



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly 109TH SITTING – THIRD ASSEMBLY: SECOND MEETING – FOURTH SESSION

Wednesday, 7 October 2015

*The East African Legislative Assembly met at 2:30 p.m. in the Mini Chamber, County Hall,
Parliament of Kenya, in Nairobi.*

PRAYER

(The Speaker, Mr Daniel F Kidega, in the Chair.)

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

The Speaker: Good afternoon, Hon. Members. I would like to take this very singular opportunity to welcome you to this Meeting in Nairobi. I would like to in a very special way extend on your behalf, our appreciation to President Uhuru Kenyatta, the Government and the people of Kenya for the warm welcome they have accorded to us - *(Applause)*.

In a very special way, I would like to extend our appreciation to the Speaker of the National Parliament and that of the Senate of the Republic of Kenya for the warm welcome they have given to us as a legislature - *(Applause)*. I would like to thank them and the staff for the facilities that they have accorded to us that have afforded us the opportunity to come this far. We are very grateful for all that has been given to us.

Hon. Members, since we came here, I would like to congratulate you for a successful opening ceremony that was presided over by the Rt. Hon. Speaker Ekwee Ethuro on behalf of the President of Kenya. That was successfully done and the President was grateful and we are very grateful to him for the presentation, which made it very successful - *(Applause)*. I thank you so much.

BILLS

SECOND READING

The East African Community Electronic Transactions Bill, 2014

(Debate interrupted on Wednesday, 26 August 2015, resumed)

The Speaker: Hon Members, you remember Hon. Dr Ndahiro moved the motion and the House processed it up to a stage where the Chair of the Committee of Communication, Trade and Investment had

presented a report. After his presentation of the report, debate had started, but before we could continue with the debate, the Chair, Council of Ministers raised a request to either suspend or interrupt the debate to allow for other technical inputs that were pending in this Bill.

The Speaker, being fully aware that this is a Private Member's Bill and knowing the importance of bringing on board the views of the various stakeholders, particularly those that were coming through the Chair, Council of Ministers because the Secretary General had written to me through the Chair, Council of Ministers that we should wait for some technical views to come through to enrich this Bill. On the basis of that request, we interrupted debate and adjourned. That is where we are. So, I now invite the Chair of the Committee of CTI to refresh the minds of this House to allow us resume debate. I think it is only within my discretion that I ignite this debate by refreshing the minds of this august House on the report that was presented by the Chair.

The Chairperson, Committee on Communication, Trade and Investment (Mr Fred Mukasa Mbidde) (Uganda): Thank you very much, Rt. Hon. Speaker and Hon. Members. As it has been rightly stated, the debate was moving and we had reached the stage of Rule 68 (3) of the Rules of Procedure of the House. However, pursuant to the intervention and interjection by the Rt. Hon. Minister, who was Chair, Council and Hon. Members rising under Rule 30, debate was adjourned for purposes that stakeholders, as here under; EATO, East African Law Society and Monetary Affairs Committee were interested in having proposals still for purposes of enriching this Bill.

Rt. Hon. Speaker, as we talk now, we have so far canvassed well on the proposals from the organs that have been stated except that today, we have just received proposals from the Monetary Affairs Committee while

sitting as a Committee. So, we have not yet had time to include them. Even of course pursuant to the interactions we have had between the Assembly staff and your office, Rt. Hon. Speaker, it has been our considered view that we adjourn debate from today so that we allow the Committee to look into proposals from the Monetary Affairs Committee tomorrow so that we can have a substantially conclusive debate on the matter. I beg to move.

The Speaker: Thank you, Hon. Mukasa Mbidde. Hon. Colleagues, the honourable Chair of the Committee is bringing a proposal that they did receive proposals from stakeholders as was highlighted to them by the Chair, Council of Ministers. In addition to that, as they were sitting, this morning, they got more views, which the Committee could not conclusively consider.

I have also been in consultations with the Chair and the Clerk of the Committee and been informed that the schedule of amendments cannot be concluded without those views being also being concluded.

Hon. Colleagues, I would like to beg your indulgence that we as an Assembly are not interested in having still births in form of Bills. Therefore, within the principle that we have adopted in this House that we comprehensively engage with our stakeholders in our legislative process, I find the suggestions by the Chair of the Committee on CTI within our realm of work but I would request for one or two comments on this matter so as not to decree on the proposal as moved by the Chair, CTI.

Mr Bernard Mulengani (Uganda): Thank you, Mr Speaker for the opportunity. I want to join my colleagues in thanking the Government of Kenya and the Speaker of Parliament for affording us this environment to enable us do our work. *(Applause)*

Mr Speaker, to raise a few issues on the concerns of the Chair, CTI, and this House should also take cognisance of the reluctance of the Executive in complying with what they requested the House to do since we sat in Kampala when they requested for adjournment of debate on this particular Bill.

For them to just wake up this morning and only provide one of the documents they actually said they had in Kampala for us to be able to proceed, is very sad and worrying to the Community. We have kept on time and again saying that the Community is lagging behind because of the sleepiness of the Council. It is to them that they do the policies; it is to them that they bring Bills; and it is to them that everything squarely lies.

Now, to us as a Committee, it is a disservice to us. We have been considering these reports; we have been considering the requests they made but for us as a Committee to only receive the Monetary Union is wasting time for the Assembly. Because if we had considered these proposals from the Monetary Affairs as proposed by the Council and the Secretary General, we would by now be home and dry.

It is very unfortunate -I want to register this on the Hansard- the manner in which Council is treating the Assembly. Thank you so much, Mr Speaker.

The Speaker: Thank you very much. Maybe before I give you a chance, I need to clarify in that EACO- the East African Organisation – is an association but the Monetary Union Committee is part of the mainstream that Council presides over. So, that one we have full responsibility. That clarification needed to be made.

Mr Mike Sebalu (Uganda): Thank you very much, Rt. Hon. Speaker. I share the views of the Chair but with a bit of caution. He is definitely put in a situation that is

undesirable. But we are setting a precedent that may work against us in future because when we get these Bills out, we clearly interest all stakeholders to participate, especially in public hearings. And I believe that the Committee of CTI, like other Committees, had that round of duty to engage stakeholders in the capitals to give their submissions regarding the Bill.

The Council of Ministers came up and interested us to suspend; that has also been undertaken in many other Committees including the one of Agriculture with regard to the Disaster Risk Management Bill. And since then a lot has happened, which is not also very palatable. So, my view, Rt. Hon. Speaker, is that since the Monetary Affairs have submitted their views belatedly, you as the custodian of our Rules of Procedure, you should caution them, and your caution is a serious one, so that we set a precedent that is not going to be business as usual because they will use this precedent in future to engage us in the same way.

So, my view, Rt. Hon. Speaker is that we can only accommodate it this time round but as the leader of the institution, and to allow us do our business as it is supposed to be, a word of caution is necessary as a way of setting a precedence for all not to move in that direction the way they want. So, that is my submission.

The Speaker: Thank you so much, Hon. Sebalu. Since you have addressed your concerns to the Speaker as the custodian, I can assure you, your custodian is very serious. *(Laughter)* I actually summoned everybody concerned to my office this morning and gave them the caution as you have just stated.

I, however, just have a small consideration when dealing with a Private Member's Bills simply because of the path it takes. If it is a Council Bill, which is generated through capitals and through all the consultations, I would not take any laxity in terms of

proceeding. Private Member's Bills, as you are aware, are generated by Members and due diligence must be done to allow stakeholders to give their views.

Some of the stakeholders that were mentioned here like EACO, which is an association of regulators, is never at any single one time together. They are in Partner States. The view was based on the fact a week after we had adjourned in Kampala, they were going to convene and that was the basis of my flexibility. Otherwise I stand firm to protect the Rules of this House. That was the clarification I wanted to give you. Thank you.

Mr Abubakar Ogle (Kenya): Thank you, Rt. Hon. Speaker. As I accept the fact that you are our custodian, I would like to refer to a statement that I made when we were in Kampala. I asked you, particularly to be so firm and decisive on the Council of Ministers. I think we have taken this too far. They have never taken the business of this House seriously. I do not understand why the Chair, Council of Ministers, much as he has some campaigns pending in Tanzania, he is here. He has made that sacrifice to be here present. And yet other ministers who have no commitment, including my own Kenyan Minister for EAC is not here and yet we are holding the session in Nairobi. The Chair, Council is making a mistake by being here because his own job is at stake in Zanzibar. Where are the other three ministers? They have never taken us to be serious.

Now regarding the application made by the Chair, Communications Trade and Investment, I appreciate the very unfamiliar position you are in, but I would really want to object to any further deferment of this debate. It is very critical; this thing has been a Private Member's Bill; it went through the processes of public hearing and all that but nothing has happened.

Whether it is EACO or EASO, it doesn't matter. I think this House needs not to go

through that precedent. We need to debate this thing and enact this very important piece of legislation. It is very critical to us. I am, therefore, objecting to the application made by the Chair, CTI, Mr Speaker. Thank you. *(Laughter)*

Mr Joseph Kiangoi (Kenya): Thank you, Rt. Hon. Speaker. Even in this charged mood, let me take this opportunity to welcome you all, Hon. Members to the Republic of Kenya from where I hail plus other Members. You are all welcome so that we can carry on our business as we have done in the past. *Watu wa Jamhuri ya Kenya wanayo furaha nyinyi wote kuwa hapa. (Applause)*

Rt. Hon. Speaker, with regard to the matter in issue, this is my take; the Private Member's Bills should never be regarded at any one time of lesser importance than Council Bills. And I think we need to go back to the Treaty, the Rules and provide that they should be at par with any other Bill provided by Council because with deeper insight, even the Bills that are brought by Council are passed by us, Members here. They cannot pass them by themselves. So, even this Bill that is generated by a Member is equally important.

But Rt. Hon. Speaker, I have listened to my Chair and I know his concerns that we should not give anybody a chance to think perhaps – we adjourned this matter and we can adjourn it for another day to wait for – we waited for one or two months and so we can adjourn for another day or two days so that we come out clearly on our part. So, I support what my Chair of Communications, Trade and Investment has said and we could adjourn.

Rt. Hon. Speaker, I also associate myself with the Hon. Members who have said that Council should take Parliament seriously. This Assembly should be taken seriously so that we can do the work which we are supposed to do because it is good for all East Africans.

Ms Patricia Hajabakiga (Rwanda):

Thank you, Rt. Hon. Speaker. I would also want to thank the Government of Kenya, the Parliament of Kenya, our colleagues, members of the Kenyan Chapter and all of you, Hon. Members.

I wish also to take this opportunity, Rt. Hon. Speaker – there are some people who have actually been hurt by the decisions of the Council on many occasions and I feel that we need to treat this differently. And Hon. Kiangoi, says, all the Articles in this Treaty have the same weight or powers provided for. It is the same Treaty, which provides for Council Bills and Private Member's Bills. So, I don't see any reason as to why Private Member's Bills should be looked at as inferior to the Council Bills. That is unfair and not acceptable because all the Articles of this Treaty have the same weight.

But also, let me state that I find it very difficult to understand because when you look at the letter, which came from the Secretary General, it was accompanied by an email and then information between the office of the Secretary General to the heads of Central Banks in our Partner States. And when did those emails go? They went well after we had concluded the public hearings. So, one wonders as to why? Because it is the same Secretariat which prints the Bills for this Assembly.

It is the same Secretariat which provides the draftsperson who travels with Members to the capitals for public hearing. How could they have not noticed that there was a Bill that was meant to be submitted to the Central Banks for consideration and only send the request to the Central Banks well after this Committee was finalising its public hearings.

Rt. Hon. Speaker, what Members are saying is that it seems nobody takes the work of this Assembly seriously; not the Office of the Secretary General nor the Council of Ministers. It is just because they

seem to say that they have the upper hand to dissuade their Heads of State not to assent to the Bills. And many times they have reminded us that if we continue they would advise otherwise and our Bills are not assented to.

Rt. Hon. Speaker, let me tell you, history will judge all of us. We have a responsibility and the Council of Ministers have their own responsibility. Let us as an Assembly do our work as they also do their work. And if they advise Heads of State not to assent to these Bills, which are moved by Members of this Assembly and which are very important, let East Africans judge them.

I don't think we can continue being subservient to the – I don't know how to call it- it is like intimidated so that we cannot- surely I feel like they are being intimidated because each time we try to bring a Private Member's Bill, we are blackmailed; we are told it is not acceptable; our Partner States have refused; the Council does not want it. But if this Assembly feels it is a good law, let us pass it regardless of doesn't want it. Let us do our work and let them also do their work.

Rt. Hon. Speaker, I join Hon. Ogle in not supporting the adjournment - (*Applause*).

The Speaker: Thank you so much, Hon. Patricia. I will give to Hon. Mathuki, Hon. Opoka, and then I will come to you to wrap up.

Mr Peter Mathuki (Kenya): Thank you very much, Rt. Hon. Speaker. Let me join my colleague, Hon. Kiangoi in appreciating and welcoming all of us. I am sure the Chair, Kenya Chapter, Hon. Nancy Abisai will do that more appropriately to welcome all of us. But I may indeed make an informal one by saying that Nairobi, Kenya is home for everyone. And in case of anything that you would feel needs to be coordinated, I would be ready to do so at any time - (*Laughter*).

I would also like to appreciate the Speaker of Senate for accepting to come on behalf of the President to open our sitting yesterday. We thank them so much - (*Applause*).

Rt. Hon. Speaker, I think it is high time that we started tracking performance of some of these Organs of the Community and the Committee on Legal, Rules and Privileges will be very much ready to start undertaking this seriously because we have a duty to undertake as an Assembly. This is a very seriously Assembly; it is the only regional Assembly that we have in Africa – actually in the world- with autonomous powers. Therefore, when one of the Organs of the Community is not respecting the other, then we are not getting anywhere.

It is high time we exposed those that are not doing their bit. If it is the Council of Ministers who are not doing their bit, then we have to tell the public and citizens that it is the Council of Ministers who are not doing their bit. We cannot accept, as Members of this Assembly, to be seen walking around as diplomats when the Council of Ministers are taking us for a ride. That is not fair.

I may not even want to follow the cue of Hon. Ogle that even the host Minister from Kenya is not even here. I don't know who may be coming with her apology; it may not even be necessary. But it is very unfortunate that they don't take this Assembly that seriously. It is high time we told the citizens about this because it is very important.

It is high time we started reviewing how we relate with the Council of Ministers. Since we started our business in this Third Assembly, it has not been very well with the Council of Ministers. They have taken us for a ride. We are now running the Fourth Session and the Council of Ministers have never proved ready to stand with us. We even need to evaluate their performance. This is an Organ of the Community over

which we have an oversight role. We have to see what the Executive is doing so that if they are not serious, we tell the citizens that this is what is happening.

As we meet, there are business people - the private sector- in this country who are waiting discuss with us. How far have we gone with this Bill, which is very key to them? The world is going digital and the Council of Ministers wants to take us to analogue. We cannot accept to go in that direction, Mr Speaker - (*Laughter*). So, it is high time we became serious and whenever we meet with stakeholders, we tell them we had a problem here or with such and such.

Mr Speaker, if I remember what the Summit always talks about; they are always talking about their commitment towards integration. I made a reference to the remarks made by H. E. Jakaya Kikwete, the Chair of Summit yesterday, the commitment to ensure that integration of EAC is a success. But they have a Council of Ministers which is not serious; who are taking others for granted and, who at times, I am not very sure whether they deliver information as it is – whatever is transacted in this Assembly- to the Summit. They have to prove indeed that they are serious. So, what I am saying- (*Interjection*) - information – I have it. I have enough information - (*Laughter*).

The Speaker: Hon. Chair, Council of Ministers, I am going to give you substantive time. Our Rules of Procedure provide that the holder of the floor has a right to decline. So, please I will give you time to effectively respond to the House.

Dr Saadalla: Okay, procedure. Members of this House tend to use words, which are not good towards the Executive arm. They try to intimidate us.

The Speaker: Hon. Chair, raise a Point of Order if things are not right.

Dr Saadalla: Order.

The Speaker: Okay, proceed with the order. I implore you to use the Rules of this House.

Dr Saadalla: Thank you, Mr Speaker. According to the new Rules passed by this august House, Rule number...the CTC is looking for it - but I know that there is a Point of Order that can be raised by your Members of this House. Members of this House have continuously, since the beginning of this debate have been using words, which are – (*Interruption*) -

Mr Mathuki: On a point of procedure. Mr Speaker, the Chair of Council of Ministers is referring to us as “Your Members” and yet he is a Member of this House. And therefore, it is only fair that when he is making reference to this House to say so. But when he says, “Your Members” isn’t he a Member of this House? I think it is not right.

The Speaker: Let me guide on the procedural matter. Procedurally, Members of the Council of Ministers are Members of this House. So, when he says “Your Members,” he is referring to himself as well. But most importantly, he should refer to a Member in question and on that particular subject. Chair, Council of Ministers, you are on the floor on a Point of Order.

Dr Saadalla: Thank you, Mr Speaker. I beg your indulgence. Yes, I am a Member of this House but when I refer to a Member, I mean those Members who have been using unacceptable words. I, therefore, apologise to all Members who didn’t utter such words.

It is Rule 47 from which I would just like to show my concern as Council that Members used words which are not good at all. They are portraying me as Chair, Council and other Members negatively. Words that are intimidating –check- I am a Member of Parliament who is also representing East Africans.

The Speaker: Go to the Point of Order.

Dr Saadalla: My Point of Order is that let them not use such words because they are very irritating and demoralising. We shall reply to their concerns in a very diplomatic way.

The Speaker: Thank you so much. The Speaker is very keen at picking the concerns of Members and he has picked the Point of Order. The Point of Order has been interpreted to mean that there words or adjectives, which are imputed on the Council and are not in order. The Speaker would like to rule that this is a rule based House. If a particular word which has been raised during debate is not comfortable with you or any other Members, you are at liberty to raise in accordance with our Rules of Procedure and challenge that particular word but not to present it in a blanket manner. So I guide the House. Please, proceed - (*Applause*).

Mr Mathuki: Thank you very much, Rt. Hon. Speaker. With your permission, Rt. Hon. Speaker, we are dealing with a very serious business, which is the Bill before this House. Citizens of East Africa are watching what we are doing. We are not here for a joy ride; we are here to do serious business. And that is why the Council of Ministers must understand at such.

This is not a House of diplomats; this is an Assembly representing the people. I do appreciate that there is parliamentary language and as far as I am concerned, Members are debating a serious matter. This is an Assembly that is time barred; we only have a year and half to go. So, it is important that the Council of Ministers ups its game.

If you look at the Summit as an Organ, they are seriously doing their business. They are committed. Ourselves as an Assembly, we are committed though I am not sure about the Council of Ministers. And that is what we are saying. What feedback are we going

to give back to stakeholders who are the owners of this Community when we meet them? Shall we tell them that we cannot transact their business because the Council of Ministers were not ready or they gave us information late? That we cannot take and get away with. So, it is important the Council of Ministers take their business seriously and started respecting other Organs of this Community. I submit, Rt.Hon. Speaker.

But I would like to support my comrade, colleague, Chair of CTI for the benefit of this that it is important that the Council of ministers take note that we can't proceed in this mess. They need to up their game. I thank you.

The Speaker: I had given Hon. Chris Opoka and then Hon. Nancy Abisai. But Chair, CTI because I didn't expect the magnitude of debate, I will give you some time to further some justification to maybe convince some Members who are not for your plea before I give Chair, Council of Ministers to give a comprehensive response.

Mr Chris Opoka (Uganda): Thank you, Rt. Hon. Speaker. Like others, I would also like to thank the Kenyan Government, the Kenyan Parliament and the Kenyan Chapter for giving us a warm welcome to this meeting - (*Applause*). Thank you.

Rt. Hon. Speaker, I am not a member of the CTI Committee neither was I present at the session in Kampala when this matter was being raised because of health reasons. However, I do associate with the sentiments, which have been expressed by Members.

I would like to support the Chair of the CTI Committee on the request that he has made and the reason is that we are still confronted with a reality. The Committee received the submission by the Monetary Affairs Committee this morning. If it had been a

submission by some private or some organisation, it would be a different matter.

In 2013, we signed the Monetary Union Protocol and we are now in the phase of working out a Monetary Union. The submission coming from the Monetary Affairs Committee on this Bill is extremely critical.

Now, we cannot postpone the passing of this Bill indefinitely. I believe that it is important to pass it in this session. So, if the Chair of the Committee on CTI was making the request on the basis that if given a few days, maybe by next week we can go through and pass this Bill, I would really applaud it. This is because it is very important to consider the views from the Monetary Affairs Committee. It is critical.

I think we should cut some slack for the Council of Ministers. Sometimes members of the Council of Ministers seated before us here who are Ministers of East African Community Affairs from their countries may not be in position to control other parts of the Executive- (*Applause*) - because they generally include the Ministers of Finance, the Attorney General and any other Minister. So, I really at times sympathise with the other Members who are seated on the opposite side.

Mr Sebalu: Thank you very much, Rt. Hon. Speaker and Hon. Opoka for giving way. When you raise the issue of the Council of Ministers not being in position to control or to coordinate these matters, I heard some applause. However, I am just wondering whether that is a confirmation that actually they are not up to the job - (*Laughter*).

Mr Opoka: I think my good friend, Hon. Mike just wanted to speak. I did not say that Council of Ministers may not be able to control. I said, "Ministers in charge of the East African Community Affairs who are seated on the opposite side-

The Speaker: Hon. Chris, if I got Hon. Mike well, he was seeking clarification on the applause, whether they were in affirmative of inability to perform certain functions - (*Laughter*). So, he was questioning the applause and not your debate. Thank you. Proceed.

Mr Opoka: Thank you, Rt. Hon. Speaker for explaining the applause and indeed Hon. Minister for East African Affairs can take up the challenge.

So, as I was saying, we should cut them some slack, and especially the Committee on CTI because it may not have been in their control. Thank you so much, Rt. Hon. Speaker.

The Speaker: Thank you so much.

Ms Nancy Abisai (Kenya): Thank you, Rt. Hon. Speaker. Let me take this opportunity on behalf of the Kenya Chapter to welcome all of you to the beautiful city of Nairobi - (*Applause*).

Secondly, I would like to tell you that the Kenyan Chapter would like to do a special welcome for all of you and we have several items lined up for you while here. I believe you will be getting communication at the appropriate time. I would also like to tell the Hon. Members that I am the Chair of the Kenyan Chapter.

Having said that, I would like to say this, I am a member of this Committee and we know that the Chair of the Committee was at pains to even ask for the deferment. This is not the first time that we are discussing this. We had debate at the level of our own Committee on issues that have been raised by the Council.

When we were in Kampala when the matter came up, we agreed that we would indeed have some time to take note of the additional proposal of amendments that were proposed to this Bill. But unfortunately, the Council of Ministers, which promised us to do that did not do it.

The Chair, Council, when Members are speaking, I think most of them have acknowledged the fact that you have been present at almost all our sittings. That is one issue that nobody can deny. We know that you have taken time to be there and a few of your colleagues have also been there. But there are others we do not know. And that is exactly the reason why we are in this kind of stalemate, which we should not be. Because if you are working as a team and most of the time you are together, then it would be easy for you to convince your colleagues to fast track this process.

Now, I want to agree with the Hon. Opoka that we should have a timeframe for the adjournment. We cannot just say, let us adjourn; let us debate without knowing when we are going to discuss it again because this Bill is really very important.

But the stakeholders who have raised concern, like the East African Communications Organisation, the East African Law Society, the Monetary Affairs Committee, all the key stakeholders are okay but why didn't we get this earlier? Why did the Council of Ministers fail to actually consider the fact that Committee needs to make sure that they are aware of this further input at an earlier stage?

Having listened to H.E. and for those who were there yesterday, it was a historical moment. The Chair of Summit had the rare opportunity to address three assemblies; the Senate, the Kenya National Assembly and the East African Legislative Assembly Members who were there. And that was acknowledged. But he said one thing that I think all of us should take note of-some of you Members were there- I am just saying that the Speaker of the Senate and the Speaker of the Kenya National Assembly acknowledged the presence of the East African Legislative Assembly who were having their sittings in Nairobi and I think that is important to note.

H.E. Jakaya Mrisho Kikwete emphasised so many aspects of integration that actually were touching on issues of this Bill in terms of how we are coordinating; in terms of how we are doing business; in terms of how we are transacting and even said that Tanzania more than ever is right now the country that is most interested in this integration process. *(Applause)*

So, what then we are talking about is that when we find that we have to forestall a Bill like this because of some procedural issues, Rt. Hon. Speaker, I think that is delaying us too far. I would, therefore, like to propose that we have – I appeal to my Chair, please accept to add to your motion of adjournment a timeframe so that this time we are not going to again come back here and adjourn again and it should be a specific and definite time so that we don't have to come back and forth and speaking to each other on issues that should have been resolved. I thank you, Rt. Hon. Speaker.

The Speaker: Thank you. Hon. Mwinyi and then I call Hon. Chair to add a few things unto his motion.

Mr Abdullah Mwinyi (Tanzania): Thank you very much, Rt. Hon. Speaker. I would like to join my colleagues in thanking the Kenyan Chapter, the Kenyan Parliament, both the Senate and the Lower House, as well as the people of Kenya for their warm hospitality accorded to us since our arrival here in Nairobi.

Rt. Hon. Speaker, I am a member of this Committee. Unfortunately, I wasn't able to attend today's meeting as this was an ad hoc meeting, specifically set up in order to deal with this particular situation.

I would like to associate myself with a number of my colleagues who have participated before. But crux of the matter here is not the specifics but rather the generality. We are all aware that strengthened stakeholder engagement

should not be undermined in any way. The quality of the Bills that we produce will only be of the requisite standard if we engage all the relevant stakeholders extensively. I don't think any Member in this august House would dispute that contention.

But what is in contention is the respect of the process and the respect of Organs and Institutions of the Community. It is unfortunate that this discussion happens at the time that my Hon. Colleague is Chair and is seated here because without fear or favour or contradiction, I don't know any Member of the Council of Ministers who has shown more commitment to this august Assembly than Rt. Hon. Abdallah Saadalla - *(Applause)*. There is no question to it.

But is also very unfortunate that members of the Council - it is very clear to us that some Members of the Council do not take this Assembly seriously. How do we gauge so? I mean, if you are to take an Organ seriously, there are many ways to do it but I will talk about two; one, is attendance; and secondly the respect of the Rules.

I am sorry to say, with all due respect, with all the hospitality of our Kenyan colleague, I must be frank, the Minister of Kenya, Hon Kandie – I am sure there are some members here who even do not recognise. Her attendance has been poor - *(Applause)*. Absolutely. There are no two ways about it. So, if you are respecting; you are representing a Partner State in this very House and we have a session here in Nairobi, and you are nowhere, how do we take it?

Secondly, Rt. Hon. Speaker, in accordance with our Rules of Procedure, if I may read Rule 93, Leave of Absence; this applies to all Members, be they substantive or ex-officio Members, you are all Members. If I may, I would like to read it: *“Leave of Absence- Every Member shall during a session of the Assembly or any Special Sitting attend the sittings of the House*

unless leave of absence has been granted to him or her by the Speaker.

(2) Except with the permission of the Speaker in writing, a Member shall not be absent himself or herself from seven consecutive sittings of the House during any period when the House is continuously sitting.” This is a very serious Rule. I had actually left that out tactfully. (Laughter) “Where any Member is alleged to have infringed, the conduct of such a Member shall be referred by the Speaker to the Committee of Legal, Rules and Privileges, which shall consider the matter and report to the House.” Hon. Speaker, I beg your protection.

The Speaker: Now, Hon. Mwinyi – Hon. Members, of course you know that the substantive matter of debate is not the Council of Ministers and or the conduct of a particular member of Council of Ministers. The substantive matter of debate is the motion by the Chair, CTI. But I am not saying we should not allude to the issues of discipline and disrespect to this Assembly. We should, however, not make it the mainstay of our debate. I am very conscious of that. Please, proceed.

Mr Mwinyi: Thank you very much, Mr Speaker. I stand guided. But the debate emanates from the seriousness in which members of the Council take the House, a serious charge which Members of the august House take. And as articulated under the Rules, it is very clear. All Members need to take the sittings of this Assembly seriously.

Secondly, of this particular issue, upon my rising, my position was very behind my friend here, Hon. Ogle. The issue of seriousness of nay institution has to be enforced. And this august House has to take the upper hand in enforcing. If Members do what they wish, and we let them get away with it, we are not going to expect the tempo to rise.

Lastly, I am a member of CTI and my understanding of the intricacies of the Electronic Transactions Bill, I urge all the Hon. Members of this House to support the adjournment proposed by the Chair of the Committee on CTI with a specific timeframe. I am suggesting that since we have sessions until next week, I am proposing that we have this matter on the floor before the end of this particular session. It will at least give enough time to the Committee and the Council to review so that we have this matter before the House to discuss how to proceed. I beg to move, Mr Speaker, Sir.

The Speaker: Can I request the Hon. Chairperson of the committee on CTI to say a few things before I can invite Chair, Council of Ministers.

The Chairperson, Committee on Communication, Trade and Investment (Mr Fred Mukasa Mbidde) (Uganda): Thank you very much, Rt. Hon. Speaker. This is first of all to thank you, Hon. Members for giving me the opportunity to be forgiven for what is happening.

Rt. Hon. Speaker, I have moved this motion on the basis of the great respect I have for the following: one, the Council of Ministers; two, and of course not in any order; your honourable office, Mr Speaker; and three, the Office of the Clerk and four; the stakeholders in relation to this Bill.

I have got very great reservations. And when I heard the Hon. Ogle speak, I envied him for not being the Chairperson of this Committee and not even a member because I could have spoken similarly.

There are a lot of what we call in law, the doctrine of election. It presupposes that whoever accepts a benefit must not do away with the burden that comes with it. Now, when you accept to be a Chairperson of a Committee, you are now bound in collective responsibility and of course even administrative criteria that come with it.

Hon. Members, this Bill is a generic Bill. It is without any legal framework. All it does is to provide concerted administrative actions for its enforcement. That is why it provides for certification of service providers. So, it is clearly not a very contentious Bill. And Rt. Hon. Chair, Council, this forms the basis of the anger you are seeing in the House. They are questioning themselves why the delay when the Bill just seeks to do the needful?

This matter was adjourned in Kampala but the objective reasons that moved the adjournment were not properly known by the Members. Some Members thought properly our report was inconclusive, which was not the case. The report was complete; all manner of justification was given and the Bill was ready for the Second and Third Reading and substantially being enacted into an Act of Parliament.

Same for the interventions that occurred where other stakeholders thought their input was material if the Bill was to continue to be generic as I have attempted to explain. So that now caused us the adjournment that we again sought.

Rt. Hon. Speaker and Hon. Members, I have seen a lot of things in life and this I am stating in my own opinion. Except being incompetent, in terms of my political career, I am not about to press a descending button; not yet.

Rt. Hon. Speaker, I am a Vice President of a political party in Uganda (*Laughter*) and so I am almost a prospective member of Summit. Now the conduct that is being administered around my own – (*Interjection*) - I will take the information.

Mr Mwinyi: I would like to inform my friend there that him being the deputy chair, before us we have the substantive chair of a political party, Hon. Twaha Taslima - (*Laughter*).

Mr Mbidde: Much obliged and I take cognisance of Hon. Twaha Taslima. In that

regard, Rt. Hon. Speaker, first of all, I think the idea that we adjourn debate to include further and better particulars is in itself correct except for the delays that may begin to exhibit an atmosphere of tainted supporters of the Bill. Tainted in such a way that they could probably be supporting it from the opposite direction.

Ms Hajabakiga: Rt. Hon. Speaker, I am a member of the Committee and I was in the meeting in the morning. We would like a clarification from the Chair of this Committee whether the adjournment being sought is from his own thinking because that was not decided in the Committee this morning. I would like to know whether he is doing it as a person or on behalf of the Committee.

Mr Ogle: With a lot of respect to the Chair of CTI, I thought he was making a case for the adjournment. But as he stands there, he appears to be a member of the Council. He is trying to defend everything from that perspective. Could he just clarify what he is doing?

The Speaker: Chair, CTI commit yourself to the clarification but also to crux of the matter seeking adjournment with reasons. Thank you.

Mr Mbidde: Thank you very much, Rt. Hon. Speaker. I think before I conclude it is very hard for any Member to exactly conclude what my conclusion is likely to be. I moved the motion, Rt. Hon. Speaker and I am justifying the motion but obviously I cannot take the characteristic of a train that moves on the same trail while debating. I must use all the limbs available in order to capture all the aspirations of all the Members that have been varying in terms of support to this motion. So, I am trying to move as a whole, even with Hon. Ogle so that we can arrive at the same decision.

Rt. Hon. Speaker, the clarification sought my member, that one can be subjected to

Rule 4 of the Rules of Procedure –in the Annex. Rt. Hon. Speaker, I perform the activities of the Speaker of Parliament while in the Committee. So, those activities of directing, decisions making and being a substantive spokesperson of the Committee have made the logical necessity for me – (*Laughter*) - to apply for this adjournment.

But also in the beginning I made it clearly known that I have had an interaction from the offices I have adumbrated in the beginning and they have formed the basis of this activity we are doing here.

Now, I have also stated, Hon. Members that we can agree to the adjournment but with a limit. The adjournment seeks to have all the views of the stakeholders included in the Bill so that the Bill begins to carry what we call - it used to be a German word but it is now English - the Ph. of a substantive Bill of the persons in East Africa here who are trading but would like a governing law which is the architecture for electronic business. If we have to do that, then the adjournment sought is going to be respected with a limitation.

We do not want this Assembly to be taken for a ride, obviously. I have been debating with a few friends of mine of a story of high school students in Eldoret who recently just attended a jam session without going to school and they were actually arrested by Police. Some of them were found with *bangi* and carrying placards saying “*Why go to high school when you can go to school high?*” So, this is not the kind of Assembly that is going to be taken that way. We come here to debate law and we pass it because that is a provision of the Treaty.

So, Hon. Members, by seeking the adjournment, I am nor swerving from the laid out path of the procedure of the Assembly to pass laws. But majorly to accommodate all the sentiments that can be necessarily accommodated in order to come up with a Bill that is the reflection of East African people.

I have this to make, Rt. Hon. Speaker, the day this matter appears on the Order Paper, I will not support its adjournment except that if it is adjourned, I will perform either of the two roles, and this is very serious; either I will take Council to court or I am going to resign as a member of the Committee. Because I am not going to be depicted as incompetent by any sort of depiction. I do not think I am and the cause for which it has been adjourned almost repeatedly – intermittently- and which is becoming interminable, I am not going to take it.

So, Rt. Hon. Speaker and Hon. Members, I appeal to you, kindly support me on this last adjournment and I will not seek your support for any other adjournment because we need to pass this Bill into law. I thank you very much, Rt. Hon. Speaker. (*Applause*)

The Speaker: Thank you so much. There is nobody on the floor for you to give information. You should have risen in time as per our Rules of Procedure. But Hon. Members, the Bill is clear, this is a motion, which was raised by the Chair and I don't know whether the Chair, Council of Ministers has anything to say before I put the question?

The Assistant Minister for East African Cooperation, Tanzania, and Chairperson, EAC Council of Ministers (Dr Abdallah Saadalla) (Ex-Officio): Thank you so much, Rt. Hon. Speaker. The Council of Ministers are very concerned about this special Bill and the reason of postponing it was the desire to complete the stakeholders meetings, especially the Monetary Union.

It is true it has come late and we would like to apologise to the House because this Bill is very important to the House. We even wanted this Bill to be read yesterday. You will remember very well during the last session, we, the Council are the ones who

wanted it to be on the Order Paper but unfortunately this happened.

Secondly, I seek the indulgence of the Members that Council has been keenly reminding the Secretariat to bring this Bill. Even the bringing of this paper today was out of the pressure mounted on them.

Thirdly, yesterday I talked to Hon. Ndahiro at about midnight or so before he slept. And I told him that I knew that he had amendments with him but it is now our work style, for at least the last one year that I have been the Chair, not have amendments while in the House. That is why we have passed many Bills here. So, I beg Members that before we sit, let us sit down as Council and Committees and consolidate all our points of divergence and convergence so that we move faster.

But for this special one, unfortunately we never sat together. So, let us do that maybe tomorrow morning with the Committee and try to digest this Bill.

Mr Mathuki: Thank you very much, Hon. Chair, Council for giving way. But I think it is only fair, Rt. Hon. Speaker for purposes of the good records of this Assembly so that we are also seen as a fair House. He has said that we need to sit down as Committees and members of the Council of Ministers. It is not only the member of Council from Kenya who has not been seen, but also the Minister from Rwanda. I can't even remember her face properly. So, it is only fair for our good record that as you call people to sit and consult, you should bring up these things. For the record, for those who are not visible by citizens and us, they should take note. I think we have not seen the Minister from Rwanda. That is good information, Mr Speaker.

Dr Saadalla: Thank you very much, Mr Speaker. That was the first point. I really think that Council is not in the position of delaying Parliament's Bills. I remember very well, last time, you talked about this

House not being influenced in any way by any other stakeholders so as not to continue with their administrative principles including the Council of Ministers. So, I always take it that way.

I agree with the Chair of the Committee that we shall not seek adjournment again. Though we know that there are a lot of important legislations to be passed by this House subject to the same Bill, like Data Protection Act, E Evidence Act, E-Signatures, E-Taxation etcetera. You know these are all the subsidiaries of this primary Act. We can pass this one and the others follow.

Lastly, I thank all Members who came to Zanzibar. *(Applause)* Unfortunately, during that time I could not meet you and I was not even in the campaigns because I had emergency evacuations to make of my close family members. So, I couldn't meet you but those who extended their assistance to me, I thank you very much.

I thank you very much Sir. That is why I took a photograph with you and Speaker Emeritus, Rt. Hon. Abdi. He is the one who received me and you are the one who gave me an exit. All the other Members, thank you so much. You gave a lot of – *[Members: "You are coming back."]* - Yeah, but tomorrow may be very far. I wish you all the best. May God bless Africa; God bless East Africa. Thank you so much. *(Applause)*

The Speaker: Thank you so much, Chair, Council of Ministers. Hon. Members, the motion before us is that this debate be adjourned. Before I put the question, the Chair, CTI has been modest enough because he knows the work of putting the Order Paper lies squarely on the Speaker and that is why he says within this particular meeting in Nairobi. But I give you my assurance, depending on how you will vote, all will be done.

(Question put and agreed to.)

The Speaker: Hon. Members, there are issues that came up when we were debating the Chairperson's motion, which are very critical and some of them had arisen before when we were in Kampala. And out of that, the Speaker who was presiding at that meeting gave a directive to the Committee of Legal, Rules and Privileges in relation to the commitment of Council of Ministers to the work of this Assembly.

(The House rose at 3.50 p.m. and adjourned until Thursday, 8 October 2015)

The Committee was given the mandate or was directed by the Office of the Speaker to undertake a review of the status of implementations of the position of this Assembly by Council. We expect the report of this Committee to this House on that matter.

On the matter of attendance of our colleagues from the Council of Ministers, I would like to inform you that I had already consulted the CTC, who is a Member of this House, on how we can apply Rule 93 on Members who are not attending this House. I would not like us to go that route of causing embarrassment to our colleagues who are not attending.

I would, therefore, like to appeal to Chair, Council of Ministers to extend my appeal to your colleagues that they are appointed by their appointing principals to be part of this Assembly. They took oath of allegiance to the Treaty of the Establishment of the East African Community. So, they should live to that oath they took. This is a serious concern of this Assembly and we will further this discussion out of these chambers to make sure all is sorted out.

Now, with those comments, Hon. Colleagues, before I adjourn the House, I direct the Committee of CTI to immediately convene after the adjournment and they would like to meet with the Council of Minister to iron out this matter. I think I will have this Bill on the Order Paper tomorrow. The House stands adjourned.