



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

Official Report of the Proceedings of the East African Legislative Assembly

79TH SITTING – SECOND ASSEMBLY: FOURTH MEETING – THIRD SESSION

Thursday, 15 April 2010

The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Parliament of Rwanda, Kigali.

PRAYER

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

(The Assembly was called to order.)

COMMUNICATION FROM THE CHAIR

The Speaker: Honourable Members, I rise to notify you that *vide* my letter of 14 November 2009, I, in accordance with provisions of Article 62(2) of the Treaty, submitted to His Excellency, Paul Kagame, President of the Republic of Rwanda, and by then the Chairperson of the Summit of the EAC Heads of State, the CASSOA Bill, amongst others, for his assent. Vide his letter of 4 March 2010, and pursuant to the provisions of Article 63(1) of the Treaty, His Excellency Paul Kagame notified me that he was withholding his assent to the Bill because he had been advised that the Bill had some inconsistency to the CASSOA Protocol. I have also received a letter from the Ministry of EAC Affairs of Rwanda giving details of the clauses of the Bill that are said to be inconsistent with the Protocol.

I have, therefore, referred the Bill and the reasons for withholding of assent to the Committee on Communications, Trade and Investment for scrutinize and later to report to this House.

PAPERS

The following Papers were laid on the Table: -

By Ms. Catherine Kimura:

The Report of the Committee on Communications, Trade and Investment on the Tour of the East African Border Posts.

By Mr. Abdullah Mwinyi:

The Report of the Committee on Communications, Trade and Investment on the Workshop on the East African Community Monetary Union

By Mr. Gervase Akhaabi:

The Report of the Committee on Communications, Trade and Investment on the *East African Community Competition (Amendment) Bill, 2010*.

By Mr. Bernard Mulengani:

The Report of the Committee on Accounts on the on-spot assessment visit of the MERCEP Projects in Sironko, Mbale and Kapchorwa in Uganda.

By Mr. Abdul Karim Harelimana:

The Report of the Committee on Regional Affairs and Conflict Resolution on the Fifth Inter-Parliamentary Relations Seminar (NANYUKI V).

BILLS

SECOND READING

The East African Community Competition (Amendment) Bill, 2010

The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr. Diodorus Kamala) Mr. Speaker, Sir, I beg to move:

THAT, the *East African Community Competition (Amendment) Bill, 2010* be read a Second Time.

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

Dr. Kamala: Mr. Speaker, before I proceed with my substantive statement, and this being my maiden contribution during this Meeting of this august House, allow me to begin by applauding you for continuously enabling the East African Legislative Assembly to live up to its expected circulation of meetings within the five Partner States. (*Applause*) This practice which is established and enshrined in the Treaty serves to bring the East African Community closer to our people, especially at this time when all efforts are geared towards the delivery of tangible results of the integration process to the population. (*Applause*)

In the same vein, I wish to express my appreciation to the Government of the Republic of Rwanda, the Rt. Hon Speaker of the Parliament of Rwanda and the people of this country for enabling us, once again, to transact our business in this beautiful chamber. *(Applause)*

Mr Speaker, the object of this Bill is to amend the *East African Community Competition Act*, which this august House enacted in 2006. The purpose of the proposed amendment is to provide for the representation of the Republic of Burundi and the Republic of Rwanda in the membership of the East African Community Competition Authority as established under Section 37(1) of the Act. At the time of the enactment of this Act, representation on the Authority, whose role is to implement and enforce the Act, was restricted to the three original Partner States. In its Section 38(1), therefore, the number of Commissioners for the Authority was provided as three. Following the subsequent expansion of the country membership of the Community, the Council of Ministers is of the view that the number of Commissioners should be revised to five. It is therefore our proposal to amend Section 38(1) by substituting the word “five” for the word “three”.

Mr Speaker, competition involves consideration and handling of intricate matters such as restraints to competition; abuse of market dominance; mergers and acquisitions of business firms; public procurement; state granting of subsidies to business undertakings; and consumer welfare, among others. Given the fact that the handling of competition is a new challenge at the national level, it is important to enable all the Partner States to participate in the regional efforts. It is this understanding that necessitates the effective representation of all the five Partner States on the Competition Authority.

Furthermore, the re-constitution of the Authority will facilitate the expeditious constitution of the Authority to enable it discharge its expected functions. This is especially important at a time when the Customs Union has become fully fledged, and a Common Market has been established. These developments will re-emphasise the need to promote and protect fair competition in the Community and to provide for consumer welfare, all of which ideals should be pursued by a re-constituted and fairly representative Competition Authority.

Thirdly, the proposed amendment should be seen to be in the overall programme of the Community to enable the two new Partner States to participate effectively in all the Community’s projects and programmes and institutional framework.

Mr Speaker, in light of this background to the Bill, I beg to move that the Bill be read a Second Time.

(Question proposed)

Mr. Gervase Akhaabi (Kenya): Mr. Speaker, before I give the response of the Committee, I wish to associate myself fully with the sentiments of gratitude to the Government and the people of Rwanda as well as the Parliament of Rwanda for the hospitality that they have accorded us as expressed by the Chairperson, Council of Ministers.

Mr. Speaker, the East African Legislative Assembly enacted, and the Summit of the EAC Heads of State assented to the *East African Community Competition Act, 2006*. The objective of the Act, were: the promotion and protection of fair competition in the Community; provision for consumer welfare, and the establishment of the EAC Competition Authority, among other matters. It was intended to guarantee equal opportunity in the Community and to establish a level-playing ground for all the market participants by eliminating discrimination by Partner States on the basis of nationality or residence. Further, the Act was intended to promote economic integration and development, enhance competitiveness of enterprise by exposing them to the world markets, and to create an environment that is conducive for investment within the Community.

Mr. Speaker, at the time that the Bill was passed into a law and was assented to, the Republic of Burundi and the Republic of Rwanda had not acceded to the Treaty. Section 38 of the Act provides for the membership of the EAC Competition Authority as established under Section 37 of that Act. Under Section 38 of the Act, the Authority consists of three Commissioners, one from each Partner State as at that time.

Dr. Kamala, the Chairperson of the Council of Ministers, introduced in this Assembly the *EAC Competition (Amendment) Bill, 2010* on Wednesday, 17 February 2010 during the Third Meeting of the Third Session of this Assembly, held in Kampala.

As Dr. Kamala has already indicated, the objective of and the justification for the proposed amendment was that the accession to the Treaty by the Republic of Burundi and the Republic of Rwanda in 2007 necessitated an amendment to Section 38 of the Act to provide for the representation of the two Partner States in the membership of the Authority. The Bill was committed to the Committee for consideration and report thereon, and the following is the report of the Committee.

Mr. Speaker, only two clauses came for re-consideration. The Committee did not find any reason to oppose or amend the provision under Clause 1 of the Bill. For the reasons and justifications already stated, the Committee did not find reason to propose any amendments and, indeed does not make any comments on Clause 2 of the Bill, which provides for membership of the Authority. However, after considering the Bill, the Committee has made certain observations and recommendations.

The *East African Community Competition (Amendment) Act, 2006* is, in the opinion of the Committee, one of the most important legal instruments for the integration process. With the establishment and full implementation of the Customs Union, which has made the EAC a single customs area, and the coming into effect of the Common Market Protocol, this Act stands to play a critical role in the promotion and operationalisation of the Common Market for the benefit of the people of East Africa. As noted, the objectives of the Act are in consonance with the objectives of the Community as stated in Article 5 of the Treaty. When effectively implemented, the Act will be an important instrument for the private sector to flourish, and to take ownership of the integration process, thus leading to the improvement of the welfare of the consumers, and, indeed, the entire populace in the Community. The

Committee therefore urges the Partner States to immediately take necessary steps to implement, and to ensure that there exists, at Partner States level, structures to fully put into effect, the provisions of this Act.

Lastly, the Committee requests the Council of Ministers to consider the efficacy of the continued amendment of Section 38 of the Act with regard to the membership of the Authority in the light of the likely expansion of the Community. The Council may wish to consider an effective and efficient structure that will run the authority independent of the number of Partner States in the Community. In this regard, the Committee is of the view that there should be a certain set number of Commissioners, and that this number should not be dependent upon the number of Partner States.

Finally, the Committee urges the august House to adopt the report and to pass the proposed amendments because it is in the interest of the integration process, and for the implementation of the Common Market.

I beg to support. (*Applause*)

Ms. Margaret Zziwa (Uganda): Mr. Speaker, I rise to support the Motion. I congratulate the Minister for bringing this amendment, but, first, let me also join my colleagues who have spoken before me to thank the people of Rwanda, and His Excellency Paul Kagame for receiving us in this great city of Kigali and for the very good facilities so far accorded to us.

Mr. Speaker, by the entry into the Community of our sister countries of Burundi and Rwanda, inevitably all the pieces of legislation that had been enacted, for example the Competition Act, consequentially have to be amended. It is in that breadth that I am supporting this amendment to enable the new Partner States to join in the implementation of this Act.

With those remarks, I beg to support motion.

The Speaker: Honourable Members, the Committee supports the proposed amendment, and in any case, it is only two clauses that are being amended. I don't think there is anything the Minister needs to reply to. So, I will proceed to put the Question.

(Question put and agreed to)

THE ASSEMBLY IN COMMITTEE

(The Chairman in the presiding)

BILLS

COMMITTEE STAGE

The East African Community Competition (Amendment) Bill, 2010

(Clauses 1 and 2 agreed to)

(Title agreed to)

MOTION FOR THE HOUSE TO RESUME

Dr. Kamala: Mr. Chairman, I beg to move that the House do resume and the Committee of the Whole House reports thereto.

The Counsel to the Community, Mr. Wilbert Kaahwa: Seconded.

(Question put and agreed to)

(The House resumed)

(The Speaker in the Chair)

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

Dr. Kamala: Mr. Speaker, I beg to report that the Committee of the Whole House has considered a Bill entitled *the East African Community Competition (Amendment) Bill, 2010* and passed it without amendments.

MOTION

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

Dr. Kamala: Mr. Speaker, sir, I beg to move that the report of the Committee of the Whole House be adopted.

The Counsel to the Community, Mr. Wilbert Kaahwa: Seconded.

(Question proposed)

(Question put and agreed to)

BILLS

THIRD READING

Dr. Kamala: Mr. Speaker, Sir, I beg to move that the *East African Community Competition (Amendment) Bill, 2010* be read a Third Time and do pass.

Mr. Kaahwa: Seconded.

(Question put and agreed to)

Bill read a Third Time.

MOTION

FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENT ON THE TOUR OF THE EAST AFRICAN COMMUNITY BORDER POSTS

The Speaker: Honourable Members, I think this report was tabled just a few minutes ago, and I do not think we want the report to be read now such that it will only be the members of the Committee debating. So, I will give Members an opportunity to read the report over the weekend, and then hon. Kimura can present her report on Tuesday next week.

Next Order!

QUESTIONS FOR ORAL ANSWERS

Question Reference EALA/PQ/OA/002/2010

Ms. Jacqueline Muhongayire (Rwanda): Asked the Chairperson Council of Ministers_

Harmonization of education systems and education standards and social security benefit systems is one of the fundamental precursors to deepen integration within the framework of the EAC integration agenda, could the Chairperson of the Council of Ministers inform this August House of the steps so far taken to actualize these important measures?

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, I beg to lay on the Table a written answer to the question.

(Dr. Kamala laid the document on the Table)

...INSERT WRITTEN ANSWER HERE.

Question Reference EALA/PQ/OA/003/2010

Ms. Jacqueline Muhongayire (Rwanda): Asked the Chairperson, Council of Ministers_

Aware that the EAC Common Market Protocol was signed on 20 November 2009, and further aware that there was no convergence in some of the service sectors which have a binding effect on the implementation of the Common Market Protocol, thus leaving them as outstanding issues; Could the Chairperson of the Council inform this House what the Council is doing to resolve the issues, and what the way forward is?

The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, sir, I beg to reply.

Upon the finalisation of the high level negotiations for the establishment of the Common Market, there are no areas where the Partner States do not convergence. However, on account of time constraints, some matters, the outstanding conclusions of which would not prevent the establishment of the Common Market, remain unfinished. These matters which now require negotiations and conclusion include the following annexes:

- (a) Annex on harmonisation and mutual recognition of academic and professional qualifications.

- (b) Additional commitments under the schedule on progressive liberalisation of services.
- (c) Additional commitments under the schedule on the free movement of workers.
- (d) Annex on social security benefits in the Community.
- (e) Annex on the macro-economic convergence criteria.

Mr. Speaker, in line with the EAC Calendar of Activities, the countries arranged the following meetings to conclude the above indicated pending issues as follows:

1. From the 15th to 23rd April, 2010, meeting of the High Level Task Force (HLTF) in Nairobi, Kenya.
2. From 10th to 19th May, 2010, meeting of the HLTF in Bujumbura, Burundi.
3. From 7th to 19th June, 2010, meeting of the Multi-Sectoral Council in Kampala, Uganda.

Mr. Speaker, regarding the ratification of the Protocol in order to bring it into force, all the Partner States have reached advanced stages. At its twenty-fifth meeting, which was held on 25 March 2010, the Council was informed by the Republic of Rwanda and the United Republic of Tanzania that their respective Cabinets had already approved the ratification, and that the Protocol would soon be submitted to their parliaments. For Tanzania, the Protocol will be tabled in Parliament on Monday, 19 April 2010 for the ratification process. The Republic of Kenya reported that the relevant Ministers have signed a Cabinet Memorandum for consideration by the Cabinet. In the Republic of Burundi, the Cabinet has approved the ratification. The Republic of Uganda reported that the Cabinet has approved the ratification, and that the Ministry of Foreign Affairs would soon deposit instruments of ratification with the Secretary-General.

Question Reference EALA/PQ/OA/004/2010

Ms. Muhongayire: Asked the Chairperson, Council of Ministers_

The EAC Partner States are signatories to different agreements and declarations on "Agriculture and Food Security", such as: Adoption of the Comprehensive Africa Agriculture Development Programme (CAADP) at the Maputo Summit in July 2003, and commitment to spend at least 10 percent of the national Budget for accelerating Agriculture, Rural Development, and Food Security on the continent;

Could the Chairperson of the Council update the House on the status of the implementation of these commitments?

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, Sir, I beg to reply.

Mr. Speaker, at its second meeting held on 2 December 2009 in Arusha, the Sectoral Council on Agriculture and Food Security noted that the EAC Partner States budgetary allocation to the sectoral percentage for agriculture of the national budget for the financial year 2009/2010 are low, with the Republic of Burundi at 2.4 per cent, the Republic of Kenya at 4.2 per cent, the Republic of Rwanda at 6.2 per cent, the United Republic of Tanzania at 7.2 per cent and the Republic of Uganda at 4.5 per cent.

In view of this trend, the Sectoral Council has urged Partner States to increase their budget allocations to the agricultural sector to the level proposed under CAADB Maputo Declaration, which is at least, 10 per cent of the national budget.

Mr. Speaker, the EAC Secretariat, together with the Partner States, has developed an EAC Food Security Action Plan, 2010-2015 to address food insecurity in the region. The plan, among other things, requires the EAC Partner States to increase funding to the agricultural sector up to 10 per cent of the national budget as per the Maputo Declaration, by 2015.

The EAC Food Security Action Plan 2010-2015 will be presented to Ninth Extra-ordinary Summit of the EAC Heads of State scheduled to be held in May, 2010, which will focus on food security and adverse effects of climate change on the EAC region.

The plan broadly aims to ensure that the EAC region is assured of food security.

Ms. Muhongayire: Mr. Speaker, I thank the Chairman of Council for the clear answer given to this question, but I would like to add a comment. The target of 10 percent to be provided in the national budgets is not enough as it is. I think there is a need to select very clearly from among the four pillars of the CAADB programme, a sector which can do investment in agriculture, for instance: land and water management; rural infrastructure; trade related capacities for improved market access; increased food supply and reducing hunger; improving domestic production and facilitating regional trade in food security and supply. Also, agricultural research, dissemination of technology; and, adoption and providing institutional support to research centres and extension support services.

Ms. Safina Kwekwe (Kenya): Mr. Speaker, the Minister has indicated the percentages that each of the five Partner States has allocated to agriculture. However, could the Minister inform the House how and in which areas these budgets are targeted? I know that Ethiopia and Malawi are two countries, which have surpassed the 10 per cent budgetary allocation to agriculture. Whereas Malawi is self-sufficient, Ethiopia is to-date one of the most food deficient countries because of the areas of target of that budget. So, could the Minister inform us where these budgets are targeted?

Mr. Bernard Mulengani (Uganda): Mr. Speaker, I would like the Minister to inform the House about the institutional framework put in place to achieve the answer he has given to this House. Secondly, within what timeframe will this be achieved?

Dr. Kamala: Mr. Speaker, let me respond to the three supplementary questions raised by hon. Kwekwe and hon. Mulengani as follows:

On the areas targeted by the percentage of the budget allocation, all of the Partner States have already realised that we cannot continue depending on rain for agriculture. That being the case, each Partner State, in one way or the other, has been targeting irrigation as one of the important areas to invest in. Secondly, the Partner States have realised that productivity cannot be increased without the use of fertilisers. Given the Abuja Declaration, which requires the increase in the use of fertiliser from 8 kilograms per acre to 50 kilograms per acre in African states, all EAC Partner States are aiming at increasing the use of fertilisers and extension services in order to increase productivity. So, all Partner States, in one way or the other, are focusing on that. But as I said when I was responding to the substantive question, we have prepared the EAC action plan on agriculture, which looks at different issues, including irrigation, extension services and the use of fertiliser.

To reply hon. Mulengani's question, the key institutional framework which will be in place by the 20th of May when the Heads of State will meet is the document that is going to be approved by the Summit. This will be the policy for sensitising and guiding the East African Partner States towards food sufficiency and food security. The time frame given to achieve the 10 percentage of the budget is 2015. However, let me tell this august House that when you talk about agriculture, you need to be holistic.

For example, investing in roads will ensure that agricultural materials produced in the farms get to the markets. That way, you are supporting agriculture. All the Partner States are investing heavily in roads, and by investing in rural roads they are supporting agriculture. All Partner States are working towards investing in value addition industries, because we cannot continue as we are doing now. We would like to add value to our products. So, when you look at all of these issues, you can say that all Partner States are working towards food security, food sufficiency and the stability of the region.

Question Reference EALA/PQ/OA/007/2010

Ms. Patricia Hajabakiga (Rwanda): Asked the Chairman, Council of Ministers_

Resolutions of the Assembly are an important mechanism to deepen and widen the EAC integration agenda.

In light of this, would the Chairperson of the Council of Ministers update this House on the progress made in developing the Regional Environment policy as per the Assembly's Resolution of 24 September 2008 when the Assembly met in Kigali, Rwanda?

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, Sir, I beg to reply.

At the Second Meeting of the Second Session of the Assembly held in Kigali, in Rwanda, from 10th September to 26th October, 2008, this August House discussed and passed a resolution urging:-

- (a) The Partner States to develop a joint policy and management strategy for the preservation, conservation and protection of the Environment and natural resources against all forms of degradation and destruction in whatever manner;
- (b) The Governments of the Partner States to halt further destruction of the forests and to preserve, conserve, and protect their water catchments areas; and,
- (c) The Council of Ministers to present quarterly reports to the Assembly on action taken and progress made towards the ratification of the EAC Protocol on matters of the environment and adherence to the Treaty, and in particular Chapter Nineteen thereof.

At its twelfth meeting held from 23rd to 25th February 2009, the Sectoral Committee on Environment and Natural Resources took note of the resolution and _

- i. recommended to the Council that since the Protocol on Environment and Natural Resources is in place, the Partner States have to expedite its ratification;
- ii. urged the Partner States to acknowledge and link the challenge of poverty with environmental damage, notably deforestation; and,
- iii. recommended the partner states to promote tree planting campaigns in their respective countries while encouraging species that provide fuel wood and promote other economic activities;
- iv. encourage the regular exchange of information between EALA and the Secretariat on Environmental matters.

In view of the strong link between climate change and the East African livelihoods, at their Eleventh Summit Meeting held on 20 November 2009, the EAC Heads of State directed the urgent development of a climate change policy and strategies to address the adverse impact of climate change, including determining how surplus food in one country can be shared in countries that are worst hit. The Summit further directed that a special food security and climate change Summit be organized quickly and that it should involve all key stakeholders. For the purpose of implementing the above Summit Directive, an Extra Ordinary Summit on Food security and Climate Change, has been scheduled for 20 May 2010 to decide on the measures to be taken by the Community to address food insecurity and the impacts of climate change.

In preparation for this Summit, the Secretariat has organized and facilitated experts and stakeholders meetings in Arusha 25th – 26th January; in Moshi from 15th – 19th February, and Nairobi, Kenya from 22nd to 26th February, to produce a Draft Climate Change Policy, Draft Food Security Action Plan, and A Draft Declaration on Food Security and Climate Change.

The above-mentioned documents have been considered by the Multi-Sectoral Council on Food Security and Climate Change, and by the Seventh Meeting of the Sectoral Council on Lake Victoria Basin, which was held from the 1st to 5th of March 2010, in Kisumu. The Multi-Sectoral meeting considered the draft EAC Food Security Action Plan, the draft EAC Climate Change Policy and the Draft Extra-Ordinary Summit Declaration on Food Security and Climate Change and made improvements as necessary.

The draft plan, draft policy and declaration will be considered and finalised by the Heads of State at the said extraordinary Summit.

Ms. Hajabakiga: Mr. Speaker, I am happy with the part of the answer relating to climate change, but the other issues connected to environment have not been adequately answered by the Chairperson of the Council of Ministers. Other issues such as biodiversity, trans-boundary ecosystems other than the Lake Victoria Basin, which is supported under the Lake Victoria Basin Commission, issues of forestry as adopted under the resolution of this House as read by the Chairman, Council of Ministers, have not been dealt with.

I also understand that the department dealing with the environment in the Secretariat has only skeleton staff, with a budget of only US\$10,000 for this year. I am wondering; if such a department, which is dealing with such issues of life and death of the people of East Africa, has such little capacity, what is the Council of Ministers planning for this particular department so that it can effectively move this agenda?

Dr. Kamala: Mr. Speaker, first and foremost, let me say that all issues that have been raised by Hon. Hajabakiga are well taken care of in the forthcoming climate change policy which is going to be adopted by the Summit of the Heads of State at the meeting scheduled for 20th May. Let me also add that currently, we have the East African Protocol on Environment and Natural Resources. Let me take this opportunity to congratulate the Republic of Uganda for being the only Partner State, which has already ratified the protocol. In that spirit, let me urge the other Partner States to work fast and follow Uganda's steps by ratifying this protocol, which will take care of the concerns raised by hon. Hajabakiga.

Let me add that the US\$10,000 allocated to the environment department is just the starting point. If you look at what we have proposed in terms of the budget, even if it is yet to be approved by the Heads of State, there are millions of Dollars, which have been set aside for that. Those monies will be mobilised as soon as the Heads of State approve the programme. Currently, and according to the structure of the EAC, most of the issues on environment are implemented, not at the Secretariat level, but at the Partner States level. If you go to the budget of the Partner States, each of them has already realised the importance of environment and everybody is trying to play their part. However, at the level of the Secretariat, we shall remind them to implement what the Heads of State will agree.

Question Reference EALA/PQ/OA/OO8/2010

Mr. Abdullah Mwinyi (Tanzania: Asked the Chairperson, Council of Ministers the following Question:

The vertical and horizontal growth of organs of the EAC is of paramount importance to the Community, and particularly to the Assembly.

Can the Hon. Minister inform this August House _

- (i) *When the jurisdiction of the East African Court of Justice (EACJ) will be extended?*
- (ii) *When the decision on the terms and conditions of Judges of EACJ will be finalized?*

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, I beg to reply.

Article 27(2) of the Treaty provides that the East African Court of Justice shall have such other original, appellate, human rights and other jurisdiction as will be determined by the Council of Minister. The same provision obliged the Partner States to conclude a Protocol to operationalise such extended jurisdiction. Pursuant to this provision, at its Tenth Meeting held on 9 August 2009, the Council decided that a Protocol on the extended jurisdiction of the Court be concluded.

Consequently, the Secretariat prepared a draft protocol, which provides for original jurisdiction, human rights jurisdiction and appellate jurisdiction. It was considered at both national and regional workshops for purposes of getting inputs by such key stakeholders as the judiciaries, the legislatures, the bar and other professional associations, the business community, the civil society, and the Offices of the Attorneys General and the Ministries of Justice.

At the moment the Protocol is undergoing further consultations on such issues as:-

- (a) a proposal by the Republic of Rwanda that pending the attainment of a political federation, the application and interpretation of universal human rights should remain in its original jurisdiction, and that appellate powers in matters of human rights should be a primary obligation of national courts. Therefore, the same should be left at national level; and
- (b) an observation by the Partner States for further consultations and guidance on the following issues-
 - (i) Appellate jurisdiction of the Court for the reason that this may necessitate amendment the constitutions of some of the Partner States and other relevant national laws;
 - (ii) Some Judges currently serving on the East African Court of Justice would be considering on appeal, matters they had already considered in their Partner States;
 - (iii) The Court is currently operating on an *ad hoc* basis, and the Judges are not permanent. In this regard, the Court lacks capacity to handle the envisaged wide jurisdiction;

- (iv) Some of the EACJ Judges who serve in lower courts in the respective Partner States would be constrained to consider matters arising on appeal from the higher Courts of appeal in their respective Partner States; and
- (v) There is need to clarify the role of the Commissions for Human Rights *vis-à-vis* the East African Community's programmes on good governance, and, the promotion and protection of human and peoples' rights. In this regard, access for these Commissions to the East African Court of Justice, whether as *amicus curiae* litigants or otherwise, needs to be determined.

Given the fact that this Court should be the appropriate tribunal for trade disputes, especially after the consolidation of the Customs Union and the establishment of the Common Market, finalization of the Partner State consultations will be expedited by the Council. The Partner States have undertaken to conclude the negotiations by 30 September 2010.

Mr. Speaker, at its Twentieth Meeting held on 26 March 2010, the Council considered a detailed analysis of the budgetary implications of the revision of terms and conditions of the Judges of the East African Court of Justice.

The Council took note of the following three scenarios as presented by the Secretariat:

- a) Scenario one is where Judges are engaged on ad-hoc basis, with the exception of the Judge President and the Principal Judge, who would be resident in Arusha;
- b) Scenario two is where all Judges would be engaged in Arusha on permanent basis;
- c) Scenario three is where Judges continue serving on an ad-hoc basis, but with improved remuneration

The Council considered the above scenarios and the budgetary implications of each scenario and observed that:

- a) That the current status where Judges are serving on an ad-hoc basis was preferred;
- b) The cost implication of implementing Scenario Three is US\$443,800, resulting in a budget increment of US\$ 316,000. The funds are available within the current budget; and,
- c) Derived that consideration be given to paying a retainer and sitting allowance for all Judges ; fuel allowance for the Judge President; and responsibility allowance for the Judge President and the Principal Judge.

The Council approved Scenario 3 to be implemented in the Financial Year 2010/2011, and forwarded the same to the Summit for determination as terms and conditions for the Judges. The Council's recommendations will be tabled at the next ordinary Summit for consideration.

Ms. Dora Byamukama (Uganda): Mr. Speaker, my supplementary question is in relation to the timeframe that put in place by the Republic of Rwanda in respect to the issue of human rights jurisdiction and appellate matters. I am asking this question because when you look at

Article 27(2) of the Treaty, it states that “*the Court shall have such other original, appellate, human rights and other jurisdictions as will be determined by the Council at a suitable subsequent date. To this end, the Partner States shall conclude a protocol to operationalise the extended jurisdiction.*”

The Treaty does not in any way appendage this aspect to the realisation of a political federation. I would like to get more clarification from the Chairman, Council of Ministers, as to whether this substantively amends what the Treaty says.

Dr. Kamala: Mr. Speaker, the Treaty itself recognises that there is a Council of Ministers, which will be deciding accordingly. When you talk about the Council of Ministers, you are talking about the Partner States, and when you talk about the Partner States, the same Treaty reminds us that in order for the Community to prosper, the principle of consensus needs to be taken on board. That being the case, if a Partner State proposes anything, there is nothing you can do except to listen to their argument, consult each other until you arrive at a consensus. I know others would like to go faster, but the faster you move and leave somebody behind, the more dangerous it will become. The slower you move by taking everybody on board, the better.

Ms. Byamukama: Mr. Speaker, I am not satisfied. For example, if you defile a girl in Uganda, you may face the death penalty and yet in some of the other Partner States, there is no death penalty. However, and more importantly, why appendage the issue of human rights to political federation? That is my question.

The Speaker: Hon. Byamukama, I think what the Minister said is that this was a proposal. I think he has answered your question. I think it is a proposal from one of the Partner States that this should happen, but it is for the Council to decide.

Mr. Bernard Mulengani (Uganda): Mr. Speaker, more often than not, this House is given threats of budget increment thereby deterring progress. Could the Minister give information as to how much more money is required, other than just saying there is a budget increase?

The Speaker: Hon. Mulengani, if you listened to the Minister carefully, he gave you the amount. He mentioned US\$443,000, which is a budget increment of US\$316,000.

Question Reference EALA/PQ/WA/009/2010

Ms. Jacqueline Muhongayire (Rwanda): Asked the Chairperson, Council of Ministers_

Alternating between the keep left and keep right modes of road transport have in the past been and continue to be a problem for drivers who ply the routes between Rwanda and Burundi on the one hand and Kenya, Uganda and Tanzania on the other hand.

Can the Chairperson of the Council of Ministers tell this House:-

- (i) *Whether there is an EAC Policy on Road Transport, and what its overall objective is;*

- (ii) *When the mode of driving on the same side of the road for all EAC Partner States will be harmonized.*

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, since the hon. Member requested for a written answer, I beg your indulgence to lay on the Table the written answer.

(Dr. Kamala laid the document on the Table)

Question Reference EALA/PQ/OA/010/2010

Ms. Dora Byamukama (Uganda): Asked the Chairperson, Council of Ministers_

Compatibility of social and economic policies is critical for widening and deepening co-operation among the East African Partner States. As such, observance of time zones is crucial to, inter alia, official working hours of the EAC particularly with regard to information flow across the EAC countries.

Can the Chairperson of the Council inform this August House when the EAC time zones will be harmonized?

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, Sir, I beg to reply.

Standard time zones can be defined by geometrically subdividing the Earth's spheroid into 24 lunes (wedge-shaped sections), bordered by meridians each 15° of longitude apart. The local time in neighboring zones would differ by one hour. However, political boundaries, geographical practicalities, and convenience of inhabitants can result in irregularly-shaped zones. Moreover, in a few regions, half-hour or quarter-hour differences are in effect.

Time zones are a compromise, relaxing the complex geographic dependence while still allowing local time to approximate the mean solar time. The increase in worldwide communication has increased the need for interacting parties to communicate mutually comprehensible time references to one another.

East Africa Time, (or EAT), is a time zone used in eastern Africa. The zone is three hours ahead of Coordinated Universal Time (UTC), therefore it is UTC+3. East Africa Time is used by the Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Somalia, Sudan, Tanzania, and Uganda.

Central Africa Time, (or CAT), is a time zone used in Central and Southern Africa. The zone is two hours ahead of UTC; therefore it is UTC+2, which is the same as the adjacent South Africa Standard Time. Central Africa Time is used by Burundi, Botswana, the Democratic Republic Congo (Eastern), Malawi, Mozambique, Rwanda, Zambia, Zimbabwe, and South Africa.

Mr. Speaker, the time difference between East African Standard Time and Central Africa Time is one hour. Harmonization of the different time zones in EAC is feasible. A technical

committee of experts could be established to carry out this task and the output of its work tabled before the established organs of EAC for further decision. However, the fact that the Partner States are in different time zones need not hamper the deepening and widening of cooperation among the Partner States. The United States of America, for example, has more than five time zones and it still functions as one country.

Ms. Byamukama: Mr. Speaker, I want to thank the Chairman, Council of Ministers for his very technical response. I agree with him entirely to the effect that time zones are affected not only by geographical positions, but also by political factors, as well as daylight saving time where applicable. I also agree with him that it is possible and feasible for us to harmonise time zones. Allow me to give one small example.

When time zones are not harmonised, this affects our logistical functions. For example, if you are coming from Gatuna in Rwanda going to Katuna in Uganda, you may find that the border is not closed on one side but it is closed on the other. If you have to give out tenders, for example, to make big money, you may lose a very big deal just because of the difference in time zones. When you look at Kigoma where my friend Dr. Kabourou comes from, the area of Rubaya, and at the extreme corner of Uganda in Kabale area, when you look at the longitudinal and latitudinal nodes, they are on the same time zone. So, I would like to implore the Council of Ministers to take on the issue of the study so as to present these results rather than negate the answer by citing America, which is much bigger than East Africa, and whose longitudinal and latitudinal nodes are very far apart. So, could the Council of Ministers take back that latter part and emphasise the need for a study with the view of harmonisation?

The Speaker: I think the Hon. Minister did not know that you can also be technical. *(Laughter)*

Mr. Augustine Lotodo (Kenya): Mr. Speaker, the trade flow in East Africa is affected by time differences. At the border towns shared by the United Republic of Tanzania and the Republic of Burundi at Kobero, Gahumo and Mungina you will find that in the evenings or in the mornings, because of the time difference, the Tanzanian side opens while the Burundian side remains closed, and trucks will be waiting for one hour to cross from one side of the border to the other.

Dr. Lwanyantika Masha (Tanzania): Mr. Speaker, since this question is technical, and since through that technicality, Malawi and Tanzania, which share a long border, are in two different time zones, would he acknowledge that these are not really technicalities but rather political decisions made by whoever decides on which zone to be in?

Secondly, would the Minister be more committal than just to say harmonisation is feasible and a technical committee of experts could...would he be a little more committed and say they shall establish this committee to do that job?

Dr. Said Bilal (Tanzania): Mr. Speaker, would the Chairman, Council of Ministers agree that keeping the current time zones will reinforce the concept of being diverse yet together?

Mr. Mike Sebalu (Uganda): Mr. Speaker, everyone is beginning by stating that this issue is technical, but mine is just practical. When it comes to 6.00 O'clock in the evening and in the morning when I am in Kigali and Burundi, I get difficulty adjusting. It is too dark in the evening and too bright in the morning. So, I get a practical problem. *(Laughter)*

Mr. Abdullah Mwinyi (Tanzania): Mr. Speaker, in his response, the Chairman, Council of Ministers referred to the United States of America's five time zones not affecting its trade. Would he acknowledge that in the United States of America, there are no borders? In fact you can travel from New York to Los Angeles, 24/7 without anyone telling you anything!

Ms. Catherine Kimura (Kenya): Mr. Speaker, even as we are waiting for this study to be undertaken for decisions to be made, I believe there are administrative decisions that can be made. We are talking about a very practical issue here. When you get to the border of Manyovu between Tanzania and Burundi, or between Rwanda and Tanzania, you will find that a vehicle getting there at 4.00 O'clock on a Friday on one side just find that the other side has closed. That vehicle will stay there until Monday just because of the one hour time difference! I am therefore asking the Chairperson of the Council of Ministers to bring this to the table of the Council to see why there cannot be an administrative decision made that either Rwanda – and I know when we undertook the tour of the borders we found that Rwanda will, for example, seem to open one hour earlier, at 7.00 O'clock, which is 8.00 O'clock in Tanzania. But come 5.00 O'clock, Tanzania, or Uganda, for that matter, will close. So, can we harmonise so that one side can open an hour earlier and the other side closes an hour later to facilitate trade? This is a major trade barrier at our borders. I believe that does not need a study. It is an agreement that can be reached between the Partner States.

Dr. Kamala: Mr. Speaker, I do appreciate the supplementary questions raised by the honourable Members. I entirely agree that it is very important to make sure that we sort out this issue of the time difference. What is important when it comes to trade is to operate 24 hours. *(Applause)* If all Partner States would implement that one, then there would be no problem. Let me congratulate the Republic of Rwanda and the Republic of Uganda for making the Gatuna/Katuna border post to operate 24 hours. It is my hope that the rest of the Partner States will follow suit. *(Applause)*

Making our border posts to operate for 24 hours is not the key issue, because we have already agreed to develop one-stop border posts. Recently, Tanzania and Rwanda signed an agreement of developing a one-stop border post at Rusumo by constructing the new bridge over there. The good news is that Japan is going to finance the feasibility study, and the entire project. The very good news is that Japan has indicated to me, as the Chairperson of Council, that they are ready to finance all border posts. The challenge is for us to come up with the proposals.

I would like to add that the movement of goods from one country to the other, and in particular transit goods and services, has been facing the problem of various weighbridges, which hinders the fast transportation of goods. Two things are going to be implemented: One, this month, the Heads of State will be meeting in Kampala to listen to the business

community on all non-tariff barriers (NTBs), and they will direct us to ensure that there will be no more non-tariff barriers. The new NTB, however, which we shall draw to the attention of the Presidents, is the difference in time. *(Applause)*

The other problem facing transit goods is that of roadblocks and checkpoints. But, in this century, we do not have to use our eyes to check cargo moving from one point to another. We are going to put in place a satellite system, which will be monitoring goods from one point to the other. Therefore, there will be no more physical borders but satellite borders. *(Laughter)* In that course of action, we shall be doing more than working on time zones.

Question Reference: EALA/PQ/OA/011/2010

Ms. Dora Byamukama (Uganda): Asked the Chairperson, Council of Ministers_

The scrapping of Visa requirements for Burundi citizens entering the United Republic of Tanzania is critical to Burundi's participation and sense of belonging within the EAC framework.

Can the Chairperson Council of ministers:-

- (i) Inform the August House when the Visa requirements for Burundians entering the United Republic of Tanzania will be scrapped?*
- (ii) Whether the EAC Council would consider referring the matter to the Summit for a Summit Directive?*

The Minister for East African Cooperation, Tanzania and Chairperson EAC Council of Ministers (Dr. Diodorus Kamala): Mr. Speaker, sir, I beg to reply.

The Ministry of Home Affairs of The United Republic of Tanzania has withdrawn the visa requirement for citizens of the Republic of Burundi. This development has been duly communicated to the Republic of Burundi and made available to all Heads of Immigration at the entry/exit points of the two Partner States. *(Applause)*

Mr. Speaker, my response to the second part of the question would be that there is no need to refer the matter to the EAC Summit as the visa requirement for Burundians entering Tanzania has been waived.

Ms. Byamukama: Mr. Speaker, I just want to put it on record that this is a historical moment for us, and I would like to salute you for having allowed me to continue asking this question, because this action has been expedited by this august House. *(Applause)*

I would also like to congratulate the Chairman, Council of Ministers for making history along with us. I salute him for his excellent performance, and I look forward to looking at this document because I believe that you laid the said communication on the Table.

Ms. Margaret Zziwa (Uganda): Mr. Speaker, I want to raise a similar concern regarding the movement of people within East Africa, but this time concerning the issuance and use of the

East African Passport. In the local dailies in our respective Partner States, notably in *The Monitor* of 6 April 2010, and in *The Citizen* of 5 April 2010, it was reported that the Secretary-General of the East African Community has suspended the use of the East African Passport. I want to get the official position in this august House so that we can ably advise East Africans, and to be able to appreciate that the advantages accruing from using the East African Passport can be catered for in another provision, which may be in place.

In addition, recognising that the East African Passport has been playing a very key role in assisting East Africans to freely move within the region, what other options are in place? I also need to know the position of its substitute in relation to the cost. For instance, the EAC Passport, in most of our Partner States, has been priced at US\$10 while the national passports are charged at US\$50. So, in relation to that cost difference, how will East Africans be catered for? Can the envisaged difficulties with the use of the East African Passport not be remedied before the new one comes into place?

Dr. Kamala: Mr. Speaker, I read the same paper that hon. Zziwa read, and immediately after reading it, I asked the Secretary-General where he got that mandate to suspend the use of the East African Passport. He assured me that he was misquoted, because there is no single person or Partner State, which can simply suspend it. He said he was only explaining the desire of the EAC to make the EAC Passport machine-readable. But apart from that, you will all agree that this passport, despite its importance, very few East Africans are using them because they are only used in East Africa. We would like to make this passport international. We shall work towards that.

The Speaker: Hon. Minister, I think what Hon. Zziwa is asking is a very important matter. She was refused usage of her EAC Passport when she was coming here by the Ugandan authorities because the Secretary-General had suspended the East African Passport. So she had to use her national passport. So, is the Council of Ministers going to correct that statement? The immigration departments are not allowing some people to use those passports because the Secretary-General has suspended it.

Dr. Kamala: Mr. Speaker, if Partner States can read from papers what has been a misquotation and implements it, I am now directing the Secretary-General to issue a statement clarifying on what happened. It is my hope that the same Partner State will immediately proceed to issue the East African Passport. Apart from that, we shall follow up on all Partner States to make sure that the smooth movement of people is not interrupted.

Dr. Aman Kabourou (Tanzania): Mr. Speaker, I know there is a difference between a plenary meeting, like what we are having now, and an EALA-sponsored seminar, like what we had in Bujumbura where we were actually told that the visa requirement for Burundians had been lifted, but this was communication from the same Minister who is now the Chairman, Council of Ministers. *(Laughter)*

The Minister has given us a reply here to hon. Byamukama's question on the visa requirements for Burundians in which he has said that communication had been made to all

the border and immigration stations between Tanzania and Burundi, but I don't see any reference number here. For that reason, I would like to ask the hon. Minister, if he would care, to make an on-spot assessment visit on the implementation of the removal of the visa requirements for the Burundians, so that he can come here and tell us what he is sure of.

The Speaker: He may be accompanied by the relevant Committee as well.

Mr. Abdul Karim Harelimana (Rwanda): Mr. Speaker, I thank the Minister for that answer, but I would like to get some more details about the visa waiver for Burundians entering Tanzania. When was the visa waived? Was it published in the Official Gazette of the United Republic of Tanzania? When will it be effective; is it immediately or it will have to wait for some few other conditions to be met?

Mr. Mike Sebalu (Uganda): Mr. Speaker, definitely the Burundi visa requirement has been a long-running story. I remember one time we were holding some consultations in Bujumbura and that issue came up. Actually, many people raised it in the meeting, and I liked the magnanimity of the current Chairman, Council of Ministers. He was able to call his counterpart, the Minister for Home Affairs in that meeting and he was assured that, that was something of the past.

On a related issue to do with movement within the region, I think that we also need to harmonise the issue of the yellow fever certificate within the Community. I have been a victim of that requirement for very many times in Arusha even when I tried to explain that I am an East African just from Uganda, and if there is any yellow fever, it is not there! But it has been a big issue, and I think it is something we also need to come clean on as the East African Community.

In Dar-es-Salaam, we were given a bit of assurance on that issue, as well as in Zanzibar, but it is still happening. Maybe we need copies of this communication that has been laid on the Table for reference. It is a big issue among the East Africans, and you will find them disturbed when they have to be taken out of the lines to explain themselves or to be jabbed against yellow fever.

Dr. Masha: Mr. Speaker, I am tempted to say something connected to what hon. Sebalu has said. I had the same problem for small pox vaccination, also in Arusha that I was coming from outside of the East African region. So, there must be a problem about this.

But the question I wanted to ask the Minister is that since I came into EALA, I have been looking for legislation which gives legal authority to the East African Passport but I have not seen it. Maybe I am missing it somewhere. Why isn't there an Act of the Community, which gives legal basis for this passport beyond just the protocol, which established it? Would the Minister now assure us that he will bring such legislation to the Assembly?

Dr. Kamala: Mr. Speaker, I am the Chairman, Council of Ministers, and I am not the Minister for Home Affairs in Tanzania. In most cases, when I am responding to these questions, I cannot say I have decided. I say the United Republic of Tanzania has done this or

that. So, when I spoke in Burundi, I was referring to the political decision which was already made that the visa was supposed to be waived. That is why when I was touring Burundi recently, I was asked the same question, and the Minister for Home Affairs had already informed me that before 1st of April, everything would be okay. I did not give that information on the date to give myself time, although I know that political decisions can be taken but implementation can delay. That is why in Burundi I mentioned 1st April because I was not sure how long it would take for the information to reach the border. But the information reached the border two weeks before that deadline. So, in actual fact, this visa was waived and it became effective two weeks before the 1st of April. However, I will find out all the relevant communication for the purpose of empowering everyone to understand how the decision and communications passed.

Mr. Speaker, on the yellow fever issue, I have received a number of complaints from other people. This problem is happening frequently at Kilimanjaro International Airport. I would not like to pinpoint anybody, because that is not democratic, but I will consult my relevant colleague to find out what is happening in Arusha; because it does not happen in Namanga, Mtukula or elsewhere, but only at Kilimanjaro International Airport. The question is, why? But I have taken your concerns and I shall work on them.

On the last issue raised by hon. Masha, the Partner States agree that we shall do a, b, c. Now, whether that needs to be supported by an Act is a different thing. However, in most cases it is always good for the protocol and other agreements to be cemented by Acts. We must work towards that, and not only for the passport but also for other issues.

ADJOURNMENT

The Speaker: Honourable Members, we have come to the end of business today. I now adjourn the House until Tuesday at 2.30 p.m.

(The House rose and adjourned until Tuesday, 20 April 2010 at 2.30 p.m.)