



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

SECOND MEETING - 1ST SESSION - THIRD ASSEMBLY

Wednesday, 12 September 2012

*The East African Legislative Assembly met at 2.30 p.m. in the Old
Chamber of the National Parliament of Kenya, Nairobi, Kenya.*

PRAYER

(The Speaker, Ms. Margaret Nantongo Zziwa, in the Chair)

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. Members, I wish to express my regret and heartfelt condolences to His Excellency President Mwai Kibaki, the government of the Republic of Kenya and the citizens of the country following the clashes and outrageous killings that have occurred in Tana River County. The wave of violence and clashes in the Tana River area that has claimed over 100 lives is

unfortunate and worrying and an act that should be, forthwith ceased.

On behalf of East African Legislative Assembly and on my own behalf, I plead with the government to do all that is possible within its means to immediately stem the communal bloodshed. We further appeal to the government to arrest and prosecute the perpetrators of the violence.

We commensurate with the families who have lost their lives and who have lost their dear ones and we pray for the speedy recovery of the casualties. We call on the citizens in the area to remain calm and to refrain from any acts of lawlessness as the government continues to investigate the raid.

I wish to assure the Head of State and the people of Kenya of our support and solidarity as an Assembly.

PAPERS

The Chairperson, Committee on Communication, Trade and Investment

(Ms Angela Kizigha): I beg to lay on the table the report of the Committee on Communication, Trade and Investment on investment promotion, industrialisation, policies and strategies in the East African region. Madam Speaker, I beg to lay.

MOTION

THE REPORT OF THE COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENT ON INVESTMENT PROMOTION, INDUSTRIALISATION POLICIES AND STRATEGIES IN THE EAST AFRICAN REGION

The Chairperson, Committee on Communication, Trade and Investment (Ms Angela Kizigha: Madam Speaker, I beg to move that the report of the Committee on Communication, Trade and Investment on investment promotion, industrialisation policies and strategies in the East African region be adopted. I beg to move.

The Speaker: Secunder? Hon. Ngenzebuhoro, hon. Hajabakiga and hon. Mathuki. Chairpersons of the committee, proceed.

Ms Kizigha: Rt hon. Speaker, the Treaty for the establishment of the East African Community emphasises a people centred, market driven...

Rt. Hon. Speaker, the Treaty for the establishment of the East African Community emphasizes a people centered, market driven and private sector led integration process through investment promotion. It also provides for cooperation in industrial development to attain sustainable growth and development of the Partner States by promotion of a more balanced and self-sustaining industrial growth in the region.

The Partner States undertook to improve the competitiveness of the industrial sector to enhance the expansion of trade in industrial/manufactured goods within the region guided by the Industrialization Strategy. In this regard, the EALA CTI Committee organized a workshop on investments and industrialization in the EAC from 29th -31st, August 2012 in Kigali, Rwanda.

Objectives of the Workshop

- (i) To inform Members on the status of the investment and industrialization policies and strategies in the Community;
- (ii) To identify associated opportunities and challenges;
- (iii) To come up with recommendations for the EAC region.

Output of the Workshop

Madam Speaker, the workshop provided a platform for the Committee members to understand what has been done and the current activities in terms of policies and strategies to improve the investment climate and promote industrial development including the associated opportunities and challenges in the EAC region.

Participation

The Workshop was attended by the Committee members, public and private sector stakeholders and these included; Partner States Ministries of EAC Affairs and Trade, Private Sector Federations, Investment Promotion Authorities, National Parliaments, East African Business Council and EAC Secretariat.

Welcoming Remarks by Hon. Angela Charles Kizigha, Chairperson of the EALA CTI Committee

The Committee Chairperson highlighted that the importance of investment promotion and Industrial development is critical for the socio-economic transformation of the peoples of East Africa, and thus, EAC Secretariat and Partner States are undertaking

strategies to improve the business environment and promote industrial trade and investment in the region.

She noted that the workshop was a timely intervention as it comes when the world is facing critical challenges such as the global economic crisis, high cost of energy, poverty, and environmental sustainability. She therefore hoped that the discussions from the platform would play a significant contribution to the regional policy formulation and implementation in the Community.

Opening Remarks by Hon. Monique Mukaruliza, Minister for East African Community Affairs, the Republic of Rwanda.

In her opening remarks, the Minister underscored that integration significantly boosts inflow and intra investments in the region business through proactive national and regional strategies as the region is overflowing with potential ranging from agriculture, mining, tourism, Energy. To this, Partner

States must act to elevate the East Africa's profile as an investment hotspot.

She re-affirmed that the EAC integration through the Common Market freedoms and the implementation of EAC Industrialization Policy and Strategy would pave way for structural transformation and industrialization in the Member States.

Hon. Mukaruliza stressed that the implementation of the EAC Competition Policy and Law can enable the Community's competitiveness at the international level, once the region's competition constraints are addressed within Partner States and at a regional level.

She hoped that the workshop will reinforce the recently developed strategies and policies and come up with innovative solutions to enhance regional investments and industrialization development.

PRESENTATIONS AT THE WORKSHOP

At the workshop, a number of papers were presented with respect to investments and industrialisation in the region, and these include the following:-

Presentation on "Investment Promotion and Private Sector Development in the Region", by Mr. Frederick Owiti, Principal Economist in the EAC Secretariat

Mr. Owiti pointed out that Article 80 of the Treaty establishing the EAC prioritizes the harmonization and rationalization of investment initiatives and incentives aimed at promoting the Community as a single investment area.

To actualize the treaty provisions on investment promotion, the EAC Development Strategies emphasizes the need to implement programmes and initiatives aimed at improving the business environment in the region if it is to attract the foreign investments.

EAC has developed a Model Investment Code; however it is soft instrument which is not binding. This code is aimed at guiding Partner States interventions in investment promotion. Compared to other regional investment facilitation and promotion mechanisms therefore, it is limited in scope, coverage and capacity.

He highlighted on the activities the Secretariat currently undertakes:-

- (i) Studies with the aim of coming up with a legal framework in consonant with the Treaty and the Protocols on Customs Union and Common Market;
- (ii) Holding of EAC annual Investment Conference and also establishment of a Sectoral Committee to spearhead Investment Promotion matters;
- (iii) EAC Business Guide and the 1st EAC Investment Report will be produced which will give an outlook on investment flows and volumes among Regional investors;

- (iv) Develop an EAC Private Sector Development Policy and Strategy (PSDS-2012-2016);
- (v) Develop an EAC Public-Private Partnership (PPP) framework assisted by the World Bank Group. A PPP diagnostic study was undertaken to examine the regional approaches and solutions to PPP investments. The Draft final report validated by stakeholders will be tabled to the multi-sectoral council for guidance scheduled for October, 2012.
- (vi) Develop a dialogue framework for Private Sector engagement and other interest groups in the EAC Integration agenda.

In spite of the above initiatives, the Secretariat faces the following challenges:-

- (i) Human and Financial Capacity;
- (ii) Getting Partner States to agree on legal binding matters;
- (iii) There is cut-throat competition for scarce investment resources; this becomes worse when Partner States offer non-fiscal incentives like providing free land, unlimited tax holidays and government subsidies.

- (iv) The EAC Investment Code is a soft instrument that is not binding.

The Presenter appealed to EALA as follows:-

- (i) To give support at all levels, the initiatives of promoting EAC as one-market-one investment destination such as EAC Investment Conference.
- (ii) To enact regional laws pertaining to investment promotion and private sector development.

Presentation on the "Effect of East Africa Customs Union on the Regional Investments", by Mr. Micheal Lugaiya, Directorate of Trade and Customs, EAC Secretariat

Mr. Lugaiya highlighted on the objectives of the EAC Customs Union which include; promote efficient production, investments, economic development and diversification in industrialisation in the Community. The EAC Customs Union requires Partner States to liberalise trade, simplify and harmonize the Customs Administrative procedures.

He noted that the effect of the Customs Union on Regional Investment can be seen through the implementation of Customs Laws and Programmes by Partner States. However, Partner States have not yet fully domesticated the customs laws, duty remission schemes and the implementation of the Common External Tariff and yet, there is already an increase in cross border trade and investment.

Challenges facing the Custom Union Implementation:

- (i) Counterfeiting;
- (ii) Cost of producing and doing business in East Africa is high due to poor infrastructure and high cost of energy;
- (iii) Un harmonized customs policies in the Partner States and it is worse with the introduction of EAC Common Market;
- (iv) A number of NTBs have been removed while others introduced.

**Presentation on the "Success of the Regulatory Reforms for Economic Growth. Rwanda's Experience (Ease of Doing Business)"
by Mr. Karim Tushabe, Rwanda Development Board**

In his presentation Mr. Tushabe stressed that effective reform requires clear vision, committed leadership and capable institutions reinforcing rather than undermining each other.

He noted that Rwanda is one the global reformers that have excelled in the ease of doing business not only regionally but also in the World. For Rwanda to achieve this, all the country's reforms were guided by its clear vision 2020, strong zeal and commitment at all levels.

He mentioned that Rwanda has achieved the following through the *Doing Business Reforms*:

- (i) Reduced time frame for Company registration, increased employment and savings through social security registration;
- (ii) Commercial courts established;

- (iii) Key services online (e-registration of companies, collaterals, cases, land, construction permits , portal and payments);
- (iv) Overall; the business environment improved.

Rwanda has a number of lessons in doing business and investment reforms to share with the rest of EAC Member States:-

- (i) High level support is critical;
- (ii) Reform boldly and broadly;
- (iii) Develop automated systems for greater efficiency;
- (iv) Private sector engagement is key;
- (v) Reforms should benefit all (non- business as well);
- (vi) Learn best practices from others and Strong commitment for self improvement.

Mr. Tushabe observed that although the business environment has improved in Rwanda; it still faces a number of challenges. These include;

- (i) Enhancing entrepreneurship and innovation to sustain businesses;
- (ii) Expanding access to credit and reducing rates to borrowing;
- (iii) Addressing skills and capacity gaps;
- (iv) Modernizing electronic transactions payment systems;
- (v) Addressing infrastructure bottle necks(Energy, transport, ICT to cut down high costs; and
- (vi) Addressing non-tariff barriers beyond our borders.

Presentation on "Adoption of Common Policies, Rules and Practices in the East African Region" by Mr. Andrew Kaggwa Luzze, EABC

In his presentation Mr. Andrew Kaggwa remarked that the adoption of common investment policies, rules and practices will provide legal and regulatory framework for investments within the EAC. This will enable the region to operate effectively and efficiently to access economies of scale in preparation to compete at multilateral level.

The analysis of the investment regimes in East Africa shows:-

- (i) Variation in the National Blueprints/visions where Kenya has vision 2030, Tanzania has vision 2025, Rwanda has vision 2020, Burundi has vision 2025 and Uganda has vision 2040;
- (ii) Lack of comprehensive investment policies because numerous policies related to investment are scattered in different documents;
- (iii) Variation in Entry requirements and procedures - Eg. Differing minimum capital investment thresholds;
- (iv) Differing Incentive Regimes - different fiscal and financial incentives offered to investors by Partner States;
- (v) Differing Tax Systems;
- (vi) Un harmonized implementation of Investment related trade measures such as market access restriction and export promotion Zones (EPZs);

- (vii) Non-existence of competition regulatory measures in some Partner States and non-implementation of the EAC competition Act;
- (viii) Un harmonized capital market regulatory regimes - differing Withholding Tax rates on dividends and compensation of investors.

He emphasized that there is need for harmonization of laws of the EAC Partner States with a focus to make the region respond to the new international business trends in terms of cross-border exchanges of capital and trade flows.

He highlighted on the priority areas for investment policy harmonization as transfer pricing; a dispute settlement mechanism; taxation (Avoidance of double taxation and relief from double taxation); Competition regulation; investment related trade measures such as market access restriction and export promotion devices.

Presentation on "The Overview of the EAC Industrialization Strategies and Policies", by Mr. George Ndira, Principal Industrial Economist, EAC Secretariat.

Mr. Ndira stated that EAC Industrial Policy and Strategy have been prepared and approved by the Summit and Implementation Action Plan awaits approval by Sectoral Council on Trade, Investment, Finance and Industries.

The EAC Industrialization Policy looks at harmonization of sectoral policies aiming at avoiding harmful competition among industries ensure economies of scale attain balanced growth among Partner States; fostering of linkages and integrating production and achieve regional competitiveness.

The Policy has strategic regional industrial Sectors i.e Pharmaceutical; Energy and Bio-fuel; Petro-Chemicals and gas processing; Fertilizers, agro-chemicals and farm implements; Agro-processing; Extractive, Mineral processing, Iron & Steel.

The EAC Industrialization Policy and Strategy has the following policy action areas for implementation:-

- (i) On Development of Strategic Regional Industries (STIs), The policy action areas are to prepare protocol for harmonious and coordinated development of SRIs; Prepare Action Plan/frameworks for each SRIs; Center for the development of SRIs to established; A regional incentive framework to be established
- (ii) On Industrial Financing, The Policy intervention is to establish/strengthen regional industrial development banks and credit guarantee scheme to provide term financing for SMEs and other industrial projects.
- (iii) On Regional Industrial Data and Information Systems, The Policy intervention is to harmonise and institutionalize industrial data collection and dissemination through establishment of regional and national industrial observatories, industrial information portal and resource centres.
- (iv) On Facilitation of SME Development, The policy interventions include; establishment of a regional information portal on SMEs; Formulating a Regional SME policy and Charter;

Facilitating the development of SME clusters and business linkages for rapid growth of start ups and transition to formal business entities; Preparation of a web-based directory of SMEs containing information on business support services available.

- (v) On Industrial Research, Technology and Innovation, the policy focuses on preparation of an inventory of EAC successful technologies and innovations and organizing a regional technology and innovations Expos; Review of EAC intellectual property regimes and prepare a harmonized and regional IPR Protection Enforcement mechanism; Review of EAC Research and technology infrastructure, Setting up research and technology development fund as provided for under the Treaty.
- (vi) On Expanding Intra-regional Trade in Manufactures, the policy aims at; formulation of regional quality policy and certification systems to enhance intra-regional trade of goods manufactured in the region; development of the capacity of regional industries to meet international standards and quality certification requirements for the targeted markets; enactment of regional anti-counterfeiting legislation and institutional mechanisms for surveillance and monitoring of counterfeits within and from third parties; development of

industrial raw materials and inputs information systems; and formulation of regional export award scheme to recognize industrialists promoting intra-industry trade.

Mr. Ndira highlighted on the challenges in the implementation of the Industrialization Policy and Strategy as; Funding and Capacity Constraints, counterfeiting, second hand goods and dumping, Growing list of exceptions, Energy and infrastructure bottlenecks.

He called upon EALA to play the following roles in industrial development: to champion the advocacy for Industrial development and provide for the budget allocation to activities related to industrial development; set up a dedicated committee on Industrialization to facilitate more focused discussions on Industry and SME matters and Fast-tracking enactment of required new pieces of legislation or reforms in the existing legal frameworks to ensure smooth operation of industries.

Presentation on "Industrialization for Social-Economic Transformation in EAC", by Mr. Paul Edwin Mhede, Ministry of Industry and Trade, the United Republic of Tanzania.

In his presentation, Mr. Mhede underscored that Industrialization can foster social-economic transformation through technology-led productivity growth accompanied with rapid capital accumulation, Agricultural Development led Industrialization. He identified other indirect opportunities within industrialization that have a pull effect on other sectors such as, banking, communication, transport etc which are critical in poverty eradication and employment generation.

The presenter acknowledged that EAC has several advantages for Industrial growth such as political and social stability to attract FDIs, rich agricultural potential, and natural resources. However, there are challenges facing Industrialization: these include;-

- (i) Gaps in the Legal, Regulatory and Governance Frameworks manifested by lack of systems, coherent laws and regulations, to guide the industrialisation efforts;
- (ii) Shortages of Essential Industrial Skills portrayed by inadequacies in institutional capabilities to provide support services needed to backstop the process of industrialization;

- (iii) Poor Infrastructure which have significantly constrained accelerated development in all EAC Partner States;
- (iv) Insufficient research and development resulting into inappropriate industrial technology;
- (v) Limited access to Affordable Finance.

Presentation on "How East Africa can boost support to SME's: Lessons from emerging Economies", by Ms Yvonne Munabi, Uganda investment authority.

Ms. Munabi noted in her paper that emerging economies are nations with social or business activity in the process of rapid growth and industrialization. The big emerging and developing economies by GDP are Brazil, China, Egypt, India, Indonesia, Mexico, Philippines, Poland, Russia, South Africa, South Korea, and Turkey.

She briefly listed the advantages of SMEs in an economy as follows:

- (i) Support supply value chains e.g in Singapore, 99% of the enterprises are SMEs;

- (ii) They employ high percentage of the labour force and contribute to the Economy's GDP;
- (iii) SMEs fill in the "missing middle" in the global value chains, and make it cost effective for players in the economies;
- (iv) Operate mainly in manufacturing, services;
- (v) They are flexible, innovative and less risky on failure.

However, she indicated that generally SMEs face challenges as well, and these include:

- (i) No structure or system, they are normally family owned;
- (ii) Limited specialization and knowledge;
- (iii) Lack of Capital; and
- (iv) Small market access.

Lessons learnt from emerging Economies:

- (i) Define Key performance Drivers for SME's: innovation and technology adoption; Human Capital Development; Access to

financing; market access to their goods; legal and regulatory environment; and infrastructure.

- (ii) Strive for Sustainability and Longevity by acknowledging the power of a shared vision at all levels, Update the vision whenever there is change, recognise the value of family and gender roles, recognise importance of the environment, avoid waste, recycle everything possible, constant research, innovation and learning and be financially conservative.
- (iii) Having strategies that Boost SMEs growth: Cluster based development approach, Government purchase of SME products rather than importing products from China or elsewhere which may be of less quality compared to the one made in the region; Business Linkages and National Branding.

How East Africa can Boost SMEs:

East African countries may adopt the lessons learnt from emerging economies and boost SMEs in the region through:-

- (i) Providing support opportunities for SME's such as outsource, franchise or license and also provide market for

their products - reserve a percentage of government procurement for SMEs,

- (ii) Attract FDI with a high potential to create business linkages and opportunities for SMEs e.g oil, gas, metal, and industrial services;
- (iii) Improve infrastructure such as energy, transport, communications to support business activities at minimal cost;
- (iv) Define strategically competitive sectors and invest in human capital with respect to those sectors without duplication;
- (v) Encourage Brand Development "made in East Africa" and commercialise the traditional products.

Observations

Madam Speaker, from the presentations made, participants noted quite a number of observations on investment promotion and industrial development in the EAC region, these include:-

Investment promotion:

- (i) Lack of seriousness and commitment on the issue of timeline for implementation of the activities and programs,
- (ii) Reluctance on enforcement of laws of the Community.
- (iii) The EAC Model Investment Code needs to be transformed into legally binding instrument that incorporate the existing principles of the Community laws.
- (iv) The other EAC Partner States should emulate the Rwanda's Model on doing business and investment reforms to reach the aspirations of Integration.
- (v) There is a need to harmonize and regulate tax and tax incentives given to FDIs as there is huge sum of money lost on tax holidays i.e Tax holidays, Custom duty exemptions.
- (vi) Need for a mechanism to empower institutions like EAC Secretariat and Embassies of Partner States to create awareness, sensitize and attract investors to East Africa.
- (vii) Extractive Industries is an area that needs to be explored by promoting investment and improve the countries capacity in negotiating fare deals.
- (viii) Harmonization of investment laws is necessary as investors look at a larger market and also a harmonized vision for

East Africa which is quantifiable, time-bound and achievable.

(ix) The EAC Competition Law is not implemented.

Industrialisation:

- (i) Energy Master Plan needs to be implemented to cater for the regional needs.
- (ii) Coordination is required in the Research & Development (R&D) Sector as there is a number of overlapping R& D institutions in the Region.
- (iii) Man power survey is necessary to identify the skills gaps vis a vis mobility of specialists in the region.
- (iv) Laws on consumer protection need to be looked at, to identify the quality of goods put on the market.
- (v) Governments should support and promote industries and SMEs in the region through buying/procuring products from the local industries in the Region.
- (vi) The Members of EALA and Heads of States should have a strong political will and shared vision in the

implementation of the strategies and recommendations suggested by the presenters.

- (vii) Un harmonized Visions for EAC Member States i.e Kenya vision 2030, Tanzania Vision 2025, Rwanda Vision 2020, Burundi Vision 2025 and Uganda vision 2040.

Recommendations

Madam Speaker, the Committee recommends as follows:-

- (i) The EAC Investment code should be upgraded to a Law which is more binding to discipline investment promotion in the Community;
- (ii) Partner States should align their policies in accordance with the regional industrialization policy framework;
- (iii) Effective implementation of Customs Union and the Common Market Protocol should be undertaken;
- (iv) The Industrial Policy and Strategy should be implemented at both regional and national level;

- (v) Members of EALA should be at the fore front in championing the industrial development and investment promotion matters;
- (vi) Encourage local and strategic industries by supporting and promoting them through incentives so as to promote industrial development in the region;
- (vii) Energy Master Plan should be implemented and mobilize resources for its implementation;
- (viii) A uniform Industrial protection policy should be developed and dispute settlement mechanism be developed to deal with potential disputes;
- (ix) Implementation of the EAC Competition and the SQMT Acts should be undertaken;
- (x) A Regional Investment Promotion Authority to oversee and help the national investments should be established;
- (xi) Harmonize the capital markets and all various tax rates related to capital markets as well as capital threshold requirements;
- (xii) Develop a harmonized Vision for EAC which is SMART;

- (xiii) Develop the strategy to boost SMEs;
- (xiv) EAC Secretary and Embassies of Partner States should be empowered to create awareness, sensitize and attract investors to East Africa.

Conclusion

Hon. Speaker, the CTI Committee concludes that successful regional investments and industrialization for socio-economic transformation will depend on the; -

- (i) EAC relentless focus on high Prioritization of impact areas;
- (ii) the implementation of investments and industrialization policies and strategies;
- (iii) A strong, stable and predictable political and macro-economic framework;
- (iv) Adherence to principles of governance particularly zero tolerance to corruption, but above all;
- (v) A complete change (whether drastic or gradual) of the mind-set in the way of doing things in necessary, and the

regional specificity to exploit its natural riches and emerging opportunities is key to shaping industrialization and socioeconomic transformation of East Africa.

Acknowledgements

- (i) The CTI Committee extends thanks and appreciation to RT. Hon. Speaker for yet another opportunity accorded to the committee to hold this important workshop on these critical areas of keen interest for EAC integration.
- (ii) Special thanks go to National Assemblies for their representation and participation in the workshop and look forward to the continued cooperation on many more platforms of this nature on areas of interest for the region.
- (iii) The Committee is indebted to participants particularly those from Partner States Ministries of EAC Affairs, Trade and Industry, Investment Promotion Authorities, EABC and EAC Secretariat for their effective participation and knowledge sharing they exhibited at the workshop.
- (iv) The Committee is so grateful to the facilitators for their wonderful presentations which successfully fulfilled the

objectives of the workshop with regard to investments and industrialisation policies and strategies in the East African Community.

Madam Speaker, I beg to move

The Speaker: Thank you very much, hon. Angela Kizigha, Chairperson of the Committee on Communication, Trade and Investment. Hon. Members, the motion on the floor is that the report of the Committee on Communication, Trade and Investment on investment promotion, industrialisation policies and strategies in the East African region be adopted. Debate is open.

Mr. Leonce Ndarubagiye (Burundi): Thank you very much, Madam Speaker for giving me the floor. I am not a member of this committee but I rise to make some few comments about the report which I will definitely support.

The first remark is that the committee came back to what had been agreed upon in the beginning about our Community; people centred, market driven, private sector led integration. It is

true but it cannot be static. At a given time, if need be, we may eventually also go back to state owned corporations.

The privatisation that has been taking place in our region did not bring the results that were expected and the reason is very simple. It has been done through pressure from outside and then from inside. One of the five Member States has been able to reach very good privatisation despite the pressure of the World Bank and IMF and that was Kenya. They used a very clever trick. They accepted to privatise partially.

When the World Bank came one year later, they found that the first privatisation was done by foreigners and 70 percent was done in the meantime by the people of Kenya. If we go capitalism, let us go domestic capitalist although I have some reservations about the capitalist system. Anyway but if we have to go that way, let us be local capitalists.

The other observation I would like to make is about the extractive industries. The question coming again and again is, do our minds belong to the country, to the people, to our government or to the multi nationals? I cannot give the answer here and now but you can guess.

The situation is such that even those countries that have plenty of wealth like Congo, Gabon, Niger still have the people very poor. So where does all the money from the minerals go? That is when I ask the question, who is really taking advantage of our God given riches? This is a very important question.

I can also give you an example in Africa as I was giving you the good example of Kenya. Botswana has made it sure that all extractive industries must be state owned by 51 percent. 49 percent can go to the multi nationals who have financial and technological capabilities.

I think we shall also look forward to the possibility of not inventing the wheel but copying what others have done successfully. I support the motion.

The Speaker: Thank you very much.

Mr. Frederic Ngenzebuhoro (Burundi): Thank you, Madam Speaker for giving me the opportunity to contribute to this important report. I indicate that I belong to that committee and I fully support the report.

Madam Speaker, when we talk about investment promotion, we mean that this can be done in a situation where the trade is free and fair. This has been fought by the signatories of the Treaty. I

would like to be clear. Chapter 11 talks about cooperation in trade liberalisation and development. This must be done through three stages. The first one which is in Article 74 is the East African Trade regime.

The second is the Customs Union regime of Protocol. The third is the Common Market and the last two; Customs Union and Common Market have been achieved through the protocols and we are proud of that.

But unfortunately, Article 74 about the East African trade regime has not been implemented until now. We can't talk about liberalisation of trade if this regime is not done. We can't talk about the realisation of the trade if this regime is not in place.

I would like to know why the Council of Ministers went to the implementation of Article 75 and 76 without implementing Article 74. That is why I would like to urge this House to recommend very seriously the Council of Ministers to implement that article and establish an East African trade regime. For me, it would be the best incentive which could bring investors in our region.

No one will come to invest here if he is not sure that he will be able to make free and fair trade. Any investment always targets trade. So probably it has taken too long to establish that regime but I think that it is now time and that is what I would like to urge.

I take this opportunity once again to fully support this report. Thank you, Madam Speaker.

The Speaker: Thank you very much, hon. Ngenzebuhoro.

Ms Patricia Hajabakiga (Rwanda): Thank you, Madam Speaker. I think it is my first time to take the floor in Nairobi. I wish to congratulate you, Rt hon. Speaker upon your election to be the head of this Assembly and the high office in the EAC.

I congratulate my colleagues, members of EALA for having been elected by their parliaments and also to have been sworn in the Assembly as members of the Third Assembly.

We wish to thank His Excellency President Mwai Kibaki and his government for having hosted us in Nairobi. Of course I also wish to thank the Parliament of Kenya, its Speaker Rt hon. Marende and our colleagues, members of the Kenya chapter for having been with us and for the hospitality we have received since our arrival in this beautiful city of Nairobi.

Rt hon. Speaker, I also want to thank you for the condolence message which you provided to the government and people of Kenya over the Tana events which are not very good and I wish to support you on that.

Having said this, I am a member of the committee and I did attend the workshop. Therefore, I will not repeat what has been said by our Chair but I only want to say a few things.

I was lucky to be a member of the Committee on Trade in the Second EALA and if you look at the recommendation which we are bringing, these are not new recommendations but these are recommendations which have been coming on and on under the Committee on Trade and also from other committees.

We were encouraged that we need to push and continue to push as an Assembly hoping that one day the aspirations of East Africans will be realised. Let me look at only two issues. One is the issue of non-tariff barriers which keeps on coming up and I have seen there is also a question on that. When we were in Kigali I asked, what is so critical about non-tariff barriers? We have been addressed by all five heads of state. We have had the Council of Ministers complain, the Parliament complains, all Parliaments both the EALA and national parliaments on non-tariff barriers. The business community complains.

Now who is in charge of EAC? What is the problem because if all of us right from the head of state up to the common man down at the borders are complaining about non-tariff barriers? Who is in charge? Who brings those non-tariff barriers? It is a question which is very difficult to comprehend and I hope that probably this will be our last meeting when we are complaining. We hope that the Council of Ministers will come next time telling us that there are no more non-tariff barriers. For me that is a really disturbing issue because I don't understand why we should be complaining when we are the decision makers right from the top down to the small man everybody complains. That is one issue.

The second issue is that you know we have these emerging economies which have been enumerated in this report. They were where we are just a few years ago and we are told it is just a question of commitment. I hope that Africa and East Africa in particular should not continue to be called dark and black continent which cannot move. It all requires political will and hard work because we do have resources. We actually have more resources than those countries we are talking about. So I believe that we will continue to pledge our support as an Assembly and also urge our governments that they take it up and

that we really work hard to make our people live better than the way we are living today. Thank you Rt hon. Speaker for giving me this time.

Ms Dora Byamukama (Uganda): Thank you, Madam Speaker. I am a member of this committee and in your wisdom thank you for picking me. Like hon. Sebalu said yesterday, sometimes members of the committee have some insight which can also give other members ideas to internalise reports better so I thank you again.

I want to highlight certain points which have been made in the report and Madam Speaker, allow me to point to the recommendations. When you look at the recommendations, you will find that the very first recommendation highlights the need for an EAC investment code. As you may have heard in the report, what is in existence is an EAC model investment code which is non-binding. The committee was concerned that for all these ten years, you have a model code which is not binding and therefore which only serves maybe academic purposes and yet we are talking about investing in the region for better livelihood of the people.

So Madam Speaker, I would like to highlight this point. It is very important that the Council of Ministers ensures that we

have an EAC investment code to deal with the challenges which have been highlighted. One of the challenges highlighted which I would like to note is that on tax holidays. You will have one Partner State giving certain incentives and then you will have another Partner State giving tax holidays maybe for a year and another one for another three years and another maybe for four years.

Obviously this discord makes it difficult for investors to come and invest in the East African Community and therefore we think that this is very important and that it will help us harmonise tense aspects.

The other aspect I would like to highlight is that we do have a regional industrialisation policy framework and we do have a Competition Act but when you look at the Competition Act, you will find that one of the few amendments that were brought to this House were merely to ensure that Rwanda and Burundi are included instead of maybe informing the House that a Competition Authority had been put in place.

Now why is a Competition Authority very important? It is very important right now because it will support fair trade. It will also help us when it comes to issues of competition with other products which are being used in the Community. In fact one of

the presenters said that we have allowed free movement of goods but the goods which are being freely moved in the East African region are those which are made in China and that most of us even here you may find that what you are wearing is made in China but we do not have goods which are made in East Africa nor do we seem to be proud that our goods which are made in East Africa are of good quality.

So I think we as East Africans need to look at this very critically. When we say free movement of goods, which goods are freely moving in East Africa? Is it East African goods or goods made elsewhere?

Madam Speaker, apart from the points which were raised by my colleague hon. Patricia, I think the issue of commitment- Maybe she was a little bit shy and seriousness are very important because when you look at what was presented by the Republic of Rwanda, you will find that in the East African Community we have a model economy and this model economy is showing that it is possible to make things happen. For example they have shortened the time within which you can register a company but we also noted that if this good model does not roll out this best practice in the East African Community, even this model's work

will no longer shine because it will be pulled down by the other countries in the East African Community.

We insisted that we should be able, as Partner States, to borrow some examples from the Republic of Rwanda on how it has been able to fare very well in this area and that we should be able to roll out this particular good example so that the whole of East Africa can also be cited as a role model in the whole world.

Finally Madam Speaker, comments are being made about challenges of NTBs but when you look at the report, you will find that there are other challenges which keep on recurring and one of these is poor infrastructure. I am glad that you have always highlighted the issue of the railway. The other is the high cost of energy. I would like to dwell on the issue of the high cost of energy. I think this House should be able to find out from the Council of Ministers as to how far the plan to have the railway which can transport goods to the whole of East African Community has gone and when we should be able to have this infrastructure of the railway in place so that it can mitigate on this challenge.

On the issue of high cost of energy, several proposals have been made. Each East African country jubilates when they discover oil

but we have an East African Energy Master Plan. Where is this master plan? How do these oil discoveries feed into the master plan and how can we also tap into other sources of energy? For example I know we have geo-thermal in the Rift Valley. What is happening? I hope that at some point the Council of Ministers will be able to give us a report on these issues which keep on recurring so that we are able to inform our people and to give some hope to SMEs which may want to come up and take advantage of what we need to do.

Finally as I said is the issue of branding development made in East Africa. I think this is a very important point. We have tea, we could say made in East Africa and at the bottom maybe grown in Burundi if you want to retain our sovereignty but I believe that if we do not brand our goods as made in East Africa, it will be very difficult for us to continue saying that we are actually working towards an East African integration.

Linked to this is the East African Joint Trade Negotiations Act. This is very important because when you talk about investment, people will invest in order to also trade and we are made to understand that the operationalization of this law was halted. I am glad that we have the honourable Council to the Community

here. Maybe he will be in position to give us the status on what is happening to the East African Joint Trade Negotiations Act.

With these few comments, I support the report and I hope all members will do likewise. I thank you.

The Speaker: Thank you very much, hon. Dora. I want you all to know that we should rationalise the time today so that we are able to finish our agenda.

Ms Nancy Abisai (Kenya): Thank you very much, Madam Speaker. I think before I say anything, this must be my maiden speech. This is the first time I am speaking since we were elected so I take this opportunity to congratulate you, Madam Speaker on your election to this high office and for your able leadership that you have been showing so far.

I would also like to congratulate my colleagues for having been elected as members to the East African Legislative Assembly and to the support from the Council of Ministers, the President and the chairperson and the national assembly.

Having said that, I want to declare that I am also a member of this committee and so I am going to be brief because I wanted to just re-emphasise two aspects that we deliberated on and discussed a lot on the committee.

I think it is important for us in terms of the discussions we are having maybe to note that industrialisation and socio-economic transformation is something that needs a complete change of mind set and the reason I say this is that in the committee we discussed the question of laws that have not yet been domesticated. What is the reason why the laws have not been domesticated? I think it is the idea of wanting to retain the status quo and that is why the report has also talked about aspects of adherence to principles of governance and especially zero tolerance to corruption.

May of the issues that have been highlighted and especially when we look at the Rwandan experience, it means that some of these things if there is complete will, it is easy and it is possible to be implemented. You look at for example if we talk about the harmonisation of our blue prints and it has been highlighted; Vision 2020, 2025, 2030, 2040. How will we achieve a common goal? I think this is again an aspect of mind set and not wanting to look at the bigger picture and yet still glued to the other picture at a national level. So even if it is gradual, I think those are some of the things that need to be looked at.

Of course world over you have seen countries that have promoted small and medium enterprises have been able to increase the

level of the GDP and even in terms of the labour force and employment which is very critical to a country's development. So I think that in terms of looking at how to make sure that our region enjoys the support of the SMEs, it is important for us to look at how to make it easy for the ordinary person or the people who are coming out and especially the marginalised can be able to do business. It is those small and medium enterprises that grow an economy and I think it is important within the region that we need to make sure that those particular strategies and frameworks to facilitate small and medium enterprises have been implemented.

Madam Speaker, I would also like to add my voice to the brand East Africa example. If I may just give an example, when Kenya was struggling to brand itself, they introduced a concept of Brand Kenya. That Brand Kenya, the government put in a lot of resources both financial and human and they came up with a commission which I think managed to change the image of the country to a certain extent but I believe that this is something that can also work within the context of East Africa. So the brand East Africa concept is something that will go a long way in promoting a lot of aspects of trade and investments within the region.

Finally Madam Speaker, I would want to also look at the existing legal frameworks and whether they are being domesticated. Like I said as I started speaking, this is also calling for the complete change of mind set because if those laws have already been passed and they are not being domesticated then what is the reason?

There was a time somebody talked about at the risk of members being a House of lamentations which I think is not something that we want to do but we want to make sure that some of these things as they have been passed, agreed and adopted then we must lobby and champion for their implementation and domestication at national levels so that we can actually achieve the goal especially for boosting the economy and for making sure that trade and investment is something that can be increased especially within the cross border.

With that Madam Speaker, I support the motion. Thank you.

The Speaker: Allow me to invite the CTC and then Council to make a comment and then we wind up this area. Thank you.

The Counsel to the Community (Mr. Wilbert Kaahwa): Thank you, Madam Speaker for inviting me to make a contribution to the debate on this motion. Madam Speaker, I did not intend to make a

contribution because the report which has been ably tabled by hon. Kizigha the chairperson of the CTI Committee is very clear and succinct in the observations and recommendations the committee makes on the subjects of investment promotion and industrialisation in the East African Community.

However, I am prompted to stand before the House and avail the House with some information on some of the salient features which have come out of the interventions by different members during the debate.

The first point arose out of the contribution by hon. Dora Byamukama regarding the stage at which the implementation of the Joint Negotiations Act, 2004 is. While not trying to stifle members from raising a question to the Council of Ministers on this matter, let me inform the House that right at the beginning, the Council of Ministers appreciated the fact that joint negotiations by the five Partner States is the way to go as indeed recommended and directed by the Summit of heads of State who give general direction and impetus to the integration process.

The Heads of State did this in 2002 and the Council supported the enactment of the Joint Negotiations Act. There were a few problems associated with implementation which were noticed when

it came to implementation and the Council undertook to introduce an amendment Bill in the house on the Act so that implementation could be smoothed.

Madam Speaker, as we speak now, the legal input on the amendment Bill has already been done. An amendment Bill exists and at its 25th Meeting which was held in Bujumbura towards the end of last month, the Council of Ministers appreciated the need to introduce this amendment Bill and directed the Sectoral Council on Trade, Investment and Finance to make the final input into this Bill.

Madam Speaker, let me inform the house that the Chairperson of the Council has already informed the Rt hon. Speaker of his intention to introduce the Joint Negotiations Amendment Bill in the House in due course.

Madam Speaker, the report of the committee also makes reference to the implementation of two other laws which are relevant to the subject of the undertaking by the committee. One is the EAC Competition Law and in respect of which the committee very prominently refers to the need for consumer welfare and consumer protection.

The other Act is the SQMT Act. Madam Speaker, may I inform this House that the Standardisation, Quality Assurance, Meteorology and Testing Act, 2006 is under implementation through the established East African Standards Committee. The committee has been pursuing its obligations under the Act with regard to the subject of East African standards which are always approved by the Council of Ministers.

Regarding the Competition Act, let me first of all inform this august House that as far as consumer protection is concerned, the Act is eloquent in its part 8. It is produced for consumer welfare and provides for way sunder which matters like product safety; compulsory product recalls can be handled.

The only problem as far as implementation is concerned is that the Competition Authority which is provided under the Act as the institution to implement the Act has not been put into force. Arguments have been made that in some of the Partner State's there is lack of an equivalent authority on competition. The Council of Ministers is aware of this and it is addressing the matter on how to expedite the institutionalisation of the authority.

Much as some of the Partner States may be lacking an authority as such, they have under relevant ministries offices and

departments which handle competition and matters pertaining to competition like consumer protection.

Madam Speaker, with those few clarification I support the motion. I thank you.

The Speaker: Thank you very much, hon. Kaahwa. It looks like the Chair of Council does not have a comment. At this juncture I will invite the Chairperson of the committee, hon. Kizigha to wind up.

Ms Kizigha: Thank you very much, Rt hon. Speaker. Let me take this opportunity to express my gratitude to all members who have contributed to the discussion of this report in particular hon. Kaahwa, thank you very much for your very good answers. Hon. Frederic, hon. Patricia, hon. Dora, hon. Leonce and hon. Nancy, your deliberations are a clear manifestation that investment promotion and industry development are areas of keen interest in order for East African Community integration to yield tangible benefits to the citizens of the region.

As a committee, we considerably take note of your valuable contributions because they have improved on the content of our reporting. I beg the house to support and pass the report. I thank you.

The Speaker: Thank you very much, hon. Kizigha. Hon. Members, the motion on the floor is that the report of the Committee on Communication, Trade and Investment on trade and investment, on investment promotion, industrialisation policies and strategies in the East African region be adopted. I wish to put the question.

(Question put and agreed to.)

MOTION

RESOLUTION TO PAY TRIBUTE TO REMARKS BY H.E MWAI KIBAKI

Mr. Peter Mathuki (Kenya): Thank you, Madam Speaker. Madam Speaker, with utmost humility I beg to move that this Assembly do resolve to appreciate the remarks by His Excellency hon. Mwai Kibaki, Chief of Golden Heart, Member of Parliament, President and commander in Chief of the Defence forces of the Republic of Kenya and Chairperson of the East African Community Heads of State Summit.

The Speaker: Seconder? Hon. Bazivamo. Hon. Peter Mathuki, proceed.

Mr. Mathuki: Madam Speaker,

"WHEREAS Article 59 of the Treaty for the establishment of the East African Community empowers members of the Assembly to propose any motion in the Assembly and

WHEREAS the provisions of Article 59 of the Treaty are embodied in the Rules of Procedure of the Assembly and particularly in Rule 26

PURSUANT to Article 54(1), the Speaker of the Assembly may invite any person to attend the Assembly note with the understanding that he or she is not a member of the Assembly if in his or her own opinion the business before the Assembly renders his or her own presence desirable

AWARE THAT His Excellency President Emilio Mwai Kibaki, Chief of Golden Heart is the current Chairperson of the East African Community Heads of State Summit who has always expressed unwavering support for EAC integration

NOTING THAT His Excellency Mwai Kibaki CGH accepted the Rt hon. Speaker's invitation to address the East African Legislative Assembly on 4th September 2012 in which he delivered a fruitful speech which aimed at accelerating the EAC integration

FURTHER that His excellency the President called upon and encouraged the East African Legislative Assembly to forge

linkages with national assemblies in order to improve performance of the Community for ... special joint sessions of EALA and national assemblies, working together of different Partner States legislatures to ensure that the laws enacted by EALA and earns and complements national laws, collaboration of the Assembly and the Council of Ministers to deliberate more on mechanisms to initiate laws to enforce the expeditious implementation of the Customs Union and the Common Market protocol to enable citizens of the East African Community to reap benefits accruing from these significant pillars of integration and to ensure the fulfilment of the citizens desires, removal of non-tariff barriers so as to spur trade and call for effective communication of policies agreed upon across the region to enable the seamless flow of goods and services.

His Excellency FURTHER NOTED that Kenya has proceeded to reduce the Police and road blocks for transit cargo to ensure speedy movement of goods and services to the East African Community Partner States and that Kenya is keen to ensure smoother operation sat the Mombasa port and at the weighbridges.

NOTING that His Excellency the President Mwai Kibaki emphasised better mechanisms to contain the periodic droughts, floods and

other natural resources and challenged legislators to play their part in mitigating the efforts of climate change

DETERMINED to execute our functions as members of the Regional Assembly, Madam Speaker to ensure we realise prosperous, economically stable, secure and politically united East African and of course determined further to engage all organs and institutions of the Community to achieve the objectives of the Community as fast as possible and to a logical conclusion

NOW THEREFORE this Assembly resolves to congratulate His Excellency President Emilio Mwai Kibaki, Chief of Golden Heart, Member of Parliament for his achievements as the Chairperson of the East African Community Heads of State Summit and President of the Republic of Kenya, for his continued support for the EAC integration and that this resolution be passed on to the President by the Rt hon. Madam Speaker of this Assembly

Fully and unanimously supports the statement by His Excellency Emilio Mwai Kibaki delivered to this august House on 4th September 2012

Unanimously applaud and thank His Excellency the President Emilio Mwai Kibaki on the wise counsel on various aspects of integration as contained in his speech."

Madam Speaker, I beg to move.

The Speaker: Thank you very much, hon. Mathuki. I now invite hon. Christophe Bazivamo.

Mr. Christophe Bazivamo (Rwanda): Thank you, Rt hon. Speaker. I rise to congratulate and thank His Excellency Mwai Kibai for his very important opening statement which really gives us a clear orientation and clear commitment towards East African Community integration.

Rt hon. Speaker, I therefore support the statement and the motion.

Furthermore, in the integration process we have noticed that many decisions have been taken, protocols have been signed but a few in implementation have been achieved.

As we know, East Africa has an integration vision but you know it is said by wise leaders that a vision without implementation is hallucination. It is very important for this House and the Council to find ways to enhance implementation.

Rt hon. Speaker, I propose that the council of Ministers do think about incentives among other things established branded East African Community awards or prizes for well performing Partner States on one side but also parallel to think about ways

to implement sanctions where needed so that the highlights of the Chairman of the Summit in his statement can be implemented this time as wished.

Madam Speaker, I beg to support the motion, thank you.

The Speaker: Thank you very much, hon. Bazivamo.

Ms Shy-Rose Bhanji (Tanzania): Thank you, Madam Speaker. Since today is my first time to speak in this Assembly, may I avail this occasion to express deepest and most profound gratitude to His Excellency President Mwai Kibaki for sparing his precious time to come and inaugurate our Assembly and at the same time agreeing to host us in Nairobi under the auspices of the government of Kenya.

Madam Speaker, allow me also to express words of gratitude to His Excellency Jakaya Mwisho Kikwete, the President of the United republic of Tanzania who is also the Chairman of the Kyama kyamapenduzi, the ruling party as well as the central committee for endorsing my name for the candidacy in EALA election and also I thank all members of Parliament of the United Republic of Tanzania for voting me and my fellow colleagues from Tanzania to enable us to sit here in this august House.

(Applause)

Madam Speaker, I wish to congratulate you most heartily for being elected the first lady Speaker in this Assembly. You are now a great inspiration not only to us in this House but to every lady, young and old in East Africa and Africa as a whole. As we support you, Madam Speaker, we wish you a fruitful tenure in this challenging position. God bless you.

Having said that, Madam Speaker, please allow me to air my views on the motion to appreciate the remarks by His Excellency President Mwai Kibaki. I would like to dwell on two lingering issues. One is on the expedition, implementation of the Customs Union and the Common Market and the other one is on the use of Kiswahili language in our region.

I have not been able to lay my hands on any strategic plan that would ensure expeditious awareness among our people. The East African Community has to be people oriented. The East African Community has to be people driven. The East African Community has to be people centred for the whole idea of East African Community integration to become more meaningful, to become more effective and also to be more useful.

Madam Speaker, today we are sitting in this House to speak in the interest and on behalf of over 130 million East Africans under whom this Community was formed. We have been reminded time and again in many ways by our leaders that this Community must be citizens based. It would appear that we are satisfied with the trade statistics between our Member States and this is where my main problem is. But it is not only my problem; it is the problem and concern of EALA members sitting in this House. It is the problem of our Heads of State and this is what worries even the Heads of State.

Madam Speaker, if we were to analyse the trade statistics we will find or maybe come up with the very same traders who were doing business to capitalise the East African integration. That is good. In a way I don't have any problem to start with but after ten years, we have a duty to go beyond. We have to make sure that every East African is aware and is making or taking advantage of this Community.

The reason why I am concerned is because the masses have not joined the band wagon to take advantage. Trade is key to integration. If we want our people's lives to change, we have to give a special push on trade. Our women and the youth have a special role to play in small scale businesses now emerging and

easy to manage across East Africa. Why is it taking us so long? Over 130 million East Africans are looking up to us.

I want to commend all the efforts being done by all the founding leaders. I want to appreciate all the efforts by the Council of Ministers. I want to appreciate the members of EALA one and two but like my colleague hon. Sebalu said, let us take EALA three to the next level.

Madam Speaker, according to the *Hansard* of Monday May 24th 2010, page 700, his Excellency President Mwai Kibaki had said, "It is this Assembly that will come with programs to take the spirit of East African Community Union from the Summit and board rooms to the further points of our region. After all, people must see and feel the benefits of integration."

In the same year 2010, His Excellency President Kagame, during the 79th Sitting, Third Session page 534 of the *Hansard* said the following on the common Market, "It is important to educate our people about its merits and benefits and dispel lingering perceptions that may be false."

Madam Speaker, some East Africans have a very false idea about this integration. I am appealing to all of us here to help our people to get the right information and understanding about this

integration because if they get the wrong information or understanding then we will be going backwards everyday instead of going forward.

Madam Speaker, repeatedly when I read the *Hansard* I see this lingering concern by the Heads of State who know better than me. In my view, the presidents concerns are not in vain. They did not just wake up and dream about these problems. They get these views from the people. When people are complaining, the presidents; our Heads of State get to hear these problems and that is why time and again our presidents have been talking about this lingering issue.

Again that is why His Excellency President Mwai Kibaki has asked us to initiate laws to expedite the integration. If I may quote him, he said, "It is imperative therefore that this Assembly, the Council of Ministers collaborate on mechanisms to initiate laws to enforce the expeditious implementation."

Madam Speaker, in every problem there has got to be a solution. There is saying which goes, 'the king's request is a command.' And rightly so, His Excellency President Mwai Kibaki has directed us to collaborate even more to expedite on the implementation. Again I could not agree with him more on the

importance of the linkages between EALA and the national assemblies towards improving the performance of our Community.

If there is a direct linkage with our national parliaments, this will ensure a much wider awareness, interest, actions among our people at the grassroots level.

Madam speaker, we have been here and when we go to the canteen we meet our fellow parliamentarians of the Kenya National Assembly. Luckily, the National Parliament of Kenya is in this environment. Madam Speaker, like I said when we go to the canteen we do not even know each other and the whole idea of East African integration is to widen and deepen the integration. When I go to the canteen or in the neighbouring surrounding, I don't know who is a member of parliament. Maybe the challenge is also with us but I would like to challenge that it is not too late. Please we beg to get a formal introduction to the Kenyan Assembly and also it will be a good idea to start exchanging information amongst ourselves.

Having said that and I know I have taken a lot of time but please allow me very briefly to speak about the use of Kiswahili. I strongly support His Excellency Mwai Kibaki who encouraged the use of Kiswahili language in our region. With or

without East African integration, Kiswahili has always been a *lingua franca*.

Instead of reinventing the wheel on the tools of integration or rather speeding up the integration, let us embrace the use of Kiswahili in our day to day activities. We could use the products to brand them in Kiswahili and English but let us make sure that the use of Kiswahili has also a place in our products.

The media can also play a very important role in promoting the use of Kiswahili. It is not enough to have the media houses cater only for local coverage in the English language but also they should be and there is a wider market in East Africa in Kiswahili language.

Madam Speaker, for this I wish to congratulate and take note of the pioneering efforts made by some of the media houses in East Africa. These media houses have gone beyond local coverage and extensively promoted the use of Kiswahili. Here in Kenya we have the Nation Media group which have newspapers in Kiswahili. They also have some radio stations in Kiswahili so for this I commend Kenya.

In Uganda I am told there are also efforts from Kiswahili media association writers. They broadcast the news in electronic media

but the news bulletins are in Kiswahili. This is very commendable.

In Tanzania I commend IPP Group of Companies for a good initiative on East Africa TV and East Africa radio to promote the use of Kiswahili and to extend the coverage in the East African region. In Rwanda I want to commend all the radio stations. I am told all the radio stations in Rwanda have special programs in Kiswahili and they also have news bulletins in Kiswahili. However, Madam Speaker, I would like to call upon all the media houses in East Africa to increase their efforts even more so that the entire region at the end of the day Kiswahili becomes for national everyday usage.

Madam Speaker, to end my contribution I would like to stress the issue of awareness. Let us take the issue of awareness very seriously. At the moment awareness is at the urban areas, upscale traders, business men and amongst leaders. There is no tangible evidence that the common person in a remote area is aware about the Community. Let us take it as a challenge as five countries in East Africa to start a regional campaign to promote the whole idea of East African integration. I thank you, Madam Speaker.

The Speaker: Thank you very much, hon. Shy-Rose. I gave hon. Shy-Rose all that time because she declared that this was her maiden speech and I did not want to interrupt. I will end with hon. Ogle.

Mr. Abubakar Abdi Ogle (Kenya): Thank you, Madam Speaker. You will realise that I am perhaps the last person in the House to be making my maiden speech and I have done so deliberately because in the culture of the people where I come from, if something is routine or customary or usual that if you are supposed to repeat something, you either be the first or be the last speaker so that it carries weight and sense. That does not however belittle the contributions of the people who have made contributions in between.

It is in that regard therefore, Madam Speaker that I wish to take this opportunity from the onset to congratulate you most heartily for your election as the Speaker of the East African Legislative Assembly.

I also wish to congratulate my fellow members for the very rigorous way they have been elected to the House. I particularly appreciate the process I personally came through. I went through a by-election unlike most of the hon. members. It was a second

round election so I can understand how rigorous the whole process has been.

Coming back to the point about the president' speech, I had an opportunity along with my Kenyan colleagues to meet our President this morning once again. We had an opportunity to mingle with him and I will tell you something about His Excellency President Kibaki. I know him personally and he is a man who is not given to bureaucracy. He does not care about paper work. In fact when we discussed something to do with the facilitation of our chapter, he just gave instructions there and then. He could not understand that somebody had to write a Cabinet paper, it had to go through this process- he said, no that is not the way things should be done. We have agreed that you are members of east Africa so what is all this paper work about? It must be done there and then.

That is exactly his feeling about this entire East African thing. According to him, we had agreed, we met, we agreed that there was going to be something called East Africa so there are not going to be two ways about it. It must be this. When we talked to him about non-tariff barriers, you ask him that we have given instructions that these things be removed, why should they still be there? That is Kibaki's position. That is the

Kibaki I have known and that is the Kibaki I know now. I am sure that all the Summit members have this feeling. They were not coerced into being East Africans. They found it in their wisdom that they must be East Africans. It was in their interest and the interest of the people.

There are no issues about this but when I look at the entire process of the East African thing and I am just getting a feel of what is happening now, there seems to be a lot of paper work. In fact I do not want to forestall what is coming but I was just going through some answers which we are being given by the Council of Ministers. It was maybe deliberately wordy so that the whole meaning is lost. It is about ten pages of a very small thing. Somebody asks a question and it is deliberately wordy. I don't understand it but that smirks of unseriousness in the entire business.

I am sorry if I am a bit- whatever but there are three critical issues I could just glean from President Kibaki's speech. One he said we must be held accountable as Summit leaders. They say this, we are not doing it so we must be held accountable. I think that is a very good indication.

Secondly, President Kibaki mentioned something about a Joint Parliamentary Eastern Africa and International Parliament

interfacing with each other. I think that is a good development. The only country so far to my knowledge that has started or initiated a particular committee dealing with East African matters is Uganda. In Kenya for instance we are being dealt with at the level of a committee called Defence and Foreign Relations Committee, which has a very wide mandate and the East African thing is a very small bit of the whole issue.

The President also talked about the issue of ensuring that we promote Swahili as a national language. I am conscious of the fact that there could be a caveat presently that the Summit met sometime, I don't know when that was exactly and agreed that for the foreseeable future, we were not going to allow the usage of Swahili as a language for the East African parliamentary business but if in his wisdom the then President of Mozambique Joachim Kisanu could go to an AU conference and decide to speak in Kiswahili, why can't the East Africans just learn to speak or conduct Swahili in their proceedings?

In fact some of us might not be so eloquent in that language but I would very happily want to hear my Tanzanian colleagues speaking Swahili so that I can learn. That practice will also help me get that confidence. We do not need to fear it. I am a Kenyan and I have been taught Swahili but I am not so eloquent,

I must admit that. But when I hear my Tanzanian colleagues speak Swahili, I will get the confidence to speak and use it every day. So we must allow that to happen.

With those few remarks, Madam Speaker, I wish to support. Thank you.

The Speaker: Thank you very much, hon. Ogle. I expected the Council to make a comment but if there is no comment to that effect, I invite hon. Mathuki to wind up the debate.

Mr. Mathuki: Thank you very much, Madam Speaker. Let me start righty away by thanking hon. members who have made contribution to this motion; hon. Christophe, hon. Shy-Rose and hon. Ogle.

Madam Speaker, it is obvious based on the discussion and debates that have taken place and moved ably by hon. members that EALA as a key organ of the Community must exploit and fully harvest from the obvious political commitment availed by the Summit of Heads of State. That has come out and we have seen it in the remarks made by the Head of State.

There is an obvious political commitment and therefore if we have been talking about lack of political commitment, I think for the last two weeks we have seen a different story and therefore it is upon us now as a Parliament and of course

calling upon the Council of Ministers to take it as their responsibility to ensure that what has been decided by this Parliament and of course by the heads of state because we have been seeing a number of issues disconnect that have been taking place in some ministries.

In fact Madam Speaker, this is to salvage some EAC ministries. I am sorry to say but some of them are too invisible in some Partner States that you wonder why because they are already a public burden. I am sorry to say it that way but it is a public concern that ministries are not doing what they are supposed to do and I think it is upon them. These are positive challenges on their part to take it and increase awareness and visibility of their ministries so that East African citizens can benefit.

Lastly Madam Speaker is the concern which came out in the report; the promotion of our own products in the Community. We are talking of the informal sector but we have seen 90 percent of East Africans employed in the Informal Sector. 10 percent are in the formal sector. Therefore once we allow an influx of Chinese goods we are killing our informal sector and by extension of course killing employment in our region. Madam Speaker, it is high time we came up with laws that will regulate goods that are coming out of this region.

Again what was well spoken by one of the hon. members is about awarding performance. We are talking of branded East African awards. In fact I am saying, Madam Speaker with your leadership you may wish to propose that awards that coincide with every Summit given by this Parliament so that the country that is leading in issues of integration is given an award.

Therefore Madam Speaker this is to encourage other Partner States that are lagging to improve and ensure that they increase their efforts towards that. We have Rwanda for example taking the first year award. I am sure other Partner States will take courage and start competing. This will be towards promoting performance in issues of integration.

We may wish to come up with key performance indicators which are going to govern these awards so that when countries are asking why they have not been ranked, they are able to see the areas where they have not been performing.

I think with those very few words, I thank those who contributed, I thank you for your leadership and I support the motion.

The Speaker: Thank you very much, hon. Mathuki for that important motion. Hon. members, the motion on the floor is that

this Assembly do resolve to appreciate the remarks by his Excellency Mwai Kibaki, President and Commander in Chief of the Defence Forces of the Republic of Kenya and Chairperson of the East African Community Heads of State Summit.

Hon. Members, I now wish to put the question.

(Question put and agreed to.)

QUESTIONS FOR ORAL ANSWERS

QUESTION I (REF: EALA/PQ/OA/3/01/2012)

Ms Shy-Rose Bhanji (Tanzania): Thank you, Madam Speaker. I now beg the Chairman, Council of Ministers to answer the following question with reference number EALA/PQ/OA/3/01/2012;

Article 132(4) of the Treaty provides that the budget of the Community shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other resources as may be deemed by the Council.

I am however, informed that the Council of Ministers has arbitrarily placed a 10% percent annual increase in the budget of the Community without due regard to the level and the rate at which EAC activities are increasing as integration deepens. As a result, to date, 71 per cent of the EAC budget is externally funded, which should be a cause for alarm (see table1)

Could the Chairperson of the Council inform this house:

- a) Whether over reliance on donor funding of EAC activities is sustainable?*
- b) Whether it is in order, given the sensitive nature of the integration agenda, that 71 per cent of the EAC budget for the financial year 2012/13 is donor dependent?*
- c) What the Council of Ministers is doing to reverse the dwindling pattern of the Partner States' contribution to*

the EAC budget from the 29 percent during the financial year 2012/13 to 77 per cent as it were during the financial year 2001/02/;

d) Whether the Council of Ministers do not foresee another collapse of the Community as it happened in 1977 though for a different reason?; and

What mitigation measures has the Council of Ministers put in place in case the Development Partners pull out their budget contributions to the EAC

The Chairperson Council of Ministers (Mr. Peter Munya): Madam Speaker, I beg to reply. It is true that overall reliance on donor funding for the handling of EAC activities is not sustainable in the long run. However, with the deepening of integration, more activities need to be undertaken and the available resources from the Partner States are not adequate to finance all the activities of the Community.

It is a known fact that even most of our Partner States budgets are also heavily dependent on development partners funding so for the time being, reliance on development partners funding to carry out activities of the Community cannot be avoided.

Madam Speaker, as indicated above, the Community is heavily dependent on donor funding. However whether it is in order or not to be dependent on aid from development partners, we feel that as long as the decision making process is not influenced by the development partners but is guided by the East Africans themselves then it is in order to accept assistance from development partners. This will ensure that the progress on integration of the Community is not delayed due to lack of funds.

Madam Speaker, reversing the dwindling pattern of the Partner States contribution is a process that requires time. The Council

of Ministers has already noted this alarming trend and at its 22nd Meeting held on 11th to 15th April 2011m, the Council directed the Secretariat and the Partner States experts to develop a study on other financing options.

This study is in the final stages of completion. Once the study is completed, the Council will make appropriate decisions. We hope that after that, these developments the Partner States contributions will be reversed.

Madam Speaker, the current Community is built on a concrete and firm foundation whereby decisions are made primarily on the basis of consensus. All the Partner States have realised that regional integration is the only way to harness the potential of the Partner States wealth, take advantage of the economies of scale, improve their economies and the wellbeing of their citizens through people centred and market driven cooperation.

Furthermore, the Partner States are committed to the integration agenda and contributions are paid without mush delay. For instance, as of 1st September 2012, the Partner States have already paid 34 percent of the contributions for the Financial Year 2012-2013. In this regard, it is not expected that there will be another collapse of the Community. There is absolutely no indication or tell tales that the Community could collapse.

Madam Speaker, as I have already stated the Council is aware that in future the development partners may pull out their support. Regarding mitigating measures, the Council has directed the Secretariat and the Partner States to undertake the study on other financing options which is about to be completed.

The Council at its 26th Meeting scheduled for November 2012 will consider the study and will decide on the appropriate way of addressing the problem. I thank you, Madam Speaker.

The Speaker: Hon. Shy-Rose, do you have any supplementary question? Any hon. member with a supplementary question? Thank you.

QUESTION II (REF: EALA/PQ/OA/3/02/2012)

Ms Jacqueline Muhongayire (Rwanda): Thank you, Madam Speaker. Pursuant to Rule 17 of the Rules of Procedure of the Assembly, I beg to ask that the Chairperson of the Council of Ministers answer the following question reference EALA/PQ/OA/3/02/2012:

For purposes of Article 77 of the Treaty for the Establishment of the EAC, the Partner States, shall within the framework of the Protocols provided for under Article 75 and 76 of the Treaty, take measures to address imbalances that may arise from the applicaiton of the provisions of the Treaty.

Can the Council of Ministers inform this august House:-

- a) What category, nature or type of imbalances have so far arisen since the Customs Union Protocol, Customs Management Act and the Common Market Protocol became operational in January 2005 and July 2010 respectively?*
- b) If there are any imbalances, what mechanisms have been put in place to address them and how effective have these been?*
- c) If the mechanisms in place are still effective, what is the Council contemplating to address the problem for smooth running of the two stages of the EAC integration project?*

Madam Speaker, I beg to ask.

The Speaker: Thank you very much, hon. Muhongayire. I invite the honourable minister to reply.

Mr. Peter Munya: Madam Speaker, I beg to reply. The Protocols establishing the East African Community Customs Union and the Common Market in accordance with the Treaty provide that the Council shall approve measures to address imbalances that may arise from implementation of the two protocols respectively. The envisioned imbalances could arise due to a shift from nationally focused policies to harmonised regional policies and instruments relating to trade, investment, capital flows, financial systems, immigration, labour, services and other economic related variables.

As far as the Common Market Protocol is concerned, there have been no imbalances since the Partner States are still in process of aligning the national laws to the Protocol. The possible imbalances fall under the following categories:

- (a) Injury and breadth of injury to the manufacturing sectors in Partner States with nascent industrial basis due to competitiveness from the Partner States with developed industrial base. This is aggravated by a shift from high cost locally produced goods within a country to low cost regional produced goods produced in the union.
- (b) Widening intra EAC trade deficit for countries with under developed manufacturing sectors and export basis.

- (c) Dumping of goods whereby some Partner States may off load some goods in another Partner State below the market price.
- (d) Intra investment shifts to Partner States with conducive investment climates such as availability of power, trained human resources, low costs of doing business, better domestic tax regimes and security.
- (e) Cross border shifting of skilled labour to Partner States with better employment opportunities.
- (f) Welfare effect due to trade diversion which compels the citizens to consume high costs of regionally produced goods in place of the too low cost goods from outside the union as a result of external tariff wars.
- (g) Tax competition leading to race to the bottom where domestic tax remains unharmonised.

Madam Speaker, the provisions on measures to address imbalances under the Treaty and the two Protocols including among others, safeguard measures, the principle of asymmetry, the principle of variable geometry and regulations and directives of the Council.

Madam Speaker, since the coming into force of the Treaty and during the implementation of the Customs Union and the Common

Market, the Council has undertaken a number of measures that include the following:

(a) Application of the principle of Asymmetry. The Asymmetry Principle was applied during the first five years of implementation of the Customs Union. A progressive elimination of internal tariffs was applied on goods imported into Tanzania and Uganda from Kenya. This transition was to allow the nascent manufacturing sectors in the Republic of Tanzania and Uganda develop the capacity and be able to compete with the Kenya manufacturing sectors which was considered to be more developed.

(b) Application of the principle of Variable Geometry. This principle is premised on flexibility that allows progression in cooperation and integration in a variety of areas at different speeds. This applies where it might not be possible for all the Partner States to fully adopt and implement all programs at the same speed. This principle was applied when Rwanda and Burundi joined the Community in 2007 but commenced implementation of the Customs Union in 2009 to enable them to make the necessary adjustments in preparation for implementation of the Customs legal instruments. Burundi is yet to adjust its fiasco here to

that of other EAC Partner States which is a key element of convergence in the implementation of the Customs Union.

(c) Safeguard measures. These apply in case of a serious injury or a threat of serious injury arising out of the implementation of the Customs Union Protocol. These include anti-dumping measures to prevent goods from one Partner State being sold in another Partner State at a price lower than the market price in the exporting Partner State. Likewise, the Protocol has also countervailing measures intended to deter subsidies that may distort the market. Specific safeguard mechanisms to safeguard the manufacturing sector were also provided in the Protocol under a transitional arrangement of five years. Uganda, Rwanda and Burundi have applied this facility in the course of time.

(d) Compensatory measures. During the negotiation of the Customs Union, there were fears of likely customs revenue losses as a result of removing internal tariffs, adoption of a common external tariff and removal of charges of equivalent effect. At that time, proposals to set up a compensatory fund was discussed and it was agreed that instead a development fund be established to cater for

development and structural adjustments needs of the Community.

I wish to state that no Partner State has suffered revenue losses as a result of implementing the Customs Union. A facility known as the Regional Integration Support Mechanism to support countries in COMESA and EAC build capacity in revenue collection was set up by the EU. Rwanda and Burundi are beneficiaries of this facility and Euros 20 million and Euros 12 million have been granted to the two Partner States respectively.

(e) EAC Development Fund. The establishment of an EAC development Fund is underway. At its 24th Meeting held on 29th November 2011, the Council established this fund and a Bill on the same is being considered by the Council for introduction in the Assembly within this financial year. The objectives of the Fund among others are to address development imbalances in the region, infrastructure development, investment, industrial development and act as a structural adjustment window.

(f) Measures approved by the Council. The Council has from time to time approved measures to address imbalances that may arise from the implementation of the Customs Union by

invoking Article 12(3) of the EAC Customs Union Protocol. The Council has time and again reviewed the Common External tariff and approved measures designed to remedy on any adverse effect Partner States may suffer by implementing the Customs Union Protocol, which are gazetted and applied in Partner States.

Madam Speaker, there are several measures at various stages of implementation and development to smoothen the implementation of the two stages that will further address the imbalances. These include the following:

- (a) Establishment of a single Customs territory. The EAC Customs Union retained national customs geographical territories yet a fully functional Customs Union should lead to a single customs territory for the participating Partner States. Establishment of a single customs territory is a priority objective in 2012/2013 financial year. This will among others lead to free circulation of goods, reduction of internal customs controls, integrated customs IT systems for all the customs administration, reduction of the costs of doing business and enhance cross border trade and investments.

- (b) Operationalisation of the Trade Remedies Committee. Settlement of trade disputes is a cornerstone of any integration process. The Customs Union Protocol provides for the establishment of a Trade Remedies Committee whose role is to handle disputes pertaining to among others, rules of origin, anti-dumping measures, subsidies and countervailing measures and safe guard measures.
- (c) Harmonisation of domestic taxes. The EAC has embarked on a tax harmonisation program as stipulate din the Common Market Protocol. A double taxation agreement was concluded in 2010 and is undergoing a ratification process in the Partner States. This instrument will ensure avoidance of double taxation of income and in one Partner State that is transferred to another Partner State.
- (d) Establishment of the EAC Development Fund. As earlier indicated, the EAC development Fund will enable the region to mobilise resources for infrastructural development, address development imbalances and support structural adjustment programs.
- (e) Implementation of the Common Market. The implementation of the Common Market Protocol is one of the priority focus of the Council in 2012/2013. National

implementation teams have been established in all Partner States to spearhead the implementation of the pillars of the Common Market. The on-going institutional review of the Community will provide the institutional mechanism for the Common Market. Strategically the Council of Ministers has put the thrust on domestication of the implementation of the Common Market.

(f) Operationalisation of the Competition Law. An EAC Competition Act is in place and the focus of the council is to operationalise the law. The Act is intended to regulate and enforce against unfair business practices across the borders. These will protect vulnerable and young firms from predatory behaviours of big firms hence hurting business in the region. I thank you, Madam Speaker.

The Speaker: Thank you very much, Chair Council of Ministers. I want to invite hon. Muhongayoire if she has a supplementary question.

Ms Muhongayire: Thank you, Madam Speaker. I wish to thank the Chairperson of the Council of Ministers for the well elaborated answer. However I have a supplementary question. In the response it is stated that the on-going institutional review of the Community will provide the institutional mechanism for the Common Market. Can the Chair, Council of Ministers inform this august House on the progress on that institutional review and on the progress of the establishment of the East African Development Fund. Thank you, Madam Speaker.

Mr. Munya: Madam Speaker, the coming into effect of the Common Market necessitated reforms at the institutional level to be able to take care of many of the aspects of the Common Market that were not envisioned on the original design of the Community. That is why we are undertaking an institutional review to be able to come up with a structure that takes care of the Community at the level it has reached now.

Madam Speaker, proposals were made on the institutional review. The Secretariat developed a proposal on the newest architecture that would be in place to take care of the Common Market but when the Council looked at that structure, the Council felt that we needed a more objective study from an outsider who can give us a more objective view on what structure we would have. Therefore the Council instructed the Secretariat to employ a consultant who would do a study and then give us a report.

Therefore, we are still waiting for that report from that consultant. There was a feeling that the report developed internally was not taking care of all the aspects of institutional review that had been envisioned by the Council at the beginning. So that study is not yet complete and that is what the Council is waiting for and then a decision would be

made on what kind of new institutions that would come into place, what needs to be restructured and all that.

So we are still at the stage of waiting for the study from that consultant who is making a report on the review.

Mr. Mike Sebalu (Uganda): Thank you very much, Rt hon. Speaker. I do appreciate the answers given to hon. Muhongayire but just one bit because I have always had issues with progress. We are on course, plans are underway, and we are waiting for the consultant. Is there a time frame that was put for that because the whole idea of institutional review is critical and must be time bound otherwise if you are going to wait for a consultant whose terms of reference never indicated time then it becomes a bit of a problem? So could you update me from that perspective?

The Speaker: Is there a time frame?

Mr. Munya: Yes I agree with you, hon. Sebalu that there should always be a time frame on many of these issues and indeed most of the decisions of the Council now, if you look at them you will see that Council is always giving a time frame. A report on the institutional review will be received by the Council in its sitting in Bujumbura in November. So there is a time frame. We will have that report ready in November for decisions to be made by the Council in its sitting in November.

Mr. Zein Abubakar (Kenya): Thank you, Madam Speaker. I would first like to thank the Chair of Council for the manner in which he has so far given us the answers. I would like to raise two issues that if he is able to shed some light on, I will be very happy. If not, we can ask this in a different format.

One, in his answer there is reference to the transitional period and mechanism that was allowed in order to welcome Rwanda and Burundi as part of this Community. We know that there are other applicants. There are applications on the table. Have we developed any sort of model that will allow for the fast tracking of the transitional period for any eventuality of a member being welcome to join the Community or would we have for those members to go through the same steps of Customs Union and go through the rigours of transition which is partly I think the question that was raised initially.

Secondly, maybe I am mistaken but this is the kind of question that I would have thought there would be a numbers crunch of comparisons to see if truly there have been imbalances or no imbalances whatsoever as the answers eludes.

My question is, we know that one of the most underfunded office in the East African Community is the research office. Actually I stand to be corrected but we have only one member in that

research office. Is the Council planning to strengthen the research component so that when questions like these are asked, they will be backed by figures and facts?

The Speaker: Chair, Council are you still consulting?

Mr Munya: Yes, Madam Speaker, the Member Zein raised basically two issues although he tended to debate rather than ask a question. Since these are also maiden questions, we have to appreciate this.

Madam Speaker, I will start with the first issue on admission of new members and if new members have to go through the same rigours that others have got to go through. Madam Speaker, there is no hard and fast rule on this because when you are joining this Community, there are certain benchmarks that you must meet in advance before you are admitted. The Treaty is very clear on certain specific requirements that a Partner State who wishes to be a member has to meet.

Once a decision has been made on allowing you to be a member then negotiations are made between you and the Community on what you can meet immediately and what you would need and how much time you would need then an agreement is arrived at. So there is nothing that when you join you must behave exactly like this.

There is a lot of flexibility because what we are creating is a Community and the membership is usually voluntary and decision making is by consensus. We encourage a discussion so it will on

a case to case basis because those who join are not at the same level of development. Each state is unique and has its own unique problems so you have to look at them at that level and discuss and then agree with them. So there is no model as such which must be followed.

The other issue was the one on research. It is true we do not have a lot of resources to make our research office one of the best research offices but statistics are always there because Partner States have very well developed institutions that actually keep statistics for us and whenever we need any stand in a particular area, we put in money and do a study. So we have figures that are very clear. If the member is interested, we can give him specific figures on trade volumes after the implementation of the Customs Union.

In fact what happened is that the intra-regional trade increased. Instead of going down after the implementation of the Customs Union, it actually increased. So the short falls and money or revenue that could have been lost due to the implementation of the Customs Union was compensated by the bigger volumes of trade that the freeing of the trade generated.

That fact is there, statistics are there to back this argument and if members are interested, those statistics can be tabled. I thank you, Madam Speaker.

Dr. Odette Nyiramilimo (Rwanda): Thank you, Rt hon. Speaker. I think the Chair, Council of Ministers forgot to respond to the second supplementary question of hon. Muhongayire about the progress of the East African Development Fund because it was said in the response that the Council of Ministers gave that in the 24th Meeting of the Council, the fund was established. Maybe the Chair of Council might explain where it has been established, has it started?

Even if the Bill establishing it is underway, but that fund since it is said it has been established it must be somewhere and maybe does it already have some money in it? How is it operating and shall we expect to have the Bill come.

Mr. Munya: Thank you, Madam Speaker. I apologise for that oversight. I did not respond to that question on the establishment of the East African Development Fund. Yes that decision was made by the Council. A Bill has already been developed. The Bill has already been approved by the Council so it is only waiting for legal input from the sectoral Council on Legal and Judicial Affairs because every Bill we develop, our rules require that they must be validated by the sectoral Council on Legal and Judicial Affairs to make sure that they do not breach any of our laws.

So the Bill came to the Council, it was approved and is now waiting for the sectoral Council on Legal and Judicial Affairs to look into it and then it will come back to the Council for it to be brought to the House for debate and I think the sectoral Council, Legal and Judicial Affairs is meeting next month in October and among other Bills, it will look at the Bill on the fund.

The main issue really is the structure of the fund or the institutional arrangement that will run the fund. The key issue is that the fund will be domiciled in the bank. The East African Development Bank will be the one that will house the fund but there will be other institutions like a board that will run it.

Ministers for Finance from Partner States will be members of that board so there is a structure that is already proposed in the Bill that we are waiting for. Once it is approved by the sectoral council then it will be brought to this House for enactment into law. I thank you, Madam Speaker.

The Speaker: Thank you very much, hair of Council. I think I should also commend the information contained in the answers. I think it is very educative and will give us chance as new members to know what is actually happening in the Community at a glance. Thank you very much.

QUESTION III (REF: EALA/PQ/OA/03/2012)

Mr. Christophe Bazivamo (Rwanda): Thank you, Madam Speaker. I beg to the Chairperson, Council of Ministers to respond to the following question reference EALA/PQ/OA/03/2012.

By the provisions of paragraph 2 of Article 2 and paragraph 2 of Article 5 of the Treaty, the Partner States undertook, to inter lia establish among themselves a Common Market, as a transitional stage to, and an integral part of the Community.

Further under the provisions of paragraph 4 of Article 76 of the Treaty, the Partner agreed to conclude the protocol on the establishment of a Common Market which was concluded and became operational on 1st July, 2010.

Unfortunately, Non-Tariff Barriers (NTBS) are still the biggest impediment to the objective of the EAC common Market Protocol. An attempt towards elimination of the Non-tariff Barriers in EAC, the responsible Ministers visited parts of Mombasa and Dar el Salaam in March, 2012 and also held a special session of a meeting of the Council of Ministers and took decisions towards abolition of these barriers. These were presented to the Summit, who urged the responsible Ministers to make sure these decisions are implemented in the due time.

Can the Chairperson of the Council of Ministers, with concrete data:

(i) Enlighten the House on how far they gone in implementing the decisions?

(ii) If the decisions have not been implemented fully, to-date, what would be the reasons for that?

What strategies have been adopted to ensure that the decisions are implemented and within what time frame?

I beg to submit. Thank you.

Mr. Munya: Thank you, Madam Speaker. I beg to reply. The national committees and EAC regional forum on elimination of identified NTBs is spearheading the elimination of NTBs as per the decisions of the EAC dedicated ministerial meeting on NTBs which was held in March 2012 in Mombasa, Kenya.

So there was a specific ministerial meeting that took place in Mombasa that was specifically dedicated on this problem of NTBs and on how to deal with them. National committees were created to deal with the problem of NTBs.

The EAC regional forum on NTBs held its 7th meeting on 27th to 20th June 2012 in Kampala and updated the EAC time bound program on NTBs whereby Partner States reported progress on elimination of identified NTBs in accordance with the ministerial decisions in March 2012.

The updated EAC time bound program on NTBs as of June 2012 shows that:

- (a) Six NTBs had been resolved.
- (b) That one NTB was unresolved.
- (c) Two news NTBs were reported.

Madam Speaker, the Non-Tariff Barriers since the June 2012 deadline that have since been resolved are the following:

- a) There are no delays at Malaba border for trucks driving into Uganda.
- b) Kenya has abolished cash bonds on used clothes, shoes and other items destined for Uganda.
- c) Tanzania no longer charges USD 200 for Kenyan trucks entering her territory.
- d) Tanzania has availed EAC Certificates of Origin at all borders.
- e) EAC harmonised documents are now being used by the Partner States after the harmonisation of EAC procedural manuals.
- f) The EAC Customs Procedural Manuals is in place.
- g) The customs warehouse used by Kenya is in accordance with the EAC/CMA 2004.

Madam Speaker, on Non-Tariff Barriers which under the June deadline but are yet to be resolved are as follows:

- (a) Existence of several weigh bridges in the Central and Northern corridor. Kenya and Uganda were expected to reduce

them to two by June 2012 while the Republic of Tanzania was awaiting a completion of the EAC study before deciding on the number of weighbridges to have. Kenya through the Budget speech of 2012/2013 announced that the weigh bridges would be reduced to two.

- (b) Charges by container freight stations vary from port to port charges. Kenya had agreed that the charges would be one but exporters are still being charged double.
- (c) Harmonisation of border management working hours. All the Partner States have designated border posts to start working 24 hours except for the United republic of Tanzania which is still consulting on the issue.
- (d) Exports of plastics in the region are charged 10 percent and 25 percent CET rate despite meeting EAC Rules of Origin. A verification mission of plastic products in the region was undertaken in June 2012 and the report is waiting consideration by the Customs Committee.

Madam Speaker, in accordance with the EAC time bound program on NTBs, Partner States are in the process of eliminating the following NTBs.

- (a) Delays in transit board cancellations.

- (b) Numerous institutions are involved in testing of goods.
- (c) Existence of several police road blocks.
- (d) Existence of several weighs bridges.
- (e) Lack of interface within Customs systems in revenue authorities.
- (f) Border management institution hours are not harmonised. Partner States had designated border posts to initially operate 24 hours. They have picked particular ones because not all of them can operate 24 hours so specific ones have been picked that each Partner State has agreed will operate 24 hours.
- (g) Inadequate police escort mechanisms.
- (h) Lack of verification sheds and parking yards at border posts. This is being addressed through the construction of a one stop border post in the region.
- (i) Charges by container freight stations and inland cargo depots.

Bilateral meetings. Among the unresolved NTBs between Kenya and Uganda on beef and beef products, a bi-lateral meeting between the two Partner States has agreed on the way forward. A bi-

lateral meeting between Kenya and Tanzania is scheduled for 6th to 7th October 2012 to address NTBs affecting the two Partner States. In fact it has already taken place.

I have the honour to lay on the table an updated EAC time bound program on elimination of NTBs as agreed in June 2012. I want to lay this on the table. The time bound program indicates to you what I have already read to you in detail. It tells you what was agreed, which NTBs would be eliminated and what dates because it stipulates all the dates because Member States have different speeds and levels so each Member was indicating that on this date we will have dealt with weighbridges, on this date we would have dealt with road blocks. So that is the detailed program that was agreed upon.

Madam Speaker, according to the Treaty, the Partner States have the obligation to... NTBs but up to now EAC does not have a legally binding mechanism on the elimination of NTBs. However, the Council:

- (a) In addition to national monitoring committees and regional forums on NTBs established national implementation committees to handle NTBs related to the implementation of the provisions of the Common Market.

- (b) Operationalising the EAC Trade Remedies Committee established by Article 24 of the EAC Customs Union protocol to handle the outstanding NTBs in the EAC time bound program on elimination of NTBs.
- (c) Developing a legally binding enforcement mechanism on elimination of identified NTBs. The consultant undertaking the study is in the process of finalising the final study report which will be considered by the EAC regional forum on NTBs at its 8th Meeting scheduled for the 17th to 19th September 2012. The forum will report to the sectoral Council on Trade, Industry, Finance, and Investment for a policy decision.
- (d) Finally, invoking Article 7(1) (h) of the Treaty on the principle of variable geometry to convene bi-lateral meetings to handle outstanding NTBs amongst the Partner States and indeed I have already said that there have been bi-lateral meetings between Partner States to deal with specific NTBs.

I thank you, Madam Speaker.

The Speaker: Thank you very much, Chair, Council. Hon. Bazivamo, any supplementary question?

Mr. Bazivamo: Thank you, Madam Speaker for this opportunity. I thank the Chairperson, Council of Ministers for the answers given but I do want to note that given the expectations of East African Community citizens in this area, a lot is still to be done. Therefore, I think that since there are agreements, targeted indicators agreed upon and actually a time frame fixed could the Chairperson, Council of Ministers commit to put in place an appropriate periodic evaluation mechanism towards the complete elimination of NTBs and to report accordingly periodically and regularly, at least three times in a budget year? This is so that the House can be regularly informed on the progress made. Thank you.

The Speaker: Chairperson, Council, I think here the member wants commitment because you have already talked about the EAC regional forum on NTBs.

Mr. Munya: Yes, Madam Speaker I have already mentioned that we have national monitoring committees that monitor on a regular basis the progress in the elimination of NTBs and these national monitoring committees report to the regional forums. These regional forums are also regular and come to look at what has been done and then work out another program on what is remaining. So mechanisms are already there that are looking into this nagging problems of Non-Tariff Barriers.

The NTB problem is a complex one because there are many institutions that are involved in them. It is a multi sectoral problem. You will find Police are involved sometimes because they are dealing with a different issue that has nothing to do with trade insecurity and the impact on trade and therefore those police road blocks become a non-tariff barrier.

So it is a very complex problem but we have these mechanisms in place that are already dealing with it. In the Mombasa meeting I saw a lot of resolve and commitment on the part of ministers on really dealing with this problem once and for all. I saw ministers giving commitments without being forced, on specific NTBs and when they would eliminate them.

Also I already said that we are also now operationalising the Trade Remedies Committee that is supposed to also assist in

dealing with the outstanding issues in NTBs. The most important thing that is also going to be in place is the enforcement mechanism that was lacking because before even if you introduced NTBs, there was nothing that would be done to you if a Partner States wakes up tomorrow, even after committing themselves they eliminate them within this period and re-introduces them. There were no sanctions within the law that would be meted out to that Partner State.

So this determination now to come up with a legally enforceable mechanism to sanction Partner States that introduce NTBs will really help in dealing with the problem and as I said, there is already a consultant who is doing the study and the report is going to be out very soon. I thank you, Madam Speaker.

Ms Valerie Nyirahabineza (Rwanda): Thank you very much, Rt hon. Speaker. I have a question in conjunction with the answers that the hon. minister is giving. Much as the Council or those eminent personalities came up with a mechanism or a provision that is in line with some sanctions that have to be applied in case one or another Partner State fails as far as the removal of non-tariff barriers is concerned, can the Chair, Council inform this august House whether those national monitoring committees have been given legal strength? Is there a legal framework that has been worked out to give those national monitoring committees strength? Thank you very much.

The Speaker: Chair, Council, is there some form of law or something like that under which they operate?

Mr. Munya: Madam Speaker, the instituting that is empowered under the protocol is the Trade Remedies Committee. The national monitoring committees are administrative; they do not have any legal strength that they can use in themselves. They are administrative instruments of helping remove tariff barriers and report because really the responsibility has been on the part of the States themselves to do it but the protocol empowers the Trade Remedies Committee to take action on Member States that are continuing to violate the rules when they have already agreed on what is to be eliminated.

Even though we are operationalising the Trade Remedies Committee, we thought that that instrument is still very weak and that is why we are looking for a better legal mechanism of enforcement and that is why the study is being undertaken to see what we could improve on what is already there to come up with a stronger enforcement mechanism.

The Speaker: Thank you very much, Chair, Council.

Ms Patricia Hajabakiga (Rwanda): Thank you, Rt hon. Speaker. I have a small question if the Council of Ministers may enlighten us if all the customs authorities in the Partner States have already installed the tracking system mechanism to track trucks as they move from Mombasa or Dar es Salaam along the corridors. This is because when the CTI Committee in the Second Assembly visited some of the Customs authorities, we realised that it could have been easy even to remove the weigh bridges because it could easily be monitored from the road without necessarily having people sitting to wait for the truck to arrive because they could see if there was anybody who had tampered with a vehicle on the road.

I would like to know if the gadgets and systems have already been installed by all the customs authorities in the Partner States.

Finally looking at this table, it looks like it is good news because by December 2012, it looks like all Non-Tariff Barriers will be over, East Africans will have a merry Christmas and only those which are really difficult like the infrastructure related Non-Tariff barriers and I hope it will work, let us cross our fingers that it works.

Mr. Munya: Madam Speaker, I will not be able to give specific information on every country but I know the decision in Kenya to have only two weigh bridges is premised on that proposal to have a tracking mechanism for trucks so that you do not keep weighing them on the roads wherever they pass. The tracking mechanism will help especially on the nagging problem of goods that are usually destined for export that are dumped in the local market. So I know that is being implemented.

The idea really is not to reduce the physical weighbridges themselves but to require that a vehicle is weighed only twice; at the point of entry where it is picking the goods and then at the point of exit.

So it is not the physical weighbridges that will be removed so that in the country there is only two because you have goods originating from different areas so if you were to eliminate them- if you were for example to remove the one in Mariakani or retain it or the one in Athi River, goods that will be emanating from let us say Bungoma or Kitale that are produced there, where will you weigh them?

So it is not the physical weighbridges that will be reduced but the requirement that a vehicle be weighed only twice so that as long as you have the certificate that you have been weighed at

one place, all that you require is that you be weighed once at the point of exit and that's it.

Before vehicles would be weighed all over so you spend time stopping at all weighbridges on your way out and you spend so many days and hours.

The other issue I know is being done is the automation of the weigh bridges, in Kenya computerisation of the weigh bridges so that you eliminate corruption because those weighbridges are also centres of corruption. The reason why they are never eliminated is because it is a great trade. There are people who make money and become rich from manipulating weighbridges and if you ask Police, members of Parliament most of the time when we are asked by Policemen who work in our regions to help them be transferred, usually they tell us to help transfer them to weighbridges or to the traffic police. You ask them why specifically do you want to go to those places and your salary is still the same? You know that there is some unseen benefits that arise from working in those particular areas.

So I know there is a decision to automate them so that you cannot tamper with them and neither can you make a physical decision that this one is weighing this and this other one is weighing the other.

The other issue I forgot to mention is that there is also a law already pending on axle load harmonisation that was also agreed in this ministerial meeting in Mombasa so that we have uniform axle load for East Africa. The draft law is also there awaiting legal input to come and be enacted into law in this House. I thank you, Madam Speaker.

Mr. Mike Sebalu (Uganda): Thank you very much. This is a quick one but from the perspective of EALA. Last time we were going for a meeting in Arusha and I was in the good company of my colleague hon. Ogle. When we reached Kilimanjaro the yellow guys came demanding for their yellow thing. We have talked about this. I talked about it in the last Assembly, I was almost getting tired but I have to state it at least for the benefit of the new members because hon. Ogle really had to explain himself. He is a diplomat but this was because someone got stuck on him. She was a lady and he was moving and this lady was demanding for the yellow thing.

So what are we doing with this? We are East Africans, we keep suffering this embarrassment. Arusha is the headquarters of the region, all of us go there to do business and this is an NTB. It is even threatening our activity there.

The second one related to that is the annual work permit. Yesterday I wished you used this opportunity to comment on it because I consider it as an NTB as well. Thank you.

The Minister for EAC Cooperation, Tanzania (Mr Samuel Sitta):

Thank you very much, Madam Speaker. On behalf of the Chairperson, Council of Ministers, I want to respond to hon. Sebalu's two questions. One on the Yellow Fever, we had a rather difficult colleague in the Ministry of Health so that in the case of Tanzania even after I did a tour of all these border posts and reported to the Prime Minister and he gave a directive, it could not be honoured because the then minister insisted that there is a law which has to be enforced in terms of arrivals into the United Republic as regards Yellow Fever.

Even after telling this gentleman that this law is all over East Africa and we run these things according to the principle of reciprocity so if it does not apply in Kampala, Nairobi, Kigali, Bujumbura, just use common sense because after all this Yellow Fever is not something that is really a threat. For many years, I don't know it has not been the case, not even one case reported. We were in that period when a final decision would be taken and then the last reshuffle my colleague was removed, not for this, I mean there were other problems but- So we are now reciprocating.

The rule is for all visitors coming from areas that have no Yellow Fever incident which covers the whole of East Africa but

we wanted to cover the whole World because we had the absurd situation at Kilimajaro Airport whereby somebody from Canada- In Canada and all these temperate countries there has never been Yellow Fever at all since the World begun but these fellows were still requesting from Canadian tourists, British tourists- So it has now been stopped and only applies to Ivory Coast, Cameroon and a few other countries from West Africa.

We will publicise this so that it becomes common knowledge and the Government Notice will be publicised so that people know and I apologise for what has happened to hon. members. This is something that will not be repeated.

The second problem concerning work [permits and the necessity for all sorts of people working in various capacities within the East African Community to be required to annually renew work permits, which at the last incident caught up with one of our Deputy Secretary Generals at the Secretariat who had- Everybody knows that these people have a five year tenure and yet they have to go annually. Exceptions are being made and again I imagine before November, Tanzania will issue information through a Government Notice not to require these exempted groups to be subjected to this annual thing and that should be good news for all. Thank you, Madam Speaker.

The Speaker: Thank you very much for that very important answer. It is very assuring. I just want to mention that that question on Yellow Fever was a very re-occurring question in the Second Assembly and I am happy that we are now getting somewhere on it.

I also want to thank you for the answer on the work permit issuance to members of the East African Community staff. I think it has been very disturbing but I thank you for being progressive in this direction.

Perhaps to add that at an appropriate time, maybe a booklet on Non-Tariff Barriers which the Secretariat has always issued could be very informative, if it is circulated to members. I happen to have got it in some of the regular circulars. I am holding it for purposes of making sure that members get to know some of these very disturbing Non-Tariff Barriers which hinder many of our business community from doing business and also with the information which the hon. Chair, Council has given also now to reassure the public that something is being done. That is why I am holding the two information.

I want to thank you very much for the information about the Non-Tariff Barriers and the steps being taken. We want to demand that this commitment is maintained so that we are able to get

rid of all the Non-Tariff Barriers by Christmas as hon. Hajabakiga mentioned.

Hon. Members, I want to thank you very much for the important debate which has ensued today and I want to say that we have come to the end of our debate today. Just a reminder in form of an announcement, hon. Valerie the Chairperson of the EALA Women's Forum invited all women Members of EALA for a meeting and i think even men who are well-wishers for a meeting immediately after the closure of the session.

With that announcement, I wish to adjourn the session till tomorrow 2.30 p.m.

***(The House rose at.. p.m. and adjourned until Thursday, 13
September 2012 at 2.30 p.m.)***