



## **EAST AFRICAN COMMUNITY**

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

#### **The Official Report of the Proceedings of the East African Legislative Assembly 67<sup>TH</sup> SITTING - SECOND ASSEMBLY: FIRST MEETING – THIRD SESSION**

**Tuesday, 11 August 2009**

*The East African Legislative Assembly met at 2.30 p.m. in the Karimjee Hall, Dar-es-Salaam.*

#### **PRAYER**

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

*The Assembly was called to order.*

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#### **PAPERS**

The following Papers were laid on the Table: -

by the Chairperson, Council of Ministers  
(Dr Diodorus Kamala):

The Report of the Audit Commission on the Audited Financial Statements of the East African Community for the Financial Year ended 30<sup>th</sup> June 2008.

By Dr Odette Nyiramilimo:

The Report of the EALA Delegation to the Third High Level Forum on Aid Effectiveness

By the Chairperson of the Committee on Accounts (Mr Christopher Nakuleu):

The Report of the Induction Workshop for the Committee on Accounts on Auditing and Accounting skills

## **BILLS**

### **Second Reading**

The East African Community Customs Management (Amendment) Bill, 2009

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Speaker, I beg to move that the East African Community Customs Management (Amendment) Bill, 2009 be read for the Second Time.

**The Counsel To The Community (Mr Wilbert Kaahwa):** Seconded.

**Dr Kamala:** Mr Speaker, according to the Treaty for the Establishment of the East African Community, the establishment of the East African Customs Union is one of the cardinal pillars in the deepening and widening of cooperation among the EAC Partner States. The EAC Customs Management Act (2005) established the Customs Union, and it became operational on 1<sup>st</sup> January 2005 in Kenya, Tanzania and Uganda. Pursuant to the provisions of the Treaty of Accession concluded on 1<sup>st</sup> July 2009, both Burundi and Rwanda started implementing the Customs Union on 1<sup>st</sup> July this year. Accordingly, the intended trade liberalisation and development through the application of a common customs legal regime, elimination of internal tariffs, application of common tariffs and removal of non-tariff barriers are well on course.

In January 2010, the fully-fledged Customs Union comes into effect with zero customs duty applicable to all goods traded among the EAC Partner

States. This is a significant milestone in the long and challenging road for the Partner States to full integration. As shown by the current trade data, this development will greatly influence trade, investments and revenues in the Partner States. For example, between 2004 and 2007, the volume of the inter-EAC trade with the rest of the world rose by 26.8 percent, up from 22.8 percent in 2007. In order to sustain the momentum and the consolidated Customs Union, there is a need for the EAC to maintain constant monitoring, and where possible or necessary, a review of the East African Customs Management Act.

It is against this backdrop that the Council of Ministers introduced the Bill entitled the *East African Community Customs Management (Amendment) Bill, 2009* during the last meeting of this august House. It is not the intention of the Council to initiate amendments of this law constantly. This august House will observe that Customs administration and management is bound to be dynamic, especially given the transitional aspects pertaining to the need to bring Partner States on board fully. Therefore, amendments made from time to time are necessary for purposes of enhancing policy implementation, management and administration.

The principal object of this Bill is to amend the Act in order to facilitate the discharge of the functions of the Directorate of Customs, and to facilitate the smooth implementation of the Act.

Mr Speaker, I shall now elucidate the nature and purpose of specific provisions in respect of which the amendment is proposed.

In Section 2(1), it will be necessary to amend the definition of the following words:

- (a) “agent” to expand its scope and remove restrictions relating to signing requirements that may not apply in case of electronic lodgement;
- (b) “customs area” to expand its coverage;
- (c) “document” to cater for electronic documents;
- (d) “transit shed” to cover policies, which are not necessarily buildings

We propose to amend Section 2(a) to remove restrictions with respect to entry of goods.

The intention of amending the term ‘transit shed’ is to give the commissioner power to appoint any buildings or premises that are not necessarily buildings for the deposit of goods under customs control. The present definition is restricted to buildings.

The proposed amendment in Section 14 is to correct the omission of the word ‘comply’ in the provision, which rendered the sub-section meaningless.

In Section 24, we propose an amendment to enable advance submission of manifests to Customs prior to the arrival of the vessels and aircrafts. This is in order to reduce the time taken to clear goods at Customs, thereby facilitating trade, as well as reduce port congestion. The present requirement of submitting a manifest no later than 24 hours after arrival leads to congestion at the ports, and gives

opportunity to fraudulent agents to divert cargo and evade taxes. The difference in the time for vessels and aircraft is because of the different speeds of the two modes of transport.

The intention of the proposed amendment of Section 32 is to require importers to remove their goods, thereby reducing port congestion. It penalises importers or owners who tend to use the port as a storage facility by delaying to remove entered goods from the Customs warehouses after Customs clearance.

The amendment in Section 2 will enable the Commissioner to inform widely, owners and the public on the intended auction of goods through newspapers and gazettes of Partner States. This will enable importers to get information and clear their goods before the auction. Under the current provision, goods can be auctioned by advertising in the EAC Gazette without advertising in newspapers and gazettes at Partner States level.

The intention of the proposed amendment in Section 73 is to give a time limit to export entries, thereby preventing abuse. Currently, there is no provision specifying validity of export entry. This implies that an export entry is valid until the time an exporter decides to export his or her goods. Such entries could be used to claim refunds fraudulently. Each business transaction has a lifespan. Therefore, a period for completion of an export transaction should be provided. The expiry of this period will trigger audits into any outstanding exports. This is because exports that are free of domestic taxes such as VAT and other excise duties can

be used as loophole for tax evasion, if a time is not specified.

The proposed amendment of Section 78 is for clarification purposes and for clarity of language as in sub-section 5(b).

In Section 107, the proposed amendment is to increase the scope of securities that the Commission may allow. Some minor transactions may only require undertakings as security. This will also enable the use of new financial instruments in Customs in order to secure taxes, hence promoting investments and facilitating trade.

The proposed amendment in Section 117 is to allow flexibility and enable the Commissioner to extend the period of temporary imported goods, which perform special functions. This will mostly facilitate importation of equipment for construction, mining and exploration, which may be imported temporarily for not more than one year.

Increased use of computerised systems comes with various forms of electronic fraud for which Customs is a target. The intention of the proposed amendment of Section 191 is to increase safeguards in the use of computerised systems. There is need to protect this new procedure from fraud through punitive measures.

In Section 233, the use of Customs forms under the Act is restrictive. This is despite the fact that Customs is like the other agencies and sectors that use forms configured to their requirements. This has particularly become necessary with computerisation, whereby interfaces are being developed. The proposed amendment intends to facilitate trade by

the use of approved forms other than Customs forms, since forms generated by airlines and courier companies involved in shipping have substantially the same information as Customs forms.

The intention of the proposed amendment in Section 234 is to require importers and exporters to keep documents in accordance with Section 159, which requires the production of such documents. An importer can produce a document only if, in the first place, the same law requires him to keep that document. This amendment will oblige taxpayers to keep documents for purposes of audit by the Customs. The adoption of risk-based management where post-audit clearance rather than pre-clearance examination is applied has since amplified this.

In Section 244, the proposed amendment is to facilitate transporters in the region. Removal of transporters' licences will reduce the multiplicity of licenses that serve the same purpose. Since there is a cost attached to the licence, its removal will reduce the cost of transacting business in the EAC region. Customs issues licenses to trucks for conveyance of transit goods and the licensing of transporters is not the duty of Customs but of ministries responsible for transport.

In Section 247, the proposed amendment is to extend coverage to include vehicles. Currently the law confines itself to aircrafts and vessels. Circumstances may arise, and in order to meet incidences under special cases, the Commissioner may allow the offloading and clearance of goods without following the laid down procedures.

In Section 249, the proposed amendment is to empower the Commissioner to waive interest where effective recovery is not possible. Section 249 does not provide a window for the Commissioner of Customs to waive part or all of the interest or penalty where the Commissioner is satisfied with the reasons adduced by the importer for failing to pay the amount when it was payable. It is necessary to provide such powers to facilitate quick clearance of goods since in the absence of this the matter is to be referred to the Council of Ministers for action.

Mr Speaker, as I wind up, allow me to persuade this august House to appreciate the nature of these proposed amendments. The intention of the amendments is clearly to enhance Customs administration and management, and to address such inconsistencies and problems that have so far been noticed.

Mr Speaker, I beg to move that the Bill entitled the *East African Customs Management (Amendment) Bill, 2009* be read for the Second Time.

*(Question proposed)*

**THE REPORT OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENT ON THE PROPOSED AMENDMENTS TO THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT (AMENDMENT) BILL, 2009**

**The Chairperson, Committee on Communications, Trade and Investments (Ms Catherine Kimura (Kenya)):** Thank you, Mr Speaker. I wish to present the Report of the Committee on Communications, Trade and Investment on the proposed amendments to the East African Community Customs Management (Amendment) Bill, 2009.

The committee sat and discussed the amendments as presented by the Council of Ministers, and we now wish to present this Report.

The EAC Customs Management Act, 2004, established the EAC Customs Union, and it became operational on 1<sup>st</sup> January 2005 in Kenya, Tanzania and Uganda. The Republics of Rwanda and Burundi joined the EAC on 1<sup>st</sup> July 2007, and they have commenced the implementation of the EAC Customs Management Act effective 1<sup>st</sup> July 2009. The pillars of a Customs Union include the application of a common customs law, elimination of internal tariffs, the application of common external tariffs and removal of non-tariff barriers. The Directorate of Customs is responsible for initiating policies on Customs and for coordinating and monitoring the implementation of the EAC Customs Management Act, 2004.

The law also provides for the Customs Departments of the Partner States to be responsible for the day-to-day Customs activities, which include revenue collection, enforcement of the Act and the management of customs personnel.

In the course of carrying out the functions mentioned above, the Partner States and the Directorate of Customs have been initiating modern trends such as lodgement of documents using advanced technology, facilitation of programmes, and identifying areas in the law that need amendment from time to time to ensure that it serves the intended purpose.

Mr Speaker, the Council of Ministers has proposed the amendment of the principal Act through the *EAC Customs Management (Amendment) Bill, 2009*, for discharging the functions of the Directorate of Customs as provided for in the Act, and to facilitate smooth implementation of the Act.

The Standing Committee on Communications, Trade and Investments convened a meeting on 29<sup>th</sup> June to 2<sup>nd</sup> July 2009 to review the Bill, and adopted the following methodology.

The Committee met with experts from the EAC Directorate of Customs and Trade and the Office of the Counsel to the Community to provide explanations and rationale for the amendment of the *EAC Customs Management Act, 2004*. The Committee discussed the provisions in the Amendment Bill with experts and made recommendations. The Committee also made several observations.

The Committee observed that the United Republic of Tanzania accords privileges to persons in the service of the Community to acquire and register personal motor vehicles duty free on a diplomatic status. This facility is in accordance with Articles 73 and 123 of the Treaty and the Headquarters Agreement. However, contrary to the

privileges and immunities under the Treaty, the other partner states do not accord similar tax-free facilities to persons in the service of the Community when they move to those partner states. The privileges include tax exemption of personal motor vehicles, which have been in use by such persons in Tanzania as provided for in the *EAC Customs Management Act, 2004*. Temporary road licenses and other cross border charges on motor vehicles are also payable upon crossing of every border, which makes it bothersome and costly, particularly to members of EALA, whose constituencies stretch beyond Arusha into the other Partner States.

The Committee therefore noted that this is a serious issue, which the Council should address so that all the Partner States accord privileges and immunities in accordance with the Treaty to persons in the service of the Community. In this regard, the Council to the Community should take up the matter in order to address the difficulties observed.

The Committee also noted that the EAC Customs Management Act gives discretionary powers to Commissioners of Revenue under a number of provisions, which may result in discretionary treatment in the application of the Act. The Secretariat informed the Committee that as the Community heads into the common market, a comprehensive review of the legal instruments will be undertaken. The exercise will cover a review of all the instruments, including the EAC Customs Management Act, the Protocol on Customs Union, the Common External Tariff and the administrative framework in order for them to apply appropriately under a single customs territory. In this regard,

issues of discretion in powers, offences, penalties and other key elements will be revisited.

The Committee wishes to acknowledge, appreciate and recognise the contribution of the Directorate of Customs and Trade and the Office of the Counsel to the Community in the preparation of this report. It further recognises the interaction with the Council of Ministers in finalising the report. *(Applause)*

In conclusion, subject to the proposed amendments, the Committee on Communication, Trade and Investment urges the Assembly to pass the *East African Community Customs Management (Amendment) Bill, 2009* into law.

Mr Speaker, I beg to move.

**The Speaker:** Honourable Members, the debate is now open.

**Mr Bernard Mulengani (Uganda):** Mr Speaker, I want to thank the Committee for the report, and I rise to support the position of the Committee. I just want to highlight two issues in the Bill that report has touched.

The first issue regards the amendment of Section 42, which is on page six of the Bill. They are saying that we need to use national gazettes. I find a problem with this, and the Council of Ministers needs to convince me to support it. How can one determine in a piece of law which newspapers to use and the administrative ways to handle this Customs Management Act? We risk running into a problem of not mentioning certain papers in the law and this may be counterproductive to the integration

process. I would urge the House delete this particular clause and give powers to the Customs department to decide how they should transact business, and determine which newspapers are the most read by the people of the EAC and use those papers. If it is the wish of the House, at an appropriate moment, I will consider moving an amendment in that area.

My next point is concerning our treatment in relation to our diplomatic status. The Committee has noted the concerns of all the members regarding the benefits that we are entitled to at the Community, which some of the Partner States are not giving. I want to amuse this House by stating that most of our police officers do not know these diplomatic numbers as they keep stopping members on the way. They do not know that a TCD is a diplomatic car. This is a challenge. As I was moving my car through Kenya, I was stopped over five times, and every time I had to explain myself. Supposing I had left the driver to travel alone, and as he does not have a passport -and I cannot give him mine- this has the potential to create problems for him!

Concerning taxes at the border posts, tax-free cars are being taxed at the borders, and these include cars owned by the legislators who are actually legislating to remove barriers in the forms of taxes. It is important to note that non-tariff barriers are being charged at the border posts, and this is despite one's diplomatic status. I request the committee to move further and consider making an amendment that compels all member states to recognise the facilities and privileges given to us at the EAC level. This does not only affect members

but cuts across to even the staff of the Community.

Mr Speaker, with those few remarks, I support the report of the committee, and urge them to move an amendment regarding the issue of tax exemption for staff of the EAC.

**Mr Dan Wandera Ogalo (Uganda):**

Thank you, Mr Speaker, and I want to thank the Council of Ministers for the Bill. I also want to thank the Committee for the report, which I support. I have just one observation to which I will seek clarification or some kind of confession from either the Council or the Committee. This is in respect of Section 12 of the Bill, which reads, "*Section 233 of the Principal Act is amended by inserting, immediately after sub-section (1), the following new section. Notwithstanding sub-section (1), the commissioner may allow the use of a form other than the form prescribed under that subsection.*"

When we go back to Section 233, it reads as follows, "*Where the form of any entry, bond or other documents required or authorised for the purpose of this Act has been prescribed, then all entries, bonds or other documents shall be in the prescribed form and shall contain all the prescribed particulars.*"

One of those particulars is the information filled in those forms. My understanding of this is that the law provides for the filling of forms. It also provides for the kind of information to fill in at entry points. It is the requirement of the law, before we amend it, that if the commissioner requires you to provide certain information. We should have something which is definite,

and which everybody knows. It is a form, which anybody can access one or even six months in advance. In other words, there is certainty in this transaction that when I want to import something, there is a form, which I will go and get and that the information I am required to fill in it is this, this, and that. That is what the original Act says.

Now the amendment says that the commissioner can actually ignore all those forms and bring his own form, and that would work? That is my understanding! Notwithstanding subsection (1), the commissioner may allow the use of a form other than those forms prescribed. We have a law that prescribes a form, and we have a commissioner who might wake up one day and say, "I am disregarding all the forms and bringing in this"!

Mr Speaker, this creates uncertainty, and it makes me very uncomfortable. I think this power given to the commissioner is too wide, and I think allowing the commissioner - (*Interruption*) -

**The Counsel to the Community (Mr Wilbert Kaahwa):**

Mr Speaker, on a point of information, I would like to point out that the report of the committee contains the proposed amendment of Clause 12 of the Bill by inserting immediately after the words, "*provided such forms include the prescribed particulars*". My humble observation is that, that amendment will address the mischief, which my honourable friend is raising because the form with the prescribed particulars will contain all the requirements once we amend the Bill.



**Mr Ogalo:** I thank the Counsel to the Community for the information. I am aware of the suggestion of the committee on the proposed amendment, and I was coming to that. In the report, justification that the Committee gives for the proposed amendment is the information that the Secretariat gave to the Committee that they are going to review all the relevant instruments as we go into a common market. That is on page four just above the acknowledgements. The particulars of the amendment that the committee is talking about are in Section 233(2) (c).

Mr Speaker, I want to draw the attention of the Counsel to the Community to this. Clause 233(2) states the nature or form of the information to be furnished, but there are also sub-sections (a), (b), (c) and (d). The amendment, which has been suggested still gives much leeway to the commissioner because the information is limited. In any case, and in my humble view, if we have made a law to say these are the forms that you will fill when importing or exporting goods, there must be certainty. Every trader and businessperson should have certainty. However, the amendment proposed by the committee does not provide that certainty. It still leaves the authority with the commissioner to introduce a new form. We are saying that the proposed amendment should include the particulars, which particulars will not be there when the commissioner is producing the new form.

Therefore, I am not convinced that the amendment of the committee curtails my fears. This is because the amendment of the committee still gives power to the commissioner to introduce a form at any time. The only limit put on him is that it

should have some particulars. I am not willing to believe that every commissioner will act with diligence and honestly as well as in the interest of the Community when it is up to him to say which particulars will go in and which will not.

I still think that should give the power to the law to ascertain to the traders and business people what form to use when importing and exporting goods. Allowing a commissioner to introduce a form at his own discretion, notwithstanding the amendment of the committee, will create a problem. I thank you for the opportunity.

**The Speaker:** Honourable members of the Committee, I think you have already taken part in the discussions. Why don't you allow other members to say something first and then we can get back to you?

**Ms Dora Byamukama (Uganda):** Mr Speaker, I would also like to register my appreciation to the committee for its report. The fact that the Customs Management Act is coming up for several amendments is gratifying because it is clear evidence that the Act is being put into effect. However, I have three concerns, and they are as follows: one, the committee, in the very first paragraph under observations, on page three, refers to the Treaty and the Headquarters' Agreement. It reads as follows, *"The committee observed that the United Republic of Tanzania accords privileges to persons in the service of the Community under which they are allowed to acquire and register personal vehicles duty free on a diplomatic status. This facility is in accordance with*

*Articles 73 and 123 of the Treaty and Headquarters Agreement”.*

Mr Speaker, when you look at Article 73 of the Treaty, it only talks of the immunities. Article 123 is on political affairs. I also want to highlight Article 138, which provides for status, privileges and immunities. Article 138(2) refers to the Headquarters’ Agreement. It says, *“The Secretary General shall conclude with the governments of the Partner States in whose territory the headquarters or offices of the Community shall be situated, agreements relating to the privileges and immunities to be recognised and granted in connection with the Community”.*

I would like to get the audience of the chairperson, if I may, as to whether the committee was privileged to receive an agreement in respect of the privileges and immunities referred to in this paragraph. I am asking this because this paragraph only refers to the United Republic of Tanzania. My understanding, however, is that wherever we have premises or offices of the Community, they should be gazetted as properties of the Community. At an appropriate time, I would like to move a motion for this House to direct or draw the attention of the Community to the fact that all headquarters or offices of the Community are Community property and should therefore be accorded status, privileges and immunities as provided for in the Treaty. I would be very interested to have this agreement laid on the table so that we can look at it and appreciate it. I am glad that the Secretary General is in the House.

Mention has been made of the registration of motor vehicles, but I would like to say that we have also had other issues when we cross borders. For example, the minute you land at Kilimanjaro Airport, you are asked for a certificate of vaccination for yellow fever. No other EAC Partner State asks for this certificate, and so this always causes problems. There have been cases of some of us herded into a small room to take the injection. We do not know whether the person giving the injection is a qualified and professional health provider. This is very alarming. Therefore, I would like to know whether the committee had audience on some of these issues, and what was resolved. In addition, when you are leaving the beautiful Island of Zanzibar, you will be asked to pay some dollars. Moreover, because you may have enjoyed yourself very much on this beautiful island, you may not even have the required amount of dollars. This is the only place in the East African Community where this is done – *(Interruption)* -

**Mr Kidega:** Mr Speaker, on a point of information, I thank hon. Byamukama for giving way. I wanted to give more information on the issue of immunisation at Kilimanjaro International Airport. This is a very serious hindrance in the world today, particularly in the Western world. Those people are trying to protect the health of persons and animals, but in the process, they stop our products from going to several markets. This issue of injections and immunisations at the airports, if not checked, can upgrade to constitute a very serious non-tariff barrier to trade. Therefore, the committee should give it specific attention.

**Ms Byamukama:** Thank you, very much, hon. Kidega. My point is – *(Interruption)* -

**Dr Bilal:** On a point of information, Mr Speaker, I thank hon. Byamukama for giving way in order that I may provide the House with this very important information. I would like to report that I have undergone the same predicament when travelling from Zanzibar to other destinations, but as of 1<sup>st</sup> July, that tax has now been removed.

**The Speaker:** Yes, indeed, hon. Bilal, I have evidence that, that tax has been removed, but I do not think you can speak for the Government of Zanzibar - *(Laughter)*.

**Ms Byamukama:** Mr Speaker, I want to thank the members for the information. I hoped he would also say the same for the taxes between Burundi and Tanzania. That notwithstanding, I would like to move on to my second point, which is on the issue of the commissioner.

Hon. Ogalo has very ably put across the point on this issue. I just want to refer to page four of the committee report. The committee, “... *further noted that the EAC CMA gives discretionary powers to the commissioner under a number of provisions, which may result into subjective and discretionary treatment in the application of the Act.*”

I think this is a warning that we should not ignore. I want to agree with hon. Ogalo that the fact that there is mention of prescribed particulars does not take away the fact that this commissioner’s directives may result in subjective and discretionary treatment in the application of the Act. My question to the committee is who prescribes these particulars? Who

vets them to ensure that the particulars are adhering to the Treaty and to the Act? I think if we leave a gap in the law and give discretionary powers to the commissioner, we shall be in effect also abdicating our duty of ensuring that the laws we make are not only in conformity with the Treaty but also promote and support the integration process.

Article 75(3) of the Treaty states that, “*For purposes of this Article, the Council may establish and confer powers and authority upon such institutions as it may deem necessary to administer the Customs Union.*” My question is; who is this commissioner? Is the commissioner an institution? It is not very clear. Perhaps we could ask revenue authority institutions in the region to come up with some kind of procedure that may be a little bit better and easier to harmonise, but if you leave it to this commissioner...I would like to know about this commissioner. So I propose that we go a little bit further and put in the amendment that whatever the commissioner does must be in conformity with the Act, and if possible, we could also put in a provision – *(Interruption)* -

**Ms Zziwa:** On a point of information, Mr Speaker, this question of the discretionary powers of the commissioner is also causing disturbances amongst the stakeholders. Yesterday when we had the opportunity to visit the port, we interacted with some of the stakeholders. One of them actually posed a question to the committee about the discretionary powers of the commissioner. The commissioner in one Partner State may act differently from the one from another partner state. I think this is a very important area, on

which we need clarification from the Council of Ministers.

**Ms Byamukama:** I thank you, hon. Zziwa for that information. I have actually seen in the proposed amendment that the commissioner may waive the whole or part of the interest due from the taxpayer and so on. These are very serious issues. Some countries have tax tribunals perhaps these could help us. I want to say that if we are not certain and consistent in the law, we may leave some gaps or *lacuna*, which may in turn create ambiguity. In addition, rather than achieving the purpose that we intend for this amendment, we may be doing more harm than good.

I would therefore like to propose that we introduce some element or form of regulations or guidelines, which all the stakeholders or the partner states should agreed upon to guide the commissioners accordingly. I am saying this because when we talk about discretionary powers, we mostly give those powers to judges because the Judiciary is the fountain of justice, but when it comes to other areas, there may be some instances where people may feel sympathetic because this is a son, cousin, tribes mate, girlfriend or boyfriend. So in effect, I am saying that we need to be more certain. I will introduce amendments to this effect.

My third and last point concerns a question that I have asked many times. It is about the vagueness and lack of certainty with which we do our work. Earlier on in this particular session, I talked about the fact that we seem to be picking some parts of the Treaty as and when we wish, just like a menu for food. When you have a law, which has hardly been in operation for three years, and

every year you have an amendment to that law, it clearly shows that there is need for a more comprehensive review. In the very last paragraph of the committee report, it says, “*The Secretariat informed the committee that as the Community heads into the Common Market, a comprehensive review of the legal instruments would be undertaken, including the EAC Customs Management Act, 2004.*”

One of the areas highlighted was the issue of use of discretionary powers, and for me the issue of penalties is more important. We have said here before that when we make laws, which do not have penalties or some kind of adherence mechanisms, it becomes very difficult for us to ensure its enforcement, and to make the stakeholders realise that if they do not adhere to that particular law, there are certain penalties that they may face. I would like to ask whether the committee found out about the “when”. This is because when you are informed and you do not ask when, this leaves you in the dark. We need to know when this will be done. As we know, we are already launching into the Common Market, therefore, we need to plug these areas so that we can say that “yes, we now have a Customs Union” more authoritatively before we move on to another stage.

I want to thank you and anticipate your support when I move the amendments.

**Ms Zziwa:** Mr Speaker, I am a member of the committee, but I just want to emphasize some of the areas on which the Committee interacted with the Council of Ministers.

During our visit to the border posts, and that report will come to the Floor, we

were informed that some business people were actually seeking for an extension of the period given under Section 5(5) for the use of the areas gazetted as bond areas. The 14 days given under that provision seemed inadequate to some members of the public who were using those bonded warehouses. I think it would be prudent for us to think through this again to see what would be more appropriate.

The second issue that I want to comment on is the issue of discretionary powers, which hon. Byamukama has also talked about. Clause 16(2) of the Bill states that *“Notwithstanding sub-section (1), the commissioner may waive the whole or part of the interest due from the taxpayer, where the commissioner is satisfied that the interest due cannot be effectively recovered by reason of considerable hardship or impossibility, undue difficulty or excessive cost of recovery.”*

Of particular concern is the notion that as we move into the Common Market, we envisage similar treatment or similar applicability of the law to all the taxpayers within the region. Members are saying that when the law gives this discretionary power to a commissioner in the partner states, those differences, in themselves, may cause a difficulty or a barrier to trade, or it may cause non-facilitation of trade. Therefore, I think we need to look at that area and see how best we can facilitate our businesspeople in that regard.

Lastly, on this issue of the immunities and privileges for members I also want to add that as far as the issue of vehicles is concerned, Members crossing the border with their vehicles are required to

leave their motor vehicle registration card at the border. This is in Tanzania, for example, at Namanga. That in itself goes to show that the diplomatic number plates on members' vehicles is not given due consideration. I want to inform the House further that not only do you pay for the car, but you must also leave the registration card for the vehicle at the border.

**Dr James Ndahiro (Rwanda):** Thank you, Mr Speaker. I also support the committee's report and I would like to urge members to appreciate the spirit of this law. You cannot entrust somebody with responsibility and you don't give him or her discretionary powers. Probably what we can do is to look at ways of safeguarding some loopholes. We can think of abuse of power and corruption, put them aside and get some safeguards in the law. But regarding discretionary powers, I think nobody can operate an institution or implement anything without the power to make decisions.

I will give you one example. There are some unforeseen events. What would happen if, for example, there is an outbreak of Ebola in a region and no vehicle or person is around to move to that region? Things would be piled up somewhere in a bonded warehouse incurring expenses. In such a case, what does the commissioner do? Why don't you give him or her, the power to make judgements that in this event, this taxpayer was not able to conduct his business and therefore, there is need to charge him or her? I think if we consider the spirit behind drafting of this law, it is to give power to people to make judgements. That is why they are there. If they are corrupt, or abuse the power,

that is another issue, which we can mitigate.

As a committee, we thought it would be premature to do anything to this law now. Why? Because, we know that we are moving towards the conclusion of negotiations on the Common Market. We know that in January next year, we shall be moving into another important phase of the Customs Union. Now, instead of picking on one or two things now, why don't we allow it time so that we can have a comprehensive review of the law and then look for safeguards that will make sure that the office bearers do not abuse or engage in corruption? Nevertheless, we should not tie the hands of the commissioners by saying they should not have discretionary powers. I do not think that would be appropriate. I thank you.

**The Speaker:** Hon. Members, I think there were some few questions directed to the Committee. Perhaps I could ask the Chairperson to respond to those specific issues before I call the minister to reply.

**Ms Kimura:** Mr Speaker, let me appreciate the discussion that has taken place because it can only make the report that we have presented richer. Let me assure Members of this House that the Committee did grapple with the issues that hon. Member have brought up on the Floor; all those issues about the discretionary powers of the commissioner and the issues about the welfare of the staff of the Community. We believe that the Council of Ministers has heard them, and, I hope that they will address the issues in the near future.

Mr Speaker, with the indulgence of the Council of Ministers, I will be moving, at the appropriate time, an amendment to Clause 12 to address the issue that hon. Ogalo brought up. I thank you.

**Mr. Mwapachu:** Mr Speaker, first I stand to support the motion, and to respond to a fundamental question that has arisen with respect to matters related to immunities and privileges of the honourable members of this House.

The Council of Ministers is very much aware of the difficulties the honourable members have been facing while crossing borders during their travels to work in the EAC and back to their stations. Mr Speaker, I have had occasion to discuss this matter with you, and we agreed on the importance of convincing the United Republic of Tanzania to support the proposals that are before the Council on the Protocol on Immunities and Privileges, which are intended to cover each and everybody in the service of the Community, including the honourable members. I had occasion to talk to the Minister for Foreign Affairs last night, and I think, just before the Council of Ministers' meeting, we might be able to resolve this particular issue. (*Applause*)

However, in my discussions with the honourable Speaker, as well as the Counsel to the Community -and this is of course very much related to the broader role of the Secretary-General in terms of negotiating Headquarters' Agreements with all the partner states- we did look at the Headquarters' Agreement that exists between the United Republic of Tanzania and the East African Community.

That agreement was negotiated back when we had the Tripartite Commission, and of course, the provisions of the 1999 Treaty, which put in place a new institution, namely, the East African Community, has overtaken that agreement. However, that particular agreement falls short in the sense that its coverage at that time did not include members of EALA because it had not come into being at that time. Therefore, there is inadequacy in that Headquarters' Agreement, and it is important that we re-negotiate that agreement with the Government of the United Republic of Tanzania in order to fill that particular lacuna. This is if we are not able to move the Protocol on Immunities and Privileges, which is now before the Council, with the full support of the United Republic of Tanzania.

Mr Speaker, perhaps you could allow me to explain the difficulty that is involved. In a way, it is an inconsequential issue, but of course, it goes to the heart of what the United Republic of Tanzania felt at the time when the Headquarters' Agreement was being negotiated, back in 1994. We have been trying to change the definition of "general staff". Ordinarily in the United Nations system, you will find that the definition of "general staff" is staffs recruited locally in the host country. There has been this feeling by the United Republic of Tanzania that the Community should ideally recruit its general staff from the soil where the headquarters is located or hosted. Therefore, we have been trying to re-look at what we mean by "general staff".

We thought that "general staff" would be the people who would do the more mundane kinds of work. Over time,

"general staff" in the EAC has come to incorporate people with Bachelors' and even Masters' degrees, those who have technical capacities in information technology and other related fields and, therefore, do not strictly fall into the definition of "general staff" as had been intended at the time when the Headquarters' Agreement was being negotiated. Given the nature of our recruitment process, we thought that maybe now we could segregate the "general staff" as par excellence; the general staff who have technical knowledge and even undergraduate or Masters' degrees. We did bring up this proposal to disaggregate that definition, and, of course, this has caused a bit of difficulty on the part of the United Republic of Tanzania.

When I spoke to the Minister for Foreign Affairs yesterday, it looks like the Government of the United Republic of Tanzania is still open to looking into this matter. I hope that by the time of the next Council meeting, we will have either resolved this matter or pursued the re-negotiation of the Headquarters' Agreement to make sure that the definition – (*Interruption*) -

**Ms Hajabakiga:** On a point of clarification, Mr Speaker, I just wanted the Secretary-General to clarify to me whether he is equating the employment system of the UN to that of the Community. I know that under the UN, we are just member states, but I thought that under the East African Community we are all partner states, with the same rights and privileges for employment and other benefits. I just wanted to know whether the Community is looked at in the same way as the UN.

**Ms Byamukama:** Mr Speaker, I would also like some clarification from the Secretary-General on the statement he has made. Article 138(2) says, *“The Secretary-General shall conclude with the governments of the Partner States in whose territory the headquarters or offices of the Community shall be situated, agreements relating to the privileges and immunities to be recognised and granted in connection with the Community.”*

If you give this a narrow interpretation, you will only be looking at the headquarters, and this will be referring to only Arusha. However, the wider interpretation, which I believe is the intention of the Treaty, includes all the offices. For example, the Lake Victoria Basin Commission offices in Kisumu would be such an entity, which would also require some form of agreement to enable these offices to be granted privileges and immunities. It is in this line that I think we should move to gazette offices of the Community as such.

I also have a problem with the dichotomy of recruiting general staff from the partner state where the office is located. What does it mean? If, for example, the Community does not have offices or its headquarters in some of the Partner States, does it mean that the citizens of those particular partner states will not have the privilege of recruitment into the Community? I think we need to be very clear here, considering the kind of immunities and privileges that the Community grants to its staff. Therefore, we should also agree upon the recruitment process and the offices that we grant to those particular partner states.

My third issue is about the protocol he mentioned. I have a problem when there is mention of a protocol. How many protocols are we going to have? I know that protocols are an integral part of the Treaty, so in effect when we hold this Treaty we should be holding it with all the annexed protocols. We are going to have a very huge Treaty, and the principles will be lost therein. I would really like to propose that we move away from the use of protocols, and maybe come up with a succinct law or agreement. I need some clarification on whether the protocol would take away the fact that they need to look at the agreement. This is apart from those issues, which touch on EALA. Are they also going to look into the issue of offices, apart from the headquarters?

**Mr Mwapachu:** Mr Speaker, let me start with the last point. I think the Treaty does require that we conclude a protocol on immunities and privileges, and we are implementing the Treaty. Unless we amend the Treaty, we will have to proceed to conclude a protocol on immunities.

I think hon. Hajabakiga read me quite correctly. Even though when she stood up she was raising issues as if we were not speaking on the same page, actually we were. What I am saying is that we want to make sure that the key staffs of the EAC are appointed based on the whole Community. They can be appointed from anywhere within the Partner States. If you read the Headquarters' Agreement between the EAC and the United Republic of Tanzania, it talks about appointing general staff on local terms, and that is where the problem lies. I think there has



been a suggestion that we should lay this particular agreement before this House, and that could perhaps explain why we need to re-negotiate that particular agreement. Nevertheless, as I was saying, the protocol that is now before our Sectoral Council on Foreign Affairs intends to move away from a position where we recruit from just one partner state so that we recruit from all the partner states. That is why we were trying to segregate these general staff. You realise that if you are talking about an IT person and that person is recruited on local terms, you are not really giving yourself the scope to be able to get the best person in that particular field. However, when it comes to a driver or a messenger, we are saying we do not believe that somebody from Kigali would like to apply for a job as a messenger in Arusha.

**Hon. Members:** Why not?

**Mr Mwapachu:** Because of the terms that are offered. In the other Headquarters' Agreement, we also tried to put a clause for those categories of staff to be recruited on local terms. Now if this is not satisfactory to honourable members, you can say so. But what we are trying to do in this protocol is to make sure that we recruit our best staff, who are now categorised under general staff, from all the Partner States, leaving only the basic general staff to be recruited on local terms.

**The Speaker:** Hon. Mwapachu, you should also tell the members when they could have the opportunity to give their views on this protocol, because we never see these protocols; we just hear about them when we bring legislation here. Is it possible for us to have a forum in

which we can give our views on these protocols?

**Dr Kamala:** Mr Speaker, allow me at the outset to extend my sincere thanks, on my behalf and on behalf of the Council of Ministers, to the Committee on Communications, Trade and Investments, for an extensive review and a job well done on the proposed amendments. Before I proceed, allow me to recognise those who have contributed to this debate starting with the Chairperson of the Committee, hon. Catherine Kimura, hon. Bernard Mulengani, hon. Dan Ogalo, hon. Dora Byamukama, hon. Margaret Zziwa, hon. Dr James Ndauro and the Secretary-General – *(Applause)*.

Mr Speaker, as I said earlier, we recognise the concerns that the Committee on the immunities and privileges raised, to which the Secretary-General has responded. The Council of Ministers recognises that these privileges are not privileges but the right of the staff and all diplomats who work for the EAC. It is due to lack of a better word that we use the word "privilege", which confuses people. If you are allowed, let us say, one or two cars duty-free, what is the use of that car? You are using that car to travel within the whole of East Africa so that you can work for East Africans. Therefore, it does not make sense that today when you import a car you are given duty-free privileges but tomorrow when you go back to your country, you are required to pay duty. The Council of Ministers, together with the Secretariat, shall work on this issue and liaise with the Partner States to see what we can do for the betterment of all the employees of the Community, including the members of this House,

and the Council of Ministers as well -  
(*Laughter*)

Regarding the amendment of Section 233 about the new forms, let us agree that the world has been changing very fast. Given the new ICT phenomenon, we would like to see all EAC revenue authorities integrated. Some time back, we used to go to the Long Room and find so many people lining up, filling forms. This should all be history. With the use of ICT, you can be able to serve many people within a short time, and we believe that the new forms proposed will be used in addition to the existing ones.

On this issue of discretionary powers to the commissioners, let me first state clearly that Article 16, which we are trying to amend to give the commissioners discretionary powers, is not about waiving arrears or revenue, which is supposed to be collected. It is on interest, which occurs very rarely in Customs, as Customs revenue must be paid on the spot. What we are proposing here is that if after audit an unpaid tax is established, then the commissioner will determine whether he can waive some or all of it. This is not the revenue or arrears, but just the interest, which arises due to unpaid taxes and this does not occur frequently. The amendment therefore does not give power to the commissioner to waive penalties on the principle. It seeks to give power to waive interest, which occurs in rare cases. Hon. Ndahiro has said that if you want somebody - (*Interruption*) -

**Mr Mulengani:** On a point of clarification, Mr Speaker, on this issue of giving power to the commissioner, the situation the minister is explaining is clear. I know that there are

circumstances that will require the commissioner to exercise discretionary powers, but can he clarify to this House whether he could attach a list of such circumstances to the bill as a schedule for purposes of highlighting them, and, therefore, call for a re-wording of this particular clause to say so?

**Dr Kamala:** Mr Speaker, we are all aware that apart from the principle law, there are regulations, which can always go into details of circumstances. We are taking the proposal by the honourable member seriously. If we find that those circumstances are not provided for, we shall make sure that we put them in the regulations. However, let us not forget that these commissioners do not only work with the Act we are amending, but that they have their appointing authorities, and there are systems that make them accountable. I am sure that all partner states would like to make sure that no revenue is lost for any reason. Therefore, there are very many checks and balances, which can ensure that these commissioners do not abuse these powers. Nevertheless, to make sure that we do not create any loopholes, we shall go to the regulations and see to it that we take care of those circumstances.

Mr Speaker, let me conclude by saying that the amendments we are proposing today are going to solve very many problems, like, for example, the problem of congestion in our ports, and we are trying to deal with people who turn the port into warehouses. We are trying to improve the Act so that we can do better.

Lastly, let me say that the Act has performed very well so far, because the evaluation that was conducted recently shows that the Customs Management

Act has done very well so far. Revenues, investments and intra-regional trade have been increasing. The Act has done very well, but there is room for improvement as we have proposed.

Having said that, I now beg to move that the *Customs Management (Amendment) Bill, 2009* be read a second time.

*(Question put and agreed to.)*

#### THE ASSEMBLY IN COMMITTEE OF THE WHOLE HOUSE

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

#### BILLS Committee Stage

The East African Community Customs Management (Amendment) Bill, 2009

*Clause 1, agreed to.  
Clause 2, agreed to.  
Clause 3, agreed to.  
Clause 4, agreed to.  
Clause 5, agreed to.*

Clause 6

**Ms Kimura:** Mr Chairman, the Committee proposes that Clause 6 be amended by inserting immediately before the words, “*of the Partner States*” appearing in the third line, the words, “*and gazette*”.

The justification for this is to make EAC the focus of the action taken by the Customs authorities in cases of auction, while at the same time giving it sufficient opportunity to reach the importers within the Partner States. It will give wide visibility and circulation to all in our region.

*(Question of the amendment proposed.)*

**Dr Kamala:** Mr Chairman, the Council of Ministers is in full support.

*(Question put and agreed to.)  
Clause 6, as amended, agreed to.*

*Clause 7, agreed to.  
Clause 8, agreed to.  
Clause 9, agreed to.  
Clause 10, agreed to.  
Clause 11, agreed to.*

Clause 12

**Ms Kimura:** Mr Chairman, the Committee had circulated a proposal to amend Clause 12 of the Bill by inserting immediately after the words, “*that sub-section*” the words, “*provided such form includes the prescribed particulars*”. However, in view of the issues raised on the Floor, we wish to amend that proposed amendment so that after the words, “*that sub-section*” the insert the words “*provided such forms include the particulars prescribed under Section 233 of the Act*”.

*(Question of the amendment proposed)*

**Dr Kamala:** Mr Chairman, the Chairperson of the Committee thinks the same way as the Council of Ministers.  
*(Laughter)*

*(Question put and agreed to.)  
Clause 12, as amended, agreed to.*

## Clause 13

**Ms Kimura:** Mr Chairman, the Committee proposes that we amend Clause 13 in paragraph (a) by substituting the word, “*before*” with the word, “*after*”. This is just to rationalise and correct the error in the proposed amendment in the Bill.

*(Question of the amendment proposed.)*

**Dr Kamala:** Mr Chairman, it is the humble view of the Council of Ministers to agree with the proposed amendment.

*(Question put and agreed to.)*

*Clause 13, as amended, agreed to.*

*Clause 14, agreed to.*

*Clause 15, agreed to.*

*Clause 16, agreed to.*

*The Title, agreed to.*

#### MOTION FOR THE HOUSE TO RESUME

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Chairman, I beg to move that the House do now resume and the Committee of the whole House report thereto.

**The Counsel to the Community (Mr Wilbert Kaahwa):** Seconded.

*(Question put and agreed to.)*

*(The Assembly resumed, the Speaker presiding)*

#### BILLS Report Stage

The East African Community Customs Management (Amendment) Bill, 2009

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled the *East African Community Customs Management (Amendment) Bill, 2009* and approved it with some amendments.

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

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Speaker, I beg to move that the report of the Committee of the whole House be adopted.

**The Counsel to the Community (Mr Wilbert Kaahwa):** Seconded.

*(Question put and agreed to.)*

#### BILLS Third Reading

The East African Community Customs Management (Amendment) Bill, 2009

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Speaker, I beg to move that a bill for an Act to amend the East African Community Customs Management Act,

2004 to facilitate the smooth implementation of the Act and the discharge of the functions of the Directorate of Customs and the Customs Union as provided for in the Act, be read a Third Time and do pass.

**The Counsel to the Community (Mr Wilbert Kaahwa):** Seconded.

*(Question put and agreed to.)*

The Bill read a Third Time.

## QUESTIONS FOR ORAL ANSWER

### Question EALA/PQ/OA/008/2009

**Ms Dora Kanabahita-Byamukama (Uganda):** Asked the Chairperson, Council of Ministers\_

*“The Treaty for the Establishment of the East African Community has entrenched provisions through which the EAC Partner States could resolve any conflict arising amongst the Partner States through application of the fundamental and operational principles of international law or through bilateral arrangements.*

*Article 124 specifically emphasizes the need to maintain peace and security in order to enhance social and economic development within the Community. The need to promote the realisation of the objectives of the Community reinforces this idea. Therefore, as a matter of principle, the Partner States are required to foster and maintain an atmosphere that is conducive to peace and security through cooperation and consultation on issues pertaining to peace and security of the Partner States with a view to prevention, better management and resolution of disputes*

*and conflicts between them so as to maintain good neighbourliness amongst themselves.*

*Could the Chairperson of the Council of Ministers inform this august House when the conflict resolution mechanism provided for under the Treaty will be put in place?”*

**The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala):** Mr Speaker, at its thirteenth meeting held in November 2005, the Council of Ministers adopted an EAC Strategy for Regional Peace and Security. Goal 14 of the strategy provides for the development of a conflict prevention, management and resolution framework for the EAC. It is also important to note that over the last two years, work has been underway on the EAC Peace and Security Protocol, which will provide a legal domicile for the various activities envisaged to be undertaken within the context of the strategy implementation. The protocol will provide a sound legal basis to other instruments to be developed pursuant to giving form to the various goals. The draft protocol will also be a subject of deliberations at the eighteenth Meeting of the Council of Ministers slated for 31<sup>st</sup> August to 4<sup>th</sup> September 2009. In the meantime, the development of the EAC conflict prevention, management and resolution framework in line with the provisions of the Treaty and the regional strategy on peace and security is underway.

The Secretariat commissioned a short-term study to develop a foundation document on the CPMR framework. The report of the study was presented to the

Secretariat in June 2009. It will provide a basis for negotiation of instruments on CPMR, which all partner states will be obliged to implement. The process is being supported by the AU, though the African Peace Facility in the spirit of African architecture on peace and security. For the findings of the study, it is envisaged that the EAC CPRM framework will provide a policy mechanism to legitimise EAC's interventions and or initiation of processes for conflict resolution in the region, and conflict among and between the Partner States.

**Ms Byamukama:** Mr Speaker, I thank the Council of Ministers for the answer. I seem to remember that you advised the Council of Ministers to provide these answers in writing to our secretariat so that we can have them and follow them up more. In view of the fact that we have not been given the written answers, it becomes very difficult for us to ask more questions.

That notwithstanding, I refer to Article 124 and want to hear from the Chairperson, Council of Ministers, whether what has been done covers this issue in a more comprehensive manner. It was not clear to me whether what has been concluded on the protocol, covers all the aspects of Article 124 and, therefore, addresses the issue of regional peace and security in a comprehensive manner.

**The Speaker:** Hon. Minister, before you answer that question please tell us why you did not provide the honourable Member a written answer.

*(The Counsel to the Community, Mr Wilbert Kaahwa, rose in his place)*

**The Speaker:** I said the honourable Minister. I think the Rules are very clear on who answers questions in this House. Mr Minister, please proceed.

**Dr Kamala:** Mr Speaker, I am receiving different pieces of advice. I would not like to reply to issues of which I am not sure. I would like to request more time so that I am convinced that what I am advised by my experts is correct before I say it before this House - *(Interruption)* -

**Mr Lotodo:** On a point of order, Mr Speaker, during our last meeting, I asked the Minister a question and he promised to distribute his answers to members. That has not been not been done up to now. Is he in order?

**The Speaker:** In he in order to do what, *Mheshimiwa?*

**Mr Lotodo:** Is he in order not to distribute written answers to members when you gave him a directive to do so?

**The Speaker:** I think that is what I was asking the minister. He has said that he does not believe in the answer he was reading, so he wants some more time to bring an answer to this House. I think we should give him more time - *(Interruption)* -

What clarification do you want, hon. Byamukama? Do you want a clarification from me or from the minister? The minister has said he does not believe in the answer and he is going to provide you with a different answer. Unless it is something different - *(Interjection)* -

**Mr Sebalu:** Mr Speaker, this is in addition to the question that hon. Byamukama asked – *(Interruption)* -

**The Speaker:** No, forget about supplementary questions. The minister has said that even the first answer he gave is not even correct, so he is going to come with something else. I do not know on what you are going to ask a supplementary question.

*Mheshimiwa Waziri, please* come up with a proper answer next time.

**Mr Sebalu:** Most obliged, Mr Speaker, since there is no answer. *(Laughter)*

#### **Question EALA/PQ/OA/012/2009**

**The Speaker:** Hon. Kidega, before you ask your question, have you received the written answer from the Minister?

**Mr Dan Kidega (Uganda):** Mr Speaker, I have nothing as of now.

**The Speaker:** Hon. Minister, I gave a ruling in this House in Arusha that you should give honourable Members – or at least the member who asks the question – a written answer. I said the same thing during question time yesterday. However, you have not done this even today. I know the Counsel to the Community is busy looking through the Rules to say that answers are either written or oral, but I gave a ruling. If you look further, the Rules say that if there is something that is not provided in these Rules, the Speaker rules, unless the Counsel to the Community wants to question my ruling.

Hon. Minister, I think you should provide these members with the answers

to all the questions they are going to ask tomorrow. We therefore have no questions to ask you today. Hon. Members, you will get the written answers tomorrow morning so that you can ask your questions tomorrow.

Is there anything else on the Order Paper? I do not think there is anything else on the Order Paper, but before I adjourn the House, I would like to make an announcement. Honourable members the Minister for Home Affairs, the hon. Lawrence Masha has invited you all to a dinner and cocktail reception this evening at his residence at 7.00 p.m. You will be picked from your hotels at 6.30 p.m. so that you can be there at 7.00 p.m.

#### **ADJOURNMENT**

**The Speaker:** I now adjourn the House until tomorrow at 2.30 p.m.

*(The Assembly rose at 4.30 p.m. and adjourned until Wednesday, 12 August 2009 at 2.30 p.m.)*