



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

Official Report of the Proceedings of the East African Legislative Assembly

SECOND MEETING – 1ST SESSION – THIRD ASSEMBLY

13th Thursday, September, 2012

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

PRAYER

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. Members, I rise to make the following communication. First, we thank the Ministry of East African Community Affairs, Kenya for availing each one of us a copy of their publication Jumuiya News. As an Assembly, we commend them for the quality and content of the publication, which is balanced and focused on EAC current issues. This is the bulletin and I think we all received it yesterday, thank you very much.

Secondly hon. Members, I wish to inform you that hon. Chris Opoka Okumu, one of our members from the Republic of Uganda was yesterday taken ill and admitted in Nairobi hospital. I visited him this morning and I could see that every effort is being made to treat him. He is promising and greets you and wishes you well and thanks you for your prayers.

Thirdly, hon. Members, with deep sorrow I regret to inform you of the untimely death of Mr David Naloo who has been a long serving permanent Secretary of the Ministry of EAC Affairs, Kenya. As a House, we extend our condolences to the President of the Republic of Kenya and the entire government of Kenya for the loss of this dedicated servant.

In the same breath, we extend our condolences to the Minister of EAC who is one of us, the Chair, Council of Ministers and the whole Ministry of EAC Affairs of Kenya upon the loss of one of their members.

Of course we extend our sympathies to the family and his relatives and friends. We pray to the Almighty God to grant his soul eternal rest.

I beg that we stand to observe a minute of silence in honour of the deceased.

(The members observed a minute of silence.)

LAYING OF PAPERS

THE REPORT OF THE DELEGATION TO RIO DE JANEIRO

Ms Nancy Abisai (Kenya): Thank you, Madam Speaker. I beg to lay on the table the EALA delegation report for the Rio plus 20 United Nations conference on sustainable development held in Rio de Janeiro, Brazil from 20th to 22nd June 2012. Madam Speaker, I beg to lay.

The Speaker: Thank you very much. The report stands committed to the Committee on Agriculture, Tourism, Natural resources to follow up on the recommendations.

REPORT OF THE WORKSHOP FOR EALA WOMEN MPS AND CHAIRPERSONS OF
PARLIAMENTARY CAUCUSES

Ms Valerie Nyirahabineza (Rwanda): Rt hon. Speaker, I beg to lay on table the report of the workshop for EALA women MPs and chairpersons of women parliamentary caucuses. I beg to lay.

The Speaker: Thank you very much, hon. Valerie. The report stands committed to the Committee on General Purpose to follow up on the recommendations.

MOTION

APPOINTMENT OF MEMBERS TO STANDING COMMITTEES

Mr. Mike Sebalu (Uganda): Rt hon. Speaker and honourable colleagues, Members of EALA, I beg to move that in accordance with the provisions of Rules 77, 78 and 81(3) (c), this House do appoint the following members to serve on the respective standing committees. Rt hon. Speaker, I beg to move.

The Speaker: The motion has been seconded.

Mr. Sebalu: Rt hon. Speaker and hon. Members of the East African Legislative Assembly, I wish to proceed as follows as per the requirements.

“WHEREAS Rule 77, 78, 81 (c) of the Rules of Procedure of the Assembly provides that the Assembly appoint relevant committees necessary for the efficient discharge of its function

NOTING that on 6th June 2012, the Assembly appointed members of the standing committees

NOTING FURTHER that in accordance with the provisions of Rule 78(5) of the Rules of Procedure except for the House Business Committee and for purposes of equal representation by Partner States, each elected member shall serve on two committees

AWARE that the House Business Committee had inadvertently nominated hon. Saole Ole Nkanee to serve on three committees namely Accounts Committee, Agriculture, Tourism and Natural resources Committee and Regional Affairs and Conflict resolution Committee

NOTING that hon. Abubakar Ogle had been nominated to serve on only one House Business Committee under Accounts Committee

FURTHER NOTING that hon. Sarah Bonaya in consultation with the Kenya Chapter agreed to serve on the Accounts Committee

NOW THEREFORE this Assembly do hereby resolve as follows:

1. *That the following members be appointed to the respective committees as follows:*

(a) *Hon. Abubakar Ogle Abdi to serve the Committees on General Purpose and Regional Affairs and Conflict Resolution.*

(b) *Hon. Saole Ole Nkanae to serve on the Committees of Accounts, Agriculture, Tourism and Natural Resources*

(c) *Hon. Sarah Bonaya to serve on the committee of Accounts and Regional Affairs and Conflict Resolution.*

2. *That the Appointments do take immediate effect.”*

Rt hon. Speaker and hon. Members, I beg to move.

The Speaker: Thank you very much, hon. Sebalu. Hon. Members, the motion on the floor is that in accordance with the provisions of Rules 77, 78 and 81 (3) (c), this House do adopt the following members to serve on the respective standing committee. Debate is open.

Mr. Abubakar Ogle (Kenya): Thank you, Madam Speaker. I just want to make one small statement that all is well that ends well. I apologise on behalf of the Kenyan Chapter that this confusion has been allowed to continue for that while.

Meantime I also wish to thank and pay my deepest gratitude to my sister Sarah Bonaya who was not party to this committee mix up but who in her motherly wisdom decided to donate, if I may use that word, one of her committees in order to resolve this impasse.

I would also like to thank hon. Nkanae, a fellow pastoralist for having agreed to allow that this thing take course as it is procedurally provided for. Thank you, Madam Speaker and I support.

The Speaker: Thank you very much. I think there is no other member to debate. Hon. Members, I wish to call on hon. Sebalu to wind up the debate.

Mr. Sebalu: Thank you very much, Rt hon. Speaker. What we have just undertaken this afternoon is in conformity with the Rules of Procedure and we were just correcting an anomaly that was unforeseen at the time we constituted the committees.

So even the aspect of donating and giving does not arise because the rules do provide that each and every member shall serve on two committees and in the wisdom of the House business Committee, we had to put it right and follow and conform to our Rules of Procedure. So this motion was intended to serve that purpose and I am glad that we are putting right what had gone amiss at some point in time.

Madam Speaker, I beg to support.

The Speaker: Thank you very much, hon. Sebalu. Hon. Members, the motion on the floor is that in accordance with the provisions of Rules 77, 78 and 81 (3) (c), this House do adopt the following members to serve on the respective standing committees. I wish now to put the question.

(Question put and agreed to.)

MOTION

ELECTION OF MEMBERS OF THE EAST AFRICAN LEGISLATIVE ASSEMBLY COMMISSION

Ms Hafsa Mossi (Burundi): Thank you, Madam Speaker. Hon. Members, I beg to move that in accordance with Section 5(1) of the Administration of the East African Legislative Assembly Act, the following members be appointed to serve on the EALA Commission.

The Speaker: Seconder? Hon. Sebalu and hon. Ogle. Hon. Hafsa, proceed.

Ms Mossi: Rt hon. Speaker and hon. Members,

“WHEREAS the Administration of the East African Legislative Assembly Act 2012 came into force on 6th July 2012 and

WHEREAS the above said Act by the provisions of Section 3(1) establishes a Commission known as the East African Legislative Assembly Commission herein after known as the Commission and

WHEREAS Section 3 (2) of the Act provides that the members of the Commission shall be composed of the Speaker, the Chairperson of the Council who shall be an ex-officio member and two members of the Assembly from each Partner State elected by the Assembly and

WHEREAS Section 5(1) of the Act provides that members of the Commission shall be elected as soon as the Assembly is constituted

NOTING that the Act came into force on 6th July 2012, one month after the Assembly was constituted and therefore the Commission could not be elected then

NOTING FURTHER that as a transitional mechanism, Section 20 of the Act provides that upon the coming into force of this Act and until the Assembly is constituted under Section 5, the functions of the Commission shall be performed by the House Business Committee

AWARE that the composition and functions of the Commission and the House Business Committee are similar and that the House Business Committee was duly elected by the Assembly as soon as the Assembly was constituted

NOW THEREFORE this Assembly do hereby resolve as follows:

1. *Confirm the current elected members of the House Business committee as members of the Commission pursuant to the provisions of Section 5 of the Act.*
2. *That the necessary amendments to the Rules of Procedure to operationalise this resolution.”*

Rt hon. Speaker, I beg to move.

The Speaker: Thank you very much, hon. Mossi. Hon. Members, the motion on the floor is that in accordance to Section 5 (1) of the Administration of the East African Legislative Assembly Act, the following members be appointed to serve on the EALA commission. Debate is open.

Mr. Kaahwa: Thank you, Madam Speaker. The motion on the floor cites the relevant provisions of the Administration of the East African Legislative Assembly Act, 2012. For purposes of giving basis to the resolution this august House is about to make. However I feel that there is a paragraph which is missing and for purposes of completion, I want to suggest that this paragraph be included so that the motion will show that between now hitherto before this Commission is constituted, some work has in accordance with Section 20 of the Act, been discharged by the House Business Committee.

You see in the penultimate paragraph the resolution states that, “Noting further that as a transitional mechanism, Section 20 of the Act provides that upon the coming into force of this Act and until the Commission is constituted under Section 5, the functions of the Commission shall be performed by the House Business Committee.”

That paragraph states the legal provision but the factual provision is that hitherto the House Business Committee has been doing what Section 20 enables it to do.

I therefore propose that after the last paragraph which starts with the word ‘aware’, another paragraph be added stating that, “Further aware that hitherto, the functions of the Commission have been performed by the house Business Committee” because the third paragraph ‘noting further’ states the legal provision.

The paragraph I am now proposing will bring into account what has actually been done by the House Business Committee. I thank you, Madam Chairperson and with those words, I support the motion.

The Speaker: Thank you very much. I appreciate that there is a motion on the floor and somebody should second it. Hon. Sebalu and hon. Nyiramilimo. Thank you very much and I think this addition is that, “Further aware that the functions of the EALA Commission have been performed by the House Business Committee”- Perhaps you can give me a copy, if you have written it properly. Thank you.

Mr. Kaahwa: I will do that Madam Chairperson and I am sorry procedurally I debated before the motion was debated.

The Speaker: Proceed.

Mr. Kaahwa: I did debate.

The Speaker: No, I want you to read it out.

Mr. Kaahwa: Okay. First of all, let me make an amendment to the paragraph of the resolution which reads, “Noting further...” I hope all my honourable colleagues are on that paragraph. In the second line where it says, “Until the Assembly is constituted...” the resolution should say, “Until the Commission is constituted” because Section 5 and the motion is about the constitution of the Commission. The Assembly has since been constituted.

Now the paragraph I am proposing will be the last one before the resolution and the words ‘Now therefore’. “Further are that hitherto, the functions of the Commission have been performed by the House Business committee;”

The Speaker: Thank you and you have been seconded by hon. Sebalu and hon. Odette. I think procedurally we put a question on this amendment. Hon. Members, I beg to put the question to the amendment to the resolution as moved by hon. Kaahwa. I now put the question.

(Question put and agreed to.)

The Speaker: Now I think we can move to the full motion, with that amendment.

Mr. Peter Mathuki (Kenya): Thank you, Madam Speaker for this opportunity. For clarification, the Counsel may wish, so that we can be educated on whether we should first do the amendments on the rules of Procedure and then after the Rules of Procedure are adopted in this House, we go further to do either elections or confirm those in the House Business Committee to continue serving in that.

The Speaker: Thank you, I think that is a question. Perhaps it would be good that the CTC could respond but I can see that already this resolution is here but the amendment of the rules are not even done and I think the Act takes precedence of even the Rules of Procedure. So what is being done right now is to make sure that we act within the law, which law is already in place. So I think for now we are moving in the correct direction. Thank you very much.

Ms Odette Nyiramilimo (Rwanda): Thank you, Rt hon. Speaker. I also had a clarification to ask the mover. Because we did not have the Act with us, it is very difficult to know but the clarification I wanted to ask is because normally in the committees after two and a half years there is a change. Will it be the same if the commissioners are now in this Commission because I don't recall if that is in the Act. Thank you, Rt hon. Speaker.

The Speaker: Thank you very much. I think hon. Sebalu should come to wind up and then also answer that question.

Mr Sebalu: Is hon. Hafsa winding up? She is the one who moved. I just wanted to throw light on the provisions within the Act do state that the commissioners will serve for a period of two and a half years and they can be re-elected but the term for each commission is two and a half years so it is in conformity with what is provided for under the committees.

The Speaker: Now I invite hon. Hafsa Mossi to wind up the debate.

Ms Mossi: Thank you Rt hon. Speaker. I would like to thank those who have contributed; hon. Odette, hon. Peter Mathuki, hon. CTC and hon. Sebalu. I think all these questions, which arose from this motion, have been answered.

As you have seen in the motion, all the work that should be done by the Commission is being done by the House Business Committee and as soon as we change to the Commission, everything else will be discharged by the same Commission so there are no changes whatsoever with regards to the work which will be done for the Commission.

With that, I wish to support the motion and to thank everybody for their contribution. Thank you.

The Speaker: Thank you very much, hon. Mossi. Hon. Members, the motion on the floor is that in accordance with Section 5(1) of the Administration of the East African Legislative Assembly Act, the following members be appointed to serve on the EALA Commission. I wish to put the question that the motion be carried.

(Question put and agreed to.)

MOTION

Mr. Abubakar Zein (Kenya): Rt hon. Speaker and honourable Members of EALA, I would like to move the following motion with your permission, Madam Speaker that this Assembly do resolve to mark the 15th September of this year as the International day of democracy.

The Speaker: Secunder? Hon. Abdul Karim. Hon. Zein, proceed.

Mr Zein: Madam Speaker,

“AWARE that fundamental principles of the Community to govern the achievements of the objectives of the Community by the Partner States shall include among others good governance including adherence to the principle of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as recognition, promotion and protection of human and people’s rights in accordance with the African Charter on Human and People’s rights

FURTHER AWARE of Article 7 Clause 2 of the Treaty binds the East African Community Partner States to undertake and abide by the principles of good governance including adherence to the principles of democracy and

NOTING that a credible democratic culture is a crucial element in achieving regional integration and sustainable development and

BEING MINDFUL that democracy is a universal value based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participating in all aspects of their lives and

AWARE that the United Nations General Assembly and resolution A/2/7 of 2007 encouraged governments to strengthen national programs devoted to the promotion and consolidation of democracy and also decided that the 15th September of each year should be observed as the International day of democracy

AWARE FURTHER that in January 2007, the Heads of States and Governments of the African States being determined to promote and strengthen democratic principles within Member States adopted the African Charter on Democracy, Elections and Governance and whereas 29 of the 53 members of the African Union have now signed the charter including all the five East African Community States

NOTING that the International Parliamentary Union by its letter of 20th June 2012 to all its members to which EALA belongs encourages members to commemorate the 15th day of September

NOW THEREFORE I request that this House do resolve to:

- 1. Mark 15th September 2012 as the International day of democracy*
- 2. To urge all stakeholders to pursue dialogue and inclusiveness as a means to democracy.”*

Madam Speaker, I beg to move.

The Speaker: Thank you very much, hon. Abubakar. Hon. Members, the motion on the floor is that the Assembly do resolve to mark 15th September as the International day of democracy. Debate is open.

Ms Abisai (Kenya): Thank you, Madam Speaker. I stand to strongly support this motion on two issues. One is that the issue of democracy in terms of human rights and social justice are issues that cannot be whisked away especially within our continent and within East Africa as a whole. Our countries have been signatories to a lot of charters especially the African Charter on democracy, elections and governance and this charter has laid out principles on how free and fair elections should be held. They have clearly talked about principles of good governance and

democracy. It has talked about issues of non-discrimination, matters on how to make sure that the marginalised and less fortunate members of the community are also brought on board.

Since we are looking at how to advance our Community and make sure that everybody is enjoying equal rights and opportunities, I believe that having a special day on democracy will enhance the anticipation of our people and even educate people more on aspects of democracy that we very often think is known and sometimes is not known.

So Madam Speaker, I beg to support. Thank you.

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

Mr. Leonce Ndarubagiye (Burundi): Thank you very much, Rt hon. Speaker for giving me the floor. I also support the motion but I would like to bring to the attention of this august House of some differences we see around the world concerning democracy.

The name of North Korea is the People's Democratic Republic of North Korea. How democratic that country is, is questionable.

We hear not very far away our neighbour the Democratic Republic of Congo. It may be democratic by the name actually but when you look at what happens there during elections and at other things-

During the Cold war, the Communist countries called themselves People's democracy. How democratic they were is also questionable. That is why I ask myself, is it not wise to include in this motion what we really understand by democracy so that it is very clear and we do not copy what other countries say but as we see it in East Africa. That is my small contribution but I support the motion. Thank you.

The Speaker: Thank you very much, hon. Leonce. I know that there is a standard definition of democracy as it is understood. Perhaps that is what we shall include in the motion but I think there is what is appreciated and understood as democracy. I don't want to go down the enumeration but we know them. Thank you very much.

Mr. Sebalu: Thank you very much, Rt hon. Speaker. I want to join my colleagues who have already made submissions to declare my support for this motion which is a very important one. I would also like to thank hon. Zein for bringing it up. My support is based on the foundation of the East African Community.

One of the conditions that any intending or interested Partner State that wants to join the East African Community, among others, one of the conditions is that you must be a democratic state, which clearly means that even when you have assumed and the situations in your country- You

get a coup along the way, that may be a good consideration for keeping you away for the time being until you put to order your democratic credentials.

By that alone, it clearly means that we are not only proponents of democracy as a region but we also practitioners of democracy given that it is one of the foundations of the East African Community.

Therefore it is important for us to identify and associate with any democratic principles and processes and the recognition and observance of this international day is definitely a very good development which we must take seriously as a region.

But maybe I wish to get some help from the mover because the principle is to celebrate or to observe. Maybe you would have gone a little further to give us possible ways of doing it and making impact. Are we going to issue a statement by the Speaker and it is aired by all the media waves? Are we going to have a pull-out from the major papers because we must come out with an impactful way of doing it? I realise there are just two days to go so how best? Are we leaving it here and pronouncing it? I would need help along that but I do agree with the principle but I would benefit from a little detail on how best to do it and make some good impact.

With that, Madam Speaker, I beg to support.

The Speaker: Thank you very much, hon. Sebalu. I think this is already an effort; the fact that this whole august House is giving time to debate this resolution is one of these activities but we can also look at others.

Mr. Abubakar Ogle: Thank you, Madam Speaker. In 1998, the then President of Kenya Daniel Arap Moi introduced what he called a queue voting system and he called it our own traditional African democracy.

A leading media critic Ian Mather was commenting on that and he said in this World there has been autocracy, there has been aristocracy, there has been cronyism, there has been democracy and for lack of any word, I will call the Moi system 'queuecracy'.

I am not particularly concerned about the crazy part of this thing. What I am really concerned about and why we should support this motion is the fact that in its very broad sense, it is talking about the rule of law, good governance, transparency, social justice, human rights and all those kinds of things.

In as far as these particular motion talks about those kinds of issues, I will support, Madam Speaker. Thank you.

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

Mr. Peter Mathuki (Kenya): Thank you, Madam Speaker and I stand to support this motion noting that of course when you talk of democracy, we are also talking of the desire to be free from anger, from poverty, illiteracy and of course all other forms of political, economic and social deprivation.

Madam Speaker, during the week of global action that was in the first week of this month and as much as we appreciate and enjoy democracy in this region, we must also stand in solidarity with other countries that are neighbouring us especially in the SADC region. Madam Speaker, we are talking of Swaziland where citizens of Swaziland which falls within the region of SADC and who are our neighbours are still suffering. They are talking of steel governed under a monarchy system.

Therefore, we may wish as a way of standing firm and supporting democracy, send a strong message to SADC to support this and requesting and appealing to the people of Swaziland who fall under the SADC to be given the democracy and freedom that they deserve. Madam Speaker, I beg to support.

The Speaker: Thank you very much.

Ms Jacqueline Muhongayire (Rwanda): thank you very much, Madam Speaker. I wish to thank hon. Zein Abubakar for moving this motion on this important subject of the International day of democracy where we focus on dialogue and inclusiveness.

Madam Speaker, in Africa and East Africa in particular, the quest is for a dignified and better life and not a vote. As you are aware, the motto of our Community is one people, one destiny.

Madam Speaker, among others the main challenges in African and East Africa in particular are historical and colonial legacies. In particular, democracy challenges are everywhere and not only in Africa. So as Parliament and parliamentarians we must have commitment in enhancing democratic values and good governance for the benefit of our people.

Madam Speaker, other challenges are the relationship between the ruling party and the other political parties. I think we should assess our environment and see how we can have a constructive partnership between the ruling party who are most of the time the winners and how we can include the losers and bring them on board to have a constructive partnership to the benefit of our people for sustainable development, sustainable peace and sustainable economic growth.

Madam Speaker, I think that as Partner States of the East African community, we should learn from each other best practices and also learn negative and positive lessons in order to take into account the basic needs of our people and citizens we represent, to focus on basic needs, poverty alleviation and build unity, social cohesion for the benefit of our future generations.

Madam Speaker, we also need to think about particular groups like inclusion of women in the whole decisions making process in our Partner Steps and to bring on board the youth who are pour future generation.

Madam Speaker, some positive lessons I can give a case of Rwanda where in the Constitution after our history and our legacies from colonial systems, our Constitutions provides a power sharing system where the winner cannot take it all. The winner or the ruling party cannot take more than 50 percent of the Cabinet. The rest is shared with other political parties, even those who do not belong to political parties.

This is because our historical and colonial legacies were tribalism is taking root and the basic need of our people is to fight against poverty, to have basic needs for the family and I think as politicians we must think beyond our fight for power.

Madam Speaker, I think a consultative forum for political parties is necessary to discuss on major issues of the state without losing the independence of any political party. I think there is need to develop a framework for civic education mechanism as has been adopted by the Committee eon Regional Affairs and Conflict Resolution and also to start by educating our youth who are our future generation and also to build the culture of tolerance, mutual respect, dialogue and inclusiveness.

Madam Speaker, I beg to support the motion.

The Speaker: Thank you very much, hon. Jacqueline Muhongayire. I think I can now invite hon. Zein to wind up the debate.

Mr. Zein: Thank you very much, Madam Speaker. First I would like to thank all the hon. Members who spoke and supported the motion and contributed in discussion and raising debate about democracy; hon. Nancy, hon. Leonce, hon. Sebalu, hon. Ogle, hon. Mathuki and hon. Jacqueline have added value to this discussion.

However, I would like to say the following. One, it so happens that the 15th September is celebrated as the world democracy day but we have also institutionalised this day in the East African Community as the Mara day. So it is possible to celebrate the essence of the Mara and the migration of the animals from Tanzania to Kenya and back to Tanzania as a reflection of participation. The animals are trying to say something about borderless integration. So we as East Africans and while we are going to communicate back to the International Parliamentary Union is to indicate to them that we have already institutionalised this day and forever more until it is changed.

Hon. Sitta, I am sure it is true that they come for honeymoon in Kenya but that is the essence of life. It is important for us to appreciate that from the time we adopted the Mara day, we will be celebrating the Mara day and the World democracy day.

Hon. Leonce is somebody I have great respect for but I would like to draw his attention that when I was moving this motion, I talked about certain principles of social justice, of inclusion, participation, equality, equity and these are the principles that we want to define our democracy in the East African Community. Not by branding a name and by saying you call yourself democratic and then you are democratic. We shall spend this day to reflect on the achievements and progress that we have made in the region to inculcate the culture of tolerance, the culture of inclusion, the culture of equality and equity. As some hon. Members said, this day will not have full meaning in our life if the women of east Africa are not fully participants in the democratic process.

I don't know about the other four countries but let me speak of a country that I come from and which I know better. The women of our country Kenya are the majority of our people so by that principle alone and them being the majority of our people, if you are going to say equality and participation then you should expect them to be the majority in most of the institutions but because we have historical circumstances and barriers and institutionalised discrimination which by now has been outlawed by our constitution, all we are now doing in Kenya is to implement and remind each other.

For instance, the women of Kenya and many of the men who are democratic have said it loud that if we have an outcome in the coming elections of which the principle of not more than one third is not reflected, any Chamber that is constituted thus would be unconstitutional and many people are prepared to make sure that those chambers do not come into existence.

Further I will say these things and then sit down. One, we have to think of levels of engagement as far as democratic traditions and principles are concerned. Levels at the grass root level, at the national level and at the East African level. At the East African level we are being reminded if in our practice maybe not in our documentation but in our practices we do not treat all of us fairly and equally and for those who have suffered either because of size or circumstance or history, treat them equitably then we will not be making progress on democracy.

So when the questions were being asked yesterday, are there imbalances, I think people are also talking about these imbalances which need to be addressed in an equitable way so that everybody feels part of this Community.

Secondly that the citizens of East Africa, if we inculcate a culture of building an East African Community that is based on democratic principles. If they find challenges in the practices of Partner States, they would run to the East African institutions to find relief and that should be our dream.

Last but not least, Madam my thinking is and this is also still inspired by hon. Leonce, are we only going to reflect for a day? No, my suggestion would be that this is the day that we reflect but we make commitments for the coming year so that next year on the 15th again, we will come back here and reflect and by that time we should not be afraid to come and talk about difficult things to each other.

I know it is always easy to say good things to each other and say our region is democratic. It is easy to say that so I am hoping next year we will come and say difficult things to each other in the spirit of dialogue and inclusion.

Madam Speaker, I beg to move.

The Speaker: Thank you very much, hon. Zein. I want to thank you because you have assured the peoples of East Africa that wherever they feel challenged, the East African Community institutions are there and that is where they should run to seek refuge in terms of democratic existence. I want to add that Article 6(d) of the Treaty actually affirms that. I want to thank you very much.

Hon. Members, the motion on the floor is that this Assembly do resolve to mark 15th September as the International day of democracy. I now wish to put the question.

(Question put and agreed to.)

MOTION

RESOLUTION OF THE ASSEMBLY ON THE PROPOSAL TO AMEND ARTICLE 59 OF THE TREATY IN RESPECT OF PRIVATE MEMBERS BILLS

Ms Patricia Hajabakiga (Rwanda): Thank you Rt hon. Speaker. I beg to move that this Assembly do resolve to urge the Summit of EAC Heads of State not to amend Article 59 of the Treaty. I beg to move.

The Speaker: Seconder? Hon. Pareno, hon. Taslima, hon. Ogle, hon. Sebalu. Proceed, hon. Patricia.

Ms Hajabakiga: Thank you, Rt hon. Speaker.

“WHEREAS the Council of Ministers at its 25th Meeting received and considered a submission from the United Republic of Tanzania seeking to amend Article 59 of the Treaty to fetter the process of enacting Private Members Bills and

WHEREAS the Council has called for comments from Partner States prior to presenting the proposal to the Summit for express decisions and so far the Republic of Uganda has submitted its comments

AWARE that the proposal from the United Republic of Tanzania is not founded on parliamentary practices and procedures as well as parliamentary tradition all over the Commonwealth where parliaments have opportunity to enact legislation through Executive or private members bills, which process is executed judiciously taking into account all view points

CONCERNED that attempts to fetter the legislative process of the Community will greatly impinge on the Assembly's legislative and representative function

AWARE that the matters under contention are related to the Assembly's Rules of Procedure; Rule 26, 61 to 71 which therefore calls for the Rules of Procedure to be amended and not the Treaty

FURTHER NOTING that enactment of Private Member's Bills are one of the main avenues through which all Parliaments get work done in the execution of their mandates which is the same justification for the East African Legislative Assembly which enhances also representative function

NOW THEREFORE this Assembly do urge the Summit of the EAC Heads of State to:

- 1. Take note of the negative impact the proposed amendment will have on parliamentary democracy in our region and should therefore reject the proposal to fetter the legislative process.*
- 2. To ask its relevant committee of EALA to review the rules of private members bills to strengthen the consultative procedure and direct the Secretary General to transmit this resolution to the Summit of EAC Heads of State."*

I beg to move, Mr Speaker.

The Speaker: Thank you very much, hon. Patricia. Hon. Members, the motion on the floor is that this Assembly do resolve to urge the Summit of EAC Heads of State not to amend Article 59 of the Treaty. Debate is open.

Ms Judith Pareno (Kenya): Thank you, Rt hon. Speaker and thank you, hon. Hajabakiga. I wish to support this motion by first proposing an amendment that on the resolutions we include as number four and that it should read as follows, "That this Assembly do direct that the Clerk of the East African Legislative Assembly do transmit this resolution to the respective Speakers of the Partner States national assemblies."

The Speaker: Hon. Members, hon. Judith is moving an amendment. Is that amendment seconded? Perhaps I would also advise you that you should always write it to the Speaker so that she is able to understand the amendment properly. I can see hon. Kiangoi Joseph has seconded it. Can you speak to that amendment, hon. Judith?

Ms Pareno: Thank you, Rt hon. Speaker. I wish to propose that we amend and include as number four to the resolution that this Assembly do direct that the Clerk of the East African Legislative Assembly do transmit this resolution to the Speakers of the Partner States national assemblies.” I wish to propose that amendment.

The Speaker: Thank you. That has been agreed and I think it has been seconded. We just wanted to hear why you are moving that amendment. What benefit will it bring or what value does it add? That is all we wanted to hear from you and then I will ask the members if they are convinced to support you so that we include it on the resolution as an amendment. That is why I gave you those few minutes to seek their support through further argument. Thank you.

Ms Pareno: Thank you, Rt hon. Speaker for that guidance. I wish to put across this point because as you note, I think to me this kind of amendment to the Treaty will directly impact on the core business of this Assembly and as introduced in the report which I have had a chance to discuss a bit- I have not read it a lot but I have read a bit, it is suggesting that the national assemblies shall be contributing towards the bills and it is their recommendation that this House will be coming to discuss.

I think if we are able to transmit these resolutions to our national assemblies as is allowed under our Treaty, they will be able to digest the impact of this. We want them to take it heavily just like we want to transmit it to the Heads of State and the Summit, I think it will give more weight for them to be aware and be able to contribute.

It will be a way for us to communicate that we are so serious, we do not take this lightly and that we feel that our core business has been interfered with and we will be seeking their support in terms of not supporting this kind of amendment. I think it will be proper that we also lobby or we are able to talk to them so that the Heads of State will be able to reject this kind of amendment. Being the final decision makers, I think our national assemblies will be able to digest and guide us.

Just like we are a Parliament like they are though they are regional, parliamentary practice is all over and I am sure we will be able to benefit from the guidance of our national assemblies. Thank you, Rt hon. Speaker.

Mr. Kiangoi Ombassa (Kenya): Thank you, Madam Speaker. I think why I stood up to support the amendment by hon. Pareno is that we as an Assembly have been elected by parliamentarianism in our respective Partner States. I see the danger of the Executive trying to take back the gains that we have already achieved. It is such a danger that we must warn all those concerned. I know that there is a provision in the Treaty for the Clerk sending the deliberations and resolutions of our Assembly to the respective Partner States parliaments but this is a special case. We must put on the red lights and say that the purpose for which we have been elected to come and legislate is being taken away by certain restrictions, which are being proposed.

It is important because then the parliaments of our respective Partner States will deliberate this issue and it will put pressure on the Executive and even on the Summit to reject this proposed negative approach. Thank you, Madam Speaker.

The Speaker: Thank you very much.

Ms Sarah Bonaya (Kenya): Thank you, Madam Speaker. I think this is my first time to speak in this Assembly and I would like to start by congratulating our President for the good speech and guidance he gave us as an Assembly.

I would also like to congratulate Madam Speaker for being elected and honouring the women of this region and being an example to many. I would also like to thank the Parliament of Kenya for the hospitality they have accorded us and we appreciate.

Madam Speaker, I think this motion is very crucial because the Treaty actually guides us in our responsibilities as a legislature and one crucial aspect is legislation. Bills are brought to this House on matters that need to be regulated and binding to the activities of the region. We have that shared responsibility with the Council of Ministers and as is well known, we have had an uphill task to be able to get Bills generated through the Council.

Of course the minister has ably given us the reasons why because there are other underlying issues. Apparently it is only the Assembly through private members bills, that can come up with very urgent bills which we feel is very necessary and timely to be able to steer the integration process.

Once that has been muscled and killed, I think we are telling the Community to shut up and close the doors because if there are no laws being generated to operationalize the different aspects of the Treaty and protocols then I think we are just telling ourselves that we are not interested in what we are doing.

Of course as other contributors have already said, we should not be muscled and I think those who put that clause in the Treaty had a lot of wisdom in doing that because as an Assembly, we have our duty which we do not share with others. As stakeholders, we all have different roles to play and I think as we do our part and if anybody else is not interested in playing their part, I am sorry, records will be there for posterity so show how this able Assembly has tried to play its rightful role to be able to steer this integration process which is well known to us that it is for the benefit of the people of East Africa and for removing these imaginary boundaries that have put us apart.

So Madam Speaker, thank you very much for giving me this opportunity and I support.

The Speaker: Hon. Members, if there is no member who is against the motion of hon. Pareno then we could put the question and then we debate the actual motion. Hon. Minister, are you against?

Mr. Munya: Madam Speaker, I have some misgivings about that amendment, I am not really against but given the fact that the Community law is usually ranked higher than national law and given the fact that this Assembly is also totally independent from national assemblies, I don't think it gives a very good impression when you are passing a legislation and writing within the legislation that it should be submitted to national assemblies.

This is because the Treaty already provides for that. I don't think it is a very good impression because you are almost suggesting that you need support from national assemblies for you to do your legislative mandate. Even though you represent them, yes they are your constituents but you are totally independent of them. You push the East African agenda so even if it is not direct, the impression created is like you need support from there which you don't really need.

It is up to the House to decide what you want to do with it but I - (*Interruption*)

Mr. Kiangoi: Is the honourable minister in order to suggest that we shall be reporting because the national assemblies are superior when in fact even the Treaty provides for reporting to the national assemblies? It is complementary. Is he not aware that it could be complementary?

Mr Munya: Madam Speaker, I am not against that amendment at all-

The Speaker: I thought I had to rule but the good thing is that hon. Kiangoi was also kind and he did not push hard on the order but I think he was trying to mention that our rule is complementary and not superior in that context. So proceed.

Mr. Munya: Madam Speaker, what I was trying to drive at is that very House must guard its independence as strongly as possible. You have to guard your independence. The hall mark of a legislative assembly is its independence so when you start giving impressions in your legislation that you want to national assemblies to be notified of a certain thing when the Treaty is very clear that legislations that are made are supposed to be submitted there, you start giving a wrong impression.

Madam Speaker, I am not opposing it, I was just expressing an opinion. If you don't agree with my opinion it is okay- (*Interruption*)

Mr. Mwinyi: Thank you, hon. Speaker. I would like to point out to the Rt hon. Minister and I beg your indulgence is I may and quote Article 65 (a) of the Treaty which stipulates that, "The Clerk of the Assembly shall, as soon as practicable, transmit to the Clerks of national assemblies, copies of the records of all relevant debates of the meetings of the Assembly to be aid before the national assemblies by the respective ministers responsible for East African Community affairs."

So in effect, this proposed amendment is entrenching or restating what Article 65(a) stipulates on the Treaty. It is not our way of being subordinate or reporting of seeking their guidance. It is a Treaty provision which has been put on the amendment and perhaps that will assist the hon. minister to support the amendment. Thank you.

The Speaker: Hon. Minister, I think that clarification was-

Mr. Munya: Madam Speaker, I totally support the amendment. I was only giving an impression that an informed person reading the resolution would get outside there when he sees it written on a resolution. So Madam Speaker, I have absolutely nothing against the amendment. I was only expressing an opinion. Thank you, Madam Speaker.

The Speaker: Thank you very much, hon. minister. I think we are all in agreement. Let me put the question to the amendment as moved by hon. Pareno that the Clerk of EALA transmits this resolution to the Speakers of the national assemblies.

(Question put and agreed to.)

The Speaker: Hon. Members, now you can see that our resolution has a fourth addition and those members who are debating should take that in cognisance.

Mr. Mike Sebalu (Uganda): Thank you very much, Madam Speaker. I would like to thank hon. Patricia Hajabakiga for moving this motion and resolution. I think we all appreciate that all the different callings do have principles upon which they operate and it is those that allow them to maximise their potential in executing their mandate. We are parliamentarians, be it at the region, be it at the national level. There is always provision for private members bills and it is put there in good faith, well intentioned and to serve a useful purpose.

These kinds of provisions are almost in all policy documents. You must always provide for the unforeseen because ordinarily, the work of initiating legislation is an Executive one. Then the work of legislating is a parliamentary one but the whole idea of providing for private members bills has a clear mischief it is supposed to cure. There could be very important aspects out there in the population that do need legislation to be made and be able to regulate the affairs of the people in that respect but you might find that the Executive arm is not forthcoming.

That is the reason that provisions are put in place to allow private members to move and the procedures are also laid down. My own imagination is that if the Executive is efficient, the Executive is proactive and sensitive and on the ground, they should be able to initiate those legislations and the private members may never get a chance to even bring one.

But where the Executive is slow, not in terms of not being very efficient but you know they could take their time. There is this legislation, we have got five years as EALA, we could move

it in the third year and yet on the ground, the situation is such that you need legislation to give legal effect of some sort to cure some mischief within the legal framework.

So that is why the private members bills or provisions for private members bill sis provided for even in the Treaty and even in our constitutions. I just want anyone to tell me where this is not provided for in the Partner States parliaments then someone will have a good argument because if you remove it from here then make it a point to remove it from all the Partner States because you cannot distort one Assembly and let others move in a different direction.

If we see need to remove it here, we ought to have seen need much earlier at the Partner State level and if we have not done so at the Partner State level then we are engaging in gymnastics at the regional level- (*Interruption*)

Ms Nyirahabineza: Thank you very much, Madam Speaker and thank you very much, hon. Sebalu for giving way. The information I want to give is that you will not see in any of our Partner States at east this mandate or right of the Assembly being taken away because our Partner States are democratic and that is the democracy we have been debating.

Mr. Sebalu: Thank you very much. That is very useful information and the reason I am arguing the way I am is to ensure that we eliminate the democratic deficit which is being created at the region so I totally agree with you.

We also have the whole idea of separation of powers but it is in context that we can complement each other. These private members bills feeds into our different mandates as a Parliament because we have got the legislative mandate which is our core business; to make laws. So if we are there and you are not bringing enough, we generate ours because that is our output. Any output of any Parliament is how many laws. For the government they may not have problems not bringing many because they are not going to be judged upon that as an output. Once they manage inflation, do a few things, build roads, they can argue that they have done their part but for a Member of Parliament, the accountability is in terms of output; how many laws. The ley performance indicator is how many laws. That is a performance benchmark.

We are here hardly a year but people are asking, how many laws have you made? EALA was sworn in the other day but people want to see results. How many laws have you people passed? So any one who is getting in our way of output will be isolated and paralysed.

So that is the way we operate. Legislative is a very important aspect of our trade. We must legislate and when we go back and if you look at our annual reports, EALA made so many laws. That is a performance indicator and output.

Secondly, the representative role. We represent the people and when we go out there and the people tell us their problems. We come and share and the Executive does not initiate legislation

to help out on those challenges. Again we have a role as people's representatives to initiate legislation to be able to cure whatever mischief that may exist and which the people are complaining about.

The third is oversight and even in our oversight as we go, we are in position to identify gaps in legislation and once we identify a gap, we then must work round the clock to ensure that there is legislation. We are like doctors, we look out for the symptoms and we do the prescription. Our prescription is in terms of legislation.

So we do not want anyone to make us poor performers by not making laws. That idea cannot be well intentioned because I want to ask the following questions. If you bring that kind of amendment to remove private members bills then I think you are just doing it in piecemeal. The idea is maybe to remove Parliament because once you stop me from doing my work, what will be my relevance after all?

You know I have been in some of these parliaments. I was in the Pan African Parliament-

The Speaker: Hon. Mwinyi, you address the Speaker. Thank you.

Mr. Mwinyi: I stand corrected, Madam Speaker.

Mr. Sebalu: There are these Parliaments which are called the fora like the parliamentary forums and their work is consultative and advisory. We are not that kind of Parliament. We are a fully-fledged legislature. Those consultative ones can be consulted, they can give advice and the advice they give may or may not be taken but for us we make real laws and we must be allowed to do that- (*Interruption*)

Mr. Zein: Madam Speaker, I would like to inform the hon. member that other integration processes in Africa have given EALA as a good example and they are looking forward to also ask their countries to giving them legislative power.

Mr. Sebalu: Thank you very much for the complements. I wish those very parliaments where they are seeking to get this kind of power- I wish the Executives in those countries can talk to the Executives on our region to pick the best practice as they could collaborate.

As I wind up, I want to ask the following questions. With that kind of thinking, do we then need a Parliament in place? Secondly, are we strengthening Parliament by denying it the right to initiate private members bills? Thirdly, what mischief is being cured by that amendment? I want someone to give me good reason because we may be engaging in speculation. What good reason does one have to remove such a core principle of parliamentary democracy and practice?

Finally Rt hon. Speaker, the advice and the provision of Article 59 are clear. The processes are there. If you are bringing a bad private members bill, it cannot pass the test of that requirement

because the requirement is very clear. If the law is below the threshold, it can never pass the test. Any laws that have passed the test have been well evaluated by the members who are moving them and they are subjected to different processes. If it is not credible, it cannot pass the test of time to become law.

So what needs to be done is to ensure that the private members bills are evaluated by the need and quality of the bill itself because again I don't want us to bring bills for the sake of bills. It must be a quality bill. It must be credible, it must be based on research, you don't just sit behind a desk and you put down ideas and you bring them on the floor. You must have undertaken research and there must be a gap within the legislative requirements that you are trying to cure.

And there is need for justification. Even when you are moving a private members bill, before you take leave, you must do thorough justification on the floor of the House. So there are those procedures that can check but the best way of checking private members bills is by the Executive doing its work and bringing bills on the floor of the House. Thank you very much, Rt hon. Speaker and hon. Members for your kind attention.

Mr. Zein Abubakar (Kenya): Thank you, hon. Speaker. Allow me to first associate myself with the comments and contributions made by hon. Sebalu. Given that we are of Commonwealth practice, allow me to look at a little bit of the historical context of how the principle of separation of powers and the giving of effect and power to chambers that represent the people came about.

One of the principles that led to the *magna carta* was to create a situation where the king in this case the Executive cannot seek to pass taxation or to make law without the representation of the people. The people gave rise to the House of Commons. There, people have to be elected. The distinction between the House of Commons and the House of Lords was that the Lords could have been the friends of the King or his relatives but in the House of Commons, it had to be people who are elected by the people.

When they are elected, they are the ones who can give consent to taxation but also make laws to represent the people. So I would question the constitutionality of such an amendment particularly for the following reasons.

We in Kenya have embraced a constitutional framework that has made the East African Treaty part of our constitution and part of our law. It is contained in the second Article of our Constitution on the supremacy of the Constitution in Clause 6. If you look at the arrangements for the amendment of that section, you require going back to the people through a referendum to amend that section.

So some of us would argue that such an amendment that is designed to interfere with the principle of separation of powers and is designed to limit the power of members of EALA to represent East Africans is inherently unconstitutional and against the spirit of the Treaty.

When these bills leave this House and go to the various presidents of the Partner States, when they assent to them they are taking part in the legislative framework and if they are of the opinion they can improve certain aspects of the law or question the utility of that law or aspects of that law, they have the right to write reservations and bring them back to this Chamber but you cannot create an institution and give it powers and then seek to limit by taking away the fundamental power through Treaty.

In fact, the Treaty amendment in this context would require, in my very humble opinion the participation of the people, not only of the representatives of the people through the Parliament in Kenya.

Lastly Madam Speaker, our constitution as well has established principles of representation of the people and these principles of representation of the people do not emanate from the Executive authority. We have adopted what you may call republican principles of governance that somebody is elected, assumes office by the consent of the people and also retains office with the pleasure of the people. That is why in Kenya we have impeachment processes. We also have processes of recall. It is partly to exercise this sovereign authority of the people and the will of the people.

Allow me to finish, Madam Speaker that let it be said from this Chamber to the other chambers of Partner States that we very humbly request that this is a bad idea. This idea should be shelved and it is just the first salvo. Thank you, Madam Speaker.

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

Mr. Abdullah Mwinyi (Tanzania): Thank you very much, hon. Speaker. I would also like to take this opportunity to agree and associate myself with the comments of both hon. Mike Sebalu and hon. Zein that have been eloquently put before this august House.

I cannot speculate and that is a question that hon. Sebalu had put, as to what mischief this proposed amendment is seeking to cure. But perhaps if I can give the context in terms of the fact that I have been a member of this House since the last Assembly.

If you look at the number of private members bills in the Second Assembly, if you look at the number of Acts that have been enacted in the Second Assembly, majority of them have been private members bills. Why so?

I would like to take you back and it is recorded on the *Hansard* in 2007-2008 on our meeting in Kampala, Uganda. Hon. Kategaya who was at that time the Chair of the Council of Ministers

came before the august House to give us a list of bills that were to be brought before that financial year. That was in 2007/2008. It was a list of 12 pieces of legislation. Of those 12, six were brought before this House and we have never seen the Chair, Council of Ministers since come before this House and tell us the legislative calendar.

We never saw anyone from 2008/2009 neither with that list nor during 2009/2010, 2010/2011 and we are about to complete our First Session of 2012. The situation is clear that there are no bills being generated from the Council of Ministers despite the fact that there is incredible need for such bills to be brought before this House.

In 2010, we passed a Common Market Protocol. This was water shed. It was a great achievement. I can recall some members within this House receiving medals from the Heads of State for exemplary work in achieving that protocol in great speed and skill. To this day, we have not seen a single piece of legislation that relates to the operationalization of the Common Market Protocol.

If this particular amendment succeeds, Madam Speaker and hon. Members, we might as well pack our bags and go home. It has been through the private members bills in all these years that we have made the activities of this Assembly and the process of integration proceed.

I would like to urge the Council. I would also like to restate hon. Sebalu's question that what mischief is this proposed amendment seeking to cure? Perhaps it may shed some light on issues or matters that we are not aware of and perhaps we may empathise with the proposed amendment- (*Interruption*)

Mr. Halirimana: Thank you, Madam Speaker and honourable my brother Mwinyi for giving way. The information I want to give is that out of 30 or so laws passed by this House in the last Assembly, 26 of them or so were private members bills. I thank you, Madam Speaker.

Mr. Mwinyi: Thank you very much, hon. Halirimana for such information which points and brings to our argument right to the fore. We are awaiting perhaps some information as to why this proposed amendment has been put in place but in all honesty, we need to be serious about this integration process. We need to respect the sanctity and authority of this Parliament and our hope is that this will be taken on board and such proposed amendments would be recalled and we will proceed as we are and hopefully we will get the support that we deserve in this Parliament. I thank you, Madam Speaker.

The Speaker: Thank you very much.

Mr. Samuel Sitta: Thank you very much, Rt hon. Speaker of this Assembly. I think I have information that might help to bring the debate to a much more normal tone than what I am hearing now.

First of all, I don't think we have a formal amendment or even a draft amendment which has been circulated to deal with Article 59. There is a proposal from the United Republic that we should look at Article 59 of the Treaty and suggest a procedure to make it more workable. I am not aware of any processes that would seek to take away the powers of this august Assembly in terms of private members bills.

Private members bills are recognised, will continue to be there as far as the government of the United Republic of Tanzania is concerned but if I may go to what hon. Sebalu and hon. Mwinyi were saying, what mischief? You have to go to Article 63 whereby if a Head of State does not give assent to a bill, it lapses. Now there have been instances where this august Assembly has passed a private members bill, which then does not carry us anywhere because a particular Partner State feels that this particular law impinges on the workings of the constitution of a Partner State.

Let me give you an example of this Trans boundary legislation which you passed. It seeks to form a Supra National Commission on the environment. Now there are many projects that receive approval from the National Environmental Management Agencies. Now if you put an East African one, it becomes the setting up of another layer of authority. So in the case of Tanzania for example, you have the National Environmental Management Council which according to our laws is the final arbiter in terms of all projects that seek to be implemented and have an environmental requirement to be scrutinised.

When the Attorney General of Tanzania read this particular Act that was passed by this august Assembly, he recommended to His Excellency the President not to assent to it so as far as this Trans Boundary legislation that was passed here, it will certainly just lapse because at least one Head of State has refused, on advice of the Attorney General, it will not be signed- (*Interruption*)

Ms Hajabakiga: Rt hon. Speaker, I want to give information to hon. Sitta that the Treaty provides that if a Head of State feels that the bill sent is not adequately done, he is to refer it back to the Assembly with comments specifically indicating areas in which they are not satisfied with and if the Assembly does not cure that aspect and it goes back the way it was, that is when it elapses. So it does not lapse at the first instance. That is information number one.

The second information on the bill on the Trans-boundary Eco-System, I was there in the Second Assembly and I was in the committee which dealt with that bill although I was not a mover. It does not seek the regional authority to be the one to be the one to approve the environmental impact assessment. That body only provides guidelines, general information where the members of the national authorities meet and they are the ones who actually provide those guidelines and actually the authority and the approval is done at a national level.

So I wanted to correct the information provided in the Assembly.

Ms Bonaya: Madam Speaker, it is also well known that on matters of integration, the laws of the Community are superior as indicated in Article 8 of the Treaty so when the minister said that the NEMA law in Tanzania is supreme or the final, I think there is that provision in the Treaty.

Mr. Sebalu: Further information to hon. Sitta and Speaker Emeritus of the Republic of Tanzania who has been a custodian of private members bills for quite some time. You raised the issue of Article 63 which I agree with. You are now bringing it as an issue to cure the mischief or maybe the mischief is here but if you are raising Article 63, it is to do with assent to bills not assent to private members bills but to bills.

So the procedures that are laid here can apply both to private and a non-private bill. So if it can be used because even if the bill is brought from the Executive and at the time of concluding the Head of State gets reservations, I don't think there is anything that stops him but I am not seeing any amendment being moved even with regard so we need to appreciate the usage of this. It is well intentioned to check and we are not saying that if we pass a law and at some point it does not meet the expectation of the Heads of State then they should use this in order to check and the provisions that hon. Hajabakiga has read come in handy.

Mr. Sitta: Thank you, Rt hon. Speaker. I wanted to keep it short and that is why I did not go through all the sub provisions of 63 which I know very well. That is exactly what will happen. Tanzania has written comments and they should have been submitted by now and therefore it will be incumbent upon this august Assembly to see whether it makes sense or not but we stand there because tis commission- I can't quite agree with this information that the legislation has just brought an institution that will be just giving information. That is not how we read it.

We read it and the commission has almost final powers to say things about whatever projects that are considered to be of an environmental nature. This is why it raised a lot of alarms about this.

As to 63, of course all the Partner States are bound to follow 63 in its entirety and this is why I am saying it is not a matter of saying that the provision Article 59 be removed because a lot of the debate here seems to be protecting the complete integrity of this august Assembly and nobody is questioning that. Even the proposals that are being forwarded by Tanzania are merely saying- In fact if you follow this; there is II in the motion, "Do task its relevant committee to review the rules on private members bills to strengthen the consultative procedure."

I think this is where it is aimed at. The private members bills will be there, they cannot be removed but surely you need to consult instead of all the time ending up with 63 and coming back. This will be a very funny way of making laws because to compare EALA directly in its process of transition is like the East African Court of Justice. You can argue about why the East African Court of Justice is now not complete as an appeal court as envisaged when we were a federation.

So some of these comparisons in a period of transition have to be taken with a bit of care because EALA even reading the Treaty now, is not a supra legislature, it is not. It is a legislature mandated by the Treaty to do certain things but there is a lot of consultation that is need to be able to have legislation that can further the process forward. If you take it to its extreme, if every time you have laws passed by private members bills which appear perfectly reasonable and then all of them face this hurdle of Article 63, itself that kind of process if repeated too often can be a cause of friction and also can cause a lot of trouble for us in future.

So Rt hon. Speaker, all we are saying is that the procedure for private members bills in EALA has to be looked upon in terms of genuine consultation. In that case, we shall have a much smoother ride than to have a completely autocratic system whereby other Partner States legislatures just hear that some private members bill is going on, internal consultations have not been made and in the end, what happens is the particular legislation once passed is not workable. That is the spirit in which I believe Tanzania was looking at it. Thank you very much Rt hon. Speaker.

The Speaker: Thank you very much, hon. Sitta for that very information and I think it has also thrown more light on the way we have perceived this resolution an di think that it is also bringing our minds a little closer. Thank you.

The Chairperson, Council of Ministers (Mr. Peter Munya): Thank you, Madam Speaker. Taking from where hon. Sitta has left, this is a proposal that is pending before the Council so no action or decision has yet been made on that proposal. The Council has asked for comments to be brought before it makes a decision so we take this – *(Interruption)*

Ms Hajabakiga: Madam Speaker, when I read the Council decisions, it does not look like what the minister is saying because it says that the only country which they had given time for consultation from Partner States and only the Republic of Uganda did reply within the time frame. The resolution I think now that the Counsel to the Community is here, says it should be transmitted to the next Summit. That is what I read in the report unless there is another report other than the one I read. It says it should be transmitted to the Summit and that is why we were in a hurry to do it.

Mr. Munya: The information I have, Madam Speaker is that the decision is still pending with the Council, no decision has yet been made and therefore when Council finally makes a decision, this resolution of the House will also be part of the information that the Council will look into when it makes a decision. So the correct position is that- Of course the House is free to express itself on any matter pertaining to the Community and when Council makes a decision, it looks into all the information and comments that have been made by Partner States, by other organs and institutions and then finally the Council expresses itself and makes a decision.

So Madam Speaker, we are taking this resolution in stride- *(Interruption)*

Mr. Kaahwa: Madam Chairperson, it was not my intention to inform the hon. Chairperson of the Council of Ministers regarding what he is submitting. Madam Speaker, I am sorry for that. My information actually is for the benefit of the whole House and arises out of the intervention made by hon. Hajabakiga who has apparently read the report of the Council of Ministers.

According to Article 150 of the Treaty, which provides for the process of amendment of the Treaty, the Treaty may be amended by a proposal made by the Council of Ministers or by a proposal from any of the Partner States. Once a proposal has been made, the Secretary General is required within 30 days to circulate it to all the Partner States for comments and all the Partner States are given 90 days within which to submit comments. This is exactly what happened. The Secretary General received a comment from only one of the five Partner States.

Now that far, the matter has not been brought to the attention of the Summit, let me clarify that. The matter is still before the Council and that is exactly what the minister is saying because the Council, just like all the other organs of the Community like the Assembly does not act when ministers sit. It also acts on the basis of technical input by technical people who are relevant to whatever would be on the agenda for the Council.

Now this matter is before the Council pending consultations, pending inputs by all the relevant advices before the Council now allows the Secretary General to submit the proposal to the Summit. So the matter has not reached the Summit and the chairperson is correctly saying that the matter is still before the Council and in that way he is trying to inform the House that much as this resolution is in order and it gives an indication of the views of the House, the matter has not yet reached the final position where Article 59 may be said to be amended or the subject of final amendment. I thank you, Madam Speaker.

The Speaker: Thank you very much, hon. Kaahwa. I think what is apparent is that yes there was a petition from the United Republic of Tanzania under the Treaty provisions. It has been sent to the Council and is pending discussion or debate. From that matter, I think it is still imperative that if this House expresses itself on that in a resolution, I think it is in order. The hon. minister was on the floor, if he could wind up and then I invite hon. Patricia to conclude and we see how we take the resolution.

Mr. Munya: Madam Speaker, I have absolutely nothing useful to add to what I had already said.

Ms Hajabakiga: Thank you, hon. Speaker. I would like to thank hon. Members who have contributed to this motion; hon. Judith Pareno, hon. Kiangoi, hon. Sarah Bonaya, hon. Sebalu, hon. Zein, hon. Mwinyi, hon. Samuel Sitta.

I just want to say that we were worried when I saw that communication that suppose the Council which will meet in November before this House meets again will endorse because I know the process. Once it is in the report and it is to be submitted to the Council so that it is submitted to

the Summit which will be immediately, what will happen if the Assembly has not pronounced itself on this particular matter? We might not have time.

The Council will meet and then immediately the Summit will meet. We would not know what will transpire in the Council. They may want to proceed. I propose that the amendment as provided by hon. Judith still be sent to the different areas where we have requested them to be sent and I hope that all of the members including the Council will understand that it is not just the private members bills which do not receive assent.

Honourable members who were in the Second Assembly remember the KASOA Bill which had come from the Council; the Executive was returned by a Head of State because they were not comfortable with certain provisions. The Assembly sat, reviewed and sent it back for assent. So it is not a matter of private members bills.

We know that even in our national assemblies we handle bills, the Parliament passes a law but the President refuses to sign it. It is common so it is in order. They have their prerogatives as Heads of State but we cannot allow a parliamentary practice to stop simply because one person might not want something.

I wish and hope that the Council will support our resolution and that also the Summit will not accept such resolutions or amendments, which may jeopardise the importance of the Treaty which we have today. Thank you very much, Rt hon. Speaker for giving me the opportunity to move this motion.

The Speaker: Thank you very much, hon. Patricia. Hon. Members, the motion on the floor is that this Assembly do resolve to urge the Summit of the EAC Heads of State not to amend Article 59 of the Treaty. I now put the question.

(Question put and agreed to.)

QUESTIONS FOR ORAL ANSWERS

QUESTION (REF: EALA/PQ/OA/3/04/2012)

Ms Shy-Rose Bhanji (Tanzania): Madam Speaker, thank you. I now beg the Chairman, Council of Ministers to answer the following questions with reference EALA/PQ/OA/3/04/2012. Two, reference EALA/PQ/OA/3/05/2012. Reference number three-

The Speaker: Honourable, let us take one at a go.

Ms Bhanji: I beg your pardon, Madam Speaker.

Mr Peter Munya: Madam Speaker, I beg to reply. The Council at its 23rd Meeting in September 2011 approved a robust EAC Communications Policy and Strategy that gives general strategic

direction for the information, education and communication activities that is to be pursued by the Community in accordance with Article 71 of the Treaty which mandates the Secretariat to promote and disseminate information on the Community to stakeholders, the general public and the international community.

The policy provides the necessary guidelines that inform the overall direction of the information, education and communication activities while the strategy spells out specific activities that the Community will undertake to promote awareness and foster broad participation by the various stakeholders in the integration process.

The Secretariat has taken the lead in preparing the operational plan and resource mobilisation for the implementation of the policy and strategy. As this process is on-going, I am happy to report that implementation of some of the strategies interventions to enhance awareness on the integration agenda have started.

Madam Speaker, allow me to briefly highlight some of the on-going activities:

- (a) Joint cross border sensitisation activities. Partner States are now undertaking joint cross border sensitisation activities. The United Republic of Tanzania and the Republic of Kenya organised a joint border sensitisation program on 21st to 22nd February at the Namanga border post. A similar program was held between the United Republic of Tanzania and the Republic of Uganda at the Mutukula border post and between the Republic of Uganda and the Republic of Kenya at the Malaba and Busia border posts. More joint border activities are in the offing.
- (b) National communication strategies on EAC integration. All the Partner States have developed national policies including communication strategies on the EAC integration and are mainstreaming the integration agenda into their annual work plans. For example in the Republic of Kenya, the Minister of the East African Community has carried out sensitisation activities in 29 counties out of the 47 during the last financial year. It has also carried out cross border joint sensitisation of selected border posts, established integration offices and the government has appointed officers to man these offices at all the key border posts.

The ministry intends to undertake road shows/experiential marketing of the EAC in all parts of the country in the near future. In the Republic of Rwanda, every ministry, department and agency is now required to have the EAC integration program mainstreamed into their activities. The ministry is currently undertaking radio and TV talk shows on EAC integration, setting up billboards on EAC in strategic places in the country, participating in trade fairs like Rwanda Expo, sensitising local leaders and teachers among others. The ministry plans in the long term to establish a radio station dedicated to the EAC.

In the Republic of Burundi, EAC integration meetings with focal points have been instituted by the Ministry of EAC Affairs and EAC clubs have been established in schools. The ministry is undertaking the production of promotional materials that include posters, brochures and exercise books branded with EAC messages. In Burundi, most businesses are now branding themselves EAC and the visibility of Community has picked up greatly as a result of the government directive to all government and administrative offices to host the EAC flag alongside the national ones.

For the first time, the Ministry of EAC in collaboration with the Federal Chamber for Trade in Burundi organised a regional trade fair on 29th June to 8th July 2012 in Bujumbura, Burundi and thousands of show goers were sensitised on EAC integration issues. In the United Republic of Tanzania, the Ministry of East African Cooperation has identified focal points in the local governments to educate citizens about integration issues.

In this regard, focal points have already been trained on EAC integration in the lake zone. Sensitisation and outreach programs have been conducted to members of Parliament on Zanzibar, public engagements through exhibitions such as *nane nane* and joint border sensitisation programs with other Partner States have also been carried out.

The ministry has also published on Kiswahili simplified booklets on the Customs Union and Common Market Protocols and conducts media engagements on EAC projects and programs. Several training programs have been held for editors and journalists.

In the Republic of Uganda, the Ministry of EAC Affairs initiated the establishment of EAC integration clubs in key schools in all regions on a pilot basis. The ministry has also conducted joint border sensitisation workshops with their counter parts in Kenya and Tanzania respectively at Malaba, Busia and Mutukula.

The ministry has initiated consultations with EALA members and engaged with members of the national assembly, district leaders, private sector, university students and civil society organisations on integration issues.

Other undertakings include conducting EAC awareness week every November to coincide with the EAC day on 30th November, hosting the EAC flag on every government office building, production of IEC materials on EAC, publication of FAQs on EAC integration and production of simplified Common Market protocol that has been translated into local languages.

- (c) Engaging the youth in the EAC integration process. The Secretariat has initiated the engagement of the youth in the integration process through the introduction of EAC university students' debate. The first EAC university students' debate on regional

integration was held in Arusha, Tanzania on 24th to 25th August 2012. The main objective of the debate is to promote continuous dialogue among the youth and interest them in advocating regional integration initiatives.

In addition, the debate is expected to provide a platform for the youth to participate in and contribute to policy formulation on issues that constitute the EAC youth agenda.

Related to this, the culture and sports desk at the EAC Secretariat is working out concrete mechanisms of collaboration with the Ministries of Education and Sports in the Partner States under the Federation of the East African Secondary Schools Sports Association on how the EAC could be engaged in organising the annual editions of the East African Secondary Schools games and sports competitions. These sports and games attract over 2500 students and over 300 officials and are held on rotational basis around the EAC Partner States.

The active participation of the Secretariat in this regard will help enhance its image among the youth who are the future leaders of the Community. Through these debates, sports and games, EAC youth ambassadors will be identified to propagate further the integration issues among the youth.

- (d) EAC arts and cultural festival. The Secretariat has initiated the EAC arts and cultural festival and the regional sports tournament with the ultimate aim of informing, sensitising and involving the people of East Africa on integration issues during these events. The inaugural editions of the EAC arts and cultural festival and the regional sports tournament will be held in alternate years starting next year.

The EAC arts and cultural festival is slated to take place on 9th to 16th February 2013 and will be followed by the EAC sports tournaments in June 2013. Both events will be held rotationally among the Partner States.

- (e) In media coverage of EAC projects and programs, the media houses in the Partner States have intensified coverage of EAC projects and programs as a result of the handiwork of the EAC media centre. Daily press releases are churned out and tips are availed to the media on various EAC meetings, on-going projects and programs, giving journalists a wide range of news leads on integration issues.
- (f) Radio and TV public education programs. In June this year, the Secretariat through the Ministry of EAC Affairs deliberately launched radio and TV public education campaigns on the EAC regional integration issues. Using the major public broadcasters, private radio houses and community radio stations, 48 programs with various teams are being broadcast in each Partner State.

For example in Kenya, the programs are running in Kenya in KBC, Kas FM, Mulembe FM, Inoro FM, Egesa FM, Pwane FM, Namulolo FM, Muwuga FM and Buga is my local language radio, by the way, Madam Speaker.

In Tanzania we have the TBC Television, Radio Free Africa, Star TV, Radio 5 Arusha etc.

In Uganda the programs are running in the New Vision, Top Radio, Capital FM, Sanyu, Open Gate FM, Kasese Community Radio etc.

In Rwanda, programs are on-going in Radio and Television Rwanda, Contact FM, Voice of Africa, Radio Flush, Isango Star, etc. In Burundi we have RT and B, Heritage Television, Bonasha FM Radio and Tele renaissance Radio Isanganiro etc.

Every day at peak hours, there is at least an EAC radio or television sport being aired in any of these radio and television networks.

- (g) Media summits. The East African Community Secretariat conducts an annual media summit and awards with various themes at which a member of the EAC Heads of State Summit together with the ministries responsible for EAC Affairs, heads of EAC organs and institutions engage media owners, chief executive officers, publishers, editors, prominent media personalities and the practitioners in the region on integration issues.

The key outputs of tense annual summits and awards have increased publicity of integration issues by media houses. Voluntarily allocating sufficient space airtime on EAC activities and enhance EAC rapport with the media fraternity with a view to promoting EAC issues.

So far we have had five media summits and the latest was held in Kigali, Rwanda in early August 2012. EALA is always adequately represented at the annual media summits.

- (h) Increasing accessibility of information on integration through online platforms. The Secretariat intends to increase accessibility of information on integration through on-line platforms that will lead to the launching of some websites for several sectors of the integration. It will also do content review of all the 24 sector web sites, undertake weekly website updates and grow EAC social media users by 1500 per quarter.

Madam Speaker, in addition to the above mentioned activities, I am happy to inform this august House that the Council at its 25th Meeting held on 27th to 31st August 2012 considered the operational plan for the EAC Communication Policy and Strategy which will be executed progressively within five financial years with effect from 1st July 2013 at an estimated cost of USD 15,460,560 which is approximately USD 3,092,113 every financial year.

The key priority activities to be implemented in the operational plan and to involve members of EALA in collaboration with the Ministries of EAC Affairs and the Secretariat are as follows:

- i. Participating in EAC radio and television public education programs through talk shows and feature documentary programs.
- ii. Participating in annual trade fairs and exhibitions in the Partner States.
- iii. Participating in the EAC day week observance celebrations in the Partner States.
- iv. Joint sensitisation and outreach activities for border communities on EAC regional integration.
- v. Popularising the East African symbols; flag, anthem, tag line ‘one people one destiny’, by holding public rallies and sensitisation workshops for border officials and communities, students, government officials, members of the diplomatic corps, professional associations, journalists, students, youth, faith based organisations etc.

Madam Speaker, the Council has directed the Secretariat to work on the resource mobilisation strategy where possible from the private sector and development partners among others to implement the above mentioned activities.

These activities once implemented successfully will upscale the visibility and awareness of the EAC integration process and development. I thank you, Madam Speaker.

The Speaker: Thank you very much, hon. Chair, Council. I want to affirm that EALA was represented on the EAC media summit in Kigali, Rwanda. The Rt hon. Speaker, hon. Hafsa Mossi and hon. Shy-Rose participated. Thank you.

Hon. Shy-Rose, do you have a supplementary question? Any member with a supplementary question?

Ms Hafsa Mossi (Burundi): Thank you, Madam Speaker. I would like to thank the Chairperson of the Council for the response he has given us and it is showing that all Partner States are making efforts to make sure the awareness program is going very well in all our five Partner States.

However I would like to ask the Chairperson of the Council whether there is a mechanism to follow up on the radio programs and television to see whether there is a positive reporting on the integration process. If there is, he should tell us how that mechanism is working. Thank you, Madam Speaker.

Mr Munya: Madam Speaker, I am delighted to hear from the immediate former Chair who was involved in working out this sensitisation program and I am happy to take her clarification in stride and inform her that we will work out a feedback mechanism to be able to assess the effectiveness of our campaign. I want to thank her for that very important reminder because it is critical that we have some kind of feedback mechanism to see how far we have succeeded in our sensitisation program. I thank you, Madam Speaker.

The Speaker: Thank you very much.

QUESTION REF: EALA/PQ/OA/3/05/2012.

Ms Bhanji (Tanzania): Thank you, Madam Speaker. May I beg the Chairman, Council of Ministers to now answer my question reference EALA/PQ/OA/3/05 of 2012.

Mr. Peter Munya: Madam Speaker, let me take this opportunity also to congratulate hon. Shy-Rose for her industry because she hit the ground running when she came here and you can see most of the questions are from her.

If I were asked to describe her, the last term I would want to use is ‘shy’ because she is probably the least shy member of this House.

The Speaker: Probably you want to mean her name but I think you are right to describe her as shy because that is her name Shy-Rose.

Mr. Munya: Madam Speaker, I meant that her name least describes her because she is really the opposite of shy. Madam Speaker, I beg to reply.

I wish to inform this august House that the Summit of Heads of States has endorsed the identity card as the future travel document for East Africans in the region. Identity cards are normally issues to nationals by respective governments free of charge for purposes of registration and documentation of nationals above 16 to 18 years of age as provided for in the national laws.

The EAC Common Market protocol and Article 9(2) provides that Partner States, which have agreed to use machine readable and electronic national identity cards as travel documents may do so but have to work out modalities for the implementation.

The reasons why the citizens of Partner States have not yet started using identity cards for border crossing is due to the fact that the five Partner States are at different stages on the ID issuance process. Those Partner States which have already issues IDs that is Kenya, Burundi and Rwanda have issued different types of IDs. Depending on the technology utilised, it is only the Republic of Rwanda which has issues a machine readable and electronic national identity card.

Madam Speaker, the current status of issuance of national identity documents to nationals is as follows:

- (a) Republic of Uganda. The Republic of Uganda has already embarked on the registration of her nationals for purposes of issuance of identity cards. Already 5.5 million people have been registered and will be able to get IDs by end of 2012. Uganda plans to have completed the exercise by the end of the year 2013. The ID cards are bar coded and are machine readable.
- (b) The United Republic of Tanzania. The United Republic of Tanzania is in the process of producing bio-metric ID cards and will start issuance to nationals by January 2013. Tanzania targets to issue ID cards to all citizens above 18 years. The National Identity and Documentation Authority has been established and mandated to issue the ID cards.
- (c) The Republic of Rwanda. The Republic of Rwanda issues ID cards to all nationals from the age of 16 and above. Rwanda will start the second phase of ID card issuance. It will be a smart card which will also contain other information such as passport and driving licence details.
- (d) Republic of Kenya. The Republic of Kenya is in the process of producing smart cards and an issuing system. The current IDs issued to nationals are not machine readable but contain biometric features. If I may add, what Kenya is doing is issuing what we call third generation identity cards that will operate almost like a social security card because it will contain all your information including tax information. All the information you may want to know of a citizen will be included in the ID card so it will be both machine readable and it will also operate as a social security card.
- (e) Republic of Burundi. The republic of Burundi has initiated a procurement process for issuance of a third generation ID card.

The Republic of Kenya and the republic of Rwanda have agreed to pilot the use of national ID cards as travel documents between the two countries beginning 2013.

Madam Speaker, it is evident that there is a willingness among the Partner States to issue their nationals with ID cards within the time frames indicated above. We all appreciate that the issuance of identity cards is a very expensive exercise but once accomplished by all the Partner States, it will facilitate the free movement of persons in the East African region. I thank you, Madam Speaker.

The Speaker: Thank you very much, hon. Minister. Hon. Shy-Rose, do you have a supplementary question?

Ms Bhanji: Thank you, Madam Speaker and thank you, Chairman Council of Ministers for a very well elaborative answer. My supplementary question is on the immigration and departure landing cards among East Africans. When are we going to stop filling these forms?

The Speaker: For every airport in the East African Community Partner State, when you come in and when you are an East African or any other national, you fill in a landing card. In some instances it is blue and in other instances it is yellow. We are assuming that with the national identity card definitely you will need to fill that landing card. I think this is where hon. Shy-Rose is coming from.

Mr. Munya: Madam Speaker, let me be straight forward. The actual modalities on how this use of the identity card as a travel document will be undertaken has not yet been worked out but the decision is there by the Council and four Partner States agreed to use identity cards as travel documents on condition that each of those four countries produce a machine readable identity card that can be checked at the border.

So there will still be some checking on whether that card is genuine and not a forgery and that is why it must be electronic so that once you swipe it at the border then the immigration officials can be able to know that you are actually an East African. They will have all the information that they need to know about you. So it does not mean that when you have it you just come and cross through the border without some form of check. That is why it is required to be machine readable.

Obviously there must be some way of integrating the border posts electronically so that when you are on the Kenyan side, the machines there can read your ID if you are a Burundian, if you are Rwandan and vice versa. So there obviously will be a way of integrating the systems across East Africa to be able to really use that ID card effectively.

So the specific modalities have not yet really been worked out and that is why I cannot tell you when the forms will stop but the decision is there and there is determination to produce those identity cards and as I said, there was a bi-lateral agreement between Rwanda and Kenya that come next year, we can pilot the IDs we have to see how workable the system is. So the ID cards have all the communities concerned.

The Speaker: Thank you.

Mr. Sebalu: Thank you very much, Rt hon. Speaker and thank you very much, the Chair, Council. Before I ask my question, let me comment a little on the landing and departure cards. I think these are also very useful in terms of tracking data of entry and departure. It is important to get the data of how many people are using which point of exit or entry. It is very useful for statistical analysis.

I just wanted to make a comment on that and you cannot defer that statistics is not important. It is because even as you are talking about free movement, who are moving? Which age groups are moving? Which gender? Because all that information is there and someone can be able to say,

ever since we did this, - I didn't want to debate this. Let me ask my question but you have heard anyway.

The question I want to give is to do with- We appreciate the ID cards. We also have the EAC passport which is doing a good job because those that do not have the EAC passport can use the ID for ease but when are we getting the EAC passport internationalised? You could give us some indication.

Mr Munya: Madam Speaker, no decision has yet been made on the internationalisation of the East African passport. The East African passport is still valid, you can use it within East Africa but the step of making it international so that you are able to use it elsewhere so that you do not have to carry two passports, useful as it may be, we have not yet arrived there and that decision has not yet been made.

Madam Speaker, I wanted to say something that some of the information I have on travel on East Africa- One time I managed to travel from Arusha through to the Coast to Tanga then I travelled through Kwale to Mombasa and I got some information from the ordinary citizens of East Africa on how they travel. Madam Speaker, they do not use passports neither do they use IDs. Usually what they do and it is a practice that has been there for many years because they have marriage ceremonies across, they have burials across. The Ndigo of the coast are across this border and the Masai the same.

So whereas we the bureaucrats and the elite continue debating on whether we can use IDs, on whether we continue with the passports, the ordinary East Africans some of them travel anyway with nothing like the Masai will cross the border and go and graze when there is no grass on this other side just like the Serengeti and the Mara animals will do. What the other ordinary citizens also do is there is a link between the chiefs across the borders and when they want to travel, all they do is make a list of who is travelling to attend a wedding across the border and that list is stamped by the chief.

If it is the Kenyan people who want to travel to the Republic of Tanzania to attend a burial or any other event, the Kenyan chief will write the list of the people travelling and put a chief's stamp. When they reach the border, all they do is give the list and then the vehicle that is carrying them is allowed to cross over to do whatever they were going to do across. When they are coming back, it is the same list that will be used to make them come across.

So you can see how practical the ordinary citizens are but the bureaucrats who are really still thinking like what the *Muzungu* was thinking when he introduced the border posts, we are still stuck with out complicated and expensive travel documents.

I think when we start thinking like those ordinary East Africans who continue to view the borders like an inconvenience is when we will say now East African integration has arrived. I thank you, Madam Speaker.

Ms Hajabakiga: Rt hon. Speaker, I just want to ask the Chair, Council a supplementary question as to when they think- Because the issue of landing card and departure card, as much as they appreciate the question raised by and the answers given by our friend hon. Sebalu, I find it funny because all the passports are machine readable and that information and data we are talking about can be collected without having to fill in those forms.

Recently the Kenya Immigration, I don't know what had happened but I travelled about four times entering and going out and those forms had disappeared. All of a sudden they re-emerged. So I was wondering as to why I am asking the same question she asked. What are they for because all our passports are machine readable and the data we are talking about can be collected electronically and even easily processed than when all our handwritings which are different are written on those cards?

Finally, Rt hon. Speaker, the information I wanted to give is that those *Muzungus* who created borders have removed theirs. You land in Amsterdam and travel throughout the European Union without even meeting any immigration officer on the way. So I am wondering what we are doing.

Mr. Munya: Madam Speaker, I want to agree with hon. Patricia. *Muzungus* came and introduced these elaborate processes of carrying out social inter cross across boundaries and we perfected it. So we are left with it where the *muzungus* have already moved. If you are travelling in Europe, you won't know where the border is. The only thing you will see is a board indicating to you that you are now in Spain when you have crossed the border so there is nothing really to indicate that you have crossed the border as long as of course if you are an African and you have your Schengen visa so you are travelling within the Schengen territory, you just travel.

So Madam Speaker, it is for us as decision makers for the East African government really because the governments which I represent who have to make these decisions. Once those cards are there; the travel cards and the passport, that information is already there. I remember the decision was especially the regular travellers like us not to be subjected to filling forms. That was why you saw that practice in Kenya.

Why it has been re-introduced again, I have to go and find out. But Madam Speaker, there is this problem about attitude that we really have to change. The immigration officials operate as if their duty is to obstruct you from travelling. Their duty is not to facilitate you to travel but to actually make it very difficult for you to travel. So that attitude problem has to be dealt with. It is very clear when you arrive at the border. Sometimes even the face tells you, the first person you meet-
(*Interruption*)

Dr. Kessy Nderakindo (Tanzania): Thank you, Madam Speaker. Since it is my first time to talk on this floor, I would like to congratulate you. You are a role model for many young girls and that has made us have a lot of homework to learn about your history and be able to tell the girls what they should do so that they can get your position.

I would like to give information that on those cards at the airport, it is not just about the information on the passport. It is also about where the destination is and the purpose for your travel. That is very important for those who are collecting the data. That is the information, thank you, Madam Speaker.

Mr. Munya: Madam Speaker, I take that information but what we are saying is that the attitude should be to facilitate East Africans to travel. We cannot over emphasise collection of data as the key issue. The key issue really if we want to promote trade is to make it as easy as possible for people to cross the borders. In fact to make those borders as invisible as possible, if not to abolish them. Obviously the ultimate thing is that when you are a federation, there will be no borders. We will be travelling within the federal Republic or State of East Africa so there will be no borders. You will know there is this republic and the other but they are under the federal flag. So that time there will be completely no borders.

But the responsibility of us now to integrate East Africa is to make it as seamless as possible for people to be able to travel. Whether they are going there to just relax, bury their relatives or to trade, whatever they are going to do there as long as they are not going there to commit crime, let us facilitate them to travel. I thank you, Madam Speaker.

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

QUESTION REF: EALA/PQ/OA/3/06/2012

Ms Shy-Rose Bhanji: Thank you, Madam Speaker. May I now ask the Chairman, Council of Ministers to answer question reference EALA/PQ/OA/3/06 of 2012.

Mr Peter Munya: Thank you, Madam Speaker. I beg to reply. Following the establishment of the EAC Customs Union in 2009 with a gradual removal of internal tariffs and the implementation of the Common Market Protocol in 2010, the Community has expanded its internal market and increased the attractiveness of the five EAC Partner States for foreign investment to supply a larger market.

The tax burden is one of the factors in the firm's investment decisions. Other factors include the endowment of raw materials, the abundance of skilled workers, the cost of energy, the quality of infrastructure and the size of the market.

Significant differences in tax incentives can increase the potential for harmful tax competition among EAC Partner States where the country offering more favourable tax incentives *ceteris*

paribus will be in a better position to attract foreign investment and encourage increased domestic investment.

Other factors that can broadly be put under the cost of doing business include the speed of doing things, getting approvals, licences and the burden of regulatory oversight etc.

Madam Speaker, considerable progress in tax harmonisation has already been made in line with:

- (a) Article 83 of the Treaty for the Establishment of the East African Community that provides that Partner States undertake to harmonise their tax policies with a view to removing tax distortions in order to bring about more efficient allocation of resources within the Community.
- (b) Article 32 of the Common Market Protocol which provides that the Partner States undertake to progressively harmonise their tax policies and laws to remove tax distortions in order to facilitate the free movement of goods, services and capital and to promote investments within the Community.

Madam Speaker, an assessment of the current structure of the EAC tax system shows the following features on the level of harmonisation:

- (a) Corporate taxes are almost harmonised across the region except for Burundi which applies 35 percent. The other Partner States charge 30 percent.
- (b) Rates of the Value Added Tax (VAT) are also harmonised at the rate of 18 percent except for Kenya which applies 16 percent. But the rules and practices for VAT refunds and the administration processes regarding the VAT input tax deductions need to be harmonised.
- (c) Taxes on imports of goods and machinery have been harmonised in the context of the Customs Union. However, substantial differences that require harmonisation still exist in the following areas:
- (d) Excise duties levied on beer, wine, cigarettes, soft drinks, airtime and petroleum products which are not yet harmonised and that are still complex.
- (e) Economic processing zones and special economic zones that can cause unfair tax and state end competition.
- (f) Special depreciations and initial capital allowances that increase tax incentives on some manufacturing sectors.

The above mentioned substantial differences may lead to harmful tax competition, causing imbalances and loss of revenue for those countries not attracting enough investment potential.

Madam Speaker, the Council is aware of this problem and some activities were undertaken to minimise/abolish effects of tax competition. The EAC Secretariat with the support of Germany Cooperation (GTZ) is implementing a project on tax harmonisation which is geared towards harmonisation of all domestic taxes including tax incentives.

In addition, the IAFC World Bank Group, as part of its collaborative agreement with the Secretariat is conducting a specific study on tax incentive sin the EAC and has committed to assist the EAC in developing a regional policy on tax incentives whose main purpose will be to ensure that tax incentives are not used by Partner States in a manner that is harmful to other Partner States.

At an appropriate time, the Council will give necessary directives in order to rationalise tax incentives in the EAC.

The AFC is also working with the EAC Secretariat on harmonisation of commercial laws in the EAC region. These have an impact on the investment environment in the region. It is expected that in the future, the EAC Partner States will sign a code of conduct on harmful tax competition which in conjunction with the regional policy on tax incentives will check against any harmful tax competition.

Madam Speaker, in the meantime the process of tax harmonisation is going on well. The following are the steps being taken to bring about harmonisation:

- (a) The Community has embarked on a diagnostic study to inform policy and strategy on investment promotion in the Community in line with the pillars of integration so far achieved and the fourth EAC development strategy. The studies have involved key stakeholders.
- (b) Legal instruments on Value Added Tax, Excise Tax and Income Tax are being developed by technical working groups established by the Council. The technical working groups involving key stakeholders that are revenue authorities, Ministries of Finance, Private Sector, EABC, among others.
- (c) The signing of the EAC agreement on avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income which is in the process of ratification.
- (d) The draft code of conduct against harmful tax competition which is under discussion by the Committee on Fiscal Affairs. It will include guidelines about the features that constitute harmful tax competition and an enforcement mechanism for minimising harmful tax competition. I thank you, Madam Speaker.

The Speaker: Thank you very much, Chair, Council. Hon. Shy-Rose, supplementary question? Any member with a supplementary question?

Okay, thank you very much, hon. Members. We have come to the closure of our sitting here in Nairobi. Allow me at the closure to make the following closing remarks.

Hon. Members, we have had two fruitful weeks conducting our business here in the Kenyan National Assembly. Before I adjourn the House *sine die*, allow me most sincerely on your behalf and on my own behalf to once again express our most sincere gratitude to His Excellency President Mwai Kibaki and the entire Government of Kenya for accepting to host us over the last two weeks. We all felt at home and some members really used the occasion to widen and deepen the East African Community integration process.

Special thanks go to the Rt hon. Speaker hon. Marende for giving us the opportunity to use this beautiful Chamber and other facilities of the Kenya National Assembly to transact our business.

In the same vein, I wish to thank all the members of the Kenya Parliament and the staff who assisted us in one way or another.

I would like to express my gratitude to the members of the Council who have diligently discharged their function and were ever present in all our sittings. Thank you very much.

Allow me not to forget you, my colleagues, hon. Members. You have been exceptional in discharging your responsibilities and I urge you to keep it up.

Perhaps as I close, just a small announcement. As I mentioned earlier and I requested you to indicate 22nd September in your diary, I will just add that on 22nd morning around 9.00 a.m., there will be a complementary shuttle at Hotel Imperial Royale to assist us to go to the venue. Thank you very much.

With those very many remarks, I wish to adjourn the House *sine die*. Thank you.

(The House rose at.. p.m. and adjourned sine die.)