



## **EAST AFRICAN COMMUNITY**

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

#### **The Official Report of the Proceedings of the East African Legislative Assembly 98TH SITTING – SECOND ASSEMBLY: SECOND MEETING – FOURTH SESSION**

**Tuesday, 14 December 2010**

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

#### **PRAYER**

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

*The Assembly was called to order.*

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#### **COMMUNICATION FROM THE CHAIR**

**The Speaker:** Hon. Members, amidst us here today is one new Member, hon. Abdullah Juma Abdullah Sadala who is a new Assistant Minister for the EAC from the United Republic of Tanzania. By virtue of his appointment, he becomes an Ex-Officio Member of this House. In accordance with the Rules of Procedure, he cannot take part in proceedings of this House before he is sworn in. I, therefore, call upon two Members who happen to know the new Member to bring forward to the podium to take his oath.

#### **ADMINISTRATION OF OATH**

The Oath of Allegiance was administered to the following Member: -

Dr Abdullah Juma Abdullah Sadallah

#### **COMMUNICATION FROM THE CHAIR**

**The Speaker:** Hon. Members, amidst us in the Chamber is a new Member hon. Abdullah Juma Abdullah Sadallah who comes to replace hon. Mohamed Abood who is the immediate outgoing Assistant Minister of EAC Affairs from the United Republic of Tanzania.

You will recall that the United Republic of Tanzania has just come out of elections and has necessitated the formation of a new Cabinet, which also includes hon. Sadallah. By virtue of his appointment and subsequent oath he has just taken, hon. Sadallah will be an Ex-Officio Member of this august House.

Dr Sadallah, we congratulate you upon your appointment and we warmly welcome you to the Assembly. *(Applause)* We look forward to a good working relationship with you. You can count on us as your greatest allies as you will come to understand from your colleagues on the frontbench. We have so far a very good working relationship with them in the management of the EAC. You are most welcome.

I would also like to take this opportunity to extend our deepest appreciation to hon. Abood for the good work he undertook in this Assembly and the Community at large. *(Applause)*

Finally, I wish to use this opportunity to thank hon. Jakaya Mrisho Kikwete for making an excellent choice for Assistant Minister for EAC Affairs. *(Applause)* I have already met with hon. Sadallah in my office and we have discussed a lot about the EAC integration process and we have someone who knows a lot about the EAC, *karibu sana. (Applause)*

## PAPERS

The following Paper was laid on the Table:

By Mr. Gervase Akhaabi on behalf of the Chairman of the Committee on Communications, Trade and Investments:

The Report of the Committee on Communications, Trade and Investments on the petition by General Motors Limited)

By the Chairperson of the Committee on Regional Affairs and Conflict Resolution, (Mr. Abdul Karim Harelimana):

The Report of the Committee on Regional Affairs and Conflict Resolution on the EALA Fact-Finding Mission to Juba, Southern Sudan.

## BILLS

### FIRST READING

**The Chairperson, Council of Ministers (Ms. Hafsa Mossi):** Mr Speaker sir, I beg to move that the East African Community Customs Management Amendment Bill, 2010 be Read the First Time.

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

*(Bill Read First Time and referred to the Committee on Communications, Trade and Investments)*

## **MOTION**

### **FOR CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENTS ON THE GENERAL MOTORS PETITION**

**Mr Gervase Akhaabi (Kenya):** Thank you, Mr Speaker sir. I wish to move a motion that the report of the Committee on Communications, Trade and Investments on the petition by the General Motors Limited be adopted. Thank you, Mr Speaker sir.

**The Speaker:** Seconded.

**Mr Akhaabi:** Mr Speaker sir, once more I thank you.

The General Motors Limited sent their petition to the East African Legislative Assembly in accordance with Rule 79 of the Rules of Procedure of this House. Mr Speaker forwarded this petition to the committee for consideration and report back thereafter.

It is in this regard that the committee invited General Motors, the East African Customs department and the CTC that is Council to the Community in meetings in Bujumbura and subsequently in Arusha following the legal opinion by the CTC's Office, the response from the Directorate of Customs and the experts report on the Rules of Origin.

Mr Speaker sir, the committee was now in a position to fully understand the contentious issues raised by General Motors and areas, which this report is going to bring out and recommend accordingly.

#### **Contentious issues:**

Mr Speaker sir, the problematic areas on which General Motors based their petition are majorly on Common External Tariff (CET), the Rules of Origin and the standardisation and regulations.

The Protocol establishing the East African Customs Union provides a three band structure for the East African Community Common External Tariff with zero percent for raw materials and capital goods, ten percent for intermediate goods and 25 percent for finished goods in Article 12 sub article 1.

#### **The CET to motor vehicles:**

The tariff protection under the Customs Union is used to protect the Motor vehicle industry sector. In this regard, most of the imported completely built motor vehicles under chapter 87 of

the Harmonised Systems that is HS attract a maximum duty rate of 25 percent except special purpose vehicles for which there is no capacity in this region.

It should be noted that the assemblers import the main input as Completely Knocked Down (CKD) an unassembled form.

In order to protect local assembly, it was agreed that vehicles imported as unassembled that is in CKDs should be accorded a zero percent rate. For each category of the motor vehicles under a tariff heading, a complete new vehicle attracts 25 percent while a corresponding unassembled motor vehicle attracts zero percent.

### **The Rules of Origin:**

The East African Community Rules of Origin are used to distinguish goods that are produced within the East African Customs territory and are eligible for Community tariff treatment against those produced outside the East African Customs territory that attract duties specified in the Common External Tariff.

The Rules of Origin are therefore like birth certificates. For goods to enjoy Community tariff treatment, they must meet certain criteria. For purposes of East African Community, Rules of Origin criteria have been defined and only one of them must be complied with for any goods to qualify for preferential treatment.

These criteria are:

- (a) Goods have been wholly produced as provided for in Rule 5 of the East African Community Rules. They have undergone substantial transformation where the CIF value of any foreign material does not exceed 60 percent of the total cost of all material used in the production of goods. Material Context Criteria.
- (ii) The value added resulting from the process of production accounts for at least 35 percent of the ex-factory cost of the goods that is value addition criterion.
- (iii) The goods are classified or become classifiable under a tariff heading other than the tariff heading under which they are imported as specified in Schedule 2 of the rules that is change in tariff heading criterion with respect to motor vehicles. The assembly process of motor vehicle utilises the imported CKDs and local inputs. In many cases, the value of local inputs is minimal and as such, the vehicles cannot qualify under the value addition criterion. However, some of the units assembled in the region utilise local inputs of high value and qualify under the value added criterion.

### **Issues raised by General Motors:**

The Committee on CTI met the General Motors and the East African Community officials to deliberate on the facts in the GM petition in September 2010 in Bujumbura and October 2010 in Arusha. The essence of the petition was to demonstrate that the motor vehicle industry in East Africa is faced with difficulties emanating from the implementation of the CET and the Rules of

Origin. These challenges are both policy and operational related. The contents of the GM petition are summarised as follows:

**Continued violation of the Common External Tariff (CET):**

GM officials indicated that there is no strict enforcement of the 25 percent CET for finished products in the East African Community Partner States. They also noted that the EAC has been arbitrarily suspending the CET rate for some countries and this has given importers advantage over local manufacturers. They gave examples of violations of CET as follows:

- (i) Dar es Salaam rapid transit project where import duty on buses with capacity of more than 25 seats was reduced to ten percent from July 2007.
- (ii) Import duty exemption on refrigerated trucks, insulated tankers and garbage/refuse collection trucks.
- (iii) Reduction of import duty on trucks of gross vehicle weight of 5-20 tonnes from 25 percent to ten percent as requested by Uganda, Tanzania and Rwanda.
- (iv) Tanzania, Uganda and Rwanda requested and got approval for stay of application of CET rate of 25 percent for one year and applied import rate of zero percent for trucks of gross vehicle weight above 20 tonnes.

**Implementation of change of tariff heading:**

The General Motors officials further indicated that there is substantial transformation on motor vehicle assembly processes starting from Completely Knocked Down as contained in the Second Schedule to the East African Rules of Origin.

The experts report including the revised Second Schedule of the EAC Rules of Origin was approved by the EAC Sectoral Council on Trade, Industry, Finance and Investment on September 11 2008 by the full Council of Ministers on 13<sup>th</sup> September 2008 and finally by the EAC Summit on 29<sup>th</sup> April 2009.

The EAC Council of Ministers and Summit also lifted the stay of application of change of tariff heading criteria and the gazettelement of new change of tariff heading schedule was done on 8<sup>th</sup> May 2009.

However, the motor vehicle industry is experiencing operational challenges in the implementation of this rule despite degazettelement.

**Standardisation:**

The General Motors also indicated that there has been delay in harmonisation of motor vehicle standards within East Africa with respect to:

- (a) Safety standards, emission levels, standards and testing procedures for used motor vehicles and the age of used motor vehicles imported into the region.

The other concern that they raised in their petition was with regard to regulations. Despite various requests by the industry for harmonisation of motor vehicle assembly regulations in the

region, the General Motors Limited indicated that the regulations are yet to be developed and implemented. Currently Kenya is the only country in the region with regulations on motor vehicle assembly.

**The Directorate of Customs response to the petition:**

With regard to violation of CET, they had this to say. The Protocol provides for review of the CET by the Council, which is empowered to approve measures to remedy any adverse effects experienced by Partner States.

More so, amendments to the EAC Common External Tariff are initiated by ministers of finance during their pre-budget consultation meetings prior to the reading of the national budgets.

The proposals of the ministers of finance are adopted by the sectoral council on trade, industry, finance and investment. The process of amendment commences with submissions by the respective Partner States, which are discussed and agreed by the ministers of finance.

The decisions of the ministers are reflected during the reading of national budgets. The review process is premised on Article 12 sub article 3 of the Protocol, which provides that the Council may review the Common External Tariff structure and approve measures designed to remedy any adverse effects, which any Partner State may experience by reason of implementation of this part of the Protocol or in exceptional circumstances, to safeguard Community interests. We emphasised “to safeguard community interests”.

The reviews undertaken by the Council are guided by the Treaty, the Protocol and other related laws of the Community.

With regard to stay of application of CET on buses, the Directorate of Customs had this to say. At their meeting held on 13<sup>th</sup> May 2007, the ministers of finance received and considered a submission to stay application of EAC CET rate of 25 percent on importation of heavy duty buses and apply ten percent for Tanzania and Uganda for one year.

The request from the United Republic of Tanzania was to support implementation of First Bus Project while Uganda was to host CHOGM in November 2007 and hence needed a stop gap measure to boost their transport logistics for the meeting.

The stay granted to Uganda has since expired while the request by the United Republic of Tanzania was renewed by the ministers of finance for one year at their meeting held in May 2008 and May 2009 and then May 2010. The project was yet to be implemented. The stay for Tanzania is due to expire on 30<sup>th</sup> June 2011.

It was agreed in the discussions that Tanzania will give preference to produced buses for this project. This stay of application is a temporary intervention for the time limit which has not removed a CET rate of 25 per cent.

The responsible directorate of customs of the stay of application of CET on trucks was as follows;

In May 2009, the ministers of finance received a request from Uganda, Rwanda and Tanzania to stay application for CET for tax of net carrying weight of 5 tonnes and above, that is under 8704.22.90 from 25 per cent to 10 per cent for one year; net carrying capacity of over 20 per cent code number 8704.23.90 from 25 to 0.

The decision to stay of application was premised on the economic effect arising from the financial prices which affected transporters who are dependent on debt financing. The social economic importance of trucks in transportation of produce from rural to urban areas; the brand quality of trucks that can manage the difficult terrain in some Partner States and lastly, the gradual tariff transition from what prevailed before joining EAC by Rwanda and Burundi.

The ministers agreed that a research be undertaken to verify production capacity, demand price competitiveness and quality of the vehicles assembled in the region. These findings would inform the policy decision at the next budget meeting to be held in May 2010. In the mean time, it was decided that the stay of application be granted for one year, subject to review in 2010.

Kenya would retain import duty of 25 percent for both categories of trucks. The research was undertaken and it was established that;

- 1) Trucks assembled in the EAC are less competitive in price compared to those from outside
- 2) There is capacity to locally assemble specific brands of trucks, 5 tonnes and above in the EAC to meet a portion of the regional demand. Regional demand constitutes a range of brands.

The ministers considered the above findings in 2010 and agreed;

- 1) Not to extend any stay of application on buses except for first bus project in Tanzania which would apply for one year
- 2) To extend the stay of application on trucks for Burundi, Rwanda and Tanzania for the next one year and revert to CET in 2010.

Amendments to the exemption regime with respect to motor vehicles

At their meeting held on 3<sup>rd</sup> June 2008, the ministers considered and agreed to exempt the following motor vehicles;

- a) Garbage collection
- b) Exempt import duty on trucks especially designed to garbage collection in order to facilitate garbage collection and improve cleanliness and sanitation in cities and towns and probably this is what you are seeing now in Rwanda even Tanzania.

This was based on the growing challenge in the urban centres – the urban centres are experiencing in this regard to keeping these places clean.

Dairy sector

Exempt insulated tankers in addition to refrigerated trucks under the exemption regime. This was to promote and encourage safe handling and transportation of milk to processing plants. This was done along with milk cans and remission of duty on imports based in the manufacture for milk cans.

### **Tourist vehicles**

Exempt of import duty to include vehicles specially designed for use in Tourism sector in the exemption schedule in order to promote tourism in the region.

The above exemptions are subject to specific conditions and are not available to every importer in order to deter misuse. The amendments were done in accordance with the EAC customs management Act under section 114 which gives Council powers to amend the exemption regime.

#### **Application of the change in tariff heading**

The motor vehicles assembled in the region will not qualify under the change in tariff heading criterion because the imported CDKs for assembling purposes are declared under the same heading 4 digit level of the HS as finished product.

In order for the vehicles to qualify under CTH change in tariff heading, there would be need to amend the current structure of the HS under heading 87.01, 87.02, 87.03, 87.04 and 87.16 by deleting the tariff lines of an assembled kit because they are being classified under the same heading with the final product thus leading to no change in tariff heading.

This will allow motor vehicles of headings mentioned above to qualify under CTH criterion. Motor vehicles assemblers could then be covered under the duty remission scheme that allow them to utilise in puts at zero per cent rate which is currently applicable.

The Sectoral council has directed the Sectoral Committee on customs to establish modalities for deletion of the tariff line while catering for CKDs as duty free imports.

On standardisation, the customs directorate had this to say; the issue of harmonisation of standards included used motor vehicles is an ongoing process in the region. The committee on standards has been discussing this issue and made a number of recommendations. Based on the recommendation, the sectoral council decided that;

- 1) A regional workshop of all stake holders be held to discuss the relationship between the age limit, environmental pollution, safety, fuel consumption efficiency, social well being, economic activities, technological and industrial development
- 2) A study be commissioned after the workshop and long term impact of trade in used motor vehicles in the community including the aspect of age. It is reported that the issue of age limit for used vehicles is under discussion. Currently, Kenya prohibits motor vehicles of eight years and above while



Uganda, Rwanda and Tanzania impose a surcharge on vehicles excluding trucks above 10 years. The experts have recommended the EAC prohibits importation of vehicles of 10 years for which Kenya wants to be retained at eight years.

### **Regulations**

It is reported that the development of regulations of motor vehicle assemblers has been under way. A research undertaken to inform the exercise revealed that the stand along regulations for assemblers is not necessary. If the CKDs replaced under the duty remission scheme, the necessary amendments of the duty remission regulations will be made to cater specifically for motor vehicle assemblers and will be harmonised across EAC as it is the case with other customs regulations.

### **Observations and recommendations**

The committee observed as follows;

- 1) The process and measures of reviewing CET approved by the council are consistent with the protocol under articles 12 and 39 of that protocol. However, whereas negotiating the CET was and is consultative, the process of review is not and currently vests only in the council of ministers excluding other stakeholders.
- 2) The suspensions/ stay of application of CET in this case was based on justifications which were presented by partners states within the powers granted by the EAC customs management act.
- 3) The absence of customs management authority established under the Act has deprived the region of a mechanism to efficiently and widely consult in the enforcement and implementation of CET
- 4) The committee observed that the directorate of customs and trade informed that the stay of application on the specified categories of motor vehicles is a temporary measure which expires in June 2010.
- 5) The committee was further informed that the council has already directed that the change in tariff heading in relation to motor vehicles be operationalised.

From these observations, the committee makes the following recommendations for adoption by this house;

- a) The committee recommends to the assembly that the council of ministers reviews the rules of rules of origin to make them flexible to enable key sectors like motor vehicles assemblies access the EAC market. The committee felt that the rules of origin act as an inhibitor in the access of the market by the motor vehicle assemblers
- b) The motor vehicle industry should form part of the EAC industrialisation strategy and growth in this sector should be encouraged by adherence to clear unpredictable rules and regulations to encourage investments in the sector.
- c) To committee recommends that to that end the council of ministers be urged to expedite the deletion of the tariff line on an assembled motor vehicle parts in the tariff book and

code CKDs duty remission. Mr Speaker, all these recommendation foregoing are intended to help develop the motor vehicle industry in East Africa.

- d) The committee recommends to the assembly that the council of ministers, partner states and the secretariat be urged to expedite the compilation and enforcement of the EAC standards in all key sectors including the motor vehicle industry. It is the view of the committee that we cannot claim to be a common market when we are enforcing different standards in different partner states.
- e) The committee also recommends to the assembly that the council of ministers do constitute the customs management authority, which comprise both the public and private sector representatives so that the authority should be in charge of the promulgation and enforcement of regulations to the implementation of the EAC customs protocol and the EAC management act.
- f) The committee further recommends that the regulations so promulgated should be arrived at after due consultations with all stakeholder and appropriate notice thereof given of any intended change.
- g) Lastly, the committee recommends that any party aggrieved by or wishing to have any regulation interpreted should be at liberty to seek legal redress from the EA court of justice or any other court of law.

Mr Speaker, this is the report of the committee and I beg to move that it be adopted by the House. Thank you. (*Applause*)

**The Speaker:** Hon. Members, the proposal on the floor is that the report of the committee of communications trade and investment on the general motors be adopted. Debate is open.

Hon. Members, before we begin debate I would like to recognise in the gallery this afternoon Hon. Alex Byarugaba Member of Parliament from Uganda. He is accompanied by special advisor to the UN assistant secretary General for the disaster risk management from Geneva. Also with them is Mr Brown Hay, based in South Africa. *Karibuni*.

We also have in the gallery the future of East Africa as you can see on the left. We have students from the International school of Uganda. Please stand up. *Karibuni. (Applause)*

Hon. Members, debate is open.

**Dr James Ndahiro (Rwanda):** Hon. Speaker, I rise to also support the motion that this House adopts the report of the committee. After careful deliberations as you have heard, we consulted all stakeholders, we had presentations from General Motors, we had presentations from the Customs, and we consulted different documents including an expert report that was not actually known even to General Motors.

We shared it with them and asked General Motors to make comments because it was alleged that there were some issues that were not properly handled by General Motors. And as a result, the Customs people sent a team of experts to go and carry out the audit. It is after looking at the experts report that we were informed of areas of contention as reported in our report.

We have spoken to different people on this issue; it has taken time but we wanted to make sure that we consult everybody and our report becomes a report that merits the time; a report that has views from both sides. We are not condemning any party in our report; we are basically showing where weaknesses are and what we think could be a remedy to the situation.

We have recommended to the Council of Ministers as they are empowered by the law. But hon. Speaker, although they are empowered by the law, it is our feeling that consultations with stakeholders and the private sector players are necessary.

As we build the community; as the Treaty stipulates that our community is private sector led and people centred, we feel that the Council of Ministers should actually help the Community be involving the stakeholders before such decisions are arrived at. This is because we want to create a Community with a conducive business environment; a Community that will attract foreign investors; a Community that will promote domestic investors. So, the playing field must be cleaned by bringing all stakeholders on board.

Hon. Speaker, we also looked at the contentious issues and we asked the Council to make sure that they clarify on areas that are not very clear. One example is where in one of the reports it was mentioned that General Motors could not get duty free status on some vehicles because the contribution or value added does not exceed 35 percent. Now, when you ask experts what 35 percent includes, you find that there is a bit of unclear territory. The 35 percent value addition can mean costs incurred in producing a certain product. Costs can be human, material and other expenses. Now, without clear criteria on which costs to consider in the computation of value, one may decide to use even bonuses paid to employees or senior management, rent paid and other costs that can easily be determined by the company to form part of value addition.

Two, when it comes to computation of 60 percent, experts were arguing that unless it is based on a clear invoice, otherwise those computations do not qualify to be included in the computations. So, at the technical level, they have not agreed on how to operationalise the law. We are urging the Council of Ministers to look into that and probably be flexible on rules of origin. And if you allow that some products are produced within the Community although the raw materials are imported and there is value addition, such computations should be agreed upon and given clear criteria. If you say salaries, bonuses and these other costs are not allowable then that should be a standard. But if it remains silent, then conflicts will continue.

Hon. Speaker, I would like to end by assuring hon. Members of this House that we have tried to consult each and every document available and this report merits your support. Thank you, hon. Speaker. *(Applause)*

**The Speaker:** Hon. Members, before I call the next speaker, I would also like to recognize in the gallery students representatives from seven districts of Karamoja Region, their patrons, officers from the UPDF and the United States Armed Forces who have come to witness how the EALA conducts its business. *(Karibuni). (Applause)*

**Ms Margaret Zziwa (Uganda):** Thank you very much, Rt hon. Speaker, Sir. I would like to thank the Committee on Communication, Trade and Investments and I would like to thank hon. Akhaabi for the presenting the report.

I want to say that it is important that they have been able to look at this petition. We had an opportunity to visit General Motors and I would like to thank you very much for the opportunity because we were able to appreciate what goes on in General Motors.

I also note with concern that the issues raised hinge on the fact that they assume that there is no justice in the way the Common External Tariff is administered. For instance, I would like to seek clarification on page one 1.1 of the report where there is a statement and maybe hon. Akhaabi or Hon. Dr Ndahiro can help me.

There is a statement which says, "In order to protect local assembly, it was agreed that vehicles imported as unassembled should be accorded a zero percent rate." I nearly asked, it was agreed by whom? It is important that this clarification is made. Was there some form of discussion and was this between General Motors and the Customs officials? It is important that this kind of agreement is clarified. I think I would appreciate it when that is brought forth because then we would know that if there are complaints, then this kind of agreement is either violated or otherwise.

The second clarification I would like to seek is on 2.1 where it is observed that the EAC has been arbitrarily suspending the Common External Tariff rate for some countries and this has given importers advantage over local manufacturers. That is an equally important observation and definitely it is a statement worth interrogating although I appreciate that when the responses are given from the Directorate of Customs, the major reason, which is based upon is under paragraph 3.1 where they say that the review process is premised on Article 12 (3) of the Protocol, which observes that, "The Council may review the Common External Tariff structure and approve measures..."

Mr Speaker, I think what is important is to ensure that when there is going to be a review, important stakeholders like General Motors and others are consulted or brought on board. Why am I saying that? There has been a lot of effort to interest East Africans to venture in the area of manufacturing. You find that it is true this is a heavy industry, which may not be able to be a hundred percent produced from locally produced goods but you have to appreciate also that there is an effort, which has been done. When a complaint like this one is raised, I think there is due obligation on the customs department to actually interrogate this complaint and have it effectively looked into.

So my concern is that, yes there is an agreement today that there is some level of injustice and two, if we want to encourage investment in Uganda, Kenya, Tanzania, Rwanda, Burundi, in any part of East Africa, we need to understand what the challenges are for the local manufacturers or for those people who have established the industries.

That is my concern is if I can be clarified on certain areas and then advised. I want to appreciate the recommendations as put forward by the committee and of course say that I have also seen that we are receiving a proposal of the East African Customs Management Amendment Bill, 2010. We may not have an opportunity at this juncture to have amendments, which we may be proposing in here infused in this current one of 2010 but I think the process should start, considering the concerns raised by General Motors.

I thank the members of the committee for the report and I thank the chairperson, hon. Dr Ndahiro for enabling this petition to come to this floor after thorough consideration. I thank you.

**Mr. Augustine Lotodo (Kenya):** Thank you, Mr Speaker. I stand to support the report of the committee on this petition that has been brought about by the General Motors to the Assembly.

One issue that I just want to add is to say that inter trade among the East African Partner States since the East African Community came together ten years ago has shown that trade has increased and one of the main reasons for us coming together is to ensure that we can tap on the entrepreneurial skills of our people in East Africa who are traders and who are in industry such that we are able to trade freely among ourselves.

I think it is on this basis that we really need to remove barriers to trade and it is a well understood fact that there are so many challenges affecting people in this sector. This is just one of the cases that have come up and I know that there are so many issues. So I think that it is within our mandate as an Assembly to support these recommendations that have been brought forward by the committee such that we can make life easy for our people.

One of the major challenges we have in this world today is the issue of competition in trade within the market and you find that each market is trying to protect itself so we in East Africa should at least ease the market for our people to be able to trade rather than creating barriers to ensure that we are penetrated by people from other regions. So I just want to fully share the recommendations of the committee and to urge the Parliament to support this recommendation such that we are able to make life easy for our people. Thank you, Mr Speaker.

**The Assistant Minister for East African Community Affairs, Kenya (Mr Peter Munya):** Thank you, Mr Speaker. I would also like to support this report and thank the committee for doing a very thorough.

Mr Speaker, I would like to encourage the committee to move in that direction. Whenever there is a complaint in East Africa by any of the industry players, they feel gratified when this august House takes an interest in the matter and comes up with a report that is very objective and balanced like this one. I am sure General Motors will be happy that at least their complaints have been looked into and a direction in solving their problem has been given.

Mr Speaker, I am appreciating what the mover of the motion observed that the East African integration is supposed to be people driven and private sector driven and this is very encouraging when voices in the private sector that have been raising issues are listened to especially at this juncture when most of the stakeholders are shy in taking their complaints to the courts. So this Assembly comes in very handy to be able to handle some of these matters. Mr Speaker, I fully support the recommendations.

A Management Authority for our customs is long over due, Mr Speaker. We have reached a watershed in the integration process especially now that we have a Common Market and without an authority that can do proper management, proper studies and put rules that are informed by

technical advice we may not go very far. Sometimes we may be experiencing complaints that are not necessarily genuine but because there is no structure or an established authority or institution that can look into those complaints then we find many complaints going on that may not necessarily be genuine and that could be handled very early if such an authority was there.

Mr Speaker, I am also gratified by the recommendation on the need for rapid industrialisation of East Africa. Some of these industries like General Motors- Even though they may not completely be indigenous industries, it is a good starting point where necessary skills are learnt and eventually we may have our own indigenous local motor vehicle industry.

Mr Speaker, I would like for instance to inform the House that there is a company in Kenya called General Machining Complex that is currently producing local spare parts for the motor vehicle industry and they have an ambition of eventually starting an indigenous motor vehicle manufacturing industry. Remember there was Nyayo Car that was produced some time back in Kenya that produced I think five vehicles from locally produced materials. Though that industry never took off, I am told now that General Machining Complex is reviving that project and is inviting other private sector players in East Africa and even Partner States to invest in that company so that it becomes an East African Company that can be able to produce motor vehicles for East Africa.

In most of the countries that are industrialised, you will find especially in the newly industrialised countries that most of them are producing motor vehicles and other machines specifically made for their local conditions- (*Interruption*) -

**Dr. George Nangale (Tanzania) :** Thank you for allowing me. Mr Speaker sir, way back in the 1980s, Tanzania established the first motor vehicle company in East Africa called Nyumbu but due to different constraints, it has not taken off as we would expect but it did produce some vehicles so this initiative is very good as you were saying. Thank you.

**Mr. Munya:** Thank you, Mr Speaker. You can see there is more that has been happening in East Africa. So that is why we are saying that time has come for us to move in that direction and since this company is already inviting players within East Africa to work with them, I think this is the time we can do that.

India has been able to produce many vehicles and machines that are clearly made for third world countries and that are even imported and brought into East Africa for that purpose so it is not that we are trying to reinvent the wheel. We are saying that sometimes what we buy is not specifically suited for our region, sometimes it is very expensive because of where it is made so moving in the direction of establishing our own motor vehicle industry that produces vehicles that are specifically made for our roads and for our purposes for farming, public transport and for whatever other purpose we may need, this is a step in the right direction and I fully support the recommendations made by the committee and the thorough job that they did when they were investigating this matter. Thank you, Mr Speaker.

**Mr. George Nangale (Tanzania):** Thank you, Mr Speaker for giving me this opportunity to join colleagues in supporting this report and the way it handled and deliberated this petition.

Mr Speaker, probably this is the first petition from the private sector since the establishment of EALA way back in 2001 so General Motors have shown us the way and they have basically opened the door and I am sure more aggrieved parties in East Africa will follow suit and find their way to the Assembly.

Mr Speaker, on the recommendations, I support all the recommendations but I would like to put emphasis on the issue of constituting the Customs Management Authority. Mr Speaker, this is not a new idea. It has been discussed in many forums and in fact during the deliberation on the East African Customs Union in 2004, many Members of the Assembly recommended that we need to have an authority instead of a directorate. So I want to urge the Council of Ministers to seriously consider this proposal and move amendments so that it would empower the centre to act because one of the problems I think the EAC Customs Union is facing is the power of the centre which is not there. Otherwise, I once again support the report. Thank you.

**Ms. Dora Byamukama (Uganda):** Mr Speaker sir, I would like to add my voice to those who have thanked the committee and before I do so, to also warmly welcome the honourable minister from Tanzania who has joined this House.

Mr Speaker sir, talking from personal experience, I feel very energised by this very technical and excellent report and having attended the customs union meeting in Arusha, in 2005, I would like to categorically say that this is clear evidence of the fact that the customs union is being officialised.

I have three comments to make on the report. The first is in respect to some of the observations which were made by general motors and in particular on page 4 which has reference to the issue of standards, and it reads, “general motors also indicated that there has been delay in harmonisation of motor vehicle standards in EA with respect to safety standards, emission levels, standards and testing procedures for used vehicles and age of used vehicles imported in the region.”

Mr Speaker, I did not see a recommendation on this particular point – I think it is a very cardinal point, bearing in mind that we have lost many citizens of East Africa to road accidents and some of these road accidents are as a result of the quality of the motor vehicles of our roads and therefore I believe that this is a point that the committee could readily adopt.

Secondly from this very point is the issue of emission levels. The whole world has been converging in Cancun on the issue of climate change which has to some extent been precipitated by high emission levels some of which come from our country although I must hasten to add that most come from the developed nations.

Therefore, this is another critical point which maybe the committee could carry forward and point out as needing urgent attention so that we don’t add to the global pollution and therefore

blamed for pending catastrophe that may come up as a result of climate change due to emission levels.

Mr Speaker this report is very informative and it touches on two very important aspects, the common external tariff as well as rules of origin and it is very clear that when you have zero percent charged on importation of unassembled cars and vehicles. This will go along way – will help us promote transfer of technology as well as promote innovation.

Two members of this house from Kenya and Tanzania have said that their respective countries have invented a car, in Uganda we also have some university students who have made a similar invention and I believe that Rwanda and Burundi could also have similar inventions.

Therefore, this is the time for all of us in East Africa to look at these interventions to pay more attention to them and give them more money so that we can have our own assembly and therefore adhere to the standards that we will set for ourselves.

Mr Speaker, my third and last point is on the issue of the recommendations. When you consider the observations; the very first observation on page 8 notes that the process of review is not consultative and currently vests only in the Council of Ministers excluding other stake holders.

It is very clear that whereas the initial process was more consultative, when it comes to the review the stake holders are left out. And so when you look at recommendation a) on page 9 which states that the committee recommends to the assembly that the council of ministers reviews the rules of origin to make them more flexible to enable key stakeholders like motor vehicles assemblers in the EAC market, there is an element which the committee has left out, which I had pointed out earlier – the consultative and the fact that it should include stake holders.

Obviously, I do not think the issue of review is the biggest problem, I think the biggest problem that maybe is the fact that although there maybe reviews, these reviews have not taken into account prevailing circumstances as well as prevailing issues such as those raised by general motors.

I would like to conclude by making reference to a point which hon. Minister raised, and this is in reference to recommendation (g) which states that any party aggrieved by, or wishing to have regulation interpreted should be at liberty to seek redress from the East African court of justice or any other court of law. I concur with this statement but I would like to hasten to add that this move by general motors to petition the assembly is a noble move, because courts of justice are a last resort of intervention and therefore I would like to recommend that the deliberations and the response received in respect of this report should be fed into the process of consultation and that the council of ministers should provide resources and an avenue at which this august house would interface with the general motors and other entities involved in motor vehicle importation as well as manufacture so that we can have a more conclusive manner of handling this issue.

I thank you and I beg to support.

**Mr. Mike Sebalu (Uganda):** Thank you very much, Mr Speaker. I rise to support the report of the committee which has been very well presented and well drafted and the issues raised in this report are very important, well thought out and need to be supported by all of us.



I wish to start by thanking you as the speaker, to thank the committee for this very timely and necessary intervention upon receipt of a petition from one of the stakeholders of the community in the private sector. You will appreciate that we do have a paradigm shift in terms of the way we are dealing with the integration process this time round, centring around the principles of being people centred, market driven and private sector lead and what the committee has done is in response to those very principles as set out in the treaty because by listening and making intervention to a petition of a member of a private sector in the names of General Motors responding to the people centeredness, these are East Africans and they need to be listened to, they need to be assisted and they need to be helped where they feel that the institutional and structural arrangements do not allow them to operate at optimal levels.

When you do that, you are addressing the issue of the market. We are talking about the issue of the open market as we are addressing it now.

This is 120 million people but we should not have other contradictions that make it difficult for those that are engaged in production not to access this market without much ado. And definitely, this also answers the private sector led. If we are talking of an integration arrangement that is private sector led and we are not listening to the private sector, we would be reneging on our obligations and we would simply not be walking the talk.

So, we put it in the treaty this action by the committee translating it into interventions and we are implementing the treaty as a parliament. So I would like to thank the committee for that intervention. Besides, this kind of intervention makes EALA relevant. It becomes a much relevant institution in the eyes of the public, in the eyes of the manufacturers, in the eyes of the private sector because they have a place where to go to seek redress, when they feel that the arrangements in place are not favourable for them to optimally make a contribution as private sector.

It makes us responsive, because a petition was given, it has been responded to with very well thought out recommendations, therefore we become a pro-people legislature and I think we are doing very well in that direction.

Further more, it makes us accessible that parliament is not something there, something that cannot be accessed when we have a problem, because then, EALA is proving that we are in existence, and we are there to represent the interests of our people as representatives, but also to engage using our legislative mandate to effect changes or to cause some changes to be made in a manner that can be helped to the people.

So, we are really doing our work the way we should do it and in this case, the committee has played a very important role and the report that has been brought all of us is such an important report that we need to report so that we set a precedent in a manner that we are available and we respond to the people's needs as and when they bring them to our attention.

Mr speaker, we definitely pass laws, we definitely have policies within the region, but there is no way we can test the appropriateness of these policies until they get implemented and in the process of implementation, the beneficiaries and other players help us to identify gaps that we

need to fill and being a responsive parliament and being that these laws are made for the benefit of people.

When such omissions or commissions are pointed out, it is important for us to respond in a timely manner and accordingly to fill in those gaps and make it possible for the players to be able to play their part without much ado, and I believe that the recommendations that have made are answering the call of general motors in terms of the gaps that they have been able to identify in the law that they have petitioned.

Mr Speaker, I support the motion and I wish to thank the chair, the committee and the presenter of the report who did it in such an eloquent way, with a lot of enthusiasm and conviction and I don't have any reason not to support it.

So, I wish to support the motion.

**Mr. Dan Kidega (Uganda):** Thank you Mr Speaker. Since I joined this assembly, this is the first time I think we are touching the real heart of the people of East Africa in terms of their welfare.

The assembly has various roles ranging from legislation to oversight and to representation. I think this is the depth of representation that matters so much to the people of East Africa. If I had a chance to reach out to East African traders or organisations that are operating in East African Community I would be agitating them to present more petitions to this assembly or other relevant organs of the assembly to redress the unfair behaviour or unfair trade which is going on in the region.

I think General Motors has opened a door to many organisations. There are so many other industries or factories or trading companies that are unfairly suffering out there, about a year ago, as Uganda chapter we got a petition also from a small pharmaceutical company called *Samona*. They are engaged in the production of petroleum jelly and other pharmaceutical products of beauty industry but the petitioners are telling us how far they have failed to optimally enter the market of East Africa based on the integration process and the biggest problem which they raised to us was the issue of standardisation and harmonisation of standards and general motors has raised the same matter.

I think relevant offices must take this matter seriously, if we don't harmonize the issue of standards, the market we are proud of, of 120 million will be a white elephant. Other people will continue to use it, when markets are not harmonised in terms of regulations, you cannot call it a single market.

If a Uganda manufacturer can produce something and the standard is guaranteed in Uganda but he has to go through other rigorous process to access other Partner States market, then what kind of market are we talking about?

I would like to plead with the council of ministers that the issue of harmonisation of standards be taken as an urgent matter in order for us to really utilise the market we are talking about.

Mr speaker, the people of East Africa are suffering immensely from, fake goods, goods which are not even worth of consumption on this market because of unfair regulations that cannot

protect the people. It is not only the motor industry. If you look at the pharmaceutical industry, they are having the same complaint.

So, I think it is important we move fast and protect these people. We need to see consumer protection organisation come up and petition this parliament, tell us that the people are being pumped with bad goods, that is when we will realise that something is happening.

Mr Speaker, the last point I wanted to talk about is the issue of our researchers or scientists. Our scientists can only be motivated if they are protected in terms of what they are doing. It may be that the GM people are not indigenous people of East African but they are employing East Africans who are acquiring skills.

It is not only in the motor industry, but in other industries as well. We need to motivate our scientists to do research and to do inventions by protecting them. Tariffs maybe accepted forms of regulating markets, but if not properly checked, they can become a trade barrier.

So, I would like to plead with everybody who is involved in the East African integration. We need to protect our scientists, motivate them to do more research and do more invention.

I wholly support this motion and I would to appeal to other people out there to petition this Parliament more and more on issues of this nature; this is a vote of confidence to the Assembly. I thank you, Mr Speaker.

**Ms Catherine Kimura (Kenya):** Thank you, Mr Speaker. Let me declare my interests that I am a member of this committee. I do want to appreciate the opportunity given to me by the Speaker for the committee to deliberate on this matter after the petition from general motors.

Mr Speaker, the issue we are discussing hinges on Article 79 of the Treaty and particularly the industrial policy of this Community. Article 79 spells out clearly, the need for this region to be industrialized to achieve a structural transformation from being an agricultural region to a region that can boast of being an industrial hub for Africa. The Treaty calls upon the Community to foster an overall social-economic development within the partner states.

The issues raised by general motors trace very many other industrial organisations within our region. The call here is about the future of industrialization of this Community. We are being asked to make a choice between being a consumer region, exporting jobs elsewhere to the industrialised world and being a region that creates jobs for its people.

Mr Speaker, I am sure the developing world was also at one time, where we are. In addition, I have no doubt that this nation did protect their nascent industries. Therefore, it is important that we, as a region, have a deliberate policy to encourage, foster and to make that our nascent industries survive. During the presentations by general motors, we were given figures on the capacity for producing vehicles by the entire motor industry in Kenya. They do assemble buses and at one time when we were deliberating on this issue in Bujumbura, we were surprised to learn that there was a fleet of about 50 buses that had been assembled by general motors and were destined for Burundi.

Whereas we appreciate that there will be times when the Council of Ministers will be called upon to make exemptions on the common external tariff, I think we must be cognizant of the fact that in doing so we do not impact negatively on our investments. We do not want to see people who have made investments and then those capacities lie idle. What is happening in the motor industry in Kenya is really of major concern because whereas we do have the capacity, there is no – in spite of saying we have a market of 130 million people – in spite of the fact that we would see more vehicles being produced locally, these industries are suffering. What they are asking is there should be a predictable environment for them to make the necessary investments.

Mr Speaker, I think it is important that there be adherence to the regulation. And we are not saying that we protect inefficiencies, rather that we encourage – as I said before, Article 79 is very clear on industrialisation and what we need to do. Article 127 talks about creating an enabling environment for the private sector. And that is about consultations between, the private sector and the Community. In fact it calls upon the Secretary General to provide a forum for consultations between the Private sector, civil society organizations, other interest groups and appropriate institutions of the Community so that even as these common external tariffs are applied that is done in consultation with the people who are likely to be more affected and particularly the investors who are bringing investments into this region.

So, Mr Speaker, I would like to say that I support the report of the committee and call upon the Council of Ministers to really develop a very robust industrial policy for this region. Thank you, Mr Speaker.

**The Speaker:** Our last contributor will be hon. Mmari and after that, I call upon the chairperson of the Council to say something.

**Ms. Janet Mmari (Tanzania):** Thank you, Mr Speaker, for allowing me to add my voice to the voices of those who have spoken before me, in support of this report.

Mr Speaker, Sir, we are talking about a very important motion because we are actually looking at industrialization of East Africa. In fact, Mr Speaker, you will recall that about two years ago, we had the opportunity of visiting one of the car manufacturers. During that visit, we saw the number of people who have other allied industries that support that particular industry thus creating jobs for the people of East Africa. So, for me to ensure that do everything possible so that these people can continue with something that this Assembly should see it that it happens.

Mr Speaker, when you look at page 6 where we talk about the findings of the research, you realize that report says very clearly that trucks assembled in East Africa are less price competitive compared to those assembled outside East Africa. But of course that is expected because these people are operating at a capacity that is less than 40 percent. What does that mean? It means that all the fixed costs are spread over very few units. For this reason, then anything that they produce will end up being very expensive. The only way we can ensure that the costs of whatever they produce is reasonable and competitive and can be sold both from within and exported outside this sub region, is to ensure that all of us buy from companies that are within East Africa. That is number one and which means that we should have a motion or a mission statement that says: “Buy East Africa.” But you can only buy East Africa if things are competitive. And they can only be competitive if we remove the tax element, which is 25 percent

that is added as import duty before adding the internal taxes such as VAT and which differ from country to country. And you know that VAT is calculated at a particular rate after adding the 25 percent of the duty thus making the parts that are added to this particular manufacturing process very expensive.

Having said that and in particular since I am supporting it, I still have a few reservations, which I hope the chairperson of the committee or the Council will be able to explain to me.

I was wondering why they requested for zero and not ten percent because they are kind of partly processed in the sense that when you look at for example a door or a window or a mirror for that matter, it is kind of a part that is fully processed so I thought it would have gone to ten percent but if there is any justification, I will take it unless it is simply because we want to ensure that the rate at the end of the day makes the cars competitive.

The second observation, Mr Speaker that I had was means and ways that will be used to ensure that these parts that are imported and the CKDs are not sold as spare parts because then there will be a problem of actually looking at what is brought in by other people who are selling spare parts or they may not be able to be competing in the business. Which means that if we were to say, yes let us have it being zero rated, there must be regulations or a way of ensuring that they do not sell parts as parts but ensure that each part that is brought in is used for manufacturing.

Lastly, Mr Speaker as I thank the Committee of Trade, since there was a research done, I wish they would have also extended this to bicycles; people who bring in KDs for motorbikes- We can see that for most of the East Africans when it comes to transportation they use *boda bodas* and bicycles so that at least the people who are assembling this do not have to come up with other petitions. It could have been covered in this.

With those few observations, I support the motion, thank you.

**The Chairperson Council of Ministers, Ms. Hafsa Mossi:** Mr Speaker sir, I would like to begin my contribution to the motion on the floor by welcoming my colleague hon. Abdullah Juma Abdullah into this august House in general and as a colleague among the ex-officio members of this House.

Mr Speaker sir, I would like to thank and congratulate the chairperson and the Committee on Communications, Trade and Investment for their thorough and in depth report of the petition submitted by General Motors, the investigations that were made as a test case on the application of the Common External Tariff and the Rules of Origin and indeed on the general administration and management of the EAC Customs Union.

Mr Speaker sir, I have carefully listened to the observations and recommendations made by the committee and especially with regard to the application of the Common External Tariff as provided under article 12 of the Protocol establishing the Customs Union.

It is also with reference to the committee's observation of the need for a Customs Management Authority. These are pertinent observations on circumstances that they may always be faced by manufacturers and other stakeholders in the motor vehicle and other industries.

Mr Speaker sir, much as I appreciate the committee's evident understanding of the application of the Common External Tariff, I have taken note of the far reaching recommendations made by the committee and these recommendations and especially those pertaining to the review of the Rules of Origin, encouragement of investments, review of the tariff lines on motor vehicle assembling, enforcement of EAC standards in all key sectors and proposed establishment of a Customs Management Authority are all worth pursuing within the context of fast realising the lofty ideals on trade, liberalisation and development as provided under chapter 11 and 12 of the Treaty.

Accordingly, the Council and the Sectoral Council on trade, industry, finance and investment will closely study these recommendations once they are adopted by this august House and the two organs have already embarked on a process of review of rules of origin.

In all the processes the Council embarks on, pursuant to the observations and recommendations, the Council will continue consulting with all relevant stakeholders in accordance with the Community's operational principle that stresses people centred and market driven cooperation.

Let me add that any review of the Common External Tariff is preceded by national consultations involving among others, national manufacturing associations.

I would like to support the motion. *(Applause)*

**Mr Akhaabi:** Thank you, Mr Speaker sir. I am, on behalf of the committee, humbled by the support that the House as a whole including the members of the Council of Ministers has given to this report. We are really grateful, we think this is a demonstration of the partnership and cooperation that we ought to nurture and promote.

Mr Speaker, Sir, as the House has observed, all this is intended to be in the interest of promoting the people and interests of the people of East Africa.

Mr Speaker, Sir, many a time, the people who make these rules on reviews are actually traders. They are interested in short term profits and I would urge the Council of Ministers not to be persuaded by them but rather the broader interests of East African Community.

I thank all of you who have contributed and I urge the House to support the motion and pass it. Thank you very much, Mr Speaker.

**The Speaker:** Hon. Members, I think there were some questions asked of hon. Akhaabi on the Floor by various Members. I think I can remember hon. Mari, hon. Dora and others, which you did not- I don't want the report to be rejected because of those reasons so maybe you can say something on that even though you said you support and sat down. Hon. Ndahiro being the chair

and I think the rules do allow a mover to allow another Member to help him or her. Hon. Ndahiro, say something.

**Mr Ndahiro:** Mr Speaker, we have consulted together and I would like to allow hon. Abdullah Mwinyi to respond to the questions.

**The Speaker:** Honourable, now I put the question because I allowed you not hon. Mwinyi.

Hon. Members-

**Mr Ndahiro:** Mr Speaker, on the first question about who takes decisions and how decisions are taken, I think we know that decisions are taken by Partner States either through the Protocol or through other organs of the Community including the Council of Ministers.

In the report, the part that was referred to by hon. Margaret Zziwa was referring to decisions made under the Protocol establishing the Customs Union and other decisions made by the Council of Ministers.

On the other question about CTDs, those parts are regarded as inputs into the production facilities or into the production itself. Therefore they are regarded as raw materials and not everybody can apply and receive permission to import such parts. It is only those that have got the licence to do so. Therefore it removes the issue of speculation where some traders would go and import parts and pretend as if they are parts that they are going to use in production. I think there are other mechanisms in place that would prohibit such traders.

The other issue of standards that we should have recommended is that the Community comes up with standards. We thought as a committee that yes, it is true but we gave it a kind of framework. By allowing the establishment of the Customs Management Authority, which is a body that will be comprised of experts and other private sector people to make sure that they participate in the regulations and also through them, such standards would be developed. So according to the committee, we are supposed first of all to establish the authority and then mandate them to go ahead and regulate for the sectors including what hon. Dora was questioning.

Mr Speaker, I think those were the questions that were raised for us to respond to. Thank you.

*(Question put and agreed to.)*

Resolution adopted.

## MOTION

### FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE EAST AFRICAN LEGISLATIVE ASSEMBLY MISSION TO SOUTHERN SUDAN

**The Chairperson of the Committee on Regional Affairs and Conflict Resolution (Mr Abdul Karim Harelimana):** Thank you, Mr Speaker sir. I beg to move a motion that the report of the East African Legislative Assembly mission to Southern Sudan be adopted.

**Mr. Abdullah Mwinyi (Tanzania):** Seconded.

**Mr. Harelimana:** Mr Speaker sir, the report is not very long so I will take a few minutes to read it.

Mr Speaker sir, at the invitation of the Southern Sudan Youth Forum for referendum, the Rt hon. Speaker for the East African Legislative Assembly appointed a fact finding mission to observe the state of preparedness of the people of Southern Sudan in the forthcoming referendum due to take place on January 9<sup>th</sup> 2011. The mission arrived in Juba on 10<sup>th</sup> December 2010 and departed on December 12<sup>th</sup> 2010.

It was led by me and a good number of hon. Members from the Regional Affairs Committee and from the House Business Committee and two staff members.

The objective of the mission was to apprise itself of the state of preparedness of the people of Southern Sudan and the arrangements in place for the forthcoming referendum.

Two, to create awareness among its members about the status of implementation of Comprehensive Peace Agreement and three, to show solidarity and collaboration with the people of Southern Sudan.

Mr Speaker sir, we used several methodologies to achieve the objectives of the mission. One, meetings and interactions with the various stakeholders including the First Vice President of the Republic of Sudan and the President of Southern Sudan, His Excellency General Salva Kiir Mayordit, the Speaker of the Southern Sudan Legislative Assembly Rt Hon. Lt Gen. Wani Iga, the Leader of the Opposition, chairpersons and members of various committees of Southern Sudan Legislative Assembly, East Africans living in Southern Sudan and attending a Southern Sudan Youth for Referendum rally at the University of Juba.

Two, review of literature and media reports including radio, print and electronic.

Mr Speaker sir, the emerging issues were both the President and the Speaker raised the following issues, which they considered critical in the implementation of the Comprehensive Peace Agreement. One, the issue of the shifting borders between North and South Sudan depending on locations of oil discoveries. Two, the Abyei Protocol whose referendum commission has not been formed.



Three, reported bombings of areas bordering the North and

Four, reported lack of respect of agreed formula for the division of funds arising from oil resources.

Mr Speaker sir, the fact finding mission's observations are the following;

1. Warm hospitality and courtesies extended to it since its arrival in the beautiful country on December 10<sup>th</sup> 2010. The mission felt at home immediately it stepped down at the Juba International Airport. By evening on day one, the mission had garnered a lot of information about Southern Sudan and the implementation of the Comprehensive Peace Agreement.
2. The impressive developments that have taken place since 2005 when the Comprehensive Peace Agreement was signed. The mission congratulated the Government of Southern Sudan on these initiatives and has confidence that more will be achieved in the future.
3. Great socio-cultural, economic and tourist potential that exist in Southern Sudan unknown to many East Africans.
4. Sustained political dialogue to bring all political actors together and promote unity for all Southern Sudan people and continuation of Post conflict recovery and development that Southern Sudan is appreciating in line with the Comprehensive Peace Agreement, 2005.
5. Generally, a relatively calm environment prevails despite reports of some incidences of bombing in the Western and Northern Gaza regions. Information on the reported bombings was given to the mission by His Excellency the First Vice President to the Republic of Sudan, President of Southern Sudan and the Rt hon. Speaker of the Southern Sudan Legislative Assembly.
6. High level of enthusiasm for the referendum as evidenced by a high voter registration statistics of 2.7 million out of the expected 3.5 million people as well as the enthusiasm noted at the campaign rally attended by the mission at the University of Juba.
7. Extensive coverage of the electoral process by both public and private local media as well as regional and international media.

After all this, Mr Speaker, Sir the mission made some recommendations, which are as follows:

- 1) The mission was informed that there existed an atmosphere of tension and suspicion between Khartoum and Juba. In light of this, we call up on the African Union, the United Nations and the international community at large to ensure that this tension does not disrupt the referendum process.
- 2) The mission hopes that the referendum will be conducted in a free, fair and transparent manner to enable the people of Southern Sudan determine their own destiny.
- 3) We urge all stakeholders to refrain from any acts or omissions that may derail the implementation of the Comprehensive Peace Agreement to its logical conclusion.
- 4) The mission calls the Council of Ministers to call upon the Summit that what happens in Southern Sudan impacts on the East African Community. The mission calls upon the Council of Ministers to urge the Summit of the East African Community Heads of State to note the progressive implementation of the Comprehensive Peace Agreement.

- 5) The mission urges the East African Community Partner States to act in a concerted manner and develop a collective position on the implementation of the Comprehensive Peace Agreement considering the political, economic, social and security import to the sub-region. To this effect, an East African Liaison Office on the Sudan question should be expeditiously designated to monitor the implementation of the Comprehensive Peace Agreement.
- 6) The East African Community should recognize and respect the outcome of the referendum and be ready to continue supporting the people of Sudan in managing the post-referendum phase.
- 7) The mission recommends that the East African Community sends an East African Community Observer Mission to Juba to observe the referendum of January 9<sup>th</sup> 2011 in advance.

### Conclusion

The delegation was impressed by a number of good practices from Juba in Southern Sudan. They range from warm hospitality and courtesy by the people of Southern Sudan, impressive developments that have taken place within the five years of the implementation of the Comprehensive Peace Agreement and sustained political dialogue to bring all political actors together and promote unity among the people of Southern Sudan among others.

Mr Speaker, Sir, lastly the mission would like to thank the following personalities and institutions for having facilitated the mission to Juba, the headquarters of Southern Sudan: The R thon. Speaker, EALA for working an extra mile in facilitating and making sure that the mission was issued with Southern Sudan travel permits on a Friday after the closure of business, which under normal circumstances were not working hours; the Southern Sudan Legislative Assembly for the warm reception, hospitality and courtesy extended to the mission during its two day's stay in Juba; the Southern Sudan youth for funding the return tickets and accommodation for the mission; the office of the Clerk for ensuring that all logistics were in order prior to the visit by the mission to Juba; and all committee members that made the mission for accepting a short notice call to travel to Juba to witness the state of preparedness of the forthcoming referendum of Southern Sudan. Mr Speaker, Sir, I beg to move. *(Applause)*

*(Question proposed)*

**Dr. Fortunatus Masha (Tanzania):** Mr Speaker, since this is the first time that I am speaking after the swearing in of a new Member, allow me to express my welcome to the Deputy Minister from Tanzania and I look forward to his participation in the debates as has always been characterized by his predecessors. I want him to feel very welcome.

A number of small points first, Mr Speaker; the copy of the report which I have – I hope the chairman of the mission will be grateful enough to appreciate this slight change, it still reflects it as a draft report. It was my impression and understanding that this would indeed be the final report which has now been tabled. So, it is no longer a draft report.

**The Speaker:** Hon. Masha, it is being changed and circulated.

**Dr. Masha:** Well the one I have still says, “Draft report.”

**The Speaker:** Your partner is showing you your report. *(Laughter)*

**Dr. Masha:** Secondly, Mr Speaker, on the last page-page 9, I was a member of this mission and very happily participated, however, the absence of my signature at the end is very inadvertent only because that page was not brought to me for a signature, but I want the Assembly to know that I am in total agreement with the report.

The chairperson of the mission has very ably presented the basics of the report; I am in total agreement with what is stated perhaps only to underscore a point or two. For that reason, I will go first to page 6, Item 6 (v) where we are calling for a number of things; the mission is urging Partner States to act in a concerted manner and develop a collective position on the implementation of the Comprehensive Peace Agreement. On that point, Mr Speaker, Southern Sudan as much as most of us have been aware of what has been taking place there, happens to have contagious borders with two of our Partner States in the Community-Uganda and Kenya. These two countries probably are in a better position to know more details of what is taking place in the Sudan and are to be more affected by whatever takes place there.

Indeed while we were in the Southern Sudan, in Juba, there was a strong representation by the Government of Kenya. There were senior officials there and we were told that there had been an earlier mission of parliamentarians.

What we are requesting here is to have a consent that will be hatched Partner States in which all the five members can kind of have a common policy on the question of the Sudan in regard to the implementation of the comprehensive peace accord as well as the outcome of it, whatever it will be, so that we continue with single policy on the question of Southern Sudan as they go into the referendum. So, we are asking for this to take place and urging other States Parties including those who have been engaged already with then question, to collaborate and work in a concerted manner to enable us have a single policy on the question.

For that reason there is, in the same paragraph, a request for the establishment or designation of an East African Liaison Officer on the question of the Sudan, again to provide a kind of focal point for information and changes that are taking place so that the Community at any point has the information it requires to make relevant decisions that may be necessary.

I also wish, Mr Speaker, to refer to paragraph six on page 7 in which we are asking the Easy African Community to recognize and respect the outcome of the referendum and be ready to continue supporting the people of Sudan in managing the post referendum phase.

While it is not reflected in the report, it is very clear to all of us, I am sure, in all the interactions we held of a desire, would there be a cession from Sudan, this is up to them, but should there be that, there was a clear suggestion in all the meetings we have held of their desire to join the East African Community.

Again, if that desire persists and if the outcome of the referendum is secession from main Sudan with an intention of joining the Community, I think we need to remain closely engaged so we

know that we are aware of the developments in Southern Sudan, we can follow on those developments in light of the Treaty requirements for membership to the Community.

Finally, Mr Speaker, on the question of the desirability of sending an observer mission, I think the Chairman of the Mission has stated that very clearly that we should support the idea that the Community sends a mission to observe this referendum and hopefully it will go early enough to be able to learn a little more. We were only able to stay in Juba; we did not have a chance to see the rest of the country yet it is a huge country. If you send a mission, with the kind of legal information we have and you send them in two or three days, its impact might not be as adequate. That is why the Chairman is urging that such a mission should go there early enough to acquaint itself with the ramifications of the referendum in most of the parts of the country.

With those comments, Mr Speaker, I thank you for the opportunity and I support the motion.

**The Speaker:** Okay, let us hear from hon. Nakuleu.

**Mr Christopher Nakuleu (Kenya):** Thank you, Mr Speaker. I would like to declare that I was a member of this mission, but I have a few observations to make as part of the input to the report.

First of all, Mr Speaker, our findings in Southern Sudan displayed so much human rights violations. There is existing discrimination right from the employment, basic facilities, the road network and all other aspects.

Therefore, since Southern Sudan is our immediate neighbours, we need to make an intervention as a community to make sure they enjoy the stability they need.

Mr Speaker, going back to 1983, when the first series of instability started in Southern Sudan, that conflict had a spill over effect to the people of East Africa. For example, the northern part of Kenya was affected as well as the Northern Part of Uganda. These caused effects to those countries' stability. That gives us every reason why we should be consciously deal with the stability of our neighbours.

The other reason, Mr Speaker is that Uganda and Kenya host communities from Sudan – that is the Northern Part of Kenya and the Northern Part of Uganda. But there are so many side effects of the refugee influx in those parts ranging from the erosion of social cultures of the East African communities to environmental degradation.

Therefore, being signatories to the UN Charter on Environment and Cultural issues, we have a very reason to ensure our neighbours are stable so that our environment can also be stable – *(Interruption)* -

**Ms. Byamukama:** Mr Speaker, I would not like to take long, but just to inform my brother holding the Floor that yes, much as there are some negative effects, but there may be some negative effects, here are also some positive effects. I think the fact that we are one people and some of us speak even the same language and even when you go to some of our universities, you find some Sudanese studying from there; they have also married and intermarried – these are some of the positive aspects that you should also highlight. I thank you.

**Mr. Nakuleu:** I would like to thank hon. Byamukama for that information. But I would like to point out that I wasn't explicitly saying that there are purely negative effects because normally the positive and negative co-exist. Therefore, you expect such to be there.

Mr Speaker, the Comprehensive Peace Agreement is the brain child of the East African Community. It is therefore, incumbent upon the East African Partner States to make sure they monitor the implementation of this peace agreement to the latter. Otherwise, it will be a form of miscarriage for the East African Community to consummate the idea of independence or stability of Southern Sudan and reaching to the point of delivery, the whole process aborts. So, I would like to urge all Partner States of the Community to make sure they work together and realize that Southern Sudan gets independence.

In addition, Mr Speaker, the Community Partner States have a tendency of not converging on common issues. Look at what happened in Somalis – the conflict in Somalia has been left to the neighbouring Kenya. Look at what happened to Burundi, it was entirely left to Tanzania. Now it is high time – *(Interruption)*

**Mr. Sebalu:** Thank you very much, hon. Nakuleu for giving way. I also would like to thank the Speaker for allowing me to give this information. On the issue of Somalia, I would like to inform my honourable colleague that Uganda has got a contingent of soldiers providing peacekeeping mission. The Republic of Burundi is doing the same as Members of the East African Community. Thank you.

**Mr. Nakuleu:** Thank you for that information, but the process of deploying a peace mission was done too late after people had suffered. So what I am requesting is that there should be prompt efforts to make sure that attention is drawn all the time when it is needed.

In that regard, I wish to call all Partner States to come together and address the issue of Southern Sudan. One of the information we were given is that the voting stations outside Sudan either South and North there are some stations in Uganda here, there are some stations in Kenya and there are allegations of vote buying and intimidation. Now we as a Community, should guard those stations, which are in our Partner States to make sure that the voting process is conducted in the most fair and objective manner devoid of intimidation from the Khartoum government because there are efforts by the Khartoum government to scuttle the process so-

**The Speaker:** Hon. Nakuleu, I think you went on a fact finding mission to Southern Sudan. You did not go to Khartoum to find out any of those allegations you are making. Unless you want to substantiate those allegations, I wish that you retract those allegations.

**Mr. Nakuleu:** I will withdraw that statement if it is sensitive. Mr Speaker, we as an Assembly, which is the legislative arm of the Community, we should be informed of the on goings in Southern Sudan maybe if not on a daily basis because that will be too tiresome, we should be informed on a weekly basis so that we are well apprised of the goings on there so that when your office deploys the observer mission of the EAC or the Secretariat, we are well acquainted with what is going on there and so that Members can also have an informed way of maybe delivering the report thereafter. I wish to support, Mr Speaker.

**Major General Mugisha Muntu (Uganda):** Thank you, Mr Speaker. I would like to make contribution to this motion. I happen to be one of the members on the delegation and I do support the report but there are some observations I would like to make. First is to appreciate your office, Mr Speaker for enabling the mission to take place.

Of course one of the recommendations I would to make is that in future when there is such a mission, more so a mission that handles issues that affect the whole region, I would love that we would have partnership with the Secretariat and the Council of Ministers. I think it would really have been of value if we had gone along as an EAC Secretariat/EALA mission. But it is good that the Assembly took the initiative and that we have been able to go to Juba Southern Sudan in pursuit of the implementation of the CPA. The CPA has been going on for five years so it is good though that we have been able to go there one month before the conduct of the referendum itself.

One of the observations I would like to make is that the Council of Ministers takes it upon itself in future because we still operate within an environment of uncertainties that we should act in time, keep abreast of whatever situations arise and that we should shift the mode of thinking that seems to be in practice hitherto and I would like to make a comment on what the previous speaker hon. Nakuleu raised because we have had issues. We have had Burundi, we have had DRC, we have had issues of Somalia, I know if you go through the *Hansard*, you will find many times in the First Assembly and also in the Second Assembly when concern has been raised urging the Council of Ministers and the Summit that we should act in concert as a region.

In view of what hon. Sebalu raised as Uganda and Burundi having deployments in Somalia, in actual fact I think they are there under the auspices of AU. I don't think that EAC has got a common position on the deployment in Somalia. Much as there is a negative impact so far to the whole region because like the pirates and the disruption of trade in the oceans affects the whole of East Africa, it affects trade, there is the problem of instability but up to this point, I have never heard in all those conflicts around the region where we have had officially coordinated efforts.

We have never had a liaison office, we have never had an East African Community liaison office on issues of Burundi though one of the Partner States; Tanzania and Uganda to a certain extent were actors on Burundi, which was good as individual states. On Congo, we never had any liaison office under the East African Community though actually in this case since Rwanda and Burundi joined, there would be four Partner States that would be affected by DRC then. Uganda has common borders with DRC, Rwanda, Burundi, Tanzania as well. It is only Kenya in this case which wasn't involved. But in all times, actions were done on a bilateral basis or unilateral basis and never under East African Community.

So we would like to urge that yes we learn from those experiences, we are not trying to blame anybody but that we shift in the mode of how we operate like on the question of Sudan and of course subsequently Somalia. Somalia is not yet stable. We would like to see the region- The Council of Ministers should discuss this with the Summit so that we start building cohesive effort behind a common position as East African Community.

We should move from the mode of thinking as individual states. We are building integration, economic, subsequently it seems we are going into a Monetary Union in 2012 if everything goes according to plan and who knows, subsequently into a political union. So we need to shift mode. That is one observation I would like to make.

The second observation is that we really do appreciate that the Comprehensive Peace Agreement was signed. We have seen stability in Sudan, which had eluded Sudan as a country for a long time. Sudan was one of the countries that became independent in Africa- I think one of the first independent countries on this continent maybe the second or third but for the longest time, there have been problems in Sudan.

We are really grateful for IGAD and the international community for working together with the two partners in the CPA to have reached that decision and helped the two parties to sign the Comprehensive Peace Agreement and it looks like it is about to be implemented through a referendum.

Two situations that are in Sudan; One, there are two parties under the CPA and we appreciate that the North Khartoum and South Juba were able to decide to make that critical decision to resolve their conflict through peaceful means. Therefore they agreed to do a number of things including a referendum, which is going to be conducted on 9<sup>th</sup> January.

However the second factor is much as there are two parties and it is their legitimate right to implement the CPA as they agreed within the framework of the law of the CPA, none of us outside actors should tell the Sudanese what to do. It is really up to the Sudanese.

But the second factor is that the referendum, those who are supposed to determine what happens, are only one party and not both and we also need to understand this. While there are two signatories, the decision as to whether to vote for unity or vote for separation entirely depends on the Southerners. Again it is their legitimate right to decide which direction they want to go and therefore it is not up to us to tell them to go this direction or go the other direction. It is up to them entirely. We should support the effort indeed for the referendum to be done in an open, free and fair manner.

As to what they decide is entirely up to them but as countries that neighbour and also as a region as EAC, our only concern is how the CPA is implemented. We also have to be interested eventually in the outcome. I am glad that we are saying we will respect any outcome. At all levels, that seems to be the position, which is good.

We need to interest ourselves therefore as the recommendations say, in helping Sudan in the post referendum management of the outcome of the referendum. Whatever it is, this is entirely up to them. If they decide for unity, fine we will back them up to the hilt. If they decide for separation, perfect, it is up to them, we will back them up to the hilt.

The only observation I would like to raise though after brazing it, I would like to indicate my intention to move an amendment on it on the question of what is being contested now. In view of

the situation that is at the border, in view of the unresolved problems first the oil resources then the Abyei then the lack of a commonly agreed upon border, the situation can easily become delicate. However our hope is that nothing will happen regardless of the decision that the South takes.

We were given indications of the intentions of the South through the President and through the Speaker that they have got no intentions whatsoever to provoke conflict. They expressed that they have no intentions regardless of what decision is taken to provoke conflict. Whether they decide for unity, whether they decide for separation, that they will continue engaging in conduct of peaceful implementation of whatever the outcome of the referendum is going to be and therefore that they would want peaceful coexistence with the North even when they decide on separation.

Unfortunately, we have not had time to hear from Khartoum but we would also like to believe that Khartoum also needs peaceful coexistence with the South regardless of the outcome of the referendum. However, intentions at times are one thing and at times provocation can come from anywhere. There are also outside players outside the two parties.

My main concern is that attention therefore needs to be paid because there have now been accusations from one party. Who knows tomorrow there might be counter accusations from another party and therefore there seems to be a gap. If there are accusations, which are not verified, it could cause unnecessary fall out which none of us would really want to see happen.

So the proposal I would like to make when we were there it was made known to us that it was reported, we never verified it, that there were bombings at the border areas. We were made to understand by the leadership of the South that they have wanted verification to be done. I was happy today though of course we will have to wait and hear the official reports from the UN that there have been new reports on some of the cable networks that it has been indicated that verification has been done and one of the parties has been mentioned as the perpetrators. I don't know whether it is true yet or not so I don't want to bring it out here for debate, we don't have an official communication. However this is after three months.

The amendment I would like to make in view of that, Mr Speaker when the time comes is calling upon the Council of Ministers to urge the Summit of the EAC Heads of State to cause the verification of any further accusations from any of the two parties under the CPA to be done and in a timely manner through international organisations that is United Nations and AU.

I really think we should avoid a situation where you end up trading accusations and counter accusations and then you find that there is a void that there is nobody who would be paying attention.

In an event like that, one hopes that a situation like that would not degenerate into conflict. We must do everything possible to prevent conflict because when there is darkness there are people who want to play in muddled waters. Many times they will muddle waters, when waters are muddled, you never tell a fish from a frog or from an alligator. Muddled waters are very difficult.



That is why in a situation like that, you want waters to be still so that when there is any movement, someone says oh, it is the fish, which has moved from West to East or it is an alligator, which has moved from the North of the pond to the South. We don't want muddled waters.

When they are still waters, if there are people who want to cause a problem, many times they shy away. When waters are muddled and there is no clarity, anybody can do anything. We need to avoid that, Mr Speaker and the chairperson and the members of the Council of Ministers. At least that is one thing we can do for those people who are literally voiceless because when there is conflict, it is them who pay the price. Many of the decision makers in all parties including ourselves who are in the region are never caught up there on the front, we are never. That is the best I think we can do for the people who are always caught up in such situations.

Mr Speaker, Sir, that is my contribution. I thank you. (*Applause*)

**Mr. Munya:** Thank you so much, Mr Speaker. I have a little problem with the technical way of handling this garget in front of me. I was in the delegation of members of Parliament from Kenya who visited Southern Sudan twice prior to the visit by the East African Legislative Assembly. As we were there, there was a general feeling that East Africa was ambivalent to what was happening in the Southern Sudan.

Yes, there were individual countries visiting and showing solidarity but there was that feeling that East Africa as an entity was not showing any concern to what is happening there. So, the visit by the committee from the East African Legislative Assembly was, therefore, Mr Speaker timely and very important in showing that the East African Community cared for what is happening and cared for the people of Sudan during this very critical moment when the country is trying to determine its future, either way, whether by the South deciding to separate or by the South deciding to remain part of the Sudan. So, it is really very commendable.

Mr Speaker, the United Nations Charter recognizes self determination as one of the rights that any people anywhere in the world have a right to determine their destiny. It is commendable that Southern Sudanese have decided to exercise this right through the vote because they could have decided to exercise it in any other way but it is commendable that they have sat together with the other Sudanese and agreed that the South should be able to decide on its own where they want to be, whether they want to be part of the Sudan or to be on their own.

Mr Speaker, it is also important to recognize that the Comprehensive Peace Agreement was negotiated in East Africa. It is the East Africans who guaranteed, who gave resources and sat down with the parties to agree. This is not a small thing, Mr Speaker. Bigger countries had been trying before –super powers had been trying over the years to see whether they could bring the parties together but they were not able to succeed. But East Africa succeeded in bringing them to a negotiating table and for that Peace Agreement to be agreed upon. Therefore, Mr Speaker, we as East Africa it is our responsibility to also see that this agreement is adhered to in all its ramifications because it was freely agreed; freely negotiated peace agreement. Therefore, all the

parties, the international community which includes the East African States should make sure that that peace agreement is respected.

The implementation of that agreement is also being undertaken by IGAD, which the East African States are again members and, therefore, really have an obligation to see to it that the peace agreement is followed.

I remember when Southern Sudan was celebrating the inauguration of the new President of Southern Sudan and people were invited to the celebrations. I was part of the Kenyan Government delegation that went there and I was happy to see the President of Uganda arriving for the celebrations by road. (*Applause*) He drove across the border and arrived at the celebrations. Not many other Heads of State were there; he was the highest ranking person there. This was a clear indication that East Africa values the close ties that we have with the people of Sudan and especially the people of Southern Sudan.

Mr Speaker, we have cultural, economic, political even investment ties with the people of Southern Sudan. There is an estimate that 80,000 people from East Africa are working in the Southern Sudan, mostly from Uganda and Kenya. A lot of trade also takes place between East Africa and Southern Sudan. So, we have umbilical cords that tie us together with Southern Sudan that we cannot cut even if we wanted to. So, Mr Speaker I support this report because it will go a long way to show the people of Southern Sudan and Sudan in general that East Africa is together with them at this important juncture of their history. When you are down, it is when you need support and to see your real friends coming to your aid but when you are celebrating even your enemies come to celebrate with you. It is only when you are in problems that you are able to tell who your real friends are. I think East Africans are really friends of Sudan. Mr Speaker, thank you.

**Mr. Kidega:** Thank you, Mr. Speaker for giving me this opportunity to debate this report that has been tabled. Rt. hon. Speaker I was not part of the delegation that went to Sudan but to me Southern Sudan is more less home. I just feel Southern Sudan like I feel my village. I am a Ugandan born and bred in Uganda but in the Northern part of Uganda, which is very close to Southern Sudan.

I would like to congratulate this Assembly and the team that went to Southern Sudan. When I picked the news that there was a team of East African Legislative Assembly Members who were going to Southern Sudan, I got a relief and felt proud because for long I have been missing seeing the real participation of the Community, leave alone, the Member States in the processes that are ongoing in Sudan and particularly Southern Sudan. It is upon this background that I would like to congratulate the Assembly and the team that went to Southern Sudan. (*Applause*)

Mr Speaker, regionalism is not just a mere formal project of integration; it further than that. If you look at Southern Sudan and particularly Uganda and Kenya, you may find that Southern Sudan is more integrated into this country than some of the even the East African Partner States.

The communities inter-relate; the way they share cultural attributes, languages and several other things, there is no way you can say Southern Sudan is not part of us. It is unfortunate that the British, through their down south policy of the early 50s introduced the problem that Southern

Sudan is going through today. I am not shy to again mention my earlier statement in this Parliament that African states should be configured into their existence. A lot has happened to the world today. Even Eastern Europe, because of the different dynamics that are obtaining, there are new nation states being born. Why shouldn't we have Africa reshaping its border lines that were not even drawn by them? I strongly believe that more lasting and peaceful co-existence within the Great Lakes Region can only occur when some border points or boundaries are revisited. And I think Southern Sudan is on the right truck of what they are doing. If I were to pray, I would strongly pray the same happens to Democratic Republic of Congo. Most of these boundaries have been imposed upon us. And they have been the main causes of some of the conflicts that have raged Africa. It is usually either because the borders have valuable resources that cut in between the two nations and so breeds a conflict or it is something nearer to that.

I strongly think that some of these borders should be redefined. I think there is something telepathic happening here. Just on Sunday, one of the universities in this region – Makerere University – awarded an honorary doctorate degree of laws to the late H. E. Rashid Karume Kawawa and the current President of Uganda. And when the orator in the congregation was making his citations of why they were awarding those doctorates to those personalities, it was about the spirit of Pan Africanism that those leaders exhibited. *(Applause)* So, to me, this occurrence of the East African Legislative Assembly visiting Southern Sudan together African leaders from the same region being recognized for regional behaviour is in the right spirit of what we should be doing.

I also strongly believe that as much as we don't have a framework through which the Community is participating in what is going on in Southern Sudan from the politicisation to the trade and several other activities, member states on a bilateral basis are already doing something. If I am well informed some member states have already established consulates in Southern Sudan. I think this is important – some of these people need recognition.

While we wait for the bigger picture of establishing an East African framework of relating with Southern Sudan, our people are not waiting; trade is raging all – *(Interruption)*

**Mr. Akhaabi:** Thank you, Mr Speaker and thank you, hon. Kidega for giving way for me to give thus information. As we speak now, learners from Southern Sudan had sat two National Exams from the Kenya National Examinations Council. They are at primary school and secondary school levels. Therefore, there is a lot that is happening, other than just trade.

**Mr. Kidega:** Thank you, hon. Akhaabi for giving that information. This is the pint I am driving at; the people are not waiting. The need for interaction is ongoing. And that is why we need some framework, be it at bilateral; level or otherwise, to make sure the interaction hat is ongoing is guided.

We have cases in Uganda here, Mr Speaker and colleagues, of violence meted against some traders in Southern Sudan. This is not institutionally organised crime, but it is happening. So, our people and their interaction with Southern Sudanese need to be guided by formal structures. We need to see how best we can bring those embassies that are maybe in Khartoum – we need to send some officers in Southern Sudan to help our people while we wait for the bigger picture of the East African framework. We those few remarks, Mr Speaker, I am most pleased that my

spirit has been addressed that East Africa is involved in the Southern Sudan Affairs. I support the report.

**Mr Gervase Akhaabi (Kenya):** Thank you very much, Mt Speaker for this opportunity to make a contribution on this motion.

Southern Sudan has had a history that has deprived it of progress from the days of pharaoh up today. It may not be known to some of us in this House that for a very long time, during the time Sudan was under the British Colonial Rule, after the conquest by Emin Pasha, that the Southern Part of Sudan from Khartoum to the border with Uganda and Kenya – that part of Sudan was never affected by the British Rule; they were left on their own. And historically, Mr Speaker, the British even before granting independence in 1956, wondered whether they could have Southern go to Uganda or to the Sudan. So, it is a place that experienced neglect over a long period of time. The people of Southern, like hon. Mwinyi deserve the enjoyment of their fundamental and basic rights under the UN Charter, to determine their own future in the context and in the lights of this deprivation over such a long period of time.

But Mr Speaker, Sir, why East Africa? When my brother here, hon. Nakuleu wants to trade much more easily, he will do so with Southern Sudan or with North Eastern Uganda-very easily. So, will those people who have been here - those students from North-Eastern Uganda, they will do their business much more easily in the context of Southern Sudan and North Western Kenya if they are from Uganda. So, we are as people of the East African Community in a symbiotic union with Southern Sudan.

Mr Speaker, Sir as a Community, we should be forward looking. We must invest in peace in Southern Sudan. Because of instability and lack of peace in Southern Sudan, from 1956 not 1983, from 1956 up to the year 2005 when the negotiations on the CPA were concluded more less there was a lot of instability in Southern Sudan. In addition, that instability spilled over into Kenya and Uganda. Because of that instability, there were a lot of movement- small arms movements in these areas and because of the free movement of small arms in these areas, instability was transferred from the Sudan to the other parts of East Africa.

It is, therefore, important as East Africa as we try to stabilise our Community that we also look at those areas of our neighbouring states that are likely to cause instability to us and cause us to suffer in terms of our efforts at economic development. Therefore, Mr Speaker, Sir I would fully agree with the report and say that it is important for us as East Africans to invest in peace in Southern Sudan.

In addition, as Gen. Muntu said, it does not matter which way the people of Southern Sudan vote. If they vote to be on their own- to separate, provided that is going to bring peace and stability, we should support it and we should ensure that we support it. If they vote for unity with the Northern Sudan, if that is going to bring peace and stability to the region and Southern Sudan, we should also support it. But we must be the people; we must be the ones running at the fore front to ensure that this Comprehensive Peace Agreement (CPA) is implemented to the letter because its implementation is bound to result into enormous benefits to us in terms of stability and even in terms of economic development.

Mr Speaker, Sir, Southern Sudan is very rich in natural resources including human beings. It has oil, so it is in our interest that we tap into these resources and trade with these people. We should not make them move away from us. So, we must invest in them; we must cooperate with them. I urge the countries- the Partner States to support a peaceful referendum; a referendum in Southern Sudan that is going to lead to peace in that part of the world that will result into economic, social benefits to us. I beg to support this motion.

**Mr. Clarkson Otieno-Karan (Kenya):** Thank you, Mr Speaker for giving me this opportunity. I also want to reaffirm my support for this report. Let me first of all thank your office for taking a very speedy decision to ensure that you respond to the invitation and send Members of the Assembly in a delegation to Southern Sudan as a fact finding mission; it was timely. And I would like to encourage you that if for any reason there is no time, make use of any organ of the Assembly you find to be able to represent the East African Community because if you would want to wait - you saw recently this House had to adjourn when the Secretariat were busy in the investment conference centre- we should not allow such situations to exist because whether it is the Assembly or the Secretariat, we are working for the people of East Africa.

There are two things which I want to mention, Mr Speaker: The Comprehensive Peace Agreement; this is an agreement agreed on by all the parties. What is wrong if the East African Community and the Partner States come out to ensure that that peace agreement is implemented? I don't think that the people of Southern Sudan are asking for any favour. They are just asking that the East Africans who are within their proximity as brothers and who witnessed the signing of the peace agreement should be able to look at it, manage and see that all the parties subscribe to that peace agreement so that whatever outcome, will be there, whether to be separate or united, it is done in a manner that doesn't spark off war because of one side thinking that the agreement was not followed, Mr Speaker. That is what we are urging that East African Community must come out strongly to be able to ensure that this process is followed.

I remember that when there was a problem in one of our Partner States, Tanzania was at the centre of the peace agreement in Burundi and they never left it until it was followed and has brought peace within Burundi. What else do we want in East Africa? If you could be able to follow the Comprehensive Peace Agreement and then the outcome of Southern Sudan referendum on the 9<sup>th</sup> brings peace to the people of Sudan, you will be walking tall, Mr Speaker. *(Applause)*

I would also want to mention that we also had an opportunity to see East Africans in the Diaspora. And among the East Africans we saw, there were even Kenyan teachers from the University of Nairobi training some teachers in Southern Sudan in order to be able to manage their affairs. What else do we want?

I would like to finish by congratulating you, *Bwana* Speaker. Let me say that let us as East Africans be able to find a mechanism of giving awards to leaders who take timely decisions in the management of affairs of their country. With those few remarks, Mr Speaker, I support the report.

**The Minister for EAC Affairs Rwanda (Ms. Monique Mukaruliza):** Thank you, Mr Speaker, or giving me this opportunity to contribute to the motion and the report. I also would like to

welcome our colleagues, the Deputy from the United Republic of Tanzania (Applause), he is most welcome to this august House.

Mr Speaker, mine is a clarification. In Southern Sudan, there is a United Nations Mission monitoring the implementation of the Comprehensive Peace Agreement. There is a special envoy from the African Union who has an office in Juba to monitor the implementation of the Comprehensive Peace Agreement. I would like to get some clarification on whether – if this fact-finding mission did meet those who have been there for almost five years monitoring the implementation of the Comprehensive Peace Agreement. I am asking this question, Mr Speaker, because if the mission is recommending that the East African Community designates a liaison officer to monitor the implementation of this peace agreement, I think we should may be recommend this basing on a well informed – when we have enough information on the gap. I – *(Interruption)*

**Mr. Sebalu:** Thank you very much, hon. Monique. I do appreciate your input of the UN and some other levels of intervention. But my concern is: what hard does it do EAC to create its own level of intervention with its own sources, in order to create its own levels of engagement as the immediate neighbours who get affected by the activities in the Sudan, should they go wrong. What do lose as EAC? Do we need to go to a neighbour of the neighbour to deal with our neighbour or we can do it as immediate neighbours? I would wish to take your take on that.

**Ms. Mukaruliza:** Thank you, Mr Speaker. I do appreciate the intervention of hon. Sebalu, but I would like to say that mine was just a clarification because I would not like to have a liaison officer being frustrated. I would lie to recommend that if we sent a liaison officer, we do that knowing the gaps so that the East African comes in to fill the gaps. I thank you.

**The Speaker:** Yes, hon. Lotodo.

**Mr. Lotodo (Kenya):** Thank you, Mr Speaker. I want to also support the recommendations of the mission that went to Southern Sudan. But one issue that came out clearly and which I would like to share with the House is the appreciation that we got from the Speaker, the President and other leaders that we were able to meet. The appreciation was to the East African Community. They clearly said that when they had problems in Southern Sudan, their home was the East African Community. They were also clear that they had got education from institutions within the East Southern African Community especially in Kenya and Uganda. I would like to say that it is good that I mentioned this because it was clear from each delegate that we interacted that should also come out.

Another issue that I just say was that there was a feeling that in them that should they vote whichever way they will, they would really like to align themselves to the East African Community. That is the feeling that was there.

So, it is in this spirit that my colleagues and I are saying that we, in the East African Community should take more interest especially with the recommendation that talks about having a liaison officer - we did not say that the officer should be posted to Southern Sudan, we could have him in the Assembly in Arusha- we don't need to take him to Southern Sudan. I also want to say that

this is in light of the fact that now the East African Community is getting accreditation from several countries.

So, the issue is: do we have a department that deals with such matters? Do we have a strategic international department at the East African Community level that monitors the events that are happening all over the world so that we are able to factor it in our strategic plan? That is the concern we have identified. And that is why we are suggesting that we focus on Southern Sudan, Somalia, DRC and any other issues that are directly affecting the partner states of East African Community. I beg to support. Thank you.

**Mr Sebalu (Uganda):** Thank you very much, Mr Speaker. I also would like to thank the chair and leader of the delegation of the fact-finding mission to Southern Sudan and all members of the delegation. I also would like to thank all the technical staff who worked round the clock to produce this report in a record time for deliberation this afternoon.

Mr Speaker, the subject of Southern Sudan is quite important to the East African in general and all our member states in particular. In that respect, I would like to thank you for having given the due attention within your mandate and for using your good office to facilitate and support the mission to Southern Sudan. That is not something we can take for granted; it takes strategic leadership and vision to be able to look at the bigger picture of just this mission. The kind of entry point we have created; the level of engagement we have created; definitely, our relationship with Southern Sudan will never be the same given this mission. We have created a beginning and a line of communication and I believe there will be different levels of interaction in this process.

Mr Speaker, this is a very serious geopolitical issue and as a region of EAC, we need to engage in these geo-political issues around us if we are to be relevant. We need to engage in more detailed and depth with the Sudan question. We need to engage further in a proactive way, with the DRC. The situation there may appear good, but we need to be proactive in terms of ensuring peace within our neighbourhood if we are to make ourselves relevant to the region given that we are working collectively.

Moreover, we need to collectively engage the Somali question as a region. Forget about the interventions under the AU arrangements but as a region, as EAC, we must come out with some way of engaging the Somali question collectively so that once we are assured of security and stability within our neighbourhood and within then we can talk about the Common Market being very useful. We can talk about the Customs Union being very beneficial to the people. If we concentrate inward in terms of dealing with only aspects that concern us without looking at the neighbourhood then we will not be sustainable in terms of what we want to achieve.

Therefore, these issues of geo-political interests are very important for us to look at as a Parliament, as Secretariat, as Council of Ministers so that everyone is praising us for many other things. We also need to be available in terms of ensuring that peace and security prevails within and without the region.

To this effect, the IGAD, which was very instrumental in crafting and supporting the process of concluding the peace agreement is a regional initiative like we are and many members- There are

members in the IGAD who are members in the East African Community. Actually the members who really played a very critical role in ensuring that this initiative worked are also members of the East African Community so it is imperative on our part to support other regional initiatives aimed at creating peace and stability.

So if IGAD makes a big plus in terms of working out peace, we need to support it more so when we have some of our members playing a part in that initiative. The same should apply to SADC, COMESA where there are initiatives that are useful in enhancing peace and security around us and within our region. Then we should be able to come out and support those initiatives. That is why as a region, we ought to have come on board much earlier than we did. Nevertheless as the saying goes, it is never too late. We have been able to make it to Juba and it shouldn't be an isolated visit. We should see more regular visits by missions, delegations going to make follow ups on different levels in terms of ensuring that peace and security is enhanced.

So the Great Lakes Region for instance has been making quite a number of initiatives in terms of the peace architecture of the region. We need to support those, we need to create a complementarity with other regional initiatives in terms of dealing with the issue of peace.

Mr Speaker, we met the President and I must say I was humbled by the level of analysis, the knowledge and depth with which he dealt with the Sudanese question. He took us through the genesis of this problem but in the course of his interaction with us, he raised an important issue that I took very seriously and which clearly shows that he is offering very good leadership in this problem. He did indicate that as Southern Sudan, they are ready and they want to work for peaceful coexistence and good neighbourliness and they want to be at peace with Northern Sudan be it under a unitary arrangement or even when they have gained their own independence, they want to relate and coexist with Northern Sudan as peaceful neighbours. I found that to be a very critical aspect because there is no sign of revenge or ill will on their part. All they want is to get self determination and be able to deal with issues that concern them.

I was very impressed by that mind set. To ensure that they will be nations and they have to coexist with neighbours in a manner that promotes peace and stability.

Mr Speaker, there are regional geo-political dynamics, which we must appreciate. When you look at the Sudanese question, there are a multiplicity of players with varying interests. There is no way you can say that East African region, which is a neighbour has no interest in what happens in that area. If we are such then we are not worthy being called a regional arrangement. I don't want to mention names but because of certain aspects within that country, oil for example, water, trade, all these create dynamics that bring many players. Some of them as far as farthest can be but they are players within that area.

How do you say that East Africa, which is already trading with Southern Sudan- This is not a lie or speculation. A lot of goods from Kenya, Uganda- Their gateway to the sea is through EAC. How do we then sit back and behave as if we don't have an interest? We must have an interest and that interest must be protected, promoted and enhanced. That is the reason that we are coming together- (*Interruption*)-



**Dr. Nangale:** Thank you, Hon. Sebalu for yielding. I just want to say that the Kenyan delegation we met in Juba was very clear that it was interested and it was pushing for independence for Southern Sudan so you cannot say that nobody has shown any interest. Some have.

**Ms. Byamukama:** Mr Speaker sir, when you talk about interest and hon. Sebalu has talked about water, the fact that the River Nile starts from Uganda and flows through Sudan is one particular interest but that notwithstanding, this august House has enacted a law known as the East African Joint Trade negotiations Act. This law is very important. There is no way that we can operationalise this law if we do not have a liaison office, which will ensure that all tirade that the East African countries are involved in have some commonality and are coordinated. Therefore our proposal to have a liaison desk-

**The Speaker:** Honourable, you are only giving information but you are now debating.

**Ms. Byamukama:** Thank you.

**Mr. Sebalu:** Thank you honourable colleagues for the information. From the aforesaid, it is clear that there are local interests, regional interests and international interests. We need to define ourselves within that architecture if we are to be relevant not only for our own strategic interests but for the broader picture of geo-political dynamics.

Mr Speaker, having said that, when we were in Juba definitely you know there are areas where you have to use tact. When these people were coming to us, you could see many of them were interested in joining EAC but from a strategic and tactical point of view, we could not present ourselves as if we are yearning for them to come but quietly definitely we don't mind Southern Sudan joining EAC. But we said, you see, that is your decision, you must take it and we will respect it. But definitely it is in our interest to have these people join the East African Community to increase our market, numbers and other strategic interests.

I think there is need for EAC to start creating more linkages especially infrastructural linkages, like road and railway networks connecting to Southern Sudan. Already most of our airlines are plying that route and they have made it easy in terms of connectivity. So these are practical aspects that we need to put in place. So when we are looking at the EAC Road Master Plan and Railway Master Plan, at the back of our mind, we should be having something curving out that part of – to connect ourselves to the hinterland. *(Applause)* So I guess that the Secretariat is picking this.

Mr Speaker, the leaders of – [The Speaker: "It is the Council, not the Secretariat."] Oh, the Council. Much obliged, Mr Speaker. It is interesting to look at the profiles of the leaders of Southern Sudan. Many of them are more East African than some of us who are already in the EAC. They are more East African – for instance, the late Garang studied in Kenya, had his university education in Dar es Salaam and for the most part of his life, he lived in Kampala. So he really knew East Africa inside out.

Even the current president of Southern Sudan – many of them, when you talk about our cities and suburbs, they know all these places, whether in Nairobi, Dar es Salaam and Kampala. I was moving around and I found “Kololo” in Juba, where the ministers live, the equivalent of our Kololo here in Kampala. Therefore, these people are already with us; let us just work to ensure that we support them in the necessary way possible. I support the report and I hope we will pass it and later follow up on the implementation of the recommendations. Thank you, Mr Speaker.

**Ms. Janet Mmari (Tanzania):** Thank you, Mr Speaker, for allowing me to add my voice again to this important motion. I am rising on a very important issue; to congratulate you personally for having made this House politically relevant. *(Applause)* There are many occasions when things like these happen – even very close to ourselves, I mean, within East Africa – and we fail to seize this opportunity.

Having said that, I also wish to take this opportunity to thank all the Members who were called on short notice and they made it. I can assure you, hon. Speaker, when it is an issue that makes this House politically relevant we are prepared to even contribute to make sure that we do it. That is the sacrifice.

I was not one of those people who had the opportunity to visit Juba. So I hope you will allow me to ask a few questions which will make me to understand what happened.

On page 6, item 6: We are saying that “*there was a high level of enthusiasm for the referendum as evidenced by high voter registration. The statistics given were 2.7 million out of 3.5 million. This is 77.1 percent.*”

I was wondering whether this had any bearing in terms of whether they will succeed in seceding or not. It is something that is silent here and I am not aware. So I wanted to know its implications when we talk of 77.1 percent.

The second question is – at one time, I think it was last year, we were having an East African meeting but I cannot remember which one, but we had a number of Sudanese MPs attending. They said that they had put in an application to have an observer status in East Africa. I was wondering whether that is true and if it is true, to get the current status of that application.

Question three: By looking at the media, I think it was last week when we had an Ambassador from Khartoum presenting his credentials to the Secretary General of the East African Community. And a number of Ambassadors have done so. I was wondering whether from the discussions that you had – the timing of the presentation of these credentials – does it have any implications?

With those three questions, I want to thank you for having seized this opportunity to make us relevant.

**Dr. Aman Kabourou (Tanzania):** Thank you, Mr Speaker. I once again say that I support this report, having been a member of the delegation to Juba. I think it is basically what we saw and we would encourage other honourable Members to support it as well.

Honestly, I do not have much to say except to simply congratulate my brother the new member of EALA from Tanzania, Dr Juma Abdallah for becoming one of us. I also want to thank you, Mr Speaker, for making it possible for the delegation to do its work in Southern Sudan. I have a few issues I would like to highlight. I like the idea of geo-political considerations very much. We are surrounded by mostly failed states and again I do not want to say that these failed states are necessarily economically unviable states. But I think that if you have a state that also does not respect human rights, this too, should be a failed state. Because if you are there to suppress your own people, I do not see how you could have a reasonable state. And so, I think we do have, amidst ourselves, these failed states from which people have to liberate themselves.

I am very much in support of the concept of self-determination as determined by the United Nations and for that reason I see no reason why Southern Sudan should not seek for independence. If they can do it, fine. It is a fairly agreed upon concept that the CPA was reached voluntarily between the North and the South and so to propagate for Southern Sudan independence should not be a problem because even the Northern Sudanese are willing to see this happen and we should try as much as we can to support the Kenyan position.

A member of the East African Community has come out openly and unabashedly. Now this was a minister for foreign affairs and he said, we support independence and I think it is a good thing after all those are our fellow Africans who are in terrible situation.

Also Mr Speaker, perhaps because you had sent me to Juba sometime back in 2008 and I visited the Parliament there, talked to these people and most of them really showed a very strong inclination to join the East African Community in case they are to become independent. I was very much encouraged by the stance that they continue to show that literally all they are waiting for is that day when they just move in. One of them actually told us, he said it really doesn't matter whether you accept us or not. We will just come. You have to kick us out, this is what they said.

Now that really is a good spirit and I would like to tell my brother hon. Akhaabi who insisted on implementing the CPA to the letter. I just want to add 'letter and spirit' because letter is not enough as these are just written words. But the spirit in it that is people want to get independence.

Lastly Mr Speaker, because when I went there in 2008, I was appalled and I had said, do I want to come back to Southern Sudan? There was not a single inch of tarmac road, not in Southern Sudan. Hotels were horrible, you would have to pay \$ 200 to live in a container for two nights but this time, we went back, I saw a miracle. Things had changed. Nice roads, beautiful buildings, happy people, nice cars, a big airport, a lot of aircraft and so when I look at our report on page seven conclusions where we say the delegation was impressed by a number of good practices from Juba in Southern Sudan, I would like to say that one of the good practices I noticed was that our relatives in Southern Sudan were not corrupt and if even though they didn't have as much money as they were supposed to get, the 100 percent of whatever royalties they are supposed to get from oil and other resources, they only got 26 percent but they have done a wonderful job.

To me, Mr Speaker, I think this is the total opposite of what we have now days, which say it is our turn to eat. I think the Southern Sudanese would have wanted to do it but they are not doing it but trying to help their own people by providing them with all the good services. Thank you, Mr Speaker.

**The Counsel to the Community (Mr. Kaahwa):** Mr Speaker sir, I thank you for allowing me to address this august House based on Rule 47 of our Rules of Procedure for purposes of elucidation on a point, which has emerged in debate.

First, before I elucidate on that, let me also observe that the timing of the mission was timely and the fact finding missions undertaking of what it did underscores the fact that peace and security are a sign for the integration process. Indeed the mission's undertakings can be related to the Treaty's provisions under the fundamental principles where the Community emphasises peaceful coexistence, good neighbourliness and peaceful settlement of disputes if you go back to the implementation of the Comprehensive Peace Agreement.

My point of elucidation is with regard to where in the debate it has emerged that information has reached some of my honourable friends that there was an application for observer status and the question, which is being asked is how far that application has been handled. The related matter is with regard to information which had reached some of my honourable friends to the effect that the ambassador of the Republic of Sudan presented letters of accreditation to the Secretary General of the East African Community.

Let me explain that as far as participation in the country membership of the Community is concerned, the Treaty is very clear and it is Article 3. "Participation in the Community as a state is open to states as known in international law". So if you are talking about an application for either observer status or full membership of the Community, you would be referring to an application by the Republic of Sudan since it has borders with East African Community Partner States.

No such application has been had to the Community and if it is received, it will be handled in accordance with the requirements and criteria provided under article 3 of the Treaty for the establishment of the East African community.

When it comes to accreditation, the ambassador of the Republic of Sudan, the entity known as Sudan on the African Continent is the envoy who presented his accreditation to the Secretary-General and this happens because it is part of the implementation of article 130 of the Treaty whereby the East African Community seeks to engage in dialogue and establishing collaborative arrangements with the international community especially now under the AU Protocol which provides for the roles of RECs in bringing together the unity of the African continent.

It is under that guise that the Ambassador of the Republic of Sudan presented to- The ambassador of Sudan to the United Republic of Tanzania presented his accreditation to the East African Community just like all other ambassadors from different countries are doing.

The short point I am making is that there has not been any application for observer status by Sudan to the East African Community and the accreditation by the ambassador of Sudan was in respect of the Sudan Republic and that is how it was done in accordance with the Treaty provision.

Mr Chairperson- Sorry, I am extremely sorry, Mr Speaker sir. The last time I addressed you, you were chairing a committee so-

**Ms. Janet Mmari:** Mr Speaker, my question was on timing. Sorry, honourable.

**The Speaker:** We are debating here and we are in the House. Okay thank you very much honourable. Have you finished?

**Mr. Kaahwa:** Let me finish. You have made a ruling on that but I have heard what she was saying. (*Laughter*) The question of timing does not –

**The speaker:** It is not a “she”; it is hon. Mmari.

**Mr Kaahwa:** Yes, hon. Janet Mmari. The question of timing does not arise because it would only arise if it was a country other than Sudan – a country which is not recognised which was making the application.

Since it was Sudan whose Ambassador presented these credentials, it was timely. I thank you, Mr Speaker and again apologise for referring to the Speaker as “my chairperson”.

**Dr. Odette Nyiramilimo (Rwanda):** Thank you, Mr Speaker, for giving me the opportunity to express my support for this motion. I had not got an opportunity to go with these delegates, although I would have gone because I am part of the Regional Affairs and Conflict Resolution Committee. However, due to other engagements I was not in the mission. But, indeed, we all feel very proud and honoured to have played this role of diplomats because parliamentarians can also play a diplomatic role. Our 20 Members who constituted this mission to Southern Sudan have proved this.

I want to give some recommendations because I support these other recommendations fully. I feel that after the discussions we have had in this House, we all adopt these recommendations. I am wondering if we could not amend them, instead of saying that “*the mission recommended this*” let us say that “*EALA Members recommend...*” especially – [Hon. Member: “Once it is adopted.”] Yes, because we will adopt these reports, I propose that it would be the House recommending.

I would also wish to ask some questions because the chairperson of this committee - may be when he will be given the opportunity to give his impressions of what has been said – I would like to ask what this “Abyei Protocol” is because they talked of the Abyei Protocol whose Referendum Commission has not been formed. Who is responsible for creating this commission – is it the whole government of Sudan? Is it formed within Southern Sudan? Why isn’t it created

today? And of course there are many things which we people who did not go have difficulties to understand.

One of them is the issue of shifting the borders between the North and South, depending on the location of oil discoveries. I understand that maybe the North is trying to take this oil. But there is a UN mission there – aren't they controlling this; what are they doing? Maybe you have not asked the reason why they are shifting the borders and who is doing this.

I think, as many other Members said, we would all wish to have this referendum conducted under peace and security. Although we all have in mind what the outcome should be, this is for the people of Sudan to decide. I feel like the proposal of the mission of having a liaison officer is really a good suggestion and we should all support it. Thank you. Mr Speaker.

**Dr. James Ndahiro (Rwanda):** Thank you, Mr Speaker. I want to make one recommendation that it is only fair that when you are looking at the CPA, we understand that it is an agreement between two parties. Yes, we have got a chance of visiting one of the signatories to the agreement but it would only be fair if we could recommend that this mission also goes to visit the North.

This is because those people also need a word of encouragement on this process. They have voluntarily signed this agreement and this agreement does not talk about the referendum only. There are other areas that they have voluntarily agreed upon and at this moment they should have a word of encouragement from the same mission that visited the other party. My recommendation is that among the recommendations we are making this evening, we include a word of encouragement to both parties to the agreement to run a good, friendly and fair referendum; respect the outcome and – if the resources permit – the same mission should also visit the North. Thank you.

**The Speaker:** I would only want to inform hon. Ndahiro that we were invited to go to Southern Sudan and so if we also invited to the North, we will be willing to send the mission there. *(Laughter)*

**Mr. Leonce Ndarubagiye (Burundi):** Thank you, Mr Speaker. I was a member of this delegation but before I proceed, let me also congratulate the new member – Minister of the United Republic of Tanzania.

I do not want to say much because before me, people have expressed what we found there. What I would only like you to know now is – what may happen tomorrow – people of Southern Sudan had one slogan “We are going.” Where are they going? I presume they are going to East Africa. Thank you. *(Laughter)*

**Mr. Reuben Oyondi (Kenya):** Thank you, Mr Speaker. I want to thank you for sending us to Southern Sudan. We saw quite a bit. People there as the report says are very friendly and the people of Southern Sudan are running away from the North toward the South. It is only fair that this South, which is East African Community, looks at these people and gives them the support that they require.

When we were there, we met quite a number of people both officially and privately and what we got from them is that they need to be in Southern Sudan together with the East African people. As my colleagues have said, if we cannot develop an office in Southern Sudan in Juba, let us have an office in the East African Community, which liaises with the people of Southern Sudan because the EU does not report to East African Community. We can only pick what they are doing.

Mr Speaker sir, we realise that they are the people voters in East Africa for example Nairobi, Kampala and many other big cities of East Africa. The appeal is that when it comes to voting, let them vote in the referendum because they will have an opportunity to vote for their country.

As one of the members said, hon. Kabourou I believe, the Kenya team which was there openly said that they are for secession. I am sure he was not speaking by himself since he was a representative of the country of the Government of Kenya and I believe he had some message. So it is clear for us not to bend a little but be steadfast and say, okay we support the referendum but they said clearly and they were not mixing words that they are going for the referendum. Though they say they are not for the war, I believe they have been fighting for the last 38 years for the separation. So the referendum definitely came in under the CPA.

I believe that we pray for them so that no wall breaks after the referendum. We also pray that the man at the North does not cause problems for the people of Southern Sudan because they want to separate.

You remember very well, Mr Speaker sir another leader from the North said that allowing Southern Sudan to be separated is going to cause a problem in Africa. I believe you all heard about that. I don't see any problem. That was Col. Gadaffi from the North. He said if we allow this to happen, many other countries shall be coming up. What is wrong with it if they come up? They will also qualify on their own if they are qualifying to separate.

So Mr Speaker sir, my conclusion is that let the East African Community support Southern Sudan and the voters in East Africa should vote for the referendum and make sure that things are done in the normal way. We want to see the Southern Sudan ruling itself.

Mr Speaker sir, I beg to support.

**The Speaker:** Hon. Members, I think when we talk about people ruling themselves we are trying to support a situation. We are not telling them to go this way or that way. I hope we are very clear in the way we are going. I think two Members talked about Kenyan members who were there and said a,b,c,d. I don't think those Kenyan members are here now to come and substantiate what you are saying so I don't think it is also fair to say something that Kenyan members said when they are not here to say that they said that. So I request that you don't mention other people who are not in this House on those issues. Last speaker is hon. Jacqueline before I call the Chair.

**Ms. Jacqueline Muhongayire (Rwanda):** Thank you, Mr Speaker. I would like to join my voice to that of my colleagues to thank you, Mr Speaker for taking the decision to send an EALA delegation to Southern Sudan.

Mr Speaker, as you know in African culture, when a neighbour is in a critical period, it is the time to visit. You are not obliged to take sides but it is an African culture.

Hon. Members, Sudan's second civil war left around 2.5 million people dead so these people of Sudan have suffered a lot. As human beings and as neighbours, I think we did the right thing in the African culture.

The outcome of Sudan's peace process will have an impact on the political future of African countries particularly on East African Community. Now the people of Sudan are in a critical period where they need a clear position from the neighbourhood. As the 9<sup>th</sup> January deadline approaches, logistical arrangements and other preparations for the referendum are becoming a major concern. So there was just a request from the leaders of South Sudan asking the East African Community as neighbours to be human in terms of good neighbourliness.

We were not there to request that South Sudan becomes a member of East African Community. I think the delegation went there in the African spirit of supporting a neighbour. So for clarification to a member who asked some question, I think it was hon. Janet Mmari, the Southern Sudan Referendum Act indicates that in order for the referendum to be valid, 60 percent of the registered voters should participate and a simple majority this means 50 percent plus one is needed to determine a yes or no outcome of this issue of Sudan.

At this stage, I also have concerns like disputes regarding the exact location of North and South border, which impact on the decision regarding voter eligibility and may well leave contested border territories.

So the turn out must have these 60 percent for the vote to be valid and I think it is one of the challenges. The Southern Sudan needs to put much effort in sensitisation, mobilisation and even in logistical and financial means.

For me, the referendum in Southern Sudan is not a goal in itself, it will be a tool to consolidate and promote security and stability and prosperity for the people of Sudan.

Even if it is a separation what I did like is that the leaders of Southern Sudan really request a peaceful divorce if it is a divorce. If it is for unity, I think the East African Community is ready to support the post phase of the referendum. So I think that as a Parliament, we took the right action as a democratic organ and I think you were right to do this even if some might think otherwise. We are a democratic organ and I think as a Parliament, we did the right thing. Thank you. Mr Speaker.

**Mr Abdul Karim Harelimana (Rwanda):** Thank you, Mr Speaker. I first of all take this opportunity to thank you, Mr Speaker. All hon. Members thanked you for allowing the mission



to move to Southern Sudan in the right time but I can add to that that you even allowed us to present our report in the right time also because it is only yesterday that we approached you and immediately you directed that we are put on ten program today because the days, which are remaining for the referendum to take place are now less than 25 days so we thank you for that, Mr Speaker sir.

I thank hon. Masha for his contribution, hon. Akhaabi, hon. Muntu, hon. Minister Munya, hon. Kidega, hon. Akhaabi, hon. Karan, hon. Monique, hon. Lotodo, hon. Sebalu, hon. Mmari, hon. Kabourou, hon. Kaahwa the CTC, hon. Odette, hon. Ndahiro, hon., Ndarubagiye, hon. Oyondi and hon. Jacqueline all for their contributions which I am sure enrich more of the report.

Mr Speaker sir, there are some questions, which were raised and some amendments proposed. Hon. Muntu made a proposal for one more recommendation about the mission to call the Council of Ministers to either Summit of the East African Community Heads of State to cause the verification of any further accusations from any of the two parties under the CPA to be done and in a timely manner through the relevant international organisations, UN or AU. Mr Speaker, I think that amendment can be accepted because I can see that it is relevant.

Other questions were from hon. Mmari and Members have responded to it. She counted and found that the people who have already registered are 77 percent and as hon. Jacqueline has said, the wanted number is 60 percent and the people of the Southern Sudan are sure that even the other ones will come up to 100 percent because there are results of registers, which they are waiting to come from some 180 polling centres. Because you know the backwardness, which is in that area caused by some people made accessibility to some areas very difficult so it takes some days or even weeks to reach some areas. That is why even the referendum itself will not be in one day as it is usually in other countries. For them it will take seven days because one part will do today, another one tomorrow, and so on. But they say that they are waiting for 188 polling centres to send their results of the registration.

About the application observer status, I am not aware of that and the CTC has responded and the presentation of the letters of accreditation also.

Mr Speaker, hon. Odette also had some questions. She asked if there are still some other problems, which are happening while the CPA is in the implementation process and the UN is there. What are they doing?

The people of Southern Sudan are posing the same question and I think we don't have an answer for that but at least yesterday they made a statement that they are sure now that some bombardments were done in Southern Sudan and that they are condemning it. Maybe they will see other problems also and they do something about it.

I can see that most of the Members were supporting the move and I beg to move. Thank you, Mr Speaker sir.

**The Speaker:** Hon. Members, I now put the question that the report of the East African Legislative Assembly mission to South Sudan as amended be adopted.

*(Question put and agreed to.)*  
Resolution Adopted.

### **ADJOURNMENT**

**The Speaker:** Hon. Members, we have come to the end of business today. Before I adjourn the House, I would like to inform you that we have been invited to dinner this evening by hon. Kategaya, the Minister for EAC Affairs at the Sheraton at 7.00 p.m. So I think maybe we should be moving from here to the Sheraton for dinner, looking at the time. I hope to see you there. I now adjourn the House until 2.30 p.m. tomorrow.

*(The House rose at 6.30 p.m.)*