



EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)
The Official Report of the Proceedings of the East African
Legislative Assembly

10TH SITTING - FOURTH ASSEMBLY: THIRD MEETING – FIRST SESSION

Wednesday, 14 March 2018

The East African Legislative Assembly met at 2:30 p.m. in the Chamber, EALA

Wing, EAC Headquarters, Arusha, Tanzania

PRAYER

(The Speaker, Mr. Martin K. Ngoga, in the Chair)

(The Assembly was called to order)

**COMMUNICATION FROM THE
CHAIR**

**VISITING DELEGATION OF MPS FROM
TRANSITIONAL NATIONAL
LEGISLATIVE ASSEMBLY OF
REPUBLIC OF SOUTH SUDAN**

The Speaker: Good afternoon, honourable Members. We are very lucky this week. Yesterday, we had Members of Parliament visiting from the Republic of Kenya and the Republic of Uganda. Today, we have another group of Members from the Transitional

National Legislative Assembly of the Republic of South Sudan. *(Applause)*

They are led by Dr. David Nailo Mayo. Please, stand for recognition, honourable Member. He is accompanied by; Hon. Goc Makwach Mayol, Member; Hon. Joy Kwaje Eluzai, Member; Hon. Bidal Moses Onesimo, Member; Prof. Paul Loggali Jumi, Member; Hon. Ngong Gum Deng, Member; and, Mr. Emmanuel Jimmy, who is accompanying the team.

I hope I have not forgotten anyone. If there is anyone I have forgotten, please, stand up for recognition.

(Mr. Duop Kim Gai Rout stood up in his place)

Hon. Kim Gai, you could help us introduce the other Member.

Mr Duop Kim Gai Ruot (South Sudan):
On a point of information, Mr. Speaker, Sir. You have forgotten hon. Bol.

The Speaker: Thank you very much. Hon Members from the Republic of South Sudan, it is our pleasure and privilege to have you around today. They just came in. I have not had time with them but I will. I hope that you will also have time to interact with our colleagues from the Republic of South Sudan.

You are most welcome.

ADMINISTRATION OF OATH

Hon. Ken Obura, Chief Administrative Secretary for the Ministry of East African Community and Northern Corridor Development/Kenya

The Speaker: Honourable Members, I rise to notify you that His Excellency Uhuru Kenyatta, President of the Republic of Kenya has appointed hon. Ken Obura, Chief Administrative Secretary for the Ministry of East African Community and Northern Corridor Development. The Chief Administrative Secretary is present and would like to take his seat in this House. However, in accordance with the provisions of Rule 5 of the Rules of Procedure of this Assembly, he cannot sit or participate in the proceedings of the House until he takes Affirmation of Allegiance to the Treaty as a

Member of the Assembly. Rule 5(5) specifically states:

Rule 5(5): “When a Member first attends to take his or her seat other than at the first sitting of a new House, he or she shall be brought to the Table by two Members and presented by them to the Speaker who shall then administer the Oath of Affirmation of Allegiance to him or her.”

I, therefore, request any two Members who know hon. Ken Obura to bring him to the Table and present him before me to enable me administer the Oath of Allegiance.

(Mr Ken Obura was escorted to the Chamber by hon. Wanjiku Muhia and Dr. Oburu Oginga)

VISITING DELEGATION FROM ARUSHA INSTITUTE OF ACCOUNTANCY

The Speaker: Honourable Members, as we wait for the honourable Member to walk in, I also want to recognize the presence of students from Arusha Institute of Accountancy. There was a group here yesterday but this is another group. We thank them for devoting time to come and visit the Assembly. *(Applause)*

Oath of Allegiance was administered to the following Member:

Mr. Ken Obura Mirenga, Chief Administrative Secretary for the Ministry of East African Community and Northern Corridor Development

Congratulations, hon. Ken Obura. Hon. Obura is relatively young but a very experienced politician. He started as a student

leader at the University of Nairobi. He is a lawyer by profession like some of you and me. He has been in politics for a while as a Member of Parliament for Kisumu Central, a Member of Foreign Relations and Defence Committee in the National Assembly, Parliament of Kenya. Therefore, we congratulate you and thank the President of the Republic of Kenya in spotting the leadership in hon. Ken Obura and giving us an opportunity to serve with him. We look forward to working with you and wish you the best. *(Applause)*

MOTION

RESOLUTION OF THE ASSEMBLY TO SAVE, RETAIN AND CONTINUE IN THE ASSEMBLY BILLS THAT WERE INTRODUCED IN THE THIRD ASSEMBLY

The Speaker: Chairperson, Committee on Legal, Rules and Privileges.

Amb Fatuma Ndingiza (Rwanda): Mr. Speaker Sir, before I move the Motion, I would like to draw the attention of the House to the attached piece of paper on the Motion. It talks about the amendment of Rule 94 and specifically section “C” which will guide us in our deliberations.

Rt. Hon. Speaker, I beg to move a Motion to save, retain and continue with Bills that were pending before the Third Assembly in June 2017.

THAT, in accordance with Articles 49(1) of the Treaty and Rule 94 of the Rules of Procedure of the Assembly, this House do resolve to- *(interruption)*

(The Speaker consulted with the Clerk-at-the-Table)

The Speaker: Please, proceed.

Amb. Fatuma Ndingiza (Rwanda): I beg to move the following Motion:

THAT, in accordance with Articles 49(1) of the Treaty and Rule 94 of the Rules of Procedure of the Assembly, this House do resolve to save, retain and continue with Bills that were pending before the Third Assembly in June 2017.

Dr Oburu Oginga (Kenya): On a point of order, Rt. Hon. Speaker. We have not seen the attachment that the Chairperson is talking about.

The Speaker: Could the clerks assist the honourable Member? Check whether he has the document. You will be assisted, Dr. Oburu.

(Mr. Gideon Gatpan, Mr. Claude Barimuyabo, Mr. Aden Abdikadir and Mr. Josephine Lemoyan seconded)

Chairperson, Committee on Legal, Rules and Privileges, could you justify the Motion, please?

Amb. Fatuma Ndingiza (Rwanda): Rt. Hon. Speaker, I take this opportunity to thank you and the entire Assembly for giving me the opportunity to present this noble Motion before the Assembly. I am doing this on behalf of the Assembly.

The objectives of the Motion I will be presenting before the House are clear and self-explanatory. Hence, I will not dwell in justifying the Motion.

Rt. hon. Speaker let me go through the Motion.

The Motion seeks for a resolution of the Assembly to save, retain and continue in the Assembly Bills that were introduced in the

Third Assembly in accordance with Articles 49(1) and 59(1) of the Treaty Rule 26 and 94 of the Rules of Procedure of the Assembly.

Rt. hon. Speaker, I beg to move:

WHEREAS Article 49(1) of the Treaty provides for the Assembly as the legislative organ of the Community which enacts the legislation of the Community by means of Bills debated and passed by the Assembly;

WHEREAS in accordance with Article 14(3)(b) of the Treaty, several Bills were initiated and submitted to the 3rd Assembly by the Council of Ministers and other Bills were submitted to the 3rd Assembly by private members of the 3rd Assembly in accordance with Article 59(1) of the Treaty.

AND WHEREAS Article 51(1) of the Treaty read together with Section 11 of the East African Legislative Assembly Elections Act, 2012 provide for the Assembly to stand dissolved upon the expiration of its 5 year term.

WHEREAS the 5 year term of the 3rd Assembly expired in June, 2017.

AND WHEREAS Rule 94 of the Rules of Procedure of the Assembly provides for the lapse of any Bills, Motions and other business pending before the Assembly at the time of dissolution of the Assembly.

RECOGNISING that the lapsing of business before a legislature at the time of expiration of the term of the legislature is deeply embedded in the long-standing parliamentary principle that provides that one Parliament cannot bind another Parliament;

FURTHER COGNIZANT of the fact that at the time of the expiration of the term of the 3rd Assembly in June, 2017, there

were nine (9) Bills that had been introduced in the Assembly which the Assembly was not able to pass due to the expiration of the term of the 3rd Assembly;

WHEREAS the process of initiating and submitting Bills in the Assembly by the Council and by private members is very consultative within the Partner States, elaborate and takes a lot of time and financial and technical resources of the Community and as such any Bills submitted to the Assembly by the Council should not be lost as a result of the expiration of the term of the Assembly;

AND WHEREAS rule 94 of the Rules of Procedure of the Assembly provides for any Bill, motion or business of the assembly at the time of dissolution of the Assembly to be saved and retained in the Assembly if the Assembly passes a Resolution to retain the Bills or Motions in the Assembly;

NOW THEREFORE BE IT RESOLVED BY THE ASSEMBLY AS FOLLOWS:-

THAT, in accordance with Article 49(1) of the Treaty and Rule 94 of the Rules of Procedure of the Assembly, the Assembly saves and retains the following Bills that were pending before the Third Assembly in June, 2017:

1. *The East African Community Whistleblowers Bill, 2016;*
2. *The East African Community Retirement Benefits for Specified Heads of Organs Bill, 2016;*
3. *The East African Community Sexual and Reproductive Health Bill, 2016*
4. *The East African Community Competition (Amendment) Bill, 2015*
5. *The East African Community Trade Negotiations (Repeal) Bill, 2014;*

6. *The East African Youth Council Bill, 2017;*
7. *The East African Community Cross Border Trade in Professional Services, 2017;*
8. *The East African Community Mining Bill, 2016;*

I beg to move.

The Speaker: Is there further justification that you need to give?

Amb Ndangiza: Rt. hon. Speaker, the House has heard my presentation on the Motion, which is self-explanatory. However, I just want to emphasise a few things. The EALA as a legislative Assembly is an institution of good governance, an institution that promotes accountability. When we talk about accountability, we have to walk the talk. What do I mean by that? Continuity and retention of pending activities is a good principle of governance. It is meant to ensure that there is continuity. However, more important as we all know, initiating and taking the necessary processes to have a Bill requires a lot of time on the side of Members and the Council. There is a lot of investment in terms of resources such as money and human resource. There is a lot of hard work involved but more importantly as you know, the resources we use as the Assembly are taxpayers' money.

Our colleagues who were in the Third Assembly and the Council of Ministers spent a lot of time and money on these Bills. Therefore, there is need to take into consideration their work so that there is value for money and time. We should also not reinvent the wheel. In addition to that, when you look at all the eight Bills, some of them will go a long way to contribute to the promotion of good governance in our region, facilitate trade and ensure that we have a

healthy community, among other things. In short, these Bills will contribute to a great extent to the widening and deepening of regional integration.

I would like to request honourable Members to support and pass the Motion for the benefit of our Community. Thank you, Rt. Hon. Speaker.

The Speaker: Thank you very much, Chairperson, Committee on Legal, Rules and Privileges. I will now propose the question - *(Interruption)*

Mr Paul Musamali Mwasa (Uganda): Thank you, Rt hon Speaker. Before you put the question.

The Speaker: I am not putting but proposing the Motion.

Mr Musamali: Okay, Rt hon. Speaker.

(Question proposed)

Mr Abdikadir Omar Aden (Kenya): Thank you, Rt. hon. Speaker, for the opportunity to speak to this important Motion.

Before I do that, let me take this opportunity to join my colleagues in congratulating and welcoming the new Members who were sworn-in yesterday led by our Chairperson, Council of Ministers, hon. Ali Kirunda Kivejinja, hon. Minister Peter Munya from Kenya, and hon. Ken Obura whom we have just sworn-in today.

Rt. hon. Speaker, with your indulgence, I would like to say that hon. Ken Obura and I have come a long way. We are good friends, colleagues in the immediate former Parliament of Kenya and we worked together

very closely. We are, indeed, greatly honoured to have two very strong lawyers and parliamentarians known for their contributions and debates in the parliaments. I am very glad to say that I am encouraged to see the enriched energies of these two men and their experience, guided ably by hon. Ali and the knowledge and experience of our other colleagues; hon Olivier and the other Members of the Council who are here to contribute. I see a new dawn in the Front Bench and I congratulate them very much.

This Motion, as explained to us by the Chairperson of the Legal, Rules and Procedures Committee, is very important. I am glad that our predecessors, a parliament you also served as a Member, found it very important that Bills that were under deliberation in that previous parliament be given another life by the amendment of Rule 94.

As printed here in our Rules of Procedure, Rule 94 terminated the Bills. However, in the wisdom of the previous Parliament, they passed an amendment to give these Bills another life. As the honourable Chairperson made it very clear, I also see very important Bills like The Whistleblowers Bill. I think in almost all our Member States, as far as I have checked around, we have a similar laws or Acts of Parliament that are in existence. Since the entity of the EAC integration reflects, shows or depicts the good practice across our countries, this particular Bill will give an opportunity in the event that there is anything out there that needs to be brought to the attention of the House or of the relevant authorities with regard to the misuse of public funds.

The Whistleblowers Bill will give us an opportunity to have legal basis on which a person can express himself or herself. There is the Sexual Reproductive Bill. I chair the

Committee on General Purpose. My predecessor pleaded with this House very much during our induction programme that we bring back this Bill. It is important for the mothers of East Africa. By moving this Motion today, we give an opportunity to such important Bills to be brought along. I do not want to say much on this because very good justification was given by the honourable Chairperson who moved this Motion. Mine is to say that I support and to urge my colleagues to support the adoption of this Motion.

I support.

The Speaker: Thank you very much, hon. Aden Omar Abdikadir.

Mr Gideon Thoar Gatpan (South Sudan): Thank you, Rt. Hon. Speaker. I would like to congratulate hon. Ken Obura who has just been sworn-in and taken over the position of the youngest parliamentarian in this House. He is the latest youngest parliamentarian in this Parliament.

The Speaker: The youngest in the sense that no one has been sworn-in after him.

Mr Gatpan: I cannot over emphasise the fact that we have grounds to justify that in some instances, we cannot reinvent the wheel. There is need for the Assembly to provide for the continuity of the function of the Assembly and the Community at large. Why do I say so? This Motion, I am supporting in totality, gives ground and informs the work of the Committees of this House.

I am a Member of the Committee on Regional Affairs and Conflict Resolution and the Committee on Communication, Trade and Investment. Particularly under the Committee on Regional Affairs and Conflict Resolution, we have some Bills that are

pending and which are part of what we are discussing. These Bills can inform our next course of action and not negate the fact that we enrich them. When you enrich something that has already been originated, that makes more sense than cracking your head.

I would like to support the Motion that has been moved by hon. Fatuma in totality. If possible, we should use it as a ground to inform our next course of action as committees.

Ms Susan Nakawuki Nsambu (Uganda): Thank you, Rt. Hon. Speaker. Allow me also to add my voice and congratulate the Minister who has just been sworn-in.

I rise to support the Motion as moved by the Chairperson of the Legal, Rules and Privileges Committee. I would like to say, from the outset, that I am supportive of the noble idea of carrying forward the work of the previous Assembly.

Rt. hon. Speaker, I was lucky to serve under the Third Assembly. I remember when we joined the Assembly in 2012 that there was no work of the Second Assembly that was carried forward to the Third Assembly. It was always at the discretion of individual honourable Members to pick Bills that they were possibly interested in and brought them to the Assembly. Those other Bills that they never took very serious did not make their way back to the Assembly and they died a natural death.

I know that this is a very noble idea. I know that this is a very dedicated Assembly with very able and dedicated Members who will definitely pull off the work, which was left in the pipeline by the Third Assembly. I remember during the second last sitting of the Third EALA, Members sat and thought that there was a lot of work, which was in the pipeline. Actually, we tried to put in extra

hours of work but it was not possible for the Assembly to complete all the work before the Assembly lapsed. We then concluded that there was need for an amendment to allow carrying forward the work of the previous Assembly into the new Assembly. At the same time, we agreed that we could force the work of an Assembly to another Assembly. That is why we have this procedure of the Motion to seek leave of the House to have this work carried forward into the Fourth Assembly.

I request all my colleagues to support this noble course so that we can work on all Bills that are in the pipeline.

Rt hon Speaker, when I look at the eight Bills, the last three Bills; the East African Youth Council Bill, the East African Cross Border Trade and Professional Services Bill, the East African Community Mining Bill, the Movers are in the Fourth Assembly. I know that they are all still interested in taking on the Bills. This also includes the Council Bills for amendment and repeal. They can take them over. However, there are these three important Bills: The Whistleblower, the Retirement Benefits and the Sexual and Reproductive Health Bills. It is my humble plea that we take them all as an Assembly and we bring them to a logical conclusion because I know that the Assembly spent a lot of money in the process of working on the Bills.

I remember when it came to the Sexual and Reproductive Health Bill; we did public hearings three times. Different private sector organisations gave their proposals to the Committee. The civil society had to come up and they all had issues to raise about the Bills. We kept going back and forth because we wanted to consider all views before the Bill was passed. Therefore, I would like to request the Assembly not to allow the resources that

were spent to go to waste by not carrying out the Bills. The best thing we can do now is to take into consideration all the views that came in afterwards and ensure that we conclude these Bills. That way, we will be doing justice to the people of East Africa.

In conclusion, majority of the Members are first timers in the Assembly and they will need to familiarise themselves with these Bills. Regardless of the stage we finished, I propose that we redo the public hearings so that Members associate themselves fully with the Bills, then we can garner full support when time comes for us to pass them.

I beg to support.

Ms Josephine Sebastian Lemoyan (Tanzania): Thank you, Rt hon Speaker, for this opportunity to enable me congratulate the new Members of the Assembly starting with Dr. Al Haji Ali, hon Munya and hon Ken Obura who were sworn-in yesterday and today. Welcome on board. I hope that we will work together and learn from each other.

When I looked at these Bills and learned the process it takes for a Bill to go this far, I was moved, first of all, by the content but also by the process of taking the Bills to this extent. At the same time, I took time to look at the status of the Sexual Reproductive Health Bill within the six Partner States of the EAC and the data was shocking. Therefore, I find the relevance of having all these eight Bills because they are still valid.

I beg colleagues from the Assembly, and particularly those of my committee on Legal, Rules and Privileges, to take very serious steps in the conclusion of these Bills. When I look at the maternal mortality rate (MMR) for all the EAC countries, the highest is 789 out of 100,000 and the lowest is 290 in Rwanda. In between, we have 510,712 and so forth,

indicating how important the Sexual Reproductive Health Bill is for us. Going towards the Strategic Development Goals (SDGs), we are confronted with the task of ensuring that we reduce the maternal mortality deaths to 70 out of 100,000. I believe that the Bill will help us consolidate our efforts throughout the six Partner States and, at least, move towards reducing the maternal mortality rate to a figure that we can say that there is prosperity for our people.

Let me reiterate a bit on the EAC Youth Council Bill, which I find to be quite relevant especially because we have a number of youthful Members of Parliament. I am sure that they will be very happy to contribute to the process of concluding this Bill.

I beg to support this Motion with all my heart and request Members of Parliament to support it so that we take over this task and do justice to the people of EAC. I support the Motion.

Mr Mwasa: Thank you, once again, Rt hon Speaker. Let me also join my colleagues in congratulating our new *ex-officio* Members. My senior, Rt hon Kirunda Kivejinja, is my senior leader back in Uganda and one of my mentors. Some of the words that I speak, ideally, are a replica of his words. Hon. Ken Obura, you are welcome.

I support this Motion with amendments. It is the reason I stood up earlier. About the proposed amendments by my Chairperson, of Rule 94, I think she is right because EALA is ideally an ongoing concern. Therefore, we may have business and then it stops along the way. We then have to start afresh and then we save it. The amendment of this Rule will help us to continue with our business, which we will not have concluded at the end of any Assembly.

Dr Abdullah Hasnuu Makame (Tanzania):
On a point of information.

The Speaker: Will you take the information?

Mr Mwasa: Dr Makame, I have just started. He will inform me later.

The Speaker: The information is given at discretion.

Mr Mwasa: I am just doing my preamble.

Dr Makame: On a point of order.

The Speaker: That one must be held.

Dr Makame: What was presented to us by the Chairperson of the Committee on Legal, Rules and Privileges is an amendment of Rule 94 done by Third EALA on Wednesday, 31st May 2017. Therefore, the rules we have in this red book were passed in 2015. However, they were amended on 31st May 2017. This is just to inform hon Musamali that this is not an amendment. The Third EALA already effected the amendment.

I submit, hon Speaker.

The Speaker: Well, you stood on a point of order but the information you have given is very relevant.

Hon. Musamali, stand informed about that.

Mr Mwasa: Rt hon Speaker, there is one thing I want to share. Hon Susan said Third Assembly did not complete these Bills because they did not have enough time. However, I want to remind this House that we should not hide our heads in the sand when the rest of our bodies are out. The Third EALA did not have time to complete this business because they were involved in wrangles. It is, therefore, a lesson to us that

we should not involve ourselves in unnecessary wrangles so that we finish the business. As we talk, we also have some wrangles. For instance, the issue which is in court; the application that we should not transact business until the matter is disposed of and that we are here illegally.

Rt hon Speaker, we have that challenge. I remember when the Chairperson Council of Ministers, was responding to our debates to the Head of State, he said that there is no problem and that if someone is interested in going to court, they should go to court. However, these matters of integration would not need to go to the court. Therefore, I want to use this opportunity to appeal to the Chairperson of the Council to reach out to the Chairperson of the Summit so that we have this matter sorted out of court. We should not drag ourselves to court until the process delays the work we are doing. At the end of the Fourth EALA, we will not have completed doing good business because of the intricacies and issues that will come out of court.

Rt hon Speaker, in supporting this Motion, I will probably seek the guidance of this House. I will support this Motion in part. For example, the Bill on the East Africa Community Trade Negotiations, that is item No.6, is very important because it will help us – as much as I have not read it in detail – avoid having negotiations as individual States when in actual sense we are supposed to move as a Community.

Regarding the youth, remember they form a bulk of our population. The largest category of our population is that of the youth. Therefore, I believe that this Bill will help us to promote uniform activities which are aimed at integrating our youth in all these countries. This is where we need the assistance as a House to determine how we

can deal with some of these Bills like the East African Community Mining Bill and the East African Community Sexual and Reproductive Health Bill. I believe that some of these Bills could be done by individual Partner States. Our concentration as the Assembly should be on laws that will ideally help us to integrate fast enough like the one on trade, youth- (*interruption*)

The Speaker: Hon. Musamali, since what you are seeking is advice, do you not think that you are putting the cart before the horse? This House would not be in a position to advise you when they do not know the content. The point you are making will be relevant in the next stage depending on what decision this House will take.

Mr Mwasa: Rt hon Speaker, I brought it now because I am worried that if we approve to save all these Bills as they are, we will probably end up passing them. Maybe we should not save some of them now.

The Speaker: If some of these Members choose to support the Motion, part of their task ahead will be to look into the relevance of the Bills. Therefore, I think we will be moving faster judging based on the titles even when we do not know the content.

Mr Adan Mohamed Nooru (Kenya): I think the Member is trying to preempt the debate. Normally, the House debates what has come before it. Therefore, the fear that the Member has, that Members may pass these Bills is just a way of preempting debate and it is not procedural in parliamentary practice to preempt debate that is yet to come.

The Speaker: Hon Musamali, I hope that you stand advised.

Mr Mwasa: I thank you. That is the guidance I was seeking, hon Speaker. I will take it,

honestly. I, therefore, support the Motion. Now that I have been well guided, when that time comes, that will be my fear and I hope that it will be put right.

Mr Nooru: Thank you, hon. Speaker, for giving me this opportunity to contribute to this Motion.

From the outset, as my colleagues have said, I want to thank and congratulate the Members who were sworn-in yesterday and today. Their experiences, values and integrity have been talked about including the value they will add to this Assembly.

Secondly, I want to thank hon. (Dr.) Makame, for the first time, for having brought this issue of the amendment, which has already been passed. Unfortunately, I would also have raised the issue that hon. Musamali has raised. Rule 94 does not talk about extension of Bills. It talks about the period of an Assembly. Therefore, the first thing is for this rule to be enacted in our Rules of Procedure. If the rule was amended and passed, it is good to put it in the Rules of Procedure so that new Members who come in get to know. If it were not for hon Makame and Members whose memory is good, we would not understand that the reference being made to Rule 94 is not applicable because it talks about a different issue.

That aside, since it has already been mentioned and amended, I will move to the Motion which as it has been said is very important. It is important in the sense that these Bills are still relevant. There are issues that become irrelevant with time when their time lapses. However, for the benefit of the EAC and the Member States, these Bills are still relevant. If we leave them to die, it will be a loss to the Assembly and to the Community because the resources that have already been invested are enormous. We do not want to lose focus and throw away our

baby with the bath water. The Members who initiated these Bills are not with us today. For continuation purposes, we need to carry on with these Bills and own them for the benefit of the Community.

Secondly, apart from the Bills we are debating to extend their lifeline, there are other Bills that have been passed in the same way; having cost a lot and taken too much time of Members in this House. The Bills were passed and forwarded for assent through the Council of Ministers. We do not hear anybody talking about them. They are eight to nine years old. They have been ratified by half of the Partner States but there are few Partner States who are yet to ratify them. I would like to challenge the Council of Ministers to find out why the Bills have not been signed and to initiate the process of having them signed into law the same way this House is carrying out a process of dealing with pending Bills so that we move forward together.

There is no essence in passing Bills in this House, which are going to lie in the drawers of Partner States; may it be the Council of Ministers or Heads of State. We should be given reasons as to why those Bills have not been assented to. If there are any amendments, then the Bills should be brought back to the House. Once the Council of Ministers notifies us that a Partner State has an issue with a particular Bill and that is why they are not signing, we should be informed so that we pass amendments, harmonise and allow the Partner State to come on board and then we move forward. However, the issue of passing Bills in this House, which eventually go to lie in the hands of the Executive, is not acceptable. We need to be told why the Bills are lying with them so that we fast track the process.

With those few remarks, I beg to support.

Mr Gabriel Alaak Garang (South Sudan): Thank you, Rt hon Speaker. I rise to support the Motion. However, before I do so, I would like to congratulate hon. Ken Obura for having been sworn-in today as an *ex-officio* Member of this Assembly.

Hon Speaker, I rise to support this Motion. I will make an analogy. In accounting or business, we refer to something as a going concern. When you close the accounts at the end of the year, whether you experienced profit or loss, you show that it has been carried forward. At the beginning of a new year, you have to register the same and say, carried forward. I look at this Assembly as a going concern, which hon. Musamali mentioned before although he contradicted himself. However, what is important is that a going concern must continue to survive. For it to survive, there must be continuity. When we get the work, which has been done by the previous Assembly, then we must pick it up from there and put more blocks as a new Assembly. Therefore, we cannot dismiss all the Bills. We have to pass the Motion and look at each Bill in its own right.

Before I look at the Bills, let me welcome the Members of Parliament from South Sudan. It is good that they are here. I do not know whether they have passed many of these laws in South Sudan, particularly the East Africa Community Whistleblowers Bill. It is good that they are present so that they can borrow from these Bills. If they do not have some of these laws, they should go and act on them.

Mr Kennedy Mukulia Ayason (South Sudan): On a point of information.

The Speaker: Will you take the information hon Garang?

Mr Gatpan: He is welcome. There is no problem.

Mr Ayason: I just want to inform hon. Garang that the Members of Parliament from South Sudan have disappeared and are not there. He is seated behind thinking that they are there. However, they have already gone.

The Speaker: They have not disappeared. They are within the precincts of Parliament. Therefore, the message has been send.

Mr Garang: Mr. Speaker, Sir, thank you for the information. We will still go ahead and mention. Maybe we will give them a copy of our report. That is what is important. I am here to support the Motion that we carry these Bills forward. As I said, this Assembly is a going concern. We have to carry the Bills forward and we will consider them in their own right. I support the Motion so that we adopt these Bills. We will look at them in their own right. The question of priority is something that we will have to decide. Since we will be making other laws, we will decide on their priority. This does not mean that once we adopt them we have to take them automatically.

I support the Motion.

Mr Simon Nganga Mbugua (Kenya): Thank you, Mr. Speaker, for the opportunity. I would like to congratulate my friend, hon. Ken Obura, for being sworn-in today. Indeed, he is the youngest Member of this House.

I rise to support the Motion before the House. This is a very important Motion. I believe that we have to give life to the Bills that were initiated by the previous Parliament for the sake of continuity. I believe that a lot of research was done for the Bills to be formulated. Also, a lot of time and resources

were also spent. We need to understand and respect the work of the previous Parliament.

I am concerned and have a lot of interest in one of the Bills which is the East African Community Whistleblowers Bill. This is a very important Bill for this Parliament. Whistleblowers are very important people in the society. Without whistleblowers, many wrong things would be done and we would not know about them. Therefore, we need to have these people protected and to be taken care of by the EAC.

I support the Motion before the House.

Ms Mary Mugenyi (Uganda): Thank you, Mr. Speaker. I would like to join my colleagues in welcoming the new Members of the Executive. I am delighted to know that my senior; the Prime Minister, is here with us. I would like to say that we missed you, Rt hon Kirunda Kivejinja. Your being here means a lot to us as East Africans because you happen to be an encyclopedia, a living memory of what happened from the beginning to the present. Therefore, I welcome honourable Members of the Executive including the senior Member from Kenya who was sworn-in today. The more we are, the warmer and the merrier the Community becomes.

I would like to support the Motion so that these Bills that were presented by the Third EALA are considered by the Fourth EALA. As it has ably been said, the Bills are relevant. They have not been taken up or become stale because of time. Perusing through all of them, they are still pertinent to the deepening, widening and facilitation of our integration. I thank the Chairperson and the entire Committee of Legal, Rules and Privileges for having considered bringing back these Bills to life.

Mr. Speaker, continuity is very important in the existence and the life of any institution. It does not matter whether the work was done by the First, Second, Third and now by the Fourth EALA because EALA surpasses the numbers and individuals that were there at any one given time. Therefore, it is a good idea that we continue to consider and we build on the work that our predecessors started.

I would also like to add to what has been said by hon. Nakawuki that for the benefit of those of us who are new and who were not in the Fourth EALA, these Bills should be tabled afresh and the entire process of public hearing and presenting the Bills done. It does not matter what stage they had reached. They should be done afresh so that we are ably facilitated to convince ourselves, first of all, about the content and to contribute to the debate.

The Speaker: Thank you, hon. Mugenyi. I now invite the Chairperson of the Committee on Legal, Rules and Privileges to reply.

Amb Ndingiza: Thank you, Rt hon Speaker. Let me take this opportunity to thank honourable Members who supported the Motion. Let me thank hon. Abdikadir, hon. Gideon, hon. Susan Nakawuki, hon. Musamali and hon. (Dr.) Makame for the clarification because the amendment was done sometime before and that has been the basis of our Motion. I also thank hon. Josephine, hon. Nooru, hon. Gabriel, hon. Simon Mbugua and hon. Mary Mugenyi. I would like to thank them very much for their contributions. What I am reading is that they all believe that the Motion is relevant. We need to carry on with the work of our predecessors. There is no question that was raised. The only concern for some Members is that probably there is need to have a fresh reading of the Bills. I think that is provided

for in the amendment of Rule 94 especially in 94(3) section (d) where it says that;

Rule 94(3) *“The reinstatement of a Bill, Petition, Motion or any other business before the Assembly or a Committee shall be treated as a fresh reference to that Committee.”*

I believe that Members will have an opportunity to deliberate on the Bills so that they are properly informed.

Having said that, I also want to salute Members of the Third EALA for their dedication and for leaving behind all these good Bills. I hope that the Fourth EALA will agree to proceed with the legislation.

Rt hon Speaker, I want to thank you once again for the opportunity and to request all honourable Members to support the Motion.

(Question, that the House resolves to save, retain and continue with the Bills that were pending before the Assembly in June, 2017, put and agreed to)

Honourable Members, I now refer these Bills to the relevant Committees as follows.

The East African Community Whistleblowers Bill, 2016 is referred to the Committee on Legal, Rules and Privileges.

The East African Community Retirement Benefits for specified Heads of Organs, Bill, 2016 is referred to the Committee on Legal, Rules and Privileges.

The East African Community Sexual and Reproductive Health Bill, 2016, is referred to the Committee on General Purpose.

The East African Community Competition Amendment Bill, 2015, is referred to the Committee on Trade and Investments.

The East African Community Trade Negotiations Repeal Bill, 2014, is referred to the Committee on Trade and Investments.

The East African Community Youth Council Bill, 2017, is referred to the Committee on General Purpose.

The East African Community Cross Border Trade in Professional Services, 2017, is referred to the Committee on Trade and Investments.

The East African Community Mining Bill, 2016, is referred to the Community on Agriculture and Natural Resources.

Just for information, some of these Bills are Private Members' Bills. However, by the time the Third EALA concluded its work, they had gone to the Committee Stage. Therefore, the question of how they originated is not relevant. The Committees that will handle them can refer to the records that are well kept. They may also invite the Members who moved the Bills for background information or use any other method that they find convenient and which the Assembly can support in terms of logistics. Of course, there are mandatory procedures on how far a Bill had gone. There are mandatory procedures of public hearings and all those steps must be followed; the usual way Committees handle Bills.

(The Bills were referred to the relevant committees)

MOTION

LEAVE OF THE HOUSE TO INTRODUCE A PRIVATE MEMBERS' BILL

THE EAST AFRICAN COMMUNITY CUSTOM MANAGEMENT ACT (AMENDMENT) BILL, 2018

Mr Christopher Opoka-Okumu (Uganda):
Thank you, Rt hon 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 hon Chris Opoka-Okumu to introduce a Private Members' Bill entitled, the East African Community Customs Management Act, (Amendment) Bill, 2018.

I beg to move.

The Speaker: Seconders.

(Hon. Pierre Celestin Rwigema, hon. Pamela Maasay, hon. (Dr.) Oburu Oginga, Hon. (Ms.) Mary Mugenyi seconded)

(The Second Deputy Prime Minister/Minister for EAC Affairs (Ex officio Member) (Uganda), Hon. (Dr.) Kirunda Kivejinja, stood up in his place to second the Motion.)

The Speaker: Hon. Chairperson, Council of Ministers, you do not second. There is a legal issue there.

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Thank you, Rt hon Speaker. I thank the honourable Member who has tried to move the Motion so that he gets leave. However, I want to state that amending the Fifth Schedule has a lot of financial implications that impact on the Partner States' revenue. Therefore, it cannot be moved and debated here when the people who are supposed to provide the funds have not cleared it.

The Speaker: Hon Council Chair, I suppose that is the opinion of the Council. However, the Council will be part of the debate. Therefore, I think, instead of rising on a point of procedure, the best approach would be to bring in the reservations you have when debate ensues.

Hon. Chris, could you move the Motion?

Mr Opoka Okumu: Thank you, Rt hon Speaker. Before I move, permit me to congratulate hon. Ken Obura for being sworn-in as a new Member and as the saying was, the youngest Member of the Assembly in terms of being sworn-in. Congratulations, hon Minister.

The Motion is for a resolution seeking leave for the House to introduce a Private Members' Bill entitled East African Community Customs Management Act (Amendment) Bill 2018.

I beg to move the following Motion:

WHEREAS Article 59 of the Treaty for the Establishment of the East African Community empowers any Member to propose any Motion or introduce any Bill in the Assembly;

AND WHEREAS Rule 64 of the Assembly Rules of Procedure reinforces the right of every Member to move a Private Members' Bill;

NOTING THAT Rule 26 of the Rules of Procedure of the Assembly have been duly complied with giving notice seeking leave of the House to introduce a Private Members' Bill that is aimed at enhancing and streamlining purchase and use of exempt vehicles under the EAC;

NOW THEREFORE THIS ASSEMBLY, DO RESOLVE TO:

Grant Leave to Hon. Chris Opoka-Okumu to introduce a Private Members' Bill entitled: "the East African Community Customs Management Act (Amendment) Bill, 2018".

Rt hon Speaker, the upshot of the Bill is that under Section 114 of the East African Community Customs Management Act, Members have been restricted to only one tax-exempt vehicle. The Headquarters' Agreement permits Members, staff and judges serving in the EAC to import two vehicles exempt. Therefore, the EAC Customs Management Act is at variance with the provisions of the Headquarters' Agreement.

Two, there is inhibition of movement of these vehicles by Members in the Partner States. Honourable Members, staff of the Community and judges are performing very important duties to deepen and widen the integration process. I think when honourable Members, staff and judges are limited to one vehicle, which is exempt from duty, that impacts negatively on their welfare and that of their families and yet they need to do all it takes to accomplish the duties imposed on them to further widen and deepen the integration of the citizens of the EAC.

At the moment, there is difficulty in moving with these vehicles from one Partner State to another. The EAC is in one region. Honourable Members, judges and staff of the EAC need to move freely with these vehicles in Partner States without inhibition. Therefore, it is important that I be granted leave by this honourable House to bring these amendments. I seek the support of this House for this very important Motion. At the appropriate time, the issue raised by the honourable Chair, Council, will be

addressed. Right now, we are seeking leave. We are not tabling the Bill yet. Thank you, Rt hon Speaker.

COMMUNICATION FROM THE CHAIR

Visiting Delegation of Members from Parliament of Kenya

The Speaker: Thank you very much, hon. Chris Opoka. Before we proceed, I want to recognize the presence of honourable Kubai Kiringo and other Members from the Parliament of Kenya. *(Applause)*

Honourable colleagues, you know that yesterday, we had Members from the Parliament of Kenya who were here to benchmark and interact with us. Hon. Kiringo and other Members have come to join that team. We thank you for your presence. We welcome you to the regional Assembly.

(Question proposed)

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Thank you, Rt hon Speaker. I thank the Mover of this Motion. Let me streamline how we should move.

Section 114(3) of the Customs Management Act provides that it is the Council to amend the Fifth Schedule. The Fifth Schedule is the exemption regime and impacts on Partner States revenue. In amending it in the past, the Council has relied on reports of the pre-budget consultations of the Ministers of Finance. The Mover of the Motion ought to have consulted with the Council beforehand because it is not possible to amend it the way it is proposed by hon. Okumu. I just want to save the time of the Assembly so that you do

not pass where there is no gate. Let us just use the gate and things will be done. *(Laughter)*

Mr Aden: Thank you, Rt hon Speaker, for the opportunity to contribute to this Bill. Earlier on, I consulted with hon. Opoka within the Chambers and pointed out to him that I wish we had an opportunity to consult a bit more on this. Nonetheless, I stand to support his request to be granted leave of this House to move a Private Members' Bill. The Rules of Procedure are very clear that a Member can move a Private Members' Bill. Before I come to the pronouncement of the Treaty on the matter that hon. Opoka has introduced, I just want to say that what hon. Opoka is requesting is not new at all. The previous Members of this House, the Third EALA and the Second EALA, all had the request that hon. Opoka is moving granted and they bought a vehicle to move around with, for which there are good reasons. They had, at least, a vehicle for their spouses, whenever the Members were here, to move around and take children to school. *(Applause)*

The Chairperson, Council of Ministers has made this issue sound so economically magnificent or big while we are only talking about 54 vehicles and the exemption of duty for the same. Hon Speaker, we are granted one already and we are seeking an additional vehicle. What is the right that my predecessors who sat in the very chair that I am on, enjoyed that we cannot enjoy? This is one question that I want to put to the Members of the Council. The Treaty is very clear, that, any member State that is hosting any organ of the EAC should treat that organ in the same category, diplomatically, procedurally as they handle all the other multinational organisations or entities like the UN that live within the precincts of their country.

It is only when we grant hon. Opoka an opportunity to move on and amend his Bill that we will get to the bottom of this. Hon Susan here, who is an experienced Member, is wondering when we ever amended this Bill to reduce these vehicles to one, in the first place. I believe that she will bring us issues and hon Council Member, do not be shocked when you are guided accordingly, that the law already permits us to have two. Therefore, there is no need to put an injunction to stop hon. Opoka from moving this Bill. This is for our welfare, as Members. We are stationed here in Arusha and the welfare of our family and children whom we are not with all the time must be taken care of all the time and given due consideration for which the provision of that extra vehicle is given.

I really want to plead with the Chairperson, Council of Ministers. He is our elderly father. What we are asking for is not very big and yet is it very important in our lives. We most sincerely wish him to find it within from his abilities how he can support this initiative. It is driven out of need and not out of extravagance at all. It seems that hon. Opoka's initiative is one of his own. As we continue to do the due research that is needed, this Bill indeed, touches on the welfare of Members. It is nothing new. Our colleagues before us enjoyed this right, and I personally seek to support hon. Opoka to be allowed to proceed with this Bill.

The Speaker: Thank you. hon Aden Abdikadir. I just want to be sure that I did not miss a point from the Chairperson, Council of Ministers. Chair, Council of Ministers, are you saying that this House does not have mandate or jurisdiction, for that matter, to do that amendment or are you saying that this is not a good amendment? Are we empowered? Can we do it? Would we be stepping out of

our powers if we did it? I just want to understand you clearly.

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Rt hon Speaker, I am saying that even in our regional Cabinets, no deal or paper can be passed without financial clearance by the Minister for Finance. You may deliberate on something that the Ministry of Finance may not be able to pay for. That is a requirement. Anything that touches on money or revenue should be cleared by the fellows who are called upon to pay for it.

The Speaker: I now get your point, Chair, Council of Ministers. However, what should be cleared is the Bill, and the Bill cannot be cleared until it is there. Therefore, we have not got to a stage where the Ministers will be required to assess the financial implications to see whether it is a good one or not. We are not there yet.

The Counsel to the Community (Dr Anthony Kafumbe): On a point of information, Rt hon Speaker. I believe that everybody wishes the Assembly well. However, Section 114(3) of the Customs Management Act reads:

"The Council shall, by notice in the gazette amend the Fifth Schedule."

(Several hon Members stood up in their places)

The Speaker: Let the Counsel to the Community conclude.

The Counsel to the Community (Dr. Anthony Kafumbe): Let me finish. What hon. Opoka wants, which is clearly stated in his Motion, is to seek leave to come up with an amendment to the Act. I think that is the

discomfort that the Council has. When you are amending the Fifth Schedule – and this is not new because there was a time in the Third Assembly when we had the Motor Cross petition. This petition was lodged in this Assembly by the Motor Cross fraternity. They wanted to be exempted from paying taxes for carts, the small cars that children play with. The matter was taken to the Council and submitted to the Pre-Budget Consultations of the Ministers of Finance, which I know this time around will take place in May. We then got a feedback.

The Speaker: In this case, what can be referred to the Council?

The Counsel to the Community (Dr. Anthony Kafumbe): What should have happened, since hon. Okumu was a Member of the Third Assembly, is to consult with the Council to say that he wants to move an amendment to the Fifth Schedule which is the exemption regime and ask that we take it up with the relevant Pre-Budget Consultations so that we see how best we can amend it.

What the Assembly is doing is that in spite of Section 114 that clearly reads:

- (*interruption*)

Mr Nooru: On a point of order, Mr. Speaker Sir.

The Speaker: When it is a point of order, we listen.

Mr Nooru: On a point of order, Mr. Speaker Sir. The essence of what is before the House and the argument is that hon. Opoka has put forward an intention of moving the Bill. The issue now is that it is the Council, which is supposed to initiate. This is about the welfare of Members. Members wanted this issue to be initiated. The mandate to approve should rest with the relevant Minister concerned.

However, who is supposed to initiate? Could the Counsel to the Community be candid enough and tell us who initiates the amendments and where it ends?

The Counsel to the Community (Dr. Anthony Kafumbe): Chairperson, I have cited Section 114 of the Customs Management Act, which reads:

“The Council shall, by notice in the gazette amend the Fifth Schedule.”

That is what the Customs Management Act says. In my understanding, this is the preserve of the Council.

The Speaker: So, no one else can amend this?

The Counsel to the Community (Dr. Anthony Kafumbe): It has never been amended by this Assembly anyway. If you look at the Fifth Schedule, you will see exemptions for Heads of State, diplomatic missions – (*interruption*)

The Speaker: Let me guide this debate. Could we resolve the issue raised by the Council and the Counsel to the Community? The way I understand it is that this House has no powers to do this amendment. Can we resolve that?

Mr Opoka Okumu: On a point of information, Mr. Speaker.

The Speaker: I have ruled that we first resolve the issue of whether this House has powers to do this amendment. That is the only debate that is welcome now. Do those on their feet want to proceed the way I have guided?

Ms Wanjiku Muhia (Kenya): Mr. Speaker, I also understand the Chair, and the Counsel to the Community (CTC) the same way you

understood him. He said that the Fifth Schedule could only be amended by the Council. As Members, for us to save the Assembly's time, we want to know whether we can do it or not. The CCT – (interruption)

Hon. Members: CTC

Ms Muhia: That name is bothering me all the time. Is it CCT or CCTV? – *(Laughter)*

The Speaker: It is Counsel to the Community (CTC).

Ms Muhia: I see that he is misleading the House because Section 114(3) reads:

“The Council may, by notice, in the gazette amend the Fifth Schedule.”

In my little legal knowledge, the word “may” does not mean the same as “shall” as he is saying.

Dr Oburu Oginga (Kenya): Mr. Speaker, Sir, my understanding is that the former Assembly enjoyed this privilege. Now, if they enjoyed that privilege, the removal of that privilege was an amendment of the particular Act. If it was, who initiated the amendment and who reduced it? It will be important for us to know that. Why did it decide to discriminate against Members of the Assembly and give others leave to enjoy the same privilege?

The Speaker: Thank you, Dr. Oburu. The question is noted. The Council will have to respond to that.

Dr Abdullah Hasnuu Makame (Tanzania): Thank you very much, Mr Speaker. This is a very interesting Motion. Indeed, as submitted by hon. Chris Opoka-Okumu, it has very good intentions to the Assembly and to the welfare of the Members. It ensures that

Members deliver their duties effectively and efficiently. Again, the Chairperson, Council of Ministers pointed out that the Fifth Schedule, Section 114 (3) of the Customs Management Act and the principle of amending Bills, which have financial implication. The amendment is done by the Ministers responsible for Finance. Nonetheless, hon. Opoka informed us that the Headquarters' Agreement allows us to have two vehicles, for Members, judges and staff. That has been done that way throughout. However, the Customs Management Act has always stated that one should have one vehicle. Therefore, while implementing the Headquarters' Agreement, they probably were not looking at the Customs Management Act. That is what I believe. I made some inquiries informally and was told that was the case. An issue has now come up that the law has to be adhered to and that we should now have one vehicle and not two. However, the Headquarters' Agreement specifies that one should have two vehicles.

The Chairperson, Council of Ministers has seen that the Headquarters' Agreement and the Customs Management Act are not saying the same thing. This one says this while the other one says that. Both are EAC documents and EAC points of reference. They were agreed to and Partner States committed themselves to that.

Mr. Speaker, I think the best way – I cannot dictate since I am just a Member contributing as you have guided. However, the Chairperson, Council of Ministers has seen Members rising not because they are defiant and not because the Assembly wants to become defiant. Hon. Chris brought this Motion not because he wanted to show us that he has powers but because he was trying to say that there is inconsistency between the Customs Management Act and the Headquarters' Agreement.

I hope that the Chairperson, Council of Ministers will take up this debate and present it to Ministers of Finance who sit at the Pre-Budget Committee for amendments. I believe that the office of the CTC, having followed this debate, will remind the Chairperson, Council of Ministers that this issue was debated. The Chairperson should give us an assurance before we adjourn.

(Applause)

Mr Aden: On a point of procedure, Rt hon Speaker. I want to confirm that the proposed amendment touches on the Fifth Schedule as the Chairperson, Council of Ministers has said. However, I have an issue in the manner in which the CTC has guided the Council. Article 114(3) says: “The Council, may, by notice in the gazette amend the Fifth Schedule.” However, there is no pronouncement that this House cannot propose amendments.

Indeed, this Bill should trigger the reason as to why the Council would consider an amendment to the Fifth Schedule. As a point of procedure, there is nothing in law that we have been referred to that stops this House from proceeding with this Bill. If anything, this Bill will be the starting point for the Council’s consideration of an amendment.

The Speaker: I think that is the same point that hon. (Ms.) Muhia had raised. Procedurally, there was nothing wrong with the CTC coming the way he did. However, we will ask the Counsel to clarify on the issues raised and whether what he raised is mandatory or optional and on the question that was put forward by hon. (Dr.) Oburu.

Hon. Kim Gai, could you try to be brief because we are now at a deviation from the main debate?

Mr Duop Kim Gai Ruot (South Sudan): Thank you, Rt hon Speaker. Article 59 of the Treaty talks about Bills and Motions in the Assembly. I will read it.

Bills and Motions in the Assembly.

“Subject to the Rules of Procedure of the Assembly, any Member may propose any Motion or introduce any Bill in the Assembly:

Provided that a Motion which does not relate to the functions of the Community shall not be proposed in the Assembly, and a Bill which does not relate to a matter with respect to which Acts of the Community may be enacted shall not be introduced into the Assembly.”

Rt hon Speaker, I am a lawyer. I am surprised with what our colleague, the CTC, said given the fact that the Treaty is the sovereign law of the Community. Any law that contravenes the Treaty is null and void. Therefore, I move and support the Motion raised by hon. Chris according to Article 59 of the Treaty.

Ms Nakawuki: Thank you, Rt hon Speaker. I would like to partially agree with what the CTC said, quoting for us Article 114(3) of the Customs Management Act of 2004.

When you look the Act, page 54 talks about the Fifth Schedule. Under Section 4, that is where the Diplomatic and First Arrival Privileges are. However, I would like to know, between the Customs Management Act and the Treaty for the establishment of the East African Community, which one takes precedence over the other.

Allow me to read Article 49(1) of the Treaty. It states that *“The Assembly shall be the legislative organ of the Community.”*

The Treaty does not talk about the Council of Ministers but it talks about the Assembly. The Assembly is the legislative arm. There are very many occasions when I have seen Council presenting before this august House amendment Bills to this very Act. I am now beginning to question why they have been bringing them here if they have the powers to do it by themselves. Anything to do with legislation is supposed to come through the Assembly. Anything, including this Customs Management Act of 2004 is supposed to be done by the Legislature.

We have the doctrine of separation of powers. The Council is in the Executive. That is why when they come to the Assembly, they are simply *ex-officio* Members. They are not full Members of the Assembly. I find it offensive for the Council of Ministers to tell me, as an elected Member of this Assembly, that I cannot legislate on whatever matter arises before this Assembly. No wonder, as my colleagues have put, hon Muhia and hon. Abdikadir, these very able diplomats of this House, the word used there is “may.” Otherwise, the drafters of this Act would have used the word “shall”. The word “may” leaves room for the Assembly to come and perform the noble duty for which they were elected.

Therefore, I would like to request the Council of Ministers together with the Counsel to the Community to allow hon. Chris Opoka to do his job. He is here to seek leave and we are very much willing to grant him leave to bring an amendment. The Council was concerned about the financial implication. However, I would like to notify Council that we have passed very many Bills in this Assembly. There is no Bill that does not cause a financial implication whatsoever. You have set the precedence. We have had different Bills that have been assented to by the Summit. All Bills have financial implications. However,

whatever will be in the main Bill should not be speculated upon. We cannot legislate in speculation. Let us wait for the Bill itself. We will ascertain whether there is a financial implication involved and the magnitude. Where the financial implication is meagre or negligible, why should we be so concerned?

Hon. Speaker, basically, this was diversionary. Let us go back to the Motion by hon. Chris Opoka that I seek to ably support.

I beg to move.

The Speaker: Thank you. Now, CTC or the Chairperson, Council, for that matter, there are a few issues that you need to clarify here. From the wording of the provision that you read to us with an option of “may” what prohibits anyone else to initiate the process of amendment? In addition, if your assumption is that the Council of Ministers is the only one that can initiate amendments, how can it happen without involving the Assembly?

Finally, another clarification I need is, if we have the Act, which is the law, and we have the Headquarters’ Agreement, which is the clarification, or an exception for that matter, do you consider that? If there is a provision in the Act and in the Headquarters’ Agreement, there is an exception to this law, how do you consider that in terms of hierarchy? How do you interpret hierarchy of laws and the general rules of interpretation as lawyers? How do you deal with that?

Finally, there is what hon. (Dr.) Oburu said. If previously Members were entitled to two, what process was undertaken to arrive at one and where did it go? I want Counsel to clarify so that we go back to the main debate.

The Counsel to the Community (Dr. Anthony Kafumbe): I thank you, Rt hon Speaker. Let me start with the use of the word

“may”. I know that Section 114 (3) says that the Council may by notice published in the gazette amend the Fifth Schedule. That is the drafting language. “May” means that they only amend as and when the need arises. That is how it is supposed to be put and that is how I believe it appears in other pieces of legislation. I do not see any problem with that. The Council is not saying that you will not amend. What we are saying is that it is within the powers of the Council to bring this matter to you after consultations.
(*Interruption*)

Hon Members: Clarification.

The Speaker: Hold on, honourable Members. CTC, you could advise the Council Chair. However, he said that this House does not have the powers to do that. You should advise that the Council may, as it is provided, but that does not exclude anyone else who may want to initiate an amendment. Unless you hold a contrary view, then that is what you should be explaining.

The Counsel to the Community (Dr. Anthony Kafumbe): I hold a contrary view. Even for the Council, these matters are taken to the Pre-Budget Consultations. Therefore, there is a process they have been following and that is what has been happening since the enactment of the Customs Management (Amendment) Act.

Hon Members: On a point of order.

Ms Nakawuki: On a point of information.

Ms Mugenyi: On a point of order.

The Speaker: Consultations are actually mandatory. The question is, at what point do we consult? No law can become law unless –
(*interruption*)

The Council to the Community (Dr. Anthony Kafumbe): That is why I am saying that hon Okumu should have consulted with the Chairperson, Council of Ministers before moving this Motion.

Ms Nakawuki: On point of clarification.

The Speaker: Let me rule on this. Depending on how this House handles the situation, the concerns of the Council are that this Bill is likely to attract certain situations that the Council is not comfortable with. My understanding is that there is no route that this House can take that will not involve Council. Therefore, there is no risk. At an appropriate time, the Council will raise their issues and they will be taken into consideration. Therefore, we resume debate on whether we grant leave or not to hon Opoka. (*Applause*)

Dr Jumanne Ngwaru Maghembe (Tanzania): Thank you, hon. Speaker. I will contribute, after your ruling now, on the issue of whether we should grant leave to hon. Opoka or not. Before I begin, I would like to take the first ten seconds or so to thank hon Members of the House for all their well wishes at this time when I am a new father of two vibrant East Africans. (*Applause*) Thank you very much.

Speaking of my family, I know that my wife would also like to have a new car and hence, why I pray and beg that you do not share my contribution with her because I will have a differing opinion about this issue.

Hon. Members, since I became a Member of this House, the complaint has always been that the Summit does not pass a lot of our legislation. In my opinion, we should not move in a direction that the Summit and the Council view us as causers of friction rather than helping to solve our problems. I support our problem. I also want two vehicles. My

issue is that we need to do it in such a way, as Tanzanians would say, *tuwatekenye*. We need to tickle them and move in the right direction to get what we need.

I would like to support the Chairperson, Council of Ministers, on the issue that maybe this is not the right way to bring this Motion. On the issue that judges and other dignitaries need to be allowed free movement, on that I am in support of hon. Chris Opoka. I think a Motion in that direction would be good.

On the issue of two vehicles, this is very tricky especially since it touches on the taxes of individual Partner States. It is very easy to say that these are just 54 cars. However, if you take 54 cars and multiply by USD20,000, that becomes USD1,000,000. Some of these Partner States require medicine in their pharmacies, among other things. This is not a small amount of money. We just need to be careful. I am just giving an example of the amount that would be exempted.

The Speaker: If you take that route, Members will challenge you on how much they spend on this territory.

Ms Nakawuki: On a point of procedure.

Dr Maghembe: Mr. Speaker, Sir, although I am in favour of these vehicles, and before hon. Susan Nakawuki throws her procedures on me, I would like us to - (*interruption*)

Mr Nooru: On a point of order, Mr. Speaker, Sir. Is the hon. Member on the Floor in order to challenge the ruling of the Chair? This matter was ruled by the Chair for the Motion to continue. He has introduced a debate after your ruling.

Dr Maghembe: Hon. Speaker, I am debating on whether it should be introduced or not.

The Speaker: Dr Maghembe, you cannot be on the Floor when another Member is on the Floor. It is procedurally wrong.

Dr Maghembe: There is no problem.

Mr Nooru: I was saying that the Chair ruled regarding this Motion and I was wondering whether we should continue with it or not. You gave the Mover the right to continue with the Motion. Despite the fact that he is entitled to his opinion, when the Motion is moved, is the Member in order to challenge the Chair's ruling that the Motion should continue? Is it in order for the Member to introduce debate that has already been ruled by the Chair?

The Speaker: I think he is debating the Motion on whether to grant leave or not. Everything else that he said which may have been translated to mean that he is challenging the ruling could have been something in passing, which is inconsequential.

Proceed.

Mr Dennis Namara (Uganda): On a point of order, Mr. Speaker, Sir. The hon (Dr.) Maghembe, a father of two, has insinuated that tax exemption which is supposed to facilitate the welfare of Members of this Assembly is a big burden to Partner States because they have to buy drugs for their hospitals. In actual sense, since I came, I have spent USD10,000 here, in hotels and other places. Therefore, is he in order to insinuate that we will be tapping into the resources of this great nation if they gave us tax exemption when Members are contributing a lot of money towards the same economy? (*Applause*)

The Speaker: That is his opinion and you can hold a different opinion. There is nothing

out of order in his opinion, however, you may want to treat it.

Could you conclude your contribution?

Dr Maghembe: Thank you, Rt hon Speaker. I want to assure the House that at this juncture, I will not vote nay to hon. Opoka's Motion. I am just suggesting that there may be better ways to get what we need. Two, I would like to reiterate my point that every day, we complain that they are not signing our Bills and we are not passing enough Bills. They will not sign our Bills into law if we keep causing friction and usurping their powers. Therefore, I am in support of the second part, which is with regard to - *(interruption)*

Ms Nakawuki: On a point of order, Mr. Speaker, Sir.

The Speaker: Hold on, hon Nakawuki. I think the insinuation that the Council may retaliate is misplaced. The Council is wise enough. Even if at some point they may not like our conduct or opinion, they may not retaliate. That part should be withdrawn.

Dr Maghembe: It is withdrawn, Rt hon Speaker.

The Speaker: Thank you. Proceed.

Dr Maghembe: Hon. Members, I think I have made my point. I appreciate this opportunity. I would like to thank honourable Members for their comradery and friendship. *(Applause)*

Mr Kennedy Kalonzo Musyoka (Kenya): Thank you, hon Speaker, for this opportunity. Before I make my comments on the Motion, I would like, with your indulgence, to request for a clarification on an issue you have raised. There was a question about the hierarchy of

laws. Those of us who remember our history know that there was a time when there was an issue regarding the Headquarters' Agreement. When the threat of, perhaps, moving the headquarters came up, that caused a lot of friction. I would like to know, in view of this Motion by hon. Opoka where the hierarchy stands.

Secondly, I would like to support it because it may, perhaps, solve this dilemma where we have one very crucial agreement that says one thing and another that says a different thing.

Thank you, Mr. Speaker.

The Speaker: Thank you, hon Kalonzo. I commend you on the way you are always brief and concise to the point.

Ms Mary Mugenyi (Uganda): Mr. Speaker, Sir, thank you for the opportunity again. I stand to support the Motion. Ordinarily, I would support what hon. (Dr.) Maghembe has said, that it is important to cause as little friction as possible. However, I have been trying to search where the friction would come from. The EALA, as a legislative organ of the Community is doing its work. We are supposed to legislate and, indeed, the Executive, which is the Council, are supposed to agree or advise accordingly. I think that is the process that we are undertaking.

However, one Member made a submission and said that one partner State would lose about USD1 million out of taxes. As a Ugandan Member, if I can use myself as an example, if you do not allow me to get a tax exempt vehicle here, I will not import it through Tanzania. I would import it through my revenue authority. There would be no reason for me to import it through here. I believe that applies to all the other Members. Therefore, maybe the lost revenue, which

should be of concern, should be that which would come from the nine Members from that member State. For the rest, there is no financial value in importing it through where we are looking for exemption. Therefore, I do not think that this would be a serious loss to the member state if Members were given the exemption we are looking for. I think it is meant for the welfare of everyone.

We have a saying in my language, which goes, *when you decide to beat children, beat them all*. Do not choose to beat one out of the five that have done wrong. In other words, you have to treat them equally. Therefore, if some Members in this Community are treated in a way that they get more privileges than we are being given, that is why we are questioning. If this is a matter of revenue, let it apply across the board and not picking and choosing where it should apply.

I thank you, Mr. Speaker, Sir.

Mr Simon Nganga Mbugua (Kenya): Thank you, Mr. Speaker, Sir, once again for the opportunity. I want to register my support for the Motion. The welfare of the Members of this House is very important. Hon. Opoka has brought this Motion so that Members can enjoy the benefits that previous Members enjoyed.

I find this a double standard issue, denying Members of this Assembly what other Members enjoyed. I believe that the budget implications versus the productivity is very low. I do not think that is something that can affect anything looking at the productivity of Members.

Article 114 is very clear. I do not want to dwell so much on it. However, this section has the words “may” and “shall”. We need to get the difference. The word “shall” means a must. However, the word “may” means that

any person can bring the Motion for it to be debated and passed.

I want to disagree with hon. (Dr.) Makame who said that the formulation of the law would bring about defiance. I do not believe that when you are making law that is defiance. We are making laws and this is a House of making laws.

Our elderly father, Rt hon Ali, please, consider us as you did with the other Members of the Second and Third EALA for the same. I support the Motion.

Mr Nooru: Thank you, Mr. Speaker, Sir. This Motion has been debated for a period. Let us look at the essence of the issue. Is it necessary or is it a luxury for these Members to have two cars? Let us start from there. First, these Members come all the way from Juba, Nairobi, and Kigali, among other places. We should not just have one car that we use car while on our home ground and when we come to Arusha, we fly. When Members fly here, it becomes more expensive for the Community to transport them around. We hire taxis and even buses. If a Member had one car here and another one at home, after flying here, he would still be having one vehicle at home where he comes from and another here at the headquarters. It is the convenience of delivering service to the Community that has brought us here and Members should have two vehicles. Let us start from there. Is it a luxury or a necessity for us to have two vehicles? We do not want to be a burden to our countries or member States. However, it is a fact that we are inconvenienced at the moment and we cannot operate with one vehicle. We are operating under very difficult circumstances.

At the same time, this Assembly rotates around Partner States. If you ran around with one vehicle, even the wear and tear in those

five years would be very exorbitant. The cost of maintaining the vehicle would be very expensive. We would incur more expenses running with one vehicle between Nairobi and Arusha. The exemption of duty on one vehicle would not make one country to become bankrupt. That is not also an issue of us having differences with the Council. Bills have been brought to this House either from the Members or by the Council and both have been debated harmoniously and agreed upon. Why not this particular one that touches on the welfare of the Members? Why should it become an issue? That should not be an issue. It should not cause differences or conflict between the Assembly and the Council as it has been mentioned. I appeal to the Chairperson, Council of Ministers that if this becomes a burden to one Member State, the risk should be spread to the revenue authorities of all the member States. The revenue authorities of all the member States should be allowed to clear for exemption and to register the vehicles in the different member countries. We would rather do it that way if that is a problem as the Member next to me has said. This is necessary.

Rt hon Speaker, it has been very inconveniencing for us in the past two months that we have been operating. Nairobi is the closest capital to Arusha. If we, from Kenya, are feeling inconvenienced, I sympathise with Members who come from far. I appeal to the Chairperson, Council of Ministers, to consider this matter. Whether they are the ones who will initiate the process or us, it will end up being the same thing. There is no Bill which can be initiated by the Council of Ministers and they pass it themselves. Similarly, there is no Bill that Members of this House can debate and pass and is not assented to by the Summit. Therefore, this institution has been created for us to work in that manner. I appeal to them to consider that matter.

I think the CTC should interpret the law. I am not a lawyer but I have been a lawmaker for the past 40 years. I can read between the words “shall” and “may.” I am not a lawyer but any ordinary person can make an interpretation of those two words. The way he is interpreting the words can cause many problems.

He should look at those issues so that he guides the House and the Council professionally. If he wants to be a Member of the Council, that is up to him. However, I thought that he is supposed to advise both sides.

Ms Leontine Nzeyimana (Burundi): Thank you, Rt hon Speaker. I will try to be concise. First, I would like to welcome our brother from Kenya who has just been sworn-in. *Karibu sana.*

Rt hon Speaker, hon. (Dr.) Makame put it very well that the headquarters’ Agreement granted two vehicles to Members. The headquarters’ Agreement was discussed by the Members of the Council and it was agreed upon. The issue of hosting an institution or an EAC organ brings about a lot of debate. I remember when I was in the Council, every country wanted to host an EAC institution or organ because it comes with benefits. Where there are benefits, there are also costs. Therefore, I would like to tell hon Members, regarding what hon. (Dr.) Maghembe has said, that you incur a loss when you calculate the difference in what you earn as opposed to what you spend. Honestly, this country, that I love very much, is earning a lot of money out of hosting this institution. We cannot compare that with USD1 million. Therefore, hon. (Dr.) Maghembe, there is no loss that this country will incur by granting us a tax exemption of one more car.

Thank you, Rt hon Speaker.

Mr Kennedy Mukulia Ayason (South Sudan): Thank you, Rt hon Speaker. I stand to add my voice to that of the rest for hon Opoka to be granted leave to present this Motion. This important matter touches on this Assembly. I have listened to the Council and the CTC. The CTC said that it “may” and may means that if need arises. Now that a need has arisen, I do not think there is anything that can be used to dodge us. The Chairperson, Council of Ministers said that the Pre- Budget Conference would sit in May. Since it will be in May, what is prohibiting him from amending it so that we earn that extra vehicle? It is that simple. As Members are debating and proposing to grant hon. Opoka leave to introduce his Bill, the Chairperson should also initiate the process so that both of them go together so that we finish this matter in a short period instead of prolonging it to another stage.

Dr Gabriel Arol Grang Aher (South Sudan): Thank you, Rt hon Speaker. First, I would like to congratulate the new honourable Members who have been sworn-in. I look forward to working with them as a team for the benefit of East Africans.

I would like to talk about the issue here. This issue touches on our welfare as Members. Our welfare is connected to our productivity as Members. People have to take it that way. If our welfare is not taken seriously and we are not given all the tools or equipment we need to do our work, that makes it extremely difficult for us to perform.

Rt hon Speaker, I will talk about this issue from my own experience and that of honourable Members here. I can say this without fear of contradiction. When we toured the Central Corridor, I saw the spirit and commitment of Members to work. I can

actually say that you are very fortunate. You are a lucky person to be with these Members. – (*Applause*) – I have seen the spirit of hard work.

The Speaker: The Council is equally lucky.

Dr Arol: Yes, the Council is equally lucky. I would not want the Council to lower the morale that we have as Members of this august House. I want them raise it and maintain it. We do not want to be involved in the friction within the EAC. We want to work together as a team. Therefore, we want you to take our welfare seriously. For instance, some things concerning our welfare as Members took a lot of time. Printing business cards took more time than it should have.

Processing of our identify cards also took a lot of time and when they were brought, we did not think that they were for officials like us. We are diplomats and representatives. Anything that belongs to us should reflect the entire region. It should appear professional. The people representing the region also represent the entire continent. When we go to other places outside the continent or the region, people should look at us as diplomats who are representing the region, which is doing the right thing for its people.

I would like the Council of Ministers to take our welfare seriously. When a person is sick, it is not the doctor who comes to your place; it is you, the sick person, who complains about your sickness and goes to see a doctor. We are sick people. Our welfare is in danger and is being affected negatively. That is why we are complaining. They should not stop us from complaining. How would they know that we are sick or we are not doing well or even that our productivity has been lowered if we do not complain? We need to look at that broadly.

Hon. (Dr.) Maghembe, there should not be friction. The Council is here for the Community, we are here for the Community and all of us are here for the Community. We need to work for the benefit of the Community. There is no point to avenge or to say that if you do this to us, we will do this to you. We will never move forward. To the Council, there is no friction and we do not intend to undermine the Council in this august House. We need to bring issues of our welfare to their attention so that they take them forward and do what is necessary for us to be more productive in our work.

Thank you.

The Speaker: The analogy of sickness was to emphasise the point. We are very healthy.

Mr George Stephen Odongo (Uganda): Rt hon Speaker, I would like to support the Motion. One, that this Motion should be debated, that point has already been made. Hon. (Dr.) Maghembe has for long time tried to put a point to this House, however, sometimes, I feel that he has not received fair treatment.

There is one point that hon. (Dr.) Maghembe wants to put across, which I strongly support. This is the issue of facilitating communication. (*Interruption*)

The Speaker: Hon. colleagues, the setting of our microphones is not comfortable. Therefore, at times, when we turn, we make the people in the booth not to hear. We should try to face the microphone as we speak. Those people give me an indication, at times, that at times they cannot hear what we are talking about.

Mr Odongo: Very much obliged.

Rt hon Speaker, the point I am trying to make is that we need to facilitate communication between this Assembly and the Executive because these two organs are serving the same people. The notion that I sometimes feel uncomfortable with is that it is only this Assembly that serves the best interest of East Africans and that the Executive is exclusive of this responsibility. That is what causes the perception that at any one given time, we are conflicting. It is for this House to cure that notion and for us to begin to see ourselves as facilitating the integration process. We should be able to communicate with each other and start seeing that the Executive and the Assembly are acting in the interest of East Africans. Once we reach that middle ground, then we will begin to rationalise our positions, whether it is an Executive or Assembly position.

I am very much in support of hon. Opoka's Motion. However, I would like to hasten to say that the best interest of this House and the Executive is when we sit together and agree. For me, at the moment, the issue is not whether or not the mandate to determine this is with the Executive or with this House. It is whether what we are debating has substance. It is whether there is merit in our demands. If that is true – and this should be a shared decision – it should not take a lot of our time here.

I have been here for the past couple of months and I appreciate that whereas we have a Treaty which gives this Assembly power, when this Assembly pronounces itself on certain decisions, those decisions go through another process. I am not surprised that sometimes we end up with an Assembly making a decision, which remains redundant. That is essentially because we have not facilitated that communication. I am pleading with this House, and I think hon Speaker was making that point before, that the two organs

that sit here should continue to engage in a manner that is mutually respectful and all of us should be enjoined with the principle of service to the people of East African. If we do that, many things we will discuss in this House will find traction because the most important thing is that the decisions of this Assembly have effect. Whatever we determine here should be carried out by the Executive and implemented. It makes no use, for example, for us to pass many Bills and Motions and then finally the implementation is not granted. That makes totally no difference. My opinion is that we can legislate. However, let us facilitate that communication and agree that there has to be a principle of consensus in this House.

Dr Woda Odok Jeremiah (South Sudan): Thank you, Rt hon Speaker, for the chance. I would like to add my voice in congratulating hon Ken Obura on his appointment and for being sworn-in today.

I rise to support the Motion. My colleagues have talked about the welfare of honourable Members. I agree with them. We need these cars so that we settle our families and carry out our mandate well.

The other issue I want to bring to the attention of the Council is that during our induction and upon our being sworn-in, we realized that the citizens of East Africa do not know about the East African Community. Therefore, once we are facilitated with these cars, it will help us to carry out our mandate within our Partner State and even within the other Partner States and help us raise the awareness of East Africans. This will also help us to promote whatever we are doing. We cannot do this if we are not well facilitated.

I beg to support the Motion.

Mr Namara: Thank you, Rt hon Speaker. I also stand to support the Motion to grant leave to hon Opoka to bring Bill for the amendment of the East African Community Customs Management Act, the amendment Bill of 2018. My rationale for supporting the Motion is anchored on the welfare of Members.

Rt hon Speaker, when we come to Arusha or go to another place where we need to legislate, indeed, we face many difficulties in terms of transportation. My colleagues and I who travel using our vehicles have seen it. When you come here and decide to move from your hotel to go and do your work or even when you are just around, you find that there is no flexibility in movement. You have to always call the transport officer to keep on sending a bus to pick you to move around and do a, b and c. Indeed, this is very inconveniencing. You cannot always move using your vehicle since you are facilitated to move by air. It would become very expensive if you were to move by road. It would also be very tiresome. Therefore, it would be very prudent for Members and staff – this is not only for Members but also for staff. I do not see the contradiction of Council, the staff and EALA. This is for the welfare of people who work for the East African Community. It is not only intended for the Members of EALA. Therefore, we should not fear the fact that that there will be a contradiction as far as implementation is concerned, that Members of EALA will be facilitated while other Members of the Council of staff members will not be facilitated.

Rt. hon Speaker, my support is also anchored in law. When you look at Article 49 on the functions of the Assembly, you will see that we are here for legislation. When you look at Article 59 that my brother, hon. Kim Gai put forward, as far as who can bring amendments, Motions and Bills to the

Assembly, that is well articulated, that any Member can bring a Bill or Motion to the Floor of the Assembly for legislation. This also includes amendments. Therefore, it is provided for that if two legislations, the grand law, which is the supreme law, the EAC Treaty, and any other subsidiary legislation are in conflict, the grand norm takes precedence.

Therefore, I think the Motion by hon. Opoka to be granted leave is well anchored in law and for the support of the welfare of the Members of the EAC.

I beg to move.

Ms Nakawuki: Thank you very much, Rt hon Speaker. I rise to support the Motion as moved by hon. Chris Opoka.

Rt hon Speaker, I want to first set the record straight and have it on the *Hansard* that this Assembly is not trying to usurp the powers of the Council as it was alleged by my colleague, hon. (Dr.) Maghembe. I request that that be expunged from our records because it is not what we are doing. In any event, we are the legislative arm of this Community. We are simply doing our job.

Rt hon Speaker, I remember that on 18 December 2017, I took an oath, which was to defend and protect the Treaty for the establishment of the EAC. I am here to defend the provisions of Chapter 9 of the Treaty, specifically Article 49 which lays down the functions of this Assembly. As I said earlier, the first one is that EALA is the legislative arm of the Community. I am very mindful of Chapter 5 which provides for the Council and particularly Article 14 of the Treaty, which also lays down the functions of the Council. Allow me to read only one provision from the Article,

Article 14(3) (c):

“For purposes of paragraph 1 of this Article, the Council shall:

(c) subject to this Treaty, give directions to Partner States and to all other organs and institutions of the Community other than the Summit, the Court and the Assembly;”

The Assembly in this case is excluded because the drafters knew that the Assembly has the right and capacity to execute its mandate without the direction of anyone.

With due respect to my learned colleague, the CTC, the words “shall” and “may” in legislative drafting will never be the same. They do not mean the same. They are very different. These two words are used differently. Where you see the word “shall”, you know that it is mandatory. Where you see the word “may”, you know that it is discretionally. As much as the Council only amends when it is necessary, that does not take away the meaning of the word “may”.

Rt hon Speaker and hon Members, I am very certain that when the substantive Bill that hon. Chris Opoka wants to move before this august House comes, the Council will not only be consulted as a stakeholder but also as Members of this House.

The Bill will be brought to you for guidance and direction, unless Council tells us that they have a problem with the welfare of Members. I know that you have always had goodwill. I am hesitant to think -
(*interruption*)

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: On a point of clarification. I would want the hon. Member on the Floor to debate objectively because the Council has never told her that

direction of how we debate. She should debate correctly.

Ms Nakawuki: I do not know whether the Chairperson, Council of Ministers was seeking clarification or wanted to debate substantively.

However, my concern is that I do not want to impute that Council is against the welfare of the Assembly unless they say so. I am sure; finally, when the Bill is ready, the Council will give it all the blessings because they are also interested in the welfare of Members.

The Speaker: Let me clarify this. The Council can never be against the welfare of the Assembly even when they disagree with us. In the same vein, the Assembly can never attempt to usurp the powers of the Council even when we disagree with the Council. Therefore, let us proceed in that spirit. *(Applause)*

Ms Nakawuki: Thank you, Rt hon Speaker. That is exactly what I was trying to inform the Chairperson, Council of Ministers. I want to set the record very clear. Members of the Assembly are not requesting free vehicles from the United Republic of Tanzania, at least, for the sake of the media. We are not asking free vehicles. We are asking for that privilege that Members have always enjoyed.

I remember when I joined the Community in 2012, I was given circular which indicated that according to the Headquarters' Agreement, I was entitled to one vehicle and my spouse was entitled to one other vehicle. Those were two vehicles. Therefore, Members are seeking the privilege of tax exemption because the Assembly does not grant Members free vehicles. Members use their own finances to acquire these vehicles. Members are asking for a tax exemption because this time round when we came in, the

Clerk informed us that Members were entitled to one vehicle instead of two. I do not know who came up with that because as a Member of the Third EALA, I never approved or declined such an amendment unless it went through the back door.

As Chairperson Council of Ministers has said, they have the powers to legislate. I really find it awkward when some Members of this Assembly refer to the loss of revenue by the United Republic of Tanzania. I am sure that there is no Partner State, which is in this Community because of money.

I remember one time when we were in Rwanda, when there was a Motion on the Floor of the House to remove work permit fees. One Member stood and said that would not happen because one Partner State would lose revenue. Another Member today stood in the House and talked about revenue. I find it very awkward. With due respect to my colleague, hon. (Dr.) Maghembe, I am sure he moved out on purpose. It is too early for us to play politics. This is not time for campaigns. This is time for serious business. We cannot continue dancing to the galleries, just because I am Ugandan, when Ugandans are around, I start dancing to the galleries. That is not right. We are legislators. We legislate for the good of the Community and not for politics.

When I look at the Motion seeking leave, among the issues that hon Opoka seeks to bring before the Assembly in that amendment is the use of the exempted vehicle. Use of the exempted vehicle is not anywhere in the Fifth Schedule. I have looked at the Customs Management Act, 2004 – I have it here – parts A and B, and there is nothing whatsoever that provides for the use of that vehicle. Therefore, there is no need to worry.

We have been finding a challenge in the issues he is talking about. I raised these very issues in this august House before and Council committed themselves to act although they did not act. For example, when you are moving with your vehicle by road, when you get to Namanga, you are supposed to hand in your logbook. A full diplomat has to move with their vehicle minus a logbook. One wonders why they would retain your logbook because we serve the entire Community. We have to move within the six Partner States. However, your logbook is retained there as if you are some petty thief. That conduct is unbecoming. No diplomat should be treated as such. It is happening. We expected the Council to do something about it. I do not know whether they are just busy doing other things or what. However, we are now reminding them so that they take appropriate action.

Hon Speaker, still, as we enjoy the privileges of a duty exempt vehicle, we have had challenges where our diplomatic TCD number plates are impounded. One time, my vehicle, a *Porsche Cayenne*, was impounded in Kampala. I was told that it had been stolen from Tanzania because it had a TCD number plate. They asked me for the logbook but the logbook was in Namanga. I had to call the Minister who talked to Interpol and yet I was a full diplomat. That was embarrassing. The following day, the media wrote that my vehicle had been impounded for non-payment. That is humiliation and it is what we are seeking to remedy. I also learned from my colleagues from Kenya that when they stay with their vehicles in Kenya for more than one week, they have to pay money. They have to report to the border despite their busy schedules. This is what we are trying to remedy. I do not find any harm in us correcting these wrongs.

Finally, as I wind up, I appreciate the amendments. I would like to put it to this august House that many amendments need to be done to the Customs Management Act. I have seen the Council of Ministers amending the Bill every now and then. I have a proposal that the House be given a chance to come up with different amendments. When we undertook the Northern Corridor tour, stakeholders gave us different issues of concern that required amendment of the Customs Management Act. We are very eager to work with the Council to discuss these proposals. For example, stakeholders were concerned that their goods were being auctioned in Mombasa after an advertisement in the Kenya Gazette. They do not even have access to the gazette because someone in Kampala would only be interested in reading the local dailies, which are in Luganda or Lunyankore. They do not even know that the Kenyan Gazette exists. Therefore, people were concerned that there would be auctioning after advertising in the Kenya Gazette. They said that the advertisement should also be done in the local dailies so that people get to know that their goods are about to be auctioned and, therefore, look for money to clear the goods.

I beg the indulgence of this House to fully support the Motion seeking leave to move an amendment so that we resolve all these issues together with the Council of Ministers.

I beg to support.

Mr Mwasa: Thank you, Rt hon Speaker. I stand here to join my colleagues in support of hon. Opoka's Motion seeking leave to bring that amendment. Many things have been said by my colleagues. I will not repeat them but will just augment on one or two points. The experience we got from our tours, which you deployed us, was that there are a number of laws and protocols, which we will amend. Therefore, this is just one of them. This

purpose of the Motion is to amend an anomaly between the Headquarters' Agreement and the Customs Management Act.

If I got the Chairperson, Council of Ministers well, he was talking about the Certificate of Financial Implication. There is no Bill that can be moved without being accompanied by a Certificate of Financial Implication. I want to agree with him and inform Members that I am very knowledgeable in this area. Before I was elected to this House, I was working in the Parliament of Uganda and these are the areas I was working on. The Certificate of Financial Implication can be obtained depending on the urgency of the matter. It can even be obtained in a day. I would like to request he Chairperson, Council of Ministers to fast-track the Certificate of Financial Implication. *(Interruption)*

The Speaker: Hon Musamali, I think the Chairperson, Council of Ministers was saying, which is in law, that a Private Members' Bill should avoid attracting additional costs to the Community. Basically, that is what he was saying.

Mr Mwasa: Thank you, hon Speaker. I think one of the Members alluded to it. Ideally, we will talk about the financial implications this Bill may have. However, I do not think that there is single Bill that does not have financial implications. However, we need to know how much it may be. In brief, I want to request our able Chairperson, Council of Ministers to fast track this matter if it requires a Certificate of Financial Implication. The other issue which I still want to augment and which we should include in the amendment *(Interruption)*

Ms Nakawuki: On a point of information.

Mr Mwasa: Please, you are welcome.

Ms Nakawuki: Thank you, hon Musamali. I just want to inform you that neither the Treaty nor our Rules of Procedure require a Member to have a Certificate of Financial Implication to bring a Private Members' Bill. As much as the Treaty is explicit that the Bill should not cause financial implication, there is no requirement for that certificate, at least, when it comes to the EALA.

Mr Mwasa: Thank you for that information. *(Interruption)*

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: On a point of information, Mr. Speaker, Sir. I thank the Member for giving way. I want to inform the Member on the Floor that in whatever we legislate, we must also provide for it in the budget otherwise, any plan without a budget is a proposal. Therefore, since we are the same people passing it, we must ensure that it is provided for in the budget so that everything moves.

The Speaker: Chairperson, Council of Ministers, again, we cannot budget for something that does not exist.

Hon. Musamali, please, proceed.

Mr Mwasa: Thank you, Chairperson. The other issue I want to bring to light – I was augmenting hon. Nakawuki's point – is that we ideally pay for the vehicles we are talking about. We are only asking for tax exemption. In fact, the amendment that is coming now is that the Community should provide these vehicles. That is when we will talk about the budget. Otherwise, as per now, we can only do away with the tax exemption. Chairperson, Council of Ministers, wait for the amendment, which will come at an appropriate time. *(Laughter)*

Lastly, Rt hon Speaker, we are talking about the welfare of our Members and the facilitation by the Community for us to do our work well. It is for the good of this Assembly and the Community for us to be facilitated to do our work well. Rt hon Speaker, Chairperson, Council of Ministers and the Counsel to the Community, I have not come to your office to report this but this debate has enabled me to bring it to your attention. I am saying that this is for our own security and welfare because recently, about two or three days ago, we were from the bank going to our hotel using public means, a public taxi. I was with hon. Namara who speaks very good Kiswahili in the morning – (*laughter*) – but in the afternoon, it becomes very difficult for him to express himself. When the taxi driver realized that we had difficulties in expressing ourselves as much as we had agreed with him on the fare from the CRDB Bank to our hotel, when we arrived, he doubled the fare because of our language. He treated us as if we did not understand what we were doing. We had agreed that he charges us TZS5,000. However, when we arrived, he doubled the amount to TZS10,000. He said it was *shilingi elfu kumi*. I asked him what *elfu kumi* meant and he said that was ten thousand in English. I then asked him why he was increasing the amount and yet we had agreed. He then told us that he did not know how far we were going and that it was very far. However, it was not the first time we were travelling from that bank to our hotel.

We were at risk and you nearly got information that your Members were being accosted. How would it be, that a whole Member of the Assembly and a diplomat could not afford to pay TZS10,000? Where are these Members from? What is their background? There would have been very many questions about our competencies and background, among other things. That is just

a simple example, Chairperson, Council of Ministers.

The Members who have been travelling by road have once tried to convince me that we can travel by road from Kampala up to here. However, I said no, I am not a tourist. If we are going by road, we should go for the purpose of sensitizing the Community. If we are going to Kenya, we should visit Murang'a, Vihiga, Nyandarua and Mandera. If it is in Tanzania, I should be going to Mbeya, Mtwara for another purpose and not going on duty.

Hon Speaker, I appeal to the Chairperson, Council of Ministers and Members of the Council who are here to support this Motion so that we facilitate Members to do their work well so that we also do not experience problems on the way.

I also want to remind the House that we had problems as we worked on the standard gauge railway (SGR) to improve on our infrastructure. We are competing with trailers on the roads, which transport flammable material, petrol, among other things. You have seen what has been happening on our roads and yet you want to put us at risk because of a single vehicle, which you do not want to exempt. I would also want to travel by road so that I am not accosted by somebody who will take advantage of my Kiswahili.

Rt hon Speaker and the Front Bench, we beg that you support us. There should not be anything that will cause friction between us and the Council of Ministers.

Ms Muhia: On a point of clarification, Mr. Speaker, Sir.

The Speaker: You are seeking a clarification?

Ms Muhia: Yes, I want an opportunity to seek clarification even though the hon. Member has concluded his contribution.

The Speaker: It is okay. I will give you an opportunity.

Ms Rose Akol Okullu (Uganda): Thank you, Rt hon Speaker. From the outset, I want to say that I support the Motion presented to us here by hon. Opoka seeking leave of the House to introduce a Private Members' Bill.

I do not think that any of us is privy to the contents of this Bill. That is the reason some Members are asking why we are debating a Bill in anticipation. Why do we want to block a Bill that we do not know its contents? I think this is a practice in all assemblies.

I have been a Member of Parliament for 10 years in the Parliament of Uganda. I have not seen us blocking a Bill because we are anticipating some contents that we are not privy to. Therefore, I want to beg the indulgence of the Chairperson, Council of Ministers to allow this Bill to be introduced in the Assembly so that we look at the contents. If there is anything to do with budgetary allocations, we will look into that. Right now, we do not know the contents.

Secondly, I am here because of legislation. That is the reason we are all here. This is where legislation is passed, amended and debated. Therefore, let us allow the process to continue. Thirdly, we have sought a clarification from the CTC. However, no response has been forthcoming. I want to put it to my Chair, Council of Ministers because I know that he has been here longer than most of us – he was here during the previous Assembly. The CTC has also been here. He has been the adviser to the Council and to this Assembly and to the previous Assembly.

With the full knowledge of the CTC; Members were given the privilege to have two tax-exempt vehicles. They were Members of Parliament just like us.

Ms Nzeyimana: Thank you, Rt hon Speaker. I would like to give information to support hon. Akol. I was in the Council of Ministers and enjoyed the privilege of having two cars. Thank you. (*Applause*)

Ms Akol: Thank you for that important information, hon. (Ms.) Nzeyimana. This is the Fourth Assembly. I believe that nothing has changed. We still have the same CTC as the adviser to the Council and to this Assembly. We still have the Chairperson, Council of Ministers who was a Member of the Council during the Third Assembly.

Rt hon Speaker, I am seeking clarification. Why are we being discriminated upon? The Third Assembly had the same privileges we are seeking to have as Members of Parliament. It has also come to my knowledge, and I have read some of the legislation but I have not seen amendments to anything tantamount to this.

Rt hon Speaker, this clarification has to be made very clear. If no knowledge has been passed to the contrary, then I see no reason why this Bill should not be allowed. We should then proceed to debate the merits and demerits of that Bill. There are Members who may be privy to the contents of this Bill as we debate here. Let us be given the privilege of having two duty free vehicles. This is not for any reason but to facilitate our duties as Members of Parliament just as Members have emphasized here.

We want to sensitize our communities. We want the EAC to live beyond us and, indeed, the Fourth EALA should achieve confederation and then federation as the

highest protocol we seek to achieve. These are the few small things we need to have as an Assembly to facilitate us to work together with the Council, the Summit and other organs of the EAC so as to achieve this very important objective.

I submit.

Dr Oginga: Thank you Rt hon Speaker. I just want to plead with the Chair, Council of Ministers to allow this Motion – which is not the Bill – to allow hon Opoka to introduce the Bill. Now, when the Bill comes, we will discuss its merits and demerits and all the consultations will be duly carried out and, definitely, the Council will be involved.

Mr. Speaker, Sir, at this time, it is premature for us to gag Parliament. The practice of the Executive gagging Parliament is quite rampant around our communities. If Parliament is not sensitive about it and allows it to take root then, it becomes a practice. Whenever you want to discuss something, you are warned not to discuss it because of this or that. I have also looked at Article 59 of the Treaty, which speaks about the funds of the Community. There is nowhere it speaks about the funds of member States because we do not budget for member States. Member States budget for themselves. Therefore, is it the Republic of Tanzania which has raised concern that tax exemption for Members will affect their budget? They have paid previously. If it were to be removed, there must have been some information that it has adversely affected the budgets of other member States.

My colleague from Uganda, who has just sat, talked about getting a certificate of financial implication before introducing Bills. I was an Assistant Minister for Finance and we used to do that. However, here, we have to use our own Treaty and Rules of Procedure. It is only

when we are prohibited because we are talking about funds of the Community. The Article says in part, “the Assembly shall not.” If you read A (i), ii, iii and B, there is nowhere that funds which are not under our control are mentioned.

These vehicles are not for luxury. I know that hon Wanjiku travels to Nairobi every weekend because she has responsibilities of legislation. We are representing our people and we have to consult on a number of issues. We are aware that the Assembly only pays for our upkeep for three weeks. That is too long. People have to travel but we do not ask the Assembly to reimburse us. Therefore, we use our own vehicles and yet we are not coming for private business.

Mr. Speaker, Sir, in other regimes, Members of Parliament enjoy grants. In Kenya, I know that they each get about Kshs5 million. In Tanzania, I know that they also get some grants and probably Uganda does the same. This Parliament is an “upper House” of those parliaments. Why are we not also discussing how to facilitate Members and yet we are only 54 Members? One car should be bought for us, then we talk about the other one being duty free. *(Applause)*

The cars we buy are on loans and that is very heavy on us. Therefore, it appears that people who are removing the benefit, which had already been awarded, do not consider that the cars we have are on loan, which is a heavy burden on Members. That is maybe for the future. However, it is something we also need to consider instead of going for a small facility, which is about importing two vehicles, and yet you are not helping them to acquire the cars.

With those few remarks, I would like to strongly support that this Motion is passed and for consultations to follow thereafter.

Ms Muhia: Thank you, Mr. Speaker, Sir. Although hon. (Dr.) Oburu has attempted to clarify, I need a clarification possibly from the Chairperson, Council of Ministers. I am lost in this debate because of the term “financial implication.”

In my understanding, financial implication means a direct cost to the Government. I am at a loss because I do not see any direct cost to the Government of the United Republic of Tanzania. The exemption means that I will get money from my pocket and buy. Therefore, the Government will only lose the revenue. I am wondering why the issue of budgeting is coming in. I thought that we are buying the vehicles using our own money unless we are informed otherwise which I would be happy to know.

Could the Chairperson, Council of Ministers explain why the issue of the budget is coming up? We have no direct cost to the Government. The money is ours. The Chairperson should inform me. I would be very happy if we were not the ones buying.

The Speaker: In the process of clarifying, the Government does not know whether we will buy vehicles, anyway. Therefore, it cannot project for that income.

Ms Muhia: Thank you, Mr. Speaker, Sir, for helping me execute what is in my mind. I would only be exempted if I bought the vehicles. In this case, if I am not exempted, personally, I will not buy another vehicle. I will be okay using Uber. Therefore, if I do not buy, the Government will not earn that money. Therefore, why do they project for revenue which they cannot project?

The Speaker: Chairperson, Council of Ministers, clarify on these issues, then hon. Chris will reply.

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Thank you very much, Rt hon Speaker. I only want to clarify one thing. First, the Council is not objecting. Two, I have heard, from my former colleague who is on that side, that they were enjoying the privilege.

The Speaker: They enjoyed that privilege when they were on this other side.

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Aha! That is new to me. I am only facilitated when I am at home. I come here by plane, do my job and go back home. I do not have my family here. This is not my main center. I come here when there is a job to be done. Therefore, I do not carry the baggage of coming by car. After all, as you can see me, I would not endure those long journeys. Therefore, in view of that, I undertake to get all the facts about this debate even before the Bill is introduced in the House. I will also have extensive interaction with hon. Okumu so that when we decide something here, it is implemented and should not become a subject for debate. *(Applause)*

That is what I can undertake because we will have to examine the two contradictions. The law talks about this and yet somebody said that they had two cars exempted. That seems to have been a private arrangement. There is no method for that. There is also the Headquarters’ Agreement. I do not know which is which. When you come in through this door, they show you the Headquarters’ Agreement but when you use another door, they show you the law. We have to clarify that. That is why I said we do not need to spend a lot of time on this. Let us allow hon Okumu to be given leave so that we also carry

out proper consultations and when it comes here, it will be a question of smooth sailing.

The Speaker: Thank you very much. Hon. Chris, keep it very brief.

Mr Opoka Okumu: Rt hon Speaker, I am always very brief. However, I would like to, specifically, thank hon. (Dr.) Oburu and hon. Nzeyimana for making it possible for the Chairperson, Council of Ministers to see the light regarding what happened. However, I would also like to specifically thank hon. (Dr.) Makame who is not here, who clarified very well that it is the Headquarters' Agreement, which allows Members, staff, the CTC who is also a staff and Member, the Secretary General of the EAC who is a staff and a Member, to have two vehicles. However, the provision of Section 114 in the Schedule talks about one vehicle, part A of the Fifth Schedule.

Secondly, the Counsel to the Community was preempting me in terms of consultations. We are only asking for leave. The consultations will be done (*Interruption*)

The Speaker: I do not think you need to revisit that considering the way we have concluded.

Mr Opoka Okumu: I would like to thank the following Members who have contributed to this debate.

Honourable Chairperson, Council of Ministers, hon. Aden Abdikadir, the CTC, hon. (Dr.) Oburu, hon. (Ms.) Wanjiku, hon. (Dr.) Makame, hon. Ruot, hon. Susan Nakawuki, hon. (Dr.) Maghembe, hon. Kennedy Kalonzo, hon. (Ms.) Mary Mugenyi, hon. Simon Mbugua, hon. Nooru, hon. (Ms.) Nzeyimana Leontine, hon. Mukulia Kennedy, hon. (Dr.) Gabriel Garang Arol, hon. George Odongo, hon. Woda

Jeremiah, hon. Dennis Namara, hon. Paul Musamali and hon. Rose Akol for their support.

I urge, at an appropriate time, when the question is put that honourable Members including Members of the Front Bench will come out strongly in support of the Motion to be granted leave. (*Applause*)

(*Question put and agreed to*)

QUESTIONS FOR ORAL ANSWERS

QUESTION NO: EALA/ PQ/OA/4/01/2018

Mr Pierre Celestin Rwigema (Rwanda): Rt hon Speaker, thank you for giving me the Floor. Before I ask the question to the Chair, Council of Ministers, I want to add my voice to that of my colleagues in congratulating our new Members; the Rt. hon Deputy Prime Minister and hon Ministers. I welcome them to this august Assembly.

Rt hon Speaker, I rise to ask the Chairperson, Council of Ministers Question No:EALA/ PQ/OA/4/01/2018

The Treaty for the Establishment of the East African Community provides for four pillars of integration namely: the Customs Union, the Common Market, the Monetary Union and ultimately Political Federation.

As of to date, the first two pillars have already been commenced upon but we are aware that the people of East Africa are desirous to use one common currency and to integrate politically.

Could the Chairperson of the Council of Ministers inform this august House the status of implementation of the 3rd and 4th pillars of integration? At what stage are we for

political integration and when do we expect to achieve it?

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Mr. Speaker, Sir, according to the Treaty for the Establishment of the East African Community (Treaty), establishment of a Monetary Union among the EAC Partner States is the third pillar of the EAC integration. To this effect, the EAC Partner States negotiated a Protocol for the establishment of the East African Monetary Union, which was signed by the EAC Heads of States in November 2013. The Protocol sets out the process and prerequisites for attainment of a monetary union in the EAC region over a period of 10 years. The envisaged Monetary Union is therefore expected to be in place in 2024 with the introduction of a common currency to replace the national currencies and the establishment of a regional central bank to be known as East African Central Bank (EACB).

Mr Speaker, according to the Protocol, the transition to the East African Monetary Union is conceptualized as a two-phase process. In the initial convergence phase, the Partner States are to work towards achieving preconditions designed to limit the Union's exposure to internal economic strains. These preconditions include macroeconomic convergence criteria, full implementation of the Customs Union and Common Market protocols, establishment of institutions to support the Monetary Union and harmonization of policies and practices. When these preconditions have been satisfied, the Partners will enter the final conversion phase, marked by the announcement of a predetermined date for formation of the Union.

Mr Speaker, Sir, beyond the above, establishment of a stable monetary union will require a strong institutional framework to monitor and enforce convergence. For this purpose, the EAMU protocol provides for the establishment of four support institutions including, the East African Monetary Institute which was supposed to be ready by December, 2015, East African Statistics Bureau which is supposed to be ready this year, (2018), East African Surveillance, Compliance and Enforcement Commission (2018) and the East African Financial Services Commission (2018) which are both supposed to be in place this year. The EAC Secretariat is currently working with Partner States to develop legal instruments for the establishment of these institutions.

Mr Speaker, the transition to a Monetary Union requires a substantial degree of coordination and harmonization of policies, laws and practices in the run-up to a single currency. In essence, this implies that, over time, EAC Partner States will need to reform and integrate various policies and laws in order to allow smooth implementation of the EAMU Protocol. The EAC Partner States in collaboration with the Secretariat and other stakeholders are currently working towards harmonization of their policies, laws and practices. For example, the EAC central banks have so far agreed to converge in terms of monetary policy regimes and exchange rate policies by moving from reserve money based framework to a forward-looking price based monetary policy framework by December 2018.

Mr Speaker, high degree of economic convergence is important for individual countries planning to form a monetary union. This aspect is also important for the stability of the monetary union once formed. To this effect, the EAMU Protocol provides for a set of four primary convergence criteria, which

must be attained and maintained by each Partner State, for at least three years before joining the Monetary Union. These include:

- (i) a ceiling on headline inflation of 8 per cent;

- (ii) reserve cover of 4.5 months of import;

- (iii) a ceiling on the overall deficit of 3 per cent of GDP, including grants; and,

- (iv) a ceiling on gross public debt of 50 percent of GDP in net present value terms.

Assessment of progress towards achieving the primary convergence criteria shows that most Partner States have achieved some of the convergence targets ahead of the year 2021, and are making steady progress in achieving the remaining convergence targets.

Mr Speaker, Sir, there is substantial progress with regard to the implementation of the Political Federation and the Community is on course as I will illustrate in my reply to the 2nd Question by the same Member.

The Speaker: Thank you, Chairperson, Council of Ministers.

Mr Rwigema: Rt hon Speaker, I am satisfied with the answer given by the Chairperson, Council of Ministers. However, I have a supplementary question.

The Speaker: Hon. (Dr.) Rwigema, could you ask your second question? Supplementary questions will come later combining the two.

QUESTION: EALA/ PQ/OA/4/02/2018

Dr Pierre Celestin Rwigema: Thank you, Mr Speaker, Sir. I would like to ask the Chairperson, Council of Ministers Question No.EALA/ PQ/OA/4/02/2018.

In February 2016, the 33rd Meeting of the Council having benefitted from the advice from constitutional experts, made the following recommendations to the Summit:

- (i) that the Partner States adopt a confederation as the model of the East African Federation. The Confederation being understood to mean the gradual incremental collaboration in specified areas in accordance with Article 5(2) of the Treaty;
- (ii) that the Partner States would pool their sovereignty in specified areas and in that regard, requested the Summit to allow Council of Ministers to constitute a team of experts to draft the Constitution for the confederation, including making proposals on the areas to be under pooled sovereignty. It had been expected that at its 18th Ordinary Session that was planned for November 30th, 2016, the Summit had to guide the Council on the way forward.

Could the Chairperson of the Council of Ministers:

- (a) Update this August House on the guidance that the Summit provided on the aforesaid matter?
- (b) Inform this August House what challenges are being experienced, if any?

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Mr. Speaker, I thought that since the question is oral, he should ask the question so that all the Members get to hear.

I thank hon. (Dr.) Pierre Celestin Rwigema for this question. As you all know, in pursuance of the achievement of the objectives of the Community, Article 5(2) of the Treaty for the Establishment of the East African Community provides for the establishment among Partner States, a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation.

Article 11(3) provides that “the Summit shall review the state of peace, security and good governance within the Community and the progress achieved towards the establishment of a Political Federation of the Partner States”

Mr Speaker, Article 123(6) and (7) of the Treaty, respectively provides that “The Summit shall initiate the process towards the establishment of a Political Federation of the Partner States by directing the Council to undertake the process.”

Mr. Speaker, Sir, pursuant to the above provisions of the Treaty, the Summit and the Council have undertaken a number of initiatives towards the EAC Political Federation.

You will recall that in 2004, the Summit of Heads of State established the Wako Committee to Fast-Track East African Political Federation. In 2008, there was wide national consultations in the Partner States regarding the report and recommendations of the Wako Committee on Fast-Tracking Political Federation.

Mr. Speaker, Sir, in 2009, the Summit constituted a team of experts to make recommendations on how to address fears, concerns and challenges towards fast tracking of Political Federation as expressed during the national consultations. Subsequent

to the Report of Fears, Concerns and Challenges presented to the Summit in 2011, further consultations were recommended by the Summit whereupon in 2012 consultations with national stakeholders on the Model of Political Federation were conducted.

Mr. Speaker, Sir, in 2013, a Draft Model of the Structure of EAC Political Federation was presented to the Summit. Partner States requested for further consultation on the Draft Model Structure of the Political Confederation. The reports of the Partner States consultations were presented to the 18th Summit.

Mr. Speaker, Sir, indeed in 2017, the 18th Summit adopted the Political Confederation as transitional Model of the EAC Political Confederation. The Summit further directed the Council of Ministers to constitute a team of Constitutional Experts to draft the Constitution of the EAC Political Confederation.

Mr. Speaker, Sir, pursuant to the 18th Summit directives, the Council has since adopted, during its 35th extraordinary meeting, the Terms of Reference for the team of experts to draft the Confederation Constitution and a Road Map for the development of the Constitution, its adoption and promulgation.

Mr. Speaker, Sir, and honourable member, the Road Map that includes drafting, consultations, negotiations, adoption and promulgation of the EAC Political Confederation stretch from 2018 – 2022. It is envisaged that the EAC Political Confederation will take effect in 2025 after the Monetary Union in 2024.

Mr. Speaker, Sir, the 19th Ordinary Summit that met in Kampala on 23 February 2018,

received a report of the Council of Ministers on the progress of the Constitution making process of the EAC Political Federation and directed Partner States to nominate constitutional experts and the Council to fund the process of the constitution making. The Council is going to implement this directive of the Summit. It has already started because Uganda has already sent their experts.

Mr. Speaker, Sir, there are a few challenges though. There is political will for the EAC Political Federation. However, the question of sovereignty and constraints related to funding the actions towards the federation are pullback factors to achieving the realm of EAC Political Federation.

Mr. Speaker, Sir, the fear of “losing” one’s sovereignty through pooling sovereignty still linger among Partner States.

The process of developing and promulgation of the Political Confederation Constitution is also estimated to cost a considerable sum of money which may not be easy to come by and therefore may drag the process.

The Speaker: Thank you, hon. Chairperson. Hon Members, you can now ask supplementary questions. However, under Rule 91, try and confine your supplementary questions within the framework of the main question.

Mr Mwasa: Thank you, Rt hon Speaker. Thank you, Chairperson, Council of Ministers, for your response to this question.

On question one; regarding how far you have gone with the implementation of the Monetary Union, in your answer, you said that there are preconditions. These preconditions include macro-economic convergence criteria, full implementation of the Customs Union and the Common Market

protocols, establishment to support the Monetary Union and so forth.

On page No.4, you also say that the transition to a Monetary Union requires a substantial degree of coordination and harmonisation of policies, laws and practices in the run up to a single currency.

Now my supplementary question goes. Are you aware that the Customs Union as well as the Common Market Protocols have not been fully implemented and that there are challenges, which have not been fully addressed? For example, people in the EAC are not moving freely to trade freely in Partner States because of non-tariff barriers (NTBs).

The Common Market Protocol provides for the free movement of professionals to work in these Partner States. Now, if you are aware that there are still impediments, what steps have you taken to ensure that Customs Union and the Common Market Protocol are fully implemented for us to proceed to implement the Monetary Union?

The Speaker: Chairperson, Council of Ministers, take that one first. For better management of time, I think one question will be answered first and then we see whether we have time for another question.

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Mr. Speaker, it is true that there are a number of tariff and non-tariff barriers (NTBs) which have not yet been harmonised. That is why we, at the EALA, which is full of people from the EAC to intensify going round to pointing out the issues. We should push the governments to remove the NTBs. This is a question of sensitisation. Some governments appear to be committed but there are others

who have been benefiting from the prevailing situation. Those are the ones delaying the matter. I think we need a dedicated sectoral Committee of EAC under planning to monitor the implementation of the provisions. That should be the way out.

Mr Aden: Thank you, hon Speaker. I thank the Chairperson, Council of Ministers for a very elaborate answer to both questions. Indeed, as he mentioned, the journey towards a Monetary Union required putting in place some laws. I can confirm that, indeed, some of the laws are before our committees. The Committee on General Purpose is currently handling the law on the monetary institute and will soon dispense with that.

My question to him is with regard to page No.5 of his answer where he says that a high degree of economic convergence is important and they have put indicators, which are being monitored per country so that there is high degree of convergence. The issue is particularly on the issue of ceiling on gross public debt of 50 per cent. He said that if this is to be achieved by the year 2021 and we are at three years before 2021, and we are now in 2018, and yet I know that the public debt of some member States is beyond the 50 per cent mark. Is this tenable? Will they shift this strategy or what will happen? Certainly, as it appears, there are many countries, which are above 50 per cent. How will they handle this?

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Thank you for that question. When you set out to go to Nairobi and you find an obstacle, it is up to you to find a way to overcome it. As long as there is a will, I know there are enough brains to circumvent those problems and to help us reach our destination. *(Laughter)*

Mr Nooru: Thank you, Mr Speaker, Sir. I will be very brief. On page 3, the aspect of the EAC Monetary Union, the protocol provides for the establishment of four institutions. For the four institutions to be established, there is a target that was set. The EAC Monetary Institute that hon Abdikadir has talked about was supposed to be in place by 2015. The others are the EAC Statistics Bureau, the EAC Surveillance and Compliance and Enforcement Commission and the fourth one on page 4, the EAC Finance Service Commission are all targeted to be in place in 2018. With regard to the four institutions, which are supposed to operationalise the EAC Monetary Union, he is saying that they are still working with Partner States to develop a legal instrument for the establishment of these institutions. They have set a target of 2015 and yet they are still consulting member States on how to put the instruments in place, are we serious? How serious are we in this aspect? What was the obstacle in delaying an achievement that we could have had in 2015 and yet we are in 2018 struggling with the same institutions trying to put them in place? How will they reach the target of having a Monetary Union in operation?

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Mr. Speaker, Sir, about the delayed establishment of the structures that are supposed to be in place, there was a slowdown. This was due to the argument as to whether it was the Political Federation which would drive these issues up or whether we should go bureaucratically and establish the units and then we come back to the Political Federation. The Heads of States have taken a middle course. They said that we should establish a confederation. If that confederation is established, then it will drive the establishment of these institutions. This has been agreed upon by all Heads of States.

They are anxious. I have told you that Uganda has already nominated its team of experts and I call upon the other Partner States to submit so that this work starts immediately.

If it is done quickly, it will direct the implementation of these things. We will know the form of confederation and what the requirements should be. In addition, the Sectoral Committee on Finance is fast tracking the EAC Monetary Union process. There is a taskforce for that. As I said, this question of coming together is something we have not tried and we do not want to hurry. We will not die if we do not do it in a hurry and even if we were to die, I have heard a rumour that we have children. Therefore, the process should not be hurried. We must be sure of every step we take.

The Speaker: We must achieve it before we die.

Dr Gabriel Aher Garang Arol (South Sudan): Thank you very much, Rt hon Speaker. I have two questions to the Council. My first question is that I am concerned about the timeliness. Considering the circumstances under which we are now, with the first two pillars; the Customs Union and the Common Market protocols, is it appropriate to continue having timeliness? He said that the timeliness for the Monetary Union, the timeline is 2024 and Political Confederation is 2025. I do not think we should put timelines on this. We need to move. That is my understanding and opinion based on the circumstances we are that we should move slowly. That should take into consideration the first two pillars.

The Speaker: Honourable, ask your question. You should not debate.

Dr Arol: Are the timeliness fixed or tentative?

The Second Deputy Prime Minister and Minister for EAC Affairs, Uganda (Ex Officio) Dr. Kirunda Kivejinja: Mr. Speaker, Sir, thank you for that question. It brings out the steps we are already taking and the problems we are facing. It also shows the determination that despite all those problems, we must reach our destination. For example, the EAC Monetary Union Protocol has already been agreed upon and we are now monitoring everyday what they are supposed to do.

I can also inform the House that one of the institutions which is supposed to be set up is the Statistical Bureau. Therefore, the Bill will come here and we will fast track it and use it as an instrument to push for the confederation. Therefore, these problems are tentative. For example, when the confederation team is already here, I am sure they will not take that long. They will give us a structure and tell us what is required to put that structure in place. They have now been moving on their own. They have also not been directed politically. It has been bureaucratic development. Therefore, they do their thing. Sometimes they are assured of their term of office and some of them are on permanent and pensionable basis and therefore are in a hurry to do things. I think with political direction and guidance which has been taken by the Heads of States to drive the confederation, other factors will fall in place. Therefore, do not worry about the figures. They are just tentative.

Mr Mathias Kasamba (Uganda): Thank you, Rt hon Speaker. The general vision of integration is that it is a people centred and private sector led integration. How are they factoring in the business community, the

people centred approach as we tend towards the Monetary Union?

House rose at 6.30 p.m. to reconvene on Thursday, 15 March 2018 at 2.30 p.m.

My last one is about the harmonisation of laws. The EALA is supposed to make laws, which will fast track the integration to the federation status. How are you factoring in this? He mentioned here that the EAC Partner States in collaboration with the EAC Secretariat and other stakeholders are currently working towards harmonisation of policies. Which laws have they envisaged in the next one year that EALA will undertake to see that we are in tandem as partners?

The Second Deputy Prime Minister and Minister for EAC Affairs (ex officio Member (Uganda) (Dr Kirunda Kivejinja):

Mr. Speaker the answer to that supplementary question, first, we are pursuing this according to the calendar of meetings with targets to achieve. In addition to that, as I said, this will be the ambition of this Assembly to make things, which have not been moving to move. Therefore, attention should be on these pillars. Therefore, I advise that there should be a dedicated Committee on all the pillars so that the people-centeredness is seen in the people who represent the population. In our regions, priorities may not be clear. However, if we had a Committee to pursue Monetary Union and another the Common Market and another one pursuing Customs Union and the Political Federation as part of our re-arrangement of our efforts, we would achieve this. The ordinary people are always condemned of making noise. Let us make noise and we will shape the federation.

ADJOURNMENT

The Speaker: Thank you, Chairperson, Council of Ministers. Time is not on our side. Therefore, we have to stop here. The House stands adjourned until Thursday, 15th March, 2018, at 2.30 p.m.