretariat to plan and manage the construction work (buildings). The Senior Estate Management Officer acknowledged that EAC has been asked to prepare the building policy but this is still not in place;
- v) A Procurement Manual and Procurement plan were not in place during the planning and execution of the project. The Secretariat was lacking clear procurement plan to guide the procurement of Main Contractor, sub-contractors and suppliers. Similarly, the audit commission learnt that the exercise of preparing the procurement plan is now underway; and
- vi) The nominated subcontractor delayed in executing the assigned works due to delays in obtaining registration certificate from the Contractors Registration Board of Tanzania, yet this was one of the requirements of the bidding documents.

Furthermore, it is however acknowledged that as a matter of fact, best practice was employed in administering the project using FIDIC conditions of contract and member state guidelines.

The Management reported that cost escalation of the project from 8.0 million EURO to 14.0 million EURO is related to the escalation of the hosted staff. However, Management (through GBC introduced a non-standardized state of the art foundation method which is the Combined Piled Raft Foundation (CPRF), a method that combines load bearing features of a raft foundation with those of a piled foundation, whereas the load on the subsoil from the raft activates additional bearing capacities of the friction piles.

The Committee took note of the fact that the over designing of the foundation of the EAC Headquarter Building contributed to cost escalation, which could have been avoided was unnecessary.

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

- i) ensure that a Building Policy and a Procurement Manual for the EAC Secretariat are developed ready for use; and*
- ii) ensure that in future building projects, the EAC Secretariat should revisit the designs by involving independent experts to safeguard the interest of the Community.*

#### **2.4.4 Questionable Payments - TShs. 180,811,457.74 (TShs. 180.81 Millions)**

##### **a) Preliminary Item on Provision of Offices, Stores, etc - TShs.104,805,251.33**

The Audit Commission observed that in the preliminary Item D3 bill number 1 on page 5/1/6 in the contract for the main contractor, there was a provision for offices, stores etc. and all other buildings required to be used by the Main contractor and Nominated Sub Contractors. The same item for provision of offices, stores etc. were found in the sub contracts and were paid.

This is despite of the fact that the preliminary item was supposed to be charged only once since the Main Contractor was supposed to provide office space, stores etc, for themselves and all other nominated subcontractors. In the main contractors contract the item was priced at TShs.175,000,000 (175 Millions). *Annex V* shows the breakdown for the rate in the "Nominated Subcontractors" BoQ under preliminary item.

The Management concurs with the audit finding and recommendation to investigate the matter.

The Committee took note of the anomaly incurred on additional costs of TShs.104,805,251.33 (104.8 Millions) for the preliminary item (shed, stores, offices etc) which could be avoided.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover TShs.104,805,251 from the subcontractors. The recovery can be made during the preparations of the Final statement (Account) of the project.*

b) **Payment for Work not Performed Though Provided for in the BoQ - TShs.3,654,050.00**

A review of the Bills of Quantities (BoQ) and the site visits showed that an item of architrave which is provided in the Main Contractor Bills of Quantities and paid for has not been executed at the following areas: Plenary Hall, VIP block, Kitchen, Restaurant, Conference, Courts, Library, and Archives blocks. The table below shows the detail of the item of the EAC building which has not been executed though provided in the BoQ.

**Item, not Executed but Paid for**

Verified Item	Description of item in the BOQ	Amount in BOQ (TShs.)	Observed Weaknesses
35x19mm architrave with two labours plugged	Item F Bill number 3 page 5/3/13 (588,000) Item C Bill number 4 page 5/4/11 (582,050) Item E Bill number 8 page 5/8/14 (1,188,000) Item C Bill number 9 page 5/9/10 (930,000) Item E Bill number 10 page 5/10/15 (366,000)	3,654,050.00.	Despite of the item being included and paid for to the main contractor, no architrave has been fixed to flush doors. This problem occurred to the following blocks: Plenary Hall, VIP block, Kitchen, Restaurant, Conference, courts, library and Archives blocks. A total of TShs 3,654,050.00. was priced for Architraves in the Bills of Quantities (BoQ).

It was further observed that the subcontractor, M/s Furniture & Carpet World Ltd, who was subcontracted to manufacture, supply, deliver and install furniture to the newly constructed EAC HQ Building was paid TShs.72,352,156.41 vide Certificate No.4 with no clear justification. This amount was set aside as a contingency and its utilization and payments ought to be supported by clearly defined tasks. This was contrary to the contract requirement which specified that the contractor was to be paid according to the work done. But in this aspect the contractor was paid the lump sum amount as appeared in the BoQ.

The Management reported that it concurs with the Audit Commission recommendation and undertakes to set up a team of officers to analyze and review all the documents that were used to pay the amount.

The Committee took note of the Audit Commission concern of the risk of overpayment to the subcontractor since the amount was paid as lump sum (contingency amount as in the BoQ) rather than as per detailed work done.

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

- i) *to ensure that the amounts paid for the unexecuted works are recovered; and*
- ii) *to set a deadline for the team of officers who will analyze and review the documents that were used to pay the amount.*

#### **2.4.5 Inadequate Description of Some Items in the Main Contractor's BoQ**

The Audit Commission reported that the Bills of Quantities for the Main Contractor's contract showed that some items were not properly described. The weaknesses noted were on the descriptions which were found to be vague and items especially reinforcement bars not measured identifying sizes as per standard method of measurement requirements.

The EAC Management noted the recommendation and undertook to raise the matter with the GBC Consultants and the Contractors in a meeting scheduled in June, 2014 so that the matter of the replacement of flush doors can be addressed.

The Committee noted the Audit Commission's concern that:-

- i) The contractor might execute the construction works according to his understanding and the final product might be different from what is desired.
- ii) The final price/cost of the constructed work might not match the final product of the executed work.

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

- i) For any future projects, the BoQ should be reviewed by independent experts before implementation so as to safeguard the interest of the Community.*
- ii) flush doors are replaced with hardwood doors which last longer so as to minimize maintenance costs.*

#### **2.4.6 Project Final Statement**

The Audit Commission reported that the Project Final statement for the EAC HQ Building project has not been prepared. The defect liability period ended on 4<sup>th</sup> October 2013, but by the time of audit (14<sup>th</sup> February, 2014), this was yet to be submitted. According to the FIDIC General Conditions of Contract clause 14.11, within 56 days after receiving the performance certificate, the contractor shall submit to Engineer, six copies of draft statement with supporting documents showing in detail in a form approved by an Engineer.

The Committee was concerned that in the circumstances, the EAC Secretariat cannot establish the total project cost until the final statement (final account) is in place. The Committee also noted a breach of FIDIC general conditions of contracts.

***The Committee recommends to the Assembly to urge the EAC Council to direct the EAC Management to ensure that a detailed Final statement for the EAC Headquarters Building is prepared with all supporting documents such as instructions, valuations, approvals etc. This will enable the EAC Secretariat to understand whether the project has savings or require more money to its completion.***

#### **2.4.7 Variations of TShs.1,173,197,392 for Subcontractors and TShs. 599,078,158.17 for the Main Contractor without Supporting Documents**

The Audit Commission observed that a review of the payments made to the subcontractors revealed that there were variations amounting to TShs.1,173,197,392.00. These variations were raised from the payments made to seven (7) different subcontractors. The following matters were noted in the review of payments certificates:-

1. Variations were not detailed but also instructions and approvals for the same were not availed for audit review. The instructions, details and approvals are necessary for justifying the adequacy of any variation raised during the construction work. **Annex VI** shows the details of the variations for each subcontractor;
2. A review of payments made to the main contractor (M/S ARECO) revealed that it has variations worth TShs.599,078,158.17. The table below provides the details of the payments made to the main contractor.

**Variations with no supporting documents Contractor's**

Name	Contract Price (TShs.)	Gross payment (TShs.)	Interim Certificate No.	Variations (TShs.)
M/s ARECO	20,741,506,735.22	12,536,693,720.53	11	599,078,158

EAC Management reported that it took note of the issue and undertook to ensure that GBC consultants will be requested to prepare a detailed variation account as recommended during the preparation of the final statement.

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

- i) during the preparation of the Final statement, a detailed variation account is prepared and attached with relevant instructions and approvals to minimize unnecessary costs of paying for variations which lack merit; and*
- ii) the Final Account is prepared as soon as possible in order to check and verify this issue as computed by the Audit Commission.*

**2.4.8 Notice of Intention to Commence Arbitration**

Audit Commission reported that the Contractor claimed prolongation costs for 435 days amounting to Tshs. 3,847,587,690 which involves site administration, equipment, operator costs and financial charges. Regardless of several clarifications on which consultants tried to resolve the matter, it reached a point where the Main Contractor decided to refer the matter to arbitration. However, the position of the arbitration still remains unclear.

The EAC Management reported that a meeting was held in March, 2014 to resolve the matter amicably, and the Consultants requested the Contractor to provide more documentary proof before the matter was resolved. On March 06, 2014, a meeting with regard to an amicable settlement of the dispute was conducted in Arusha. The content of the meeting was captured in the minutes of meeting, forwarded to the Main Contractor, ARECO, on 13<sup>th</sup> March, 2014. On 21<sup>st</sup> March, 2014 ARECO gave notice that he had some reservations with the minutes. However, he did not deliver comments on the items where he had reservations.

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

- i) *expeditiously explore options of getting the contractor's reservations on the minutes and try to resolve the case amicably; and*
- ii) *look for ways to handle the case amicably so as to minimize cost overruns of the project.*

#### **2.4.9 Weaknesses in the Project Administration for the EAC Buildings**

The Audit Commission reported that most of the information employed during the contract administration was either missing, partially present or scattered in various places. They could not go further to assess whether EAC complied with the contracts. This was due to difficulties in obtaining various contractual records. For example, they failed to establish how the Client managed to assess and approve the variations without making reference to various contractual documents. Further analysis of site meeting minutes revealed the following:-

- i) Delay of approving contractor addendum for fence works; the Contractor submitted his quotation in November 2011 but it was approved five (5) months later, in April 2012;
- ii) Delay in approving addendum for a transformer with ODD-MAC subcontractor; the addendum was submitted on 24th January, 2012 but signed in June 2012, five (5) months later;
- iii) Delay in approving additional works for ICT subcontractor. The addendum was signed on July 2012;
- iv) Delays in the Contractor's payments: Payment Certificate No.3 of the Main Contractor was delayed for two month, from 23th August, 2010 to 27th October, 2010;
- v) Pending approval of Addendum No.3 for consultancy from September 2011 to 31st July, 2012; and
- vi) Delay in issuance of Import duty and VAT exemption for 23 days, from 30th January, 2010 to 22nd February, 2010

The EAC Management acknowledged the existence of some weaknesses in administering the project. They noted that in most cases the development and history of events, additional contracts etc was captured in the monthly reports, showing very clearly reasons why certain decisions could not be forced to an immediate result. For example:

- i) The process of the approval of the originally omitted item of the fencing works took 5 months. The reason was that the first quotation of the Main Contractor could not be accepted;
- ii) The delay in approving the additional works for the ICT subcontractor was due to the fact that the scope of works had to be financed from other sources than the KfW funds. In addition the value of additional works was higher than the original contract value; and
- iii) Some payments, not only to the Main Contractor, experienced delays, but this were rather exceptions. According the to the conditions of the Contract, the Consultant had 28 days for the processing. And as all Payments had been paid from KfW directly to the Contractors, there was a granted time frame of 4 weeks for KfW. This issue was

discussed in many meetings and all Contractors were aware that the processing of a payment might take up to nearly 60 days.

The Committee reiterates the Audit Commission observation that weaknesses in project administration may cause delays in the completion of the project, increase in costs, and failure to meet the intended objectives of the project.

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

- i) strengthen the Estate Management Office, so as to enable them to perform the estate functions more effectively; and*
- ii) ensure that the Head of the Estate Management Office has all the information regarding the EAC Building project compiled in soft copy as well as hard, so as to make it easily accessible whenever needed.*

#### **2.4.10 Unclear Payments to Subcontractors**

The Audit Commission reported that two different payments were made to subcontractors (M/s Odd-Mac Engineering Ltd for the Electrical installation and M/s Furniture & Carpet World Ltd for the supply and installation of furniture) that were each found to have two different figures as explained below:-

##### **a) Payment to M/s Odd-Mac Engineering Ltd**

The review of the two Interim Certificates (Nos.8 & 9) to M/s ODD MAC subcontractor revealed that Certificate No.8 showed that the subcontractor was paid TShs.126,426,160.32. However, for certificate No.9 (On the side of previous certified amount), it was noted that the amount for Certificate No.8 was reflected as TShs.100,242,160.32 as opposed to the correct amount of Tshs.126,426,160.32.

Below are details of the two Certificates:-

- i) Certificate No.8 was certified by the Engineer on 31<sup>st</sup> October, 2012, forwarded to German on 2<sup>nd</sup> November, 2012, with letter of reference No.F&A/210/4. The amount due to the subcontractor was TShs.126,426,160.32; and*
- ii) Certificate No.9 was certified by the Engineer on 26<sup>th</sup> April, 2013, and forwarded to German on 3<sup>rd</sup> February, 2014 with letter of reference No.F&A/210/4. The amount due to the subcontractor was TShs.373,858,268.40. On summary of previous certified amount for certificate No.9, it shows certificate number No.8 was wrongly quoted as Tshs.100,242,160.32 instead of Tshs.126,426,160.32*

##### **b) Payment to M/s Furniture & Carpet World Ltd**

A review of Certificate No.4 (Final Certificate) showed that two different final certificates were certified by the Engineer and forwarded to German for payment. The first certificate amounting to TShs.144,653,771.32 and the second one has TShs.140,413,559.32, as detailed below:

- i) Certificate No.4 was certified by the Engineer on 21<sup>st</sup> January, 2014 and was forwarded to German on 28<sup>th</sup> January, 2014 with letter of reference No. F&A/210/4 costing TShs.144,653,771.32; and*

Another Certificate No.4 was certified by the Engineer on 21<sup>st</sup> January, 2014 and was forwarded to German on 3<sup>rd</sup> February,2014 with letter reference No. F&A/210/4 costing TShs.140,413,559.32

The EAC Management responded that payments to M/S ODDMAC Engineering is correct and that the Engineer's Interim Certificate of Payment No. 8 shows an amount of TZS 126,426,160.30 to be paid to the Contractor. Unfortunately KfW had a reservation on the envisaged amount and on 16<sup>th</sup> Jan 2013 only transferred TZS 100,242,160.32. Evidence being Certificate No. 9. F&CW have so far been paid a total amount of TZS. 140,413,55.32.

The Committee is concerned on the risk of irregular payments.

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

- i) reconcile the figures noted above for verification and provide clarification as to why that occurred; and*
- ii) initiate recovery measures in case of overpayment.*

## **2.5 EAST AFRICAN COURT OF JUSTICE (EACJ)**

### **2.5.1 Wasteful Expenditure**

The Audit Commission reported that a total of USD 116,000 was spent on Daily Subsistence allowances at the rate of USD 350 per person for meetings to evaluate bidding documents and review the strategic plan among others. The meetings were held in Moshi which is two hours' drive from the duty station.

No proper justification was availed for holding such meetings in Moshi yet they could have been held in-house at minimal cost. In case management wanted to maximize concentration for officers, then they would have booked all officers in a hotel nearby the duty station.

The EAC Management responded that a retreat out of office was found inevitable and the Court budget envisaged this situation by making relevant provisions to cater for the said undertakings out of office.

The Committee observed that although the activity was genuine, Moshi does not seem the only place to hold such meetings. Alternative place that does not require payment of DSA could have been sought.

The Committee considers the above expenditures wasteful as they could have been avoided and funds expended on more critical purposes, had propriety been exercised.

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

- i) amend Financial Rules and Staff Regulations with the aim of discouraging meetings in Moshi and put an exception clause to really justify the necessity; and*
- ii) always exercise prudence while authorizing expenditure.*

### **2.5.2 Accounts Receivable**

The Audit Commission reported that an increase in the receivables figure of USD 368,299 due from EAC PAF. It was also observed that the figure had more than doubled when compared to last year, implying an upward trend. During the audit, the Management did not provide evidence of recoverability of these amounts.

The EACJ Management reported that collectability evidence will be availed to the Audit Commission.

The Committee observed that although the EAC Management claim that the receivable incurred has been paid since 16<sup>th</sup> June 2014, the current audit shows no indication of how the receivable was incurred.

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

- i) always share evidence of collectability of such monies; and*
- ii) avail proof of payment of receivables to the Audit Commission in the next Audit exercise.*

### **2.5.3 Non Compliance with the Human Resource Rules and Regulations Criteria**

The Audit Commission reported that Regulation 60, of the EAC Staff Rules and Regulations, stipulates that acting in a position shall not exceed six months before the post is substantively filled. However, a total of USD 9,144 was paid as Acting Allowance to the Court Accountant who has been acting as the Court Administrator since November 2011.

The EAC Management reported that the position of Court Administrator has been held by Mr. Stanley Mono in acting capacity to-date due to delays by the Council of Ministers to approve recruitment of a substantive position holder. The Management also concurs with the audit finding that acting for such a long time may compromise the efficiency and effectiveness of the officer as a result of an excessive workload but the Court has no alternative solution but to rely on Mr. Stanley Mono until such time when the Council of Ministers will recruit a substantive position holder.

The Committee observed that the Accountant has also acted as the Court Administrator for over three (3) years. The officer also confessed before the Committee that the workload is indeed much.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to expedite the recruitment process aimed at filling the staff positions.*

### **2.5.4 Vacant Posts within EACJ**

A review of the EACJ staff establishment revealed the vacant positions indicated in Annex VII have been vacant for the last four (4) years.

The EAC Management is in agreement with the concerns of the Audit Commission that having vacant positions implies having inadequate human resource which may negatively impact on the effectiveness and efficiency of the organ.

The Committee observed that the EAC Council of Ministers is yet to approve the recruitment process.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to coordinate and expedite the recruitment process.***

### **2.5.5 Delays in Banking of Case Filing Fees**

Fees received as income are supposed to be banked immediately as per Financial Regulation 47(3), which stipulates income received shall be banked immediately and receipts shall be recorded in the books of accounts on the date the remittance is received and deposited in the bank not later than the next working day.

The Audit Commission reported that filing fees charged by EACJ were not being banked promptly. In some instances balances were banked after 13 to 98 days. Failure to promptly bank all fees collected, they get exposed to risk of misuse or loss.

The Management concurs with the auditors observations. However, it should be noted that the same observation was pointed out in the previous audit which concluded in March, 2013.

The Management of the EACJ assured the meeting that mechanism is now in place for instant banking.

The Committee observed that most of the anomalies are caused by understaffing.

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

- i) recruit more staff for the Court; and*
- ii) avail the status of Audit report and recommendation compliance during the next audit, for verification.*

### **2.5.6 Training**

The Audit Commission reported that the EACJ paid USD 33,350 for training various members of staff as follows:-

#### **Training Expenditure at EACJ**

DATE	Cheque NO.	NAME OF COURSE	Amt (Us\$)
31/01/2013	004108	Training in Advanced Management – in Swaziland from 18/02-16/03-2013	4,575
17/05/2013	004288	IPSAS and Accrual basis of accounting-Swaziland from 17/06-12/07/2013	4,950
24/05/2013	004297	Advanced program for senior executives and professionals.	4,575
24/04/2013	004241	Training of 11 Jurists on interpreting EAC Treaty and Protocol at International Law Institute	19,250
<b>TOTAL</b>			<b>33,350</b>

The audit revealed that EACJ had no approved training plan during the FY under review. Besides, the training needs and the training to be undertaken were identified by the staffs themselves.

The Management reported that during the period under review, the Court had set aside in its budget funds for the training of Judges and the Registrar on Treaty and Protocol Interpretation. This planned activity was carried out as per budget implementation plan, but not all funds were spent as the Court negotiated with the Institute. Since the funds were budgeted for training, the management decided to use the realized savings by allowing training of few support staff in their respective areas of duties after assessing the needs.

The Committee observed that EACJ had not set down criteria and so the training was irregular.

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

- i) always undertake needs assessment trainings and seek approvals to avoid building slacks in the budget to enable diversions; and*
- ii) issue circular or develop and initiate policy on adherence to approved plans and budgets of the Community.*

## 2.6 EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

### 2.6.1 Irregular Payment of Perdiem to Facilitate Attendance of Funeral Ceremonies

The Audit Commission reported that the EAC Staff Rules and Regulations only provide for a paid leave of nine days in case a member of staff loses a close relative with no other benefits. Although it can be justified for the EAC to send an official representative in case a member of staff passes on, a review of accountability documents revealed instances where facilitations were extended to staff to attend funeral ceremonies of different categories of persons, with one such instance where a total of USD 9,084 was paid as Subsistence Daily Allowances of up to nine days as shown below:-

#### Irregular Per diem paid by EALA

Cheque No	Voucher Amt (Us\$)	Amt Quered (Us\$)	Reason
8136	8,900	5,200	Paid as per diem to EALA MPs and staff
7530	3,775	1,634	Paid as per diem to EALA MP and staff
	3,040	2,250	Paid per diem for 9 days to driver; no justification provided
<b>Total</b>		<b>15,715</b>	<b>9,084</b>

The Management reported that authorization was granted on a compassionate basis and after nomination by the EALA leadership. The EALA Management concurred with the proposal by the Audit Commission to refer this matter to the Commission for guidance on representation at funerals. The driver remained on official duty with the speaker in Uganda and had to be facilitated.

The Committee observed that although the EALA Management justified the expenditure, it was wrong to approve it without proper guidelines.

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

- i) *direct the EAC Management to form guidelines on death related expenditure for all EAC Organs and Institutions; and*
- ii) *urge the EALA Commission to finalize the proposal before them.*

## **2.7 PAF PROJECT:**

### **2.7.1 Flouting of Procurement Regulations**

#### **a) Printing of the East African Community Partnership Fund Annual Report**

The Audit Commission reported that a tender for printing of the EAC Partnership Fund Annual Report was awarded to M/S Majestic Printing Works Ltd at a contract price of USD 2,517.35. Several inconsistencies were noted regarding this procurement as shown below:-

- i) The evaluation committee report was dated, 16<sup>th</sup> May 2013 but signed on 12<sup>th</sup> May 2013;
- ii) M/S Majestic Printing Works Ltd was awarded the tender for the job although they were not the lowest in terms of price rating for the same works. Majestic was paid USD 2,517.35 Vide cheque No.005209 for the works; and
- iii) Further review of the payment voucher revealed that the procurement requisition was dated 13<sup>th</sup> May 2013, and the LPO Ref: PON/SEC/002456 is dated 21<sup>st</sup> May 2013. However, the invoice for the works was dated 16<sup>th</sup> May 2013, which was the same day as the receipt of funds by supplier.

The above analysis points to the fact that the evaluation report was made on the same day that the invoice was raised and settled.

The Management reported that under the Evaluation report there was a mix-up of dates as the report was finally prepared on the 16<sup>th</sup> of May while the Committee had sat on the 12<sup>th</sup> of May 2013. That is why the signatures reflect the 12<sup>th</sup> of May. Further it was reported that the contract went to the second bidder due to the fact that Majestic work that had been seen earlier was more striking than Speedy.

The Committee observed inconsistencies in the tender awarded to M/s Majestic Printing Works Ltd who was not the lowest bidder. The transaction is occasioned by inconsistent dates as observed by the Audit Commission.

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

- i) always adhere to the Procurement Regulations and Procedures;*
- ii) always prepare documents and present them properly to avoid suspicion of the process; and*
- iii) implement the recommendations of the Audit Commission.*

#### **b) Procurement of Promotional Materials**

The Audit Commission reported that the EAC procured promotional materials for the observer mission expected to run from the 24<sup>th</sup> February to the 8<sup>th</sup> March, 2013 in Rwanda.

The contract was awarded to M/S Creative Media Ltd to supply branded promotional materials at a cost of USD 10,920.90. It was further noted that Delivery Note No.0179 from M/S Creative Media revealed that goods were delivered on 5<sup>th</sup> February 2013; although the Goods Received Note No.2454 by the Secretariat reflects that goods were received on the 29<sup>th</sup> June, 2013, and that the LPO No.07449 was issued on 28<sup>th</sup> June, 2013, months after the activity had ended.

Further noted was that Invoice No.221 was presented on 29<sup>th</sup> June, 2013 and as such remained unpaid as at the end of the financial year. The entries on the General Ledger do not reflect the expenditure charge for this purchase, neither was there a reflection of a liability for the same.

The Management reported that the goods were received as per the delivery note. These items were t-shirts and jackets for the election observer team, which were actually used for the event. The expenditure is captured correctly as per JN 28794.

*The Committee noted the inconsistency and non-adherence to the proper posting of accounts.*

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

- i) consider seriously the issue of accounts posting and keeping of the books; and*
- ii) adjust the transaction for verification by the Audit Commission in the next exercise.*

**c) Irregularity in Conduct of Procurement Committee Meetings**

The Audit Commission reported that on 13<sup>th</sup> November, 2012, the 19<sup>th</sup> Extra-ordinary Procurement Committee meeting was held at Lake Turkana Hall - KICC Nairobi. Included on the Agenda were deliberations on the Procurement of logistical items for the F&A, Council, Summit and opening of the New EAC Headquarters Complex. A review of this transaction showed that there was no quorum for the meeting. Despite lack of quorum, the meeting went on to discuss and approve the procurement methods and also award contracts for the supply of various items, works and services for an amount of USD 91,677 as shown in *Annex VIII*.

Further, there was no justification provided as to why the procurement committee had to sit in Nairobi whereas their station is in Arusha.

The EAC Management reported that there was a Council meeting on-going during those dates and majority of the members on the Procurement Committee were involved in those meetings. For this reason it was prudent for the meeting to be held in Nairobi.

The Committee noted that the Procurement Committee meetings were irregular since they lacked quorum. Given the amount of money involved, such an oversight and contempt of rules could not have been allowed to happen.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always avoid such breach of rules and regulations.*

## 2.7.2 Training in Microsoft Office in Dubai - USD 15,507.6

The Audit Commission revealed that a sum of USD 15,507.6 was spent to facilitate two staff for training in Microsoft Office Specialist,, running from 7th to 16th October 2012 in Dubai as shown below:-

### Training of Staff in Microsoft Office IN Dubai

Description	Base Amount (Us\$)	Transaction Reference	Remarks
DSA w/inEAC- Staff Training for Microsoft Office Specialist	3,000.00	IMP/SEC/001861	Training for MOS specialists 7-19 <sup>th</sup> Oct, 2012 (12 days).
DSA w/inEAC- Staff Training for Microsoft Office Specialist	3,000.00	IMP/SEC/001860	Training for MOS specialists 7-19 <sup>th</sup> Oct, 2012 (12 days).
Training Fees in Microsoft Office Specialist for Helen & Caroline	7,200.00	PON/SEC/001679	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows- 2010
Training Fees-Visa fees	520.00	PON/SEC/001684	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows- 2010.
Return AirTicket -Staff	1,787.60	PTT/SEC/001795	Wasteful expenditure to travel to Dubai for a course in Microsoft Office Windows- 2010.
<b>Total</b>	<b>15,507.6</b>		

It was further noted that this training had not been planned for. Besides, there was no evidence that the Human Resource Department was involved in the approval process. There was no proper needs assessment to establish the skill gaps. Given that basic nature of the training in question, this could have been locally provided to avoid unnecessary costs of travelling to Dubai.

The EAC Management reported that there was an approval and the Director of Human Resource and Administration under whom the Docket of HR falls, recommended the training and the approval of the training course outline were availed to the Audit Commission.

The EAC Management take note of the deficiencies in planning for training, a matter that is being handled by the Human Resources Advisory Committee (HRAC) which will advise the Management on requisite changes. It was further noted that all training requests are now considered by the HRAC, which makes recommendations to the Management.

The Committee observed misuse of funds on trainings not planned for. The training in question did not justify flying to Dubai without requisite approvals.

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

- i) stop such misuse of funds; and*
- ii) always undertake planned and approved activities and seek proper approvals where unplanned activities are considered very necessary.*

## 2.7.3 Purchase of Two Mobile Phones - USD 1,791

The Audit Commission observed that a total of USD 1,791 was spent to acquire two mobile phones: (1) a Samsung Galaxy SIII at USD 769 on 31/7/2012, and (2) an iPhone at USD

1,022 (Tshs. 1,640,200) on 23<sup>rd</sup> January, 2013. No evidence was availed to justify that these items had been properly budgeted for; besides the iPhone was purchased using part of the imprest which was meant to facilitate Donor Mission while in Dar es salaam. This action can be construed as a diversion of funds.

The EAC Management reported that the phones were purchased to aid in the effective implementation of activities.

The Committee observed that the EAC Management breached the Financial Rules and Regulations by spending on unbudgeted for funds on unnecessary items.

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

- i) recover the amount in question from the responsible officer and report to the Committee on the implementation of the directive by June 2015; and*
- ii) develop a policy on acquisition of assets for use in the service of the Community.*

## **2.8 FSDR PROJECT**

### **2.8.1 Avoidable Expenditure on Planning Meeting to Restructure the Project – USD 8,750**

The Audit Commission reported that the Project Accountant was advanced USD 8,750 (vide reference no.IMP/SEC/001683) to cater for per diem and other sundry expenses during the Planning Meeting to Restructure the Project held from 28<sup>th</sup> to 29<sup>th</sup> August, 2012, in Moshi, Tanzania. Given that the meeting was for only eight (8) people, it was not justifiable to hold such a meeting outside Arusha.

The EAC Management concurs with the audit recommendation on prudence and value for money activities. It was argued that the meeting under discussion was both a retreat for the project staff that needed bonding to enhance teamwork, and secondly was to give the team an opportunity to review the project activities given the challenges the project had gone through since its effectiveness.

Considering the two objectives of the meeting, the EAC Management was of the view that they could be fully achieved outside duty station environment where the team could have a maximum concentration. Apart from bonding, the Project Administration Team was also tasked to concentrate on project redesign and restructuring and to have justifiable output especially in the Executive Committee recommended areas of:

- i) Re-prioritization of project activities;*
- ii) Review the project activities costing;*
- iii) Restructure the project to consider the extension of the project life span; and*
- iv) Revisit the project to reallocate or cancel the funds that may not be required in the first phase of the project.*

The output of the meeting was shared with the EAC Management, Project's Executives and Steering Committee, and the World Bank. It was further noted that the EAC Management has indeed put more controls to implement the Audit Commission's recommendation on

enhancing the achievement of value for money. In March 2014, the Secretary General issued a Circular emphasizing that "no EAC meetings should be held in Moshi without his clearance".

The Committee observed that the expenditure was indeed wasteful because the same objectives could have been achieved by holding such meeting in a nearby hotel and only paying for meals and venue.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to desist from causing financial loss to the organization.***

### **2.3.2 Project Budgetary Performance for the Year under Review**

During the audit, it was noted that the project had been planned to be implemented in phases and phase one had six (6) components which were to be completed by end of the FY 2012/13. The committed amount by the donors from inception to completion of phase one is USD 16,000,000. Further analysis of specific activities under the six (6) components revealed that the project planned to undertake a total of 44 key activities with a total budget of USD 7,495,000, during the year under review, out of which only 17 were carried out. The actual expenditure amounted to USD 2,013,214 translating into a meager 27% of the budget.

The EAC Management agrees with the audit observation and recommendation and further reported that the Project Management faced a number of challenges from the project inception as hereunder:-

- i) Changed factors since the design of the project that include costing figures adopted for budgeting; some of the amounts were too low to support regional consultancy work;
- ii) The evolving regional Agenda which necessitated a need for restructuring of the project ;
- iii) In appropriate design of some components (e.g. the IOSCO activity under component 3) which led to implementation difficulties;
- iv) Delay in recruitment of key personnel; and
- v) Long procurement processes, in particular the long drawn out negotiation processes among others.

The EAC Management reported that the Project Administration Team has since taken the following steps to ensure that the project is brought on track:-

- i) Re-costed all the project activities to reflect the market rates;
- ii) Develop mechanisms for reducing the long procurement process;
- iii) New technical staff recruited; and
- iv) Have agreed with the World Bank for a project extension for 15 months to give the project team a chance to achieve the project development objectives.

The Committee observed the slow pace of implementing project objectives and took note of the Management's undertaking.

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

- i) *Always plan realistically and ensure implementation of planned activities; and*
- ii) *Present progress and improvement for verification to the Audit Commission in the next audit exercise.*

### 2.8.3 Unjustified Procurement of Fixed Assets

During the auditing, it was noted that the project paid M/s Compucat Technologies USD 40,790.00 vide cheque No.00320 with LPO Ref: POA/SEC/001542 for the supply of 15 Toshiba satellite C850-B890 laptops, 16 Ipads and two printers. The audit further noted that this procurement of extra laptops and ipads was not justified, considering the number of staff under this project. The fixed asset register and distribution schedule also showed anomalies of some staff being issued with several IT related equipments such as a desktop computer, HP laptop, Toshiba laptop and Ipad.

The EAC Management reported that the procurement of the 15 laptops and 16 Ipads was to meet the staff needs of the project. The staff complement of the project currently stands at 14 after two members of staff, Joseph Rugari and Dr. Sigei resigned for greener pastures. Currently two positions are at the short listing stage and staff expected to report on duty before the end of the current fiscal year.

The EAC Management however agrees with the audit observation that the distribution shows some anomalies and confirmed to the Committee that the anomalies have since been corrected as shown in the adjusted Asset distribution list available for verification by the Audit Commission.

The Committee observed that the Project Management has unnecessarily procured fixed assets where for instance laptops outnumbered the staff of the project.

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

- i) *avoid unjustified procurement of fixed assets;*
- ii) *withdraw laptops from those who received more than one and ipads; and*
- iii) *present the adjusted asset distribution list to the Audit Commission for verification.*

## 2.9 USAID-CSERI PROJECT

### 2.9.1 Project Budgetary Performance for the Year under Review

The Audit Commission reported that the EAC/USAID project comprises four components with each having a distinct budget in line with the identified activities. During the year under review it was noted that the overall budget utilization was low with only one component being above 50%. The entire expenditure for the year was USD 819,355 against a budget of USD 2,201,386 resulting into a meager 37% utilization, as detailed below:-

#### Budgetary Performance under USAID-CSERI Project

Donor activity analysis code/ department	Donor activity description	Budget - \$	Actual - \$	Variance - \$	Variance in %

US01	Establishment Of The East African Common Market	518,362.00	325,748.79	192,613.21	63
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The EAC Management responded that the under spending was as a result of limited technical and administrative capacity arising from non-recruitment of 3 project staff mainly for US02, US03 and US04. These staffs were on board from July 2013, there has since been a notable improvement in the project activities implementation.

The Committee observed low budget utilization, caused by the delay to recruit project staff. It was further noted that low utilization could limit the Community from receiving more donation.

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

- i) Improve on budget performance in all projects; and*
- ii) present the progress of implementation of activities to the Audit Commission for verification.*

## 2.10 HIV-AIDS PROJECT

### 2.10.1 Poor Budget Performance

A review of the project budgetary performance by the Audit Commission revealed that the project performed poorly in utilization of budgeted funds and only managed to spend 47% of total funds earmarked for its programs during the year under review.

The EAC Management noted the audit find and highlighted the following reasons that led to poor budget performance:- This is noted by the Management.

- i) The HIV and AIDS project did not implement most of the planned activities for the period under review due to unavailability of funds. Attempt to borrow funds within the organization were futile. So the unit was unable to achieve the desired budget utilization due to none or low implementation. Funds from SIDA were received on 2<sup>nd</sup> December, 2013, which was rather late for implementation.
- ii) During the period under review, due to none availability of funds, the project was able to mobilize technical support in form of consultants from the UN agencies (UNDP and UNAIDS). The consultants have been hired by UNAIDS and UNDP to write the EAC Annual HIV Epidemic; and conduct a comprehensive analysis of HIV and AIDS Laws, policies, strategies of the EAC Partner States and develop a Regional HIV Legal and Policy reform framework, respectively. This work is in advanced stages. We had budgeted for these expenses under the EAC HIV and AIDS project and they form part of the analysis. Since these are not incurred by EAC they are not reflected in the EAC accounts but under the accounts of the supporting organizations. This has contributed to the observed low budget utilization. The project team undertook to improve in the budget performance during the current FY 2013/14.

The Committee observed that poor budget performance undermines credibility of the EAC as an Institution.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always ensure that activities planned for are executed at all costs.*

## 2.11 APSA PROJECT

### 2.11.1 Budget Performance

During the period under review, the analysis of APSAs budget performance by the Audit Commission revealed over expenditure on the following budget lines:-

#### Budget Performance under APSA Project

Item	Budgeted Amount (USD )	Actual Amount (USD)	Amount Available	Budget Utilization
Salaries and other related costs	69,900	81,732	(12,132)	117%
Promotion of Dialogue, Tolerance &	72,800	82,501	(9,701)	113%

There is no evidence that over expenditures noted above was properly authorized by way of approved reallocations as is provided for under Regulation 20 of the Financial Rules and Regulations.

The EAC Management reported that salaries and related costs were under budgeted and hence the over expenditure. Management however concurs with the recommendation and undertook to ensure that there will be no budget overruns in future.

The Committee observed that there was spending beyond budget and breach of Regulation 20 of the Financial Rules and Regulations.

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

- i) adhere to the financial rules and regulations; and*
- ii) always budget appropriately and seek approval for re-allocation from appropriate authorities.*

## 2.12 ARNM PROJECT

### 2.12.1 Weaknesses in Consultancy Contract Management

#### a) Contract Agreement No. P&P/1/1/4(01)

The Audit Commission reported that Contract Agreement No. P&P/1/1/4(01) for the provision of Consultancy Services for Feasibility Studies and Detailed Engineering Design of the Multinational Arusha – Holili/Taveta - Voi Road was signed between the East Africa Community (The Client) and M/S Egis Bceom International (The Consultants) on 27<sup>th</sup> August, 2009 for Euro.1,400,052.98 and Local Currency of KSh. 32,916,743. The effective contract date was noted to be the date of contract signing as per Clause 2.1 of the Specific Conditions of Contract (SCC); commencement of services was to be within thirty (30) days from the contract effective date as per Clause 2.2 of the SCC. In addition, Clause 2.3 of the SCC specified that the contract period shall be eighteen (18) months.

During the audit, payments totaling USD 929,282.41 were made by the project. However, the following matters were noted:-

- a) The technical contract performance reports/minutes, invoices, Certification and acceptance of work done were not availed; and
- b) The Consultant's report was submitted in March, 2013 having delayed for more than 40 months. It is worth noting that there was no clause included in the contract for penalties in the event of delays by the consultants.

The EAC Management concurred with the audit finding and held that the matter in question was similar to the Malindi – Bagamoyo project but in reverse order. The scope of works was for full design on the Tanzanian side and design review on the Kenyan side. However, when the consultant (Egis BCEOM) was reviewing the Kenyan side of the design, it was discovered that the previous design had serious shortcomings that required full re-design. A contract addendum was negotiated, with additional costs sourced from Grant savings, and the consultant was granted extension of time to do the new designs. In addition to the re-design, environmental issues with regard to the Tsavo National Park took time to resolve. Several stakeholder workshops were held in order to reach consensus with regard to the section of the road passing through the National Park.

The Committee noted probable laxity in the Contract management which may negatively affect the achievements of the set objectives. The Committee further took note of Management claims that an addendum was negotiated and signed and so the delay was agreed upon.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to avail a copy of the addendum for verification by the Audit Commission.*

#### 2.12.2 Weaknesses in Managing Receivables and Payables

##### a) Receivables and Payables

The Audit Commission revealed that the Statement of Financial Position as on 30<sup>th</sup> June, 2013 reflects outstanding receivables detailed in the table below:-

##### Receivables under ARNM Project

Description	Year ended 30th June 2011 (Us\$)	Year ended 30th June 2012 (Us\$)	Year ended 30th June 2013 (Us\$)
Staff imprest for Activities		16	16
Receivables, Tanzania Roads Authority	40,383	40,383	40,383
VAT Claims		100	100

Further review of these receivables revealed that they have been outstanding for more than one year and they are not supported. The respective invoices and efforts made by the management on follow up and recovery of these receivables were not availed.

##### b) Payables

A review of this project, by the Audit Commission, revealed that the Statement of Financial Position as on 30<sup>th</sup> June, 2013 reflected accrued expenses of USD 2,480 and other current liabilities of USD 11,028 as shown in the table below:-

#### Payables under ARNM Project

Description	Year ended 30th June 2012 (Us\$)	Year ended 30th June 2013 (Us\$)
Accruals	2,480	2,480
Contributions received in Advance, Kenya	11,028	11,028
<b>TOTAL</b>	<b>13,508</b>	<b>13,508</b>

The EAC Management undertook to liaise with the concerned National Road Authorities and make the necessary reconciliations to be reflected in the subsequent financial year Financial Statements.

The Committee observed that receivables and payables have not been claimed and settled as required.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to initiate and follow up the claiming of receivables and settlement of payables and avail the evidence of action to the Audit Commission for verification.*

### 2.13 IBAR PROJECT

#### 2.13.1 Unsupported Receivables and Payables

A review, by the Audit Commission, of the Project Receivables and Payables Accounts revealed a total of USD 11,878.92 and USD 7,989 respectively that were not supported. In addition, no breakdown was provided for the amounts in question.

The EAC Management reported that supporting documents for receivables and payables in questions were availed to the auditors who verified them accordingly.

The Committee observed that the EAC Management does not cooperate with the Audit Commission during the audit exercise.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always exercise maximum cooperation during the audit exercise and implement the audit Commission Recommendation without any hesitation.*

#### 2.13.2 Unsupported Expenditure

A review of Project expenditure revealed unsupported transactions totaling to USD 20,678.69. The relevant payment vouchers were not provided for audit review.

The EAC Management reported that all relevant documents were availed for review to the auditors.

The Committee noted non-compliance by the EAC Management during the audit exercise.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover all the monies spend without requisite supporting documents and avail the implementation of the directive to the Audit Commission.*

### **2.13.3 Overpayment of Daily Subsistence Allowances**

A review by the Audit Commission revealed that a payment for daily subsistence allowances (DSA) of total USD 815 was overpaid during the year under review.

The EAC Management took note of the finding and promised to institute recovery of funds.

The Committee noted with appreciation the undertaking by the EAC Management.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to avail evidence of recovery to the Audit Commission in the next audit.*

### **2.13.4 Debit Note to M/S Wing Link Travel Agent neither Recovered nor Recorded as Receivable**

The Audit Commission reported that during the year under review, the IBAR Veterinary Governance Project paid for an unutilized ticket amounting to USD 668 to M/s Winglink Travel Agent and a corresponding debit note of USD 668 was prepared on 19<sup>th</sup> April 2013 for a refund by the firm. The Accounts Assistant explained that for any unutilized ticket a debit note would be prepared by EAC to M/S Wing Link Travel Agent so that the later can refund to EAC the amount involved.

At the time of audit, in February 2014, no refund had been made by the travel agent and debit note was not recognized in the books of account as a receivable as on 30<sup>th</sup> June, 2013.

The Contract between the EAC Secretariat and M/s Winglink Travel Agent was also not availed for confirmation of payment in the event of unutilized tickets.

The EAC Management noted the audit concern and undertook to follow up with the supplier to ensure recovery of USD 668.

The Committee observed that the EAC Management does not pay attention or follow up recoveries for the community.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover all receivables and present evidence to the Audit Commission for verification.*

## **2.14 MRH PROJECT**

### **2.14.1 Unaccounted for Advances and/or Allowances to Staff**

The Audit Commission reported that imprest amounting to USD 18,288 vide cheque No.000075 was paid to Mr. Eric Sanga to cater for the Technical Working group held in Kigali from 3<sup>rd</sup> to 5<sup>th</sup> December, 2012, but no document was availed to support the retirement.

The Committee noted that the file that contained the retirement of the funds in question had been misplaced but later discovered, verified and cleared.

#### 2.14.2 Poor Budget Performance and Project Implementation

Performance budgets use statements of missions, goals and objectives. It is a way to allocate resources to achieve specific objectives based on program goals and measured results. Hence the level of implementation of the project is expected to closely correspond to the percentage of utilization of funds allocated to the activity. **Annex IX** attached reveal poor budgetary performance of MRH project.

The following matters arose from the analysis:-

- a) Although the overall percentage utilization was 62%, the Project had overspent on two budget lines up to 215% and 306% of the allocated amounts; there was no evidence that the over expenditures in question was properly approved as is required by the financial regulations.
- b) Many planned activities were not undertaken at all.

The EAC Management reported that the budget spending level of about 62% resulted from a number of factors beyond the Project Management control, such as:-

- i) Delay of fund disbursement from the World bank, while the funding agreement was signed on 21<sup>st</sup> March 2012, the first disbursement came 26<sup>th</sup> September 2012 (6 months later);
- ii) Delay in recruitment of 10 Project Staff, namely six National Medicines Regulatory Officers (NMROS) and 4 staff at EAC Secretariat namely Senior Health Officer, e-Health and Informatics Officer, Accountant & Pharmaceutical Program Assistant. The six National Officers were recruited in April 2013 (3 months before year end) while four staff at Secretariat were recruited on 1<sup>st</sup> July 2013 (soon after year end); and
- iii) With no staff at National level no substantial activities were implemented apart from three months staff salaries.

The EAC Management further reported that the Project Management was currently reviewing the current Project performance especially the analysis of the amount spent against the budget, spending per the components as preparation for the **Project mid-term review** planned mid-March 2014. The review team involving all stakeholders (Donors, EAC & other Partners like WHO, NEPAD and Bill gate & Melinda Foundation) will review all spending against budget and suggest the reallocation of funds among budget lines, activities and project components.

The Committee noted poor budget performance and overspending on particular budget lines without approvals.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to always seek proper approvals to spend the EAC funds.*

#### 2.15 RISP PROJECT

##### 2.15.1 Unbudgeted Expenditure - USD 6,900

The audit review showed that on 29th July 2012, the East African Community signed a contract with Amanda Magamba to monitor and report on behalf of EAC the electoral process towards ending the Somalia transitional Federal Government. The contract was scheduled to be undertaken from 22<sup>nd</sup> July 2012 to 20<sup>th</sup> August, 2012 at a fee of USD300 per day while on the mission.

The audit further revealed that a total of USD 6,900 was paid to the Consultant vide Cheque No.000898 from the RISP Fund. Further scrutiny of the RISP annual work plan and the approved budget revealed that such an activity had not been budgeted for.

The EAC Management reported that expenditure was occasioned by the emergency nature of the transition in Somalia, a country that had applied to join the Community and in view of the EAC obligation this should have been reflected under RISP work plan. The Management however undertook to ensure that such lapses do not occur in the future.

The Committee observed the anomaly and consistent abuse of funds by the officers who take decisions to revise work plans and create activities outside the EAC Management.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to recover the said funds from the officers involved and report back to the Audit Commission.***

#### **2.15.2 Irregular Payment of VAT - USD 12,379.35**

The Audit Commission reported that Article 4 Sect. 7 (f) of the MOU between the COMESA and EAC states that the Project Funds shall not be considered eligible for taxes, duties and charges (unless the implementing party is not able to claim them and if allowed by the applicable regulatory provision of the European Union).

However, the Audit Commission noted that VAT paid to suppliers was fully expensed with no evidence provided of any efforts by the EAC Management to submit claims for refund of the amount spent. Failure to recover VAT contravenes the provisions of the Agreement between EAC and the United Republic of Tanzania. Besides, RISP may not be able to recover the whole amount of tax paid.

The EAC Management reported that it concurs with the audit finding and reported that the matter is being handled by the EAC Administration Office to set up a modality that will ensure that EAC is able to claim Taxes from the other EAC Partner States.

The Committee noted with concern lack of efforts by the EAC Management to claim VAT levied on EAC transactions in all the EAC Partner States.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to adopt a prompt measure of claiming refundable VAT in all the EAC Partner States.***

#### **2.16 MISCELLANEOUS PROJECTS**

##### **2.16.1 Miscellaneous Projects Dormant Funds**

The Audit Commission reviewed the use of funds for Miscellaneous Projects and noted dormant funds totaling to USD 2,063,679.81 for six projects. These funds were on the bank

account from the beginning up to the end of the year under review. It was also noted that EAC Secretariat under absorbed the funds of six of the Miscellaneous Projects as it utilized only 10% of the available funds during the year under review.

The EAC Management reported that the unutilized funds from the Miscellaneous Projects was from SIDA- EPA negotiation. Most activities did not take place because of technical challenges within Partner States. Some funds were transferred directly to Partner States, but eventually returned to EAC Secretariat. The unutilized funds (USD 2, 121,000) were transferred back to Sweden on 29<sup>th</sup> April, 2014, as the project phased out on 30<sup>th</sup> June, 2013.

The Committee noted that the dormant funds were mainly donated by SIDA to facilitate EPA negotiations which EALA refused to approve owing to the fact that the competitor being our funder, would compromise the negotiating power. The funds were consequently transferred back to Sweden.

#### **COMMITTEE RECOMMENDATIONS**

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

- i) always provide conclusive information with evidence to the Audit Commission;*
- ii) show evidence of monies transferred to Partner States and Sweden; and*
- iii) change the account name to EAC General Project Account.*

#### **2.16.2 Unsupported Receivables and Payables**

A review, by the Audit Commission, of the Receivables and Payables Accounts for the Miscellaneous Projects revealed a total of USD 228,349.10 and USD 1,084,184.40 respectively was not supported.

The EAC Management reported that total payables under the Miscellaneous Project as on 30<sup>th</sup> June, 2013, was USD 217,509.65. This include unpaid air ticket and amount due to consulting (MA Consulting Group) and total amount receivable was USD 372,102; this amount includes inter-project/Secretariat indebtedness of USD 361,083 from Secretariat to SIDA- EPA negotiation Project. Relevant documents were presented to the Auditors for verification.

The Committee took note of Management's response.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the EAC Management to ensure that such issues are settled with the auditors by provision of relevant documents for verification.*

#### **2.16.3 Weaknesses in Procurement Management**

The Audit Commission reported that procurements of office equipment, office furniture and computer equipment worth USD 14,575.03 (vide Chq.100386 of USD 7,660.13 and Chq.100399 of USD 6,914.90) were made from the Miscellaneous Project Account. However, the procurement was authorized by the 10<sup>th</sup> Extra Ordinary Procurement Committee Meeting held on 29<sup>th</sup> June, 2012 which lacked the required quorum of members

from all five Partner States as per item No.3.4.1.4 of the EAC Procurement Policies and Procedures Manual, 2011.

The Committee noted the procurement anomaly.

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

- i) stop breaching EAC procurement policies and procedures manual 2011; and*
- ii) always endeavor to avail requisite documents for verification by the Audit Commission.*

#### **2.16.4 Unsupported Transactions on the Miscellaneous Projects Account**

A review, by the Audit Commission, of the cash book of the Miscellaneous Projects, revealed other unsupported transactions as detailed in the table below:-

##### **Unsupported Transaction on Miscellaneous Projects Account**

Project code	Base Amount	Transaction Amount	Currency Code	Journal No.	Transaction Date	Transaction Reference
NA01	36,690	36,690.00	USD	3097	8/24/2012	Nordic Africa/RFB/3752-22356
FA01	-135,513	-135,513.00	USD	2161	9/28/2012	100363 - Correction of A/C
UN06	-170.38	-267,500.00	TZS	2162	9/28/2012	
ID01	1,000	1,000.00	USD	4728	11/9/2012	100332
SI01	-180	-180	USD	10967	5/9/2013	100451
GC01	100,000	100,000.00	USD	21130	6/30/2013	065JV/JUN'13

The Auditors could not confirm the validity of the above transactions due to absence adequate supporting documents although EAC Management claims to have availed documents to the Audit Commission.

The Committee observed that EAC Management failed to fully account for the transactions.

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

- i) always provide documents supporting all financial transactions to the Audit Commission for verification; and*
- ii) hold officers involved accountable for non-adherence to the requirement.*

## **2.17 CLIMATIC CHANGE PROJECT**

### **2.17.1 Budget Performance**

The Audit Commission reported that the Climatic Change Project had been budgeted to spend a total of USD 676,88. By close of the period under review a paltry USD 297,570 (44%) had been spent, with some activities having 0% outrun.

The EAC Management reported that the under spending due to delays in recruitment of 5 project staff to constitute the Program Management Unit which had only 1 staff out of the 6 projected staff. Although interviews were held in November 2013, the process of recruiting the staff is yet to be concluded as the project also experienced difficulties in terms of disbursements. Successful candidates will be appointed as soon as funds are remitted by the Development Partners supporting the project.

The Committee observed that poor budget performance is caused by understaffing of the project staff.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC Management to devise strategies to ensure that all planned activities are always implemented within the set timelines.*

#### 2.15.2 Refundable VAT not claimed

Article 4 Section 1 Sub-Section (d) of the EAC Headquarters Agreement with the United Republic of Tanzania provides for exemption of EAC from all taxes, including withholding tax (WHT) and Value added tax (VAT). A review, by the Audit Commission, of the Receivable Ledgers of several projects revealed that VAT totaling to USD 18,781.93 had not been claimed from Tanzania Revenue Authority as detailed in *Annex X*.

The Committee noted the delays by EAC Management to claim refundable taxes from EAC Partner States.

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

- i) always submit claims for VAT paid by the project promptly; and*
- ii) ensure that all the related transactions recorded in its books of Accounts are fully supported.*

## PART III

### LAKE VICTORIA BASIN COMMISSION (LVBC)

#### 3.0 CURRENT YEAR AUDIT FINDINGS

##### 3.1 Weaknesses in Management of Accountable Imprest

The Audit Commission reported that the review of the trial balance, imprest registers and notes to the financial statements revealed that imprest amounting USD 115,136 remained unaccounted as at 30<sup>th</sup> June, 2013, contrary to *Section 6.5 (e), (h) and (j)* of EAC financial procedures manual. The audit further noted that imprest is still being issued to staff with unretired balances from previous years in total disregard of the above requirements. The table below shows the details:-

The EAC Management reported that measures have already be taken to recover outstanding imprest from the payroll while other imprest holders have since made cash refunds for outstanding balances. Reallocation of recovered amounts will be done to the properly analyzed codes and respective projects.

The Committee observed laxity in the Management of Accountable imprest but was informed that the outstanding imprest at end of FY 2012/13 was recovered in full from staff salaries and subsequently accountability has been greatly enhanced and as a matter of fact, as at close of FY 2013/2014 outstanding imprest is less than 40,000 and is mainly attributed to activities that were due to take place in the subsequent month of July 2014.

*Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present progress to the Audit Commission for verification in the next audit.*

### 3.2 Poor Budget Performance

A review, by the Audit Commission, of the activities of the Commission revealed that there was a low level of budget performance during the year under review as shown in the table below:-

#### Budget Performance by LVBC

PARTICULARS	Budget Utilization
LVBC Secretariat	43%
Partnership Fund	60%
LVEMPII	42%
Overall Budget Utilization	44%

The above analysis reveals that the Commission performed poorly in utilization of budgeted funds and only managed to spend 44% of total funds earmarked for its programs during the year.

The Management reported that there was a delay in release of funds for various activities from Development Partners. LWATSAN program budget was inclusive of funds sent directly to Partner States by the donor which were contributing about 88% of the budget. Out of the 12% of the budget to LVBC, over 65% was for Training and Capacity Building (TCB) – a program component that was contracted to UNHABITAT. The TCB component was paid to UNHABITAT and therefore treated as spent, and overall, the budget component to LVBC spent was about 92%.

The Partner States budget allocated was pegged on the expectation that various procurements would be completed to facilitate expenditure, but the same were delayed and expenditure was slowed. Given the larger contribution of the Partner States' budget in the overall budget, the aggregated expenditure significantly reduced resulting to the low absorption rate.

It was further held that strategies employed to regularly monitor progress on project work plans have changed this trend. All the Implementing Agencies (IAs) in each Partner State

have contracted national consultants for design and supervision of works in majority of the cases. With the engagement of consultants and contractors, heavy goods and construction works, where the bulk of the budget lies will be consumed. We therefore expect a total shift in the consumption trends in the immediate past and coming months.

The Committee noted poor budget performance but was informed in addition to the response that funds disbursed to Partner States directly no longer included in the Commission is budget performance is expected to improve.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management present budget performance progress to the Audit Commission for verification in the next audit.*

### **3.3 Excessive Payment of Travel and Daily Subsistence Allowances (DSA)**

The Audit Commission reported that the Commission spent USD 1,597,208 as DSA during the FY 2012/2013. Analysis of the DSAs paid during the year revealed that some Commission staff were out of the office for between 100 to 272 days as shown in *Annex XI*

The above analysis reveals that:-

- i) Some Cadres of staff (for example Accounts Department staff) were out of the office for unreasonably many days while their main job description may not involve a lot of work being done out of the office; and
- ii) The Commission's Senior Management has been out of the Working Station for significantly many days.

The Management responded that the primary mandate of the Commission is to coordinate all actors within the lake region with a view to implementing planned activities in a coordinated and sustainable manner. The activity of coordination to a large extent involves organizing and facilitating workshop and seminars. LVBC does not per se directly implement field activities but has a key role in monitoring and facilitating the implementation of those activities which mainly involves workshops and seminars.

To enable the Commission carry out its mandate as a Secretariat, it assembles teams with various specialties to help validate reports from the various consultancies before submission to the relevant Sectoral Councils for approval.

Furthermore, the LVBC is funded at 90% by Development Partners and this requires management to keep networking exercise in different international forums for resource mobilization purpose. There is obviously cost effectiveness between the resources used to undertake these missions and the outcome of the same missions that is continuous support by Development Partners the Commission enjoys.

However, the Commission will always be stringent to ensure that only relevant key staff attends meetings to ensure value for money in all expenditures

The Committee observed that much as LVBC Management attaches the excessive payment of DSAs on the nature and mandate of the organization, wrong computation, directive to

distribute activities to the EAC Partner States, it was noted that DSAs are still excessive. This is therefore an indicator of poor performance.

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

- i) Immediately develop travel guidelines and reduce excessive payments of DSAs;*
- ii) present progress implementation of the directive to the Audit Commission for verification; and*
- iii) rectify the system to avoid wrong computation if the claim of wrong computation is indeed true.*

#### **3.4 Weaknesses in the Management of the IT Function**

The Audit Commission reported that a review of sustainability of services of the Commission revealed that the IT Officer resigned from the post on 31<sup>st</sup> October, 2013. IT functions were then contracted to M/S Bygrace Technologies vide an addendum to a prior contract with the firm for maintenance services for computers and IT equipment signed on 1<sup>st</sup> July, 2013.

It was noted that Contract Clause No. 1 (7) provides that "In case the spare parts that need to be replaced, the client shall be responsible for buying and availing the spares to the service provider". Under the current arrangement, the service provider will be the one to suggest the spare parts to be procured and what is to be fitted or replaced, pointing to a possible conflict of interest since it's the same person maintaining the IT system as well as overseeing its function.

Although Management has in place an ICT Steering Committee, no minutes of its meetings were availed for audit review.

The Management took note of the Auditors' concern and reported that the Commission has advertised the position of ICT Officer to be filled in before the end of the current financial year. This will help in effective and efficient operations of the IT functions with regard to segregations of responsibilities.

It was further reported that the Commission currently has only one (1) established position in IT department, which fell vacant following the resignation of the previous office occupant. The ICT Steering Committee activities were negatively affected by the absence of the IT Officer and will be reactivated to help guide the ICT functions.

The Committee observed that IT function at LVBC has had significant challenges. The LVBC management however informed the Committee that recruitment of the ITO was concluded and his appointment has been approved by Council.

**The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to:**

- i) Effectively render the best management of the IT function by increasing the number of IT staff; and*

- ii) *Revitalize the management of the IT function and present report of improvement to the Audit Commission for verification in the next audit.*

### 3.5 Fixed Deposit Accounts

A review of the Commission's investments records revealed the following:-

- i) The Commission had two Fixed Deposits investments accounts namely; LVBC FDR Account (Kshs)-KCB Kisumu with a balance of USD 300,000 and Gratuity FDR Bank Account-NIC Bank with a balance of USD 299,984 as at 30<sup>th</sup> June, 2013. It was however noted that the Commission does not maintain an investment register, contrary to the EAC Financial Rules and Regulations. Also, Fixed Deposits certificates were not availed for audit verification.
- ii) It was noted that the Gratuity FDR (NIC) bank statements had a nil balance as at 30<sup>th</sup> June 2013, although the financial statement reflected USD 299,984.
- iii) It was further observed that all the interest earned from the two investments accounts are posted to an interest earned account number 4900001 which consolidates all interests earned from all the Commission's bank accounts. This made it difficult to ascertain from the interest account which interest earned relates to which investment accounts. No reconciliations on the same account were being done to ensure that all the fixed deposits have earned their correct interests as per the rates specified in the certificates and also at the correct time.

The LVBC Management took note of the audit concern for necessary action and reported to the Committee that an Investment register will be opened to keep track of all investments and the interest earned from fixed deposits will be segregated from other interests received and a reconciliation done. It was further reported that Management is following up on the Certificates of Fixed Deposits with the Bank.

Adjustment has been done in the gratuity account in the financial statements to reflect the balance of USD 310,475.93 as supported by the bank certificate of balance.

The LVBC management also reported that the fixed deposit certificate has also been secured and in the custody of the Senior Accountant.

The Committee noted the reports by the Audit Commission and LVBC Management.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to:-*

- i) *always carry out proper reconciliations to confirm fixed deposit balances with their respective interest earned; and*
- ii) *present the fixed deposit certificate to the Audit Commission for verification in the next Audit.*

### 3.6 Imprest Accounting and Management

During the period under review, the system for managing accountability documents for imprest was found inadequate in that the documents were filed in different files other than being attached to payment vouchers used to advance the money to staff for different activities.

Another weakness observed was that reference numbers allocated to imprest accountability documents could not be traced to the original payment vouchers. In such circumstances, the files or individual supporting documents could be misplaced. Furthermore, the audit trail is lost as these documents are not properly referenced to the payment vouchers through which the imprest was paid.

The LVBC Management reported that it concurs with the audit recommendation to reorganize the filing system accordingly, to enable cross-referencing of imprest advances and corresponding accountability documents.

The Committee observed that the LVBC filing system on imprest accounting is faulty and requires reorganization.

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

- i) develop a proper system of filing imprest accounting that would easily enable audit trail; and*
- ii) present the undertaking in their response to the Audit Commission for verification.*

### **3.7 Fuel Management**

During the audit, records verified indicated that during the FY 2012/2013, the Commission drew fuel worth USD 3,312.75 from M/S Desnol Investments Limited. However, the following internal control weaknesses were noted with regard to fuel management:-

- a) The Tender Committee in its Minutes No.05/15/06/2012 dated 15<sup>th</sup> June, 2012 recommended that the Commission procure the services of M/S Total Fuel station for the provision of petrol, diesel, oils, lubricants and cooking gas for the FY 2012/2013. However, the Commission single sourced M/S Desnol Investments Limited to supply fuel, contrary to the recommendations of the Tender Committee;
- b) M/s Desnol Investments Limited is situated 13kms from the Commissions offices; and
- c) There is no contract between the Commission and the said company.

The LVBC Management agrees with the Audit Commission observation and reported that the Commission entered into Contract with Total Fuel station for the services provisions as per the Tender Committee recommendation, but the effectiveness of its Service Provision took long due to delayed process of getting Fuel Cards by Total, an element that had triggered their selection for purpose of economy and efficiency in fuel management.

The Management also held that there have been limited instances whereby drivers who were used to fuel from Desnol Investments kept procuring fuel from the same. The Fuel Cards were eventually provided by Total and now fuel is fully being procured from the selected Services Provider. Such oversight will not occur again.

The Committee observed inconsistencies in fuel management at LVBC, as Fuel is not only drawn from the approved service provider. In addition to usage of Bon Voyage cards, imprest is still issued to drivers to buy fuel, although this is justified for drivers who facilitate activities in places where total petrol station does not exist.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to streamline fuel management and present progress report to the Audit Commission for verification.*

### **3.8 Avoidable Expenditure on Evaluation of Tenders and Prequalification**

The Audit Commission reported that LVBC paid a total of USD 13,705 for DSA, fuel and conference cost on evaluation of tenders and pre-qualifications for 2013/2014 done in Gisambai and Vihiga, instead of paying sitting allowances only had the exercise been carried out at LVBC Headquarters or within Kisumu City.

The LVBC Management reported that it concurs with the Audit Commission observation and is at the forefront towards rationalized use of the financial resources. The LVBC Management also reported that some activities are very demanding in terms of time and require a high level of secrecy and concentration. The activity in question related to annual pre-qualification whereby the committee had to open and evaluate numerous tender documents for various categories of Commission's services provision needs. It was not possible to undertake this exercise in the Office already constrained with space.

The Committee noted that the expenditure was indeed avoidable as observed by the Audit Commission.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to discourage payments of DSAs where necessary.*

### **3.9 Facilitation for the Scientific Conference**

The Audit Commission reported that during the period under review, the Commission spent a total of USD 100,350 on the Scientific Conference under Partnership Fund Project, incurring an additional cost of USD 40,350 over and above the activity budgeted cost of USD 60,000 that was to be financed under this component. The source of the extra funds has not been explained. The payments were made as analyzed in **Annex XII**.

The analysis implies that the Commission makes unnecessary provisions in its budget and the excess funds are subsequently used to pay for unplanned for activities, contrary to budgetary control procedures.

The LVBC Management took note of the audit recommendation and reported that the scientific conference was funded by several projects. Each project was allocated the amounts and activities to be funded. The amount of USD 40,350 was paid by Partnership Fund to be refunded from the other projects. The anomaly in charging the allocation to Partnership Fund is noted and relevant reallocation and refund from other projects will be done.

The Committee took note of the management's response but concurs with the audit finding that evidence is required to show that overcharge from Partnership Fund refunded.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to present evidence of refund to the Partnership Fund budget for audit verification.*

### **3.10 Payroll Management - Donor Funded Staff**

The Audit Commission reported that during the audit it was observed that the LVBC Management did not maintain a separate payroll for the projects' staff but instead lumped-up all projects' staff emoluments under one line item-project costs. The audit team was not able to verify projects' payroll and the related cost of staff emoluments and thus could not ascertain whether payments were made to bona fide staff and within the approved rates.

The LVBC Management upheld the Auditors' recommendation and reported that the payroll for Projects staff is prepared like the one for established/core staff though the Projects' staff costs were posted to the general projects costs account.

The LVBC Management also held that effective July 2013, the posting will be done to each segregated expenditure account. The Chart of Account has been redesigned to enhance this. This will facilitate expenditure reporting based on expense line items and hence, facilitate variance analysis.

The Committee observed that LVBC Management was wrongly posting staff emoluments. The Committee was however informed that a new GFS Chart of Accounts that comprehensively segregates all activities is currently being implemented. This will enhance the reporting functionality of the Sun Accounting System.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present the new GFS Chart of accounts to the Audit Commission for review and verification in the next audit.*

### **3.11 Weaknesses noted in Service Contracts**

The Audit Commission reported that the review of LVBC contracts with service providers revealed the following unsatisfactory matters:-

- a) Provision of security services Contract No.LVBC/SRVC/001/2011-2012 – Riley Falcon Security Services LTD:-
  - The contract was entered on 3rd September, 2012 but was indicated under Item 4 of the contract agreement to commence on 1st July, 2012 and ends on the 30th June, 2013. There was therefore no valid contract between 1st July, 2012 to 2nd September, 2012
  - The contract reference is for the prior FY 2011/2012.
  
- b) Provision of Office Cleaning Services Contract No.LVBC/2012-2013. – Metro Cleaners & Renovators LTD:-
  - The contract was entered on 14<sup>th</sup> Decémbér, 2012 but was shown under Item 3 of the contract agreement to commence as 1st July, 2012 to 30th June, 2013. There was therefore no valid contract from 1st July, to 13th Decémbér, 2012
  - The contract reference is not indicated other than the financial year.

c) Provision of Air Ticketing Services Contract No. Srvs/Air Ticketing/2011-12-PEL TRAVELS Ltd:-

- The submitted contract is an addendum entered on 2<sup>nd</sup> November, 2011 to the previous contract signed on 9<sup>th</sup> July, 2011 which expired on 31<sup>st</sup> October, 2011. The contract was extended to 30<sup>th</sup> June, 2012. This implies that the Commission did not have any contract with the said company during the year under review yet it continued doing business with it.

The LVBC Management took note of the Auditors recommendation and reported that the position of Legal Officer fell vacant, following the resignation of the office holder, which led to poor drafting of the contracts including such types of errors in dates and references. However the contracts awards were notified to the successful bidders with correct reference, which is also legally binding to the same, and therefore the risk of legal challenges is mitigated. The aforementioned contracts will be reviewed in consultation with the other parties to the contracts to correct the errors.

The Committee confirmed weaknesses in the previous contracts between LVBC and service providers but was assured that contracts with service providers have been reviewed to ensure consistency.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to exercise prudence while engaging service providers.*

### 3.12 Risk Assessment

The Audit Commission reported that the Commission has a Risk Management Policy but no Risk Assessments have been done in the year under review. In the absence of this practice, Commission may not be able to estimate the likelihood and significance of the risks it is exposed to.

The LVBC Management reported that it has already embarked on development of Results Based Management System (RBMS) which embeds Risk assessment component in its implementation. The RBMS was presented to the 12<sup>th</sup> LVBC Sectorial Council of Ministers for approval and the final draft is currently being reviewed by Partner States for inputs before its adoption. Furthermore, the Risk Assessment is currently being piloted at EAC Secretariat and the Commission will immediately scale it up. It is planned to undertake staff training on risk assessment up to departmental level.

The Committee observed a shortfall on Risk Assessment at LVBC but was informed that comments on the Initiated Based Result Management System (IBRMS) by the Partner States are pending. However, LVBC is undertaking an exercise to harmonize LVBC with the EAC Risk Management Policy framework.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC Management to present evidence of risk assessment management tools for audit verification during the next audit.*

### 3.13 Accounts Payable

#### a) Purchase Invoices

The Audit Commission revealed that during the period under review, the following observations were made on accounts payables records:-

- i. The Commission uses cash basis of accounting for its payables whereby all invoices are expensed upon being received. This contradicts proper accounting treatment for payables as stipulated in the EAC Financial Procedures Manual that payment of all invoices for creditors must be made within 30 days of receipt of the invoice.
- ii. Also noted was that all unsettled invoices for the various suppliers that are yet to be expensed at the end of the financial year are all lumped in an Accrued Expenses Account. There are no individual ledgers maintained for each supplier.
- iii. No aging analysis is done for the creditors therefore making it difficult to know how long the creditors have been outstanding in the Commission's books.
- iv. Included in the accounts payable figure is an amount of USD 9,671 relating to unapproved purchase invoices. These invoices relate to services already consumed by the Commission but were lacking all the required approvals. Existence of unauthorized invoices raises doubts on validity of the Commission's creditors

The LVBC Management informed the Committee that currently, LVBC is accruing all creditors, the lump sum accrued expenses was utilized in transition. Individual supplier ledgers were subsequently created.

The Committee noted improper accounting for payables and poor reconciliation of invoices.

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

- i) always comply with the EAC Financial procedures manual; and*
- ii) present implementation of the Audit Commission recommendations for review and verification in the next audit.*

### 3.14 Staff Imprest

The Audit Commission observed that included in the Creditors and Accrued expenses figure is an amount of USD 67,399 relating to Staff Imprest. These amounts are reflected as payables in the Financial Statements since they are to be refunded to staff who presented their accountability documents after recoveries for unaccounted for imprest were effected from their salaries, contrary Section 6.5 (0) of the financial rules and regulations.

The LVBC Management responded that when deductions were made from staff salaries, there were cases of over-deduction for some staff. Therefore, refund of imprest from recovery will only be done in cases of over-deduction. For imprest retired after the deduction was effected, no refund will be affected as a deterring measure for late retirement. Management undertook to adjust the creditors figure to reflect the correct position.

Meanwhile, the imprest figure of USD 81,916 was adjusted by USD 14,517 to USD 67,399. The adjustment relates to proper donor and project analysis in financial statements. USD 67,399 will be reconciled against receivables of USD 115,236.

The Committee observed that LVBC Management erroneously recovered unaccounted for funds contrary to section 6.5 (o) of the EAC financial rules and regulations. The creditors figures was not adjusted to reflect the correct position LVBC Management informed the Committee that credit balances were adjusted and accountabilities which were submitted subsequent to the deductions are not eligible for refund.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the LVBC Management to present the adjusted credit balances to the Audit Commission for verification in the next audit.*

### 3.15 Accounts Receivables

The Audit Commission reported that the statement of financial position as at 30 June, 2013 reflected an amount of USD 1,521,999 relating to account receivables and prepayments. The amount comprised of unpaid Partner States' contributions, unaccounted for advances to projects implementing agencies and outstanding imprest and staff advances.

Further review of the advances to projects implementing agencies revealed that USD 6,050 advanced to TACAIDS/UNFPA had not been accounted for as at 30 June, 2013 this amount, relates to the year 2011/2012. However, no effort appears to have been made by the management on follow up and recovery of the long outstanding advances.

The LVBC Management reported that outstanding amount of USD 103,229 has been accounted for in full and the accountability availed to the Audit Commission for verification.

The LVBC Management further reported that efforts have been made to recover the outstanding amount of USD 3,200 advanced to NFP Uganda. However, the officer who took the imprest passed on. The Management will consider ways addressing the issue, including possibility of writing off as per the existing Financial Rules and Regulations of EAC.

The Committee noted that the outstanding advance of USD 6,050 advanced to TACAIDS/UNFPA is still outstanding and LVBC Management has not initiated the recovery.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVBC management to recover the USD 6,050 advanced to TACAIDS/UNFPA and report evidence to the Audit Commission for verification.*

### 3.16 VAT Claimable

The Audit Commission reported that although Article IV Point (4) of EAC Headquarters Agreement with the Republic of Kenya provides for exemption of the Commission from Value Added Tax (VAT) and all taxes, it was noted that the Commission has not taken any initiative to recover from Kenya Revenue Authority (KRA) VAT outstanding balance amounting to USD 87,238 as at 30 June, 2013 as analyzed here below:-

## VAT Claimable

Type	Outstanding balance as at 30/06/2012	Net movement during the year	Outstanding balance as at 30/06/2013
	USD	USD	USD
VAT	66,707	20,531	87,238
Total	66,707	20,531	87,238

According to the ledger entries, some of the amounts relate to June, 2009 and no evidence was made available to confirm that the Management has made efforts to recover VAT outstanding.

The LVBC Management reported that arrangements have already been made to claim for the amount of VAT due. Exemption is on case by case basis. KRA does not give a blanket exemption. This issue is being addressed at the level of EAC Secretariat and discussions with all Partner States on VAT exemption treatment are underway. The Management will ensure that all claims are lodged when due.

The Committee observed that refund of VAT claimed from EAC Partner States where EAC Organs and Institutions are housed has been made impossible.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to convene a meeting with tax bodies of the Republic of Uganda, Republic of Kenya and the United Republic of Tanzania to iron out issues of claimable VAT and other taxes.*

### 3.17 Deferred Income from Donors

The Audit Commission reported that a figure of USD 3,301,677 being reported as deferred income from donors in the consolidated statement of financial position cannot be confirmed as included within the figure is a deferred asset of USD 541,041 under Partnership Fund which has not been explained. Besides, note 14 of the financial statements related to this component have not clearly explained how the asset or the liability arises.

The LVBC Management took reported that funds received by PF were less than actual expenditures of the year. Funds expected during the year for implementation of activities were received after the year under review while PF had already borrowed funds of USD 297,272 for the implementation of its activities as reflected in the accounts. This is the cause of a debit balance of USD 297,995 under deferred income. Management further reported that the amount had been refunded in the current FY 2013/14.

The Committee was however informed that the borrowing that gave rise to negative deferred income on PF has been refunded. There is no outstanding balance between the two projects. LVBC management undertook to exercise diligence in future to avoid such incidences.

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

- i) always adjust their financial statements; and
- ii) present adjusted financial statements to the audit Commission verification in the next Audit.

# PART IV

## LAKE VICTORIA FISHERIES ORGANISATION (LVFO)

### 4.0 CURRENT YEAR AUDIT FINDINGS

#### 4.1 Doubtful Expenditure - Us\$.61,547

The Audit Commission reported that expenditure amounting to Us\$.61,547 was not properly accounted for, contrary to the financial regulations; examination of the accompanying supporting documents revealed several inconsistencies that point to a possibility of misuse.

Management agreed with the audit findings and promised to further investigate the transactions.

The Committee noted doubtful expenditure but was informed that only USD8,450 was found doubtful and recovered.

*The Committee recommended to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to come to report to the Audit Commission for verification in the next audit.*

#### 4.2 Irregular Out of pocket Allowance Us\$.2,980

The Audit Commission reported that during the audit, it was noted that in a number of instances, LVFO officers were invited for workshops and conferences and the organizers categorically stated that they would provide air tickets and subsistence allowances in cash form, implying that the officers were not entitled to an out of pocket allowance. Audit review revealed that a total of Us\$.2,980 was irregularly paid to officers in form of out of pocket allowance.

LVFO Management responded that LVFO Staff Rules and Regulations, Rule No.9.3 (i) provide that where staff is travelling on duty and his travelling expenses including board and lodging paid for by another organization, the Executive Secretary may authorize 20% of the DSA Allowance up to a maximum of 15 days to cater for incidental expenses. This has been the practice over the years. The US\$2,980.00 is a total of different allowances in this category paid to staff.

The Committee noted that the LVFO Management misinterpreted Rule No. 9.3 of the Staff Rules and Regulations for double benefit. The misinterpretation continues to be a practice, which signifies incompetence and fraud.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to put an end to the practice and recover the amount spent irregularly from the officers involved.*

#### 4.3 Wasteful Expenditure - Us\$ 7,850

The Audit Commission reported that the audit review revealed a number of instances where the organization spent funds that could have been saved; such expenditure could have been

avoided had management been more prudent in the utilization of the organisations resources. The highlights of the instances in question are shown below:

A three day budget workshop attended by three officers was held in Seeta, which is located only one hour's drive from the Jinja office; each officer was paid full per diem for the three nights at a rate of Us\$.300 per night, which amounted to Us\$.3,000 in total. There is no justification for the payment of such an allowance, given that ordinarily, the participants would have been provided full board accommodation in the hotel which would even be cheaper than paying officers the full daily per diem of Us\$.300.

Having six people, including the executive secretary, to accompany two auditors for a field visit and all the six staff are paid allowances for two nights at a rate of Us\$.300 per night.

Invitation for a workshop for which an air ticket is paid for by the organizers but the officer opts to travel by road to a venue more than 800 km away. A total of Us\$.300 plus cost of fuel was expended in the process

The LVFO Management responded as that:-

Submission of the budget to EAC for approval was running late and the team needed to get off site to make the preparation without interruption. During the time, the team put in effort till late in the night in order to submit the budget on time.

Management has noted the wasteful expenditure and will ensure that in future such cases will not arise again.

The staff travelled to Kisumu by road and then flew to Nairobi, and returned to Jinja from Kisumu by road.

The Committee observed that LVFO Management understands the mistake and undertakes to avoid the practice in future.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to ensure that all unnecessary expenditures are avoided at all costs.***

#### **4.4 Unclaimed VAT - Ugshs.5,903,331**

The Audit Commission reported that Section (1) subsection 1(e) of the Annex to the convention establishing the LVFO and assented to by cabinet Ministers of the three partner states exempts the Organization from any kind of direct or indirect taxes. In this regard, the organization is expected to pay for only goods taken or services provided and in case taxes are paid directly or indirectly the organization should claim for a refund from the tax body.

Audit review revealed that in the year under review the organization paid a total of Ugshs.5,903,331 in taxes. However, there is no evidence that any attempt to reclaim these funds from the tax body have been made.

LVFO Management reported that it acknowledges the audit observation and has already embarked on the procedure to claim the taxes in arrears.

The Committee observed that LVFO Management has not put any effort to enforce the Headquarters Agreement.

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

- i) Seek and convene a Meeting with URA Commissioner in charge of tax exemptions and institute a mechanism of timely refund of taxes, and report progress to the Committee;*
- ii) Ensure enforcement of the Headquarters Agreement.*

#### 4.5 Budget Performance

##### a) Delayed approval of the annual budget

The Audit Commission reported that the LVFO convention requires the organization's budget to be approved by the Sectoral Council Ministers before execution of the activities. The essence of such a provision is to provide a chance for the ministers to have an input into the activities to be implemented in the subsequent period.

The audit noted that the budget for the financial year 2012/2013 was approved in November 2013, five (5) months after the close of period to which the budget relates. This denied the ministers a chance to have an input into the organizations activities and translates into approval as a mere formality.

The LVFO Management reported that it acknowledges the audit observation. The convention stipulates that the Council of Ministers (CMs) will be sitting once every two years. The next sitting was scheduled for 3<sup>rd</sup> to 7<sup>th</sup> December 2013 in Jinja, Uganda (letter LV2009/CM/1/99 of 23<sup>rd</sup> November 2012) but did not take place because Kenya was preparing for her elections which were due in March 2013; due to logistical issues, the earliest the event was held was November 2013.

The Committee observed that elections in the Republic of Kenya led to the delayed approval of the Annual Budget. The LVFO Management could have however overseen the schedules of other activities in Partner States and schedule the meeting conveniently.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to always consider Partner States activities while planning for annual meetings to avoid coincidence and disruption.*

##### b) Revenue performance

The Audit Commission noted that the entity budgeted to receive a total of Us\$.3,191,891 of which Us\$.810,150 was expected from Partner States and Us\$.2,381,741 from development partners. However, by the close of the year no revenue had been realized from the Partner

States in respect of the current year and Us\$.172,775 had been received from the donors. This represents a paltry performance of 5%. With such a poor revenue performance the entity had challenges in implementing planned activities and indeed a number of planned activities were not undertaken.

The LVFO Management reported that it concurs with the audit observation and reported that several and timely reminders about the contribution arrears in form of letters, telephone calls and visits have been made to the Permanent Secretaries of the respective countries. Corrective actions or adjustments can only be undertaken following the CM's decision.

The Committee observed that non remittances of the committed funds by Partner States and donors are a challenge to LVFO.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to ensure that committed remittances are indeed paid on time.***

**c) Budget control**

The Audit Commission reported that during the audit, it was observed that comparison of amounts approved in the budget for each budget line with amounts actually spent under each budget line revealed expenditure beyond budget in particular line items as shown in the table below (all figures relate to recurrent expenditure) :-

**Overspent budget lines**

Budget Line	Budget (Us\$)	Actual (Us\$)	Variance (Us\$)
Subsistence allowances	12,200	108,776	96,576
Motor Vehicle repair	5,850	36,771	30,921

The LVFO Management acknowledged the audit observation and reported that the budget for LVFO for the FY 2012/2013 was restricted to zero increment as communicated by F&A. This compelled management to under budget in order to fit within the ceiling. The vehicles used by LVFO were old and this necessitated frequent repairs. Also, the process of mainstreaming of LVFO to EAC called for more frequent travels to EAC to attend meetings which were not envisaged during the planning. The LVFO Council of Ministers raised the Country Contribution from US\$270,050 to US\$320,000 starting from FY 2014/2015 in their meeting of November 2013. In the process of coming up with a realistic budget, Management has prepared a supplementary budget for 2013\2014 to be presented be presented to F&A.

The Committee observed non adherence to the budget lines, explanations notwithstanding.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to always seek reallocations from competent authorities and comply with the budget ceilings.***

#### 4.6 Gratuity Contributions

The Audit Commission reported that the organization makes gratuity contributions to its staff at a rate of 25% of the basic pay. The gratuity contributions are transferred on a monthly basis to a gratuity account thereby accumulating the asset and the liability. A review of the gratuity operations however revealed a number of shortcomings highlighted here below:-

##### a) **Asset not matching Liability**

Whereas the liability due to be paid has accumulated to Us\$.464,800, the asset to match this liability stands at Us\$.109,514 as of 30<sup>th</sup> June 2013. The situation was created by excessive borrowing from this account during the current and previous years without corresponding refunds; It was noted that in the year under review a total of Us\$.40,000 was actually borrowed to pay salaries and was not refunded.

The LVFO Management concurs with the audit observation and further held that the borrowings were made to meet the gap arising from countries' failure to honour their annual obligations. As at 30<sup>th</sup> June 2013, a total of US\$.1,627,593 was still outstanding. Management however will refund the borrowed funds upon receipt of the contributions which are in arrears.

The Committee noted the LVFO management undertaking to refund the borrowed monies from gratuity.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to refund money borrowed from gratuity account and always follow up Partner States contribution to avoid continuous borrowing.*

##### b) **Interest Earned on Fixed Deposit Accounts**

The Audit Commission reported that during the period under review, it was noted that management decided to transfer idle gratuity funds to fixed deposit accounts so as to earn some revenue in form of interest. By June 2009, management had accumulated Us\$.103,650 and Ugshs.28,763,324 on these accounts. The following matters have however been noted:-

- i) Thereafter the Uganda shilling account has not earned any interest for 4 years now; interest amounting to shs.8,544,080 supposed to have been earned on this account requires explanation.
- ii) The interest earned on both accounts is being subjected to withholding tax at source; however, since the organization is tax exempt this amount can be recovered; however, the organization has not made any attempt to recover such monies since inception.
- iii) The interest earned is disclosed in the financial statements on cash basis rather than accrual basis. This contradicts the accounting policy adopted by the organization.

The LVFO Management reported that the bank routinely credited the interest directly to the Operations Account, and therefore management thought it prudent to recognize it on a cash basis. However, in future, the treatment will be recorded on an accruals basis. Management undertook to notify the bankers of the anomaly in the failure to deposit interest on to the shilling account and also reclaim the tax deducted at source.

The Committee noted the LVFO management undertaking.

### **COMMITTEE RECOMMENDATIONS**

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

- i) Always record and keep books of accounts properly and professionally;*
- ii) Claim the interest earned on the Uganda Shillings account and tax deducted from both accounts.*

#### **4.7 Unserviceable Motor Vehicles**

The Audit Commission reported that during the audit, it was noted that the annual board of survey for the year ended 30<sup>th</sup> June 2012 declared 10 vehicles grounded and beyond repair. Also noted was that the 2013 board of survey maintained the same status for these vehicles. Further audit revealed that during the year under review, invoices amounting to Ugshs.16,061,000 were presented for repair and servicing of grounded vehicles.

The LVFO Management reported that the disposal process was concluded at the beginning of the FY 2013/14 and there was no successful bidder for the 3 vehicles which are still on ground. Management intends to start on the process of reselling these vehicles once funds are secured.

It was further reported that although the organization retained 5 Vehicles for routine operations, such vehicles were also not in the best condition and therefore used to break down more often. Moments when such vehicles were in the garage, pending activities needed to be continued which prompted temporary use of the boarded off vehicles and hence the repairs.

The Committee observed that LVFO Management lack proper planning and efficiency. It is indeed logical to suspect 16,061,000 UGX spent on repair of vehicles that were declared unserviceable and grounded.

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

- i) Immediately dispose off the three grounded vehicles;*
- ii) Always execute LVFO mandate prudently and diligently.*

#### **4.8 Honoraria**

The Audit Commission reported that during the audit, it was noted that the organization paid a total of Us\$. 17,500 in the year under review without the express permission of Council yet all the payments were in excess of Us\$. 1,000 and were made to employees, contrary to rule 5.6 (c) of staff rules and regulations. The audit also noted instances where the justification given appeared unsatisfactory; for instance paying accounts staff honoraria for preparation of yearend financial statements, yet this is supposed to be part of their normal schedule of duties. The details are shown in the table below:-

### Unjustified payments for honoraria

Date	Reference	Description	Beneficiary	Amount (Us\$)
8/16/2012	091231	Honoraria for preparation of LVEMP Financial statements	Various staff	2,500
2/1/2013		Honoraria for implementing the IFMP W/shop. Vr 212		4,500
3/15/2013	083379	Honorarium for successful implementation of the pr	Various staff	8,000
3/15/2013	083380	Honorarium for successful implementation of project. vr 9034	Various staff	2,500
		Total		17,500

The LVFO Management reported that the honoraria was given to staff for handling project activities and responsibilities outside their normative responsibilities. Management however concurs with the audit observation and promised to seek express permission of Council such expenses are made in future before.

Although LVFO Management informed the Committee that payment of Honoraria is no longer a practice, the Committee noted breach to rule 5.6 of the staff rules and regulations.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to put to an end irregular expenditure of institution funds and breach of regulations.***

#### 4.9 Receivables

The Audit Commission reported that included in the receivables amount is Us\$.1,627,593 due from Partner States. The figure has been increasing over the years. Management did not provide evidence of recoverability of these amounts.

The LVFO Management reported that although reminders in form of letters, telephone calls and personal visits have been made to the responsible personnel of the respective Partner States, the amount outstanding has continued to grow. The Partner States have not shown any indication that they will not settle their obligations. In the 8<sup>th</sup> Regular Session of the LVFO Council of Ministers meeting in November 2013 in Arusha, Tanzania, they requested Partner States to pay outstanding balances of country contributions. Writing off such debts would call for the decision of LVFO Council of Ministers for management to act accordingly.

The Committee appreciates the reminders done by the LVFO Management but proof of recoverability is important and an obligation on the part of LVFO.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to:***

- i) follow up and recover the receivables;*
- ii) always keep records of such monies owed to the institution.*

#### 4.10 Payment in lieu of leave

The Audit Commission reported that a total of Us\$.28,800 was paid to all staff as compensation for leave not taken in the previous calendar year ended 31<sup>st</sup> December, 2012. The justification given was that all staff could not go for leave due to the heavy schedule of duties. However, it is worth noting that for the major part of that year, the entity was very underfunded with less than 50% of the activities running. In addition, a review of the personal files showed no evidence that any staff had requested for leave and had not been approved.

The LVFO Management responded that initially, the organization employed an additional staff of more than 6 running on projects and when the LTTA who were handling some of the activities of the IFMP Project departed, it was foreseen that the remaining staff on ground (2 executives and 6 professionals) would be handling activities and responsibilities outside their normative ones. The situation was further made worse the terms of office for 1 executive staff and 1 professional staff ended, leaving only 3 professional staff with 1 Executive on ground. This left the team without any option of being away on leave. Management will however ensure that in future, all staff take their respective annual leave days and if possible in a fragmented manner.

The Committee noted that payment in lieu of leave was irregular for it never observed any procedures and did not have any justification. The payment also breached staff rules and regulations.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to:-***

- i) always justify such payments;*
- ii) put in place a leave roster;*
- iii) recover the amount in question or write off the figure from the books of accounts.*

#### 4.11 Consultancy Services

##### **a) Overpayment**

The Audit Commission reported that during the year under review, it was noted that LVFO hired a Consultant Mr. OTIENO OKOTH Richard for preparation and development of Terms of reference for the study on formation of the East Africa fisheries Commission at a contract price of Us\$.20,000. However, LVFO paid a total of Us\$.20,200 by the cheque numbers 000016/18/29.

The LVFO Management reported that it concurs with the audit recommendation to recover US\$.200 which is over and above the contract amount paid as transport refund to the Consultant. Management intends to recover the same from the staff who approved the payment.

The Committee observed that the overpayment was irregular and noted the LVFO undertaking.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to recover the overpaid amount and report evidence to the Audit Commission for verification.***

#### **4.12 Non-compliance with Procurement laws**

The Audit Commission reported that audit review revealed that LVFO incurred costs amounting to US\$.3,781 for purchase of air tickets, by way of direct procurements, contrary to Section 10.6 of the financial rules and regulations of the LVFO. This practice if not checked will undermine the fundamental principles of transparency, efficiency, economy and fairness in the management of public funds.

The LVFO Management reported held that the purchase of air tickets through direct procurement arose as a result of the provider being able to issue the organization with tickets on credit, given the financial situation on ground. Management has since embarked on soliciting quotations from at least three providers for any service/goods requested.

The Committee observed that the purchase of air ticket breached section 10.6 of the financial rules and regulations of LVFO.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to always comply with procurement regulations.*

#### **4.13 Weaknesses in Procurement**

The Audit Commission reported that a review of the procurement function within the organisation revealed that the tender committee has never been fully reconstituted after the departure of the two members that is the former Deputy Executive secretary and the former head of Finance and Administration.

The LVFO Management concurs with the audit observation and undertook to reconstitute the tender committee immediately.

The Committee observed that LVFO does not have a procurement committee, creating a very strong weakness in procurement.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to constitute the tender committee and report evidence to the Audit Commission for verification.*

#### **4.14 Convention Establishing LVFO**

The Audit Commission reported that the Convention establishing LVFO was signed in 2001 by the EAC which by then only included the three (3) Republics of Kenya, Uganda and Tanzania. Currently, the EAC is comprised of five (5) member states, after it was expanded to include the two (2) Republics of Rwanda and Burundi. However, the Mandates, Objectives and activities of LVFO are still limited to the first 3 partner states.

The risk noted is that the other two member states are denied benefits that accrue from the organisation. Conversely, the organisation may also be missing out on the positive contributions of the other two member states.

The LVFO Management reported that the mainstreaming Rwanda and Burundi is in progress. A meeting was held on 22<sup>nd</sup> January 2014 where the three Partner States unanimously agreed to mainstream Rwanda and Burundi into LVFO and Kenya being the chair of LVFO Council will sponsor the process to amend the plan.

The LVFO management also informed the Committee that the LVFO convention was amended to include the Republics of Rwanda and Burundi and submitted to the depository of FAO who is its Director General. The FAO Director General passed over the proposed amendments to the Legal Department for inputs.

*The Committee commends progress and recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to urgently follow up the conclusion of amendments.*

#### **4.15 Mandate of the Organization**

The Audit Commission reported that the Convention creating the LVFO stipulated that the Organisation will be headed by a Council of Ministers, under whom are several committees that is; the policy steering committee, the executive committee, the scientific committee and the Fisheries Management committee, each with well-defined roles, collectively meant to achieve the objectives of the Organisation.

The Convention further provides for a permanent Secretariat headed by the Executive Secretary whose function is to organize sessions and meetings of all the other bodies of the organization and to disseminate the outcomes of such meetings to the different stakeholders.

A review of the LVFO activities for the year, revealed that all expenditure was in relation to Secretariat staff, who apparently attempted to undertake the roles of the above bodies of the organization. Given that the secretariat only has three professional staff who are so thin on the ground, they cannot effectively accomplish these roles. There was no evidence that the Secretariat organized any meeting or session for any of the Committees of the organisation.

The LVFO Management held that the formal meetings of the LVFO Statutory Committees for the FY 2012/2013 were not convened mainly because of budget constraints. It was further held that the Secretariat maintained its coordination role through support from other collaborators; the Regional Working Groups and members of the Scientific Committee, Management Committee and Executive Committee who were actively involved to provide technical and management guidance. Some of the activities which LVFO Secretariat coordinated and brought together the members of the sub-Committees and the Committees included Activities coordinated under ACP FISH II, Activities supported under LVEMP II, EALP HIV/AIDS Project, Activities under Smart-Fish Project, Support to strengthen the LVFO – RISP 2 funding through EAC Secretariat, etc.

The Committee noted that the mandate of LVFO is not efficiently executed.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO management to immediately rejuvenate its committees to promote segregation of duties and effective execution of their roles.*

#### **4.16 Inconsistencies in Procurement Process**

The Audit Commission reported that the organisation procured printing services for two publications that is; the LVFO convention (38 pages) and the LVEMP regional action plan (23 pages) at a unit cost of Ugshs.15,000 and Ugshs.12,000 respectively. The total cost amounted to Ugshs.15,930,000 (equivalent to Us\$.6,527). The procurement method used

was restrictive bidding where three suppliers i.e. M/s Intersoft Business Services Ltd, M/s The leading edge Ltd and M/s Kanstrac Business System Ltd, were invited to provide quotations. The tender was awarded to Kanstrac Business System Ltd. A review of the proforma invoices presented revealed the following irregularities:-

It was noted that M/s The leading edge Ltd, issued pro-forma Invoice No.13294 on 5<sup>th</sup> April 2012 for printing the LVFO convention books and pro-forma No.13293 on 19<sup>th</sup> April 2012 for preparation of a regional action plan.

M/s Intersoft Business Services Ltd, also issued two pro-forma invoices No.2029 and No.2026 on 4<sup>th</sup> April 2012 and 18<sup>th</sup> April 2012 respectively for printing the LVFO convention and the regional action plan.

It is not conceivable how two independent companies can both consistently issue proforma invoices in reverse order.

The above inconsistencies create doubt as to whether the proforma invoices from the two companies are genuine and creates suspicion that this was a direct procurement from M/s Kanstrac Business System Ltd.

The LVFO Management reported that the reversing Pro-forma Invoice numbers was an oversight which was not noticed at the time. Management promised to be keen on such anomalies in future.

The Committee noted the inconsistency claimed to be an oversight.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct LVFO Management to investigate the source of invoices and report the outcome to the Audit Commission for onward reporting to the EALA Committee on Accounts.*

## PART V

### INTER-UNIVERSITY COUNCIL FOR EAST AFRICA (IUCEA)

#### 5.0 CURRENT YEAR ISSUES -2012/13 FINANCIAL YEAR

##### 5.1 SHORTFALLS IN FUNDING OF IUCEA

The Audit Commission reported that during the review of the financial statements, it was noted that the amount of contributions collected from Partner States was Us\$.2,856,466 while the total expected was Us\$.4,015,560. In addition the arrears from the Partner States as at 30<sup>th</sup> June 2013 amounted to Us\$. 12,853,915 as shown in Annex XIII.

Failure by member states to promptly remit their annual contributions negatively affects performance of the Council to fulfil its mandate. It was also noted that increased non-remittance raises uncertainties regarding the capacity of the Council to survive as a 'going concern'.

The IUCEA Management responded that:-

- i) The Secretariat issues debit notes to Partner states only after EALA approval of the budget;
- ii) According to the practice of funding to EAC, Partner States are required to have remitted 50% of the approved budget by end of Q2.

The Committee was informed that to improve the situation, some Partner States have started to channel their contributions through the Ministries of East African Community Affairs.

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

- i) Follow up, verify and ensure that channeled through the Ministries of AC Affairs;*
- ii) Verify and ensure from Partner States are included in the budgets of respective Partner States annually;*
- iii) Follow up with reminders on debit notes.*

## **5.2 DOUBTFUL RECOVERABILITY OF CONTRIBUTION ARREARS- US\$.12,353,914.80**

The Audit Commission reported that pursuant to section 4.1.11 of Financial Rules and Regulations of IUCEA, a review of contribution history for the last two financial years revealed that all member states, with exception of Rwanda, had accumulated arrears to the tune of US\$.12,853,914.80 as at 30<sup>th</sup> June 2013. Further noted was that there is no policy in respect of recoverability as well as any enforcement provisions.

IUCEA Management reported that several reminders and letters have been written to Partner States, backed by EAC Council directives to the effect. Besides, the matter has been presented and discussed in several meetings including the 24<sup>th</sup> Meeting of the EAC Council of Ministers where directive EAC/EX/CM24 was issued, directing Partner States to timely remit their contributions.

The Committee was informed that later, the EAC Council of Ministers directed Partner States to pay their arrears and the Republic of Kenya complied by remitting USD3,367,280.

The Committee observed that IUCEA lacked the policy on the usage of recovered funds; importing the risk of misuse.

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

- i) direct Partner States to enforce the Council directive on payment of arrears;*
- ii) direct IUCEA management to develop and put in place a policy on recoverability of arrears and remittances due;*
- iii) direct IUCEA management to develop guidelines on usage of recovered funds/arrears.*

### 5.3 OUTSTANDING BALANCES OF ANNUAL SUBSCRIPTIONS FEES

The Audit Commission reported that subscriptions from member Universities and Corporate Institutions as defined in the IUCEA Act 2009 are accounted for on an accrual basis. The revised membership fees structure with effect from 1<sup>st</sup> July 2010 shows the following:-

Student Population	Annual Fee for Full Membership (Us\$)	Annual Fee for Associate Membership (Us\$)
1-1000	2000	1500
1001-5000	4000	2000
5001-10000	5000	2500
10001 and above	6000	3000

During the audit review, it was noted that the total amount of fees collected from Public Universities, Colleges and Private Universities as members of IUCEA was Us\$.244,314 while the total budgeted amount was Us\$ 331,000 occasioning an outstanding balance of Us\$.86,686.

The audit further noted that the total outstanding arrears of annual subscription fees for the financial year ended 2011/2012 was Us\$.145,408 giving total outstanding balance of Us\$.232,094 for financial year 2012/2013 as analyzed in the table below:-

Item	Arrears b/f 1 <sup>st</sup> July 2012	Membership fees towards arrears	Arrears c/f as at 30 <sup>th</sup> June 2012	Expected Membership fees for F/Y 2011/2013	F/Y 12/13 Membership fees received	Current years outstanding as at 30.6.13	Total arrears c/f as at 30.6.13
	A	B	C=A - B	D	E	F=D-E	G=C+F
Membership Fees	145,408	-	145,408	331,000	244,314	86,686	232,094

The IUCEA Management reported that quarterly reminders have always been sent to members and during IUCEA Governance Meetings the status of membership fee subscription is presented with an analysis of the aging of each outstanding amount. Management further undertook to review the current guidelines where members who are in arrears for 4 years are expunged from being members of IUCEA and present a proposal for review to the Executive Committee in June 2014.

The Committee was informed that IUCEA Management has written to Member Universities reminding them of their dues and the balances are being received from Member Universities.

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

- i) *formulate a policy on usage of recovered arrears from Member Universities;*
- ii) *present progress reported and implementation of the directive to the Audit Commission for verification.*

### 5.4 RISK MANAGEMENT

The Audit Commission reported that during Assessment of internal controls, it was revealed that IUCEA Management has not evaluated the significance and the likelihood of business risks that may affect the achievement of its targeted objectives. Such risks could include:-

- i) Employees related problems (training, attitudes, misconduct, and grievances)
- ii) Assets protection incidents (inadequate system, untrained personnel),
- iii) Natural disasters (tornados, floods, severe weather),
- iv) Information system difficulties (lack of back up), and
- v) Other events and incidents.

The Audit Commission was not provided with any evidence of risk assessment processes to mitigate risks. This was attributed to absence of a risk management policy at IUCEA.

The IUCEA Management acknowledged the importance of the Risk Management Framework and importance of this document. It reported that there was a plan to engage a Consultant to customize the EAC Secretariat Risk Management Framework. The activity however was not undertaken due to lack of resources. Management plans to get funds for this year 2013/2014 to carry out the activity as a priority.

The Committee was informed that a risk management framework has been developed and approved by the 16<sup>th</sup> Executive Committee Meeting. A report on the progress of implementation of the framework will be presented to the Executive Committee in June 2015.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA Management to report progress on the matter with evidence to the Audit Commission in the next audit for verification.*

## 5.5 BANK RECONCILIATIONS

### a) Unsupported Bank Balances

The Audit Commission reported that a review of bank reconciliation statements revealed three bank account balances which were not supported by bank certificates to confirm them as shown in the table below:-

Account	Adjusted Balances as per F/S (Us\$)
National bank of Kenya - Nairobi	14,362.00
National Bank of Commerce – Arusha	178.00
National Bank of commerce – DSM	73.00
TOTAL	14,613.00

There is a likelihood that the certificates were not obtained from the respective banks and Confirmation of the balances as appearing in the bank statements is therefore impossible.

The IUCEA Management responded that it is in discussion with these banks to have the said accounts closed.

The Committee observed that IUCEA does not have a policy on its banks accounts – causing dormancy. The IUCEA Management justified the matter that the balance in National Bank of Kenya – Nairobi has been supported by a bank statement as of 30<sup>th</sup> June 2014 and that the account in Arusha and Dar es Salaam are dormant and management is in the process of closing them.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to:-*

- i) Initiate a policy on bank accounts*
- ii) present evidence of the closure of dormant accounts to the Audit Commission for verification in the next Audit.*

**b) Non - clearance of Long Outstanding Elements**

The Audit Commission reported that the review of the bank reconciliation statements revealed some long outstanding elements/ transactions which are not cleared up by the close of the financial year. These are as listed below:-

Transaction Details	Transaction date	Transaction amount (Us\$)	Bank
Outstanding – ref 2682	16/8/2012	893	Citi bank - \$
TOTAL		893	

It was noted that there appears to be absence of review of bank reconciliations to identify such exceptions.

IUCEA Management concurred with audit recommendation and promised to investigate and make adjustments accordingly.

The Committee noted the anomaly but was informed that adjustments have been made by reversal. The long outstanding item has been cleared in the FY 2013/14.

*The Committee recommends the Assembly to urge the EAC Council of Ministers of to direct IUCEA management to present evidence of cleared long outstanding element to the Audit Commission for verification in the next Audit.*

**c) Withholding Tax deductions**

The Audit Commission reported that from the review of the bank reconciliations, it was observed that there is a withholding tax charged to the interest earned on the deposits held by the IUCEA with the bank. These taxes are remittable to the Uganda Revenue Authority and are to be supported with a withholding tax certificate to show confirmation of remittances and fulfillment of tax obligations.

It was noted that these withholding tax certificates were not availed for audit confirmation. Besides, since the Council as an entity of the EAC is tax exempt, such deductions are meant to be claimed from URA.

The IUCEA Management reported that the Secretariat is making a follow up with Stanbic bank to provide tax certificates; a letter had been written to the bank to demand these certificates. In addition IUCEA staff (Bank Agents) have been following up through visits to the bank.

The Committee observed breach of Headquarters agreements by EAC Partner States housing EAC Organs and Institutions but was informed that with difficulty, IUCEA obtained a credit certificate of UGX13,926,498 out of a total UGX 47,042,594 withholding tax payable

to URA. The certificate of the balance is being followed up, assisted by the Ministry of EAC Affairs which is handing the tax exemption certificate.

**The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct tax bodies of the EAC Partner States to comply with the Headquarters Agreements.**

**d) Unsupported Differences in Fixed Deposit Accounts**

The Audit Commission reported that the Council maintains fixed deposit accounts with different banks for purposes of investment. These deposits are subject to earning interest for the period that they are held. Some differences were noted in the financial statements as detailed below:-

Bank	Balance at 01.07.12 (Us\$)	Balance at 30.06.13 (Us\$)	Difference (Us\$)	Remarks
National bank of Commerce – DSM	1,923	1,923	0	No supporting documentation availed for audit review.
Stanbic Uganda	461,430	454,979	6,451	Reason for such a decrease was not explained
Stanbic Hqts	430,444	271,839	158,605	The reason for such decrease was not explained.

In addition, the summaries of the fixed deposit account held at Stanbic bank in US\$ had some variances as shown below:-

Account No.	Date invested	Maturity date	Amount invested (Us\$)
9030004317395	12/4/2013	14/10/2013	70,439.69
9030003966800	15/1/2013	15/7/2013	100,647.40
3030003968854	12/10/2012	12/7/2013	100,646.94
Total			271,734.03
Balance at 30 <sup>th</sup> June 2013			271,839.00
Variance			104.97

As per the above table, an amount of Us\$.271,839 was reflected in the financial statement thus giving a difference of Us\$.104.97 which needs to be explained. There was no proper monitoring through regular reconciliation of the outstanding balances.

IUCEA Management responded as follows:-

NBC-DSM funds held having the same opening balance with the end balance is because this account is inactive. The Executive Committee approved the closure of this account and management is processing closure of the account.

The reduction on balance of the UGX Stanbic account from US\$.461,430 at 30.06.2012 to US\$.454,979 at 30.6.2013 is due to a system GL Revaluation which resulted in a book loss (unrealized) entry of US\$.6,451.

The variance (US\$.158,710) shown between US\$ Stanbic Headquarters fund of US\$.430,444 and Us\$.271,734, represents the amount retired to meet the expenses of work in progress for the project.

The variances on Stanbic bank of US\$.104.97 is the overstatement of interest earned from Stanbic FDR computed manually and recognized in the books and the actual interest earned and credited on account by the bank on maturity of the FDR. Management proposes to adjust as indicated below:

Adjustment:-

Dr. 1410102	104.97
Cr. 6320709	104.97

The Committee noted that the misstatement is the source of confusion and an adjustment has to be done.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to process and confirm adjustment and present to the Audit Commission in the next Audit.*

#### **5.6 ABSENCE OF COMPREHENSIVE FIXED ASSET REGISTER**

The Audit Commission reported that during the audit, a review of the fixed assets register revealed that the register lacked significant asset details such as Date of acquisition, Type of the assets, Description Manufacture part no, IUCEA assets code Number, Cost of the assets, original and addition., location, expected useful lifetime, Depreciation rate charge for the year, accumulated Depreciation to date and Net book value.

The IUCEA Management concurred with the audit recommendation and further reported that information on fixed asset register are maintained by two units: Administration (date of acquisition, type of the assets, description, manufacture part no, IUCEA assets code Number, location), the Accounts unit records show cost of the assets, any additions, expected useful lifetime, depreciation rate charge for the year, accumulated depreciation to date and net book value. It was also noted that in May 2013, the Secretariat acquired a Fixed Assets module which will be implemented during 2013/14 and all those features mentioned shall be put in place.

The Committee discovered non-compliance with section 12.6 of the IUCEA staff rules and regulations.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA management to update the register using the acquired module with all the required details and present to the Audit Commission for verification in the next Audit.*

#### **5.7 CONSTRUCTION OF THE IUCEA HEADQUARTERS**

The Audit Commission reported that a review of the documentation in respect of the above project revealed the following observations:-

##### **Delayed construction and Co-ownership of Land Title**

The Committee was further informed that the construction contract was signed on the 10<sup>th</sup> June 2014 and construction started on the 1<sup>st</sup> July 2014 and is expected to be completed by the end of March 2015.

The Committee noted that the delay was caused by architectural designs and other negotiations before entering into the contract. The IUCEA Management later produced a letter from the Uganda Land Commission confirming transfer of ownership to IUCEA.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present progress of construction and land title to the Audit Commission for verification in the next audit.*

#### **5.8 INADEQUATE STAFFING**

The Audit Commission reported that during the audit for the financial year 2012/2013, it was noted that, IUCEA has a significant staff shortage which adversely affects the Councils' capacity to deliver according to its mandate.

The IUCEA Management held that the cost of recruitment for the priority positions was not budgeted for in the financial year 2013/14 except for the Chief Principal Planning, Finance and Administration for whom interviews are scheduled to take place on 17<sup>th</sup> February 2014. Other positions to be subject to the availability of funds.

The committee observed that there is indeed inadequate staffing at the IUCEA causing non-segregation of duties.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to expedite review of the structuring, prioritize recruitment and present progress to the Audit Commission for verification in the next audit.*

#### **5.9 WEAKNESSES IN HUMAN RESOURCE FUNCTION**

The Audit Commission reported that a review of the Councils' Human Resource functions revealed the following matters:-

It was noted that the Council does not have a fully staffed Human Resource (HR) Department. Currently, the HR functions of the Council are undertaken by an administrative officer with no requisite experience to handle such assignments.

The Executive Meeting at its 5<sup>th</sup> meeting held in Kampala, Uganda in September 2011 approved the IUCEA salary structure that is aligned to the framework of the East Africa Community (EAC) effective 1<sup>st</sup> July 2012. This exercise however was not properly undertaken by the Council since it lacked the requisite HR personnel to manage the process.

The Committee noted that applications for the post of Principal HR Officer have been received, awaiting shortlisting and interviewing.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct IUCEA Management to expedite the recruitment of a Human Resource Officer.*

#### **5.10 WEAKNESSES IN BOOK KEEPING**

The Audit Commission reported that a review of the general ledger supporting the financial statement balances revealed anomalies noted below:-

The references used/quoted in the general ledger were not consistent since several reference notations were used. For instance the references for expenditure were by payment voucher numbers, system generated numbers, bank transaction reference numbers, Journal voucher number, reference numbers, invoice numbers, LPO numbers and in some

instances the reference numbers were not defined. Sampled transactions without reference numbers are listed below:-

Date	Debit (Us\$)	Credit (Us\$)	Account	Detail of transaction
12/4/2012	208.00	0.00	2210502	Accommodation for Workshop Part
5/23/2013	600.00	0.00	2210502	Accommodation for Workshop Part
3/5/2013	282.26	0.00	2210509	Training Fees
3/5/2013	141.13	0.00	2210509	Training Fees
12/4/2012	398.00	0.00	2210513	Hiring of Training Facilities
1/8/2013	420.26	0.00	2210806	Photocopying & Binding Service
12/4/2012	600.00	0.00	2230106	Road Transport (i.e Buses, Pri
5/23/2013	600.00	0.00	2230106	Road Transport (i.e Buses, Pri
12/4/2012	1,600.00	0.00	2240105	Honoraria
5/23/2013	0.00	2,400.00	6310401	Staff Imprest (EAC Activities)
6/28/2013	0.00	30.00	6310401	Staff Imprest (EAC Activities)
12/4/2012	0.00	5,306.00	6310401	Staff Imprest (EAC Activities)
12/31/2012	0.00	389.75	6320101	IUCEA Petty Cash Imprest (Shs)
7/31/2012	539.06	0.00	7110101	Accounts Payable Control
3/5/2013	0.00	423.38	7110101	Accounts Payable Control

There were several reversals in the general ledger, implying improper data capture and absence of counter checks or controls before posting to the general ledger.

The Committee noted the weaknesses but was informed that the matter has been resolved in the Accounts of 2013/2014 and that there are no more reversals as compared to the previous year.

For the case of Citibank, with an online banking system, PV Numbers are now the only reference used as control measure while for the other Accounts, the Cheque Numbers are the references used as control measures.

***The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present with evidence the correction of the anomaly in the next audit for verification.***

#### 5.11 ANOMALIES IN SALARY ADVANCES

The Audit reported that reconciliation of the Salary Advances Register and the Financial Statements with the General Ledger revealed that for some staff, the amounts reported in the Financial Statement as salary advance differs from the amounts recorded in the Salary Advance Register. Details are as presented below:-

Staff Name	STAFF I.D	Salary Advance (Us\$)	Salary Retired (Us\$)	Outstanding From Financial Statement(Us\$)	Register Issues
Ms Irene Wassawa	EST-P-053	1,443.00	1,888.00	-445.00	Zero balance seen, credit bal per ledger
Fiddy Dungutse			166	-166.00	Not seen in the register, credit bal per ledger
Rose Nasanga	EST-P-118	1,529.00	1,516.00	13.00	Zero balance
Benedict Mtassiwa	EST-P-144	305.00	0.00	305.00	Advanced on 20/8/13

Balyagati Whelema	EST-P- 145	4,727.00	0	4,727.00	Zero balance
Reuben Tumbwene	EST-P- 150	3,658.00	3,408.00	250.00	Zero balance
	Total	10,219.00	6,978.00	4,684.00	

It was noted that there was no evidence of regular reconciliation of the salary advances ledger.

The Committee observed a mismatch reported in the Financial Statements and the Salary advance register an indication of incompetence and lack of training. The IUCEA Management informed the Committee that the matter has been resolved in the Accounts of 2013/2014.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present the corrected financial statements and the Register to the Audit Commission for verification.*

#### 5.12 EFFECTIVENESS OF THE INTERNAL AUDIT UNIT

The Audit Commission reported that a review of internal audit reports for the year ended 30<sup>th</sup> June 2013 and the annual work plan revealed that some planned activities were not undertaken or concluded within the planned timelines since there are no reports to that effect.

The IUCEA Management informed the Committee that recruitment of two temporary Internal Auditors is underway, investigations on Citibank direct payment system has been completed and a Risk Management framework has also been developed and approved by the 16<sup>th</sup> Executive Committee meeting.

The Committee observed that there is understaffing, ambitious planning, lack of resources to execute planned activities, weak systems and controls and delay of submissions of financial statements to the Internal Audit Unit.

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

- i) procure audit tools and improve on systems and controls;*
- ii) always plan realistically and in consideration of availability of resources and time;*
- iii) present the status of implementation of the Audit Commission and Committee recommendations in the next audit.*

#### 5.13 REVIEW OF CONTROL ENVIRONMENT

The Audit Commission reported that several weaknesses that include lack Risk Management Policy, lack of proper segregation of duties and lack of proper records of staff engaged on temporary basis.

The Committee noted the report by the Audit Commission but IUCEA informed the Committee that a Risk Management framework has been developed and approved by the 16<sup>th</sup> Executive Committee meeting, a VICRES Project Accountant has been recruited since

1<sup>st</sup> April 2014, job definitions and specifications for all established positions are provided for in the functional job analysis report as at March 2013 and new furniture has been acquired.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to always strengthen internal controls and present progress of implementation of the directives and recommendations to the Audit Commission for verification in the next audit.*

#### 5.14 VICRES ACCOUNT ADVANCES FOR RESEARCH FUNDS

The Audit Commission reported that a review of the accountability for research funds advanced revealed that there are still some weaknesses which need to be addressed. These include the following:-

There were delays in accountability for funds advanced; this was particularly noted for researchers who had received their last instalments. This puts the Council at risk of having to repay unaccounted for funds to SIDA when such researchers fail on their obligation of submission of accountability.

Some researchers still do not follow the agreed accountability format while accounting for funds. Some researchers only submitted activity reports without financial accountability format as provided in the VicRes Operations manual. This has made the analytical review based on comparison of budgeted and actual expenditure figures impossible as it is difficult to establish the extent of deviations (if any). The sampled cases are shown below:-

Researcher	Amount accounted for US\$
Walter Odongo	16,209
Omari Amuka	8,381
John Radull	16,827

It was noted that the agreement between SIDA and the IUCEA states under article 4, that deviations in the researchers plan presented and budgets can lead to SIDA having to claim from IUCEA wholly or in part the amount so advanced.

The audit noted instances where funds advanced were accounted for in good time only to be expensed in another period. Such cases included the following:-

Researcher	Host Institution	Accounted for	Expensed	Amount (Us\$)
Deogratius Ojiambo	Mbarara University of Science and Technology	8 <sup>th</sup> of July 2011	30 June 2013	10,952
Francis Kariuki	Kenyatta University	24 <sup>th</sup> Nov 2011	30 June 2013	20,586
Grace Kyayune	Nkumba University	10 <sup>th</sup> Dec 2008	21 <sup>st</sup> Dec 2012	12,923

The Committee observed inadequate and late accountability of research funds. The IUCEA informed the Committee that so far imprest has reduced from US\$3,093,538 to US\$493,690 as at 31<sup>st</sup> December 2014.

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

- i) always ensure measure are in place to enforce accountability of research funds;
- ii) ensure the recovery of the said accountabilities with emphasis on quality;
- iii) present the recovered accountabilities to the Audit Commission for verification in the next Audit.

#### 5.15 ABSENCE OF FUNDS RECOVERABILITY GUIDELINES

The Audit Commission reported that the Council does not have a policy in place to ensure recoverability of funds or accounting thereof in the case of a demise of a researcher. Funds are advanced to a researcher on a tripartite agreement involving the researcher, the IUCEA and the host institution. There are no provisions for recoverability of funds should the situation warrant it. A case in point is when a researcher from Sokoine University of Agriculture passed away; the researcher had been advanced funds to facilitate his research project but had not accounted for funds amounting to Us\$.5,455 by the time of his death.

The Committee observed the existence of the weakness occasioned by lack of recoverability guidelines. IUCEA however updated the information on policy and steps taken on the case of the deceased researcher and informed the Committee that a Research and Innovations Policy has been developed and approved in June 2014, guidelines on implementation, recoverability, accountabilities or unused funds are also being developed.

On the issue of the death of the Research Officer, the project Investigator/Team Leader was contracted but replied that he does not have any information regarding the funds.

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

- i) Urgently develop the policy on funds recoverability;
- ii) Present the tools developed to the Audit Commission for verification.

#### 5.16 LONG OUTSTANDING CURRENT LIABILITIES

The Audit Commission reported that the review of staff creditors shows a balance of Us\$.318 due to a staff which has appeared in the general ledger from the beginning of the financial year 2011/2012. It is not clear why it was not cleared during the financial year. In addition, among the creditors for the year, there are some which have been outstanding for quite a long period and the reason for their non-settlement was not given, as listed below:-

Creditors as at 30 <sup>th</sup> June 2013	Amount (Us\$)
Publications Nyakaana	1,200.00
Reviewers	1,140.00
Karibu	615.00
Kibazohi	117.00
Totals	3,072.00

It was further noted that the project management does not carry out ageing analysis for the creditors.

The Committee noted long outstanding liabilities and observed irregular procurement.

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

- i) always exercise due diligence while procuring for the Institution; and*
- ii) present course of action to the Audit Commission for verification in the next audit.*

#### **5.17 UNCLEAR REGULATION ON SALARY DEDUCTIONS**

The Audit Commission reported that Regulation 9.4 on salary deductions states that 'deductions from salary shall be made with regard to loans/advances, any pecuniary loss caused by the employee to the Council (if an employee has no reasonable defence), and PAYE, as required by the Income Tax Act: all deductions should not exceed 50% of employee's take home pay'. The observation is that the regulation is ambiguous.

The Committee observed that Regulation 9.4 on Salary deductions is indeed ambiguous and may not be interpreted to serve the purpose it was intended for but the IUCEA Management informed the Committee that amendments to correct the regulation were tabled and approved by the executive Committee in June 2014.

*The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct the IUCEA Management to present the amended Staff Rules and Regulations to the Audit Commission for verification in the next audit.*

## **PART VI**

### **THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY (CASSOA)**

#### **6.0 CURRENT YEAR AUDIT FINDINGS**

##### **6.1 Non-disclosure of Assets in the Financial Statements**

The Audit Commission reported that the Agency owns land and buildings in Entebbe town, in Uganda, where its offices/headquarters are located. According to documents availed, the land and buildings thereon was leased to CASSOA. However, the Agency does not hold title to the land, but has gone ahead to erect another office block which is now operational. A review of the balance sheet however revealed that the land and buildings were not reported as noncurrent assets, contrary to the provisions of IPSAS 1 and 17.

CASSOA Management responded that the lease offer was given to CAA Uganda for use by CASSOA. However, this is contrary to the Council directive that the title must be in the names of CASSOA. The Agency has brought this to the attention of CAA Uganda. The Agency is also in the process of valuing the land and buildings in anticipation of the transfer of title to enable proper disclosure in the financial statements.

The Committee was informed that a meeting was held between CASSOA, CAA and MEACA in the presence of CTC to follow up the matter. The meeting will be reconvened again in the last week of January or first week of February 2015.

The Committee noted that CASSOA erected buildings on the land whose title is yet to be transferred in its name. The Committee was however informed that CASSOA had been given the lease offer.

***The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite acquisition of the Certificate of Title to avoid ambiguities.***

### **6.2 Irregular Budgeting For Reserves**

The Audit Commission reported that a review of the statement of comparison of budget and actual amounts for the year revealed the following anomalies:-

The original budget of Us\$.1,520,346 is inclusive of Us\$.266,346 being transfers from reserves, implying that the budget team had anticipated the transfer. The specific nature of related expenditure was not described to determine whether it falls under Regulation 22-4 above.

CASSOA Management reported that the original budget was approved by the Board and the Council in April 2012. However in July 2012 it became apparent that the CAAs could not contribute the whole amounts passed in the budget. The Board at its 6<sup>th</sup> Extraordinary meeting approved the budget of US\$.1,520,346 and the use of reserves of US\$.266,346, to fund the budget deficit arising. This was in line with Regulation 22(2) which allows utilization of the Reserve Fund in accordance with a decision of the Board. Mindful of the going concern of the Agency, the Board took note of the adverse effect the use of reserves would have and directed the Agency to review the strategic plan to be able to carry out only activities that could be funded by the available funds. The Strategic plan was reviewed and subsequently in FY2013/2014 and FY2014/2015 the Agency has not budgeted for the use of reserves to fund the budget. Since the reserve was used to fund the budget deficit in its entirety it is not possible to isolate transactions for which funds were drawn.

The Committee noted the Audit Commission report and CASSOA response.

***The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to improvise alternative budget deficit.***

### **6.3 Idle funds on the Reserves Account No.6003614873**

The Audit Commission reported that a review of the bank statements for the year revealed that at the close of the financial year, the above account had a credit balance of Us\$.120,929.62, deposited on 2<sup>nd</sup> October 2012. There were no other credits or debits on the account during the year, apart from the bank charges.

CASSOA Management held that the Reserves account was opened in June 2012 and remained dormant until October 2012 when the balance of reserves of Us\$.120,929.62 was transferred from the US\$ current account No.6002220456. The reserve account is exempt from charges. All fees that had been charged to the account were reversed by the bank.

The Committee noted that CASSOA has not greatly considered investing the idle funds on both accounts to earn interest.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite the process of identifying a suitable financial institution where idle funds can be safely invested to earn interest.*

#### **6.4 Idle funds on Account No.6002376715 CASSOA US\$ – Staff Gratuity**

The Audit Commission reported that during the period under review, it was noted that this account had a balance of Us\$.155,848.26 as at 30<sup>th</sup> June 2013. The account is credited with staff gratuity every month and has an increasing credit balance. It was further noted that this account also does not earn any interest, yet the money is only withdrawn to pay the staff gratuity at the end of the contract.

The Committee noted that CASSOA has not greatly considered investing the idle funds on both accounts to earn interest.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite the process of identifying a suitable financial institution where idle funds can be safely invested to earn interest.*

#### **6.5 Irregular Recognition of Accumulated Leave - Us\$.14,144**

The Audit Commission reported that the Agency recognized accumulated staff leave to the tune of Us\$.14,144, contrary to Regulation 71(1) of the EAC Staff Rules . However there was no evidence to show that authority was sought for accumulating leave as provided for under staff regulations.

CASSOA Management responded that Regulations 71 of the Staff Rules and Regulations allows staff to accrue up to 30 days for Executive and Professional staff and 21 days for General Staff. The amounts accrued were for amounts within this provision except for three staff in the amount of US\$.3,278. The Agency will adjust the expenditure to correct this overstatement.

The Committee observed that CASSOA had indeed irregularly recognized accumulated leave. CASSOA Management however informed the Committee that the irregular recognition was done in error but later corrected.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to expedite always exercise diligence in the management of financial statements and adhere to staff rules and regulations.*

#### **6.6 Service Delivery by the Agency**

The Audit Commission reported that review of the CASSOA activities for the year revealed that 51% of the total expenditure was in relation to personnel emoluments to secretariat staff, who apparently undertook the above roles of the Agency.

However, given that the secretariat has only six professional staff that is so thin on the ground, this implies that they may not effectively accomplish these roles. This happened at the expense of the coordination role and in the year under review, there was no evidence that the secretariat made efforts in the development of harmonized regulations in the area

of air navigation services as well as developing applicable technical guidance materials and assisting the Partner States in re-certification of the existing operators and personnel to the harmonized regulations.

CASSOA Management reported that the Agency is financially constrained and hence is not able to increase its staffing levels. Furthermore, attraction and retention of technical aviation personnel is a big challenge globally. That notwithstanding, the Agency has been using the available technical expertise from the Partner States to perform its functions. For the year under review the Agency carried out all the planned activities as per its mandate.

The Committee observed that although CASSOA is using CAA's technical staff and the innovation to engage technical on consultancy basis, the CASSOA technical arm is not perfectly executing its role.

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

- i) initiate steps to get out of the EAC main structure and scale up salaries of technical personnel to attract experts;*
- ii) initiate and negotiate with CAAs and agree on an appropriate and sustainable funding mechanism.*

#### **6.7 Control Environment Issues**

The Audit Commission reported the following matters in respect of the agency's operations and systems:-

##### **Staff Recruitment**

For the financial year under review, the Agency's organization structure provided for the recruitment of key staff, including: Director Resource management, a Principal Internal Auditor, Principal legal officer, Principal Information Technology officer and Senior Monitoring and evaluation officer among others. However, the Audit Commission noted that management had failed to recruit the mentioned staff.

##### **Segregation of Duties**

Segregation of duties is an internal control measure, which ensures that critical functions in a process are not concentrated to an individual, with a view of minimizing the risk of any mistakes or deliberate action going undetected.

It was however noted that the Agency's management arrangements at the time did not favour the existence of a good internal control environment. There were no segregation of duties among staff. For instance, the Principal Human Resource and Administration officer, apart from exercising the function of human resource management, also doubled as the procurement officer in the Procurement department and the respective departmental heads act as stores personnel.

The CASSOA Management responded that due to financial constraint the Agency has been unable to recruit additional support staff. Furthermore, attraction of technical staff has also been a big challenge because of the EAC rates paid for technical staff cannot compete with market rates paid within the industry. The Agency is compelled to engage technical staff, who are critical to the execution of the Agency's mandate, on consultancy basis to be able

to attract them and to make the support function leaner until a more sustainable funding mechanism is identified.

The Agency currently has a complement of 10 staff, three of which are general support staff and the Executive Director. This leaves only six staff to be able to form the various procurement teams. Out of the six, two are accounts personnel who are not allowed to engage in procurement issues while the others are in the Procurement Committee/ Board of Survey and hence restricted to perform only limited functions pertaining to the requirements of the committee membership. In the absence of additional staff, the issue of segregation of duties becomes a challenge. The Agency has endeavored to ensure that the procurement process includes several parties (originating officer/accounts/ procurement) before the approval by the accounting officer.

The Committee noted lack of budget to recruit additional staff in CASSOA to ensure segregation of duties.

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

- i) direct the CAAs of Partner States to source for more funds for CASSOA;*
- ii) direct CASSOA Management to initiate resource mobilization activities.*

#### **6.8 Information Technology (IT) Issues**

The Audit Commission reported that the organization does not have an IT steering committee.

The CASSOA Management responded that the Management and the IT Officer are carrying out this role. Where additional expertise is needed the Agency co-opts members from the CAAs or other EAC organs and institutions. In the year under review there were no major IT projects to warrant steering committee meetings.

The Committee was informed that CASSOA has now put in place the Steering Committee. The Committee commends this progress.

*The Committee recommends to the Assembly the urge the EAC Council of Ministers to direct CASSOA Management to present progress to the Audit Commission for verification in the next audit.*

#### **a) Inadequate IT Continuity Plan (ITCP)**

The Audit Commission reported that CASSOA has not developed, maintained, communicated, and tested an IT continuity plan to ensure continuous IT services in case of disaster. It was further noted that although regular backups of system data are taken and kept at an offsite location for safety in case of disaster, there is no formally communicated plan in place to restore services in case a disaster that involves breakdown of major hardware infrastructure struck.

The CASSOA Management reported that the Agency requires expertise in risk management to develop an organization business continuity and disaster recovery plan and intends to use expertise from the CAAs and EAC organs and institutions to develop it by Dec 2014. The Agency requires expertise in risk management to develop an organization business

continuity and disaster recovery plan and intends to use expertise from the CAAs and EAC organs and institutions to develop it by Dec 2014.

The Committee observed that IT Continuity Plan is very crucial for CASSOA yet the plan is yet to be put in place. The Committee was informed that CASSOA is highly dependent on Partner States where CASSOA is housed. Understaffing is also still a challenge.

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

- i) enhance IT Continuity Plan;*
- ii) recommend on strengthening of incidents and accidents units in CAAs of the EAC Partner States and also create such unit in CASSOA.*

#### **GENERAL OBSERVATION:**

*The Committee observed that a number of avoidable issues which were raised in the previous audits were again raised in the current audit.*

*To this end, the Committee recommends to the Assembly to urge the EAC Council of Ministers to urgently address the following recurrent and current challenges in the EAC Organs and Institutions.*

- 1. Consorted efforts should be put in place to enforce refund of VAT and Withholding Tax (WHT) by the Partner States who host the EAC organs and institutions and expedition of issuance of exemption certificates.*
- 2. All disbursements to EAC Organs and Institutions should be channeled through Ministries in charge of EAC affairs and the Ministries should ensure follow up to remit the contributions on time.*
- 3. EAC Staff Rules and Regulations are inadequate in nature and need up scaling to empower the Secretary General to reprimand indiscipline staff members.*
- 4. EAC Council of Ministers' Rules of Procedure require amendment to dissolve Council into a Board of Directors to enable them follow up of EAC activities.*
- 5. EAC Council of Ministers should recommend that Audit Commission undertake value for money audit in the next audit exercise.*
- 6. EAC Council of Ministers should urgently decide on alternative funding mechanism to thwart the alarming trend of EAC donor dependency.*
- 7. EAC Council of Ministers should fast track institutional review process to enhance human resource capital and provide job security to the staff of the Community by providing pensionable terms of service.*

8. *EAC Council of Ministers should follow up implementation of Assembly recommendations and Summit decisions and submit quarterly reports to the Assembly.*

## PART VII

### 7.0 ACKNOWLEDGMENTS

The Committee wishes to thank the Rt. Hon. Speaker, the Clerk and the entire Management of EALA for the excellent facilitation accorded to it while executing its mandate. Despite limited time, the Committee finalised the bulky and demanding exercise within the financially dictated timeframe.

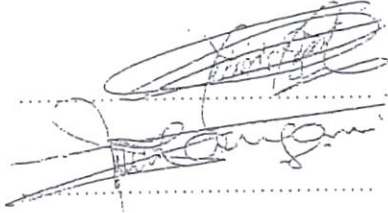
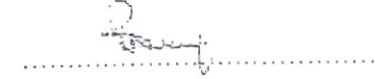

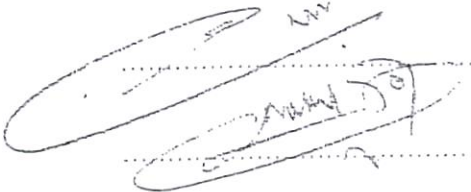

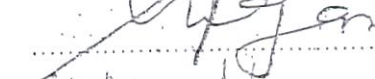
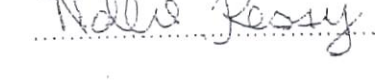


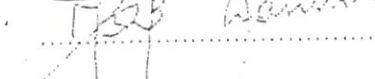
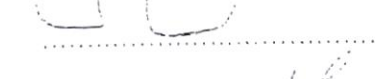




The Committee further wishes to thank the Audit Commission for fulfilling their mandate bestowed on it by *Article 134* of the Treaty.

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

# MEMBERS OF THE COMMITTEE ON ACCOUNTS

Consideration of the Audited Financial Statements for the EAC for the Year ended 30<sup>th</sup> June, 2013

7<sup>th</sup> - 17<sup>th</sup> JANUARY 2015, ARUSHA - TANZANIA

Name	Signature
1. Hon. Amb. Jeremie Ngendakumana	
2. Hon. Bernard Mulengani	
3. Hon. Bernard Murunya	
4. Hon. Celestin Kabahizi	
5. Hon. Emmanuel Nengo	
6. Hon. Margaret Nantongo Zziwa	
7. Hon. Mumbi A. Ng'aru	
8. Hon. Nderakindo P. Kessy	
9. Hon. Peter Mathuki	
10. Hon. Pierre-Celestin Rwigema	
11. Hon. Saoli Ole Nkanae	
12. Hon. Shy-Rose Bhanji	
13. Hon. Straton Ndikuryayo	
14. Hon. Nusura Tiperu	
15. Hon. Yves Nsabimana	

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be easily accessible to all relevant parties.

2. The second part of the document outlines the procedures for handling cash receipts and payments. It is important to ensure that all receipts are properly issued and that payments are made in a timely and accurate manner. The use of bank statements and reconciliation is also discussed, as it is a key component of maintaining accurate cash records.

3. The third part of the document covers the process of recording and summarizing transactions. This involves the use of the double-entry system, which ensures that the accounting equation remains in balance. The summary of transactions is then used to prepare the financial statements, which provide a clear and concise overview of the company's financial performance.

4. The fourth part of the document discusses the importance of internal controls and the role of the internal auditor. Internal controls are designed to prevent and detect errors and fraud, and to ensure that the company's assets are protected. The internal auditor is responsible for monitoring the effectiveness of these controls and for reporting any deficiencies to management.

5. The fifth part of the document covers the process of preparing and presenting the financial statements. This involves the use of the accrual basis of accounting, which ensures that all transactions are recorded in the period in which they occur, regardless of when the cash is received or paid. The financial statements are then presented to the shareholders and other interested parties.

6. The sixth part of the document discusses the importance of the auditor's role in the financial reporting process. The auditor is responsible for providing an independent and objective opinion on the fairness and accuracy of the financial statements. This opinion is based on the auditor's examination of the company's records and on the application of generally accepted auditing principles.

7. The seventh part of the document covers the process of preparing and presenting the annual financial statements. This involves the use of the accrual basis of accounting and the application of generally accepted accounting principles. The financial statements are then presented to the shareholders and other interested parties.

8. The eighth part of the document discusses the importance of the internal control system and the role of the internal auditor. Internal controls are designed to prevent and detect errors and fraud, and to ensure that the company's assets are protected. The internal auditor is responsible for monitoring the effectiveness of these controls and for reporting any deficiencies to management.

9. The ninth part of the document covers the process of preparing and presenting the financial statements. This involves the use of the accrual basis of accounting and the application of generally accepted accounting principles. The financial statements are then presented to the shareholders and other interested parties.

10. The tenth part of the document discusses the importance of the auditor's role in the financial reporting process. The auditor is responsible for providing an independent and objective opinion on the fairness and accuracy of the financial statements. This opinion is based on the auditor's examination of the company's records and on the application of generally accepted auditing principles.

# ANNEXES TO THE ACCOUNTS COMMITTEE REPORT

## ANNEX I

### Payments in lieu of leave

Payment ref	Days claimed	Days paid	Amount paid(Us\$)	Comment
107442	120	30	5,684	No evidence on file of leave being denied.
107585	40	30	4,135	<ul style="list-style-type: none"> <li>File not updated with cashed leave.</li> <li>Staff was actively utilizing or taking leave and had no reason to cash his days.</li> </ul>
107341	34	30	4,645	<ul style="list-style-type: none"> <li>File not updated with cashed leave.</li> <li>No evidence of staff being denied leave.</li> </ul>
106978	45	30	4,645	<ul style="list-style-type: none"> <li>No evidence of leave being rejected. Balance of leave days transferred to next contract.</li> </ul>
106977	66.94	30	4,645	<ul style="list-style-type: none"> <li>No evidence of leave denial.</li> <li>Staff paid annually in lieu of leave.</li> </ul>
106829	90	30	7,834	No evidence of requests for leave being denied.
1077924	28	27	4,063	"

## ANNEX II

### Vacant positions

Department	Position
Internal Audit	Chief Internal Auditor
Principal Internal Auditor	
Corporate communication	Senior Public Relations Officer
Political Affairs	Senior Political Affairs Officer
International Relations	Senior International Relations officer
Peace and Security	Principal Peace and Security Officer
Small Arms Officer	
Directorate of Planning	Assistant Director (Macro Economic Policies)
Fiscal and Monetary Affairs	Principal Economist (Monetary)
Principal Economist (Fiscal)	
Senior Economist (Monetary)	
Senior Economist (Fiscal)	
Investment and Private Sector	Senior Economist (Investment)
Directorate of Infrastructure	Assistant Director (Economic Infrastructure)
Communications	Principal Communications Engineer
Directorate of Productive Sectors	Director (Productive Sectors)
Assistant Director (Productive Sectors)	
Agriculture and Food security	Senior Agronomist
Energy, Natural Resource & Environment	Senior Environment Officer
Directorate of Social Sectors	Assistant Director (Social Sectors)
Education, Science and Technology	Senior Education Officer
Labour employment and Migration	Principal Labour and employment officer
Senior Immigration Officer	
Directorate of Finance	Director (Finance)
Assistant Director (Finance)	
Human Resource Management	Assistant Director – Human Resources



Administration Department	Assistant Director Administration
Information and Communication department	Assistant Director (Information & Comm. Services)
Management Information	Principal records officer

### ANNEX III

#### Staff on prolonged short term contracts

Position	Contract renewed W.E.F.	Duration
Registry Assistant	01/10/12	6 months
Librarian	01/10/12	3 Months
Registry Assistant	01/10/12	3 Months
Registry Assistant	01/10/12	3 Months
Registry Assistant	01/10/12	3 Months
Estates Management Assistant	01/10/12	6 Months
Driver	01/10/12	6 Months
Temp staff in Finance department		6 months
Office attendant	01/06/12	1 year
Internal Auditor Assistant		

### ANNEX IV

#### Wasteful expenditure during staff interviews

No	Name	Country	Position	Status Consultant (Report)
1	Emmanuel Mukama	Tanzania	Agriculture Progm. Support Specialist	Not Qualified for the interview
2.	Julius Rukara	Uganda	Agriculture Progm. support Specialist	Not Qualified for the interview
3	Mercy Christopher	Tanzania	Principal Health and Nutrition officers	Not Qualified for the interview
4	James Gafirita	Rwanda	Principal Health and Nutrition officers	Not Qualified for the interview
5	Jennifer Mbabazi	Rwanda	Principal Health and Nutrition Officers	Not Qualified for the interview.
6	Mganywa Gilbert Magafu	Tanzania	Senior Health Officers	Disqualified outside of the East Africa

### ANNEX V

#### Prices of the Nominated Subcontractors on the preliminary item (office and store)

Subcontractor's Name	Subcontract	Item in BoQ	Amount Quoted as per BoQ (TShs.)
M/s REMCO International Ltd	Air-condition installation	Item A on page 5/5	8,500,000.00
M/s Odd-Mac Engineering Ltd	Electrical Installation	Item A on page 1 of 76	2,400,000.00
M/s EMEC Engineering Ltd	ICT system installation	Item A on page 1/30	31,750,000.00



M/s Marryat & Scott (K) Ltd	Lift installation	Item A on page 1 of 5	34,155,251.33
M/s AVTECH SYSTEMS Ltd	Security system and Conference installation	Item A on page 1 of the BoQ	8,000,000.00
M/s Atlas Plumbers	Plumbing installation	Item A on page 5/5	20,000,000.00
<b>Total</b>			<b>104,805,251.33</b>

### ANNEX VI

#### Variations with no Supporting Documents

Contractor's Name	Subcontract price (TShs.)	Gross payment (TShs.)	Interim Cert. No.	Variations (TShs.)
Atlas Plumbers	813,170,975.00	718,095,850.20	9	51,538,000.00
REMCO INTERNATIONAL Ltd (Air condition)	663,772,850.00	739,763,278.75	4 (Penultimate)	229,193,250.00
Odd-Mac Engineering Ltd (Electrical installation)	1,193,147,845.89	1,496,381,329.85	9	421,218,852.00
Marryat & Scott (K) Ltd (Lift Installation)	385,065,898.39	360,001,412.12	4	26,184,000.00
AVTECH SYSTEMS Ltd (Security and Conference installation)	1,002,463,017.36	915,400,975.32	7 (Penultimate)	26,184,000.00
EMEC Engineering Ltd (ICT system installation)	1,501,986,911.25	1,394,707,689.38	7 (Penultimate)	418,879,290.00
<b>Total Variations for subcontractor</b>				<b>1,173,197,392</b>

### ANNEX VII

#### Vacant Positions within EACJ

Established Positions	Grade	Status	Comments
Court Administrator	P2	Vacant	Resigned in Nov 2011
Personal Assistant to Judge President	P2	Vacant	
Research Officer	P1	Vacant	Resigned in May 2013
Court Recorder/Transcriber	P1	Vacant	
Network Administrator	P1	Vacant	
Senior Personal Secretary	G5	Vacant	
Security Assistant	G4	Vacant	Retired in June 2013
Library Assistant	G4	Vacant	Resigned in Nov 2009
Receptionist	G3	Vacant	
Office Attendant	G1	Vacant	
Driver-Judge President	G2	Vacant	



## ANNEX VIII

### Contracts Awarded with no Quorum

No	Description	Qty	Supplier awarded	Amount (Us\$)
1	Hire of tents-ViP	1	Mazaeki	38
2	Hire of tents - guests	4	Mazaeki	91
3	Conference Chairs	300	Mazaeki	283
4	Round table	1	Mazaeki	4
5	opening Monument & Plaque	1	Arusha Granite	29,987
6	Flag mast	8	Prime Tech & Office Solutions	8,490
7	Temporary Reception desk	2	Victoria Furniture	2,226
8	Presidential Dias		The Blue Triple	2,670
9	Cultural Entertainment groups-3	1	Mizizi Ensemble-Uganda	6,457
1	Arusha Troope			1,000
1	School Choir			1,500
10	Decorations	1	Little Roses	3,300
11	Accreditation	1	NETSEC	7,240
13	Refreshment	300	Ngurduto	300
14	Court room podium	1	Mbasha Holdings	18,101
15	Main neon signage for Headquarters	1	Nairobi Sign Writers & Engravers	10,000
<b>Total</b>				<b>91,677</b>

## ANNEX IX

4

### MRH Project Budget Performance

Description of Activity	Annual Budget	Actual, 30th June 2013	Variance	Budget Utilization
	USD	USD	USD	%
To pay salaries for EAC - MRHP staff at EAC HQ Arusha	218,089	32,053	186,056	15%
To convene technical working groups and train staff	109,870	347,965	238,095	215%
Regional training and workshops	102,210	312,968	210,758	306%
Consultants	314,550	-	314,550	0%
Provide operating costs	27,500	1,442	26,058	5%
Procurement of Reference Books	106,000	-	106,000	0%
To provide support to TFDA	7,500	-	7,500	0%
Training of NMRA staff on Risk based Approaches		7,500	7,500	0%
Multi-sectorial stakeholders meeting		7,500	7,500	0%
Support to KMRA	3,000	-	3,000	0%
Conduct a baseline survey on knowledge and Attitude	72,800	18,216	54,584	25%
Support to Burundi National Medicine Regulatory Authority	3,600	-	3,600	0%
Development database and hardware	15,000	-	15,000	0%
Support to Rwanda National Medicine Regulatory Authority	3,000	-	3,000	0%



To support Zanzibar National Medicine Regulatory Authority	3,000	-	3,000	0%
Recruitment and salary to NMROs	254,764	76,680	178,084	30%
<b>Total</b>	<b>1,255,883</b>	<b>789,324</b>	<b>473,524</b>	<b>62%</b>

## ANNEX X

### Refundable VAT Under Several Projects

	Description	Base Amt (Us\$)	Transaction Reference
EATFF Project	VAT Receivables (Opening balance)	6,030.00	325
EATFF Project	VAT Receivables	53.82	PON/SEC/002270
EATFF Project	VAT Receivables	95.04	2289544
EATFF Project	VAT Receivables	53.82	INV00097432
RPIHSSP project	VAT Receivables	481.40	Poa/Sec/000063
RPIHSSP project	VAT Receivables	100.80	Pon/Sec/001585
RPIHSSP project	VAT Receivables	128.28	Pon/Sec/000888
RPIHSSP project	VAT Receivables	292.50	Pon/Sec/Q00042
RPIHSSP project	VAT Receivables	261.00	Poa/Sec/000026
HIV-AIDS Project	VAT Receivables	10,210.85	Balance 30/6/2012
HIV-AIDS Project	VAT Receivables	26.10	PON/SEC/001628/ 3677
HIV-AIDS Project	VAT Receivables	54.72	PON/SEC/001831 VAT in Invoice no 0032-Arushu
HIV-AIDS Project	VAT Receivables	993.60	PON/SEC/001831
	<b>18,781.93</b>		

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## ANNEX XI

### Analysis of DSAs Paid During the Year

Name of Staff	Job Title	Amount (Us\$)	No. of days
Canisius Kanagire	Executive Secretary	108,950	272
Patrice Niyongabo	Deputy Executive Secretary-Finance & Administration	73,350	210
Ali Said Matano	Partnership Fund Project Coordinator	53,985	154
Vincent Hagono	Project Coordinator-MCSLV	44,012	126
Fred Mngube	Project Coordinator-LVEMP II	55,872	160
George Sikoyo	MERECF Project Coordinator	40,776	117
Qureish Noordin	Former MARA Project Coordinator	69,210	198
Dan Owore	LAWATSAN Project Coordinator	89,534	256
Richard Kezimana	Accountant-Secretariat	67,420	193
Lazare Gaceke	Human Resource Officer	42,996	123
Samuel Kavubu	Internal Auditor	79,300	141
Odeth Bateta	Principal Administrative Officer	56,900	163
Omari Mwinjaka	Water Resource Officer	77,088	220
Mary Mwangi	Librarian	45,300	129
Sylvia Otieno	LVEMP II Administrative Secretary	27,500	110
Anne Awinja	Secretary	40,016	160
Richard Kezimana	Accountant-Secretariat	67,420	193



Name of Staff	Job Title	Amount (Us\$)	No. of days
Tom Ogwal	Accounts Assistant-LVEMPII	28,050	112
Leonard Majiji	Accounts Assistant-MARA	48,500	194
Tom Odak	Accounts Assistant-Secretariat	50,330	201
Joseph Rudasingwa	Driver	42,750	171
Kennedy Ogombo	Driver	32,359	129
Charles Mutembesa	Driver	47,574	190
Amudi Nuru	Driver	45,813	183

### ANNEX XII

#### Facilitation for Scientific Conference

Transaction Date	Transaction Reference	Description	Amount (US\$)
18/10/2012	CHQ000297	IMPREST SCIENTIFC CONFERENCE	15,400
18/10/2012	CHQ000295	IMPREST SCIENTIFC CONFERENCE	13,300
18/10/2012	CHQ000285	DSA -SCIENTIFIC CONFERENCE	2,000
18/10/2012	CHQ000286	DSA -SCIENTIFIC CONFERENCE	1,750
18/10/2012	CHQ000293	DSA -SCIENTIFIC CONFERENCE	1,450
18/10/2012	CHQ000292	DSA -SCIENTIFIC CONFERENCE	1,450
18/10/2012	CHQ000291	DSA -SCIENTIFIC CONFERENCE	1,250
18/10/2012	CHQ000289	DSA -SCIENTIFIC CONFERENCE	1,050
18/10/2012	CHQ000287	DSA -SCIENTIFIC CONFERENCE	1,050
18/10/2012	CHQ000296	IMPREST SCIENTIFC CONFERENCE	900
18/10/2012	CHQ000294	DSA -SCIENTIFIC CONFERENCE	750
30/11/2012	CHQ000299	Borrowed funds from LVEMP spent on scientific conference	60,000
<b>Total</b>			<b>100,350</b>
<b>Approved budget</b>			<b>60,000</b>
<b>Over Payment</b>			<b>40,350</b>

6

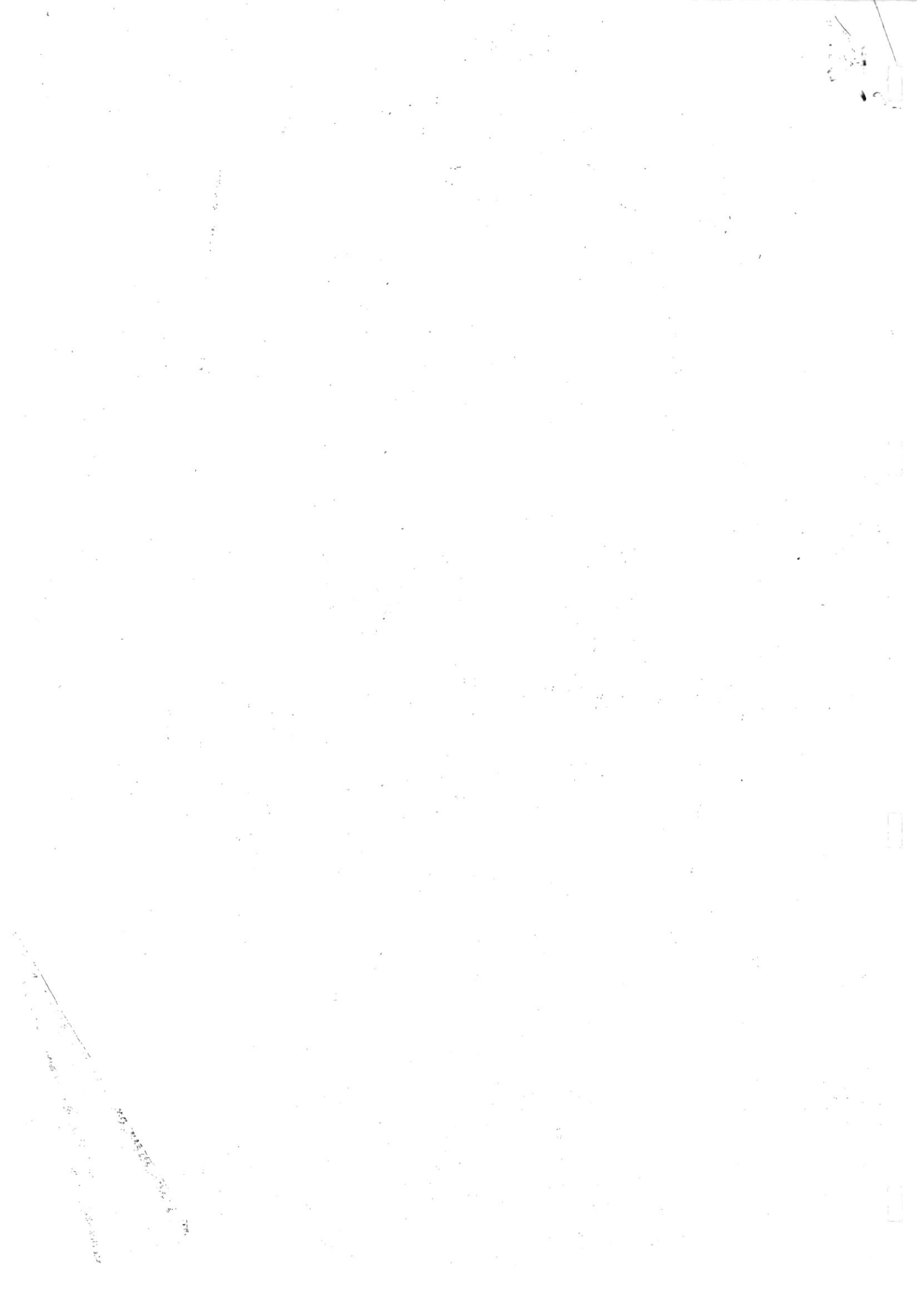
### ANNEX XIII

#### SHORTFALLS IN FUNDING OF IUCEA

COUNT RY	Arrears b/f 1 <sup>st</sup> July 2012	Contrib utions Arrears	Arrears c/f as at 30 <sup>th</sup> June 2012	Expected contribution for F/Y 2012/2013	F/Y 2012/2013 contribution received	Current years outstanding as at 30 <sup>th</sup> June 2013	Total arrears c/f as at 30 <sup>th</sup> June 2013
	A	B	C=A-B	D	E	F=D-E	G=C+F
TANZANI A	3,609,041.00		3,609,041.00	803112.00	760,465.83	42,646.17	3,651,687.17
KENYA	4,483,202.00		4,483,202.00	803112.00	779,560.37	23551.63	4,506,753.63
UGANDA	2,562,582.00		2,562,582.00	803112.00	-	803,112.00	3,365,694.00



RWANDA	-	-	803112.00	817 178.00	(14 066.00)	-
BURUND	1,039,996.00	1,039,996.00	803112.00	499 261.98	303 850.02	1,343,846.02
TOTALS	11,694,821.00	11,694,821.00	4 015 560.00	2 856 466.18	1 159 093.80	12,853,914.80



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THE EAST AFRICAN COMMUNITY

**BILL SUPPLEMENT**

No. 2

23rd January, 2015.

*to the East African Community Gazette No. 1 of 23rd January, 2015.*

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THE EAST AFRICAN COMMUNITY

**THE EAST AFRICAN COMMUNITY ELIMINATION OF NON-TARIFF BARRIERS BILL, 2015**

**MEMORANDUM**

The object of this Bill is to provide a legal mechanism for the elimination of identified non-tariff barriers in the Partner States.

The Bill seeks to give effect to Article 13 of the Protocol on the Establishment of the East African Community Customs Union in which the Partner States agreed to remove with immediate effect, all the existing non-tariff barriers to the importation into their respective territories, of goods originating in the other Partner States, and thereafter, not to impose any new non-tariff barriers. The Partner States undertook to formulate a mechanism for identifying and monitoring the removal of non-tariff barriers in their respective territories.

This Bill seeks to establish a mechanism for identifying and monitoring the removal of non-tariff barriers within the Partner States.

HON. SAMUEL J. SITTA, MP,  
*Chairperson Council of Ministers.*

THE EAST AFRICAN COMMUNITY ELIMINATION OF NON-  
TARIFF BARRIERS BILL, 2015

ARRANGEMENT OF CLAUSES

*Clause*

PART I—PRELIMINARY PROVISIONS.

1. Short title and commencement.
2. Interpretation.
3. Objective of Act.
4. Categorisation of non-tariff barriers.

PART II—PROHIBITION OF ACTIVITIES THAT  
CREATE NON TARIFF BARRIERS.

5. Prohibition of activities by Partner States that create non-tariff barriers.
6. Prohibition of certain activities by public officers and institutions of Partner States.

PART III—NATIONAL MONITORING COMMITTEES AND  
NATIONAL FOCAL POINTS.

7. Establishment of National Monitoring Committees.
8. National Focal Points.

PART IV—PROCEDURE FOR ELIMINATION OF  
NON-TARIFF BARRIERS.

9. Elimination of non-tariff barriers.
10. Elimination of non-tariff barriers by mutual agreement.
11. Implementation of the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers.
12. Reference to the Council.

*East African Community African  
Elimination of Non-Tariff Barriers Bill, 2015*

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*Clause*

PART V—GENERAL PROVISIONS

13. Temporary measures by Partner States.
14. Exchange of information.
15. Role of the Council in the elimination of non-tariff barriers.
16. Sanctions.
17. Regulations.
18. Act to take precedence.

SCHEDULE

**THE EAST AFRICAN COMMUNITY ELIMINATION  
OF NON-TARIFF BARRIERS BILL, 2015**

**A Bill for an Act**

**ENTITLED**

**THE EAST AFRICAN COMMUNITY ELIMINATION  
OF NON-TARIFF BARRIERS ACT, 2015**

**An Act of the Community to provide for the elimination of  
non-tariff barriers in the Community and to provide for  
other related matters.**

ENACTED by the East African Community and assented to  
by the Heads of State.

**PART I—PRELIMINARY PROVISIONS**

1. (1) This Act may be cited as the East African Community Elimination of Non-Tariff Barriers Act, 2015.

Short title  
and  
commence  
ment.

(2) This Act shall commence on such date as the Council may, by notice published in the Gazette appoint.

2. In this Act, unless the context otherwise requires—

Inter-  
pretation.

“affected party” means a person who is adversely affected by the imposition of or continued application of a non-tariff barrier;

“Community” means the East African Community established by Article 2 of the Treaty;

“Council” means the Council of Ministers of the Community established by Article 9 of the Treaty;

“East African Community Committee on Trade Remedies” means the Committee established by Article 24 of the Protocol for the Establishment of the East African Community Customs Union;

“East African Community Time-Bound Programme for Elimination of Identified Non-Tariff Barriers” means the time-bound programme, approved by the Council, which is for the elimination of identified and future non-tariff barriers;

“institution” means a Ministry, department or agency of a Partner State;

“National Focal Point” means the Ministry of a Partner State designated as such under section 8;

“National Monitoring Committee” means the committee established by a Partner State under section 7;

“non-tariff barriers” means laws, regulations, administrative and technical requirements other than tariffs imposed by a Partner State, whose effect is to impede trade;

“Partner States” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania and the Republic of Uganda and any other country granted membership to the Community under Article 3 of the Treaty’—

“Secretariat” means the Secretariat of the Community established by Article 9 of the Treaty;

“Treaty” means the Treaty for the Establishment of the East African Community and any annexes and protocols thereto.

3. The objective of this Act is to enhance and facilitate trade by— Objective of Act.

- (a) removing conditions that affect and distort trade in goods within the Community;
- (b) creating an environment which is conducive to trade in the Community and the effective movement of goods within the Community; and
- (c) removing restrictions that make importation or exportation within and outside the Community difficult or costly.

4. For the purposes of this Act, non-tariff barriers shall be categorized into— Categorisation of non-tariff barriers.

- (a) the World Trade Organisation categories set out in the Schedule, which are applicable to the Partner States; and

- (b) the activities specified in section 6 and any other activities as may be determined by the Council.

PART II—PROHIBITION OF ACTIVITIES THAT CREATE NON-TARIFF BARRIERS

Prohibition of activities by Partner States that create non-tariff barriers.

5. (1) A Partner State shall not engage in trade practices, customs procedures or impose any other measures that constitute non-tariff barriers.

(2) The Partner States shall review their procedures and practices to remove categories of tariff barriers set out in the Schedule, that exist in the Partner States at the commencement of this Act.

Prohibition of certain activities by public officers and institutions of Partner States.

6. (1) A public officer or an institution of a Partner State shall not engage in an activity which is not authorized by the laws of the Community or of the Partner State which—

- (a) causes an additional cost to the business of an affected party including surcharges and customs bonds;
- (b) results in wastage of time or loss of business or market including, delays in clearing imports and lengthy testing and certification procedures;
- (c) leads to ban on market entry and loss of potential markets;
- (d) amounts to a corrupt practice;
- (e) restricts business transactions in the Partner State;

- (f) does not recognize the East African Rules of Origin and which leads to additional cost for verification of the goods and loss of business; and
- (g) causes any other impediment to trade within the Community, as may be determined by the Council.

(2) A Partner State whose public officer or institution engages in any of the activities in subsection (1), shall compensate, the affected party for the loss caused by the public officer or institution, as may be determined by the Council.

PART III—NATIONAL MONITORING COMMITTEES AND  
NATIONAL FOCAL POINTS

7. (1) For the purposes of eliminating non-tariff barriers in the Community, each Partner State shall establish a National Monitoring Committee.

Establish-  
ment of  
National  
Monitoring  
Committees.

(2) The functions of the National Monitoring Committees shall be to—

- (a) outline the process of elimination of non-tariff barriers in the Partner State;
- (b) monitor the process of elimination of the non-tariff barriers in the Partner State;
- (c) receive reports and complaints from affected parties, on the existence of non-tariff barriers in the Partner State;
- (d) identify, on its own initiative, a non-tariff barrier that exists in the Partner State and notify the concerned organ, institution or public authority of the Partner State of the existence of the non-tariff barrier;

*East African Community African  
Elimination of Non-Tariff Barriers Bill, 2015*

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- (e) make recommendations to the relevant institutions and public authorities of the Partner State on the removal of a non-tariff barrier;
- (f) refer the report or complaint of an affected party to the National Monitoring Committee of another Partner State, where the report or complaint is with regard to a non tariff barrier that exists in that Partner State;
- (g) advise the Partner State on the policies and laws that contain or lead to non-tariff barriers;
- (h) prepare for the Council, periodic reports on the elimination of non tariff barriers in the Partner State, indicating the proposed action to eliminate the non-tariff barriers in each Partner State; and

(3) The National Monitoring Committee shall consist of such representatives of the relevant Government institutions and the private sector, as a Partner State may consider necessary.

National  
Focal  
Points.

**8.** (1) Each Partner State shall designate a Ministry as the National Focal Point for matters relating to non-tariff barriers.

(2) The functions of the National Focal Point shall be to—

- (a) initiate policies and strategies on the elimination of non-tariff barriers in the Partner State, for approval by the National Monitoring Committee, in accordance with the laws of the Partner State;

- (b) coordinate the activities of the National Monitoring Committee;
- (c) facilitate the implementation of the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers and monitor its implementation;
- (d) disseminate information to the business community within the Community on the non-tariff barriers identified in the Partner State and the steps to be taken to eliminate the non-tariff barriers;
- (e) collaborate with the National Monitoring Committees and the National Focal Points of the other Partner States to facilitate the implementation of the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers;
- (f) refer the report or complaint of an affected party to the National Focal Point of another Partner State, where the report or complaint is with regard to a non tariff barrier that exists in that Partner State;
- (g) track and monitor any new non-tariff barriers in the Community and notify the National Monitoring Committee of the non-tariff barriers; and
- (h) submit the periodic reports of the National Monitoring Committee to the Council.

(3) The National Focal Point shall be the secretariat of the National Monitoring Committee.

PART IV—PROCEDURE FOR ELIMINATION OF NON-TARIFF  
BARRIERS

Elimination  
of non-tariff  
barriers.

9. The non-tariff barriers within the Partner States shall be eliminated using the following mechanisms—

- (a) mutual agreement of the concerned Partner States;
- (b) implementation of the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers; and
- (c) regulations, directives, decisions or recommendations of the Council.

Elimination  
of non-tariff  
barriers by  
mutual  
agreement.

10. (1) Where a non-tariff barrier is reported to a National Monitoring Committee or to a National Focal Point by an affected party of another Partner State, the concerned Partner States shall as a first priority, hold discussions for a mutual agreement on the elimination of the non-tariff barrier.

(2) Where the Partner States do not agree on the elimination of a non-tariff barrier, the Partner State whose affected party is aggrieved, shall notify the Secretary General and request that the matter be referred to the Council.

Implementat  
ion of the  
East African  
Community  
Time Bound  
Programme  
for  
Elimination  
of Identified  
Non-Tariff  
Barriers.

11. (1) Without prejudice to section 10, a National Monitoring Committee that receives a report or a complaint on a non-tariff barrier within the Partner State, shall investigate the report or complaint, and prepare a plan for the elimination of the non-tariff barrier, in accordance with the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers.

(2) The plan for elimination of non-tariff barriers, shall include—

- (a) the impact of the non-tariff barrier on the business in the Partner State and the institutions of the Partner State responsible for the non-tariff barrier;
- (b) the timeframe for the elimination of the non-tariff barrier and the performance benchmarks and means to be used to verify the elimination of the non-tariff barrier; and
- (c) the challenges that may be encountered in the process of eliminating the non-tariff barrier and the recommended solution to the challenge.

(3) For the purposes of this section, a Partner State whose affected parties are affected by a non-tariff barrier in another Partner State, may initiate the process of elimination in accordance with the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers by submitting to the Partner State where the non-tariff barrier exists, a notification, in writing.

(3) The notification in subsection (3) shall—

- (a) have a description of the non-tariff barrier; and
- (b) request for information regarding the non-tariff barrier.

(4) The Partner State that issues a notification shall submit a copy of the notification to the Secretary General.

(5) The Partner State that receives the notification referred to in subsection (3) shall, within ten days of receiving the notification, provide a written response to the requesting Partner State on the issues specified in the notification.

(6) Where the responding Partner State is not able to respond to a notification within ten days, the Partner State shall inform the requesting Partner State of the reasons for the delay in responding and shall submit its response within twenty-five days of receipt of the notification.

(7) The Partner State that issues a response to a notification shall submit a copy of the response to the Secretary General.

(8) Where a Partner State fails to resolve a matter relating to a non-tariff barrier, the Secretary General shall, within fifteen days of receipt of the response, convene a meeting of the concerned Partner States, to resolve a matter relating to the non-tariff barrier.

Reference  
to the  
Council.

**12.** (1) Where the concerned Partner States fail to eliminate a non-tariff barrier under sections 10 or 11, the Secretary General shall refer any matter that is not resolved, to the Council.

(2) The Council shall consider the matter referred to it under subsection (1) and shall issue a directive, decision or recommendation with regard to the elimination of the non-tariff barrier in question or refer the matter to the East African Community Committee on Trade Remedies.

(3) Where the Council refers a matter to the East African Community Committee on Trade Remedies, the Committee shall submit a copy of its decision to the Council.

PART V—GENERAL PROVISIONS

13. (1) This Act shall not affect the rights of a Partner State to take temporary measures, that would otherwise amount to a non-tariff barrier, where the temporary measures are in the interest of defense and security, public safety or public health.

Temporary measures by Partner States.

(2) Prior to the introduction of a temporary measure, the Partner State shall inform the other Partner States of the temporary measure and where notification is not possible prior to the measures being taken, the measures and the notification shall be taken and done simultaneously.

(3) The Partner State shall inform the other Partner States of the temporary measure, the date of imposition of the measure and the period of existence of the measure.

14. The National Focal Points of the Partner States shall furnish each other with information, official reports and documents on matters relating to the non-tariff barriers in their respective Partner States.

Exchange of information.

15. (1) The Council shall, in addition to the functions in section 12, generally coordinate and monitor the elimination of non-tariff barriers in the Partner States.

Role of the Council in the elimination of non-tariff barriers.

(2) For the purposes of subsection (1), the Council shall—

- (a) receive periodic reports on the non-tariff barriers that exist in the Partner States;
- (b) cause the Secretariat to compile and disseminate information on the non-tariff barriers existing in the Partner States;

*East African Community African  
Elimination of Non-Tariff Barriers Bill, 2015*

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- (c) advise the Partner States on the elimination of non-tariff barriers; and
- (d) cause the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers to be updated, as may be necessary.

Sanctions. **16.** The Council may recommend to the Summit to impose, as may be appropriate, any sanction against a Partner State that fails to comply with any directive, decision or recommendation of the Council.

Regulations. **17.** The Council may make Regulations generally for giving effect to the provisions of this Act.

Act to take precedence. **18.** This Act shall take precedence over the laws of the Partner States with respect to any matter to which its provisions relate.

SCHEDULE

*section 4*

**World Trade Organization Categories of Non-Tariff Barriers  
Which Are Applicable To The Partner States**

- |   |  |
|---|--|
| <p>1. Export subsidies, government monopoly in export and import, state trading and preference given to domestic bidders or suppliers, requirement for counter trade, domestic assistance programmes for companies, discriminatory or flawed Government procurement policies.</p>   | <p>Government participation in trade and restrictive practices tolerated by Government</p> |
| <p>2. Governments imposing anti-dumping duties, arbitrary customs classification, misinterpretation of Rules of Origin, import licensing, decreed customs surcharges, additional customs and other charges, international taxes and charges levied on imports and other tariff measures.</p>  | <p>Customs and administrative entry procedures</p>   |
| <p>3. Restrictive technical regulations and standards not based on international standards, inadequate or unreasonable testing and certification arrangements, disparities in standards, inter governmental acceptance of testing methods and standards, packaging, labeling and marking.</p>   | <p>Technical barriers to trade</p>   |
| <p>4. Sanitary and Phyto sanitary Measures, conformity assessment related to SPS/TBT, special customs formalities not related to SPS/TBT, other technical measures.</p>   | <p>Sanitary and Phyto-sanitary Measures</p>  |
| <p>5. Quantitative restrictions, exchange control, export taxes, quotas, import licensing requirements, proportion restrictions of foreign to domestic goods (local content requirement), minimum import price limits, embargoes, - non automatic licensing, quotas, prohibitions, quantitative safeguard measures, export restraint arrangements, other quantity control measures.</p> | <p>Specific limitations</p>  |
| <p>6. Prior import deposits and subsidies, administrative fees, special supplementary duties, import credit discriminations, variable levies, border taxes.</p>   | <p>Charges on imports</p>  |

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Other  
(procedural  
problems)

7. Arbitrariness, discrimination, costly procedures, lack of information on procedures or on charges, requirement for complex or a wide variety of charges and documentation.

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THE EAST AFRICAN COMMUNITY

**BILL SUPPLEMENT**

No. 2

3rd January, 2014.

*to the East African Community Gazette No. 1 of 3rd January 2014*

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THE EAST AFRICAN COMMUNITY

THE EAST AFRICAN COMMUNITY INTEGRATION  
(EDUCATION) BILL, 2014

MEMORANDUM

Article 7 of the Treaty for the establishment of the East African Community provides for a people centred and market driven economy. It has been observed that whereas the Partner States have dedicated tremendous efforts towards the market economy, the people centred aspect of our integration process has not received similar attention. As a result, the people of East Africa remain fundamentally ignorant of the Treaty, and the whole integration process.

The object of this Bill therefore is to provide a legal framework within which the people of East Africa at all levels can be equipped with the necessary knowledge and information about the affairs and activities of the Community.

For that purpose the Bill seeks to establish a Unit within the office of the Secretary General, mandated to coordinate integration education activities in the Partner States, develop relevant materials and set standards and quality control measures amongst other functions.

The respective national institutions currently responsible for conducting civic education in the Partner States are proposed to be national focal points for the purposes of this Bill.

HON. ABUBAKAR ZEIN ABUBAKAR,  
*Member, East African Legislative Assembly*

*East African Community Integration (Education) Bill, 2014*

THE EAST AFRICAN COMMUNITY INTEGRATION  
(EDUCATION) BILL, 2014 .

ARRANGEMENT OF CLAUSES

*Clause*

1. Short title.
2. Interpretation.
3. Objectives.
4. Integration Education Unit
5. Functions of the Unit
6. Financial resources of the Unit
7. National focal points
8. Regulations

**THE EAST AFRICAN COMMUNITY INTEGRATION  
(EDUCATION) BILL, 2014**

A Bill for an Act

ENTITLED

**THE EAST AFRICAN COMMUNITY INTEGRATION  
(EDUCATION) ACT, 2014**

An Act to establish a legal framework for integration education in the Community, and to provide for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited *East African Community Integration (Education) Act, 2014*. Short title

2. In this Act, unless the context otherwise requires— Interpretation.

“competent authority” means the relevant authority in the Partner States responsible for carrying out civic education;

*East African Community Integration (Education) Bill, 2014*

“Council” means the Council of Ministers established under Article 9 of the Treaty;

“integration education” means education about the Treaty and the integration process in the Community;

“Secretariat” means the Secretariat of the Community established under Article 9 of the Treaty;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“Treaty” means the Treaty for the establishment of the East African Community;

“Unit” means the Integration Education Unit established under section 4;

Objectives

3. (1) The main objective of this Act is to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for people East Africa to meaningfully participate in the integration process.

(2) Without prejudice to the generality of sub-section (1), the specific objectives of this Act are to—

(a) facilitate increased participation of the people of East Africa in the integration process and activities;

(b) provide for a facilitation mechanism for citizens’ engagement in East Africa;

*East African Community Integration (Education) Bill, 2014*

- (c) build a sense of belonging and common identity among the people of East Africa, including developing initiatives that are designed to create the East African identity, and
- (d) facilitate and provide education on the Treaty for the establishment of the East African Community.

4. (1) There is established a Unit within the Secretariat known as the Integration Education Unit.

Integration  
Education  
Unit

(2) The Unit shall, in the performance of its functions, be responsible to the Secretary General.

(3) The Unit shall constitute such offices as the Council may determine.

5. The functions of the Unit shall be to—

Functions of  
the Unit

- (a) coordinate integration education activities in the Partner States with the competent authorities;
- (b) develop relevant materials for dissemination in the Partner States;
- (c) set standards and quality control mechanisms in integration education;
- (d) develop curricular for integration education by the education institutions in the Partner States, and
- (e) perform any other functions as may be required to achieve the objectives of this Act.

*East African Community Integration (Education) Bill, 2014*

Financial  
resources of  
the Unit.

6. The Unit shall obtain funds from the budget of the Community and from such other sources as the Council may determine.

National  
focal points.

7. (1) The national focal points for purposes of education integration in the Community shall be the competent authorities in the Partner States.

(2) A Partner State may, notwithstanding sub-section (1), accredit an institution to conduct integration education in that Partner State.

Regulations.

8. The Council may make regulations generally for giving effect to the provisions of this Act.

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THE EAST AFRICAN COMMUNITY

**BILL SUPPLEMENT**

No. 3

23rd January, 2015.

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THE EAST AFRICAN COMMUNITY

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT (AMENDMENT) BILL, 2015

MEMORANDUM.

The principal object of this Bill is to amend the East African Customs Management Act, 2004 to facilitate the discharge of the functions of the Directorate of Customs and Trade as provided for in the Act and to facilitate smooth implementation of the Act, particularly on the procedures that facilitate the implementation of the EAC Single Customs Territory.

HON. SAMUEL J. SITTA, MP,  
*Chairperson Council of Ministers.*

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT (AMENDMENT) BILL, 2015

ARRANGEMENT OF CLAUSES

*Clause*

1. Short title
2. Amendment of section 14
3. Amendment of section 34
4. Amendment of section 51
5. Amendment of section 57
6. Amendment of section 87
7. Amendment of section 107
8. Amendment of section 135
9. Amendment of section 218
10. Amendment of section 243
11. Insertion of new section 248A

**THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT (AMENDMENT) BILL, 2015.**

A Bill for an Act

**ENTITLED**

**THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT (AMENDMENT) ACT, 2015**

**An Act of the Community to amend the East African  
Community Customs Management Act, 2004.**

ENACTED by the East African Community and assented to  
by the Heads of State.

1. This Act may be cited as the East African Community Customs Management (Amendment) Act, 2015. Short title.
2. The East African Community Customs Management Act, 2004, in this Act referred to as the “principal Act” is amended in section 14(3), (4) and (5) by replacing the word “owner” where ever it appears, with the word “operator”. Amendment of section 14
3. Section 34 of the principal Act is amended by replacing subsection (5) with the following new subsection— Amendment of section 34

“(5) Where entered goods are not removed from the port of discharge after the expiry of the twenty one days prescribed under subsection (1), the goods shall be deemed to be in a customs warehouse”.

Amendment  
of section  
51

4. Section 51 of the principal Act is amended in subsection (1)(d) by substituting sub-paragraph (iii) with the following new subparagraph—

“(iii) in respect of any other product as may be prescribed by the Commissioner”.

Amendment  
of section  
57

5. Section 57 of the principal Act is amended—

(a) in subsection (1) by replacing the words “of three months” with the words “as he or she may deem appropriate”; and

(b) by repealing the proviso to subsection (2).

Amendment  
of section  
87

6. Section 87 of the principal Act is amended by inserting the following new subsection—

“(2) For the purposes of subsection (1), “office of destination” means any customs office at which a customs transit operation is terminated”.

Amendment  
of section  
107

7. Section 107 of the principal Act is amended by inserting after subsection (4), the following new subsections—

“(5) Where any obligation that requires the furnishing of a cash deposit has been fulfilled, the Commissioner shall, within thirty days, upon completion of the obligation refund the cash deposit.

(6) Where the Commissioner does not refund the cash deposit, an interest of two per centum per month shall accrue on the deposit for the period it remains unpaid.

8. Section 218 of the principal Act is amended by substituting for the word "Council" where ever it appears, the word "Commissioner". Amendment  
of section  
218

9. Section 243 of the principal Act is amended by inserting the word "not" after the word "shall". Amendment  
of section  
243

10. The principal Act is amended by inserting the following new section after section 248— Insertion of  
new section  
248A

**248A.** (1) A person intending to import goods, "Application  
for advance  
binding  
rulings" may make a written application to the Commissioner for advance binding rulings on any of the following—

- (a) tariff classification;
- (b) rules of origin; or
- (c) customs valuation.

(2) Subject to subsection (1) and upon direction from the Commissioner, the applicant shall furnish to the Commissioner sufficient information that may be used to make the decision.

(3) The Commissioner shall within thirty days of receipt of the sufficient information issue an advance ruling or give reasons for the inability to issue an advance ruling on the application.

(4) The decision issued under subsection (3) shall be binding on the Commissioner and the applicant".

MINUTES OF THE 16<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 9<sup>TH</sup> JUNE, 2015 IN THE COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00AM.

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**Present:**

1. Hon. Dido Ali Rasso, MP - Ag Chairperson
2. Hon. Timothy Bosire, MP
3. Hon. Kathuri Murungi, MP
4. Hon. Eric Keter, MP
5. Hon. Ogendo Rose Nyamunga, MP
6. Hon. Emmanuel Wangwe, MP
7. Hon. Robert Mbui, MP
8. Hon. Dan Kazungu, MP
9. Hon. Mark Lomunokol, MP
10. Hon. Florence Mutua, MP
11. Hon. David Karithi, MP
12. Hon. Wanjiku Muhia, MP
13. Hon. Mary Seneta, MP

**Absent With Apology**

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Christopher Nakuleu, MP - Vice-Chairperson
3. Hon. Andrew Toboso, MP
4. Hon. Kubai Iringo, MP
5. Hon. David Ouma Ochieng', MP
6. Hon. Alex Mwiru, MP
7. Hon. Annah Nyokabi, MP
8. Hon. Joseph Kahangara, MP
9. Hon. Bady Twalib Bady
10. Hon. Gideon Konchella, MP
11. Hon. Anthony Kimaru, MP
12. Hon. Ali Wario, MP
13. Hon. Peter Shehe, MP
14. Hon. Sarah Korere, MP
15. Hon. Alois Lentoimaga, MP

**Absent**

Hon. Charles Nyamai, MP

**In Attendance**

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Ms. Sharon Cheronu - Research Officer
3. Ms. Emma Esendi - Legal Counsel

## MIN.NO. CRI/062/2015 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am and said a prayer.

## MIN.NO.CRI/063/2015: CONSIDERATION OF REPORTS AND BILLS FROM EALA

### Briefing by the Research Officer

Ms. Sharon Rotino, Research Officer to the Committee, presented the analysis of the reports to the Committee as follows:

#### 1. Report of the Committee on Communications, Trade and Investments on the On-Spot Assessment of the EAC Single Customs Territory (EAC SCT)

Article 75 of the Treaty for the establishment of the EAC obligates Partner States to establish a customs union. This has so far been established. The customs union *inter alia* includes:

- i. The elimination of internal tariffs and other charges of equivalent effect;
- ii. The elimination of non-tariff barriers;
- iii. Customs co-operation; and
- iv. Simplification and harmonization of trade documentation and procedures;

The main objective of the Customs Union is the formation of a Single Customs Territory that facilitates a seamless flow of goods within the region. The EAC adopted the implementation of the Single Customs Territory in November 2013.

A **Single Customs Territory (SCT)** is described as a stage towards full attainment of the Customs Union which is achievable by the removal of restrictive regulations and/or minimization of internal border controls on goods moving between the Partner States with ultimate realization of free flow of goods to their destinations. The SCT in the EAC covers Partner States namely Burundi, Kenya, Rwanda, Tanzania and Uganda.

Upon its full operationalization, the single customs territory will boost liberalized trade in the region as goods will circulate freely within the region. Other objectives of the SCT include:

- i. Reduce the cost of doing business.
- ii. Enhance application of cross boarder Information Communication Technology (ICT) and quality data collection at the regional level.
- iii. Enhance capacity and improve coordination of the private and public sector.
- iv. Enhance compliance to regional standards and instruments

To work effectively, a Single Customs Territory requires, among others:-

- A common legal framework;
- Circulation of goods with minimal or no border controls;
- Harmonization of standards for goods moved through the territory;
- An interconnected payment system; and
- Assessment and collection of Customs duties (revenue) at the first point of entry by the destination country.

To this end the following have been achieved

- i. The standard operating procedures covering most of the key customs procedures and control mechanisms have been developed and tested and the meeting of the EAC Commissioners of Customs took place in Dar es Salaam on 28<sup>th</sup> – 29<sup>th</sup> 2014 to consider and adopt the standard operating procedures.
- ii. Review of Legal framework- The amendments to the EAC Customs management Act 2004 has also been introduced to the National Assembly for legislation (also forwarded to the CRI)
- iii. In terms of customs systems interconnectivity, Tanzania's ASYCUDA++ was interfaced with ASYCUDA World of Rwanda, Uganda and Burundi and Simba of Kenya to allow piloting of SCT that commenced in June 2014. The process of fine tuning the systems is still ongoing.
- iv. Capacity building and change management- various trainings have been conducted to various cadres of staff and other stakeholders such as clearing and forwarding agents.
- v. Enforcement and compliance procedures- groundwork on a regional framework for interfacing national electronic cargo tracking systems and for operating a regional customs bond has been done. Customs and excise department (CED) is working with COMESA Secretariat and insurance companies on adopting the Regional Customs Transit Guarantee Scheme (RCTGS).
- vi. Inter- Agency Coordination
  - a) Tanzania Ports Authority and Tanzania International Container Terminal Services have established direct links with Rwanda Revenue Authority (RRA), Burundi Revenue Authority (OBR) and Uganda Revenue Authority (URA) in clearing cargo destined to these countries;
  - b) RRA and OBR have stationed their officers at the port of Dar Es Salaam;
  - c) TANCIS will be interfaced with Kenya Ports Authority System;
  - d) TRA deployed its officers in Nairobi and Kenya Ports Authority in Mombasa in September 2014;

e) National SCT Steering Committee incorporating all key stakeholders has been functional since July 2014. It comprises of all key Government Ministries and Agencies involved in cargo clearance.

## **2. Report of the Committee on Legal, Rules and Privileges on the rules of procedure of the committees of the Assembly and the code of conduct for the Members of the Assembly**

At its 4<sup>th</sup> meeting of the 2<sup>nd</sup> Session of the 3<sup>rd</sup> Assembly held in Arusha, Tanzania, the Assembly during debate of the proposed new rules adopted the Committee on Legal, Rules and Privileges' recommendation, which urged it to expedite the process of making rules of procedure of its Standing Committees for the effective and efficient discharge of their mandates as per Article 49 (2)(g) of the Treaty for the establishment of the East African Community (EAC).

The Committee was also tasked with developing a code of conduct for Members of the Assembly to foster posterity, smooth and proper functioning.

In conclusion, the EAC is on the right track in regard to the integration agenda. However, there is still need to develop stronger institutions that can decipher and execute their mandate well in order to be able to deliver to the citizens of the Partner States the objectives of the Community.

In view of the current global trend where trade negotiations are increasingly being carried out under regional blocs, formation of a customs union, and consequently a single customs territory in East Africa is not a matter of choice but a necessity. It would be difficult for partner states to negotiate a Free Trade Area (FTA) with other regional blocs unless they have liberalized trade among themselves.

The expected benefits of this to the EAC region are immeasurable. Firstly, on the global frontier, trade between the regional blocks opens up the region trade to the benefits of global value chains which in turn enable the partner states to invest more on the country's comparative advantage. This has the ability for spillover effects on the regions social and infrastructure development. Overall, the SCT will greatly harmonize and ensure efficient operations among the EAC revenue authorities. Proper controls will seal loopholes for leakages of revenues and bring about better revenue administration.

### **MIN.NO.CRI/064/2015: OBSERVATIONS MADE BY MEMBERS**

Members made the following observations on the Report of the Committee on Communications, Trade and Investments on the On-Spot Assessment of the EAC Single Customs Territory (EAC SCT):

1. The challenges given by the Committee indicates that the Partner States are still not working together. Information and data sharing in all the Revenue and Port Authorities still face transmission challenges.
2. The findings in the report clearly indicate that the report is based on the institutions in Tanzania. The statements given in the findings and the challenges give contradicting information.

**MIN.NO.CRI/065/2015: RESOLUTIONS**

The Committee resolved to be briefed by Parliamentary Budget Office on the Audit report of the Assembly and by the Legal Counsel on the Bills passed by the Assembly before inviting the Ministry of East African Affairs, Commerce and Tourism, Kenya Revenue Authority and Kenya Ports Authority to brief them on the same.

**MIN.NO.CRI/066/2015: ANY OTHER BUSINESS**

There being no other business, the Chairperson adjourned the meeting at 12.30pm.

Signed..........Date 4<sup>th</sup> Aug. 2015.....

Chairperson

MINUTES OF THE 17<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 18<sup>TH</sup> JUNE, 2015 IN THE BOARD ROOM, 9<sup>TH</sup> FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS AT 12:00 NOON.

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**Present:**

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Christopher Nakuleu, MP - Vice-Chairperson
3. Hon. Andrew Toboso, MP
4. Hon. Timothy Bosire, MP
5. Hon. Kubai Iringo, MP
6. Hon. Kathuri Murungi, MP
7. Hon. Ogendo Rose Nyamunga, MP
8. Hon. David Karithi, MP
9. Hon. Wanjiku Muhia, MP
10. Hon. Sarah Korere, MP
11. Hon. Annah Nyokabi, MP
12. Hon. Dan Kazungu, MP
13. Hon. Joseph Kahangara, MP
14. Hon. David Ouma Ochieng', MP
15. Hon. Gideon Konchella, MP
16. Hon. Anthony Kimaru, MP
17. Hon. Dido Ali Rasso, MP

**Absent With Apology**

1. Hon. Emmanuel Wangwe, MP
2. Hon. Robert Mbui, MP
3. Hon. Eric Keter, MP
4. Hon. Mary Seneta, MP
5. Hon. Alex Mwiru, MP
6. Hon. Bady Twalib Bady
7. Hon. Ali Wario, MP
8. Hon. Peter Shehe, MP
9. Hon. Mark Lomunokol, MP
10. Hon. Florence Mutua, MP
11. Hon. Alois Lentoimaga, MP

**Absent**

Hon. Charles Nyamai, MP

**In Attendance**

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Ms. Sharon Cheronu - Research Officer
3. Ms. Lynette Otieno - Legal Counsel

## MIN.NO. CRI/067/2015 PRELIMINARIES

The Chairperson called the meeting to order at 12.30 pm followed by a word of prayer from Hon. David Ochieng', MP

## MIN.NO.CRI/068/2015: CONSIDERATION OF THE REPORTS AND BILLS FROM EALA

### BRIEFING BY THE LEGAL COUNSEL ON THE EAC BILLS

#### The East African Community Customs Management (Amendment) Bill, 2015

The Bill seeks to amend the East African Community Customs Management Act, 2004 (hereinafter referred to as the principal Act). It places emphasis on the facilitation of the implementation of the EAC Single Customs Territory.

**Clause 1** provides for the short title to the Act.

**Clause 2** seeks to amend section 14 of the principal Act in subsections (3), (4) and (5) by deleting the word "owner" and substituting it therefore with the word "operator". Although the amendment is in order, legislative processes should be precise. In this regard, there should be a different paragraph for each of the subsections. The clause should read as follows:

The East African Community Customs Management Act, 2004, in this Act referred to as the "principal Act" is amended in section 14 by –

- a) deleting the word "owner" appearing in subsection (3) and substituting it therefor with the word "operator";
- b) deleting the word "owner" appearing immediately after the word "depot" and the article "the" in subsection (4) and substituting it therefor with the word "operator";
- c) deleting the word "owner" appearing in subsection (5) and substituting it therefor with the word "operator".

**Clause 3** seeks to amend section 34 of the principal Act by deleting subsection (5) which provides as follows:

(5) Where goods entered in accordance with subsection (1) are not removed from the first point of entry within fourteen days from the date of entry, such goods shall be liable to customs warehouse rent."

and substituting it therefor with a new subsection (5) which provides that:

(5) Where goods are not removed from the port of discharge after the expiry of the twenty one days prescribed under subsection (1), the goods shall be deemed to be in a customs warehouse.

This should be looked at vis-à-vis the provisions of section 42 (3) of the principal Act which provides as follows:

(3) Where any goods have been deposited in a Customs warehouse then they shall be subject to such rent and other charges as may be prescribed.

In this regard, the warehouse rent is still due to the country.

**Clause 4** seeks to amend section 51 of the principal Act in subsection (1) (d) by deleting subparagraph (iii) which provides as follows:

(iii) in respect of any other product as may be prescribed.

and substituting it therefor with the following new paragraph (iii):

(iii) in respect of any other product as may be prescribed by the Commissioner.

This is within the powers of the Commissioner and is confirmed by sub section (1) which provides as follows:

(1) Where any goods are warehoused, the Commissioner may, subject to such conditions as he or she may impose—...

**Clause 5** seeks to amend section 57 of the principal Act in subsection (1) deleting the words “of three months” and substituting them therefor with the words “as he or she may deem appropriate”

Subsection (1) provides as follows:

All warehoused goods which have not been removed from a warehouse in accordance with this Act within six months from the date on which they were warehoused may, with the written permission of the Commissioner, be re-warehoused for a further period of three months:

This is to give the Commissioner discretion in this matter.

Secondly, the provison to subsection (2) is to be deleted. Subsection (2) provides as follows:

Where any goods required to be re-warehoused under subsection (1) are not so re-warehoused, then they shall be sold by public auction after one month's notice of such sale has been given by the proper officer by publication in such manner as the Commissioner may deem fit:

Provided that any such goods which are of a perishable nature may be sold by the proper officer without notice, either by public auction or private treaty, at any time after the expiry of the initial warehousing period.

The effect of this is that even in disposing of perishable goods proper notice must be given. This may result in a lot of losses as the goods may rot during the one month notice period. It is advisable to retain the proviso and seal any loopholes that are in existence which cause its abuse.

**Clause 6** seeks to amend section 87 of the principal Act by inserting a new subsection which provides as follows:

(2) For the purposes of subsection (1), “office of destination” means any customs office at which a customs transit operation is terminated.

Section 87 provides as follows:

Transit may be terminated by presenting the goods and the relevant entries at the **office of destination** within the time limit specified by the Commissioner, without the goods having undergone any change and without having been used, and with the Customs seals, fastenings and identification marks intact.

This amendment is for the purpose of clarity of what an “office of destination” means.

**Clause 7** seeks to amend section 107 of the principal Act by inserting two new subsections as follows:

(5) Where any obligation that requires the furnishing of a cash deposit has been fulfilled, the Commissioner shall, within thirty days, upon completion of the obligation refund the cash deposit.

(6) Where the Commissioner does not refund the cash deposit, an interest of two per centum per month shall accrue on the deposit for the period it remains unpaid.

Section 107 provides that:

1. Where any security is required to be given under this Act, then that security may be given to the satisfaction of the Commissioner either—
  - a. by bond, in such sum and subject to such conditions and with such sureties as the Commissioner may reasonably require; or
  - b. by cash deposit; or
  - c. partly by bond and partly by cash deposit.
2. Where any security is required to be given under this Act for any particular purpose then such security may, with the approval of the Commissioner be given to cover any other transactions which the person giving the security may enter into within such period as the Commissioner may approve.
3. All bonds required to be given under this Act shall be so framed that the person giving the bond, and any surety thereto, is bound to the Commissioner for the due performance of the conditions of that bond; and any such bond may, unless sooner discharged by the due performance of the conditions three years from the date thereof, but without prejudice to the right of the Commissioner to require fresh security.
4. Where any bond given under this Act is discharged, then the Commissioner shall cause such bond to be cancelled and an endorsement to that effect made thereon.

The proposed amendments are advisable as they limit the discretion of the Commissioner by prescribing the period within which he must refund the bond. It also introduces an interest to be paid on the sum as compensation in case of delay by the Commissioner.

**Clause 8** of the Bill seeks to amend section 218 of the principal Act by deleting the word "council" and substituting it therefor with the word "Commissioner". Section 218 provides as follows:

Where anything has been seized under this Act then the **Council** may, whether or not the thing has been condemned, direct that that thing be released and restored to the person from whom it was seized or to the owner, upon such conditions as the **Council** may deem fit.

It may not be advisable to vest such powers on a single individual and it may be better that the provision be retained as it stands. Secondly, omnibus amendments are discouraged and there is need for specificity in describing the location of the words to be deleted.

**Clause 9** seeks to amend section 243 of the Act by inserting the word "not" after the word "shall". Section 243 provides as follows:

Where any goods are sold under this Act, then the provisions of any legislation of any of the Partner States relating to auctioneers shall apply to such sale.

This amendment is ambiguous as it leaves a lacuna on what legislation is to apply. It needs to specify what legislation will apply in such instances.

**Clause 10** seeks to introduce a new section 248A to the Act which provides as follows:

1. A person intending to import goods, may make a written application to the Commissioner for advance binding rulings on any of the following –
  - a) tariff classification;
  - b) rules of origin; or
  - c) customs variation.
2. Subject to subsection (1) and upon direction from the Commissioner, the applicant shall furnish to the Commissioner sufficient information that may be used to make the decision.
3. The Commissioner shall within thirty days of receipt of the sufficient information issue an advance ruling or give reasons for the inability to issue an advance ruling on the application.
4. The decision under subsection (3) shall be binding on the Commissioner and the applicant.

The above provision is advisable. However, more consideration should be given to subsection (4) as the Commissioner has made a decision without the benefit of seeing the items. The Commissioner should be given a leeway to vary the ruling in case there is a variation between the information provided and actual goods imported.

## The East African Community Elimination of Non-Tariff Barriers Bill, 2015

This Bill seeks to provide a legal mechanism for the elimination of identified non-tariff barriers in the Partner States. It is premised on Article 13 of the Protocol on the Establishment of the East African Community Customs Union in which the Partner States agreed to remove with immediate effect all the existing non-tariff barriers to the importation into their respective territories, of goods originating in the other Partner States and thereafter, not to impose any new non-tariff barriers.

**Part I** deals with preliminary provisions which are the short title of the Act and commencement date. It also deals with interpretation, objectives of the Act and categorization of non-tariff barriers.

**Part II** prohibits activities that create non-tariff barriers both by the Partner States. It also prohibits activities by public officers and institutions of Partner States that may discourage the smooth operation of trade between the Partner States.

**Part III** establishes national monitoring committees in each Partner State so as to outline the process of elimination of non-tariff barriers in Partner States.

**Part IV** outlines the procedure for elimination of non-tariff barriers which are:

- (a) Mutual agreement of the concerned Partner States;
- (b) Implementation of the East African Community Time Bound Programme for Elimination of Identified Non-Tariff Barriers; and
- (c) Regulations, directives, decisions or recommendations of the Council.

**Part V** deals with general provisions. Of importance to note is clause 13 which provides that the Act shall not affect the rights of a Partner State to take temporary measures that would otherwise amount to a non-tariff barrier, where the temporary measures are in the interest of defense and security, public safety or public health. The Partner State should, however, endeavor to inform the other Partner States before the introduction of this measure or at the very least, simultaneously to the measure being undertaken.

This is important as it allows the Partner States to safeguard themselves in case whereby they suspect they may be in danger.

The provisions of the Bill are in order save for clause 18 which states that:

This Act shall take precedence **over the laws of the Partner States** with respect to any matter to which its provisions relate.

This is ambiguous as a person cannot with certainty state which particular laws are being referred to. The law should be specific and this clause should be amended to state which specific laws are being referred to.

## East Africa Community Integration (Education) Bill, 2014

This Bill is based on Article 7 of the Treaty establishing the East African Community which provides for a people centred and market driven economy. However, it has been noted that the general population of the Partner States are ignorant of the role and effect of being members of the Community. There is thus a need to sensitise the citizens of the workings of the Community.

This is reflected in clause 3 which outlines the objectives of the Act as to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for people of East Africa to meaningfully participate in the integration process. This is to be done by establishment of an Integration Education Unit within the Secretariat.

The Bill is in order save that the title is misleading. The Bill focuses on the sensitization of the East Africa Community yet the title refers to education. The use of the word education needs to be thought through.

It is also worth noting that this Committee in its report to the House which was laid on March 25, 2014 had also dealt with this Bill and had made similar sentiments. There is need for a follow-up on whether these comments were forwarded to the Clerk of the East African Legislative Assembly.

### **RULES OF PROCEDURE OF COMMITTEES OF THE ASSEMBLY AND CODE OF CONDUCT OF THE MEMBERS OF THE ASSEMBLY**

These rules are made pursuant to Article 49 (2) (g) of the Treaty Establishing the East African Community. Article 49 (2) (g) provides that the Assembly shall make its rules of procedure and those of its committees. This task was bestowed upon the Committee on Legal, Rules and Privileges. The rules are seventeen in number and they are to guide the operations of standing committees, select committees, ad hoc committees and any other committee the House may establish except the Committee of the whole House.

The important provisions to note are:

#### **Rule 8 Quorum**

Paragraph (2) provides that unless the issue of quorum is raised during proceedings of a Committee, **quorum shall be required at the commencement of a meeting and for purposes of voting.**

This should be discouraged as the Members deliberate on important issues and quorum should be required at all times and not just at the commencement of meetings and during voting.

#### **Rule 10 Decisions of Committees**

Paragraph (2) provides that the chairperson presiding at a meeting of a Committee shall have **neither** a deliberative nor a casting vote.

It is not clear why the Chairperson who is a Member of the Committee should have neither a deliberative nor a casting vote and an explanation on the same is necessary.

### **Rule 13 Special Powers of Committees**

Paragraph (1) (d) provides that in the exercise of its function as a Committee it shall have the powers of the High Court for –

- i. Enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- ii. Compelling the production of documents;
- iii. Issuing of a commission or request to examine witnesses abroad; and
- iv. Citing any person for contempt.

These powers are desirable. However, it should be expressly stated where they are derived from as the rules should not bestow on the Committees more powers than those envisaged by the Treaty Establishing the East African Community and the Rules of Procedure of the East African Legislative Assembly.

The numbering of the Rules should be looked at as there are two Rule 4's, namely Functions of Chairperson and Absence or Inability of Chairperson. These need to be renumbered.

### **Code of Conduct for the Members of the Assembly**

The purpose of this Code is to assist all Members in the discharge of their obligations to the Assembly and the public at large. They are ten in total. The provisions of the Code as drafted are in order and are not in conflict with any other legislation.

### **MIN.NO.CRI/069/2015: CONCERNS RAISED BY MEMBERS**

Members raised the following concerns from the presentation made by the Legal Counsel:

1. Amendment of section 14 (3), (4) and (5) of the East African Community Customs Management Act, 2014 by replacing the word “owner” wherever it appears with the word “operator”. The Members were concerned to know the justification of amending the section and the clear interpretation of the word “operator”.
2. On the East African Community Integration (Education) Bill, 2014, it was noted that the bill had earlier been submitted to the Committee of which it dispense of it and did a report and recommended that the title of the bill be amended to read “*the East African Community Civic Education Bill, 2014*”. The Committee was concerned on whether the assembly received its and its recommendations on the bill taken into consideration since the title of the bill is still the same as one Committee proposed the amendment.

The Legal Counsel was asked to provide more information concerning the bills and accordingly report to the Committee. Further, the Secretariat was asked to invite Attorney General's office to appear before the Committee and brief it on the eac bills.

MIN.NO.CRI/070/2015: ANY OTHER BUSINESS

There being no other business, the Chairperson adjourned the meeting at 1.50pm.

Signed.....*Ramu*.....Date .....4/08/2015.....  
Chairperson

MINUTES OF THE 18<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 23<sup>RD</sup> JUNE, 2015 IN COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 AM.

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**Present:**

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Christopher Nakuleu, MP - Vice-Chairperson
3. Hon. Andrew Toboso, MP
4. Hon. Timothy Bosire, MP
5. Hon. Kubai Iringo, MP
6. Hon. Robert Mbui, MP
7. Hon. Kathuri Murungi, MP
8. Hon. Ogendo Rose Nyamunga, MP
9. Hon. David Karithi, MP
10. Hon. Wanjiku Muhia, MP
11. Hon. Sarah Korere, MP
12. Hon. Annah Nyokabi, MP
13. Hon. David Ouma Ochieng', MP
14. Hon. Dido Ali Rasso, MP

**Absent With Apology**

1. Hon. Emmanuel Wangwe, MP
2. Hon. Eric Keter, MP
3. Hon. Mary Seneta, MP
4. Hon. Alex Mwiru, MP
5. Hon. Bady Twalib Bady
6. Hon. Ali Wario, MP
7. Hon. Peter Shehe, MP
8. Hon. Mark Lomunokol, MP
9. Hon. Florence Mutua, MP
10. Hon. Alois Lentoimaga, MP
11. Hon. Joseph Kahangara, MP
12. Hon. Gideon Konchella, MP
13. Hon. Anthony Kimaru, MP
14. Hon. Dan Kazungu, MP

**Absent**

Hon. Charles Nyamai, MP

**In Attendance**

1. Mr. Joash Kosiba - Fiscal Analyst
2. Mr. Fredrick Otieno - Third Clerk Assistant

## MIN.NO. CRI/071/2015 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m followed by a word of prayer. She then informed Members that the Parliamentary Budget Office was present to brief Members on the Report of the Committee on Accounts on the Audited Accounts of the East African Community for the year ended 30<sup>th</sup> June, 2013. She therefore asked Mr. Joash Kosiba from Budget Office to brief the Committee.

## MIN.NO.CRI/072/2015: CONSIDERATION OF THE REPORT OF COMMITTEE ON ACCOUNTS ON THE AUDITED ACCOUNTS OF THE EAST AFRICAN COMMUNITY FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2013

Mr. Joash Kosiba made a presentation to the Committee on the report as follows:

### INTRODUCTION

The Audit Commission is formed under section 134 of the East African Treaty. The Commission is made up of Auditors General of the Partner states whose function is to audit the accounts of the community. The Commission also verifies any contribution received or revenue collected by the Community and ensures they are allocated and distributed in accordance with the Treaty.

Consequently the Commission submitted its 2012/2013 audit report to the East African Assembly and thereafter the report was tabled for debate on the same but was adjourned in order to allow for the Council of Ministers and the Management of the Community to provide clarifications and additional information not adequately captured in the report, this was in order to allow for informed debate by the August House in its coming session in Bujumbura. The Council of Ministers and Management are then expected to implement the final recommendations of the House.

### AUDIT ISSUES

The following were the audit issues raised by the East Africa Community Audit Commission on the consolidated Financial Statements of EAC organs in the financial year 2012/2013:

1. **Over expenditure**-The most notable over expenditure was on international air tickets and daily subsistence allowance. The committee recommended to the EAC Council of Ministers to adhere to the provisions in the financial rules and regulations and avoid incurring over expenditures on budget lines without the requisite approvals and further directed the EAC management to table before the Assembly measures taken to ensure budgetary controls.
2. **Expenditure Cut offs**- The EAC management made substantial advances to staff for activities not undertaken contrary to EAC financial rules and regulations to the tune of USD 384,834.
3. **Anomalies in accountabilities for Imprest advances:**
  - a) In cases of advances for meetings and conferences both within and outside Arusha, majority of the accountability records do not have invitations.

- b) Where invitations are filed there is no formal communication from responsible recipients indicating the names of officers who have been formally nominated by the person to whom the meeting request has been addressed.
  - c) Minutes of what was discussed and resolutions not filed
4. Documentations reveal that a total of USD 35,651 was paid to officers in lieu of leave. In all instances; there was no evidence that special permission to accrue leave had been obtained as required by regulations. Furthermore there was no budget provision for such expenditure, instead this was charged to salaries and wages.
  5. **Excessive salary deductions:-**Regulation 55 of the staff rules and regulations allow staff to get salary and housing advances but with deductions not exceeding 50% of the employees' salaries. Review of secretariat payroll reveals a number of staff whose deductions exceeded 50% with some reaching as high as 80%.

It was further observed that:

- i. Performance of the Internal Audit Department: The Committee noted that Internal Audit lacks sufficient capacity to effectively undertake its plans and relevant reviews.
- ii. The audit Commission observed that staffing position for the EAC revealed several unfilled positions within the Secretariat.
- iii. Unauthorized Budget Roll Over: The Audit Commission took note of a meeting with stakeholders to the design of Arusha - Voi road, an activity which had been budgeted in the financial year 2011/2012 at USD 47,400. The activity was not undertaken in that financial year and was subsequently rolled over to the subsequent financial year 2012/2013.
- iv. Inappropriate Delegates for technical meetings.
- v. Expenditures on Daily Subsistence Allowances-some staff were paid 200 working nights in one financial year meaning the staff were almost out of office during the whole financial year
- vi. Procurement irregularities-Air tickets, disposal of Old Motor Vehicles.
- vii. Engineering Audit issues: - Unsatisfactory finishes in some parts of the building, inadequate workmanship on external works.

#### **EAST AFRICAN COURT OF JUSTICE**

The following were some of the findings and recommendations on the EAC Court of Justice

1. Wasteful expenditure: - USD 116,000 was spent on Daily Subsistence allowances at the rate of USD 350 per persons for a meeting in Moshi which is two hours drive from the duty station.

**Recommendation:** - Amend financial rules and staff regulations with the aim of discouraging meetings in Moshi and put an exception clause to justify the necessity. Always exercise prudence while authorizing expenditure

2. Non Compliance with Human Resource rules and regulations criteria:- there were cases where officers were acting for positions for more than six months as stipulated in the regulations.

**Recommendation:** - *The Committee recommends to the Assembly to urge the EAC Council of Ministers to direct EAC management to expedite recruitment process aimed at filling the staff positions.*

3. EACJ paid USD 33,350 for training. Audit reveals that the EACJ had no approved training plan and regulations.

**Recommendation:** -*Develop training regulations and initiate policy on adherence to approved plans and budgets of the Community.*

### EAST AFRICAN LEGISLATIVE ASSEMBLY

The following were some of the findings and recommendations on the East African Legislative Assembly:

1. Irregular payment of Perdiem to facilitate attendance of funeral ceremonies USD 9,084.  
**Recommendation:** - *Direct the EAC management to form guidelines on death related expenditures for all EAC organs and institutions.*
2. Flouting of procurement regulations on printing of East African Community Fund Annual report, Promotional materials.  
**Recommendation:** - *Always adhere to the procurement regulations and always prepare documents and present them properly to avoid suspicion of the process.*

### LAKE VICTORIA BASIN COMMISSION (LVBC)

The following were some of the findings and recommendations on the Lake Victoria Basin Commission:

1. Weaknesses in management of Accountable Imprest:- imprest amounting to USD 115,136 remained unaccounted for as at 30<sup>th</sup> June 2013.  
**Recommendation:** - *EAC Council of Ministers to direct LVBC management to present to Audit Commission for verification in the next audit.*
2. Poor Budget performance with utilization standing at 44% of total funds earmarked for its programs during the year. This was attributed to delay in release of funds for various activities from Development partners. The donors were contributing 88% of the budget.  
**Recommendation:** - *EAC Council of Ministers to direct LVBC management to present budget performance progress to the Audit Commission for verification in the next Audit.*
3. Excessive payment of travel and daily subsistence allowances to the tune of USD 1,597,208 during the financial year 2012/2013. Some of the Commission staff was out of office between 100 to 272 days. The cadres of staff in question were unreasonably out of the office yet their job description entails working in the office e.g. Accounts Department staff, senior staff management  
**Recommendation:** - *Develop travel guidelines and reduce excessive payments of DSAs*

## LAKE VICTORIA FISHERIES ORGANISATION (LVFO)

The following were some of the findings and recommendations on the Lake Victoria Fisheries Organization

1. Doubtful expenditure- USD 61,547. This expenditure was not properly accounted for, contrary to the financial regulations. Examination of the accompanying documents reveals several inconsistencies that point to possibility of misuse.

*Recommendation:* - LVFO management to come with a report and present to the Audit Commission for verification in the next audit.

2. Irregular out of pocket allowance USD 2,980:- It was noted that LVFO were invited for workshops and conferences and the organizers provided for air tickets and subsistence allowances in cash form. The officers were therefore not entitled to any allowance.

*Recommendation:* - EAC Council of Ministers to direct to direct LVFO management to put an end to the practice and recover the amount spent irregularly from the officers involved.

3. Wasteful expenditure: a three day workshop held in Seeta which is located only one hour's drive from the Jinja Office, each officer was paid full per diem for three nights at a rate of USD 300 per night.

*Recommendation:* - EAC Council of Ministers to direct LVFO Management to ensure that all unnecessary expenditures are avoided at all costs.

## INTER UNIVERSITY COUNCIL FOR EAST AFRICA (IUCEA)

The following were some of the findings and recommendations on the Inter University Council for East Africa:

1. The Audit Commission reported that during the review of the financial statements, it was noted that the amount of contributions collected from Partner States was USD 2,856,466 while the total expected was USD 4,015,550. In addition the arrears from the Partner states as at June 2013 amounted to USD 12,853,915. Failure by member states to promptly remit their annual contributions negatively affects performance of the Council to fulfill its mandate. It was noted that the increased non-remittance raises uncertainties regarding the capacity of the council to survive as a 'going concern'

*Recommendation:* - EAC Council ministers to direct IUCEA management to follow up, verify and ensure that channeled through the ministers of EAC affairs and ensure that Partner states are included in the budgets of respective partner states annually.

2. Doubtful recoverability of contribution in arrears – USD 12,353,914.80. All Partner States with the exception of Rwanda had arrears. Several reminders have been sent and letters have been sent to partner states backed by EAC Council directives.

*Recommendation:* - Direct IUCEA management to develop and put in place a policy on recoverability of arrears and remittances due and develop guidelines on usage of recovered funds.

3. Some observations include absence of a comprehensive fixed asset register, delayed construction and Co-ownership of the Land title for IUCEA Headquarters, inadequate

staffing, weakness in human resource function, weaknesses in book keeping among others.

### **THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY**

The Audit Commission reported the following on Civil Aviation Safety and Security Oversight Agency:-

1. Irregular budgeting for reserves- The original budget of USD 1,520,346 is inclusive of USD 266,346 being transfers from the reserves implying that the budget team had anticipated the transfer.
2. Idle funds on the Reserves Account No. 6003614873;- The bank statement reveals that at the close of the financial year, the above account had a credit balance of USD 120,929.62 deposited on 2<sup>nd</sup> October 2012. There were no other credits or debits on this account during the year apart from the bank charges.
3. Irregular recognition of accumulated leave-USD 14,144- There is no evidence to show that authority sought for accumulating leave as provided for under staff regulations.

### **MIN.NO.CRI/073/2015: OBSERVATIONS MADE BY MEMBERS**

Having gone through the presentation, the following observations were made by Members:

1. Most of the EAC organs overspent money on international air tickets and daily subsistence allowance.
2. Documentations reveal that a total of USD 35,651 was paid to officers in lieu of leave. In all instances; there was no evidence that special permission to accrue leave had been obtained as required by regulations. Furthermore there was no budgetary provision for such expenditure-this was charged to salaries and wages.
3. Expenditures on Daily Subsistence Allowances-some staff were paid 200 working nights in one financial year meaning the staff were out of office for most of the days during the financial year

### **MIN.NO.CRI/074/2015: ANY OTHER BUSINESS**

Hon. Cyprian Iringo informed the Committee that they represented the Committee in Egypt as per the invitation by the Ministry of East African Affairs, Commerce and Tourism and approval by the National Assembly. However, he expressed the frustration and the mistreatment that they received in Sham, Egypt. They were disappointed with the embassy and the Ministry staff for the treatment that they received. They had accommodation problems and challenges attending the main function. There was no communication by the Ministry and the embassy, the clerk tried to reach them but no one picked his calls.

The Members emphasized that there should be proper arrangements before any delegation leaves for any trip whether organized by the Ministry or Parliament. They requested the

Chairperson to invite, through the Clerk's office, the Principal Secretary to appear before the Committee to explain why his staff abandoned Members. She promised undertook to take up the matter through the Clerk's office and report back to the Committee.

**MIN.NO.CRI/075/2015: ADJOURNMENT**

The Chairperson adjourned the meeting at 12.20pm.

SIGNED.....*Pauw*.....DATE.....*4/05/2015*.....

CHAIRPERSON

## Kenya Revenue Authority

- |                          |   |  |
|--------------------------|---|--|
| 1. Mr. Julius Musyoki    | - | Ag. Commissioner of Customs & Border Control |
| 2. Ms. Mercy Njuguna     | - | Ag. Deputy Commissioner                      |
| 3. Ms. Rosemary Mureithi | - | Manager/Coordinator SCT                      |

## MIN.NO. CRI/080/2015 PRELIMINARIES

The Chairperson called the meeting to order at 12.30 pm followed by a word of prayer. She then welcomed the visitors from Kenya Revenue Authority and asked everyone to introduce him/herself. She further informed the Committee that the visitors from KRA came as per the invitation from the Committee to brief it on the report of On-spot Assessment of Single Customs Territory by the Committee on Communication, Trade and Investment of EALA.

## MIN.NO.CRI/081/2015: CONSIDERATION OF THE REPORT OF ON-SPOT ASSESSMENT ON THE EAC SINGLE CUSTOMS TERRITORY

The Ag Commissioner of Customs and Border Control, Mr. Julius Musyoki appeared before the Committee and made the following presentation:

1. Single Customs Territory is the full attainment of the Customs Union achievable through removal of duties and other trade restrictions including minimization of internal border controls. It is all about achieving free circulation of goods in the Customs Territory in order to reduce the cost of doing business.
2. The implementation of the Single Customs Territory started in October 2013 with petroleum products on a duty paid basis and thereafter, additional items were added.
3. The EAC Partner States, Kenya, Uganda, Tanzania, Rwanda and Burundi are all involved in the SCT.
4. With the Single Customs Territory, the goods are cleared at the first point of entry, Customs declarations are made once at the destination country and also the taxes are paid at the point of destination when goods are still at the first point of entry. Goods are moved under a single bond from the port to destination and are monitored by electronic cargo tracking system.
5. Persons involved in the clearance process may choose to work through representatives or may relocate to Mombasa or Dar es Salam as first points of entry and all Customs stations that receive goods from outside EAC region are considered as first points of entry including international airports.
6. The goods will be cleared by lodging an entry from the destination country and also the customs clearing agent in the importing country is able to access services from the first point of entry since Customs systems are web based and automated to enable accessibility and interaction from anywhere.
7. He further informed the Committee that it is not possible to declare transit within the EAC under the SCT. Transit declaration shall only apply to goods originating from foreign countries and destined to a foreign country outside the EAC region. All customs duty will be paid in the respective destination/importing countries.

MINUTES OF THE 20<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 2<sup>ND</sup> JULY, 2015 IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS AT 12:00 NOON.

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Present:

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Christopher Nakuleu, MP - Vice-Chairperson
3. Hon. Andrew Toboso, MP
4. Hon. Timothy Bosire, MP
5. Hon. Kubai Iringo, MP
6. Hon. Robert Mbui, MP
7. Hon. Kathuri Murungi, MP
8. Hon. Ogendo Rose Nyamunga, MP
9. Hon. David Karithi, MP
10. Hon. Wanjiku Muhia, MP
11. Hon. Sarah Korere, MP
12. Hon. Eric Keter, MP
13. Hon. Mary Seneta, MP
14. Hon. Ali Wario, MP
15. Hon. Mark Lomunokol, MP

Absent With Apology

1. Hon. Annah Nyokabi, MP
2. Hon. David Ouma Ochieng', MP
3. Hon. Dido Ali Rasso, MP
4. Hon. Emmanuel Wangwe, MP
5. Hon. Alex Mwiru, MP
6. Hon. Bady Twalib Bady
7. Hon. Peter Shehe, MP
8. Hon. Florence Mutua, MP
9. Hon. Alois Lentoimaga, MP
10. Hon. Joseph Kahangara, MP
11. Hon. Gideon Konchella, MP
12. Hon. Anthony Kimaru, MP
13. Hon. Dan Kazungu, MP

Absent

Hon. Charles Nyamai, MP

In Attendance

Kenya National Assembly

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Ms. Sharon Rotino - Research Officer

## Benefits of Single Customs Territory

The following are the benefits from the SCT:

1. Reduces the cost of doing business by eliminating duplication of processes
2. Reduces administrative costs and regulatory requirements
3. Facilitates the free movement of goods, labour, services and capital as envisaged under the common market
4. Promotes foreign, domestic and cross border investment
5. Enhances trade in locally produced goods particularly agricultural goods from areas of surplus to areas of deficit
6. Enhances the relationship between the private and public sectors
7. Creates a mechanism for prevention of smuggling at a regional level
8. Reduces the risks associated with non-compliance on the transit of goods
9. Creates an efficient mechanism of revenue management.

## MIN.NO.CRI/082/2015: CONCERNS BY MEMBERS

Having considered the presentation, the Members raised the following concerns:

1. Members sought clarifications on the differences between the common bond and regional transit bond. However, while responding to this, Mr. Julius informed the Members that regional bond is accepted across partner states and can be liquidated by any partner state.
2. Exact difference in income that will be collected by KRA when the Single Customs Territory is implemented and the benefits to the economy.
3. Sugar has been getting its way into the Country from Uganda through Busia – Malaba borders, packed, branded Mumias and sold in the Country which might have led to collapse of Mumias Sugar Company. Members wanted to know plans by the KRA to curb the problem since it has been a failure by the Kenya Revenue Authority to safe guard the border points.

## MIN.NO.CRI/083/2015: ANY OTHER BUSINESS

1. Foreign trips: the Chairperson informed Members that the first study trip in the 2015/16 financial year will be undertaken in August. The preferred destinations will be in New Zealand and China respectively.
2. Retreat: Members also proposed for a retreat in Mombasa, Whitesands Hotel from 30<sup>th</sup> July, 2015. Agenda will be

## MIN.NO.CRI/084/2015: ADJOURNMENT

The Chairperson adjourned the meeting at 1.55pm.

SIGNED..........DATE .....4/08/2015.....

CHAIRPERSON



MINUTES OF THE 21<sup>ST</sup> MEETING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 7<sup>TH</sup> JULY, 2015 AT CONTINENTAL HOUSE 5<sup>TH</sup> FLOOR, PARLIAMENT BUILDINGS AT 12:00 NOON.

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**Present:**

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Kathuri Murungi, MP
3. Hon. Sarah Korere, MP
4. Hon. Eric Keter, MP
5. Hon. Mary Seneta, MP
6. Hon. Mark Lomunokol, MP
7. Hon. David Ouma Ochieng', MP
8. Hon. Dan Kazungu, MP
9. Hon. Alois Lentoimaga, MP
10. Hon. Peter Shehe, MP

**Absent With Apology**

1. Hon. Christopher Nakuleu, MP - Vice-Chairperson
2. Hon. Andrew Toboso, MP
3. Hon. Timothy Bosire, MP
4. Hon. Kubai Iringo, MP
5. Hon. Robert Mbui, MP
6. Hon. Annah Nyokabi, MP
7. Hon. Dido Ali Rasso, MP
8. Hon. Emmanuel Wangwe, MP
9. Hon. Alex Mwiru, MP
10. Hon. Bady Twalib Bady
11. Hon. Florence Mutua, MP
12. Hon. Joseph Kahangara, MP
13. Hon. Gideon Konchella, MP
14. Hon. Anthony Kimaru, MP
15. Hon. Ali Wario, MP
16. Hon. Ogendo Rose Nyamunga, MP
17. Hon. David Karithi, MP
18. Hon. Wanjiku Muhia, MP

**Absent**

Hon. Charles Nyamai, MP

## In Attendance

### Kenya National Assembly

1. Ms. Sharon Rotino - Research Officer

### Office of the Attorney General

1. Mr. Allan Githaiga - Senior State Counsel
2. Ms. Linda Murila - Senior State Counsel

## MIN.NO. CRI/085/2015 PRELIMINARIES

The Chairperson called the meeting to order at 12.30 pm followed by a prayer by Hon. David Ochieng'. She then welcomed the visitors from Office of the Attorney General and requested for self-introduction.

The Chairperson further informed the Committee that the Officers from the Office of Attorney General were appearing before the committee in response to the Committee's invitation to brief the Committee on the Bills from the East African Legislative Assembly that had been submitted to the committee for consideration by the Speaker of the National Assembly.

## MIN.NO.CRI/ 086/2015: PRESENTATION FROM THE AG'S OFFICE

### 1. The East African Community Elimination of Non-Tariff Barriers Bill, 2015

The main objective of this Bill is to provide for a legal framework for identifying, monitoring and eliminating non-tariff barriers within Partner States. It gives effect to Article 13 of the Protocol on the Establishment of the East African Community Customs Union in which Partner States had agreed to immediately eliminate existing non-tariff barriers within the Community. The main objective of the East African Community Common Market Protocol is to expand trade in goods and services, foster investment by means of fair, stable and predictable rules and eliminate barriers to trade between the Partner States.

Non-tariff barriers arise from different measures taken by governments and authorities in the form of government laws, regulations, policies, conditions, restrictions or specific requirements, and private sector business practices, or prohibitions that protect the domestic industries from foreign competition.

**PART I** of the Bill contains preliminary provisions. **Clause 2** provides for the interpretation of terms and **Clause 3** sets out the objective of the Act which is to facilitate and enhance trade in the Community by removing conditions that affect and distort trade in goods within the Community.

**PART II** of the Bill provides for the prohibition of activities that create non-tariff barriers.

**Clause 5** prohibits a partner state from engaging in trade practices, customs procedures or imposing any measures that constitute non-tariff barriers.

**Clause 6** prohibits a public officer or an institution of a Partner State from engaging in an activity which is not authorised by the Laws of the Community or of the Partner State and results in any loss, additional cost to the business of the affected party or amounts to a corrupt practice or causes any other impediment to trade within the Community. The clause requires a Partner State whose Officer or institution impedes trade to pay compensation to the affected party.

**PART III** of the Bill provides for the establishment of National Monitoring Committees and National Focal Points.

**Clause 7** provides for the establishment of National Monitoring Committees tasked with, among other things, identifying and monitoring the process of elimination of non-tariff barriers, and advising Partner States on the policies and laws that contain or lead to non-tariff barriers. It further provides the membership of this committee which includes representatives of the relevant government institutions and the private sector as determined by a Partner State.

**Clause 8** requires each Partner State to designate a Ministry as the National Focal point for matters relating to the non-tariff barriers. It further sets out the functions of the National Focal Point and establishes it as the secretariat to the National Monitoring Committee. The functions include initiating policies and strategies on the elimination of non-tariff barriers in the Partner State, monitoring new tariffs and facilitating the implementation of the East African Community Time Bound Programme for Elimination of Identified Non- Tariff Barriers.

**PART IV** of the Bill provides for the procedure for elimination of non-tariff barriers.

**Clause 9** sets out the mechanisms for the elimination of the non-tariff barriers and these include mutual agreement of the concerned Partner States, implementation of the East African Community Time Bound Programme for Elimination of Identified non-tariff Barriers and regulations, directives, decisions or recommendations of the Council

**Clause 11** requires the National Monitoring Committee, on receipt of a complaint or report, to investigate the report or complaint and prepare a plan for the elimination of the non-tariff barrier. The plan of elimination must specify the impact of the barrier, the time frame for the elimination and the challenges that may be encountered in the process of elimination.

In addition, a Partner State whose parties are affected by a non-tariff barrier in another Partner State may initiate the process of elimination of the barrier by a notification in writing to the Partner State where the barrier exists and a copy to the Secretary General.

**Clause 12** provides for the Secretary General to refer a matter to the Council where the concerned Partner State fails to eliminate a non-tariff barrier.

**PART V** of the Bill contains general provisions.

**Clause 13** enables a Partner State to effect temporary measures that would otherwise amount to a non-tariff barrier, if it is in the interest of defense, security, public safety or public health.

**Clause 14** requires the National Focal Points of the Partner States to exchange information on matters relating to non-tariff barrier.

**Clause 15** requires the Council to generally coordinate and monitor the elimination of non-tariff barriers.

**Clause 16** provides for sanctions and states that the Council may recommend to the Summit to impose sanctions against a State that fails to comply with a directive, decision or recommendation of the Council.

**The Schedule** provides for the World Trade Organization Categories of Non-tariff Barriers which are applicable to the Partner States.

## **2. The East African Community Integration (Education) Bill, 2014**

The Bill seeks to provide a framework for ensuring that the citizens of the Partner States are informed of the affairs and the activities of the Community. A large number of people in the Community do not know that they can participate in the affairs and activities of the Community

The main objective of this Bill is set out in Clause 3 which is to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for people of East Africa to meaningfully participate in the integration process.

**Clause 2** contains interpretation of terms and defines integration education as education about the Treaty and the integration process in the Community.

**Clause 4** establishes the Integration Education Unit which is responsible to the Secretary General and its functions include –

- (a) coordinating integration education activities in the Partner States with the competent authorities;
- (b) developing relevant materials for dissemination in the Partner States;
- (c) setting standards and quality control mechanisms in integration education;

- (d) developing curricular for integration education by the education institutions in the Partner States; and
- (e) perform any other functions as may be required to achieve the objectives of this Act

**Clause 6** specifies that the Unit shall receive funds from the budget of the Community and other sources determined by the Council.

**Clause 7** provides for the competent authorities in the Partner States to be the national focal points for the purpose of education integration in the Community. The competent authority refers to the relevant authority responsible for carrying out civic education.

### **3. The East African Community Customs Management (Amendment) Bill, 2015**

The main objective of this Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the fulfilment of the functions of the Directorate of Customs and Trade and to facilitate smooth implementation of the Act. The principal Act makes provisions for the management and administration of Customs.

The Bill seeks to amend the following sections-

- Section 14(3),(4) and (5) which provides for licensing of internal container depot; The amendments are to replace the word “owner” with “operator”. Section 14(3) requires the owner of an internal container depot to among other things, provide office accommodation, weights, and scales to a proper officer, keep a record of all goods in depot and provide labour and material whenever required by the proper officer. The amendment is to place the obligation to comply with the section on the operator of a depot. This is in light of the fact that the owner of a depot may lease out the premises and may not be involved in the day to day running of the depot. The provision was therefore unfairly penalising the owner.

Section 14(4) provides that where the owner of an internal container depot does not comply with the section, the Commissioner may stop the storing of goods in the depot until the owner complies with the section. This results in the law penalising the wrong party since the owner of the depot may not be the operator of the depot. Section 14 (5) sets out the penalty for an owner of a depot who contravenes the section. This should apply to the operator.

- Section 34 which provides for entry of cargo is to be amended by inserting a new sub section (5) and not by replacing sub section (5).

- Section 51 provides for operations in a warehouse and gives the Commissioner power to permit specified activities relating to a warehouse. The section is amended to clarify that the duty to be paid in respect of any good not specified in the section shall be prescribed by the Commissioner and not the Council or any other person.
- Section 57 which provides for period of warehousing and sale of goods is amended to remove the mandatory extension period of three months to enable the Commissioner of Customs to specify the period of keeping the goods in a warehouse. The period to be specified by the Commissioner may vary depending on circumstances.
- Section 87 which provides for termination of transit procedure states that transit of goods may be terminated by presenting the goods and the relevant entries to the office of destination. The section is amended to clarify that the office of destination means any customs office at which a customs transit operation is terminated.
- Section 107 which contains general provisions relating to giving of security is amended to provide for a refund of security where an obligation that required the deposit of the security has been fulfilled. The amendment also specifies the interest that will accrue if the security is not paid within thirty days.
- Section 218 which provides for restoration of seizures is amended to provide for the Commissioner to release anything that has been seized or condemned under the Act to the owner. This makes the process of restoration faster since the Council meets only twice a year. The delay in releasing goods may result in loss to the owner.
- Section 243 which provides for auctioneers legislation to apply to sales is amended to specify that the legislation of the Partner States relating to auctioneers shall not apply to the sale goods sold under the Act; and
- The new section 248A provides for the application of advance binding rulings.

#### **MIN.NO.CRI/087/2015: COMMITTEE OBSERVATIONS**

Having considered the presentation, the Members raised the following concerns:

- i. On the EAC Education bill, though the objective of the bill is noble, the title of the bill is misleading as it can be interpreted to mean academic education. The committee proposed that the title ought to have been changed to make it clear that it is an EAC sensitization bill.
- ii. The committee wanted to know the position of the AG in regard to the bills. The officers informed the members that the elimination of NTBs bill and the EAC customs

management amendment bill are council bills and as such the office of the AG participated extensively in the consideration of the bills before they were passed by EALA.

**MIN.NO.CRI/088/2015: ADJOURNMENT**

There being no other business, the meeting was adjourned at 1.15pm. The date of the next meeting would be communicated by notice.

SIGNED..........DATE 02/10/2015.....  
CHAIRPERSON

MINUTES OF THE 24<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 4<sup>TH</sup> AUGUST, 2015 IN COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON.

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**Present:**

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Christopher Nakuleu, MP - Vice-Chairperson
3. Hon. Timothy Bosire, MP
4. Hon. David Ouma Ochieng', MP
5. Hon. Kathuri Murungi, MP
6. Hon. Ali Wario, MP
7. Hon. Dan Kazungu, MP
8. Hon. Emmanuel Wangwe, MP
9. Hon. Ogendo Rose Nyamunga, MP
10. Hon. Wanjiku Muhia, MP
11. Hon. Mary Seneta, MP
12. Hon. Mark Lomunokol, MP
13. Hon. David Karithi, MP

**Absent With Apology**

1. Hon. Andrew Toboso, MP
2. Hon. Kubai Iringo, MP
3. Hon. Gideon Konchella, MP
4. Hon. Eric Keter, MP
5. Hon. Annah Nyokabi, MP
6. Hon. Florence Mutua, MP
7. Hon. Peter Shehe, MP
8. Hon. Bady Twalib Bady
9. Hon. Dido Ali Rasso, MP
10. Hon. Robert Mbui, MP
11. Hon. Alex Mwiru, MP
12. Hon. Joseph Kahangara, MP
13. Hon. Anthony Kimaru, MP
14. Hon. Alois Lentoimaga, MP
15. Hon. Sarah Korere, MP

**Absent**

Hon. Charles Nyamai, MP

**In Attendance**

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Mr. Nicodemus Maluki - Third Clerk Assistant

## **MIN.NO. CRI/100/2015 PRELIMINARIES**

The Chairperson called the meeting to order at 12.38pm followed by a word of prayer from Hon. Christopher Nakuleu, MP

## **MIN.NO.CRI/101/2015: CONFIRMATION OF MINUTES**

1. Minutes of the 13<sup>th</sup> sitting held on 2<sup>nd</sup> April, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Rose Nyamunga, MP and seconded by Hon. David Kariithi, MP.
2. Minutes of the 14<sup>th</sup> sitting held on 16<sup>th</sup> April, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Dan Kazungu, MP and seconded by Hon. Murungi Kathuri, MP.
3. Minutes of the 15<sup>th</sup> sitting held on 21<sup>st</sup> April, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Murungi Kathuri, MP and seconded by Hon. Dan Kazungu, MP.
4. Minutes of the 16<sup>th</sup> sitting held on 9<sup>th</sup> June, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. Rose Nyamunga, MP.
5. Minutes of the 17<sup>th</sup> sitting held on 18<sup>th</sup> June, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Rose Nyamunga, MP and seconded by Hon. David Kariithi, MP.
6. Minutes of the 18<sup>th</sup> sitting held on 23<sup>rd</sup> June, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. Rose Nyamunga, MP.
7. Minutes of the 19<sup>th</sup> sitting held on 25<sup>th</sup> June, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Mary Seneta, MP and seconded by Hon. Wanjiku Muhia, MP.
8. Minutes of the 20<sup>th</sup> sitting held on 2<sup>nd</sup> July, 2015 were confirmed as a true record of the proceedings as proposed by Hon. Timothy Bosire, MP and seconded by Hon. Wanjiku Muhia, MP.

## **MIN.NO.CRI/102/2015: MATTERS ARISING**

**Under Min.No.CRI/049/2015 on preliminaries:-**Editorial corrections

**Under Min.No.CRI/055/2015 on adoption of reports pursuant to Standing Order 199:** The secretariat were asked to record that the Committee lacked the required majority to adopt the report, instead of mentioning the Standing Order number since not everyone outside Parliament have an access to Standing Order.

**Under Min.No.CRI/060/2015 on foreign trips:-**It was resolved that any Member can be appointed to lead a committee delegation abroad. It is not mandatory that the Committee leadership should participate in each and every trip.

Under Min.No.CRI/082/2015 (2) on local visits:-Save for logistical challenges, Members were of the view that the Committee should consider holding its retreats from other parts of the country alongside Mombasa.

**MIN.NO.CRI/103/2015: ANY OTHER BUSINESS**

1. **Allowances during retreats:** Members sought clarifications from the secretariat on whether they will not be paid their sitting allowances during retreats. They were informed that there is no official communication from Accounts on this.
2. **Foreign trips:** Members proposed that the Committee should organize for two foreign trips within this year so that Members travel concurrently.

**MIN.NO.CRI/104/2015: ADJOURNMENT**

There being no other business, the meeting was adjourned at 1.32pm.

SIGNED..........DATE 01.09.2015.....

CHAIRPERSON

**MINUTES OF THE 26<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 1<sup>ST</sup> OCTOBER, 2015 IN PROTECTION HOUSE, 11<sup>TH</sup> FLOOR, PARLIAMENT BUILDINGS AT 10:00AM**

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**Present:**

1. Hon. Christopher Nakuleu, MP - **Vice-Chairperson**
2. Hon. Robert Mbui, MP
3. Hon. Emmanuel Wangwe, MP
4. Hon. Andrew Toboso, MP
5. Hon. Kubai Iringo, MP
6. Hon. Kathuri Murungi, MP
7. Hon. David Karithi, MP
8. Hon. Annah Nyokabi, MP
9. Hon. Ogendo Rose Nyamunga, MP
10. Hon. Eric Keter, MP

**Absent With Apology**

1. Hon. Florence Kajuju, MP - **Chairperson**
2. Hon. David Ouma Ochieng', MP
3. Hon. Alois Lentoimaga, MP
4. Hon. Sarah Korere, MP
5. Hon. Peter Shehe, MP
6. Hon. Mary Seneta, MP
7. Hon. Dan Kazungu, MP
8. Hon. Dido Ali Rasso, MP
9. Hon. Florence Mutua, MP
10. Hon. Joseph Kahangara, MP
11. Hon. Timothy Bosire, MP
12. Hon. Alex Mwiru, MP
13. Hon. Wanjiku Muhia, MP
14. Hon. Bady Twalib Bady
15. Hon. Ali Wario, MP
16. Hon. Gideon Konchella, MP
17. Hon. Anthony Kimaru, MP
18. Hon. Mark Lomunokol, MP

**Absent**

Hon. Charles Nyamai, MP

**In attendance**

1. Mr. Nicodemus Maluki - Third Clerk Assistant
2. Ms. Emma Esendi - Legal Counsel
3. Ms. Esther Ngechu - Sergeant At Arms

**MIN.NO. CRI/105/2015 PRELIMINARIES**

The Vice Chairperson called the meeting to order at 10:30 am followed by a word of prayer.

**MIN.NO.CRI/106/2015: CONFIRMATION OF MINUTES**

The Minutes of the previous meetings were confirmed as follows:

1. Minutes of the 21<sup>st</sup> Sitting held on 7<sup>th</sup> July, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Eric Keter, MP and seconded by Hon. Kathuri Murungi, MP.
2. Minutes of the 22<sup>nd</sup> Sitting held on 28<sup>th</sup> July, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Emmanuel Wangwe, MP and seconded by Hon. Anyanga Andrew Toboso, MP.
3. Minutes of the 23<sup>rd</sup> Sitting held on 30<sup>th</sup> July, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Annah Nyokabi, MP and seconded by Hon. Ogendo Rose Nyamunga, MP.
4. Minutes of the 24<sup>th</sup> Sitting held on 4<sup>th</sup> August, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Ogendo Rose Nyamunga, MP and seconded by Hon. Christopher Nakuleu, MP.

**MIN.NO.CRI/107/2015: MATTERS ARISING**

**Under Min. No. CRI/097/2015:** The Committee felt that it was still important that the Cabinet Secretary Ministry of East African Affairs, Commerce and Tourism appeared before it to address issues of how her Ministry engages with the Committee.

**MIN.NO.CRI/108/2015: ELECTION OBSERVATION IN TANZANIA (15<sup>TH</sup> – 27<sup>TH</sup> OCTOBER 2015)**

Based on the gender and political affiliations, the following Members were nominated to represent the Committee:

- i) Hon. Robert Mbui, MP
- ii) Hon. Ogendo Rose Nyamunga, MP
- iii) Hon. Wanjiku Muhia, MP
- iv) Hon. Mark Lomunokol, MP

**MIN.NO.CRI/109/2015: ANY OTHER BUSINESS**

Foreign Trips: The secretariat was asked to prepare a brief on Regional Economic Blocs for presentation to the Committee when it sits next on Tuesday 6<sup>th</sup> October, 2015.

**MIN.NO. CRI/110/2015 ADJOURNMENT**

The Chairperson adjourned the meeting at 11.40am

Signed..........

**Chairperson**

Date..... 29<sup>th</sup>. Oct. 2015 .

**MINUTES OF THE 31<sup>st</sup> SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 29TH OCTOBER, 2015 IN CONTINENTAL HOUSE, COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, PARLIAMENT BUILDINGS AT 12.00 (NOON)**

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**Present:**

- |                                   |   |                         |
|-----------------------------------|---|-------------------------|
| 1. Hon. Florence Kajuju, MP       | - | <b>Chairperson</b>      |
| 2. Hon. Christopher Nakuleu, MP   | - | <b>Vice-Chairperson</b> |
| 3. Hon. Eric Keter, MP            |   |                         |
| 4. Hon. Sarah Korere, MP          |   |                         |
| 5. Hon. David Karithi, MP         |   |                         |
| 6. Hon. Peter Shehe, MP           |   |                         |
| 7. Hon. Annah Nyokabi, MP         |   |                         |
| 8. Hon. Alois Lentoimaga, MP      |   |                         |
| 9. Hon. Mark Lomunokol, MP        |   |                         |
| 10. Hon. Ogendo Rose Nyamunga, MP |   |                         |
| 11. Hon. Kathuri Murungi, MP      |   |                         |
| 12. Hon. Joseph Kahangara, MP     |   |                         |
| 13. Hon. Wanjiku Muhia, MP        |   |                         |

**Absent With Apology**

1. Hon. David Ouma Ochieng', MP
2. Hon. Timothy Bosire, MP
3. Hon. Mary Seneta, MP
4. Hon. Ali Wario, MP
5. Hon. Florence Mutua, MP
6. Hon. Emmanuel Wangwe, MP
7. Hon. Kubai Iringo, MP
8. Hon. Gideon Konchella, MP
9. Hon. Anthony Kimaru, MP
10. Hon. Andrew Toboso, MP
11. Hon. Bady Twalib Bady
12. Hon. Dido Ali Rasso, MP
13. Hon. Robert Mbui, MP
14. Hon. Alex Mwiru, MP
15. Hon. Dan Kazungu, MP

**Absent**

Hon. Charles Nyamai, MP

**In attendance**

**Secretariat**

- |                         |   |                       |
|-------------------------|---|-----------------------|
| 1. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 2. Ms. Esther Ngechu    | - | Sergeant At Arms      |

### **MIN.NO. CRI/127/2015 PRELIMINARIES**

The Chairperson called the meeting to order at 12.30 pm followed by a word of prayer from Mr. Nicodemus K. Maluki.

### **MIN.NO.CRI/128/2015: CONFIRMATION OF MINUTES**

The Minutes of the previous meetings were confirmed as follows:

1. Minutes of the 25<sup>th</sup> Sitting held on 25<sup>th</sup> August , 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Christopher Nakuleu, MP and seconded by Hon. Annah Nyokabi, MP.
2. Minutes of the 26<sup>th</sup> Sitting held on 1<sup>st</sup> October, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. David Karithi, MP and seconded by Hon. Ogendo Rose Nyamunga, MP.
3. Minutes of the 27<sup>th</sup> Sitting held on 6<sup>th</sup> October, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Annah Nyokabi, MP and seconded by Hon. David Karithi, MP.
4. Minutes of the 28<sup>th</sup> Sitting held on 12<sup>th</sup> October, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Sarah Korere, MP and seconded by Hon. Wanjiku Muhia, MP.
5. Minutes of the 29<sup>th</sup> Sitting held on 15<sup>th</sup> October, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Sarah Korere, MP and seconded by Hon. Kathuri Murungi, MP.
6. Minutes of the 30<sup>th</sup> Sitting held on 27<sup>th</sup> October, 2015 were confirmed as a true record of the proceedings after being proposed by Hon. Alois Lentoimaga, MP and seconded by Hon. Wanjiku Muhia, MP.

### **MIN.NO.CRI/129/2015: MATTERS ARISING**

**Under.Min.No. CRI/125/2015 on meeting with the Cabinet Secretary for EAC, Commerce and Tourism**, the Chairperson urged Members to attend a follow up meeting with the CS scheduled for 10<sup>th</sup> November, 2015 to conclude on the outstanding issues.

### **MIN.NO.CRI/130/2015 ANY OTHER BUSINESS**

Under this Agenda the following issues were raised:

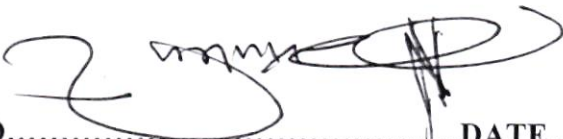
1. The Chairperson informed Members that the Ministry of EAC, Commerce and Tourism was organizing a conference to sensitize the Committee and two Members from each of the Departmental Committees on the implementation status of regional integration roadmap. The dates of the conference will be communicated once confirmed.
2. The Chairperson informed Members of a letter from Cuts International inviting the Committee for a breakfast meeting on 5<sup>th</sup> November, 2015. The agenda of the meeting will be to "*deliberate*

on *Regional Integration process in Eastern and Southern Africa*". The following Members were nominated to represent the Committee:

- i) Hon David Karithi, MP
  - ii) Hon. Wanjiku Muhia, MP
3. The Hon. Wanjiku Muhia, MP reported that she, together with other Members drawn from the Committee on Defence and Foreign Relations and Justice & Legal Affairs, undertook a successful election observation exercise in Tanzania. She undertook to share the report of the election observation team with the Committee at an opportune time.

**MIN.NO.CRI/131/2015: ADJOURNMENT**

The Chairperson adjourned the meeting at 1.30pm.

SIGNED..........DATE 22/11/2015.....

**VICE CHAIR**



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