



## **EAST AFRICAN COMMUNITY**

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### **IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

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

**43<sup>RD</sup> SITTING - SECOND ASSEMBLY: THIRD MEETING – SECOND SESSION**  
**Wednesday, 10 December 2008**

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

### **PRAYER**

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

*The House was called to order.*

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### **BILLS** **First Reading**

The East African Community Tourism and Wildlife Management Bill, 2008

**Ms Safina Tsungu Kwekwe (Kenya):** Mr. Speaker, I beg to move that “*A Bill for an Act to Make Provision for a Framework for Cooperation in Natural Resources Management, The Management of Tourism and Wildlife and Other Related Matters*” be read a First Time.

**Dr. Lwanyantika Masha:** Seconded.

*(Question put and agreed to.)*

**The Speaker:** The Bill is referred to the appropriate committee.

Bill Read a First Time and referred to the Committee on Agriculture, Tourism and Wildlife.

**BILLS**  
**First Reading**

The East African Community Elections Bill, 2008

**Mr Dan Wandera Ogalo (Uganda):** Mr Speaker, I beg to move that “*A Bill For An Act of the Community to Make Provision for the Conduct Presidential and National Assembly Elections, to Establish the East African Electoral Commission, to Provide for the Registration and Management of the Register, Demarcation of Constituency Boundaries, Appointment of Election Officers, Procedure at Elections, and Other Incidental Matters*” be read a First Time.

**Ms. Kate Kamba:** Seconded.

*(Question put and agreed to.)*

**The Speaker:** The Bill is referred to the relevant Committee.

Bill read a First Time and referred to the Committee on Legal, Rules and Privileges.

**MOTION**  
**For A Private Member’s Bill**

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto-Mutende):** Mr Speaker, I beg to move\_

“THAT, This Assembly, pursuant to the provisions of Article 59(1) of the Treaty and Rule 64 of the Rules of Procedure of the Assembly, do grant leave to me to introduce a private members Bill entitled the “*The Acts of the Community Act (Amendment) Bill, 2008.*”

I beg to move.

**Ms Nusura Tiperu:** Seconded.

**Ms Wanyoto:** Mr Speaker\_

*WHEREAS Article 59 of the Treaty for the Establishment of the East African Community empowers members of the Assembly to propose any motion or to introduce any Bill in the Assembly; and,*

*WHEREAS the provisions of Article 59 of the Treaty are translated in the Rules of Procedure of the Assembly, and particularly rules 56 and 64;*

*RECOGNIZING that the Acts of the Community Act was enacted by this Assembly taking into account only three original Partner States;*

*AND AWARE that the Republics of Rwanda and Burundi are now full members of the East African Community;*

*NOW THEREFORE REQUEST, That this Assembly do resolve to grant me leave to introduce a Private Members Bill, entitled “The Acts of the Community Act (Amendment) Bill, 2008.*

Mr Speaker, I beg to move.

**The Speaker:** Honourable Members, the proposal on the Floor is that the Assembly, pursuant to the provisions of Article 59(1) of the Treaty and Rule 64 of the Rules of Procedure of the Assembly, do grant leave to hon. Lydia Wanyoto Mutende to introduce a Private Members Bill entitled “*The Acts of the Community Act (Amendment) Bill, 2008.* Debate is now open.

**Mr Wandera Ogalo (Uganda):** Mr Speaker, I thank you for the opportunity to make a few comments on the motion before the House. I support the motion principally because this is power which has been given to the Assembly by the Treaty recognizing that the Assembly should exercise the power to bring Private Members’ Bills. I therefore think that in such a case where there is a need to look at a past legislation which this Assembly has enacted, it is proper to give leave to the Member as a matter of course.

Secondly, I am also supporting the motion because of the realization that many times the Council of Ministers is so busy with so much other work that it is necessary for the Members of the Assembly to come up with Private Members’ Bills. Although we are aware that under the Treaty the Council of Ministers is empowered to initiate Bills, but in view of shared responsibilities, and also working together with the Council of Ministers, I think that we should give this leave as a matter of course.

With those few words, I support the motion. *(Applause)*

**The Speaker:** Honourable Members, I now put the question that the Assembly, pursuant to the provisions of Article 59 (1) of the Treaty and Rule 64 of the Rules of Procedure of the Assembly, do grant leave to hon. Wanyoto to introduce a Private Members Bill entitled, “The Act of the Community Act (Amendment) Bill, 2008.

*(Question put and agreed to.)*

#### QUESTIONS FOR ORAL ANSWER

**Question for Oral Answer Reference: EALA/PQ/OA/17/2008**

**Mr. Dan Wandera Ogalo (Uganda):** Asked the Chairperson of the EAC Council of Ministers:

*Article 138 (2) of the Treaty for the Establishment of the East African Community requires the Secretary General to conclude with the Government of Tanzania an Agreement relating to the privileges and immunities to be recognised and granted to the Community. The East African Legislative Assembly and the East African Court of Justice are organs of the Community. It is now seven years since the two organs came into being but no agreement has up to date been concluded by the Secretary General.*

*Can the Chairperson of the Council of Ministers inform the House how much more time the Secretary General requires to conclude a headquarters agreement in respect of the Members of the Assembly and the Judges of the East African Court of Justice?*

**The Minister for East African Community Affairs, Rwanda, and Chairperson, Council of Ministers (Ms Monique Mukaruliza) (Ex-Officio, Rwanda):** Mr. Speaker, Article 138 of the Treaty for the Establishment of the East African Community indeed requires the Secretary General to conclude, with the government of the host territory where the headquarters or offices of the Community shall be situated, agreement relating to the privileges and immunities to be recognized and granted in connection with the Community.

This requirement is a logical extension of the need for the Community, as an international person, to enjoy international legal personality. It is also a key aspect of the Treaty of the Treaty's obligation to the Partner States to accord the Community and persons in its service privileges and immunities in order to facilitate effective functioning of their different roles. The Council takes this matter seriously as lack of this agreement has a negative impact on EAC operations, as was ably pointed out by the Accounts Committee.

Mr. Speaker, regarding the East African Community headquarters, a headquarters' agreement with the United Republic of Tanzania is in place as reflected in Article 142 of the Treaty. This agreement, which provides for the seat of the headquarters, maintenance of that seat, control and function of the headquarters, and communications access, among other aspects, serves the requirement of the Treaty with regard to the East African Community headquarters.

Mr. Speaker, in respect of institutions like the Inter-University Council for East Africa, the East African Development Bank and the Lake Victoria Basin Commission, headquarters agreements have been concluded with the governments of Uganda and Kenya respectively.

Mr. Speaker, action on this matter should not take an unduly long period. However, this august House needs to appreciate that the partner state action in this regard must be well set and defined. The standard set by the Treaty for the Partner State grant of immunity and privileges is what the partner states are called to in international organizations similar to the Community, and which operate in their respective territories. Since such grant

differs from country to country, the council deemed it appropriate to develop a protocol that would provided for common requirement.

A draft protocol providing for protection of the Community, its properties and assets, tax exemptions, facilities in respect of official communications, immunities and privileges for persons in the employment of the Community, and the invariability of Community funds and property has been prepared and is undergoing considerations spearheaded by the Sectoral Council of Ministers Responsible for Foreign Affairs. The conclusion of this protocol would be the basis for concluding all arguments in respect of the Community's status, privileges and immunities. Consideration of the protocol is in its final stages.

Mr. Speaker, this situation notwithstanding, the Headquarters Agreement with the Government of the United Republic of Tanzania has been used to secure privileges and immunities for honourable Judges of the East African Court of Justice. I thank you sir.

**Mr. Ogallo:** Mr. Speaker, my understanding from the answer is that although the Treaty provides for an agreement to be concluded, the Council has opted to move towards a protocol. It seems different, but I will ask this question in view of the fact that it has taken seven years to conclude an agreement. Does the Minister consider it proper to give a directive and a time limit to the Secretary General within which to conclude the protocol?

Secondly, does the Minister mean to say that it is impossible to conclude that agreement without putting in place a protocol first?

**Ms. Mukaruliza:** Mr. Speaker, the protocol is meant to provide a common basis. It is true its conclusion has taken long, but as I have already said, it is nearing finalization.

**The Speaker:** I think hon. Ogallo was asking for a timeline or a date, instead of just saying it is being concluded. Maybe the Minister can give us some sort of timeline. *(Applause)*

**Ms Mukaruliza:** Mr. Speaker, in the next meeting of the Council, a timeframe for the finalization of this protocol will be determined.

**The Speaker:** I think our next session is after the Council of Ministers meeting, so we will know by then – *(Interjection)* – Yes, *Mheshimiwa* Karan?

**Mr. Clarkson Karan (Kenya):** Mr. Speaker sir, I appreciate that the Minister also agrees that this matter has taken an unnecessarily long period of time, but the next meeting of the Council maybe too far to set a timeframe. Can the Minister be specific and tell the House when the Council of Ministers is meeting, and when she expects to conclude this matter, which is long over due?

**Ms Mukaruliza:** Mr. Speaker, the next Council meeting is scheduled for February, but the Sectoral Council on Foreign Policy Coordination has to meet first in order to conclude this protocol. But as I have promised, in our next Council meeting, we shall set

a deadline for this protocol to be concluded. So, it will be up to the Sectoral Council to meet that deadline. I thank you.

**Question for Oral Answer Reference: EALA/PQ/OA/18/2008)**

**Ms. Lydia Wanyoto (Uganda):** Asked the Chairperson, EAC Council of Ministers:

*“The Treaty for the Establishment of the East African Community provides that a customs union shall be the first stage in the process of the economic integration. Therefore, the EAC regional integration commenced with the coming into being of the Customs Union, which has been in existence for over three years now. It has been stated by the Secretary General in various forums that the EAC Customs Union has been a major success, and that it has boosted regional trade with benefits accruing to Partner States. Similarly, it is the precursor of the EAC Common Market and the other stages of integration.*

*Could the Chairperson of the Council of Ministers\_*

- a) Give a full account of both the qualitative and quantitative trends in the evaluation of the Customs Union;*
- b) Inform the august House on the full implementation schedule up to 2010; the targeted date for a fully fledged customs union and state whether we are on track, and where we want to go after 2010?”*

**Ms. Mukaruliza:** Mr. Speaker, the Customs Union is now in its fourth year of implementation, and its objectives are the promotion of intra and extra EAC trade, promotion of production efficiency, enhancing investment and promotion of economic development, and, diversification and industrialization.

In pursuit of the forgoing objectives, the implementation of the Customs Union has made the following qualitative achievements:-

1. Uniform and consistent application of a common external tariff in the original three EAC Partner States with no unilateral diversion. Rwanda and Burundi will commence applying the common external tariff in July 2009.
2. A harmonized common list of 58 sensitive products agreed on in 2004 is being applied in those three original Partner States.
3. Progressive and consistent elimination of internal tariff as set out in the Protocol. The tariff elimination will enter its fourth phase in January 2009, and will reach zero in January 2010, creating a free tariff regime on all intra EAC trade. Currently, the highest tariff on 413 products from Kenya to Uganda has reduced to 4 percent, and will further reduce to 2 percent on 1 January 2009. The highest duty rate on 818 products from Kenya to Tanzania has now reached 10 percent from 25 percent in 2005. Of the products from Kenya to Tanzania, 78 percent will be at zero percent on 1 January 2009.
4. Development and implementation of an agreed mechanism for removal of non tariff barriers. Specific interventions to address non tariff barriers have been made by the introduction of 24-hour operations at the port and major border stations.

5. Development of modalities to ease movement of transit trucks through weighbridges. Trucks already weighted at the point of entry will not be subjected to intermediate weighting along the transit routes. Most Partner States have removed road blocks. Kenya has undertaken to remove the roadblocks. An amendment to the East Africa Community Customs Management Act has been drafted to allow advance submission of manifests by shippers on-line.
6. Uniform and consistent application of Community Customs laws, regulations and forms hence enhancing harmonisation procedures, transparency and business predictability. There is training and sensitisation of stakeholders in the region, which is increasing the level of awareness of the benefits of the Customs Union; implementation of uniform EAC Rules of Origin with an EAC Certificate of Origin. A simplified Certificate of Origin and a roadmap for the implementation of the Customs Union by Rwanda and Burundi has been finalised, and activities in preparation for their entry in July 2009 are on course.
7. Finally, Ministers of Finance hold consultative meetings to review the Customs Union matters which are pronounced during the reading of the national budgets.

Compilation analysis and reporting of trade data is being done annually in the EAC Trade Report. The trade report for 2005 was finalised and distributed. The 2006 trade report will be distributed to stakeholder by end of December 2008, while the 2007 draft report is being proof read in preparation for printing. Work on the 2008 report will commence in January 2009. A study to assess the impact of the Customs Union is ongoing and will be ready by 20 December 2008.

According to the EAC Trade Report, there has been significant increase in intra and extra EAC trade for the period since the Customs Union commenced. Similarly, investment flows and revenue collection has been registering positive growth. The intra-trade amongst the three Partner States implementing the Customs Union has been registering increase reaching 30 percent in 2007 from that of 2004. The increase of trade in 2007 over 2006 was 22 percent. Although Kenya maintains the biggest share of export to other Partner States, there has been a significant increase in export from Tanzania and Uganda to Kenya, reaching fivefold in 2007 compared to 2004. This means that the level of trade deficit for Kenya with Tanzania and Uganda is narrowing.

Revenue performance for the five Partner states has been above target since the Customs Union commenced. Similarly, the year-to-year growth has been significant during the period. In 2007, the growth was 33 percent for Uganda, 32 percent for Kenya, 35 percent for Tanzania, 12 percent for Rwanda and 4 percent for Burundi. Although the tax rate under the Customs Union were reduced and removed, the continued increase can be explained by the high turnover in business, and a conducive trade regime created by the Customs Union. This is contrary to the fear that had been expressed before the Customs Union that revenues would decline.

In the same regard, the investment flows in the region have been on steady increase with the biggest growth in terms of value being 245 percent in 2006. This increase in investment projects resulted into job creation with a significant increase of 30 percent in

2007. The increase in investment can partly be attributed to predictability of the trade regime created by the Customs Union.

The EAC Customs Union is scheduled to enter full implementation in January 2010, after a transitional period of five years. This means that the EAC will become a fully fledged single customs territory at that time. As earlier mentioned, the first step in this direction is the full elimination of internal tariff on intra EAC trade, which is on course. In addition, strategic interventions, as per the EAC Development Strategy 2006-2010 for the consolidation of the Customs Union are being made in the following areas:

1. Development of a customs strategy that spells out the legal and institutional framework, including establishment of an EAC customs authority, collection of taxes at the first point of entry and free circulation of goods in the Community, reduction of intra border customs controls on movement of goods between Partner States, and secession of application of Rules of Origin.
2. Interconnectivity of customs systems to enable exchange of information. A study will be undertaken in January to May 2009, and thereafter equipment will be procured and installed in 2009/2010 under the African Development Bank support. A central data bank will be established at the Directorate of Customs where all customs data will be deposited and retrieved.
3. Work on harmonisation of EAC customs curricula is in advanced stages of implementation, and a standard EAC customs syllabus will begin in 2009/2010.
4. Work on harmonisation and simplification of customs procedures is on course and will be finalised in 2009.
5. Work on removal of non tariff barriers is ongoing and the mechanism will be fully implemented in 2009.
6. Establishment of trade arrangements with COMESA and SADC, starting with a Free Trade Area (FTA) in order to address the challenges of multiple memberships and increased competitiveness of EAC goods through the expanded market.

I thank you, Mr Speaker.

**Mr Ogalo:** Mr Speaker, the EAC Customs Management Act which was enacted in 2004 did recognise that at that time Uganda and Kenya were in COMESA while Tanzania was in SADC. A law was then passed requiring that those two arrangements of SADC and COMESA would expire on 31 December 2006. Eventually that was not fulfilled, and there was an extension, I believe, to December 2008.

My question is, when that comes to an end, what will happen to the goods coming from those countries like Malawi and Zambia which neighbour East Africa?

**Ms. Mukaruliza:** An amendment of the provision will be brought to EALA at the next Meeting. In the meantime, as empowered by the Protocol, Council has allowed stay of the application of the EAC Common External Tariff after 31 December 2008. But a substantive response to this question will be passed to EALA in writing.



**The Speaker:** Is the Minister saying that the Council directive supersedes an Act passed by EALA?

**Ms. Mukaruliza:** Mr Speaker, a substantive answer will be given to this House. I thank you.

**The Speaker:** ...but as you say that a substantive answer will be given, it will be beside the fact, because the amendment expires in December 2008, and the Chairperson had all the time to bring an amendment to this House. The question from the Floor is what happens between December 31 2008 and February 2009, the next meeting of the House? That is what hon. Ogalo was asking about...Maybe we can ask another question as you consult on that one.

**Ms Dora Kanabahita Byamukama (Uganda):** Mr Speaker, the question to the Chairperson to the Council of Ministers was very explicit: The first part is asking for a full account of both the qualitative and quantitative trends. I listened very carefully, but I did not hear about the quantitative trends, which should have been reported in form of figures, because the introductory part of the question is talking about the fact that it has been stated that the EAC Customs Union has been a major success, and that it has boosted regional trade. If indeed regional trade has been boosted, from where was it boosted, to where, and where does it plan to be? That was not explicit, and I hope she will be able to answer it in a more explicit manner.

Secondly, looking at Article 75 of the Treaty, which is on the establishment of a customs union, and in particular, if you look at Article 75(5), it says that the Partner States, amongst others, *"...agree to remove all the existing non tariff barriers on importation, into their territory, of goods originating from the other Partner States, and thereafter to refrain from imposing any other non-tariff barriers"*.

Mr Speaker, when we were travelling around the East African region, we were informed of two particular hindrances and they come in the form of non-tariff barriers, namely: weighbridges and what are applied at these points, and two; the management of border posts. Can the Chairperson, Council of Ministers comment on this because they do impose non-tariff barriers currently? Thank you.

**Ms. Mukaruliza:** Mr Speaker, the Protocol empowers the Council to stay applications of the East African Community Common External Tariffs under Article 12. In this case, Council did not amend the law but only stayed the application of the Common External Tariffs on COMESA and SADC goods as an interim measure while waiting for EALA to amend the law.

On the quantitative trends, these were given in form of percentages. The Secretariat will provide the Trade Report, which contains the detailed data, to the Assembly. I thank you.

**The Speaker:** Honourable Minister, I think there is a lot of concern on this issue. In the spirit of what you said last night, maybe you can sit down with your team and bring a

proper answer on the Protocol and the figures that you are talking about to this House tomorrow. We gave you enough time since Kigali last year, but maybe we can discuss this same question tomorrow so that we can have a better answer than what has been given to us today.

**Ms. Mukaruliza:** Mr Speaker, we shall provide both written and oral answer tomorrow.

**Question for Oral Answer Reference: EALA/PQ/OA/19/2008**

**Ms. Lydia Wanyoto (Uganda):** Asked the Chairperson, EAC Council of Ministers:

*“The EAC Common Market is instrumental in achieving full EAC integration. Among other things, it will promote free movement of persons as well as promoting the right of establishment. This lays the foundation for a common currency and the political federation of the EAC. And as such, important key players have been engaged in the negotiations in a bid to beat the deadline for its signing in June 2009 and official launch in January 2010. Therefore: -*

- a) Is the Chairperson of the Council of Ministers aware that the East African Legislative Assembly has not been consulted nor involved in the negotiations of the protocol for the Common Market despite several reminders and concerns raised at various forums?*
- b) Could the Chairperson of the Council of Ministers inform this August Assembly whether the negotiations are on track, and when the views of the Assembly on this matter will be taken on board?”*

**Ms. Mukaruliza:** Mr Speaker, allow me to assure this August Assembly that the Council of Ministers and the Secretariat take the views of the Members of the East African Legislative Assembly very seriously. As a people-representative organ, their views are valuable and critical as input to the negotiation process of the Common Market Protocol.

The Secretariat, as directed by the Council and Summit in April 2006 and in September 2007, has put in place a high level task force composed of members of diverse expertise drawn from the five Partner States. This is the team mandated by the Council to negotiate the provisions of the draft protocol. However, the Secretariat, in collaboration with the High Level Task Force, is expected to seek the views of the various stakeholders at both national and regional level to enrich the negotiation process.

I am reliably informed that the Secretariat disseminated the study findings and recommendations on the establishment of the East African Common Market to this August Assembly in August 2007. The views and concerns raised by the members were taken into account when the final report was prepared and submitted to the Council. The Secretariat, by the end of this week, will undertake a briefing of the members of EALA here in Kampala in order to inform them of the status of the negotiations, and to reach consensus on areas in which the parliamentarians need to seek the views of East Africans.

In January next year, the negotiations will enter into the phase of negotiating the institutional reforms needed to support the EAC Common Market. The Secretariat has already scheduled, in the calendar of the High Level Task Force, a two-day workshop where the Members will participate and give their views on this important issue.

**Ms Wanyoto:** Mr Speaker, I would like to stand here and be on record that the East African Legislative Assembly has not been consulted during the Common Market process as an organ of the Community. What has happened is that we have been given the Draft Protocol as a way of disseminating information.

I would also like to stand here and be on record to state that the views of EALA expressed in the half-day meeting or dissemination workshop - which was organised on the request of EALA by the way - have not been incorporated into the working documents of the on-going negotiations. I have read the first draft that was given to us last year in August, and the other report that was given to us while we were in Kigali in September. The views expressed by honourable Members during the information sharing sessions in those meetings by members are glaringly lacking in those documents.

I think this is the time for the Chairperson, Council of Ministers to inform this august House when the Assembly will sit down with the Secretariat or task force to ensure that the views of this Assembly, in form of a memorandum or document, are taken on formally and incorporated in the Common Market process. What we have had so far has been a dissemination forum; a way of giving us information. I have read the drafts and documents for the Common Market and not seen a single recommendation from the Assembly in them.

The other question that I would like to ask, and which we have been asking in the corridors and through the different forums with the Council of Ministers, is on the composition of the High Level Task Force. There has been mention of institutional reforms for the coming common market. It has a lot to do with the setup of the task force. Are all these institutions represented? We would like to hear who stands in for the legislative arm in these negotiations. Do we have an expert, an eminent person? Who are these people? Even we who come from the Partner States...I do not know whether any of my colleagues know the composition of the task force, so that we can be comfortable that the views of the different institutions are being well incorporated. This does not mean that we undermine the strength of Council to select people, but it is only in the interest of the Assembly, as a representative of the people, that we want to know the composition of the task force. We want to put a face to the competencies, tasks and to the names of the people who are in charge of the aspirations of the East African Community.

Mr Speaker, can the Chairperson answer those questions and make a commitment that there will be an opportunity, and not just a dissemination forum, for EALA to present a well documented memorandum as input to the Common Market?

**Ms. Mukaruliza:** Mr Speaker, I have mentioned that a briefing will be undertaken by the Secretariat by the end of this week. I think that it will be an opportunity for members of

EALA to discuss with the High Level Task Force, the recommendations made earlier by EALA.

On the composition of the High Level Task Force, this task force was composed at national level and it represents all categories of the population. I am informed that even the national parliaments are represented in task force. I would also like to add that negotiations are made by Partner States, and that they are still at the Partner State level and not yet at EAC level. Therefore, Partner States will finalise these negotiations, and the Protocol on the Common Markets will be brought to the EAC organs.

**Mr Mike Kennedy Sebalu (Uganda):** Mr Speaker, I appreciate the answers given by the Chairperson to the Council, however, I want to inquire whether she is aware that there is a clear distinction between negotiations and consultations. We are not clamouring to be part of the negotiations, but we feel that in the process of negotiations there should be consultations to inform the process and to avoid the gaps that we end up seeing when some of these protocols are brought before the House.

You know, Mr Speaker, that once a protocol is negotiated and it comes into force, and in the event that they want to expand it with legislation, we as the legislature cannot effect any changes for purposes of improvement or to fill the gaps because in the process of consultations were not given any opportunity to, perhaps, forestall the coming up of such gaps. So, this is a fundamental issue that needs to be taken into serious consideration because all we are working for is to come up with arrangements that are efficient; arrangements that can deliver the desired results for the East African people. As a legislature, we have our role, but we are East Africans before we become the EALA. So, as such, we are stakeholders - even as prominent citizen; forget about being EALA members - and we have a right to inform the process. I think the Minister needs to come back to that in a manner that is more convincing.

**Ms. Mukaruliza:** Mr Speaker, I suggest that members of this august House should advise on the modalities to make these consultations. This is because, as I have said, these consultations have been made at Partner State level; between the Partner States. But perhaps honourable Members could advise on the modalities for involving members of EALA, apart from the briefing, which will be undertaken by the Secretariat.

**The Speaker:** Honourable Minister, I think what the members are saying is that they are first and foremost citizens of East Africa, and also as EALA, they are a big stakeholder. The High Level Task Force has consulted various stakeholders, but EALA has not been consulted to date. What they are asking is when this High Level Task Force, which is made up of Partner States, going to consult the East African Legislative Assembly. I think you started off by saying that you are reliably informed that there was consultation between EALA and the Task Force. I think that "reliable information" is not true, and it is the request of this House to get information from the Secretariat.

In August 2007, we got information; they brought some consultant to discuss with us on the Seventh Floor, at the EAC Secretariat. We are the ones who requested for that, and it

was only an information gathering process. So, we want to know when members of this House are going to be consulted in the process of negotiating for the Common Market.

**Ms. Mukaruliza:** Mr Speaker, arrangements will be made for these consultations after the debriefing of Saturday. We shall see how to arrange for these consultations.

**Question for Oral Answer Reference. EALA/PQ/OA/20/2008**

**Ms Lydia Wanyoto (Uganda):** Asked the Chairperson, Council of Ministers\_

*“Proper identification of citizens of the Partner States is crucial for the operationalisation of the Common Market Protocol. The most important form of identification is through issuance of national identity cards by the governments of the Partner States. This has been the case for the Republics of Kenya, Rwanda and Burundi, which has not yet been adopted by the Republics of Tanzania and Uganda. Taking into account the advantages of having national identity cards, could the Chairperson, Council of Ministers inform this august House on the measures being undertaken by the EAC to support the governments of the Republic of Uganda and the United Republic of Tanzania to issue identity cards to their respective citizens?”*

**Ms. Mukaruliza:** Mr Speaker, the Council of Ministers at its meetings on 14 September 2002 and of 20 September 2007, urged both the United Republic of Tanzania and the Republic of Uganda to register their nationals in order to facilitate the free movement of people within the Community. To operationalise the Council decision, the Secretariat constituted a Partner States’ technical team of experts on the registration of nationals by Tanzania and Uganda to address the issue. The two Partner States, during the meeting of the experts, requested for a period of time to undertake the necessary feasibility studies to determine the requirement of the exercise and cost implications.

The current status, as reported by both Uganda and Tanzania during the last meeting of the experts held in July this year, is that a lot of progress has been made in the preparation to undertake the exercise. Each country has set up the relevant institutional framework, and, enabling laws and regulations have also been put in place. The budget for each State is based on the choice of technology to be used for the issuance of the identity cards.

Uganda has indicated her choice of the barcode technology, while Tanzania will utilise the smartcard technology. Both governments are also soliciting for assistance from development partners to assist in financing the project. The Secretariat deems Uganda’s proposed technology not to be appropriate. The experts’ meeting held in July advised Uganda to use the smartcard technology, which Tanzania has opted for. In Uganda, a Cabinet decision on this matter is awaited, and will inform the experts meeting in January 2009 accordingly.

Regarding the necessary institutional framework, Tanzania has established a national identification authority, whose functions include the issuance of identity cards. Uganda has also established a permanent committee to handle issuance of the identity cards.

**Dr. George Francis Nangale (Tanzania):** Mr Speaker, despite the encouraging answers from the Minister, and considering the fact that the development of national identification is a very expensive undertaking, could the Minister inform this House whether the EAC has considered leveraging and taking advantage of the regional cooperation as a basis for soliciting for external support for this venture for the national governments to develop such projects?

**The Speaker:** I think the Minister would find it difficult to answer that question because it is more of a national issue than a regional issue. And right now I do not think that the Community can borrow for the Partner States. I think that is a national issue more than a regional issue. Maybe you can ask it in a different way.

**Dr. Nangale:** Mr Speaker, since we are cooperating in the development of infrastructure like roads, why doesn't the Community take advantage of this regional cooperation as a leverage to solicit for external support for this expensive venture?

**Ms. Mukaruliza:** Mr Speaker, unless it is a bi-lateral arrangement between two countries, the issue of national identity cards is still a sovereign issue.

**Ms Dora Kanabahita Byamukama (Uganda):** Mr Speaker, since we are talking about proper identification of citizens of the EAC Partner States, I would like to note that I was gratified when I went to Rwanda and I used the East African Passport. I would like to ask the Council of Ministers as to whether there is any activity or any support being undertaken by the EAC to support the issuing and the promotion of the East African passport.

**Ms. Mukaruliza:** Mr Speaker, issuance of the East African Passport is done by the national immigration departments at a cost which is not affordable by all citizens of the EAC; that is why our emphasis is on the identity cards, which will be affordable by the citizens of the EAC. But the Council decision to make the East African Passport an international travel document and the modalities to make it happen is being discussed.

**Mr Abdullah Mwinyi (Tanzania):** Mr. Speaker, the Chairperson, Council of Ministers mentioned that Kenya, Burundi and Rwanda have already in place national identity cards, and the critical matter, as far as that is concerned, touches upon the security and movement of people. Can the Minister assure us that the quality and content of all these national identity cards are compatible, and the notion of tracing and the core point of having similar national identity cards, as far as these countries are concerned, has been taken care of?

**Ms. Mukaruliza:** Mr Speaker, Kenya, Rwanda and Burundi have already issued the identity cards, but for Tanzania and Uganda, which have not yet issued these identity cards, the Secretariat, as I have said, has appointed a team of experts to look into the technology to be used for these two countries. And in the Common Market, when the identity cards are accepted as a travel document, there is a provision that there will be

standards to be maintained by these cards, and so Partner States will agree on what kind of information these identity cards will contain, and it will be negotiated within the Common Market.

**The Speaker:** I think the Minister has answered the questions. I would only like to add that the identity cards will be issued by competent authorities in those Partner States, and I think she said that once the Common Market is in place, the identity cards will have to be standardised.

## **BILLS** **Second Reading**

### The East African Community Budget Bill, 2008

**Ms. Lydia Wanyoto (Uganda):** Mr. Speaker, I beg to move that “*A Bill for an Act of the Community to Provide for and to Regulate the Budgetary Process of the Community and other Matters Related to it*” be read for the Second Time.

**Mr Abdul Karim Harelimana (Rwanda):** Seconded.

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto)(Uganda):** Mr Speaker, I would like to plead with this House to debate and pass the East African Community Budget Bill, 2008 because of the following pertinent issues.

For the last seven years or so, the East African Community has been engaged in active institutional growth, and consequently, the budget of the Community has grown from about \$9 million to a budget of about \$40 in the last financial year. As you all know, we passed this budget without any clear legal framework in its process. As a legislative assembly, we have faced tremendous challenges and difficulties in the process of approving a budget with no framework and space for engaging the various stakeholders, not only for purposes of creating ownership but also for the much needed consensus that any budget would require.

As you all know, Article 132(2) of the Treaty bestows the responsibility for the preparation of the EAC budget upon three important offices, namely: the Office of the Secretary General, the Office of the Council of Ministers, and this august House. Those powers and the framework in the Treaty are general, but we thought it important for us to provide a budget cycle with a legal framework so that every institution and key actor in the budget of the Community has time, space, and a voice in the budget process of the Community. I therefore would like to urge this august House that we proceed and adopt this Bill and read it a Second Time. I beg to move.

**The Speaker:** The proposal on the floor is that the East African Community Budget Bill, 2008 be read a Second Time. Debate is now open, and I would like to call upon the Chairperson of the General Purpose Committee to bring the committee report.

**Ms. Wanyoto:** Mr Speaker, the East African Community Budget Bill, 2008 was introduced as a Private Member's Bill with a view of streamlining the EAC budget process. The Bill seeks to establish a legal framework to provide for and to regulate the budgetary process of the East African Community.

Pursuant to the provision of Articles 49, 59 and 62 of the Treaty for the Establishment of the East African Community, and of rules 65 and 66 of the Rules of Procedure of this Assembly, the Bill was introduced for its First Reading in the House on 19 February 2007, after which it was referred to the General Purpose Committee for consideration.

I now wish to present the report of the Committee for consideration and adoption of the House.

### **Background**

The First Assembly, having realised that the budget process of the EAC was riddled with unclear processes, which at times occasioned inconsistencies in the budgetary process, deemed it necessary to enact a specific law to regulate the EAC budget process. The Assembly therefore brought this matter to the attention of the Council of Ministers, but unfortunately the Council did not heed to the Assembly's concerns to urgently address the issue of the proposed Bill. The apparent lack of will on the part of the then Council of Ministers to introduce the Bill necessitated the members of the Assembly to introduce A Private Member's Bill in this Second Assembly. The process of its enactment became a matter of court proceedings when the Council attempted to frustrate its enactment. The east African Court of justice ruled in the Assembly's favour that it was within the Assembly's rights to introduce Private Members' Bills.

Mr Speaker, in December 2007, in the term of this Second Assembly, the General Purpose Committee, having noted that inconsistencies in the EAC budget process still existed, decided to introduce A Private Members Bill. The Committee sought leave of the House to introduce the Bill, and it came for the First Reading in February 2008. After that, the Bill made no headway, and on two attempts to present the Bill for Second Reading, the Council requested for additional time to assess what impact the Bill would have on the EAC budget process, without infringing on provisions of Articles 14, 49 and 132 of the Treaty.

These matters were adequately addressed, following the creation of a task force, whose membership included some Members of the General Purpose Committee, the Counsel to the Community, and the Legal Draftsman. The outcome of the meetings of the Task Force resolved the concerns of both the Council of Ministers and the Committee by recasting Clause 3 and Clause 4 of the Bill. And, Mr Speaker, it is on the basis of this that the mover of this motion has been able to proceed with the Second Reading of the Bill.

### **Methodology**

Mr Speaker, in its work, the Committee adopted the following methodology: We reviewed the Budget Bill, 2008; we also reviewed the relevant articles of the Treaty for



the Establishment of the East African Community; we reviewed the memoranda submitted by the EAC Partner States, and specifically those submitted by the ministries for East African Community affairs, and by the ministries for finance. We also reviewed the creation of a task force to have an in-depth analysis of particularly Clause 3 and Clause 4 of the Bill; we had interactive meetings with the EAC Council of Ministers, and then we prepared a report for submission to this august House.

### **Consideration of the Bill**

Mr Speaker, we worked with the EAC Council of Ministers to make the passing of this Bill possible. One year down the road since the initial motion seeking leave to introduce the Bill in December 2008, we are now in a historic moment, ready to debate the Bill and realise our dream to streamline the EAC budget process.

### **The Scope of the Bill**

The Bill seeks to establish a legal framework aimed at streamlining and enhancing the EAC budget process. It also seeks to give prominence to the EAC Medium Term Expenditure Framework adopted by the Community in June 2008 as a new budgeting tool. It focuses on the establishment of a highly consultative process in the preparation of the EAC budget. The guiding principles of the EAC budget will therefore go through three important phases, namely: budget preparation, the consultation process by the Secretary General, and approval by this august Assembly.

### **Commencement date**

The commencement date of the proposed legislation had previously been fixed to start in July 2008, but this has been overtaken by events, and it is only fair that the date be left to the discretion based on the publication by notice in the gazette. In addition, it will give the Council of Ministers ample time of four months to develop and issue guidelines on one of the most important aspects of the Bill, an entrenched consultative procedure.

Mr Speaker, the Committee is in agreement with the Council of Ministers that the commencement date be decided by the date of publication of the Act in the gazette. The current formulation in the Bill had fixed the commencement date for 1 July 2008, but this period has long since passed.

### **Power of the Assembly to Summon Officers**

During the discussions, and as highlighted in the memorandum from the Partner States, the mandate of the Assembly to summon officers of the EAC Secretariat and those of the Partner States to appear before the Assembly and its committees to answer budget related queries and clarifications, was questioned. There were proposals for persons to appear before the Assembly Committees to be restricted to the Council of Ministers.

The Council of Ministers was informed of the Assembly, Powers and Privileges Act, and of the provisions of the Rules of the Assembly, which is the basis upon which the Assembly may summon any person holding a public office in the Community or in the Partner States, and even private individuals if it is deemed that the persons will facilitate the work of the Assembly. The Committee is therefore not in agreement that persons to be summoned should be restricted to Council of Ministers.

The argument that the EAC budget is normally presented after consensus by Partner States and therefore there is no need for the Assembly to call or summon individuals from the Secretariat or from the Partner States or elsewhere does not present credible argument. It must be emphasized on the floor of this august House, as it is stated in all relevant Acts of the Community and indeed in the Treaty, which is also synonymous with promoting existing parliamentary practice and procedure and, therefore, tradition, that the Assembly has every right to receive clarification and exhaustive views on all matters.  
*(Applause)*

Mr Speaker, I did not dwell on this matter so much because Article 49(2)(d) of the Treaty is very clear. In the same spirit, the EAC budget has to be defended by all stakeholders for the good of the Community.

### **Preparation and Consideration of the EAC Budget**

The Partner States and the Council of Ministers objected to the provisions in the existing Clause 3 of the Bill. The Council noted that provision infringed on Article 14 and Article 132 of the Treaty for the Establishment of the East African Community. The Committee was informed that the provision, as it appeared, negated the spirit of the Treaty since it was introducing a new system of budgeting, which would undermine the role of the Council and the Partner States in the EAC budget process and policy direction, leaving the entire budget preparation to the Secretary General and the Assembly.

Having regard to Article 14(1), which empowers Council as the policy organ of the Community, and having further regard to sub-clause 3(e), which empowers the Council to consider the budget of the Community, and aware of the provisions of Article 132(2), the Committee agreed to recast the entire Clause 3 without losing sight of the glaring provisions in Article 132(5) of the Treaty, which places a duty on the Assembly to determine the areas and activities for which the resources of the Community can be utilised. This provision is further reinforcement by the Assembly's mandate to examine audited accounts of the Community as specified in Article 134(3), and to follow up expenditures of activities approved under Article 132(5) of the Treaty.

### **Policy Statements and their Consideration**

Mr Speaker, the Bill makes provision for the Assembly to analyse programmes and policy issues that affect the Community budget for purposes of recommending alternative approaches if problems are cited with the existing activities. For this purpose, the Bill places a duty on the Secretary General to prepare policy statements for consideration by committees of this august House.

The Committee is in agreement that the policy statements are prepared by the Secretary General and submitted through the Council of Ministers for consideration by the Assembly. The Treaty, in Article 49(2), bestows upon the Assembly a duty to discuss all matters pertaining to the Community, and the consideration of policy statements is one of the ways at the Assembly's disposal to streamline activities of the Community.

### **Vote on Account**

The Bill seeks to empower the Assembly to approve a Vote-on-Account budget as it deems necessary to enable normal operations of the Community in the first quarter of the financial year before approval of the budget. This is not a new invention since it already exists in the Rules of Procedure of this House. The proposed legislation is only giving this matter legal framework. It is the duty of the Assembly to streamline every budget brought before it for approval, and if need be, it may hold its approval until such a time when it is satisfied that the budget is streamlined, or that it adheres to the recommendations of the Assembly on the previous budgets.

### **Reports on Grants and Loans:**

During debates on previous EAC budgets, the Assembly noted that the Secretary General, in his official capacity, is empowered to conclude financing agreements with donors without recourse to the EAC Council of Ministers. Under the same authority, the Secretary General may also conclude loan agreements, but this information is not readily or wholly available to the Assembly, and sometimes to the Council of Ministers, therefore, holding the Secretary General accountable proves difficult as you all have experienced.

It is for this reason that the Bill has a provision that directs the Secretary General to present before the Assembly, information relating to the total sum of grants extended to the Community and their sources, including the relevance of the objectives of each grant.

### **Consultative Procedure during the Budget Process**

Mr Speaker, the current consultative procedure during the EAC budget process is ad hoc; it is at the discretion of the Secretary General to consult stakeholders. The Bill seeks to establish a consultative mechanism backed by an elaborate procedure for the Secretary General to consult all organs and institutions of the EAC, including members of the

Assembly or the various committees, and to implement recommendations adopted at these meetings. The Committee therefore supports the view that the preparation of the EAC budget should be guided by an elaborate procedure, and as such makes a proposal in Clause 13, which places an obligation on the Council of Ministers to come up with an elaborate procedure in which the Secretary General will consult all organs and institutions of the Community, as well as other stakeholders. A provision has therefore been inserted in the Bill to address this issue. The Committee feels that with an open and elaborate consultative process there will be greater public accountability and transparency in the utilization of the Community's resources.

### **Recommendations**

The Committee urges Members of this august House to take note of the importance of enacting a legal framework to guide the preparation, consultation and approval process of the EAC budget as a means of widening and deepening the EAC integration agenda, and wishes to make the following specific recommendations: -

- 1) That the EAC Council of Ministers be commended for taking a bold step towards the enactment of this important piece of legislation in the same spirit with the Assembly - (*Applause*)
- 2) That the Assembly's mandate under Article 132(5) of the Treaty should be invoked to allow it to have critical review of the spending priority needs of the Community with the view of addressing budget indiscipline;
- 3) That the Assembly takes note of its mandate under Article 132(5) of the Treaty and exercise it without any inhibition from any person or body;
- 4) That the Secretary General regularly updates the Assembly with all the required information relating to the total sum of grants and loans extended to the Community together with their sources, and including objectives of each facility.
- 5) That the Secretary General, and ultimately the Council of Ministers, should ensure that the budgetary policies are participatory, and that they incorporate the concerns and interests of the various organs and institutions of the Community, which, if properly implemented, will be a positive attribute to the EAC budget process;
- 6) That time deadlines be adhered to in order to give the Assembly committee(s) ample time to analyse the EAC budgets;
- 7) That the Secretary General continues to implement the MTEF budgeting principle while at the same time perfecting it
- 8) That the Council of Ministers takes keen interest in the budget of the Community, sometimes over and above the recommendations of the Finance and Administration Committee, and;
- 9) That the Bill be passed into law, taking into account all the amendments proposed by the Committee and any that may be generated from the floor during debate.

### **Appreciation:**

Mr Speaker, special thanks go to the members of the EAC Council of Ministers, led by the Chairperson, hon. Monique Mukaruliza, who expressed support for the Bill with the necessary modifications; the Secretary General; officials of the Partner States who submitted memoranda in the ministries, and officers of the Community. They all made positive contributions and suggestions to enrich this Bill. *(Applause)*

Specifically, the Committee would like to thank the following:

- 1) Hon. Monique Mukaruliza, Minister for EAC Affairs from Rwanda and Chairperson of the EAC Council of Ministers
- 2) The Rt. Hon. Eriya Kategaya, the Minister for EAC Affairs from Uganda and the former Chairperson of the Council of Ministers
- 3) Hon. Jaffah Amason Kingi, the Minister in charge of EAC affairs from Kenya and member of the EAC Council of Ministers
- 4) Hon. Venerand Bakevyamusaya, Minister for EAC affairs from Burundi, and Member of the EAC Council of Ministers
- 5) Hon. Mohammed Aboud, Assistant Minister for EAC affairs from the United Republic of Tanzania
- 6) Hon. Peter Munya, Assistant Minister for EAC affairs from Kenya
- 7) Hon. Amb. Juma Mwapachu, the EAC Secretary General
- 8) Hon. Wilbert Kaahwa, Counsel to the Community
- 9) Mr Lawrence Kamugisha, the Legal Draftsman of the EAC Secretariat.

Mr Speaker, special thanks also go to the Parliament of the Republic of Uganda for accepting to host this meeting of EALA – *(Applause)*. The committee meetings were held in a convenient and conducive environment. I would like to add that we are also grateful to our Committee Clerk, Mr Alex Obatre and to you, hon. Speaker and the office of the Clerk for availing all possible facilitation.

In conclusion, Mr Speaker, once enacted, the EAC Budget Bill will provide the much needed legal framework for streamlining the EAC budget process and shall give both the Council and the Assembly better leverage in considering and approving the draft budget prepared by the Secretary General. In the whole, this piece of legislation will provide for a comprehensive procedure for the preparation, consultation and approval of the EAC budget.

I beg to move that this Bill be read a Second Time. *(Applause)*

**Ms Safina Tsungu Kwekwe (Kenya):** Mr Speaker, let me start by saying that I am a member of the Committee whose report has just been read by its Chairperson, and that it has been ably handled.

Mr Speaker, looking at the history of the East African Community budget process, it has been the practice for the budget process to be a circus, and we did experience this, this year. There were times when people in the service of the Community and the Members of the Assembly were almost enemies just because of something as fundamental and crucial

as the budget making process. This cannot be allowed to continue. The organs, departments and institutions of the Community, as they are currently, propose budgets that are selfish. Their mindsets are on “me” and not “us”, and yet as a Community we are supposed to be a family.

If you look at the proposed Budget Bill, together with the proposed amendments, what the Bill seeks to do is to make the budget process all inclusive; a friendly affair that every organ, institution or department of the Community can feel part and parcel of. And, Mr Speaker, I do not think that is something that anybody can refute. Without a legal framework to enable us to budget as a family and be able to say where we should put our resources, meagre as they may be, to be able to guide us to make the right choices and priorities, the circus shall continue.

If we recollect the events that evolved during the 2008-2009 budget making process...Nairobi, Tarangire, Arusha, Kampala...why should that be the case? For me, that is a waste of resources because such things could have been done much earlier, long before the document was brought to the Assembly. That is what this Bill seeks to correct, so I support the motion as moved by hon. Wanyoto because it is the right thing to do.

**Dr. Didas Masaburi (Tanzania):** Mr Speaker, I also want to contribute to the Motion, but first of all I want to declare that I am a member of the General Purpose Committee, and that I fully support the motion. However, I have two concerns, which I would like honourable Members to consider, and, if possible, to further amend what has already been amended. The first concern is on the budget process.

We have said that there are three stages in the budget process: the preparation, consideration and approval of the budget. As has been rightly pointed out in the report and echoed by those who have spoken before me, we would like to see the Assembly’s involvement in the three stages of the budget process.

The amended Clause 3 of the Bill has given discretion to the Secretary General to decide whether to consult the organs and institutions. This was discussed in the Committee, and the Council of Ministers has said that the Treaty gives powers to the Secretary General to prepare and present the budget to the Council of Ministers. That is true, but under Article 132(5), as has been pointed out in our report, this Assembly is mandated to determine the proposed activities and check the utilisation of resources by the Community against the planned activities for that financial year. Therefore, that article should be taken on board, and the Secretary General should not be left to use his discretion but he should be directed to consult the other organs and institutions of the Community before proposing the utilisation of the finances.

So, I am proposing that in subsection (2) of the new Clause 3, we should remove the word “*may*” and replace it with “*shall*”. It will then read:

*“The Secretary General shall, during the preparation of the budget under subsection (1), consult all organs and institutions of the Community and such other stakeholders as may be necessary.”*

This will make sure that the Secretary General consults the other organs.

Secondly, the proposed amendment to Clause 4 subsection (4) ends by stating that the Assembly will debate and approve the budget in accordance with Article 49 of the Treaty. This article actually mentions the functions of EALA, but we are leaving out Article 132, which actually deals with financial matters, which includes the budget, and it where this Assembly is mandated with powers to determine the utilisation of resources, which implies appropriation. Therefore I am proposing that we should have another section under Clause (4) where the committee of this House shall be given powers to determine the appropriateness of the utilisation of the Community resources for activities as recommended by the Council of Ministers. Here, again, we should add or replace Article 49 with Article 132. We should either use both or replace Article 49 with Article 132.

Mr Speaker, with those proposals, I hope that the Bill will enable the Assembly to perform its functions appropriately. Otherwise, as per Article 49, we are obliged to only debate and approve and nothing else. Therefore, we shall not be able to utilise Article 132 appropriately. I support the Motion, but with those proposed amendments.

**Mr Mike Sebalu (Uganda):** Mr Speaker, I just want to add my voice to support this Bill and the motion. I want to thank the Committee for engaging in a process that is going to add value to our legislative mandate as the East African Legislative Assembly.

Mr Speaker, the Community is growing in terms of volume of work, in terms of membership and in terms of its budget, as has been ably put to us by the Chairperson of the Committee, and the activities have equally grown. As a Community that is moving towards federation or working together on given Community affairs, we need to start streamlining our operations in such a way that they become more efficient and we deliver on the expectations of the East African people. Besides, there are best practices that we can borrow from our Partner States, where the budgetary process has become all involving. It is no longer an exclusive preserve of the executive, given the complexity of ensuring that consensus is built on priorities, and setting a proper agenda that will deliver the desired outcomes for our partner states and, in this case for our Community.

So, it becomes necessary for us to also get our working arrangements in order for us to be able to answer those demands of efficiency, effectiveness of the budget, and more so, resource utilisation in an optimal way. We have been going through this process but there has been a lot of duplication. So we need to put in place a better way of utilising the available resources since the resource envelope is constant and the demands on it are enormous. Therefore, we can benefit from building synergy using all the different organs in terms of harmonising the proper utilisation of the available resources. I can give an example from the legislative point of view.

Monies are allocated to the East African Legislative Assembly but you will find that committee work, which, in my view, is the one that generates work for the Assembly, is not considered as a very worthy area of serious spending in terms of priorities, and yet when it comes to legislative work, it is a core activity and a level that makes it possible for a Parliament to operate in a functional manner. I can give another example, which has been on since we started.

When you look at Parliament as an institution and you look at the Office of the Speaker within the institutional framework of a Parliament, there are priorities which we may see as a Parliament but which may not be seen as priorities by the others. I can easily give the issue of the residence of the Speaker in Arusha, as an example.

When we are in Arusha as the regional capital of the Community where all transactions of the region are undertaken and the legislature is functionally missing in terms of setup...I mean, if you went to Arusha when we are not in session, you would not get any semblance of a Parliament there because the institutional head is not provided for. This is something that the Assembly has always seen as a priority but which the other stake holders do not.

So, getting us involved from the initiation stage of the budget process will enable us to sit together as the different organs, input the process, add value in terms of determining areas of expenditure, and make us move forward together, such that when it comes to the consideration stage, the outcome will be more inclusive, considering that wide consultation was done. So, when you get to the approval stage, you will already have generated the consensus, to defend the budget proposal so passing it becomes easy.

So, Mr Speaker, this Bill is not only necessary but is long overdue. I thank God we have been able to consider it up to this stage, and it should be supported by all of us because it is a process of adding value to the work of the Assembly, as well as the other stakeholders in the Community. It will ensure that our budgets respond to the needs of our Community, it will ensure that the priorities area harmonised, and at the end of the day when we go to do oversight, we are well informed on the areas that need to be spent on and be able to tell whether there is value for money in terms of expenditure.

So, I would like to thank the Committee for a job well done and register my support for this motion. I encourage all honourable members to support and pass it without further delay. Thank you very much, Mr Speaker.

**Mr Gervase Akhaabi (Kenya):** Mr Speaker, I also wish to support this motion and the Bill. The Bill seeks to introduce the element of consultation in the preparation of the budget as contemplated under the Treaty. This consultative process is important for purposes of harmonising the activities and the priorities within the East African Community for the progress of the Community.

Mr Speaker, I have looked at the Bill, the amendments and the report of the Committee, and I note that the Bill, the report and the proposed amendments take care of nearly every



bit of what is contained in Article 132 of the Treaty, except one important bit, which appears to be left out and to which, I believe, my friend Dr Masaburi has referred, and which I wish to emphasise.

Mr Speaker, the Bill does charge the Secretary General with the responsibility of preparing the budget for consideration by the Council and approval by the Assembly. That is what the Treaty says under Article 132 (2). It also goes on to say in subsection (3) that “*All expenditures of the Community in respect of each financial year shall be considered and approved by the Council and shall be met from the budget.*” This is what this Bill is proposing to do. It also goes on to propose in subsection (4) that the budget of the Community shall be funded by the contributions from Partner States and receipts from other sources. But the most important bit, which appears to be left out - and I do not believe that this was intentional - is sub article (5), which in my view is the crux of the matter. This is where we should be concentrating on as the politicians, as the parliamentarians charged with the responsibility of representing the people’s interests. Mr Speaker, this is the area where, for a long time since the initiation or the establishment of this Assembly has been left out such that it has not played that role of progressing the Community.

The Assembly has not been allowed to determine those activities and areas that the parliamentarians see as important for the purposes of growing the Community. It is very important for these activities to be prepared by the Council and to be brought to the Assembly for the Assembly to determine, in accordance with Article 132 (5), which activities are going to be funded from the resources of the Community. This is of fundamental importance.

Mr Speaker, we are not going to grow this Community if we fund activities that are not core to the development of or the integration process of the Community. We have to take charge and fully, too.

The Committee says in its report that the Assembly’s mandate under 132(5) of the Treaty should be taken into consideration; to allow it to have critical view of the spending priorities and needs of the Community. I want to go a little further than just recommending to suggest to this Assembly that we should bring that particular provision into the Bill as the first thing that the Council should do before the 15<sup>th</sup> of October or whatever date, to present to the Assembly the proposed activities for the following financial year, so that from those activities, which the Assembly should determine, the Secretary General should now prepare the budget for consideration by the Council, and after consideration by the Council, the budget will then be brought to the Assembly. Otherwise, we are going to continue with a process of having seminar after seminar, workshop after workshop, visits to all sorts of places, by the Secretariat, by the Assembly and by everybody purporting to be working on the integration process when we are not doing so! (*Applause*)

Mr Speaker, I propose -and in agreement with hon. Masaburi- that we have, before the preparation of the budget by the Secretary General, a clause dealing with the activities

and matters contemplated under Article 132(5), so that the activities recommended by the Council are presented to the Assembly.

With that proposal, Mr Speaker, I support the motion. (*Applause*)

**Ms Patricia Hajabakiga (Rwanda):** Mr Speaker, I would also like to support this motion, and to congratulate the Assembly, the Committee and the entire East African Community for taking this step to come up with such an important Bill, which will go a long way to streamline the budget preparation process. I wish to support the recommendation by the hon. Masaburi in Clause 3(2) that the consultation stage of the process should be made mandatory instead of leaving it to the discretion of the Secretary General.

The other thing that I would want to see in this budget is that the report of the consultations should be attached to the draft Bill for the consideration of the Council and for onward transmission to the Assembly. This is because it is during the consultations that each organ and institution of the Community can raise their concerns as to the different activities which they want to undertake, and that will allow the committee, which will be dealing with the draft budget Bill to be able to understand the priorities of the different organs and institutions for the course of the year.

Mr Speaker, if that is acceptable, we could come up with an amendment to Clause 3(2) to make provision for the report of the consultations to be attached for consideration by the Council and for its onward transmission to the Assembly.

**Mr Clarkson Karan (Kenya):** Mr Speaker, I thank you for giving me this opportunity to also support the motion on the Floor of this House. If you read the background in the report of the Committee, you will agree with me that it has been a long walk to where we are at the moment. I would therefore urge this Assembly to be prepared to take that long walk to achievement the aim of our Assembly.

The First Assembly tried to put this Bill in place but they failed because the Council of Ministers was not cooperative. The Assembly had to get a court ruling, which fortunately was in favour of the Assembly.

If you read this report, you will find that the operational date of the Bill would have been July 2008, but because of the lengthy consultations required to be able to come to an agreement so as to arrive at this Bill, it was not possible to operationalise the Bill on the intended date.

Mr Speaker, you will also agree with me that if this Bill were in place then, we would not have experienced what we saw in Nairobi, where the budget was deferred and more expenses incurred for us to be able to pass the Budget.

Mr Speaker, what this Bill intends to do is to enable the Assembly to operationalise Article 132(5) of the Treaty, which mandates the Assembly to determine the areas and

activities for which the resources of the Community are to be used. It defeats logic, therefore, that an attempt to do this could be opposed, such that we have had about seven years of a fight to be able to operationalise this article of the Treaty.

I want to take this opportunity to thank the current Chairperson of the Council of Ministers because it is during her tenure that this Bill is being worked on. (*Applause*) It is normally said that if you are a member of parliament and there is any achievement during your tenure, even if it is brought by somebody else, you get the credit because it is during your period. (*Laughter*) On that note, I would like to say that I think we are making progress, and after five years, there will be an opportunity for this Assembly to count its achievements.

So, it is up to this Assembly to ensure that it asserts its authority and takes its rightful position in legislation as given by the Treaty. If we shy away, then protocols will take over the role of legislation. As we have observed in various committees, protocols frustrate the Assembly's ability to put laws in place. I want to urge this Assembly to take this fight up to its logical conclusion.

Mr Speaker, please allow me to also say that the First Assembly made a big effort to ensure that the Partner States appoint ministers responsible for the East African Community. The ministers responsible for the EAC, depending on what subject is on the floor of the House, act as the ministers responsible for that particular business. If I take an example of what is before the House today, they would act as ministers of finance. Therefore, it is a bit unfortunate...I know there is collective responsibility, which means that the Chairperson of the Council of Ministers represents the Council, but that notwithstanding, all the Partner States have appointed ministers in charge of EAC with deputies so that if a minister is not able to attend the House, his deputy would. I am very impressed with the manner in which Uganda, as a Partner State, has welcomed us here and has enabled the Assembly to operate, but, Mr Speaker, since we started, I have not seen the Minister responsible from the host country, the Partner State of Uganda - (*Applause*). It may seem like an attack, but this Assembly must say what it feels is right.

We had the Assistant Minister from Tanzania here, but today the budget Bill is being discussed without any representative from Tanzania. I can only urge you, Mr Speaker, to ensure that all honourable members attend this session, especially the executive, which is responsible for particular subjects being discussed. This Assembly cannot be seen as a place where you can just walk in and walk out, not minding the business which is before the House.

Turning to the motion on the Floor, I want to commend the Committee on General Purpose, under the able leadership of hon. Wanyoto, for a job well done, and I must appreciate that they have helped us to reach somewhere. If the Assembly continues in this direction, I believe that after five years the Assembly will have something to be proud of, and we want to be part of that Assembly. (*Applause*) I would only want to urge the advisor of the EAC to advise positively so that we make progress. Even national assemblies now assert their authority on budget making, so how can a regional parliament

fail to assert its authority, Mr Speaker? We want proper advice on this so that the Assembly is not seen to be entrenching its foot in areas which are not rightly theirs because the Treaty is there. If there is any area of the Treaty that requires amendment for the Assembly to operate, I would urge the Counsel to the Community to be able to advise positively so that we can make progress, because we want to work for the people of East Africa.

In areas where we have made progress on issues which were being looked at negatively regionally, the end result has been that the Assembly means well for the people of the East African Community. There should not be any fear. I support the motion. (*Applause*)

**Ms Dora Kanabahita Byamukama:** Mr Speaker, I have an uphill task, speaking after that powerful presentation by the hon. Karan, but I would like to say that I totally agree with him. I support the motion and I congratulate the hon. Chairperson for coming up with this particular Bill. I am sure that even the old school to which we both belong, which has a motto “*Never Give Up*” will be proud of her.

I also want to congratulate the members of the committee, whom I have had opportunity to witness working very hard and for very long hours. This is a historic moment for us in the Assembly, and for the people of East Africa, and I am glad I am part of this history.

Mr Speaker, I would like to move on to some of the salient points of the motion on the floor, and my first point is on the issue of the Accounts Committee, which also does work on behalf of the Assembly in respect to oversight. I belong to this committee, and I am glad that this Bill will be addressing some of the issues we have been raising for some time.

When you look at recommendation number 4, it clearly states that “*The Secretary-General regularly updates the Assembly with all required information relating to the total sum of grants and loans extended to the Community and their sources, including the objectives of each facility.*”

This is an issue we have been grappling with, and I would like to state that when we, as the Accounts Committee, asked for an update in the last meeting we had in Nairobi, what we got was not exhaustive. Therefore, I would like to propose that we insist on getting this update because without it, it becomes very difficult for us, as an assembly, to operate, and more specifically, for the Accounts Committee to perform its oversight function.

I would like to support the proposal for the Accounts Committee to have an interface with the budget committee for purposes of having the budget function done in a disciplined manner. It is like a healthy body: If you are disciplined, you can live long and when you die, your post-mortem examinations will show that you have died of old age rather than of a heart attack, which may come, for example, from consuming foods you are not supposed to consume but because of your indiscipline you consumed them. Therefore this interface between these two committees is very important, and I wholly support the proposals.

Secondly, I would like to note the issue of timelines: When you look at recommendation 6, it says that time deadlines should be adhered to. I would like to go further and also talk about the issue of building into the Bill a penalty for breach of these timelines: for example, if the timelines are not met, then so what? I hope this will come up because we have been talking about breach of the Treaty, but we may also face breach of some of these timelines. So, we need to go further and think of some kind of methodology or penalty that we should put in place to ensure that the timelines are adhered to.

Thirdly, I would like to go to the definition of “budget” because I notice that the proposed amendments did not refer to it. When you look at Article 132(5), it talks about the resources of the Community, so, when we are looking at the budget, we should not only talk about the expenditure or the allocation, we should have a definition which encompasses raising of the resources or revenue as well as its allocation. I hope that the Committee will look into this, or even allow a friendly amendment so that the Bill also encompasses the revenue side.

My fourth point is in reference to recommendation number 8, which states that: *“The Council of Ministers takes keen interest in the budget of the Community and that sometimes over and above recommendations of the Finance and Administration Committee.”*

Mr Speaker, I would like to turn the attention of this House to Article 14(3) (c) of the Treaty on the functions of the Council, which it states: *“For purposes of paragraph (1) of this Article, the Council shall, subject to this Treaty, give directions to the Partner States and to all other organs and institutions of the Community other than the Summit, Court and Assembly.”*

So, the issue of “sometimes” would not really be an issue because the Council of Ministers has the mandate, not only to take keen interest, but also to give directions to all other organs except this Assembly and the Court.

I would like to move on to the issue of regulations. These regulations are proposed in respect to Clause 13 of the proposed Bill, which states that *“The Council may make regulations generally for giving effect to the provisions of this Act.”* I would propose that the Council should be obliged to do this. So, we should change the “may” to *“shall make regulations generally for giving effect to provisions of this Act.”*

And further still, I would like to propose that these regulations should be tabled for approval by the Assembly. We should be able to approve the regulations because, as far as interpretation of law goes, regulations are subsidiary legislation, and since under Article 49 we have the mandate to make legislation, we also have residual power to ensure that whatever regulations are made by the Assembly are in conformity with the Treaty and other laws enacted by this Assembly.

Mr Speaker, I would like to express my concern about the deletion of Clause 3. This was my favourite clause...but perhaps I should not go into it since the proposal is to make some amendments. But I hope the amendments which have been proposed by the House will also be taken into account because they were very explicit.

With that said, I would not want to throw away the baby with the water. So I propose that when it comes to the issue of consultations on the budget, we should be careful not to take on an amendment that has been proposed, which limits the committee's work to only reviewing and debating. We should include the issue of consultations because when you look at the clause, it says, "*The committee to which the budget is committed under subsection (2) shall consider, discuss and review the budget and submit its report to the Assembly not later than the thirtieth day...*" and yet their earlier proposal was that "*the Secretary General - and I hope they will put "shall" - during the preparation of the budget under subsection (1), consult all organs.*"

Mr Speaker, we should include the aspect of consultations because under the Powers And Privileges Act, we have the power to consult and to invite any member of the Community or a stakeholder who is in a position to enable us come up with a budget that addresses all the issues, and to enable us to allocate and source for revenue more appropriately.

With those comments, I would like to support the Motion and, once again, thank the Committee for an excellent report and for making history. *(Applause)*

**Ms Nusura Tiperu (Uganda):** Mr Speaker, I want to join my colleagues in giving my voice in support of the Committee's recommendation on the Bill. I also want to be counted among those who have special regard and respect for my sister, hon. Lydia Wanyoto. One of the qualities of a highly effective leader is being able to be proactive and creative. I think by the work she has done, we can consider her among the highly effective women in the region. *(Applause)*

When we joined this Assembly, one of our first activities was to pass the budget, and I must confess that as a legislator, I was a little bit disappointed because it seemed as though we were merely rubberstamping the budget. It was very difficult for me to understand the whole budgeting process, but I think from today we can at least say that the Community has registered remarkable progress, and from now onwards, the people of East Africa will be proud of us, especially if we are going to have whatever has been written in the Bill implemented. I can say that we are very proud of this Bill.

I also want to use this opportunity to thank the Council of Ministers, and in particular the Secretary General, because, I do remember that having not passed our second budget in Nairobi, during the subsequent session in Arusha when we finally passed the budget, I can recall the pain with which the honourable Members passed the budget out of good faith. The Secretary General commended the good faith in which the recommendations of the consultative team were given, and I can still see the good faith exhibited in the manner in which the recommendations the committee's report have been debated.

Mr Speaker, the object of this Bill is to provide a legal framework aimed at streamlining and enhancing the budget process of the EAC. The Bill, in addition, makes provision for the medium term expenditure framework, consideration of policy statements, Vote on Account, name it. Just looking at the object, I am very happy and proud that this is happening today.

I want to be associated with all the recommendations that have been put forward to us by the Committee except one, which states that the Secretary General should regularly update the Assembly with all required information relating to the total sum of grants and loans extended to the Community and their sources, including the objectives of each facility. Mr Speaker, I feel that there is something lacking in this. I would have loved a recommendation whereby we are not only given updates on how much money the Secretariat has borrowed and how they are using the money, but we are also involved in approving the loans so that we can understand what the loans are for and even speak to it knowing how they are going to benefit our people. So when the time comes for an update, we will now speak from a point of knowledge having been part of those who had passed the loan. That is my only problem, but perhaps I could be given clarification in that area.

Otherwise, I thank the Committee for a good job done. I saw the members working in our committee rooms, very devoted; working till late. I hope that during that busy time they found some time to also enjoy their stay in Uganda. *Ahsanteni sana. (Applause)*

**Mr Abdul Karim Harelimana (Rwanda):** Mr Speaker, I take this opportunity to thank the Committee for the good job done, and the Council of Ministers as well. I understand they made extensive consultations until they reached this good piece of work.

Mr Speaker, we all know, and we observed it when we were given last year's budget report, that there are some problems with the budgeting process, and I fear that they can still occur if we do not take them into consideration.

Mr Speaker, we learnt that there have been delays by Partner States in making their remittances to the EAC, and similarly the development partners, who sometimes also do not fulfil all their promises. We also learnt that there is a problem of absorption capacity in some of departments of the East African Community. That is why I would like to see clearly in this Bill, a provision for a mid term oversight function by the Assembly in the implementation of the Budget, just to look into the allocated funds to see whether they are being used as programmed and whether they have been exhaustively used; to look into the remittances from the Partner States and see whether they are all there and whether they are being used well; and, lastly, to see whether the development partners have submitted all the money they promised to the East Africa Community. If we find that things are going as planned, it will be good, but if not, the Assembly can then take appropriate decisions or make some recommendations.

I support the Motion. *(Applause)*

**The Speaker:** Honourable Members, I was going to call the Chairperson of the Committee because there were some questions directed to the Committee, but I do not see the Chairperson. I don't know whether anyone in the Committee can answer on behalf of the Chairperson.

If not, I now put the question that the East African Community Budget Bill, 2008 be read the Second Time.

*(Question put and agreed to.)*

## **THE ASSEMBLY IN COMMITTEE**

*(The Hon. Abdirahin Abdi, in the Chair)*

### **BILL Committee Stage**

The East African Community Budget Bill, 2008

Clause 1

*(Question proposed)*

**The Chairperson, General Purpose Committee (Ms Lydia Wanyoto):** Hon. Speaker, I would like to propose an amendment in Clause 1 to delete the expression "*and shall come in to effect on the 1<sup>st</sup> day of July, 2008*".

*(Question put and agreed to)*

Clause 2

*(Question proposed)*

**Ms Wanyoto:** Hon. Chairman, I would like to propose that in Clause 2 we delete the expression "*or any Clerk Assistant of the East African Legislative Assembly*".

**Ms Byamukama:** Mr. Chairman, I beg to move that we amend the definition of "budget" to read: "*Budget*" means the process by which revenue is raised and allocated to enable the East African Community to meet its objectives."

**The Chairman:** Honourable Members, our Rules of Procedure provide that Members are supposed to put their proposed amendments in writing and give them to the Clerk. Hon. Byamukama, could you bring your amendment here if it is ready.

*(The Hon. Byamukama handed over her proposed amendment to the Clerk)*



**Ms Wanyoto:** Mr. Chairman, I have no problem with the proposed amendment by Hon. Byamukama.

*(Question on the amendment of Clause 2 put and agreed to)*

*(Clause 2, as amended, agreed to)*

Clause 3

*(Question proposed)*

**Ms Wanyoto:** Hon. Speaker, I would like to propose that we delete the entire Clause 3 and substitute it with the following new Clause 3:

*“3 (1) the Secretary General shall, not later than the 15<sup>th</sup> day of October in each financial year, prepare the budget of the Community and submit it to the Council of Ministers for consideration.*

*(2) The Secretary General may, during the preparation of the budget under subsection (1), consult all organs and institutions of the Community and such other stakeholders as may be necessary.”*

**Dr. Didas Masaburi (Tanzania):** Hon. Chairman, I beg to move that in this amended sub clause (2), we should replace “*may*” with “*shall*”.

**The Chairman:** Any other amendment?

**Mr. Gervase Akhaabi (Kenya):** Mr. Speaker, I wish to propose that immediately before the proposed amendment to Clause 3 by the Committee we insert a new sub-clause (1) to Clause 3 to read as follows: “*The Council of Ministers shall, in each year, make a recommendation of activities to be undertaken and financed by the Community in the following financial year, and such recommended activities shall be submitted to the Assembly for determination.*”

Mr. Speaker, I have written down the proposed amendment, which is already with the Clerk.

**The Chairman:** *Mheshimiwa*, what I have here is not what you’re reading. Hon. Members, I do not know whether you have understood what hon. Akhaabi is saying, but he wants to insert his proposed Clause 3(1) immediately before the current Clause 3(1) to read:

*The Council of Ministers shall, in every financial year\_*

- (a) *Make a recommendation of activities to be undertaken by the Community in the following financial year;*
- (b) *Not later than the 15<sup>th</sup> day of October in each year, submit to the Assembly its recommended activities to be undertaken by the Community in the following financial year.*
- (c) *The Assembly shall determine such activities for financing as it may deem necessary.*

**The Chairman:** *Mheshimiwa Masaburi.*

**Dr. Masaburi:** Mr Chairman, I would like to oppose the proposed amendment because it will conflict with the powers vested in the Secretary General to prepare the budget. We have three stages in the budgeting process: the preparation, consultations and the approval. When we talk of the consideration of the activities, we are talking on Article 132 of the Treaty, which is on the budget procedures. Therefore, I would propose that the recommendation of the planned activities should not be done before the Council has considered the appropriation of the funds because, as per Article 132(5) of the Treaty, the Assembly is only committed to determine what the Council has recommended. So, perhaps that would be appropriately covered under Clause 4, as I have written in my note to the Clerk.

**The Chairman:** Honourable members, before we proceed with this, let us finalise the proposal that the hon. Masaburi had made earlier. He proposed the removal of “*may*” and to replace it with “*shall*”. Do we agree to that first of all?

**Ms Wanyoto:** Mr Speaker, I welcome the proposal by hon. Masaburi.

**The Chairman:** Now we are here with hon. Akhaabi’s amendment. I have read it out and we have heard one member who differs with it. Are you on the same one as hon. Akhaabi?

**Ms Hajabakiga:** On Clause 3(2) – (*Interruption*) -

**The Chairman:** No, I am talking about hon. Akhaabi’s proposal.

**Mr Akhaabi:** Mr Chairman, we do not seem to be disagreeing on 132. Article 132(5) reads: “*The resources of the Community shall be utilised to finance activities of the Community as shall be determined by the Assembly on the recommendation of the Council.*” My understanding is that the Council recommends the activities, and the Assembly then determines or approves those activities recommended by the Council. It is only those activities recommended by the Council and approved or determined by the Assembly that will be financed. So my understanding is that the procedure starts with the Council of Ministers recommending the activities, and what then follows is that those activities are determined or approved by the Assembly and it is on the basis of the recommended and approved activities that a budget is then prepared by the Secretary General for the Council before it is brought to the Assembly for approval. So that is the

procedure, and my understanding is that we start with the recommendation of the Council, just like I am proposing.

**The Chairman:** Hon. Akhaabi, the way that you are going about it, in essence, is that you are determining what the Secretary General takes to the Council, isn't it?

**Mr Akhaabi:** No; the Assembly does not determine what the Secretary General takes to the Council. What the Secretary General takes to the Council is the costing and not the activities. The Secretary General, under the Treaty, has no mandate to determine the activities. The activities are recommended by the Council to the Assembly. It is the Assembly that then decides which activities are going to be financed, and once the Assembly has decided which activities are going to be financed, then the Secretary General does the costing or budgeting for those activities.

**The Chairman:** Are you now trying to tell me that our budget is just about figures that they bring? I don't think so. I think a budget is a plan of something to be done. You can't tell me that what the Secretary General will do is just to put figures to the activities already approved by the Assembly; that the activities given by the Council of Ministers will be approved by the Assembly for the Secretary General to just go and put figures to? Is that what you are saying?

**Mr Akhaabi:** Mr Chairman, I am not the one saying that; it is actually the Treaty saying that in Article 132(5). That is what the Treaty says, and that particular article deals with the budget. It says in very clear terms that the resources of the Community shall be utilised to finance activities of the Community as shall be determined by the Assembly. So it is mandatory. It is the Assembly to determine the activities; and where from? From the recommendation of the Council! So, it is not me, Mr Chairman, but the Treaty.

**Dr Masaburi:** I would like to inform the hon. Member that there are three things here: the resources, their utilisation and the activities. So, we cannot take only the activities. There are resources there and those resources will be utilised on the activities. So, we have to determine all these, but first of all the resources and how they will be compiled and brought by the Council to this Assembly for determination.

**Ms Hajabakiga:** Mr Chairman, in addition to hon. Masaburi's statement, the Medium Term Expenditure Framework (MTEF) is all about that. It starts with activities, then talks about output, input and figures in terms of the budget. So, I think what hon. Akhaabi is requesting for is already included in the MTEF.

Mr Chairman, under Clause (3) – *(Interruption)* -

**The Chairman:** No, we are still on hon. Akhaabi's proposal. We will get to yours later.

**Mr Ogalo:** Mr Speaker, I think subsection (5) of Article 132 should be seen in light of subsections (1), (2), (3) and (4). In my understanding, the budgetary process is being followed from sub-section (1), and in subsection (5) the budget is now before the House.

In such a situation where the House is now debating and making a decision on the budget, it is at that stage that it will determine the activities and how they are going to be financed by the resources of the Community. I think I would like to follow what hon. Masaburi has said on this, that we should not separate the two and look at the activities as separate from the budget. It will all come to the House in the budget, but it is the House which will determine in which area the resources of the Community will be allocated. That is my understanding of this.

**Mr Akhaabi:** Mr Speaker, I don't seem to follow the argument by hon. Ogalo when he says that you have to look at Article 132 sequentially. If you were to go by this argument, where would sub-article (4) fall? I think it is putting the cart before the horse. What both hon. Ogalo and hon. Masaburi are saying is to put the cart before the horse. I thought we should have the horse pulling the cart, and not the other way round! If the House or the Committee thinks that the Assembly should decide on all these activities on the floor of the House when the budget has already been prepared, I do not agree, but I will go by what the majority thinks - (*Laughter*).

**Ms Hajabakiga:** Mr Speaker, on Clause 3(2), along with the amendment made by hon. Masaburi, I would like to add after the expression, "*as may be necessary*" another sentence which reads: "*the report of the consultations shall be submitted along with the draft budget to the Council for onward transmission to the Assembly*".

**The Chairman:** We do not have that in writing. I have already advised honourable members to submit their proposed amendments to the Clerk in writing! She wants to add after the words "*as may be necessary*" the words "*the report of the consultation shall be transmitted along with the draft budget to the Council for onward transmission to the Assembly.*" Can members of the Committee help us; this was a point of contention earlier. Can hon. Wanyoto or members of that committee help us?

**Ms Wanyoto:** Mr Chairman, I personally do not have a problem with this addition because it promotes transparency and the spirit of consultation but I do not know whether other members of the Committee share the same positive spirit.

**The Chairman:** Hon. Members, I think we had a sub committee which was set up and we have members of that sub committee who are here. We do not want a situation where by we pass something and then later on it is out of the understanding that...I think one of the problems we had was that this budget shall be submitted by the Secretary General to the Council. I think that was one of the contentious issues. But when we add this, aren't we returning to the old...Dr Masaburi, please help me out because I think you discussed this thing earlier.

**Ms Byamukama:** I have a question, Mr Chairman. When you talk about onward transmission, and this onward transmission does not have a time frame, what are we doing; aren't we going backwards? We are stating the obvious; this is being superfluous! After all, when there is such a report, the Council of Ministers will table it in the Assembly and the Speaker will forward it to the relevant committee of the House!

So, for me if you are going to state the obvious, you would rather not because it may hinder onward transmission because the Council of Ministers can hold on to it and say we have not received it, or you may not be able to coerce them to bring it in time. So, I have a problem with onward transmission without a timeframe.

**Ms Hajabakiga:** Mr Speaker, I am not talking about just the budget; I am talking about submitting the report of the consultations together with the budget. They should attach the report of the consultations as one of the budget documents so that it is not left behind. The reason is that sometimes we do not know the exact activities which have been raised by the different organs and institutions, because during the consultations, certain things are taken and some are refused by the Secretary General. So, the Assembly will have to understand exactly what the issues and priorities of the institutions and organs were so that in considering and approving the budget they are assured that all the issues that are coming out are those which are the priorities of those institutions and the organs. That is the gist of what I am trying to push in my proposed amendment, Mr Speaker.

**Ms Byamukama:** Under the *EAC Powers and Privileges Act, 2004*, the Assembly may consult any person in the Community and the committee would come up with its own report. I can not appreciate what these recommendations from the Secretary General would add to what the committee needs to do. I think we need to appreciate that... wouldn't it pre-empt an open-minded discussion by the committee, because the essence of the Secretary General holding these consultations is for him to come up with a realistic budget, and then from there the committee would go ahead and interrogate it, make its own consultations and make its report!

If I understand that, then I will be able to support the onward transmission.

**Dr Lwanyantika F. Masha (Tanzania):** Mr Chairman, I had not intended to say anything in this debate, but I sort of got an urge to make a comment on this request by hon. Hajabakiga.

In terms of transparency, as the hon. Wanyoto has said, it sounds beautiful, and anybody who wants transparency would find it difficult to object to that, but we have to look at the management of an organisation where you have internal consultations, internal discussions; some of them extremely free, we might, by requesting the details of such consultations, end up inhibiting open discussion internally within the Secretariat. At the same time we might even undermine the authority of the Secretary General over the staff from whom he would be seeking advice in the process of preparing the budget. I think we should be very careful not to undermine that authority.

Also, we may be subjecting ourselves to unnecessary lobbying by those whose ideas might have been, for one reason or another, denied in the budget. I think we should be careful. There is room, as I think one member has said, if the Assembly so wishes, to invite anybody to come and explain or add or whatever, but to seek the details of the

consultations that took place, I think, would be too much. We might undermine the authority and management of the organisation.

**The Chairman:** Hon. Members, we have heard from the different members, and we have heard from the Committee. Maybe we should put it to vote so that we know – (*Interjection*) - she concedes? So we leave it the way it was.

**Ms Safina Kwekwe Tsungu (Kenya):** Mr Chairman, I wish to make a proposal to have a new sub clause under Clause 3 to read: “*The Assembly shall propose reallocations in the budget presented to it if it is in the opinion of the Assembly that the resources of the Community have not been allocated to finance activities relevant to the priorities of the Community*”.

**The Chairman:** Honourable Members, you have heard, but I want to advise that reallocation of funds is a function of the Council.

**Dr Masaburi:** Mr Chairman, I think that could bring about the confusion which we had earlier alluded to. It is true that reallocation is a function of the Council of Ministers, and of course we can propose reallocation but when you propose at an earlier stage and the Council refuses while presenting their budget, it might cause a conflict in the discussion of issues during the determination of the activities. So, I am afraid for that, unless we prove beyond reasonable doubt that reallocation is not a function of the Council of Ministers. And if it is the function of the Council of Ministers, the proposals should come from the Secretariat, from the sectoral committees, etcetera, and not from the Assembly. That is the way I see it.

**The Chairman:** Hon. Members, I would also like to add that parliaments are guided by tradition. I think even in our Partner States, you will find that the parliaments usually recommend reallocation but it is the executive function to do the actual reallocation, and then bring it back to parliament for approval.

So, I do not know...maybe we are micromanaging too much by saying we will also do reallocation. But that is an opinion, we can discuss it.

**Ms Kwekwe:** Mr Chairman, with due respect, I understand where my hon. Colleagues are coming from, but I thought by making a law, we wish not to leave room for speculation. But if you can allow me, perhaps I can change the wording to say: “*The Assembly may recommend...*” because, Mr Chairman, what happens if even after all the consultations the Assembly still feels that the finances of the Community have not been allocated to the priorities of the Community? What recourse does the Assembly have then to determine how those resources should be allocated? What would be the next course of action?

**Mr Ogalo:** Mr Chairman, I think my reading of Article 132 (5) appears to suggest that the powers of this Assembly are different from the powers of the Partner State

parliaments. I think Article 135 gives this Assembly power to say where the resources should be employed, which is lacking in the National Assemblies of the Partner States.

So, on my strict interpretation of Article 132 (5) "*The resources of the Community shall be utilized to finance the activities of the Community as determined by the Assembly on the recommendation of the Council*" is that the Council will make recommendations on the utilization of the funds of the Community and the Assembly will make the determination. I am aware that in the Partner States it is the other way round, but the framers of this Treaty, in my view, seemed to have wanted to give the Assembly the final word on the budget.

**Dr Masaburi:** I wish to concur with both hon. Ogalo and hon. Kwekwe, but that should not be part of the preparation, it should be after the Council of Ministers has made its proposal, so that after that we can then conclude it under Clause 4: the proposed activities; utilization and appropriation. Now, we are now going to appropriate, to allocate the finances. So, if we see that the proposed activities and the proposed utilization of the resources are not per our position, then we can make another proposal, because that is the stage where we can determine it. But if we do it at the appropriation stage, it will be very difficult because we shall have already directed the Secretary General to propose what he did not want, while the Treaty gives him power to prepare and present the budget to the Council of Ministers.

So, let him do that through a consultative process as we have already said that he must consult, and after that he will present the proposal to the Council of Ministers for consideration, after which the Council of Ministers will propose to the Assembly to determine the allocation of the resources, which is the appropriation of the funds in line with the strategic plan etcetera.

So, I would propose that reallocation should not be done at this stage, but it should be done after the Council of Ministers has presented the budget to the Assembly.

**Ms Tsungu:** Mr Chairman, I am much obliged. So I hope to move that proposal when we get to Clause 4.

**The Chairman:** On the same clause I have hon. Abdul Karim.

**Mr Harelimana:** Mr Chairman, I propose that we add at the beginning of this clause another point which will read: "*The Secretary General shall submit a midway report of the budget implementation to the Assembly*".

**The Chairman:** Honourable Members you have heard the proposal. He wants it to be Clause 3(a). I do not see anyone standing, but isn't this one of the functions of the committees to have that report? Wouldn't it be better for the committee to bring to the House this report? Should it be part of the budget process? I do not know; I am just putting things out there – (*Interjection*) -

**Ms Byamukama:** On a point of procedure, Mr Chairman, I think we have already discussed this, and we were given some explanations by hon. Masha and others. I think the Secretary General should do his consultations, which will influence the budgeting process and then the Assembly should not be influenced by any other consultations but should take it on from there, using the powers and privileges it has. I do not want to go into any other reasons, but I think procedurally we had already discussed and determined that.

**The Chairman:** I think what we did discuss earlier was something different; not this one. This one says there should be a report presented to the Assembly.

**Ms Wanyoto:** Mr Chairman, I am still trying to understand what level the budget implementation will be taking. If you allow me, I need a second to digest hon. Harelimana's proposal.

**The Chairman:** You want to digest it? Then we will have to wait for you because we cannot move on until we finish this one. He says the Secretary General shall submit a midway report of the budget implementation to the Assembly. Is it the previous year's budget implementation, or what do you mean by budget implementation? Maybe you can help us.

**Mr Akhaabi:** Mr Chairman that is what we do when we are in the committee. I do not think that that kind of requirement would be necessary because that is what we do at the end of the year when we consider these accounts and when we do oversight.

**Dr Masaburi:** Mr Chairman, when we sit in the Accounts Committee during the budget preparation and approval processes, we are dealing with the future, and it is where we are supposed to have the report of the performance of the previous year's performance. I think that proposal could jeopardise the budgeting process because it should be referring to the oversight of the previous year's performance and, therefore, I do not support it.

**Ms Wanyoto:** Mr Chairman, I have consulted with hon. Harelimana on what he wanted to put into the Bill, and I would like to propose that such proposals could be captured under the regulations because they could be part and parcel of the build-up in the budget process. I hope he can accept to withdraw this amendment for now and at the time when we are putting in place the regulations, we will be able to consider his proposal and any others to enrich the budget process.

**The Chairperson:** I now put the question that Clause 3 as amended be part of the Bill.

*(Question put and agreed to.)*

*(Clause 3, as amended, agreed to.)*

Clause 4



**The Chairperson:** I propose that Clause 4 be part of the Bill.

**Ms Wanyoto:** Mr Chairman, I propose to delete sub clauses (1), (2) and (3) of Clause 4 and substitute them with the following:

“4 (1) *That the Council shall, not later than the 30<sup>th</sup> day of April in each financial year, submit and lay before the Assembly the budget of the Community for the next financial year.*

(2) *The Speaker shall, immediately after the budget is submitted to the Assembly under sub section (1), commit it to the committee of the Assembly.*

(3) *The committee to which the budget is committed under sub section (2) shall consider, discuss and review the budget and submit its report to the Assembly not later than the 30<sup>th</sup> day of May in each financial year.*

(4) *The Assembly shall, upon receipt of the report of the committee under sub section (3), debate and approve the budget in accordance with Article 49 of the Treaty.”*

**Dr. Masaburi:** Mr Speaker, I propose that within the amendment we insert a new clause (3), to read: “*The committee shall consider the appropriateness - and this is where the issue of activities now comes in. And maybe hon. Kwekwe’s proposal can also be included here, so that the committee will consider the appropriateness of the utilisation of the Community resources and the activities as recommended by the Council of Ministers. This will give an opportunity to the committee to consider and even propose amendments or cut out some of the activities or reallocate, because that is the appropriateness of the allocation of the resources of the Community. We might even go further and cite Article 132.*

After that, sub clause (3) will now become sub clause (4), and we should add in the third line after the word “*budget*” the following words: “*in accordance with sub section (3) - which was amended above.*

Sub section (4) will now become sub section (5), and we should delete the words “*...debate and approve the budget in accordance with Article 49*” and replace them with: “*in accordance with Article 132 (5).*” This is because Article 49, which provides for the functions of the Assembly, implies that there is a procedure or methodology to carry out the function. So, if we say that we debate and approve the budget in accordance with the functions, it is not correct. The methodology is written in Article 132(5). So that is why we should replace Article 49 with Article 132 (5).

**The Chairman:** Hon. Masaburi, I think you have lost us. You have talked of three things and we do not know which one is which now. If you could go one at a time, I think we would understand you better because, from what you have given me, I do not understand what you want in this document.

**Dr Masaburi:** I thought we were talking on Clause 4, and that is why I combined – *(Interruption)* -

**The Chairman:** That is why I am reading what you gave me.

**Dr Masaburi:** So, the first one is to insert a new sub clause (3) which says – *(Interruption)* -

**The Chairman:** *“The Committee shall consider the appropriateness of the proposed resource utilisation of resources and make recommendations for the Assembly to make final decisions.”*

**Dr Masaburi:** Yes, that is the new sub clause (3) – *(Interjection)* -

**Ms Byamukama:** On a point of clarification, Mr Chairman, I support the principle, but when you look at this Article 132(5), which he makes cross-reference to in his proposed amendment, it says: *“The resources of the Community shall be utilised to finance activities of the Community as shall be determined by the Assembly on the recommendation of the Council.”*

Mr Chairman, when you say the Committee, and then you lose the Assembly and you do not bring in the Council, then perhaps you have not got the gist of the matter. Perhaps the proposal could be recast to bring out this principle and make this reference because, short of that, it is as if when the Assembly meets, it will not take into account this and yet when you look further down in sub clause (4) it says: *“The Assembly shall, upon receipt of the report of the committee under sub-section (3), debate and approve, in accordance with Article 49 of the Treaty.”* Maybe it should include both Articles 49 and 132 (5). So, we need to agree where to put this particular article without losing the essence of the particular article. But I agree with the principle.

**Ms Kwekwe:** Mr Chairman, still on the issue that the hon. Masaburi has raised, I seek to make my proposal, not in Clause 4(5) now, but to become a new 4(4), because it is related to what hon. Masaburi has said.

**The Chairman:** You let us handle his first because his is 4(3); it comes before yours.

**Ms Kwekwe:** Maybe if you could listen to what I wanted to say first...after the 4(3) proposed by the Committee, I propose to insert a new clause, which will be 4(4), to read: *“The Assembly shall make recommendations for reallocations for the budget if it is the opinion of the House that the resources of the Community have not been allocated to finance activities relevant to the priorities of the Community in line with Article 132 (5) of the Treaty”* so that by the time the Assembly goes to the next clause, which deals with debating and approving of the Budget, it shall be confident that the allocation of the resources has been geared towards the priorities of the Community.

**Ms Byamukama:** Mr Chairman, I would like to seek your guidance on an issue of procedure. Before we add on the new clauses, which I totally support, wouldn't it be

prudent for us to consider what the hon. Chairperson of the Committee has done to see whether these clauses are not already captured, so that if they are already captured we leave them out and if they are not, we take them on? I would like your guidance on this matter.

**The Chairman:** Well, I was going to call upon the Chairperson of the Committee last to say something after she has heard what everyone has to say. Maybe she can guide us?

**Ms Wanyoto:** Mr Chairman, I have no problem with honourable Members wanting to introduce additional clauses, but where there are areas for deletion, like the one hon. Masaburi has proposed, I think we can debate and agree or disagree as Members of the Community, but also as a House.

I was following your guidance to go clause by clause in the way that the proposals were being made, and so I was waiting for the opportunity to either pass or not pass the amendments, and then we can make comments.

**The Chairperson:** *Mheshimiwa*, this is your Bill, and so before we pass the clause we will want your guidance on whether the proposal is acceptable to you or not.

**Ms Wanyoto:** Hon. Masaburi had not concluded on his proposal. So I was waiting to be given the opportunity

**The Chairperson:** Okay, I am giving you the opportunity now.

**Ms Wanyoto:** The first proposal by Dr Masaburi comes in under Clause 4(3). He proposes that instead of only adding the word “review”, we should also add “appropriation”, and insert Article 132. In my opinion, the word “review” caters for the overhauling of the budget document. I think “review” is more encompassing and, therefore, more appropriate.

In Clause 3(4), he is proposing to delete the words “...*debate and approve the budget in accordance with Article 49 of the Treaty*”, and to replace it with “...*debate and approve the budget in accordance with Article 132.*” I propose that instead of deleting Article 49, which gives the functions of the Assembly, we should rather be specific and say “...*Article 132 (5)*” which gives us the mandate as an Assembly to actually carry out a review of any proposed reallocation of the resources of the Community. Those are my proposals.

**The Chairman:** Hon. Masaburi, I think what the Chairperson is saying is that Clause 4(3) takes care of what you are saying about reallocation of the resources because you are doing the review of the utilisation. But she also agrees with the insertion of 132 (5).

**Dr Masaburi:** Under Clause 3, we are discussing and reviewing, but we are not considering resource utilisation as per the requirements of Article 132(5). We are just reviewing; discussing what has been budgeted. But the thinking behind my proposal is to insert a new sub clause (3), which is actually specifically dealing with appropriation and

proposals from the Council. Sub clause (4) should remain as it is, but we should only add between the words “budget” and “submit”, the word “review.” I was of the view that sub clause (3) should be a new one to deal with the appropriateness of the proposed utilisation of finances. And that would capture what hon. Byamukama was talking about because it further goes on to say “*and submit its report for final decision of the Assembly.*” So, we check appropriateness at the committee level, and the committee will submit its report to the Assembly for final decision on whether the appropriation of the finances is as per the Assembly’s requirement. So, there are two things here; appropriation and Clause (3), which will now become Clause (4), which will deal with the budget itself.

So, under Clause (3) we are going to check the MTEF because even the purpose of this Act...if you look at the title of this Bill, it says that the Bill will also check the MTEF and deal with it, but there is no clause in the proposed Bill which refers to the MTEF. So, when we are checking the appropriateness of the reallocation of finances, we are actually dealing with the MTEF. We should actually write there that we go through the MTEF. but there is no other way of checking the appropriateness of the utilisation without going through the MTEF.

**The Chairman:** Let me just say one thing so that we can finish this matter once and for all. Like the Chairperson has said, if you go ahead and discuss and review the budget and do everything under the provisions of sub-clause (4), and if you add Article 132(5), doesn’t that take care of this appropriateness then? Because once you put it in four and you put 132(5), it takes care of this appropriateness? Moreover, it is the Assembly to determine this appropriateness; it is very clear in that article. So wouldn’t that do, because the committee does the review, brings the report to the Assembly, and then the Assembly will look at it. If you add 135 as you had said – (*Interjection*) -

**Dr Masaburi:** Thank you, I accept.

**The Chairman:** Thank you. So I think what we have done is to add 132(5). Is it okay Chairperson?

**Ms Wanyoto:** Mr Chairman, I would like to thank hon. Masaburi for enriching the Bill.

**The Chairman:** I think hon. Safina has a new Clause 4(4), which reads: “*The Assembly shall propose reallocation on a budget presented to it if it is the opinion of the House that the resources of the Community have not been allocated to finance activities relevant to the priorities of the Community.*” I think it can be covered under the last article. I think this is taken care of as well.

**Ms Wanyoto:** Mr Chairman, I think what hon. Masaburi has proposed is what hon. Safina wanted to include. I think that covers it.

**Ms Byamukama:** Mr Chairman, I have an amendment, which should have come in earlier on in Clause 4(2), which reads: “*The Speaker shall, immediately after the budget is submitted to the Assembly under sub section (1), commit it to a committee of the*

*Assembly.*” Bearing in mind that the word “immediately” is not defined, I would propose that we delete it so that it reads: “*The speaker shall, after the budget is submitted to the Assembly under sub section (1), commit it to a committee of the Assembly.*” The reason for this is that since we are talking about timelines, and “immediately” is not defined, and considering that the Speaker is the fountain of honour, maybe we should not use it in this context.

**The Chairman:** I totally agree.

**Ms Wanyoto:** No objection, Mr Chairman.

**Ms Byamukama:** I have another one on Clause 4(3). I agree with what has been said before, but I wanted to propose that “*the committee to which the budget is committed under sub section (1) shall make consultations pursuant to the East African Community powers and privileges Act 2004, consider, discuss, review ...*” because the powers to make consultations should not be hampered, and cross reference to this particular Act will enable the committee to invite anybody within its powers.

**The Chairman:** I think everyone knows the law is there, so I don’t think we need to put it in another law. Maybe when the committee is sitting, the chairperson can inform the people that have been called of the existence of that Act so that they know who they are dealing with.

**Ms Byamukama:** Much obliged, sir, but as you can see, we have already made cross references to the Treaty in this Bill, although everybody knows the Treaty is there. But if you so rule, I will abide.

**The Chairman:** I haven’t ruled. We are in committee stage so – (*Interjection*) -

**Ms Wanyoto:** Mr Chairman, I would like to thank hon. Dora Byamukama for her proposal, but I think it is obvious so we do not need to put it here in the law.

**The Chairman:** I put the question that Clause (4) as amended be part of the Bill.

*(Question put and agreed to.)*

(Clause (4) as amended, agreed to)

Clause 5

*(Question Proposed)*

**Ms Wanyoto:** Mr Chairman, I would like to propose that we renumber Clause 5 sub-clause (4) in the Bill to become a new sub clause (5). In Clause 5(2), replace the expression, “*The “Secretary General”*” with the expression “*the Council*”. In Clause 5(3) delete the expression, “*Prescribed in a form*” and substitute it with, “*in a form prescribed*”.

*(Question on Clause 5 put and agreed to.)*

Clause 6 agreed to.

Clause 7 agreed to.

Clause 8

*(Question proposed)*

**Ms Nusura Tiperu (Uganda):** Mr Chairman, in view of the oversight role of this Parliament, I seek to bring in a new sub clause (1) on Clause 8 to read as follows: “*The Secretary General may commit the Community to any grant or loan agreement with prior endorsement of the Council*”, and sub clause (2) to read as follows: “*All loans secured on behalf of the Community shall be approved by the Assembly*”. This in effect will now make the existing sub clause (1) in the Bill become sub clause (3) and sub clause (2) will become sub clause (4).

**The Counsel to the Community (Mr Wilbert Kaahwa):** Mr Chairman, during the Committee Stage, it is a requirement for any member proposing an amendment to submit the proposal to you in writing.

**The Chairman:** The member has submitted the proposal and read it. We want your comment on it.

**Mr Kaahwa:** I have no comment, Mr Chairman.

**Ms Jacqueline Muhongayire (Rwanda):** Mr Chairman, I wish to support the amendment proposed by hon. Tiperu because, as you know, a big part of the development expenditure of the Community budget comes from development partners through loans or grants. It would be good for the House to know the objectives of these loans and grants in order to be able to perform monitoring and evaluation. *(Interjection)*

**Ms Kwekwe:** Mr Chairman, I seek clarification on, first, “endorsement” and then “approval”. Don’t they mean one and the same thing? With my limited English I think they mean the same thing. Therefore, I feel that the proposal, as much as the intention is good, the way it is put will put approval at two levels: The Council will endorse the agreements and then the Assembly will come in to approve, again, the agreements. So I am at a loss.

**Ms Tiperu:** Mr Chairman, I would like my colleague, hon. Kwekwe, not to get lost. This is the practice in many countries, including our national Parliaments. And since there is already a provision in the Bill for the Secretary General to update the Assembly on the loans and grants, I think it is only fair that by the time the Assembly is updated on how the loans have been used, the Assembly approves. Mr Chairman, this is actually a democratic process that is followed in most Commonwealth countries, and since all the

East African Countries are within the Commonwealth, I don't think there can be a problem with that. It is done in good faith, and it is good practice. It will make this Parliament more formidable.

**The Chairman:** I would also like to give information that Kenya is one of the Commonwealth countries but the Kenyan Parliament has no powers to approve loans that Government acquires. So, I think that maybe it is the practice in some countries, but not all.

**Mr Lotodo:** Mr Chairman, I just want some clarification from hon. Tipuru. She started by saying that the Secretary General can make some commitments, if I got it right, but in the next clause, we are actually trying to dissuade the Secretary General from exercising that freedom. So if we are trying to give the Secretary General a blank cheque to commit on our behalf while actually he is supposed to...I just need clarification on that as I did not get it.

**Ms Tipuru:** Mr Chairman, I had proposed sub clause (1) in view of the fact that the Secretary General can negotiate on our behalf but not for him to do it without the endorsement of the Council of Ministers. My main intention is for the involvement of the Assembly in approving whatever loans that are utilised by the Community. In view of your concern, I wouldn't mind dropping sub clause (1) but I am insisting and requesting for your support for sub clause (2), which states that *"All loans secured on behalf of the Community shall be approved by the Assembly and thereafter, the Secretary General shall, either at the time of presentation of the budget or any time before the 30<sup>th</sup> of June in each financial year, cause to be presented to the Assembly, information relating to how these loans have been utilised."* I think that makes a better flow.

**The Chairman:** I am just giving advice here. Maybe this matter should not come in the Budget Bill but in some other instrument that requires the Secretary General, when they take a loan or grant -because you cannot take a loan unless the Council determines. Maybe we should have some other regulation or another law that mandates that every time we have a grant or loan it should be brought to the Assembly for approval. It is a suggestion anyway.

**Ms Muhongayire:** Mr Chairman, I am trying to understand your advice. I didn't hear the comment well, but I support the principle of the Assembly knowing the agreements entered into by the Secretariat through loans or grants. If it can be done by another law or instrument which can be explained here, I think we can accept to wait for these other mechanisms for letting the House know which agreements are being contracted by the Secretariat through loans or grants in order to be included in the Community budget as development expenditure. Maybe the Council or the Counsel to the Community can help this House understand how this principle can be implemented by another instrument or law.

**The Chairman:** The Counsel to the Community has taken the position that he is not going to say anything on this Bill, so I don't think you will get his opinion here. But you

could bring a Private Members' Bill to take care of that aspect, but if the member still insists that we continue with this, we can do so.

**Ms Wanyoto:** Mr Chairman, this was an area of deep discussions and consultations, and the Committee was of the opinion that under “regulations”, we could set a regulation that requires the Secretary General to present such loans and committed funds of the Community to the Assembly at an appropriate time. But, again, I think, as a committee, we are flexible, if the House obliges, to enriching this Bill. *(Interjection)*

**The Chairman:** I think we are taking too long on this. Hon. Hajabakiga.

**Ms Hajabakiga:** Mr Chairman, I do not think that this issue should really appear in this particular Bill, which is about the budget process and how budget should be done. If you look at our Partner State laws, normally it is at the level of ratification of loans and other issues which have been committed in the respective states, which is a different legislation altogether, where the Parliament gets involved. So, for me, I would like us to reduce the micro managing of the role of the Secretary General.

**Ms Tiperu:** Mr Chairman, I will oblige if you advise that we should maybe come up with another Private Members Bill on that particular issue. Otherwise I thought about that bearing in and that already there is a provision under Clause 8 of this same Bill talking about the Secretary General giving us updates on all the loans and how they have been used. So, I thought it was only prudent for it to be done in a comprehensive manner. But if the advice is that we come up with another Private Members Bill, I oblige.

**The Chairman:** I now put the question that Clause 8 be part of the Bill.

*(Question on Clause 8 put and agreed to.)*

Clause 9

*(Question proposed)*

**Ms Wanyoto:** Mr Chairman, I would like to propose that under Clause 9 paragraphs (a) and (b) we delete “it has” at the beginning of both paragraphs, and substitute it with “there is”.

**The Chairman:** Honourable Members, I now put the question that Clause 9 as amended be part of the Bill.

*(Question put and agreed to.)*

*(Clause 9 as amended, agreed to)*

*Clause 10 agreed to.*



## Clause 11

**Ms Byamukama:** Mr Chairman, I beg to propose an amendment to Clause 11, which reads as follows: “*The Committee may call upon any member of the Council or the Chief Executive Officer of the Community to appear before it following any breach of any of provisions of the Act*”. That would be Clause 11(1) (a), and then Clause 11(1)b) to read: “*the Committee may make recommendations to the Assembly on what sanctions to levy on such an officer.*”

I have already talked about the reason for this, and I hope it will be acceptable.

**The Chairman:** The *EAC Powers and Privileges Act*, does provide for sanctions if someone does not appear before the Committee or do something that the committee wants done.

**Ms Byamukama:** Mr Chairman, I understand what you are saying but I wanted the first line not to read, “*The Assembly...*” because it is not necessarily the Assembly; it could be the Assembly through the committee. I wanted to make it explicit that the committee may call upon any member, and the committee may make recommendations. I appreciate that the committee has these powers, but apart from summoning somebody to come and give evidence, the issue of levying sanctions and the kind of sanctions that should be levied is not very explicit in the *Powers and Privileges Act, 2004*. So, I would like to go further and give the Bill some teeth.

**Dr Masha:** Mr Chairman, I somehow seem to be intrigued by the idea of sanctions against those who breach what we are putting in here. But the people we are calling and talking about are members of the Council. These are ministers. We don’t appoint them, and their appointment is a matter of the Treaty.

I am thinking the kind of sanctions that we can recommend that can actually be affected on a minister we have not appointed, or a Chief Executive Officer who is the Secretary General. So, while I like the idea, I think it is something we need to think a little more deeply, perhaps not in the context of this discussion. The idea is quite interesting but given the kind of persons we are considering for sanctions, we would have to look at the Treaty in more detail and see what authority we may have to make any sanctions.

**The Chairman:** I would not want you to think very hard; I will give you information. Under the *Powers and Privileges Act*, you can send to jail, you can fine; the Assembly has all those powers under the Act and it mentions all those names you are talking about from the Council to the chair, to the Secretary General or any other person. So, I think you have the powers to do all those actions.

**Ms Byamukama:** Mr Chairman, with your guidance, we could then recast the clause to read, “*The committee may make recommendations to the Assembly pursuant –and I hope this time it will be taken - pursuant to the powers of the EAC Powers and Privileges Act, 2004.*” I beg to move.

**Ms Wanyoto:** Mr Chairman, I would like to recognise the recommendations being proposed by hon. Byamukama, but I think it is too limiting to just leave the committee or the Assembly work to only one Act of the Assembly. We would rather leave it open so that we can exercise as many instruments of the Community as we can access, depending on the situation at play.

Secondly, we are also looking at the spirit of this Bill. This has been a give-and-take Bill, so we would like to leave it the way it is so that it can work.

**Ms Byamukama:** I concede, but I would like to say this; I hope I will not come on the Floor of the House to talk about time lines.

**The Chairman:** I now put the question.

*(Question put and agreed to.)*

Clause 12 agreed to.

Clause 13

**Ms Wanyoto:** Mr Chairman, under Clause 13, we would like to propose to renumber the present Clause 13 as sub clause (1) and add the following new sub clause (2): *“without prejudice to the general application of subsection (1) the Council shall, within four months after coming into force of this Act, make recommendations prescribing the consultation process provided under Section 3 (2) of this Act”*.

**Ms Kwekwe:** Mr Chairman on this Clause 13, I wish to have clarification about this process of regulations from the Council. Is it possible to make regulation on how to let the House know the loan and grants agreements through the budget without initiating a Bill?

**The Chairman:** This is not a Council Bill; it is hon. Wanyoto’s Bill, so maybe she can give us guidance on that one.

**Ms Wanyoto:** Mr Chairman, I would like to agree that indeed, under the regulations we can have, as part of the features of the regulations, issues of the loans and grants of the Community. And we can improve on the formulation once the regulations are brought by the Council to this House.

**Ms Byamukama:** Mr Chairman, I have an amendment to Clause 13. Having listened to the Chairperson talking about the spirit of give and take, I kept very quiet when she gave away Clause 1 where it says, *“The act shall come into effect on the first day of July 2008.”* So, if we leave Clause 13 as has been proposed, we may fall into a situation where the Council of Ministers may not make the regulations, because sub clause (2) says *“without prejudice”*, and without prejudice means not withstanding.

So, when you say “without prejudice”, it means that you are giving more emphasis to the Council of Ministers making regulations generally for giving effect to the provisions of this Act. In effect you will have a dead letter law in that the Council of Ministers may decide not to do anything about this because of the principle, which is clear in Clause 13 (1).

Having said that, let me propose that maybe it could read as follows to encompass the two ideas: “*The Council shall, within four months after coming into force of this Act, make regulations for giving effect to this Act subject to approval by the Assembly.*” That would take into account the four months principle; it would take into account the making of regulations and therefore giving effect, which was given away in Clause 1. It would also reinstate our law-making function, which is in Article 49.

I hope this will be supported.

**Ms Wanyoto:** Mr Chairman, I would like to support the proposal for the Council of Ministers to submit to the Assembly the regulations for debate and approval because then we will be able to input the areas of Clause 3, that we had to give away, as an alternative way of capturing what we want to do.

**Mr Abdullah Mwinyi (Tanzania):** Mr Chairman, I would like to propose an amendment to Clause 13 to include a new sub clause (3) to read as follows: “*The regulations referred to in sub section (2) shall provide a detailed mechanism for consultation with all organs of the Community*”.

**The Chairman:** Honourable Chairperson, you have heard the proposed amendment.

**Ms Wanyoto:** Mr Chairman, that could be a feature of the regulations, but we have already assigned the Council of Ministers to come up with regulations which we can debate and approve. So, if that is missing, then that will be the opportunity for us to input, but as of now, we should give them the opportunity and space to provide regulations to bring to the House, which we can then include.

**Mr Ogalo:** Mr Chairman, I am a member of this committee, and at one time during our debate - I do not know whether it has been covered now, but one time during debate we had suggested that the Council of Ministers needs to be guided on those areas that need to be in the regulations, otherwise they could easily make regulations that leave out very important matters.

So, if it is thought necessary, maybe we could consider that amendment because then we would be sure that the whole thing is detailed, and that we are not left with regulations which are...I would like to request my Chairperson to consider, just for purposes of being more detailed and for emphasis, taking on this amendment.

**Ms Byamukama:** Mr Chairman, if you say “*subject to the approval of the Assembly*”, then I would like to support the Chairperson because the Assembly will have the opportunity to interrogate the report, and I believe the report will outline whatever work

and whatever consultations have been done in the four months before coming up with the regulations.

If we talk about a detailed mechanism, we are in effect giving the Council of Ministers defence, when some of the regulations they may have brought on board are questioned. They will say they adhered to this particular sub clause and therefore seek for approval. So, our work will be functionary. It is not for us to tell the Council of Ministers how they should do their work. So, whether it is detailed or not, let the Council of Ministers come up with regulations; let them do their work. And let us give them the space, like the Chairperson has said, and we shall approve them.

**Mr Mwinyi:** The sentiment seems to be to allow the Council of Ministers to do its work, and I am happy to oblige.

**The Chairman:** I now put the question.

*(Question put and agreed to.)*

*(Clause 13 agreed to)*

The Title agreed to.

#### **MOTION FOR THE HOUSE TO RESUME**

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto, Uganda):** Mr Chairman, I beg to move that this House do now resume and the Committee of the Whole House reports thereto.

**Ms Safina Tsungu Kwekwe:** Seconded.

*(Question put and agreed to.)*

The Assembly resumed, the Speaker presiding.

#### **BILLS Report Stage**

The East African Community Budget Bill, 2008

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto):** Mr Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “*The East African Community Budget Bill, 2008*” and approved it with amendment.

#### **MOTION FOR THE ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE**

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto):** Mr Speaker, I beg to move that the Report of the Committee of the whole House be adopted.

**Ms Safina Tsungu Kwekwe:** Seconded.

**The Speaker:** I put the question.

*(Question put and agreed to.)*

### **BILLS Third Reading**

The East African Community Budget Bill, 2008

**The Chairperson, Committee on General Purpose (Ms Lydia Wanyoto):** Mr Speaker, I beg to move that “*A Bill for an Act of the Community to Provide for and to Regulate the Budgetary Process of the Community and other Matters Related to it*” be read for the Third Time and do pass. I beg to move.

**Ms Nusura Tiperu:** Seconded the motion.

**The Speaker:** I put the question.

*(Question put and agreed to.)*

*- (Applause) -*

Bill read a Third Time.

**The Speaker:** I would like to congratulate hon. Wanyoto, the Committee on General Purpose and the whole Assembly. It has been a long road but I think we are there. It has been a long journey; we went to court, we did a lot of things, but we have finally passed it. *(Applause)*

I would also like to congratulate the current Chairperson to Council who has made it possible. I think without her - and I say without her personally; not even the while Council, but without her, this Bill would not have gone through - *(Applause)*.

With no other business, I now adjourn the House until tomorrow at 2.30 p.m.

*(The Assembly rose at 5.35 p.m. and adjourned until Thursday, 11 December 2008 at 2.30 p.m.)*

