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1/9/16*



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

*Paper laid by
Hon. Florence Kagyuswa
Chairperson, Select
Committee on
Regional Integration
on Thursday 1/9/2016
Afternoon
sitting
AK*

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SELECT COMMITTEE ON REGIONAL INTEGRATION

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

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SEPTEMBER, 2016

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LIST OF ABBREVIATIONS

EAC	-	East African Community
EALA	-	East African Legislative Assembly
LVFO	-	Lake Victoria Fisheries Organization
CASSOA	-	Civil Aviation Safety and Security Oversight Authority
ICAO	-	International Civil Aviation Organization
IUCEA	-	Inter-University Council of East Africa
COMESA	-	Common Market for Eastern and Southern Africa
SADC	-	Southern African Development Community
CEO	-	Chief Executive Officer

1.0 CHAIR'S FOREWORD

Article 65 (a) of the Treaty for the Establishment of the East African Community 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.*

It is in furtherance of this that the following Reports, Resolutions and Bills were laid in the Table of the House on Wednesday, April 20, 2016 and subsequently committed to the Committee on Regional Integration for consideration:-

EALA reports

1. The Report of the Committee on Legal, Rules and Privileges on the Oversight activity on the approximation and harmonization of National Laws in the EAC Context.
2. The Report of the Committee on Accounts on the oversight activity undertaken by the EAC Institutions on Governance, Project Performance and implementation of Assembly recommendations.

EALA resolutions

1. Resolution of the Assembly congratulating the Republic of South Sudan upon joining the East African Community.
2. Resolution of the Assembly to bid farewell to Hon. (Amb.) Dr. Richard Sezibera, the outgoing Secretary General of the East African Community.
3. Resolution of the Assembly thanking the former first ladies of the founders of the East African Community (1967-1977).

EALA Bills

1. The East Africa Community Disaster Risk Reduction and Management Bill, 2013.
2. The East Africa Community Customs Management Act (Amendment) Bill, 2016.
3. The East Africa Community Supplementary Appropriation Bill, 2016.
4. The East African Community Counter-Trafficking in Persons Bill, 2016

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 is obligated to consider these reports and submit its report to the House within twenty-one days (21) for consideration. Upon adoption of the Committee's report, the Clerk of the National Assembly is obligated to forward the House's resolutions to the Clerk of the East African Legislative Assembly within seven days.

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

1.1 MANDATE OF THE COMMITTEE

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.

1.2 MEMBERS OF THE COMMITTEE

Chairperson	The Hon. Florence Kajuju, MP
Vice Chairperson	The Hon. Christopher Nakuleu, MP
Members	The Hon. David Ouma Ochieng, MP
	The Hon. Bady Twalib Bady, MP
	The Hon. Robert Mbui, MP
	The Hon. Anyanga Andrew Toboso, MP
	The Hon. Florence Mwikali Mutua, MP
	The Hon. Ogendo Rose Nyamunga, MP
	The Hon. Alois Lentoimaga, MP
	The Hon. Anthony Kimaru, MP
	The Hon. David Kariithi, MP
	The Hon. Wanjiku Muhia, MP
	The Hon. Ali Wario, MP
	The Hon. Eric Keter, MP
	The Hon. Mary Seneta, MP
	The Hon. Gideon Konchella, MP
	The Hon. Dido Ali Rasso, MP
	The Hon. Ann Nyokabi, MP
	The Hon. Emmanuel Wangwe, MP
	The Hon. Peter Shehe, MP
	The Hon. Alex Mwiru, MP
	The Hon. Mark Lomunokol, MP
	The Hon. Sarah Korere, MP
	The Hon. Cyprian Kubai Iringo, MP
	The Hon. Timothy Bosire, MP
	The Hon. Joseph Kahangara, MP
	The Hon. Andrew Mwadime, MP
	The Hon. Alfred Agoi, MP
	The Hon. Willy Baraka Mtengo, MP

1.3 SECRETARIAT

First Clerk Assistant
Third Clerk Assistant
Third Clerk Assistant
Legal Counsel
Research Officer

Mr. Evans Oanda
Mr. Fredrick Otieno
Mr. Nicodemus Maluki
Ms. Brigita Mati
Ms. Sharon Cherono

1.4 LIST OF OBSERVATIONS AND RECOMMENDATIONS

Committee's Observations and Recommendations

Having considered the reports and the bills from the East African Legislative Assembly, the Committee made the following general observations and recommendations:-

1.4.1 EALA Reports

a) **The Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance and Implementation of the Assembly Resolutions**

Observations

- 1 There are still many cases of irregular expenditure and wastage of funds by the EAC institutions/organizations that need to be addressed by the EALA. Committee observed that the institutions/organizations are still mismanaging funds allocated to them.
- 2 It was observed that there is a proposal to rename the LVFO to East African Fisheries Organization in line with a proposed expanded mandate of the organization. However, the Committee felt that changing of the name may conflict with provisions of the treaty.

Recommendations

- 1 EAC institutions/organizations should have value for public money that is allocated to them and those who are found culpable of misusing funds should be prosecuted. EAC should come up with proper structures and measures to strengthen and tighten the use of funds by the Institutions/organizations.
- 2 EALA should implement the proposed recommendations by the Committee without delay to bring sanity in the institutions/organizations.
- 3 The Committee recommends that extensive consultations be done before changes to LVFO are effected to ensure all national interests in the matter are safeguarded. The proposed changes to LVFO should not compromise in anyway the Kenya's control of her fisheries resources in the Indian Ocean.

1.4.2 EALA Bills

Observations

1. The Committee observed that the contents of the bills are desirable, as they will address to a great extent, the challenges in the region. However, some of the laws could contradict the national laws and the Treaty if not carefully scrutinized before they are assented to by the Heads of Partner States, like in the case of EAC Disaster Risk Reduction and Management Bill, 2013.
2. There are very many drafting mistakes in the Bills that require a cleanup. For instance:
 - Typos
 - Incomplete sentences
3. There is little input from National Assemblies in enactment process of EAC legislations.

Recommendations

- a) Partner States' Parliamentary Committees on Regional Integration should be involved at early stages of processing the bills specifically during the public hearings for effective input.
- b) Extensive consultations and Public Participation should be done on the East African Community Disaster Risk Reduction and Management Bill, 2013. Hence, the Heads of States should not assent to this Bill until the views of Partner States are taken into consideration by EALA.
- c) Proper drafting mechanisms should be put in place by EALA to avoid drafting errors
- d) EALA should take into consideration the Committee's proposed amendments to the Bills as contained from pages 31 to 36 of this report.

INTRODUCTION

2.0 SUMMARY OF EALA REPORTS

2.1 The Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance and Implementation of the Assembly Resolutions

2.1.1 Objectives of the oversight activity

The specific objectives of the assessment of status of implementation of Assembly recommendations on the EAC Audited Accounts for the year ended 30th June, 2014 was therefore, among others, to:

- i. Assess whether the governance and management systems of the three Institutions are good enough to guarantee performance and proper discharge of their duties;
- ii. To establish if the said EAC Institutions have put in place good corporate governance, management systems and appropriate discharge of their duties;
- iii. Assess the implementation of the Assembly recommendations; and
- iv. Recommend on the improvement of the EAC Institutions corporate governance and management systems

The EALA Committee engaged in the oversight activity disturbed by the non-implementation of Assembly recommendations on the EAC Audited Accounts report. The Committee further assessed governance and management systems and performance of programs and projects.

During the review and consideration of EAC audited accounts for the year ended 30th June, 2014, a number of queries were reported by the Audit Commission especially in the EAC institutions namely: LVFO, CASSOA, and IUCEA. The issues arose mainly from unclaimed VAT, lack of procurement plans, lack of harmonized financial rules and regulation, insufficient funding, late remittance of contributions by Partner States, lack of active ICT steering committees, lack of comprehensive disaster recovery plan, lack of best practice in IT project management, inadequate IT staff among other.

2.1.2 Lake Victoria Fisheries Organisation (LVFO)

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by the Audit Commission)	Status as of the time of Oversight Activity
Harmonization of LVFO Financial manual with EAC Financial Rules and Regulations	Approved the amended convection addressing institution of Republics Rwanda and Burundi into the mainstream. Harmonization of operational manual has been highly prioritized

Fully Depreciated Assets Still in Use	Financial statements 2014/2015 reflect revised estimates with the applicable depreciation charges
Management of Gratuity Account	Resolved
Unclaimed VAT-USD 13,118.80	All VAT refunds are filed in a timely manner
Payment of Salary In Lieu USD. 5,500	Evidence on communication made to former staff was availed and they are still looking into available options to recover irregularly spent funds
Lack of an investment Register	Resolved
Lack of Approved Annual Procurement Plan	Resolved
Long Overdue Outstanding Receivables USD.1,712,391	Written and telephones communications to reminded partner states of their respective outstanding obligation.
Procurement of Goods and Services using Uncompetitive bidding method	All goods and services acquired are competitively procured as per EAC procurement guidelines
Insufficient funding of the organization	Contributions by Partner States for the FY 2014/15 had greatly improved with the overall contribution at USD 1408153.73 compared to USD 600146.51 the previous year. LVFO had recruited Senior scientist and auditor as a result
Inadequate control over Cross Border Fish Trade	During the 9 th regular session of LVFO Council of ministers urged Partner States establish a functional monitoring control and surveillance structure and support a single spine enforcement with appropriate funding.
Lack of Harmonization of regulations between importing and exporting countries on fishing of immature fish	In Jan 2015 LVFO initiated process to develop regional policy for fisheries and aquaculture with support from WB/LVEMPII. The issue is being addressed
Lack of adequate and robust control over	9 th Meeting of LVFO Council of ministers urged partner states to establish functional monitoring and

illegal fishing practices	surveillance inter agency structure and support it with adequate funding
Lack of harmonized guidelines for development of cage/pen culture	Management coordinated and drafted guidelines for development of cage culture by technical officers from partner states to be discussed at national level for input and ownership before regional validation.
Lack of regional standards for fish feeds manufactured in the region	Issue of standards for fish feeds manufactured has been addressed in the draft regional guidelines for cage culture
Lack of Active ICT steering committee	Committee has been established and expected to meet thrice annually
Lack of comprehensive Disaster Recovery Plan	Resolved
Lack of Best Practice in IT Project Management	Project plan and management guidelines have been customized for use in future projects with values of USD 20,000 or more
Inadequate IT staff	Recruiting of a Principal database administrator is in progress to be completed by end of FY 2015-2016
Inadequate IT operations Planning	Process of revising the ICT strategy is ongoing and has been sent to partner states for discussion before approval
Lack of backup procedures	Data backup and restoration procedures have been improved and this was approved.

2.1.3 The Civil Aviation Safety and Security Oversight Agency

The committee met with the Executive Director who presented an overview of CASSOA establishment, governance and performance of programs and project.

CASSOA's supreme organ is the council of ministers, followed by the Board of Directors to which the Executive Director reports

CASSOA came into existence following the recommendations from the International Civil Aviation Organization (ICAO) to pull the regional together to create safe and orderly development of international civil aviation.

CASSOA major achievements have been harmonization of regulations and development of guidance materials which have been promulgated in the Partner States. It also has trained inspectors in Partner State to oversee the aircrafts

Challenges: CASSOA requires more funding for continuous training of inspectors to catch up with the new technology as it emerges.

Committee Findings and Recommendations

1. CASSOA has budgetary problems making it non attractive to qualified personnel and so the committee recommends the Assembly to urge EAC council of ministers to ensure its funding is given priority by exploring funding options.
2. CASSOA budget is not approved by the Assembly yet Assembly reviews CASSOA audit report. It is recommends laying before the house budget for information as well as amend its protocol to enable approval of budget in accordance with the EAC Treaty.
3. Committee observed the Agency has developed useful regulations whose promulgation process consume substantial amount of time. It is recommended that EAC Partner States to expedite promulgation of the regulations
4. CASSOA has never been issued with the Land Title despite provisions of the Headquarters Agreement. Process has been started but it's taking very long. It is recommended that land title is issued at their Headquarters as required by the Agreement

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by audit commission)	Status as of the time of Oversight Activity
Lack of segregation of duties-interest payments were claimed and paid by same officer.	Committee was informed that the directive was implemented and that all claims payments and retirements are void of duplication
Management of 4 Accounts in the same bank, thus lumping of risks.	Committee was informed that the Agency is in process of moving some bank accounts out of Barclays Bank-Uganda Ltd to diversify the risks
Expenditure not adequately supported USD.8696985-missioning receipts, boarding passes and attendance registers.	Resolved

2.1.4 Inter-University Council of East Africa (IUCEA)

IUCEA was established by a protocol that was signed in 2002 by ministers in charge of higher education of then Partner States, Kenya, Uganda and Tanzania. IUCEA was mainstreamed into EAC framework in 2009 and as a result it had to adjust its structure to the new mandate and was approved by the Executive Committee in 2013.

IUCEA has a number of objectives that together with developed instruments and policies that are aligned to those of EAC to facilitate efficient discharge of its mandates. These instruments or tools include Rules and Regulations and Operational Manuals.

IUCEA has several projects with the main achievements been support to universities academic and networking systems , Research and innovation Development, Coordination and support system in the community and harmonization of higher Education Systems among others.

Challenges: understaffing and activities being rolled over to subsequent years due to delay in remittance of funds.

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by the Audit Commission)	Status as of the time of Oversight Activity
Limitation of the accounting system to produce budget execution report	Sun Financial Management System has been installed and data transfer is ongoing. The system addresses issues of the budget execution report
Deficiencies noted in the assets register	Sun Financial Management System will address challenge and data transfer with the new ongoing system.
Un-procedural reallocation of funds	current budgetary reallocations are going through proper procedures as required by the Financial Rules and Regulation
VAT not claimed	IUCEA has registered for VAT with claimable amounts being recorded
Non Compliance with the NSSF Act where exemption is not granted	Uganda Retirement Benefit Regulatory Authority is handling the issue of exemption of IUCEA from payment of NSSF
Procurement Issues-single sourcing of suppliers	Procurement using single sourcing methods are now justified once they go through the Tender committee for approval

Shortfalls in funding of IUCA	Arrears have been recovered and IUCEA management continues to follow up with partner states to ensure more arrear funds are recovered
Non-interest bearing fixed Deposit Accounts	IUCEA management is in the processing of closing Bank Accounts in National Bank of Commerce with already effective closures in Kenya, Arusha and Dar es Salaam
Outstanding balances of annual subscriptions fees	IUCEA fixed deposit accounts in Stanbic bank have been closed and a list of member Universities and their current financial status will be availed during the next audit
Long outstanding Creditors	USD 6,758 has been cleared out of USD 17,772.46
Wasteful Expenditure	Resolved
Delay in accounting of staff imprest	IUCEA is in the process of recovering the imprest from staff
Long outstanding research cost not accounted for	VRMIS has been developed and data entry into the system is ongoing
Absence of memorandum of understanding on accountability of funds to IUCEA	Resolved
Absence of accounting research for innovation	Resolved
Absence of research copy right policy	IUCEA will develop an Intellectual property copy right regime during the operationalization of the research and innovation policy framework that was approved by the Executive Committee
Review IUCEA information system	IT support assistant has been recruited on temporary basis and that the recruitment of senior systems analyst is ongoing
Lack of Payment Data Visibility in the Accounting System	Reference numbers used on payment vouchers are now obtained from the Citi direct system

2.2 Report of the Committee on Legal, Rules and Privileges on the Oversight Activity on the Approximation and Harmonization of National Laws in the Context of the EAC

The oversight activity was undertaken by EALA Committee on Legal, Rules and Privileges.

2.2.1 Objectives of the Oversight Activity

The main objective was to assess and evaluate the process of harmonisation of national laws pertaining to the community as provided under Chapter 124 of the Treaty for EAC. In line with this, the EAC Partner States established a Sub Committee on the approximation of national laws in the EAC context.

The Sub Committee consisted of heads of legislative drafting departments from the Attorney General's Chambers, chairpersons of the Law Reform Commission, officers from the ministries whose sectors require harmonisation of laws and any additional members the Subcommittee could co-opt.

Findings of the EALA committee

	ISSUE	FINDING
1	Harmonisation approaches used by the Sub Committee	<p>1. Approximation Process of aligning national laws with commonly agreed principles of law without necessarily making them uniform (partial harmonisation). The subcommittee compares the existing laws of the Partner States and identifies principles in line with the Treaty and International best practices to guide the approximation process. The committee observed that the approximation approach is not in line with EAC Treaty which requires Partner States to harmonize their national laws, not just approximate.</p> <p>2. Development of model laws approach A Model Law is a legislative text on a specific area of law that is recommended to the Partner States for adoption and enactment as part of their national law. The objective is to align different national laws without necessarily coming up with a uniform piece of legislation</p>
2	Harmonization of laws outside the Subcommittee framework	There are other initiatives of harmonisation of national laws coordinated by other departments of the Secretariat and Institutions of the Community through the relevant Sectoral Councils e.g. harmonization of health and pharmaceutical regulatory policies and laws initiated by Department of Health.
3	Achievements of the Subcommittee	Was established in 1997, but actual work began after signing of EAC Treaty in 2000. Achievements include: <ul style="list-style-type: none"> i. Review of national laws: company , insolvency, partnership, business names registration,

		<p>immigration, labour and employments and sale of goods laws.</p> <p>ii. Developed 2 cyber-law frameworks(was approved by the Council of Ministers in 2010)</p> <p>iii. Development of model law of contract</p> <p>iv. In the process of developing laws of intellectual property.</p>
4	Actions taken by Partner States to harmonize their National Laws	<p>i. Committee was informed that Partner States are at different Stages of implementation of the directives of the Council of Ministers on harmonization on national laws.</p> <p>ii. Partner States are slow in amending their laws to comply with the directive to harmonize their laws</p> <p>iii. Criteria to be used and timelines for harmonization is unclear</p>
5	Challenges facing the Committee	<p>i. There are many areas of law that need to be harmonized- law reform commissions do not have adequate financial resources to support the activities of the Sub-Committee</p> <p>ii. Frequent changes in the Membership of the Task force</p> <p>iii. Conflicting commitments of the members if the Task force</p> <p>iv. Partner states have different legal systems</p> <p>v. National laws are written in different languages</p> <p>vi. Slow pace in implementation of the harmonisation agenda at the national level</p> <p>vii. Lack of monitoring mechanism to ensure that partner States comply with the approximation proposals.</p>

Observations of the Committee

- i. The harmonization laws ought to go together with the implementation of the entire Article 126 of the Treaty especially the harmonization of legal training and certification and to encourage the standardization of judgments of courts within the Community.
- ii. The use of EAC laws in some areas of harmonization is more effective than other approaches to harmonization adopted by the Sub-Committee.
- iii. The slow pace of Partner States in harmonizing their national laws appertaining to the Community hampers the attainment of the objectives of the Community.

- iv. The postponement of the Meetings of the Sectoral Council on Legal and Judicial Affairs is a hindrance to the effectiveness of the Sub-Committee.
- v. The EAC Secretariat has not put enough efforts to push the harmonization agenda. This is evidenced by the fact that the activities of the Sub-Committee are financed only by the Partnership Fund.
- vi. The legal frameworks (model laws) are not binding but they are useful in helping Partner States to develop their laws. The legal frameworks can be transformed into EAC bills to be passed by EALA.
- vii. The Sub-Committee should liaise with EALA through the Committee on LRP to improve the process of harmonization of national laws pertaining to EAC.
- viii. The implementation/administration of the EAC Common Market can be better facilitated by having an EAC law enacted by EALA similar to the EAC Customs Management Act, 2004.

Recommendations of the Committee

- i. EALA expeditiously enacts an omnibus law that will harmonize national laws appertaining to the Community; and an EAC law for the administration of the Common Market;
- ii. EALA spearheads the process of harmonization of laws appertaining to the Community based on its mandate as inter alia, the legislative organ of the Community;
- iii. The Council of Ministers addresses challenges of the Sub-Committee captured above and provides the Sub-Committee with adequate resources in order for it to continue producing model legal frameworks which EALA could utilize in the enactment of EAC laws;
- iv. The Council of Ministers directs that the Meetings of the Sectoral Council on Legal and Judicial Affairs be held regularly and prioritizes harmonization of laws appertaining to the Community in order to facilitate integration within the set time frames;
- v. The Sub-Committee liaises with EALA in order to synchronize the process of harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee;
- vi. In order to meaningfully facilitate cooperation in legal and judicial affairs as provided for under Article 126 of the Treaty, the Council of Ministers should expedite the implementation of this entire Article which obligates Partner States to:

- a) Take steps to harmonize legal training and certification;
 - b) Encourage the standardization of judgments of courts within the Community;
 - c) Establish a common syllabus for the training of lawyers and a common standard to be attained in examinations in order to qualify and to be licensed to practice as an advocate in their respective superior courts;
 - d) Revive publication of East African Law reports or publish similar law reports and such law journals that promote exchange of legal and judicial knowledge and the approximation and harmonization of legal learning and standardization of judgments of courts within the Community; and
 - e) Harmonize all national laws appertaining to the Community.
- vii. In order to expedite harmonization of national laws, the Council of Ministers should fast track the drafting of the EAC Constitution so as to establish common legal principles to be applied in the entire Community;
 - viii. That the Committee on Legal, Rules and Privileges be facilitated to interface with Partner State institutions responsible for harmonization of laws in order to ascertain progress made and assess whether mechanisms have been established to ensure that all national laws that are enacted conform to the Treaty and EAC laws.

3.0 SUMMARY OF THE BILLS PASSED BY EALA

3.1 The East African Community Disaster Risk Reduction and Management Bill, 2013

The object of this Bill is to provide a legal framework for the development of common measures, strategies and programmes related to preventing trafficking in persons, protecting the victims and persecuting the perpetrators of trafficking. It also aims to develop partnerships for co-operation in counter trafficking in persons and provision of protection mechanisms and services for persons between Partner States. The Bill sets to operationalize the Palermo Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the united nations convention against transnational organized crime, which all EAC Partner States are signatory.

3.2 The East African Community Supplementary Appropriation Bill, 2016

The objective of the Bill was to make provision for the Supplementary appropriation out of the budget of the East African Community of specified amounts of money totaling to USD 1,569,941 for services and purposes of the Community for the financial year ending 30th June, 2016. This is a routine statutory Bill.

3.3 The East African Community Customs Management Act (Amendment) Bill, 2016

The objective of the Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the implementation of the Act especially on the commitments made under the protocol establishing the East African Customs Union.

3.4 The East African Community Counter Trafficking in Persons Bill, 2016

The object of this Bill is to provide a legal framework for the development of common measures, strategies and programmes related to preventing trafficking in persons, protecting the victims and persecuting the perpetrators of trafficking. It also aims to develop partnerships for co-operation in counter trafficking in persons and provision of protection mechanisms and services for persons between Partner States. The Bill sets to operationalize the Palermo Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the united nations convention against transnational organized crime, which all EAC Partner States are signatory.

4.0 SUBMISSION BY THE MINISTRY OF LABOUR AND EAST AFRICAN COMMUNITYSTATE DEPARTMENT OF EAST AFRICAN AFFAIRS ON THE EALA REPORTS

4.1 Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance and Implementation of the Assembly Resolutions

The oversight activity was carried out against a background of repeated expression of dissatisfaction by the EALA Committee on Accounts in the past years on the non-implementation of the Assembly recommendations by the EAC Institutions; Lake Victoria Fisheries Organization (LVFO) Civil Aviation Safety and Security Oversight Agency (CASSOA) and Inter- University Council for East Africa (IUCEA) on the EAC Audited Accounts reports. The Committee focused its assessment on governance and management systems and performance of programmes and projects which was perceived as important areas that influence implementation or non-implementation of the Assembly recommendations.

The specific objectives of the assessment of status of implementation of Assembly recommendations on the EAC Audited Accounts for the year ended 30th June, 2014 was therefore, among others, to:

- i. Assess whether the governance and management systems of the three Institutions are good enough to guarantee performance and proper discharge of their duties;
- ii. To establish if the said EAC Institutions have put in place good corporate governance, management systems and appropriate discharge of their duties;
- iii. Assess the implementation of the Assembly recommendations; and
- iv. Recommend on the improvement of the EAC Institutions corporate governance and management systems

The Committee did not conclude its report on IUCEA due to the absence of the CEO and its deputy on the date that the Committee was scheduled to meet with the management of the institution. The Committee requested that it be facilitated to revisit the institution to finalize its report.

The Committee noted significant improvements in the governance at the two Institutions, LVFO and CASSAO. However, it is observed that there are still many cases of irregular expenditure and wastage of funds that need to be addressed and recommended possible prosecution of the suspects.

4.1.1 Consideration of the Report on the Lake Victoria Fisheries Organization (LVFO)

The Lake Victoria Fisheries Organization (LVFO) is a regional Organization under the EAC responsible for coordination and managing fisheries resources of Lake Victoria. The Organization was formed through a Convention signed in 1994 by Kenya, Uganda and United Republic of Tanzania who share Lake Victoria. The objective of LVFO is to foster cooperation among the Partner States by harmonizing national measures, developing and adopting conservation and management of fisheries resources of Lake Victoria for maximum socio-economic benefits.

The 28th Meeting of the Council of Ministers in November, 2013 decided that the LVFO Convention be amended to accommodate the Republics of Burundi, Rwanda and any other new EAC Partner States as Members of LVFO. It is also proposed that the Organization be renamed “East African Fisheries Organization in line with a proposed expanded mandate of the Organization”.

Accuracy of the Report

The operations of the LVFO are still in the process of conforming to the EAC decision making structures. Overall, the Committee findings are balanced and accurate.

Kenya Position on Implementation of the Recommendations

On the recommendation to adopt a new name (The East African Fisheries Organization) and possibly expand the mandate of the Organization, there will be need for wider stakeholders’ consultations within Kenya before changes are effected to ensure all national interests in the matter are safeguarded. There are concerns from some stakeholders that the proposed changes might compromise the country’s control of her fisheries resources in the Indian Ocean.

On contributions being channeled through the Ministries responsible for EAC to streamline timeliness of receipt of remittance, Kenya is already compliant with this recommendation and has no pending arrears owed to the Organization.

4.1.2 Consideration of the Report on the Civil Aviation Safety and Security Oversight Agency (CASSOA)

- i. Among other Committee recommendations is that the EAC Council of Ministers to ensure that CASSOA funding is given priority by exploring funding options.
- ii. In addition it urges that recruitment of staff be considered to fill vacant positions as a matter of priority to bridge security gap in air navigation services.

- iii. The Committee further recommends to the Assembly to urge the EAC Council of Ministers to amend the CASSOA Protocol to enable the Assembly to approve CASSOA budget in accordance with the Treaty.

Comments on the Recommendations

- i. CASSOA and the EAC Secretariat could hold a meeting of Permanent/Principal Secretaries to review the Mandate and Budget requirement of CASSOA.
- ii. CASSAO protocol is currently under review and the proposal of CASSOA budget being approved by EALA which is currently approved by CASSOA Board could be addressed in the process.

4.2 Report of the Committee on Legal, Rules and Privileges on the Oversight Activity on the Approximation and Harmonization of National Laws in the Context of the EAC

The objective of this activity was to assess and evaluate the process of harmonization of national laws appertaining to the Community. The specific objectives were to:

- i. Assess and review the activities of the Sub Committee,
- ii. Examine the process of harmonization of national laws and,
- iii. Make recommendations on how to improve the process of harmonization of national laws in the Community.

Accuracy of the Report

The observations and recommendations by the Committee are in order except the following recommendations i, ii and v which may require further reconsideration, that:

- i. The East African Legislative Assembly (EALA) expeditiously endorses an omnibus law that will harmonize national laws appertaining to the Community and an EAC law for the administration of the common market,
- ii. The EALA to spearhead the process of harmonization of laws appertaining to the Community based on its mandate as inter alia, the legislative organ of the Community,
- v. The Sub-Committee liaises with EALA in order to synchronize the process of harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee

Implementation of the Recommendations

- a. That the East African Legislative Assembly expeditiously enacts an omnibus law that will harmonize national laws appertaining to the community, it is worth noting the following:

- Under East African Community Common Market, it will be a challenge to have one single regional law since under article 12, 34 and 47 of the protocol Partner States have undertaken to harmonize National Policies and Laws,
- Secondly, the Common Market Protocol is wider may not be accommodated in one regional Law. This is further complicated by the fact that part of the services are still being negotiated between the Partner States making it challenging to develop a framework for harmonized law.

b. On the recommendation for an EAC law for the administration of the Common Market: This may require a renegotiation for its implementation because this a policy issue. It will also require further clarification on the type of administration of the EACMP being proposed by EALA since the Protocol provides for its implementation through national institutions and laws.

c. On EALA Sub-Committee liaison with the Sub- Committee on harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee:

This recommendation may constitute a conflict of roles since the Council still reports to EALA. The Sub-Committee for Harmonization of Laws undertakes the technical work through Partner States technical officers, drafters, legal officers who are responsible to the EAC Council through the Sectoral Council on Legal and Judicial Affairs. EALA is therefore considered at a very high level in the decision making hierarchy according to EAC decision making structure to engage at this level. However, it is in order to expect the Council to make periodic reports to EALA on the progress made by the Committee.

5.0 SUBMISSION BY THE MINISTRY OF LABOUR AND EAST AFRICAN ON EALA BILLS

5.1 The East Africa Community Disaster Risk Reduction and Management Bill, 2013

This was a private Member's Bill. The Bill aims to provide a legal framework for intervention and assistance for people affected by climate change and natural hazard-related disasters, and to protect the natural environment. This is pursuant to the operationalization of Article 112 (1) of the Treaty for the establishment of the EAC viz, that Partner States cooperate in the management of the environment and take necessary disaster preparedness, management, protection and mitigation measures for the control of natural and man -made disasters.

The Bill takes cognizance of the primary responsibility of the Partner States in the disaster risk reduction and disaster management in their territories. It also provides for a coordinated regional cooperation and support to supplement domestic capacity and capabilities.

In 2013 when the Bill was introduced, there were already EAC policy initiatives and an EAC Protocol on Peace and Security that was already in the process of conclusion. The EAC Council therefore took over the Bill to consult on and consider the policy implications of the Bill by EAC multi-disciplinary Sectoral Councils while also awaiting the conclusion of the Peace and Security Protocol that covered a number of similar concerns in the Bill.

Due to logistical reasons, there was an inordinate delay in the conclusion of these processes and the Assembly became impatient and re-introduced the Bill in the last quarter of the 2015 calendar year for debate before these processes were concluded and passed by the Bill in March, 2016.

The United Republic of Tanzania in particular was for the most part reluctant about the passage of the Bill when it was re-introduced for debate before the finalization of the EAC multi Sectoral Councils consultations and at a time when it was heading towards its 2015 general elections.

However, when the Bill was brought up for debate, the Acting Chair Council (Uganda) informed the House that it had no objection on the Bill being subjected to debate. He further clarified that since the multi-disciplinary Sectoral Council had not finalized its consultations, any amendments that the Partner States may have, will be introduced at the appropriate time in accordance with the Treaty.

Several amendments were made to the Bill during debate including the title to read, **“EAC Disaster Risk Reduction and Disaster Management Bill, 2013”**.

Kenya’s Position and Implementation of the Bill

- i. Kenya’s position at the multi- disciplinary Sectoral Councils is in support of the Bill to provide a structured management of disasters in the region. However the proposed Institutional Arrangement will need to be amended since it is in contradiction to the EAC Treaty and would impose serious financial burden on the Partner States in operationalizing its Secretariat.
- ii. Given the circumstances of the passage of the Bill, it is most likely that significant amendments would still be made to the Bill should it be assented to by all Partner States. Some Partner States are likely to advise their Heads of States against assenting to the Bill before the conclusion of the EAC Partner States multi-disciplinary EAC Sectoral Councils consultations.

The Bill was passed and is awaiting assent at the next Summit of EAC Heads of State

5.2 The EAC Supplementary Appropriation Bill, 2016

The objective of the Bill was to make provision for the Supplementary appropriation out of the budget of the East African Community of specified amounts of money totaling to USD 1,569,941 for services and purposes of the Community for the financial year ending 30th June, 2016. This is a routine statutory Bill.

5.3 The EAC Customs Management Act (Amendment) Bill, 2016

The Bill seeks to amend the EAC Customs Management Act, 2004 to facilitate the smooth implementation of the Act, particularly on the commitment made under the Protocol establishing the Customs Union.

During the negotiations of the Common External Tariff (CET) under the EAC Customs Union in 2004, the Partner States agreed to honor their obligations that existed before, and undertook to review the obligations to comply with the WTO requirements. The obligations included the COMESA and SADC preferential tariff arrangement, which the Partner States agreed to apply until 31st December 2006. The Partner States have been reviewing their obligations and seeking for extension of the application of the COMESA and SADC preferential tariff arrangements until such a time, the Partner States concludes negotiation under tripartite agreement.

The 3rd Tripartite Summit took place on 10th June 2015 in Sham el Sheik in Egypt when it had launched the Tripartite Free Trade Area (TFTA), though there still remain outstanding issues in the areas of exchange of Tariff Offers, Rules of Origin, Trade Remedies and Dispute Settlement. Once the TFTA is ratified, there will be need to amend the EAC CMA to cater for the preferential tariff regime under the tripartite.

In the meantime, Partner States have to continue applying preferential treatment on goods imported from COMESA and SADC up to the time when the Tripartite Agreement is concluded. The Council Bill proposed that a “Preferential Tariff treatment shall be applied to goods referred to in subsection (1) (a) up to **a date to be determined by the Council**”.

However, EALA amended the proposal to provide for “...extension of the application of the Preferential Tariff treatment under COMESA and SADC **from 1st January, 2016 to 31st December, 2019.**”

The Bill was passed during the 6th Meeting of the Assembly of the 4th Session in May, 2016.

5.4 The EAC Counter Trafficking in Persons Bill, 2016

The mover of the Motion sought leave to introduce a Bill to make provision for combating trafficking in persons, especially children and vulnerable women. The Bill was passed at its first reading.

The justification of the Bill is based on the possible negative effects of the provisions of the Common Market Protocol, especially on the free movement of labour and persons. There is need to particularly protect women and children against the dangers of human trafficking across and within the Community borders.

Kenya's Position

Kenya has already enacted anti trafficking in persons legislation in accordance with the Palermo Protocol. A counter Trafficking Act was enacted in 2010 and became law in 2012. Protection of Victims Act was also enacted in 2014 providing for increased awareness and enforcement against labour exploitation and harvesting of human organs, provisions which were lacking in the 2010 Act.

In addition Kenya has established a National Assistance Trust Fund meant to assist victims of human trafficking.

The Bill is yet to be subjected to national stakeholders' public hearings in Partner States for their comments.

6.0 COMMITTEE OBSERVATIONS

6.1 EALA Reports

6.1.1 The Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance implementation of the Assembly Resolutions

- There are still many cases of irregular expenditure and wastage of funds by the EAC institutions/organizations that need to be addressed by the EALA. Committee observed that the institutions/organizations are still mismanaging funds allocated to them.
- It was observed that there is a proposal to rename the LVFO to East African Fisheries Organization in line with a proposed expanded mandate of the organization. However, the Committee felt that changing of the name may conflict with provisions of the treaty.

6.2 EALA Bills

1. The Committee observed that the contents of the bills are desirable, as they will address to a great extent, the challenges in the region. However, some of the laws could contradict the national laws and the Treaty if not carefully scrutinized before they are assented to by the Heads of Partner States, like in the case of EAC Disaster Risk Reduction and Management Bill, 2013.
2. There are very many drafting mistakes in the Bills that require a cleanup. For instance:
 - Typos
 - Incomplete sentences
3. There is little input from National Assemblies in enactment process of EAC legislations.

7.0 COMMITTEE'S RECOMMENDATIONS

7.1 EALA Reports

7.1.1 The Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance implementation of the Assembly Resolutions

- EAC institutions/organizations should have value for public money that is allocated to them and those who are found culpable of misusing funds should be prosecuted. EAC should come up with proper structures and measures to strengthen and tighten the use of funds by the Institutions/organizations.
- EALA should implement the proposed recommendations by the Committee without delay to bring sanity in the institutions/organizations.
- The Committee recommends that extensive consultations be done before changes to LVFO are effected to ensure all national interests in the matter are safeguarded. The proposed changes to LVFO should not compromise in anyway the Kenya's control of her fisheries resources in the Indian Ocean.

7.2 EALA Bills

7.2.1 The East African Community Disaster Risk Reduction and Management Bill, 2013

Clause 4

In the marginal note, the words “ comprehensive disaster risk reduction and management...” the words left as they are hanging therefore there is need to include the word “measures”;

Clause 10

The use of the word “leave” in subclause (2) and (3) creates confusion. The word may be replaced with the word “depart” as it has been used subclause (1) and it further portends consistency.

Clause 17

Insert the word “to” immediately after the word “right” in subclause (1). This is to correct grammar.

Clause 22

Subclause (2) paragraph (a) makes reference to Permanent Secretaries but other Partner States such as Kenya uses Principal Secretaries. This should be taken account of.

Clause 23

Clause 23 (2) (c) “prepare plans to be approved by the Authority” is vague. There is need to specify that these plans are in respect to disaster risk reduction and management and the implementation of the Bill

Clause 25

Clause 25 (2) “the Unit shall comprise technical experts in Disaster risk and management appointed by the Council. There is a need to clearly state the number of experts required qualifications, terms of office and functions.

In the heading “Miscellaneous provisions” are Part IV and not Part VI as stipulated on page 19.

7.2.2 The East African Community Customs Management Act (Amendment) Bill, 2016

Clause 2

The Bill intends to amend section 112:

It should read as follows;

2. Section 112 of the East African Community Customs Management Act, 2004 hereinafter referred to as the “principal Act” is amended by deleting subsection (2) and replacing it with the following new subsection-

“(2) Preferential tariff treatment shall be applied to goods referred to in subsection (1) (a) up to the date to be determined by the Council.

Clause 3

Section 252 of the principal Act is repealed.

7.2.3 The East African Community Counter Trafficking in Persons Bill, 2016

Clause 2

- (a) In the definition of child, the word “shall” should be deleted as it is misplaced. The definition should therefore read “Child” means any person under eighteen years of age”;
- (b) In the definition of “exploitation”-
 - (i) the word “shall” should be deleted in order to conform to the accepted style of drafting. The definition may be read as “exploitation” includes at a minimum.....”
 - (ii) the word “froms” appearing immediately after the words “or other” is misspelled and should read as “forms”;
 - (iii) the word “ot” appearing immediately after the word “servitude” should be deleted and replaced with the word “or”;
 - (iv) the repeated definition of “exploitation should be deleted;
- (c) in the definition of “protocol” the year in which it came into force has not been indicated, the year being 15th November 2000;
- (d) in the definition of “trafficking in persons” the word shall should be deleted. The definition may be read as “trafficking in persons” means the recruitment, transportation....”;
- (e) insert the meaning of “Council” to mean the Council of Ministers established by Article 9 of the Treaty since the term has been used in the Bill.
- (f) The practice of the words being written alphabetically has not been adhered to.

Clause 3

The word “and” should be inserted immediately after the word “human rights” in paragraph (b).

Clause 4

- (a) The word “if” appearing immediately after the words “the offence” should be deleted as they are misplaced and substituted with “of” in subclause (1);
- (b) Insert the word “and” immediately after the words “an offence” in subclause (5) for clarity;
- (c) Insert the word “to” immediately after the words “be liable” in subclause (6) for clarity;
- (d) Correct referencing of clause (4). Delete the repeated numbering Subclause (2) and (3) and substitute with the correct numbering subclause (7) and (8). This is for ease of reference; and
- (e) In the repeated subclause (3) delete the word “supplementing” appearing immediately after the words “women and children” and substitute with the word “which supplements”.

Clause 5

- (a) By deleting the letter “o” that appears immediately after the word “and” and substituting with the word “to” in paragraph (i). This is to correct grammar;
- (b) The word “woman” appearing immediately after the words “persons especially” should be deleted and substituted with the word “women” in paragraph (vi) ;
- (c) By deleting the full stop appearing after every paragraph and substituting with a semi-colon to coordinate the series of words or paragraphs and by inserting the word “and” immediately after the word “opportunity” in paragraph (vi)

Clause 7

In subclause 3 the word “inckuding” and “emans” should read as “including” and “means” respectively. This is to correct grammar.

Clause 8

The use of the word “state party” should be abandoned because the entire document refers to “Partner State” other than State Party”

Clause 9

The use of the words “reasonable time” is vague and as such the period of ascertaining whether the validity of a document should be pegged on the date of receipt of such request giving a defined period.

Clause 10

In subclause (2) by inserting the word “and” immediately after the word “proceedings” in paragraph (a)

Clause 12

- (a) In subclause (3) by deleting the words “in its residence” for clarity purposes and comprehension; and
- (b) In subclause (6) the word “retrun” should be deleted because it is not grammatically correct and replaced with “return”

Clause 14

- (a) The appointment process of technical experts should be done in a competitive and transparent manner.
 - (b) The representatives from lead offices and inter-agency task forces both of government and non-government should be listed for clarity purposes.
-
- (1) By deleting the phrases.. “harmonisation of laws? Advisory Committee, Exchange info. See protocol.....appearing at the end of the Bill.
 - (2) The arrangement of clauses section does not conform to the common drafting style.
 - (3) There is need to include the other contemplated parts of the Bill as provided for in the arrangement section.

7.2.4 The East African Community Supplementary Appropriation Bill, 2016

The bill has since been enacted and therefore the Committees value addition in the same is impaired. There is need to have this timely process going forward so pervert the delay.

SIGNED^{12r}.....DATE*Sept 2016*.....



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

**SELECT COMMITTEE ON REGIONAL INTEGRATION
MEMBERS ATTENDANCE REGISTER**

DATE 18/08/2016 **TIME** 12.00 NOON
AGENDA ADOPTION OF THE REPORT ON EALA BILLS AND REPORTS AND CONFIRMATION OF MINUTES

	NAME	TITLE	SIGNATURE
1	HON FLORENCE KAJU	CHAIRPERSON	[Signature]
2	HON CHRIS NAKUWA	VICE-CHAIRPERSON	[Signature]
3	Hon Annah Nydachi Gathuku	member	[Signature]
4	Hon Alois M. Lentoimaga	member	[Signature]
5	Hon Wanjiku Njiru	member	[Signature]
6	Hon Agai ACPREN	member	[Signature]
7	Hon Anyaga Andrew Tebiso	Member	[Signature]
8	Hon Robert Mwan	Member	[Signature]
9	Hon. Eric Keter	member	[Signature]
10	Hon. Willy Mlungu	Member	[Signature]
11	Hon Ali Wamwani	Member	[Signature]
12	Hon. Andrew Mwachira	member	[Signature]
13	Hon. Emmanuel Wang'ari	member	[Signature]
14	Hon Dido RASSO	Member	[Signature]
15	Hon. Kubai Iringo	member	[Signature]
16	Hon Karithi David	member	[Signature]
17	Hon Nydachi Gathuku	"	[Signature]
18	Hon. T.M.E. SOYIN	"	[Signature]
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MINUTES OF THE 28TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 18TH AUGUST, 2016 IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

1. Hon. Florence Kajuju, MP - **Chairperson**
2. Hon. Christopher Nakuleu, MP - **Vice-Chairperson**
3. Hon. Dido Ali Rasso, MP
4. Hon. Kubai Iringo, MP
5. Hon. Eric Keter, MP
6. Hon. Annah Nyokabi, MP
7. Hon. Alois Lentoimaga, MP
8. Hon. Alfred Agoi, MP
9. Hon. Emmanuel Wangwe, MP
10. Hon. Andrew Toboso, MP
11. Hon. Timothy Bosire, MP
12. Hon. Robert Mbui, MP
13. Hon. David Karithi, MP
14. Hon. Ali Wario, MP
15. Hon. Ogendo Rose Nyamunga, MP
16. Hon. Wanjiku Muhia, MP
17. Hon. Andrew Mwadime, MP

Absent With Apology

1. Hon. Gideon Konchella, MP
2. Hon. Mary Seneta, MP
3. Hon. Badi Twalib Badi, MP
4. Hon. Joseph Kahangara, MP
5. Hon. Anthony Kimaru, MP
6. Hon. David Ouma Ochieng', MP
7. Hon. Mark Lomunokol, MP
8. Hon. Alex Mwiru, MP
9. Hon. Florence Mutua, MP
10. Hon. Peter Shehe, MP
11. Hon. Sarah Korere, MP
12. Hon. Willy Baraka Mtengo, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Mr. Nicodemus Maluki - Third Clerk Assistant
3. Ms. Brigita Mati - Legal Counsel
4. Ms. Sharon Cheronon - Research Officer

MIN.NO. CRI/108/2016 PRELIMINARIES

The Chairperson called the meeting to order at 12:20 pm and said a word of prayer.

MIN.NO.CRI/109/2016: CONFIRMATION OF MINUTES

The Minutes of the previous meetings were confirmed as follows:

1. Minutes of the 18th Sitting held on 16th June, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. David Karithi, MP and seconded by Hon. Andrew Mwadime, MP.
2. Minutes of the 19th Sitting held on 21st June, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Iringo Cyprian Kubai, MP and seconded by Hon. Anyanga Andrew Toboso, MP.
3. Minutes of the 21st Sitting held on 5th July, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Emanuel Wangwe, MP and seconded by Hon. Andrew Mwadime, MP.
4. Minutes of the 22nd Sitting held on 19th July, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Timothy Bosire, MP and seconded by Hon. Iringo Cyprian Kubai, MP.
5. Minutes of the 23rd Sitting held on 21st July, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Andrew Mwadime, MP and seconded by Hon. Alfred Agoi, MP.
6. Minutes of the 24th Sitting held on 28th July, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Willy Baraka Mtengo, MP and seconded by Hon. Eric Keter, MP.
7. Minutes of the 25th Sitting held on 2nd August, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. David Karithi, MP and seconded by Hon. Wanjiku Muhia, MP.
8. Minutes of the 26th Sitting held on 4th August, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Timothy Bosire, MP and seconded by Hon. Anyanga Andrew Toboso, MP.
9. Minutes of the 27th Sitting held on 9th August, 2016 were confirmed as a true record of the proceedings after being proposed by Hon. Iringo Cyprian Kubai, MP and seconded by Hon. David Karithi, MP.

MIN.NO.CRI/110/2016: COSIDERATION AND ADOPTION OF THE REPORT ON EALA REPORTS AND BILLS

Having considered the report, the Committee unanimously adopted the report after being proposed by the Hon. Iringo Cyprian Kubai, MP and seconded by the Hon. Willy Baraka Mtengo, MP.

MIN.NO.CRI/111/2016: ANY OTHER BUSINESS

Under this agenda, Members raised the following:

1. Sitting Allowances:

Members noted with concern that some of their sitting allowances are not being paid by the accounts since their pay slips only show just a few sittings despite attending many meetings including House sittings. The secretariat was asked to be submitting the payment schedule in time and have records of the same. The Chairperson undertook to raise the matter in House Business Committee.

2. South Sudan Crisis

On this matter, Members felt that as the Committee responsible for the regional matters, it was important to deliberate on the current crisis in South Sudan and engage with the executive to come up with a position to help in bringing peace in South Sudan.

MIN.NO.CRI/112/2016: ANY OTHER BUSINESS

The Meeting was adjourned at thirty minutes past one o'clock.

SIGNED.....DATE

CHAIRPERSON

MINUTES OF THE 23RD SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 21ST JULY, 2016 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

- | | | |
|----------------------------------|---|-------------------------|
| 1. Hon. Florence Kajuju, MP | - | Chairperson |
| 2. Hon. Christopher Nakuleu, MP | - | Vice-Chairperson |
| 3. Hon. Wanjiku Muhia, MP | | |
| 4. Hon. Timothy Bosire, MP | | |
| 5. Hon. Alois Lentoimaga, MP | | |
| 6. Hon. David Karithi, MP | | |
| 7. Hon. Kubai Iringo, MP | | |
| 8. Hon. Robert Mbui, MP | | |
| 9. Hon. Emmanuel Wangwe, MP | | |
| 10. Hon. Dido Ali Rasso, MP | | |
| 11. Hon. Ali Wario, MP | | |
| 12. Hon. Annah Nyokabi, MP | | |
| 13. Hon. Mary Seneta, MP | | |
| 14. Hon. Andrew Mwadime, MP | | |
| 15. Hon. Alfred Agoi, MP | | |
| 16. Hon. Willy Baraka Mtengo, MP | | |

Absent With Apology

1. Hon. Andrew Toboso, MP
2. Hon. Eric Keter, MP
3. Hon. Ogendo Rose Nyamunga, MP
4. Hon. Gideon Konchella, MP
5. Hon. David Ouma Ochieng', MP
6. Hon. Bady Twalib Bady, MP
7. Hon. Joseph Kahangara, MP
8. Hon. Anthony Kimaru, MP
9. Hon. Alex Mwiru, MP
10. Hon. Florence Mutua, MP
11. Hon. Peter Shehe, MP
12. Hon. Sarah Korere, MP
13. Hon. Mark Lomunokol, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

- | | | |
|-------------------------|---|-----------------------|
| 1. Mr. Fredrick Otieno | - | Third Clerk Assistant |
| 2. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 3. Ms. Sharon Cheronu | - | Research Officer |

MINISTRY OF EAST AFRICAN COMMUNITY, LABOUR AND SOCIAL SECURITY

- | | | |
|-----------------------------|---|--------------------------------|
| 1. Ms. Phyllis Kandie | - | Cabinet Secretary |
| 2. Ms. Betty Chemutai Maina | - | Principal Secretary |
| 3. Mr. Barrack R. Ndegwa | - | Secretary Regional Integration |
| 4. Mr. A. M. Kitolo | - | DPS/EAC |
| 5. Mr. Peter Njoroge | - | DDEA/EAC |
| 6. Ms. Rose A. O. Nyakwana | - | DDEA/EAC |
| 7. Mr. Charles Kisombe | - | DPA/EAC |
| 8. Ms. Tabitha Masinjila | - | DSA/EAC |

MIN.NO. CRI/088/2016 PRELIMINARIES

The Chairperson called the meeting to order at 12:25 pm followed by a word of prayer.

MIN.NO.CRI/089/2016: CONSIDERATION OF THE REPORTS, BILLS AND RESOLUTIONS FROM EALA – BRIEFING BY THE CABINET SECRETARY MINISTRY OF EAST AFRICAN COMMUNITY, LABOUR AND SOCIAL PROTECTION

Ms. Phyllis Kandie, Cabinet Secretary East African Community, Labour and Social Protection appeared before the Committee and made the following presentation on the Reports, Bills and Resolutions from EALA:

REPORTS

REPORT OF THE COMMITTEE ON ACCOUNTS ON THE OVERSIGHT ACTIVITY UNDERTAKEN WITH THE EAC INSTITUTIONS ON GOVERNANCE, PROJECT PERFORMANCE AND IMPLEMENTATION OF THE ASSEMBLY RESOLUTIONS

The oversight activity was carried out against a background of repeated expression of dissatisfaction by the EALA Committee on Accounts in the past years on the non-implementation of the Assembly recommendations by the EAC Institutions; Lake Victoria Fisheries Organization (LVFO) Civil Aviation Safety and Security Oversight Agency (CASSOA) and Inter- University Council for East Africa (IUCEA) on the EAC Audited Accounts reports. The Committee focused its assessment on governance and management systems and performance of programmes and projects which was perceived as important areas that influence implementation or non-implementation of the Assembly recommendations.

The specific objectives of the assessment of status of implementation of Assembly recommendations on the EAC Audited Accounts for the year ended 30th June, 2014 was therefore, among others, to:

- i. Assess whether the governance and management systems of the three Institutions are good enough to guarantee performance and proper discharge of their duties;
- ii. To establish if the said EAC Institutions have put in place good corporate governance, management systems and appropriate discharge of their duties;
- iii. Assess the implementation of the Assembly recommendations; and

- iv. Recommend on the improvement of the EAC Institutions corporate governance and management systems

The Committee did not conclude its report on IUCEA due to the absence of the CEO and its deputy on the date that the Committee was scheduled to meet with the management of the institution. The Committee requested that it be facilitated to revisit the institution to finalize its report.

The Committee noted significant improvements in the governance at the two Institutions, LVFO and CASSAO. However, it is observed that there are still many cases of irregular expenditure and wastage of funds that need to be addressed and recommended possible prosecution of the suspects.

Consideration of the Report on the Lake Victoria Fisheries Organization (LVFO)

The Lake Victoria Fisheries Organization (LVFO) is a regional Organization under the EAC responsible for coordination and managing fisheries resources of Lake Victoria. The Organization was formed through a Convention signed in 1994 by Kenya, Uganda and United Republic of Tanzania who share Lake Victoria. The objective of LVFO is to foster cooperation among the Partner States by harmonizing national measures, developing and adopting conservation and management of fisheries resources of Lake Victoria for maximum socio- economic benefits.

The 28th Meeting of the Council of Ministers in November, 2013 decided that the LVFO Convention be amended to accommodate the Republics of Burundi, Rwanda and any other new EAC Partner States as Members of LVFO. It is also proposed that the Organization be renamed “East African Fisheries Organization in line with a proposed expanded mandate of the Organization”.

Accuracy of the Report

The operations of the LVFO are still in the process of conforming to the EAC decision making structures. Overall, the Committee findings are balanced and accurate.

Kenya Position on Implementation of the Recommendations

On the recommendation to adopt a new name (The East African Fisheries Organization) and possibly expand the mandate of the Organization, there will be need for wider stakeholders’ consultations within Kenya before changes are effected to ensure all national interests in the matter are safeguarded. There are concerns from some stakeholders that the proposed changes might compromise the country’s control of her fisheries resources in the Indian Ocean.

On contributions being channeled through the Ministries responsible for EAC to streamline timeliness of receipt of remittance, Kenya is already compliant with this recommendation and has no pending arrears owed to the Organization.

Consideration of the Report on the Civil Aviation Safety and Security Oversight Agency (CASSOA)

- i. Among other Committee recommendations is that the EAC Council of Ministers to ensure that CASSOA funding is given priority by exploring funding options.

- ii. In addition it urges that recruitment of staff be considered to fill vacant positions as a matter of priority to bridge security gap in air navigation services.
- iii. The Committee further recommends to the Assembly to urge the EAC Council of Ministers to amend the CASSOA Protocol to enable the Assembly to approve CASSOA budget in accordance with the Treaty.

Comments on the Recommendations

- a. CASSOA and the EAC Secretariat could hold a meeting of Permanent/Principal Secretaries to review the Mandate and Budget requirement of CASSOA.
- b. CASSOA protocol is currently under review and the proposal of CASSOA budget being approved by EALA which is currently approved by CASSOA Board could be addressed in the process.

REPORT OF THE COMMITTEE ON LEGAL, RULES AND PRIVILEGES ON THE OVERSIGHT ACTIVITY ON THE APPROXIMATION AND HARMONIZATION OF NATIONAL LAWS IN THE CONTEXT OF THE EAC

The objective of this activity was to assess and evaluate the process of harmonization of national laws appertaining to the Community. The specific objectives were to:

- i. Assess and review the activities of the Sub Committee,
- ii. Examine the process of harmonization of national laws and,
- iii. Make recommendations on how to improve the process of harmonization of national laws in the Community.

Accuracy of the Report

The observations and recommendations by the Committee are in order except the following recommendations i, ii and v which may require further reconsideration, that:

- i. The East African Legislative Assembly (EALA) expeditiously endorses an omnibus law that will harmonize national laws appertaining to the Community and an EAC law for the administration of the common market,
- ii. The EALA to spearhead the process of harmonization of laws appertaining to the Community based on its mandate as inter alia, the legislative organ of the Community,
- iii. The Sub-Committee liaises with EALA in order to synchronize the process of harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee

Implementation of the Recommendations

- a. That the East African Legislative Assembly expeditiously enacts an omnibus law that will harmonize national laws appertaining to the community, it is worth noting the following:
 - Under East African Community Common Market, it will be a challenge to have one single regional law since under article 12, 34 and 47 of the protocol Partner States have undertaken to harmonize National Policies and Laws,
 - Secondly, the Common Market Protocol is wider may not be accommodated in one regional Law. This is further complicated by the fact that part of the services are still being negotiated between the Partner States making it challenging to develop a framework for harmonized law.

- b. On the recommendation for an EAC law for the administration of the Common Market:
This may require a renegotiation for its implementation because this a policy issue. It will also require further clarification on the type of administration of the EACMP being proposed by EALA since the Protocol provides for its implementation through national institutions and laws.
- c. On EALA Sub-Committee liaison with the Sub- Committee on harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee:

This recommendation may constitute a conflict of roles since the Council still reports to EALA. The Sub-Committee for Harmonization of Laws undertakes the technical work through Partner States technical officers, drafters, legal officers who are responsible to the EAC Council through the Sectoral Council on Legal and Judicial Affairs. EALA is therefore considered at a very high level in the decision making hierarchy according to EAC decision making structure to engage at this level. However, it is in order to expect the Council to make periodic reports to EALA on the progress made by the Committee.

BILLS

EAST AFRICAN COMMUNITY DISASTER RISK REDUCTION AND MANAGEMENT BILL, 2013

This was a private Member's Bill. The Bill aims to provide a legal framework for intervention and assistance for people affected by climate change and natural hazard-related disasters, and to protect the natural environment. This is pursuant to the operationalization of Article 112 (1) of the Treaty for the establishment of the EAC viz, that Partner States cooperate in the management of the environment and take necessary disaster preparedness, management, protection and mitigation measures for the control of natural and man -made disasters.

The Bill takes cognizance of the primary responsibility of the Partner States in the disaster risk reduction and disaster management in their territories. It also provides for a coordinated regional cooperation and support to supplement domestic capacity and capabilities.

In 2013 when the Bill was introduced, there were already EAC policy initiatives and an EAC Protocol on Peace and Security that was already in the process of conclusion. The EAC Council therefore took over the Bill to consult on and consider the policy implications of the Bill by EAC multi-disciplinary Sectoral Councils while also awaiting the conclusion of the Peace and Security Protocol that covered a number of similar concerns in the Bill.

Due to logistical reasons, there was an inordinate delay in the conclusion of these processes and the Assembly became impatient and re-introduced the Bill in the last quarter of the 2015 calendar year for debate before these processes were concluded and passed by the Bill in March, 2016.

The United Republic of Tanzania in particular was for the most part reluctant about the passage of the Bill when it was re-introduced for debate before the finalization of the EAC multi Sectoral Councils consultations and at a time when it was heading towards its 2015 general elections.

However, when the Bill was brought up for debate, the Acting Chair Council (Uganda) informed the House that it had no objection on the Bill being subjected to debate. He further clarified that since the multi-disciplinary Sectoral Council had not finalized its consultations, any amendments that the Partner States may have, will be introduced at the appropriate time in accordance with the Treaty.

Several amendments were made to the Bill during debate including the title to read, **“EAC Disaster Risk Reduction and Disaster Management Bill, 2013”**.

Kenya’s Position and Implementation of the Bill

- i. Kenya’s position at the multi- disciplinary Sectoral Councils is in support of the Bill to provide a structured management of disasters in the region. However the proposed Institutional Arrangement will need to be amended since it is in contradiction to the EAC Treaty and would impose serious financial burden on the Partner States in operationalizing its Secretariat.
- ii. Given the circumstances of the passage of the Bill, it is most likely that significant amendments would still be made to the Bill should it be assented to by all Partner States. Some Partner States are likely to advise their Heads of States against assenting to the Bill before the conclusion of the EAC Partner States multi-disciplinary EAC Sectoral Councils consultations.

The Bill was passed and is awaiting assent at the next Summit of EAC Heads of State

EAC SUPPLEMENTARY APPROPRIATION BILL, 2016

The objective of the Bill was to make provision for the Supplementary appropriation out of the budget of the East African Community of specified amounts of money totaling to USD 1,569,941 for services and purposes of the Community for the financial year ending 30th June, 2016. This is a routine statutory Bill.

EAC CUSTOMS MANAGEMENT ACT (AMENDMENT) BILL, 2016

The Bill seeks to amend the EAC Customs Management Act, 2004 to facilitate the smooth implementation of the Act, particularly on the commitment made under the Protocol establishing the Customs Union.

During the negotiations of the Common External Tariff (CET) under the EAC Customs Union in 2004, the Partner States agreed to honor their obligations that existed before, and undertook to review the obligations to comply with the WTO requirements. The obligations included the COMESA and SADC preferential tariff arrangement, which the Partner States agreed to apply until 31st December 2006. The Partner States have been reviewing their obligations and seeking for extension of the application of the COMESA and SADC preferential tariff arrangements until such a time, the Partner States concludes negotiation under tripartite agreement.

The 3rd Tripartite Summit took place on 10th June 2015 in Sham el Sheik in Egypt when it had launched the Tripartite Free Trade Area (TFTA), though there still remain outstanding issues in the areas of exchange of Tariff Offers, Rules of Origin, Trade Remedies and Dispute Settlement. Once the TFTA is

ratified, there will be need to amend the EAC CMA to cater for the preferential tariff regime under the tripartite.

In the meantime, Partner States have to continue applying preferential treatment on goods imported from COMESA and SADC up to the time when the Tripartite Agreement is concluded. The Council Bill proposed that a “Preferential Tariff treatment shall be applied to goods referred to in subsection (1) (a) up to **a date to be determined by the Council**”.

However, EALA amended the proposal to provide for “...extension of the application of the Preferential Tariff treatment under COMESA and SADC **from 1st January, 2016 to 31st December, 2019.**”

The Bill was passed during the 6th Meeting of the Assembly of the 4th Session in May, 2016.

EAC COUNTER TRAFFICKING IN PERSONS BILL, 2016

The mover of the Motion sought leave to introduce a Bill to make provision for combating trafficking in persons, especially children and vulnerable women. The Bill was passed at its first reading.

The justification of the Bill is based on the possible negative effects of the provisions of the Common Market Protocol, especially on the free movement of labour and persons. There is need to particularly protect women and children against the dangers of human trafficking across and within the Community borders.

Kenya’s Position

Kenya has already enacted anti trafficking in persons legislation in accordance with the Palermo Protocol. A counter Trafficking Act was enacted in 2010 and became law in 2012. Protection of Victims Act was also enacted in 2014 providing for increased awareness and enforcement against labour exploitation and harvesting of human organs, provisions which were lacking in the 2010 Act.

In addition Kenya has established a National Assistance Trust Fund meant to assist victims of human trafficking.

The Bill is yet to be subjected to national stakeholders’ public hearings in Partner States for their comments.

RESOLUTIONS

RESOLUTION OF THE ASSEMBLY CONGRATULATING THE REPUBLIC OF SOUTH SUDAN UPON ADMISSION INTO THE EAC

The objective of the motion is to congratulate the Republic of South Sudan following their admission as the 6th Partner State into the EAC at the 17th Ordinary EAC Summit of the Heads of States on 2nd March, 2016.

MOTION FOR THE RESOLUTION OF THE ASSEMBLY TO BID FAREWELL TO THE OUTGOING EAC SECRETARY GENERAL, AMB (DR) RICHARD SEZIBERA

The objective of the Motion was to recognize and bid farewell to the outgoing EAC Secretary General, Amb (Dr) Richard Sezibera following the end of his five year tenure.

MOTION FOR A RESOLUTION OF THE ASSEMBLY TO THANK THE FOUNDER FIRST LADIES OF THE FOUNDING FATHERS OF THE FIRST EAST AFRICAN COMMUNITY (1967-1977)

The objective of the motion was to recognize the surviving spouses (First Ladies) of the Founding Fathers of the first East African Community (1967 – 1977) namely, Mama Ngina Kenyatta, Mama Maria Nyerere and Mama Miriam Obote for the role and contribution in the realization of East African Community vision. The Assembly resolved to:

- i. Appreciate the role of the Founding Fathers of the first EAC;
- ii. Register appreciation to the First Ladies as a way of recognizing the role they played in galvanizing East Africans in the integration process, serving the people of East Africans as the informal institutional memory;
- iii. Request the first ladies of the founding fathers of the first EAC to grace a Special Sitting of EALA Assembly in the next Plenary Sitting of the 6th Meeting of the 4th Session of the 3rd Assembly in Arusha, Tanzania.

The former First Ladies (Mama Ngina Kenyatta and Mama Miriam Obote) addressed the Assembly during its 6th Meeting of the 4th Session on 31st May, 2016 in Arusha. The former Tanzanian first lady was indisposed and did not attend the Sitting.

MIN.NO.CRI/090/2016: MEMBERS CONCERNS/OBSERVATIONS

Having considered the presentation, the following concerns/observations were made by Members:

~~The Report of the Committee on Accounts on the Oversight Activity undertaken with the EAC Institutions on Governance, Project Performance and Implementation of the Assembly Resolutions~~

1. Members were concerned on how the EAC institutions/organizations are using the funds allocated to them. Considering the reports that have previously been tabled before the Committee from EALA, it has been noted that there is mismanagement of funds by the institutions/organizations. It is important that the EAC institutions/organizations have value for money that is allocated to them and the EAC Council and should come up with proper structures and measures to strengthen and tighten the usage of funds by these Institutions/organizations.

While responding, the Cabinet Secretary informed the Committee that it is a reality that the EAC has issues with funding to its institutions/organizations. The EAC is also too fast in creating institutions without considering how they will be funded.

2. It was observed that there is a proposal to rename the LVFO to East African Fisheries Organization in line with a proposed expanded mandate of the organization. However, Members were concerned that changing of the name will be in conflict with the treaty and further wanted to know whether there are parameters in place to protect the future generations in Kenya if the proposal is passed.

On this issue, the Cabinet Secretary informed the Committee that the issue was to do with Lake Victoria only and not controlling fisheries in Kenya.

3. The Cabinet Secretary was also asked whether the Ministry was aware of the claim by the Kisumu County Governor that China is importing fish in the County and whether the claim was true but she informed the Committee that the matter can only be addressed by the Ministry of Agriculture.

The East African Community Disaster Risk Reduction and Management Bill, 2013

1. The Committee was concerned whether EAC has capacity and resources to implement the Bill if assented to and whether disaster risks reduction and management is a regional issue or it is something that can be handled at national level.
2. The Committee was further concerned to know if there was public participation during the early stages of the Bill and whether comments by the public were taken into account by EALA before passing the Bill.
3. It was noted that the Bill is a money bill that will impose some additional charges on tax payers and hence required extensive consultations with the Partner States before it was passed. The Committee sought to know the position of the Ministry when the Bill was brought to them for consultations.
4. Further, the Committee noted that the Bill as it is will contradict the treaty and required several amendments before it is assented to by the heads of Partner States.
5. It was noted that implementing the Bill will be difficult due to funding Challenges and contradictions to the Treaty and some of the Partner States laws.

The Committee recommended that the Cabinet Secretary should advise the President not to assent to the Bill until proper Public Participation and extensive consultation is undertaken by EALA. EALA should also review the views of Partner States before the Bill is assented and consider necessary amendments on the Bill.

Resolution of the Assembly Congratulating the Republic of South Sudan upon Admission into the EAC

1. The Committee was concerned about the crisis in the South Sudan and questioned whether the due process as stipulated in the treaty was followed to admit the Country into the EAC and whether the laid down rule, procedures and requirements for admission into the EAC were met by South Sudan considering the previous incidences of violence in the Country.
2. Further, the Committee was concerned to know whether there is a provision to rescind the decision of EAC from admitting South Sudan.

The Cabinet Secretary however informed the Committee that the decision on what to be done in the case of South Sudan is to be made by the Summit.

MIN.NO.CRI/091/2016: ANY OTHER BUSINESS

There being no other business, the Meeting was adjourned at fifty minutes past one o'clock.

SIGNED.....*Paul*.....DATE18/8/2016.....

CHAIRPERSON

MINUTES OF THE 21ST SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 5TH JULY, 2016 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

1. Hon. Christopher Nakuleu, MP - Vice-Chairperson
2. Hon. Andrew Toboso, MP
3. Hon. Eric Keter, MP
4. Hon. Timothy Bosire, MP
5. Hon. Andrew Mwadime, MP
6. Hon. David Karithi, MP
7. Hon. Kubai Iringo, MP
8. Hon. Robert Mbui, MP
9. Hon. Emmanuel Wangwe, MP
10. Hon. Dido Ali Rasso, MP
11. Hon. Alfred Agoi, MP
12. Hon. Willy Baraka Mtengo, MP

Absent With Apology

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Ogendo Rose Nyamunga, MP
3. Hon. Wanjiku Muhia, MP
4. Hon. Gideon Konchella, MP
5. Hon. David Ouma Ochieng', MP
6. Hon. Alois Lentoimaga, MP
7. Hon. Ali Wario, MP
8. Hon. Bady Twalib Bady, MP
9. Hon. Sarah Korere, MP
10. Hon. Annah Nyokabi, MP
11. Hon. Mary Seneta, MP
12. Hon. Joseph Kahangara, MP
13. Hon. Anthony Kimaru, MP
14. Hon. Alex Mwiru, MP
15. Hon. Mark Lomunokol, MP
16. Hon. Florence Mutua, MP
17. Hon. Peter Shehe, MP

In attendance

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Mr. Nicodemus Maluki - Third Clerk Assistant
3. Mr. Thomas Ogwel - Fiscal Analyst
4. Ms. Sharon Cheronu - Research Officer

MIN.NO. CRI/080/2016 PRELIMINARIES

The Vice Chairperson called the meeting to order at 12:25 pm followed by a word of prayer.

MIN.NO.CRI/081/2016: CONSIDERATION OF THE EAST AFRICAN COMMUNITY SUPPLEMENTARY APPROPRIATION BILL, 2016

Briefing by the Parliamentary Budget Officer

The Committee was briefed on the Bill by the officer from Parliamentary Budget Office as follows:

In accordance with articles 49 (2) and 132 of the Treaty for the Establishment of the East African Community, as well as Rules 74, 75, 76, 77 and 78 of the Rules of Procedure of the Assembly, the Annual Estimates, the supplementary budget proposals were procedurally submitted thereby culminating in East African Community Supplementary Appropriation Bill 2016 which has since been passed.

The object of the EAC Appropriation Bill, 2016 was to make provision for the appropriation out of the budget for the specified amount of money for the services and purposes of the Community for the Financial Year ending 30th of June 2016.

The purpose of Supplementary Budgets is usually:

- (a) To provide appropriation for the unforeseen contingencies that are urgent in nature thereby cannot wait for the subsequent normal budgeting process.
- (b) To legally approve permitted expenditure that was not initially budgeted for but prevailing circumstances have occasioned additional expenditure.

The Budget Estimates

The Supplementary Budget amounts to USD 1,569,941 (Approximately 157 million) and was approved by the EALA wholly as was submitted. This adds to the initial approved budget of USD.110, 660,098 FY 2015/16. The supplementary budget translates to 1.4% of the initial budget.

Legal Compliance

1. In accordance with the provisions of Section 7 of EAC Budget Act 2008, the total Supplementary expenditure that requires additional resources over and above what is appropriated by the Assembly shall not exceed five percent (5%) of the total approved budget for that financial year. The Supplementary budget which is 1.4% therefore sufficiently meets this requirement.
2. Sub –section 2 prescribes that Supplementary estimates showing the sums spent shall be laid before the Assembly within three (3) months after the money is spent. However, supplementary vote 001 for the expenditure incurred on the Pre-Election Assessment Mission to the General Elections in Tanzania (USD 249,970 approximately Ksh.25 million) seemed to have been incurred before the General election in October 2015 hence does not meet this requirement.

Key Salient Issues

1. **Inadequate budgetary information:** The information contained in the supplementary budget estimates 2016 is not sufficient for thorough scrutiny and to facilitate an effective oversight. These estimates should be accompanied with the Approved budget estimates and a memorandum explaining reasons occasioning the need for the expenditure so that it can also be evaluated whether they are new expenditure items or not.
2. **Delay in the deliberation of the Bill:** The bill has since been enacted and therefore the Committees value addition in the same is impaired. There is need to have this timely processed going forward so pervert the delay.
3. **Nature of some of the Supplementary Expenditure Items:** Some of the items contained in the budget estimates do not have aspects of unforeseen or emergency. A case in point is the Pre-Election Assessment Mission to the General Election. The elections calendar in the region is known and budgetary prudence requires that provisions are made for the same in advance.
4. **Sources of Funds for the Supplementary Budget:** The major sources of revenue to the EAC are contributions from member states and donations. The latter source has been inconsistent therefore resulting into underfunding (Various Annual Audited Accounts). There is therefore need to interrogate the source of funding of these additional expenditure item to establish whether there have been reallocations or new funding. Reallocations should be assessed for compliance with EAC Budget Act of 2008.

The breakdown and relevant observations are as contained in the table 1 hereunder.

Table 1: showing expenditure items, respective allocations and PBO remarks

Expenditure Item	Amount Allocated(in USD)	Approximation in Kshs
Pre-Election Assessment Mission to the General Elections in Tanzania	249,970	24,997,000
Support for Immunization Activities in the Partner States	52,085	5,208,500
Namanga One Stop Border Post Soft Infrastructure Project	396,590	39,659,000
Public Financial Management Co-ordination and Harmonization Project	248,666	24,866,600
Facilitation of negotiations with the Republic of South Sudan	89,200	8,920,000
Finalization of EAC Vision 2050 by the Steering Committee	43,100	4,310,000
Development of Regional Video Clip and other related activities to support the launch of the new international e-passport	15,050	1,505,000

Facilitation of the Republic of Burundi Dialogue Process	200,000	20,000,000
Population, Health and Environment Programme	160,780	16,078,000
Development of the East African Science and Technology Commission Strategic Plan	29,500	2,950,000
Renovation of the EAC Kiswahili Commission Offices in Zanzibar	85,000	8,500,000
TOTAL	1,569,941	156,994,100

Source: The Supplementary Appropriation Bill 2016(EAC)

MIN.NO.CRI/082/2016: MEMBERS OBSERVATIONS/CONCERNS

Having considered the brief, Members raised the following concerns and observation:

The timing of the submission of the Bill, it was observed that the bill has since been enacted and therefore the Committees value addition in the same is impaired. There is need to have this timely process going forward so pervert the delay.

MIN.NO.CRI/083/2016: ANY OTHER BUSINESS

There being no other business, the meeting was adjourned at 1.20pm.

SIGNED..........DATE18/8/2016.....

CHAIRPERSON

MINUTES OF THE 19TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 21ST JUNE, 2016 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

- | | | |
|----------------------------------|---|-------------------------|
| 1. Hon. Florence Kajuju, MP | - | Chairperson |
| 2. Hon. Christopher Nakuleu, MP | - | Vice-Chairperson |
| 3. Hon. Andrew Toboso, MP | | |
| 4. Hon. Eric Keter, MP | | |
| 5. Hon. Andrew Mwadime, MP | | |
| 6. Hon. Ogendo Rose Nyamunga, MP | | |
| 7. Hon. David Karithi, MP | | |
| 8. Hon. Kubai Iringo, MP | | |
| 9. Hon. Robert Mbui, MP | | |
| 10. Hon. Wanjiku Muhia, MP | | |

Absent With Apology

1. Hon. Gideon Konchella, MP
2. Hon. Emmanuel Wangwe, MP
3. Hon. David Ouma Ochieng', MP
4. Hon. Alois Lentoimaga, MP
5. Hon. Ali Wario, MP
6. Hon. Bady Twalib Bady, MP
7. Hon. Dido Ali Rasso, MP
8. Hon. Sarah Korere, MP
9. Hon. Annah Nyokabi, MP
10. Hon. Timothy Bosire, MP
11. Hon. Mary Seneta, MP
12. Hon. Joseph Kahangara, MP
13. Hon. Anthony Kimaru, MP
14. Hon. Alex Mwiru, MP
15. Hon. Mark Lomunokol, MP
16. Hon. Florence Mutua, MP
17. Hon. Peter Shehe, MP
18. Hon. Alfred Agoi, MP
19. Hon. Willy Baraka Mtengo, MP

In attendance

- | | | |
|-------------------------|---|-----------------------|
| 1. Mr. Fredrick Otieno | - | Third Clerk Assistant |
| 2. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 3. Ms. Sharon Cheronu | - | Research Officer |

MIN.NO. CRI/072/2016 PRELIMINARIES

The Chairperson called the meeting to order at 12:30 pm followed by a word of prayer.

MIN.NO.CRI/073/2016: CONSIDERATION OF THE REPORT OF THE EALA COMMITTEE ON ACCOUNTS ON OVERSIGHT ACTIVITY UNDERTAKEN WITH THE EAC INSTITUTION ON GOVERNANCE, PROJECTS PERFORMANCE AND IMPLEMENTATION OF THE ASSEMBLY RECOMMENDATIONS (LVFO, IUCEA AND CASSOA)

The Committee was briefed on the report by the Research Officer as follows:

The EALA Committee engaged in the oversight activity disturbed by the non-implementation of Assembly recommendations on the EAC Audited Accounts report. The Committee further assessed governance and management systems and performance of programs and projects.

During the review and consideration of EAC audited accounts for the year ended 30th June, 2014, a number of queries were reported by the Audit Commission especially in the EAC institutions namely: LVFO, CASSOA, and IUCEA. The issues arose mainly from unclaimed VAT, lack of procurement plans, lack of harmonized financial rules and regulation, insufficient funding, late remittance of contributions by Partner States, lack of active ICT steering committees, lack of comprehensive disaster recovery plan, lack of best practice in IT project management, inadequate IT staff among other.

PART ONE: LAKE VICTORIA FISHERIES ORGANISATION (LVFO)

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by the Audit Commission)	Status as of the time of Oversight Activity
Harmonization of LVFO Financial manual with EAC Financial Rules and Regulations	Approved the amended convection addressing institution of Republics Rwanda and Burundi into the mainstream. Harmonization of operational manual has been highly prioritized
Fully Depreciated Assets Still in Use	Financial statements 2014/2015 reflect revised estimates with the applicable depreciation charges
Management of Gratuity Account	Resolved
Unclaimed VAT-USD 13,118.80	All VAT refunds are filed in a timely manner
Payment of Salary In Lieu USD. 5,500	Evidence on communication made to former staff was availed and they are still looking into available options to recover irregularly spent funds

Lack of an investment Register	Resolved
Lack of Approved Annual Procurement Plan	Resolved
Long Overdue Outstanding Receivables USD.1,712,391	Written and telephones communications to reminded partner states of their respective outstanding obligation.
Procurement of Goods and Services using Uncompetitive bidding method	All goods and services acquired are competitively procured as per EAC procurement guidelines
Insufficient funding of the organization	Contributions by Partner States for the FY 2014/15 had greatly improved with the overall contribution at USD 1408153.73 compared to USD 600146.51 the previous year. LVFO had recruited Senior scientist and auditor as a result
Inadequate control over Cross Border Fish Trade	During the 9 th regular session of LVFO Council of ministers urged Partner States establish a functional monitoring control and surveillance structure and support a single spine enforcement with appropriate funding.
Lack of Harmonization of regulations between importing and exporting countries on fishing of immature fish	In Jan 2015 LVFO initiated process to develop regional policy for fisheries and aquaculture with support from WB/LVEMPII. The issue is being addressed
Lack of adequate and robust control over illegal fishing practices	9 th Meeting of LVFO Council of ministers urged partner states to establish functional monitoring and surveillance inter agency structure and support it with adequate funding
Lack of harmonized guidelines for development of cage/pen culture	Management coordinated and drafted guidelines for development of cage culture by technical officers from partner states to be discussed at national level for input and ownership before regional validation.
Lack of regional standards for fish feeds manufactured in the region	Issue of standards for fish feeds manufactured has been addressed in the draft regional guidelines for cage culture

Lack if Active ICT steering committee	Committee has been established and expected to meet thrice annually
Lack of comprehensive Disaster Recovery Plan	Resolved
Lack of Best Practice in IT Project Management	Project plan and management guidelines have been customized for use in future projects with values of USD 20,000 or more
Inadequate it staff	Recruiting of a Principal database administrator is in progress to be completed by end of FY 2015-2016
Inadequate IT operations Planning	Process of revising the ICT strategy is ongoing and has been sent to partner sates for discussion before approval
Lack of backup procedures	Data backup and restoration procedures have been improved and this was approved.

PART TWO: THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY

The committee met with the Executive Director who presented an overview of CASSOA establishment, governance and performance of programs and project.

CASSOA's supreme organ is the council of ministers, followed by the Board of Directors to which the Executives Director reports

CASSOA came into existence following the recommendations from the International Civil Aviation Organization (ICAO) to pull the regional together to create safe and orderly development of international civil aviation.

CASSOA major achievements have been harmonization of regulations and development of guidance materials which have been promulgated in the Partner States. It also has trained inspectors in Partner State to oversee the aircrafts

Challenges: CASSOA requires more funding for continuous training of inspectors to catch up with the new technology as it emerges.

Committee Findings and Recommendations

1. CASSOA has budgetary problems making it non attractive to qualified personnel and so the committee recommends the Assembly to urge EAC council of ministers to ensure its funding is given priority by exploring funding options.

2. CASSOA budget is not approved by the Assembly yet Assembly reviews CASSOA audit report. It is recommends laying before the house budget for information as well as amend its protocol to enable approval of budget in accordance with the EAC Treaty.
3. Committee observed the Agency has developed useful regulations whose promulgation process consume substantial amount of time. It is recommended that EAC Partner States to expedite promulgation of the regulations
4. CASSOA has never been issued with the Land Title despite provisions of the Headquarters Agreement. Process has been started but it's taking very long. It is recommended that land title is issued at their Headquarters as required by the Agreement

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by audit commission)	Status as of the time of Oversight Activity
Lack of segregation of duties-interest payments were claimed and paid by same officer.	Committee was informed that the directive was implemented and that all claims payments and retirements are void of duplication
Management of 4 Accounts in the same bank, thus lumping of risks.	Committee was informed that the Agency is in process of moving some bank accounts out of Barclays Bank-Uganda Ltd to diversify the risks
Expenditure notadequately supported USD.8696985-missiong receipts, boarding passes and attendance registers.	Resolved

PART THREE: INTER-UNIVERSITY COUNCIL OF EAST AFRICA (IUCEA)

IUCEA was established by a protocol that was signed in 2002 by ministers in charge of higher education of then Partner States, Kenya, Uganda and Tanzania. IUCEA was mainstreamed into EAC framework in 2009 and as a result it had to adjust its structure to the new mandate and was approved by the Executive Committee in 2013.

IUCEA has a number of objectives that together with developed instruments and policies that are aligned to those of EAC to facilitate efficient discharge of its mandates. These instruments or tools include Rules and Regulations and Operational Manuals.

IUCEA has several projects with the main achievements been support to universities academic and networking systems , Research and innovation Development, Coordination and support system in the community and harmonization of higher Education Systems among others.

Challenges: understaffing and activities being rolled over to subsequent years due to delay in remittance of funds.

STATUS OF IMPLEMENTATION OF ASSEMBLY RECOMMENDATIONS	
Issue (as reported by the Audit Commission)	Status as of the time of Oversight Activity
Limitation of the accounting system to produce budget execution report	Sun Financial Management System has been installed and data transfer is ongoing. The system addresses issues of the budget execution report
Deficiencies noted in the assets register	Sun Financial Management System will address challenge and data transfer with the new ongoing system.
Un-procedural reallocation of funds	current budgetary reallocations are going through proper procedures as required by the Financial Rules and Regulation
VAT not claimed	IUCEA has registered for VAT with claimable amounts being recorded
Non Compliance with the NSSF Act where exemption is not granted	Uganda Retirement Benefit Regulatory Authority is handling the issue of exemption of IUCEA from payment of NSSF
Procurement Issues-single sourcing of suppliers	Procurement using single sourcing methods are now justified once they go through the Tender committee for approval
Shortfalls in funding of IUCA	Arrears have been recovered and IUCEA management continues to follow up with partner states to ensure more arrear funds are recovered
Non-interest bearing fixed Deposit Accounts	IUCEA management is in the processing of closing Bank Accounts in National Bank of Commerce with already effective closures in Kenya, Arusha and Dar es Salaam
Outstanding balances of annual subscriptions fees	IUCEA fixed deposit accounts in Stanbic bank have been closed and a list of member Universities and their current financial status will be availed during the next audit
Long outstanding Creditors	USD 6,758 has been cleared out of USD 17,772.46

Wasteful Expenditure	Resolved
Delay in accounting of staff imprest	IUCEA is in the process of recovering the imprest from staff
Long outstanding research cost not accounted for	VRMIS has been developed and data entry into the system is ongoing
Absence of memorandum of understanding on accountability of funds to IUCEA	Resolved
Absence of accounting research for innovation	Resolved
Absence of research copy right policy	IUCEA will develop an Intellectual property copy right regime during the operationalization of the research and innovation policy framework that was approved by the Executive Committee
Review IUCEA information system	IT support assistant has been recruited on temporary basis and that the recruitment of senior systems analyst is ongoing
Lack of Payment Data Visibility in the Accounting System	Reference numbers used on payment vouchers are now obtained from the Citi direct system

MIN.NO.CRI/074/2016: MEMBERS OBSERVATIONS/CONCERNS

Having considered the brief, it was observed that:

1. The institutions have funding problems hence not able to effectively carry out their operations like for instance, CASSOA which requires more funding for continuous training of inspectors to catch up with the new technology and further with the concerns of terrorism within the region, it is important for the institution to be fully operational.
2. Some Partner States still have outstanding obligations to the institutions. It was the view of the Committee that Partner States should address the issue of funding to the institutions and obey their obligations.
3. There is a lot of misappropriation of funds especially by the LVFO, this may be due to a lot of donor funds that they receive. The organization also has low absorption rate.
4. The institutions lack enough human resource. Due to financial constraints, the institutions are not able to attract qualified personnel.
5. The Committee was concerned to have knowledge on the rates of flying within the community as per CASSOA.
6. The Committee was further concerned to know the roles and functions of the EAC Secretary General in guarding the operations of the Community.


It was resolved that the Ministry of East African Community and Labour be invited to upraise the Committee on the status of the reports and bills before it compiles its report.
Further the Committee should organize for a visit to the Lake Victoria Fisheries Organization.

MIN.NO.CRI/075/2016: ANY OTHER BUSINESS

The Chairperson informed the Committee that she attended an event organized by the EALA pursuant to the Assemblies resolutions in March 2016 to appreciate the founding First Ladies of the First East African Community which was attended by Mama Ngina Kenyatta and Mama Miriam Obote.

MIN.NO.CRI/076/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 1.50pm.

SIGNED..........DATE 18/8/2016.....

CHAIRPERSON

MINUTES OF THE 18TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 16TH JUNE, 2016 IN COMMITTEE ROOM, 2NDFLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

1. Hon. Christopher Nakuleu, MP - Vice-Chairperson
2. Hon. Alois Lentoimaga, MP
3. Hon. Ali Wario, MP
4. Hon. Bady Twalib Bady, MP
5. Hon. Dido Ali Rasso, MP
6. Hon. Sarah Korere, MP
7. Hon. Annah Nyokabi, MP
8. Hon. Eric Keter, MP
9. Hon. Andrew Mwadime, MP
10. Hon. Ogendo Rose Nyamunga, MP
11. Hon. David Karithi, MP
12. Hon. Willy Baraka Mtengo, MP

Absent With Apology

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Gideon Konchella, MP
3. Hon. Andrew Toboso, MP
4. Hon. Emmanuel Wangwe, MP
5. Hon. David Ouma Ochieng', MP
6. Hon. Timothy Bosire, MP
7. Hon. Kubai Iringo, MP
8. Hon. Mary Seneta, MP
9. Hon. Wanjiku Muhia, MP
10. Hon. Joseph Kahangara, MP
11. Hon. Anthony Kimaru, MP
12. Hon. Alex Mwiru, MP
13. Hon. Mark Lomunokol, MP
14. Hon. Florence Mutua, MP
15. Hon. Robert Mbui, MP
16. Hon. Peter Shehe, MP
17. Hon. Alfred Agoi, MP

In attendance

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Mr. Nicodemus Maluki - Third Clerk Assistant
3. Ms. Brigita Mati - Legal Counsel
4. Ms. Sharon Cheronu - Research Officer

MIN.NO. CRI/069/2016 PRELIMINARIES

The Vice Chairperson called the meeting to order at 12:20 pm followed by a word of prayer.

MIN.NO.CRI/070/2016: CONSIDERATION OF REPORTS FROM EALA

The Research Officer briefed the Committee on the reports as follows:

REPORT OF THE OVERSIGHT ACTIVITY ON THE HARMONISATION OF NATIONAL LAWS IN THE EAC CONTEXT-22ND-26TH FEBRUARY, 2016

EALA Committee on Legal, Rules and Privileges undertook the oversight activity. The main objective was to assess and evaluate the process of harmonisation of national laws pertaining to the community as provided under Chapter 124 of the Treaty for EAC. In line with this, the EAC Partner States established a Sub Committee on the approximation of national laws in the EAC context.

The Sub Committee consisted of heads of legislative drafting departments from the Attorney General's Chambers, chairpersons of the Law Reform Commission, officers from the ministries whose sectors require harmonisation of laws and any additional members the Subcommittee could co-opt.

Findings of the EALA committee

	ISSUE	FINDING
1	Harmonization approaches used by the Sub Committee	<p>1. Approximation Process of aligning national laws with commonly agreed principles of law without necessarily making them uniform (partial harmonization). The subcommittee compares the existing laws of the Partner States and identifies principles in line with the Treaty and International best practices to guide the approximation process.</p> <p>The committee observed that the approximation approach is not in line with EAC Treaty which requires Partner States to harmonize their national laws, not just approximate.</p> <p>2. Development of model laws approach A Model Law is a legislative text on a specific area of law that is recommended to the Partner States for adoption and enactment as part of their national law. The objective is to align different national laws without necessarily coming up with a uniform piece of legislation</p>
2	Harmonization of laws	There are other initiatives of harmonization of national laws

	outside the Subcommittee framework	coordinated by other departments of the Secretariat and Institutions of the Community through the relevant Sectoral Councils e.g. harmonization of health and pharmaceutical regulatory policies and laws initiated by Department of Health.
3	Achievements of the Subcommittee	<p>Was established in 1997, but actual work began after signing of EAC Treaty in 2000. Achievements include:</p> <ul style="list-style-type: none"> i. Review of national laws: company , insolvency, partnership, business names registration, immigration, labour and employments and sale of goods laws. ii. Developed 2 cyber-law frameworks(was approved by the Council of Ministers in 2010) iii. Development of model law of contract iv. In the process of developing laws of intellectual property.
4	Actions taken by Partner States to harmonize their National Laws	<ul style="list-style-type: none"> i. Committee was informed that Partner States are at different Stages of implementation of the directives of the Council of Ministers on harmonization on national laws. ii. Partner States are slow in amending their laws to comply with the directive to harmonize their laws iii. Criteria to be used and timelines for harmonization is unclear
5	Challenges facing the Committee	<ul style="list-style-type: none"> i. There are many areas of law that need to be harmonized- law reform commissions do not have adequate financial resources to support the activities of the Sub-Committee ii. Frequent changes in the Membership of the Task force iii. Conflicting commitments of the members if the Task force iv. Partner states have different legal systems v. National laws are written in different languages vi. Slow pace in implementation of the harmonisation agenda at the national level vii. Lack of monitoring mechanism to ensure that partner States comply with the approximation proposals.

Observations of the Committee (EALA)

- i. The harmonization laws ought to go together with the implementation of the entire Article 126 of the Treaty especially the harmonization of legal training and certification and to encourage the standardization of judgments of courts within the Community.
- ii. The slow pace of Partner States in harmonizing their national laws appertaining to the Community hampers the attainment of the objectives of the Community.
- iii. The postponement of the Meetings of the Sectoral Council on Legal and Judicial Affairs is a hindrance to the effectiveness of the Sub-Committee.
- iv. The EAC Secretariat has not put enough efforts to push the harmonization agenda. This is evidenced by the fact that the activities of the Sub-Committee are financed only by the Partnership Fund.
- v. The legal frameworks (model laws) are not binding but they are useful in helping Partner States to develop their laws. The legal frameworks can be transformed into EAC bills to be passed by EALA.
- vi. The Sub-Committee should liaise with EALA through the Committee on LRP to improve the process of harmonization of national laws pertaining to EAC.
- vii. The implementation/administration of the EAC Common Market can be better facilitated by having an EAC law enacted by EALA similar to the EAC Customs Management Act, 2004.

Recommendations of the Committee(EALA)

- i. EALA expeditiously enacts an omnibus law that will harmonize national laws appertaining to the Community; and an EAC law for the administration of the Common Market;
- ii. EALA spearheads the process of harmonization of laws appertaining to the Community based on its mandate as inter alia, the legislative organ of the Community;
- iii. The Council of Ministers addresses challenges of the Sub-Committee captured above and provides the Sub-Committee with adequate resources in order for it to continue producing model legal frameworks which EALA could utilize in the enactment of EAC laws;
- iv. The Council of Ministers directs that the Meetings of the Sectoral Council on Legal and Judicial Affairs be held regularly and prioritizes harmonization of laws appertaining to the Community in order to facilitate integration within the set time frames;
- v. The Sub-Committee liaises with EALA in order to synchronize the process of harmonization of laws and to keep EALA informed on a bi-annual basis on the activities undertaken by the Sub-Committee;
- vi. In order to meaningfully facilitate cooperation in legal and judicial affairs as provided for under Article 126 of the Treaty, the Council of Ministers should expedite the implementation of this entire Article which obligates Partner States to:

- a) Take steps to harmonize legal training and certification;
 - b) Encourage the standardization of judgments of courts within the Community;
 - c) Establish a common syllabus for the training of lawyers and a common standard to be attained in examinations in order to qualify and to be licensed to practice as an advocate in their respective superior courts;
 - d) Revive publication of East African Law reports or publish similar law reports and such law journals that promote exchange of legal and judicial knowledge and the approximation and harmonization of legal learning and standardization of judgments of courts within the Community; and
 - e) Harmonize all national laws appertaining to the Community.
- vii. In order to expedite harmonization of national laws, the Council of Ministers should fast track the drafting of the EAC Constitution so as to establish common legal principles to be applied in the entire Community;
- viii. That the Committee on Legal, Rules and Privileges be facilitated to interface with Partner State institutions responsible for harmonization of laws in order to ascertain progress made and assess whether mechanisms have been established to ensure that all national laws that are enacted conform to the Treaty and EAC laws.

Having considered the brief, the Committee resolved to involve the Cabinet Secretary in charge of EAC for a briefing session on the tabled papers from EALA before the Committee compiles its report.

MIN.NO.CRI/071/2016: ANY OTHER BUSINESS

There being no other business, the meeting was adjourned at 1.40pm.

SIGNED..........DATE.....

CHAIRPERSON

MINUTES OF THE 17TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 14TH JUNE, 2016 IN COMMITTEE ROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

1. Hon. Christopher Nakuleu, MP - Vice-Chairperson (Chairing)
2. Hon. Alois Lentoimaga, MP
3. Hon. Mark Lomunokol, MP
4. Hon. Bady Twalib Bady, MP
5. Hon. Sarah Korere, MP
6. Hon. Andrew Toboso, MP
7. Hon. Emmanuel Wangwe, MP
8. Hon. Eric Keter, MP
9. Hon. Andrew Mwadime, MP
10. Hon. Willy Baraka Mtengo, MP

Absent With Apology

1. Hon. Florence Kajuju, MP - Chairperson
2. Hon. Gideon Konchella, MP
3. Hon. David Ouma Ochieng', MP
4. Hon. Ogendo Rose Nyamunga, MP
5. Hon. Timothy Bosire, MP
6. Hon. David Karithi, MP
7. Hon. Kubai Iringo, MP
8. Hon. Mary Seneta, MP
9. Hon. Wanjiku Muhia, MP
10. Hon. Joseph Kahangara, MP
11. Hon. Ali Wario, MP
12. Hon. Anthony Kimaru, MP
13. Hon. Alex Mwiru, MP
14. Hon. Florence Mutua, MP
15. Hon. Dido Ali Rasso, MP
16. Hon. Robert Mbui, MP
17. Hon. Peter Shehe, MP
18. Hon. Annah Nyokabi, MP
19. Hon. Alfred Agoi, MP

In attendance

1. Mr. Fredrick Otieno - Third Clerk Assistant
2. Ms. Brigita Mati - Legal Counsel
3. Ms. Sharon Cherono - Research Officer

MIN.NO. CRI/064/2016 PRELIMINARIES

The Vice Chairperson called the meeting to order at 12:30 pm followed by a word of prayer.

MIN.NO.CRI/065/2016: CORRESPONDENCES

1. The Vice Chairperson informed Members that the Ministry of East African Community (EAC), Labour and Social Protection had invited two Members to attend the 7th Sectoral Council on Tourism and Wildlife Management from 25th to 29th June, 2016 in Kampala, Uganda. The following Members were nominated to attend:
 - i. Hon. Anyanga Andrew Toboso, MP
 - ii. Hon. Sarah Korere, MP

2. He further informed the Committee that the Ministry is planning for a retreat between EALA Kenya Chapter and the Committee from the dates of 23rd to 26th June, 2016 in Mombasa. As Committee await for the official letter, the following Members were nominated to attend:
 - i. Hon. Christopher Nakuleu, MP - Vice Chairperson
 - ii. Hon. Anyanga Andrew Toboso, MP
 - iii. Hon. Bady Twalib Bady, MP
 - iv. Hon. Emmanuel Wangwe, MP
 - v. Hon. Mark Lomunokol, MP
 - vi. Hon. Eric Keter, MP
 - vii. Hon. Andrew Mwadime, MP
 - viii. Hon. Robert Mbui, MP

MIN.NO.CRI/066/2016: CONSIDERATION OF BILLS FROM EALA

The Legal Counsel briefed the Committee on EALA Bills as follows:

THE EAST AFRICAN COMMUNITY COUNTER-TRAFFICKING IN PERSONS BILL, 2016

The object of this Bill is to provide a legal framework for the development of common measures, strategies and programmes related to preventing trafficking in persons, protecting the victims and persecuting the perpetrators of trafficking. It also aims to develop partnerships for co-operation in counter trafficking in persons and provision of protection mechanisms and services for persons between Partner States. The Bill sets to operationalize the Palermo Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the united nations convention against transnational organized crime, which all EAC Partner States are signatory.

Part I- Preliminary provisions (Clauses 1-4) – of the Bill provides for the preliminary provisions including short title, commencement of the Act, interpretations, objects of the Act and offences related to trafficking in persons.

Part II (Clauses 5-9) - deals with prevention, cooperation and other measures to be undertaken in trafficking in persons.

Part III (Clauses 10-12)-provides for the protection of victims of trafficking in persons and in particular providing for assistance, status and repatriation of victims of trafficking in persons.

Part IV (Clauses 13-18) - provides for the prosecution of the offence of trafficking in persons. This part provides for the prosecution of the offences to be in accordance with the laws of the respective Partner State. It also provides for the establishment of the East African Counter trafficking in persons unit, its functions and regulation of its procedure. Miscellaneous provisions such as compliance with the Act and regulations etc are also included in this part.

SPECIFIC OBSERVATIONS

Clause 2

- (a) In the definition of child, the word “shall” should be deleted as it is misplaced. The definition should therefore read “Child” means any person under eighteen years of age”;
- (b) In the definition of “exploitation”-
 - (i) the word “shall” should be deleted in order to conform to the accepted style of drafting. The definition may be read as “exploitation” includes at a minimum.....”
 - (ii) the word “forms” appearing immediately after the words “or other” is misspelled and should read as “forms”;
 - (iii) the word “ot” appearing immediately after the word “servitude” should be deleted and replaced with the word “or”;
 - (iv) the repeated definition of “exploitation should be deleted;
- (c) in the definition of “protocol” the year in which it came into force has not been indicated, the year being 15th November 2000;
- (d) in the definition of “trafficking in persons” the word shall should be deleted. The definition may be read as “trafficking in persons” means the recruitment, transportation....”;
- (e) insert the meaning of “Council” to mean the Council of Ministers established by Article 9 of the Treaty since the term has been used in the Bill.
- (f) The practice of the words being written alphabetically has not been adhered to.

Clause 3

The word “and” should be inserted immediately after the word “human rights” in paragraph (b).

Clause 4

- (a) The word “if” appearing immediately after the words “the offence” should be deleted as they are misplaced and substituted with “of “in subclause (1);
- (b) Insert the word “and” immediately after the words “an offence” in subclause (5) for clarity;
- (c) Insert the word “to” immediately after the words “be liable” in subclause (6) for clarity;
- (d) Correct referencing of clause (4). Delete the repeated numbering Subclause (2) and (3) and substitute with the correct numbering subclause (7) and (8). This is for ease of reference; and

- (e) In the repeated subclause (3) delete the word “supplementing” appearing immediately after the words “women and children” and substitute with the word “which supplements”.

Clause 5

- (a) By deleting the letter “o” that appears immediately after the word “and” and substituting with the word ‘to’ in paragraph (i). This is to correct grammar;
- (b) The word “woman” appearing immediately after the words “persons especially” should be deleted and substituted with the word “women “in paragraph (vi) ;
- (c) By deleting the full stop appearing after every paragraph and substituting with a semi-colon to coordinate the series of words or paragraphs and by inserting the word “and” immediately after the word “opportunity” in paragraph (vi)

Clause 7

In sub-clause 3 the word “including” and “emans” should read as “including” and “means” respectively. This is to correct grammar.

Clause 8

The use of the word “state party” should be abandoned because the entire document refers to “Partner State” other than State Party”

Clause 9

The use of the words “reasonable time” is vague and as such the period of ascertaining whether the validity of a document should be pegged on the date of receipt of such request giving a defined period.

Clause 10

In subclause (2) by inserting the word “and” immediately after the word “proceedings” in paragraph (a)

Clause 12

- (a) In subclause (3) by deleting the words “in its residence” for clarity purposes and comprehension; and
- (b) In subclause (6) the word “retrun” should be deleted because it is not grammatically correct and replaced with “return”

Clause 14

- (a) The appointment process of technical experts should be done in a competitive and transparent manner.
- (b) The representatives from lead offices and inter-agency task forces both of government and non-government should be listed for clarity purposes.
- (1) By deleting the phrases: “harmonisation of laws? Advisory Committee, Exchange info. See protocol.....appearing at the end of the Bill.
- (2) The arrangement of clauses section does not conform to the common drafting style.

- (3) There is need to include the other contemplated parts of the Bill as provided for in the arrangement section.

THE EAST AFRICAN COMMUNITY DISASTER RISK REDUCTION AND MANAGEMENT BILL, 2013

The object of this Bill is to provide a legal framework on disaster preparedness, mitigation and recovery. The Bill provides for the protection of the rights of an affected person by a natural or manmade disaster. It further establishes bodies that will manage disaster risk reduction in East African Community such as the East African Community Disaster Risk Reduction and Management Authority, East African Community Disaster Risk Reduction and Management Board and East African Community Disaster Risk Reduction and Management Unit.

Part I (Clauses 1-3) – of the Bill provides for the preliminary provisions including short title, commencement of the Act, interpretations and object of the Act;

Part II (Clauses 4-18)–provides for operational principles and guidelines for disaster risk reduction and management. Some of the principles set out are humanity, neutrality, independence, impartiality and non-discrimination.

Part III (Clauses 19-28) - provides for the institutional measures set out. The Bill envisages the establishment of an Authority, a Board, a unit and a fund that will manage disaster risk management and reduction at the regional level.

Part IV (Clauses 29-33) - provides for the roles and responsibilities of Partner States and submission of annual reports to the Council. It also provides for regulations to be made by the Council for the better carrying out of the Bill.

Clause 4

In the marginal note, the words “ comprehensive disaster risk reduction and management...” the words left as they are hanging therefore there is need to include the word “measures”;

Clause 10

The use of the word “leave” in subclause (2) and (3) creates confusion. The word may be replaced with the word “depart” as it has been used subclause (1) and it further portends consistency.

Clause 17

Insert the word “to” immediately after the word “right” in subclause (1). This is to correct grammar.

Clause 22

Subclause (2) paragraph (a) makes reference to Permanent Secretaries but other Partner States such as Kenya uses Principal Secretaries. This should be taken account of.

Clause 23

Clause 23 (2) (c) "prepare plans to be approved by the Authority" is vague. There is need to specify that these plans are in respect to disaster risk reduction and management and the implementation of the Bill.

Clause 25

Clause 25 (2) "the Unit shall comprise technical experts in Disaster risk and management appointed by the Council. There is a need to clearly state the number of experts required qualifications, terms of office and functions.

In the heading "Miscellaneous provisions" are Part IV and not Part VI as stipulated on page 19.

THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT (AMENDMENT) BILL, 2016

The objective of the Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the implementation of the Act especially on the commitments made under the protocol establishing the East African Customs Union.

Clause 2

The Bill intends to amend section 112:

It should read as follows;

2. Section 112 of the East African Community Customs Management Act, 2004 hereinafter referred to as the "principal Act" is amended by deleting subsection (2) and replacing it with the following new subsection-

"(2) Preferential tariff treatment shall be applied to goods referred to in subsection (1) (a) up to the date to be determined by the Council.

Clause 3

3. Section 252 of the principal Act is repealed.

Having considered the brief, the Committee requested the legal counsel to prepare a comprehensive highlights on the observations made from the Bills.

MIN.NO.CRI/067/2016: ANY OTHER BUSINESS

The Committee resolved to postpone the proposed visit to the Boarder posts from June to August 2016.

MIN.NO.CRI/068/2016: ADJOURNMENT

The meeting was adjourned at 1.30pm.

SIGNED..........DATE 28th June 2016.
CHAIRPERSON