



## **EAST AFRICAN COMMUNITY**

### **EAST AFRICAN LEGISLATIVE ASSEMBLY**

#### **FIRST ASSEMBLY– SECOND SESSION – FIFTH MEETING**

#### **Official Report of the Proceedings of the East African Legislative Assembly**

**Thursday, 16 October 2003**

*The East African Legislative Assembly met at 2.00 p.m. at the Chamber of the Assembly, Ngorongoro Wing, Sixth Floor, AICC Complex, Arusha*

#### **PRAYERS**

*[The Speaker, Hon. Abdulrahman Kinana in the Chair]*

*The Assembly was called to Order.*

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

**The Speaker:** Honourable Members, I would like to make the following communication regarding the time of our sittings of the Plenary today, and other related matters concerning our work as an Assembly:

(i) Change of Times for the Sittings of the Assembly

WHEREAS Clause (1) of Article 55 of the Treaty provides that the Assembly shall be held at such times and places as the Assembly may appoint;

AND WHEREAS sub rule (1) of Rule 12 states that:

“Sittings shall, unless the Speaker otherwise directs, ordinarily commence at 9:00 o’clock in the morning up to 1:00 o’clock in the afternoon, and resume at 4:00 o’clock in the evening and conclude at 6:00 o’clock in the evening; on Tuesdays, Wednesdays and Thursdays;

NOW THEREFORE, the Speaker having taken cognisance of the foregoing and yet having regard to the nature of the business to be transacted by the

Assembly has, in the exercise of the mandate vested in the Speaker, pursuant to the provisions of sub-rule (8) of Rule 11, directed as follows:

That the Assembly shall hold its plenary sittings today Thursday, 16 October 2003 commencing at 2:30 p.m. in the afternoon and concluding when all the business appearing on the Order Paper has been disposed of.

(ii) Assent to the Bills Passed By the Assembly

Honourable Members, you will recall that in the course of this Second Session of the Assembly, we have so far passed six pieces of legislation: Four were basic laws that will allow us to function as a legislature; the other two were the Appropriation Bills relating to the Budgets of the East African Community.

In accordance with the provisions of Clause (2) of Article 62 of the Treaty, the Speaker submitted the Bills to their Excellencies the three Heads of State for assent. I am pleased to inform you that their Excellencies have all graciously signified their assent to the six Bills. They are now laws of the Community, pending their gazetting in the Community Gazette.

(ii) Decisions of the House Business Committee

The House Business Committee held a sitting on Tuesday, 14 October 2003, and as previously agreed upon, I now wish to notify you of the major decisions

taken, in so far as the business of the House is concerned.

(a) It was agreed that there is need to have the EALA formally involved in the process of establishing a Customs Union. In this regard it was resolved that a Plenary Sitting be held today in order to consider the relevant report of the Committee on Communication, Trade and Investment with a view to making recommendations to the Council on the impending launch of the Customs Union.

(b) Due to lack of sufficient media coverage of EALA activities while in Arusha, it was resolved that there was need to appoint an EALA Media Committee that would advise how best EALA activities can be covered in the media.

The House Business Committee proposes that with your approval, the following Members be appointed to the Committee:

- (i) Hon. Dr. Harrison Mwakyembe
- (ii) Hon. Lydia Wanyoto Mutende
- (iii) Hon. Jared B. Kangwana

(c) The Programme of the Assembly ending June 2004 as previously agreed upon remains unchanged. It was however resolved that a joint meeting be held between the House Business Committee and all Chairpersons of other Committees to review how much work was available, including

legislative and budgetary proposals for next year. This meeting will be held this evening immediately after adjournment of the House.

- (d) The application by EALA to the join the Inter-Parliamentary Union (IPU) was discussed. Under the IPU Statute, a regional parliament like EALA can only be admitted after securing support from its National Parliaments. The EALA has already written to the three National Assemblies seeking their support. I will continue to liaise with the three Honourable Speakers in this regard.

- (e) The Committee also discussed the growing need for an EALA library. I wish to inform you that we have already forwarded our proposals to GTZ for possible funding.

(iii) Introduction of a Parliamentary Bell

Finally, you may have heard a bell sound this afternoon. I hope none of you fled the premises thinking that it was a fire alarm.

I have, like in all other Parliaments, introduced a Parliamentary Bell. It shall be sounded for one minute, ten minutes before the allotted time of the sitting.

The bell is to remind you of the need to put aside everything else you could be occupied with so that you may proceed to the Chamber to take up your seats. Thank you.

**PAPERS LAID**

The Report of the Standing Committee on Communication, Trade and Investment on the public hearings conducted by the Committee with regard to the draft protocols on the Customs Union and SQMT

*(By Mr Yonasani Kanyomozi, Chairperson Committee on Communication, Trade and Investment)*

**MOTION**

**FOR THE INTRODUCTION OF A PRIVATE MEMBER'S BILL**

**Mr Calist Mwatela (Kenya):** Mr Speaker, sir, I beg to move\_

THAT, THIS ASSEMBLY,

TAKING COGNISANCE of the provisions of Article 59 (1) of the Treaty;

PURSUANT to the Provisions of Rule 64 (5) of the Rules of the House;

DO NOW RESOLVE to grant leave to the Hon. Dan Wandera Ogalo and Hon. Andrew Calist Mwatela to introduce a Private Members' Bill Entitled: "The East African Community Trade Negotiations Bill, 2003."

Mr Speaker, sir, at their extra-ordinary meeting in Kampala, Uganda on 11 April 2002 the Summit directed that the Partner States of the East African Community negotiate as a bloc. It is imperative that this Assembly enacts a law that operationalise this directive.

I do appreciate that this role should have been played by the Council of Ministers but it has not done so. I do not think it is fair for East Africans to continue waiting.

Mr Speaker, sir, the merits of the Bill shall be argued at a later stage, when the Bill comes before the House.

*(Question proposed)*

**Amb. Isaac Sepetu (Tanzania):** Mr Speaker, sir, this Motion is in line with our Rules of Procedure, and I think that at the appropriate stage, the Bill which will be introduced before this House will be taken up by the relevant Committee. The Committee will go into the merits and demerits of the Bill and will advise the House on what steps to be taken, but I think there is justification for seeking that permission in accordance with the provisions of Article 11(1) of the Treaty which states that the Summit shall give general directions and impetus as to the development and achievements of the objectives of the Community.

As we are aware, in April 2002, the Summit did make a decision and issued a directive for the three Partner States to negotiate as a bloc when dealing with the rest of the world. Unfortunately, since that directive was issued, it has not been implemented, and the three countries have been negotiating individually. The Bill will therefore,

legalise that directive, and I think it should be granted permission. The Council of Ministers has not been bringing Bills to the House but in accordance with our Rules of Procedure we have been able to bring Private Members' Bills.

Mr Speaker, sir, I am gratified to note that the Summit supports the initiative we have taken in bringing private members' bills here. This was demonstrated by the Summit when they assented to all the Bills we have passed in this House. We should commend them for their action. I appeal to my colleagues here to accede to the request by the two honourable Members.

With those remarks, I beg to second.

**Mr Ochieng-Mbeo (Kenya):** Mr Speaker, sir, this Motion has come at an appropriate time. Negotiations affecting the East African countries have been going on without a combined effort from the three countries.

I must thank those who went to Cancun to represent the East African Community under the leadership of Amb. Ali Mchumo. If this is the effort that we want to put forward, then we need to have more people to provide support for people like Amb. Mchumo.

I believe that this Motion will receive the support of the three countries and the goodwill of the Secretariat. We do not want to see a repeat of what happened in Cancun where the three countries of East Africa were trying to negotiate individually.

**Ms Kawamara Mishambi (Uganda):** Mr Speaker, sir, I wish to thank the two

honourable Members for seeking leave to introduce the said Bill before the House.

Mr Speaker, sir, I would also like to thank you for a job well done. We were happy to hear that you personally delivered the Bills we passed in this House to the Heads of State for assent. We believe that if those Bills had gone through the ordinary channels, they would not have been assented to by now.

Mr Speaker, sir, I think the introduction of this Bill is long over due, but it is a welcome initiative. Again, there has been failure on the part of the Council of Ministers to effect what the Summit had decided upon.

Mr Speaker, sir, as we prepared to go to Cancun, many of us wondered why we never went there as East Africans. We are all Members of the East African Community but were divided to go under our country delegations. We went as Ugandans, Kenyans and Tanzanians, and converged in Cancun under three different ministers. The European Union, which is made up of over 20 countries had one negotiator but we had three negotiators from East Africa! The United States of America, which has over 50 states, had one negotiator amidst our three, and that caused a lot of confusion.

I think the only unifying factor we had in Cancun was the East African Community. The Members of this Assembly worked tirelessly to mobilise fellow Africans to come out with the results we witnessed in Cancun. Many have said that the African countries lost, but for those of us who were in Cancun, we thought it was such a great success.

We are proud of all the Africans, the Asians and Latin Americans for the work they did!

Mr Speaker, sir, we want a common negotiating position for the three countries. We had gone to Cancun with a common negotiating position as the African Union, but while there, the Head of the Summit of the East African Community wrote a letter to divide us. I am really wondering whether we have the necessary support! I urge this House to push this issue forward so that we work with our national assemblies and the people of East Africa so that we can have a common negotiating position. We should guard ourselves against those who may be out to divide us. We should come up with a law that safeguards our positions from those who may want to divide us.

With those remarks, I support the Motion.

**The Speaker:** Honourable Members, the substantive debate on this subject will come when we debate it. The debate now is on the merits and demerits of granting leave to the two honourable members to introduce the Motion before the House.

*(Question put and agreed to)*

## MOTION

### FOR THE ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENT

**Mr Yonasani Kanyomozi (Uganda):**  
Mr Speaker, sir, I beg to move\_

“THAT, the Report of the  
Standing Committee on  
Communication, Trade and  
Investment be adopted.”

Mr Speaker, sir, I would like to thank you and the House for giving us the support to conduct public hearings in the capitals of our Partner States. We were enthusiastically received. The Ministers responsible for Trade and Foreign Affairs in the three Partner States officially opened the meetings we held. The people who attended were more than we had expected. The eagerness with which we were received was overwhelming!

Mr Speaker, sir, I would like to quote what one of the Ministers who said: “Very few regions in the world rival East Africa in terms of natural resources and endowment. Once we become a single market, we shall be able to confront the world with far much stronger voice. But a stronger voice has to be backed by strong economies. It is now generally agreed that...”

This is quoted from a speech made by the Minister for Trade of Tanzania while opening our meeting in Dar es Salaam. From our Report, the House will agree with us that the people of East Africa wanted the customs union yesterday. Since our report was circulated to the

Members, I do not want to delve so much to it.

Mr Speaker, sir, our report was done in a hurry, and I would like to take the Members through it: -

- On top of page 7, the sentence that “only Tanzania has ratified the Protocol on Standards” is missing.
- Under paragraph 1.5 of the same page, the sentence “...and in Dar es Salaam on 10<sup>th</sup> of October, 2003.”
- Under 1.5.2, we should add “in our opening remarks in Nairobi.”
- Under page 8 line 2, the phrase “on 30<sup>th</sup> November, 2003.”
- On page 14, there is a typing error; it should be 2.11 but not 2.9.
- Under paragraph 2.2, there is something missing. We should put there “EALA and the East African Community Secretariat.”

Basically, those were the minor corrections that I wanted to make. Mr Speaker, sir, let me make a summary of the presentations in this report.

The report is divided into four sections with annexes forming the fifth section. It runs through the mandate that we were given as a Committee, and gives us the role, which is entrenched in the Treaty, especially Articles 75, 76 and 81.

Mr Speaker, sir, our major concern was to bring on board the people of East Africa, especially the private sector, the honourable members of the national assemblies and the civic societies so that we could get their full backing. In our

findings we discovered that, in most cases the private sector is being involved in the negotiations, and that they are moving away from depending on government sponsorship and they are now starting to be on their own. In fact, during the last high meeting here, I was surprised by the level of private sector participation, especially from Uganda.

Mr Speaker, sir, we observed that most of the things that we need to operationalise the Customs Union have been addressed. As for the standards, the protocol was signed on 15 January 2001, but it has been gathering dust in certain offices. We are consulting with the directors of the Bureaus of Standards and the Counsel to the Community to explore the possibility of bringing a Bill to this House if the Council of Ministers does not do the same.

Mr Speaker, sir, I would like to inform this House that the Bureaus of Standards have approved 400 standards, and they require a backing of the law so that they can be accepted by the World Trade Organisation. So, we need to move very fast. We also heard from the public that most of the issues have been resolved. The outstanding issues that are recorded on page five of our report are being discussed.

When we were in Dar es Salaam, the Minister for Trade of Tanzania told us that senior government officials were in a retreat to resolve most of the issues. At this moment, the laws are also busy going through the Competition Law and Policy. In fact, Mr. Sajjabi, the Economist (Monetary issues) is in Kampala busy tackling issues related to the structure of the Customs Union in future. People are working! But as East

Africans we did not become very scientific in these matters.

With his background of the Speaker in military sciences, added to mine in management, we know that when you are doing target setting, you normally squeeze the time. People waited until the four years in the Treaty have almost elapsed and that is when they started working tirelessly. They should have set their targets in a way that people would be working continuously. But now we are experiencing a rush! (*Interjection*)

**Mr Ochieng-Mbeo (Kenya):** Mr Speaker, sir, I would like to inform Hon. Kanyomozi that the reason why it has taken four years to set up the Customs Union is because there has been a lot of money circulating in the Partner States, and the technocrats have been enjoying that money and they had to use it until the money is utilised.

**Mr Kanyomozi:** Mr Speaker, sir, we are confident that the Customs Union Protocol will be finalised quickly. We are pleased that the Deputy Secretary General is here to take this message to all concerned.

Mr Speaker, sir, we had set objectives which are enumerated on Page 7 of this Report, but we also learnt from the general public that they would like us to continue carrying out these exercises. In fact the people in the Capital Markets are saying that we are delaying them: They would also like to have their own public hearings.

Given that scenario and the things that go on, we appeal to those who draft our budgets to do something about it. Secondly, we appeal to the office of the

Speaker to continue supporting us as it has always done so that these public hearings are done very quickly. I by the Capital Markets people and those in the Investments Authorities have informed me that they have the papers ready and they would like us to translate them into law so that they move on. Trade cannot come without proper investments and working Capital Markets. We need to move very fast. We therefore want to see the objectives that we have outlined on Page 7 of our Report fulfilled.

Mr Speaker, sir, the findings of our workshops are recorded on Page 10 of our report. We are giving you the level of involvement and public participation in the negotiations that have been going on. I would like to dwell on this by looking at the matrix in our Development Strategy Plan.

Annex 1 of the Development Strategy Plan gives the information that all these things that we are doing should have been finished by June 2002. We would like to inform the Secretariat that in negotiating the aspects in Article 76, we should do so with speed. We should come up with a programme that will be managed by the Secretariat and the Assembly so that these delays are not experienced again. We are lucky that that Article is free of encumbrances. So, we can move into the Common Market tomorrow if we work hard towards it.

Mr Speaker, sir, there are some misgivings that came up during our public hearings. Some of the people actually think that on 30<sup>th</sup> November 2003, we will have arrived; the borders will be opened, trade will flow and people will move freely. There will be need of a big explanation when the

Presidents sign the Customs Union Protocol and what happens next. We might experience a big demonstration when people are stopped at the borders.

I gather that there will be a general stakeholders meeting either in Arusha or in the capitals of the three Partner States. The Committee on Trade, Communication and Investment are stakeholders and have been invited to attend the meeting on their own. I do not know how we will do that but I hope the Secretariat will look into that. I do not know whether the same has been extended to the entire Assembly.

Mr Speaker, sir, we are suggesting that on 30<sup>th</sup> November, 2003, we should have free cross-border markets so that the people could have a feel of what is yet to come. The same was done in Europe when the European Community was starting. This would help us to boost the enthusiasm that has been exhibited by the people. That would also build confidence in the populations of our country.

Mr Speaker, sir, we also found out that it takes us a lot of time to operationalise what we have agreed on, and the Standards is a good example. People are anxious that immediately we finish the laws on Competition Law and Policy, the Customs Union, Standards and movement of persons should be in place.

Mr Speaker, sir, there was also concern about the multiple memberships of the East African states. We have membership in SADC, COMESA and IGAD. People are concerned about the rules of origin when we get into the Customs Union without resolving the issue. So, the people of East Africa are



requesting that the rules of origin should be resolved quickly.

Mr Speaker, sir, there were fears as to whether people will not circumvent the issue of the non-tariff barriers; that these might be used by certain persons to stop trade between the three countries. These issues need to be addressed.

We were also surprised to learn that they know the problem which this Community faces because of the absence of resident ministers or ministers whose docket is exclusively the East African Community. We know that the Treaty provides for ministers to sit twice a year to consider matters of the Community. Is this really a viable approach, and can it provide the results we need? The people out there are concerned about these things.

Mr Speaker, sir, we cannot delve in detail into all the issues raised by this report. I wish to request the House that this report be condensed into the following Resolution of the Assembly on the Draft Protocol on the Customs Union and the Protocol on Standardization, Quality Assurance, Metrology and Testing (SQMT):

THAT THIS ASSEMBLY;

HAVING RECEIVED and considered the report of the Committee on Communications, Trade and Investments on the Public Hearings they conducted in the three Partner States with regard to the Draft Protocol on Customs Union and Protocol on SQMT;

AWARE of the status and contents of the draft Protocols on Customs Union and SQMT;

NOTING the concerns of the stakeholders in the three Partner States during the public hearings;

FURTHER NOTING the urgency of the time left before the signing of the Protocol on the Customs Union;

RECOGNISING the ongoing negotiations by the High Level Task Force (HLTF) on the Legal Framework for operationalisation of the Protocol on Customs Union;

NOTING that the Partner States belong to two different regional trading blocs;

APPRECIATIVE of the enormous efforts and the progress so far made by the three Partner States in negotiating the current status of the Draft Protocol on the Customs Union and Protocol on SQMT;

RELYING on the provisions of Article 49 (2) (d) which empowers the Assembly to make recommendations to the Council as the Assembly may deem necessary for the implementation of the Treaty; and

AWARE of the fact that Article 75 of the Treaty regarding the issues of a Customs Union is about to be implemented,

NOW DO RESOLVE to recommend to the Council the following measures that should be taken into account before the signing of the Protocol on Customs Union and the implementation of the Protocol on SQMT:

1. To ensure that the Protocol on Customs Union is signed as per the Treaty

2. To ensure that the Protocol on Customs Union is ratified so that its operationalisation is realised in the next Financial Year

3. To urge Kenya and Uganda to ratify the SQMT Protocol so as to operationalise it in the next financial year

4. The Council should initiate the relevant Bills to operationalise the Protocols

5. Sensitization workshops involving all stakeholders should be held immediately after the signing and ratification of the protocols

6. A co-ordinating office should be established at Arusha for the Bureaus of Standards and Customs.

7. All the laws relevant to Customs Unions and SQMT in the Partner States should be harmonised as a matter of urgency

8. The Council should take an immediate decision on the legal framework and institutional arrangements regarding the mode of collection and distribution of the collected revenues

9. The infrastructural bottlenecks regarding costs of power, telecommunications and transport should be immediately addressed

10. The Council should fast-track the process of regional integration in order to enable the Community to negotiate with other blocs as a single unit

11. There is need for an urgent action on the protocol on the free movement of people, goods, services and the rights of establishment as the Customs Union cannot work without this decision

12. All pending issues, and particularly those regarding definition of terms, should be quickly finalised

13. The Protocol on Customs Union should clearly spell out the role of the East African Court of Justice as the instrument for arbitration as per Article 32 of the Treaty

14. The Council of Ministers revisits the provisions of Article 36 of the Draft Protocol on Customs Union, which contravenes Article 49 and 151 of the Treaty

15. All the organs of the EAC be capacitated and facilitated in order to operationalise the Customs Union and SQMT.

Mr Speaker, sir, there are issues regarding the collection and distribution of revenues. There are two schools of thought on this: One school of thought says that we should avoid bureaucracy at the headquarters and leave the present revenue authorities in the Partner States to collect the revenue and then decide what comes to the Community. There is also another school of thought that says the Community should take over the present Customs Departments in the Partner States so that they report conveniently and promptly to a director-general resident in Arusha, the future federal capital of East Africa, so as to quicken the collection and distribution of revenues. They are aware of the fact that

once money is put in the consolidated funds of the Partner States, getting it out is a problem. Mr Speaker, sir, I beg to move.

*(Question proposed)*

**The Speaker:** Honourable Members, I would like to recognise the presence in this House of Hon. Jack Sabiiti, the MP for Rugika County, Kabale District, Uganda. He is also the Vice-chairperson of the Public Accounts Committee of the Parliament of Uganda.

**Dr Harrison Mwakyembe (Tanzania):** Mr Speaker, sir, I think we should stick to our Rules of Procedure. Our Standing Committee is referred to as Trade, Communication and Investment and not Communication, Trade and Investment. I thought this anomaly should be corrected since this report will be presented to higher organs and we expect to be taken very seriously.

**The Speaker:** I do not think I should overemphasise that point. Every Committee should be addressed as it is in the Rules.

**Mr Maxwell Shamala (Kenya):** Mr Speaker, sir, I would like to call a spade a spade. On Resolution No.1, we should say “to ensure that the Protocol on Customs Union is signed on or before 30 November, 2003.”

Under Resolution No.2, I am suggesting that we should say, “to ensure that the Protocol on Customs Union is ratified on or before 31 March, 2004, so that the Protocol is operationalised on 1 July 2004.”

**Mrs. Rose Waruhiu (Kenya):** Mr Speaker, sir, I would like to join my colleagues who have supported the adoption of these Resolutions.

Mr Speaker, sir, the Committee received support from many institutions and support from many persons whom we would like to thank. We would not enumerate them now but we did go through a stage where the source of money to support our work could not be confirmed. The Committee is grateful for the intervention by the Speaker and the Clerk to ensure that these meetings went on as planned. It would have undermined the credibility of this House because we had invited business people and other institutions. If we had called off the meeting, this would have been a very poor beginning.

Mr Speaker, sir, the reason why we have documented not only the wishes but also the fears of the people is to give this House in one document what the people in the three countries think. In other words, what you have is a report that matches the findings and opinions and aspirations of all East Africans. Obviously, we could have gone into more detail but we regarded this document purely as a working document for the Assembly, to give you the information that you need to be able to move.

Mr Speaker, sir, the purpose that both the report and the resolutions serve is to indicate to the Assembly that there is a lot that needs to be done. In fact, if you look at the action plan itself which starts on pages 18 to 22, I have not counted how many times the word “immediately” appears. Within the report, the word “urgent” appears very

many times, and I would like to recommend to my colleagues to see why these matters are urgent.

We are grateful that the House has interrupted its timetable to discuss this matter. We actually have 44 days to go, and we are presenting to this House on four pages the kind of actions that are required. And if Members were going to contribute, it would be very useful for them to take note of the kind of expectations that people have.

At the end of one of the public hearings, the participants felt like we had even brought more confusion because we were giving them a timetable that had less than three months to go. The question then was, who is leading this process? What came out in all the three countries, what came out very clearly was that people are not sensitised, not only about the Customs Union, but also about the Community. In one of the hearings, we spent half the time discussing a sensitisation programme and trying to see who is going to take charge of this programme.

When we say that the Community is people centred, it is important for Members to note that citizens of East Africa hear about the Community but it is not something that is a reality to them. So, that remains a challenge for this House. What I am saying is that we need to know who is going to provide leadership.

Mr Speaker, sir, in one of our resolutions, we have pointed out the conflicts in the Treaty. If we are expecting that sensitisation and outreach programmes can only be done through the Secretariat, then we need to do

something about building the capacity of the Secretariat. But the formula for politicians, as many of you know, is that you have many platforms that we could use. If we are committed to the Customs Union, we should embrace this responsibility to get the spirit of East Africa going, and take every opportunity, whether in *barazas* or wherever you are, to explain to our people what the Community stands for.

Mr Speaker, sir, the other area of concern was, what is in the Community for the people? The business people have an immediate interest in the integration process but the local people do not understand what they stand to gain from the Community. It is up to us to tell the people what is in it for them. So, if we say that we have a big market then we should tell the people what is in it for them. I am reminded that the Treaty has a twin purpose: Trade is one and the other one is development, and it behoves us to carry this twin agenda to the people all the time.

Mr Speaker, sir, if we are going to achieve our objectives within the 44 days which I have referred to, all the negotiations and meetings seem to emphasise the potential losses; who is going to benefit, the loss in revenue and so on. There is nothing about the benefits. In one of our hearings, we did discuss that in the short run, there are going to be some losses, but in the long run there will be benefits.

Signing of the Customs Union will be done on the stated date, but if there is no political goodwill, it may even take ten years to implement it. If it took four years to negotiate, how long will it take to actually implement the Customs

Union? So, we have a duty to develop the optimism among our people and address the short-term losses, and to be very honest with our people. But there is nothing good that comes out of nothing.

Mr Speaker, sir, we need to explain how the transition will be managed. What are we going to do with those who are going to lose? During our hearings, there was fear from young manufacturing companies of being overrun through competition by bigger companies in other countries. But if they were looking at East Africa as one country, then it would have been easier for them to understand these issues. They should be looking at more jobs being created, increased household incomes because people will have got jobs, and this is the kind of message that we need to develop.

Mr Speaker, sir, we would like to commend those who are negotiating the Customs Union Protocol for hastening the pace. There are a number of issues that have been agreed upon for the last one year, and we are really impressed about that. But the moment people realised that there was a deadline, they have been able to work and come into an agreement on issues that looked very difficult. I think it is fair that we should record that and look forward to the legal, administrative and institutional framework of the Customs Union.

We shall not be able to implement the Customs Union until there is an agreement on that. As we speak, we are told that even the text for the legal agreement has not been started on. If we had negotiations going on for four years on the elements of the Customs Union, then somebody should have been working on the implementation aspects!

This is the kind of bureaucracy that will not drive this Community forward.

Mr Speaker, sir, I do want to mention the issue of sovereignty because we do not want to push issues under the carpet. Partner States must be prepared to surrender certain levels of sovereignty. In fact, somebody asked us whether to be sovereign in our poverty - where does the pride come from if all the sovereignty is doing is to keep you in that pit of poverty?

When we were in Dar es Salaam, we learnt that one of the Partner States is referred to as a *nyangau*. I did not want to take the businessman who came up with that description seriously, but he said that people would rather have the *nyangau* they know than to have a foreign one. But on a serious note, I think if we can speak very openly to one another, bring out the fears and address them rather than pretend that they do not exist, we would do this Community a lot of good. But we are convinced that the Customs Union is good for all of us and it is going to be a big decision and the best thing we can do is to get ready for it. Thank you.

**Mr Jared Kangwana (Kenya):** Thank you very much, Mr Speaker, sir, for giving me the opportunity to make my contributions in support of this Motion.

First of all, let me take this opportunity to congratulate the Committee on Communication, Trade and Investment. I attended one of the public hearings in Nairobi and the seriousness and professionalism with which the Committee approached the issues concerning the Customs Union was

exemplary. There was a lot of interest from the public, the private sector and the government. They were all unanimous that we should hasten the conclusion of this important protocol. We are all looking forward with excitement to the signing of the Protocol on Customs Union.

Mr Speaker, sir, I have a few issues concerning the way forward. Hon. Waruihu has echoed one of those issues. We will, indeed, have the Customs Union Protocol in place on or before 30<sup>th</sup> November this year, but as it has been said, there is no serious attempt that has been made in the past to ensure that the legal, institutional and administrative structures were developed alongside the negotiations on Customs Union Protocol so that when the Protocol is signed, agreements would also have been reached on how the Customs Union is going to be administered. I urge our Partner States to proceed with haste to discuss and agree on this important arrangement and those institutional arrangements should be brought to this House to be enacted into law.

Mr Speaker, sir, I want to confirm what Hon. Kanyomozi has said. As soon as the Protocol is signed, we will be bringing a Bill to this House to enact the Customs Union so that if there is a delay in ratifying the protocol by the Partner States, there will be a law enacted by this House to cover that delay.

Mr Speaker, sir, Members are aware that the Standardization, Quality Assurance, Metrology and Testing Protocol was signed over two years ago, and it was sent to the Partner States for ratification. As of now, it is only Tanzania that has ratified. It has not been ratified by the

other Partner States. This means that the protocol is inoperative. We do not want to spend four years of public money negotiating a Protocol on Customs Union that will be signed by 30<sup>th</sup> November this year and sent to Partner States for ratification, and it sits there for three years. That would amount to robbing the East African public!

In the light of the shortcomings that we have noted, we agreed that once the Customs Union Protocol is signed, notwithstanding the fact that it will have been sent to Partner States for ratification, this House will legislate on it.

Mr Speaker, having said this, I would like to thank you and the House for having successfully passed six Bills in this House, which have now been assented to by the Heads of State. This is a proud moment for you, Mr Speaker, and the House! We now have six Acts, four of which were brought through Private Members' Bills and two of which were brought by the Council of Ministers under coercion by the House. This House has set a precedent, which should be recognised. There are very few Parliaments in the World in which six Acts of Parliament have been passed within such a short time. So, it is a tremendous achievement for all of us in this House.

With those remarks, I support the Motion.

**Ms. Ovonji-Odida (Uganda):** Mr Speaker, sir, I would like to congratulate the Standing Committee on Communication, Trade and Investment on the outreach programme that they have just completed. I would like to

support this Resolution for a number of reasons.

Mr Speaker, sir, I think it is important for us to look at the global dimension to all of these. As one honourable Member has just said, the Treaty aims at promoting integration through trade and development, and in our current global context, we know that both of these issues are threatened.

Some of us have just come back from the WTO ministerial meeting in Cancun, and what we saw there is that unless we move fast in our regional arrangements under the East African Community, whatever things we are trying to do here are going to be overtaken by events. As you recall, there are supposed to be free trade areas under the WTO by the year 2016 for the Least Developed Countries, and the year 2012 for the Developing Countries. Those dates are not very far.

So, the more we delay in, not only ratifying but operationalizing the Customs Union, the less relevant it will become to help us achieve our goals in trade and development. That is why I would like to underscore the need for each one of us, as individual Members and collectively as the Assembly, to go out and take this message to our Partner States. We need to mobilise our Parliaments and other stakeholders to move fast on this.

I would like to support this Resolution because it does not only look narrowly at trade, but it also brings in other factors of production, for instance labour and so on. This is an area that Africa has been pushing for at the global level. In fact, under the General Agreement on Trade and Services, Mode 4, Africa has been

pushing that our people should be able to move into other regions and take their services there. The developed countries have rejected this, and we know why. We need to work on this within our region as well. Let us free up our people so that they can move to where they can earn a living and contribute to the development of East Africa.

Mr Speaker, sir, under the Cotonou Agreement Negotiations Phase II which started last month, negotiations are going on where regions are going to be required to enter into economic partnerships with the European Union, and the configurations that are going on, or that could emerge from there have a potential to destabilise our own configuration here in East Africa. So, we need to move fast.

Finally, as we came back from Cancun, a number of honourable members from our national assemblies recognised the role that the East African Legislative Assembly played in mobilising parliamentarians from the African region and governments. One Member from the Kenya National Assembly who is a Parliamentary Service Commissioner told me that they were looking up to us to take leadership on these issues on behalf of East Africa. We need to do this. We need to know what the ordinary people said during the public hearings.

I attended the one in Uganda, and I remember that they stressed the need for strengthening of political will to ensure that there is budget support for the Customs Union, and for the East African Community. They talked about the need to have an equitable system of sharing assets, and also setting up of a

compensatory fund to cushion those who will be affected by the Customs Union.

They also talked about the need to mobilise the private sector so that it can be an engine for development. They talked about the challenge to each one of us in the region and in the nations and governments to create the enabling environment so that the private sector can get out and do its business by providing the necessary infrastructure. This is the challenge we have, and I think this resolution contributes to our discharging that responsibility.

With those remarks, I beg to support.

**Mr George Nangale (Tanzania):** Mr. Speaker, sir, first and foremost, I would like to thank you for the support which you gave the Committee to conduct public hearings in the three countries.

Mr Speaker, sir, one thing that we discovered during our interactive forums was the enthusiasm and concern of the people of East Africa, particularly the private sector, for the setting up of the Customs Union. I would also like to thank Assistant Minister Joab Omino for opening our forum in Nairobi, and Hon. Dr. Mukhisa Kituyi, Minister for Trade and Industry in Kenya for closing the same. I would also like to thank Hon. Augustine Nshimye for opening the Kampala and Hon. Dr. Nkasongwa for opening the Dar es Salaam forum.

Mr Speaker, sir, before we commenced the public hearings, Hon. Kanyomozi, Hon. Waruhiu and myself had an opportunity to attend the East African Business Summit at Nanyuki. The Summit brought together over 100 Chief Executive Officers from East Africa. We

shall be availing the report of that meeting to this House, but I would like to emphasize that one of the things that topped the agenda was the starting of the East African Maritime Fibre Optics Project, which is underway. We expect it to be launched in the year 2006. So, I would like to take this opportunity to thank the private sector for the initiative to see that this very important project, which will be very important to the people of East Africa as far as communication is concerned, is underway.

Mr Speaker, sir, the Customs Union Protocol is one step in the integration process. We have only a few days to go before the signing of this Protocol. Although the decision to hold public hearings may appear hasty, the Committee thought that it was very important to incorporate, at this particular time, some of the ideas that may have been missed out. We understand that the private sector has been incorporated in the negotiations, but this initiative will put some of the things that have been missed out in the Protocol. So, we expect that the views of this House, according to the resolutions that we have submitted, will be incorporated.

Mr Speaker, sir, the Committee is planning to have similar hearings in other aspects such as the Capital Markets, Competition Law and Policy. So, we will require the support of the House whenever we undertake such initiatives.

With those remarks, I beg to support.

**Capt. Richard Ddudu (Uganda):** Mr Speaker, sir, I would like to thank all the



Members of the Standing Committee on Communications, Trade and Investment for a job well done. Indeed, we have heard the feelings of the people of East Africa and it is on the basis of that, that we have formed certain opinions.

Mr Speaker, sir, I strongly believe that we are now moving towards the final stages of where the aspirations of the people of East Africa have been short charged. I do not believe that the customs union is in agreement with the aspirations of the people of East Africa that I have interacted with.

I believe it is our duty as Members of this House to uphold the Treaty and make sure that the objectives in the Treaty are fulfilled, at least to the best of our abilities. But if we uphold the Treaty in that manner and talk about objectives and issues of integration - to me integration means joining together, taking into account the fact that we have been there before, we have had one customs union, we have all the experiences and other countries are copying from our former Community.

We have turned away from that and we are now engaging in studies done by a few people and they are now saying the three states are fearing each other so much to the extent that they cannot collect money together. In my opinion, that is completely false! If this thing were brought to the attention of the people of East Africa earlier on, we would have rectified such erroneous notions. What kind of fear are these people talking about?

Mr Speaker, sir, if we had a referendum now, I assure you that there would be only one response: the people of East

Africa, in one voice would say, "This customs union should be integrated." We are going to cause complications for ourselves if we do not have an integrated Customs Union. If we have a fragmented system of customs union, then this is the beginning of conflict in the Community. If we collect revenues from a central point, there will be no problem. Our history can absolve us from this. Why are we accepting things to go on like this?

The Assembly should put its foot firmly on the ground, and we should state clearly that if we have a customs union that is not fully integrated in terms of its legal and institutional framework and otherwise, then we have nothing. In Uganda, we call it "*Biyoya bya enswa*." It means you have given people the wings of the insect to eat but you have not given them the insects. So, whatever you are doing is devoid of the truth. This is to circumvent the other term that Members do not like. So, I feel that it is our duty not to accept the people of East Africa to be duped.

I say this because we have visited the three countries, met with the Heads of State and they have challenged us to speed up, not only the customs union process, but also issues of political federation. It is our duty to break the hold to petty sovereignties. The issue of the customs union should have been brought to us a long time ago! We are working now on the basis of a crisis! It is not my habit to praise processes that do not deserve praise. You cannot integrate in 44 days! If it is true that we have only 44 days before the Customs Union is signed, then I would like to have your assurance that everything will be okay. Otherwise, I am not convinced.

With those remarks, I beg to support this motion.

**Mr Mohammed Zubedi (Kenya):** Mr Speaker, sir, first and foremost, I would like to congratulate you for ensuring that the six Bills passed by this House were assented to.

Mr Speaker, sir, when we held public hearings in the Capitals of the three countries, one thing which came out very strongly from the private sector and the business community was that the customs union will come into effect, hopefully, on 30 November 2003 and its operationalisation should be done immediately.

Mr Speaker, sir, one of the recommendations in the report is that we shall have one customs area so, there will be nothing like doing business in Kenya, Uganda and Tanzania. It will be doing business in East Africa. In that regard, the East African Customs Union will be competing with other customs unions within and outside Africa. We know that SADC is working hard to create a customs union, and so is COMESA. We have problems in our Partner States with regard to infrastructure, for instance, roads and railways. Not much effort has yet been put to raise them to the levels that will attract investment from outside, let alone from our local investors. What we need to do is to urge our Partner States to look at the infrastructure and improve it so that our customs union can compete effectively in the global market.

Mr Speaker, sir, we also have problems in the communications sector. Our telephone rates are very high compared to other places in the world, and we have

problems related to the cost of power. We also have frequent power cuts, and hence the cost of doing business in East Africa is extremely high.

If COMESA becomes a customs union and it is much cheaper than ours for business people, then investors might not find it useful to invest in East Africa, and start investing elsewhere! That will not only create flight of capital, but it will also have the effect of turning East Africa into a consumer market instead of being an export oriented market. If that happens, the objectives of the customs union will have been lost.

These are issues that we should take up with the Council of Ministers and our respective governments. We have to implement these issues and ensure that our customs union works. We should be cheaper than any other customs union within this region.

With those remarks, I beg to support the Motion.

**Mr Kanyomozi:** Mr Speaker, sir, I am going to be very brief because most of the honourable Members have been very supportive of our Motion, and I thank them on behalf of the Committee.

Mr Speaker, sir, I would like to take this opportunity to thank you for giving me the honour to carry the Bills which were Assented to from Kampala to this place. I picked that box from the President's office and I realised that this House is a great House, and you are the greatest Speaker we have ever had! (*Applause*)

Mr Speaker, sir, allow me once again to quote from one of the ministers who addressed one of our public hearings. "Our major concern today is

development. We had great expectations when we adopted Doha. Since Doha, little has been done to address the concerns of developing countries.

The Cancun debacle was a manifestation of growing disillusionment. While we prepare ground for deepening our economic integration in East Africa, we have to be conscious of what is going on around us. The process of globalisation is taking a firm root everyday. Unfortunately, developing countries remain at the fringes of benefits brought by this globalisation.”

Mr Speaker, sir, I accept the proposal by Hon. Shamala that we should put the specific dates there so that the targets are known. Secondly, we should emphasise the gains of a customs union but not only the losses. I have read the report, and the transitional fund does not need a lot of money. The experts have projected the fund at USD40 million to cushion those who will lose. So, the suggestion by Rose should be looked at – *(Interjection)*.

**Mrs Waruhiu:** Mr Speaker, sir, I am not usually given to points of order, but this afternoon I have been referred to by four different names. I need to be protected by the Chair!

**Mr Kanyomozi:** Mr Speaker, sir, on operationalisation of the customs union, I am suggesting that we persuade our national assemblies to get involved in these matters. On the issues of infant industries, there is a transition fund, which is being debated and accepted, except that they need to operationalise it through the East African Development Bank.

Mr Speaker, sir, I am grateful to Hon. Kangwana for his contribution on how we are going to proceed. I am sure the programme will be coming to this House and we will move on. I also thank Hon. Ovonji-Odida for bringing to this House the issues related to the implementation of the WTO and the Cotonou Agreements. In fact, by the year 2008, things will start moving, and if we will not be there yet, we will be in a great problem. We have the Deputy Secretary General here who understands these things. Once the hammer goes, the small flies will have nowhere to hide.

Mr Speaker, sir, I want to agree with Hon. Capt. Ddudu that if we held a referendum in East Africa today, the people of East Africa would say they wanted the Community yesterday but not today. These fears on collection of money should not be a major worry, but you know that he who pays the piper calls the tune.

We should have a Director-General here who will collect all our revenues here in Arusha. With the modern form of technology, nobody will cheat the other. That will help to get the money to run the East African Community.

The political will is there among the people, but it is absent among the leaders who attend meetings when they are summoned but not when they are needed.

M. Speaker, sir, I also agree with Hon. Zubedi that there are problems related to infrastructure in our Partner States. Even though Uganda has the hydroelectric power potential, the cost of electricity in Uganda is the highest in the three Partner States. Inefficiency is the one

that is creating fear and, as Hon. Zubedi has said, if we are not careful, we shall remain an import-oriented economy. We have to reduce both inefficiency and the cost of doing business in the region, and we shall be competitive.

With those remarks, I beg to move.

*(Question put and agreed to)*

**Mr Med Kaggwa (Uganda):** Mr Speaker, sir, I wish to recognise with delight and happiness that you have ceased to borrow a gown to conduct the business of this Assembly. *Ohngera Sana!*

**The Speaker:** But this is only a temporary measure.

#### **ADJOURNMENT**

**The Speaker:** Honourable Members, that marks the end of our business this afternoon. This House is therefore adjourned *sine die*.

*The House rose at 4.55 p.m. and adjourned sine die.*