



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly.

1ST SITTING – FOURTH ASSEMBLY: FIRST MEETING - FIRST SESSION

Monday, 18 December 2017

The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Assembly in the EAC Headquarters Building in Arusha, Tanzania.

(The Clerk of the Assembly, Mr Kenneth Namboga Madete, presiding.)

PRAYER

The Assembly was called to order.

PAPERS

The following Paper was laid on the Table: -

List of members of the Fourth EALA

The Clerk (Mr. Kenneth Madete): Honourable Members, my name is Kenneth Namboga Madete, the Clerk of the Assembly. Pursuant to the provisions of Rule 5 of the Rules of this House, the Clerk is required, on the first day of the new House, to read aloud and lay on the Table the list of the Members of the House as transmitted by the Clerks of each Partner State. I circulated copies to you all. Therefore, I will proceed to read out the names and we shall go country by country in alphabetical order.

I will begin with the Republic of Burundi.

Republic of Burundi

1. Hon. Ahingejeje Alfred
2. Hon. Burikukiye Marie Claire
3. Hon. Burikukiye Victor
4. Hon. Karerwa Mo-Mamo
5. Hon. Muhirwa Jean Marie
6. Hon. Nduwayo Christopher
7. Hon. Nzeyimana Leontine
8. Hon. Rurakamvye Pierre Claver
9. Hon. Nsavyimana Sophie

Republic of Kenya

1. Hon. Aburi Mpuru Lawrence
2. Hon. Aden Omar Abdikadir
3. Hon. Ali Ibrahim Fatuma
4. Hon. Kalonzo Musyoka Kennedy
5. Hon. Mbugua Nganga Simon
6. Hon. Muhia Wanjiku
7. Hon. Nooru Adan Mohamed
8. Hon. Dr. Oginga Oburu

9. Hon. Sergon Jematiah Florence

Republic of Rwanda

1. Hon. Bahati Alex
2. Hon. Barimuyabo Jean Claude
3. Hon. Gasinzigwa Oda
4. Hon. Kalinda Francois Xavier
5. Hon. Ndangiza Fatuma
6. Hon. Ngoga Martin
7. Hon. Rutazana Francine
8. Hon. Rwigema Pierre Celestin
9. Hon. Uwumukiza Francoise

Republic of South Sudan

1. Hon. Dr. Arol Garang Aher Gabriel
2. Hon. Ayason Mukulia Kennedy
3. Hon. Deng Deng Nhial Gai
4. Hon. Deng Dut Gatkek Thomes
5. Hon. Duop Gai Rout Kim
6. Hon. Garang Alaak Gabriel
7. Hon. Dr. Leonardo Itto Ann
8. Hon. Dr. Odok Woda Jareemiah
9. Hon. Thoar Gatpan Gideon

United Republic Of Tanzania

1. Hon. Kimbisa Adam Omar
2. Hon. Lemoyan Josephine Sebastian
3. Hon. Lugiko Happiness Elias
4. Hon. Maassay Pamela Simon
5. Hon. Dr. Maghembe Ngwaru Jumanne
6. Hon. Dr. Makame Abdullah Hasnuu
7. Hon. Eng. Mnyaa Mohamed Habib
8. Hon. Nkuhi Fancy Haji
9. Hon. Yahya Maryam Ussi

Republic of Uganda

1. Hon. Akol Rose Okullu
2. Hon. Kasamba Mathias
3. Hon. Mugenyi Mary
4. Hon. Mukasa Fred Mbidde
5. Hon. Musamali Mwasa Paul
6. Hon. Nakawuki Susan Nsambu
7. Hon. Namara Dennis
8. Hon. Odongo George Stephen

9. Hon. Opoka-Okumu Christopher

Ex - Officio Members

1. Hon. Dr. A. M. Kirunda Kivejinja, 2nd Deputy Prime Minister and Minister for EAC Affairs (Uganda)
2. Hon. Julius Wandera Maganda, Minister of State for East African Community Affairs (Uganda)
3. Hon. Louise Mushikiwabo, Minister of Foreign Affairs, Cooperation and East African Community (Rwanda)
4. Hon. Olivier Nduhungirehe, Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda)
5. Hon. Dr. Augustine Mahiga, Minister for Foreign Affairs and EAC Cooperation (Tanzania)
6. Hon. Dr. Suzan A. Kolimba, Deputy Minister for Foreign Affairs and EAC Cooperation (Tanzania)
7. Cabinet Secretary, Ministry of East Africa Affairs, Labour and Social Protection (Kenya)
8. Hon. Isabelle Ndahayo, Minister for EAC Affairs (Burundi)
9. Hon. Moses H.A. Tiel Minister, Ministry of Trade, Industry and East African Community Affairs (Republic of South Sudan)
10. Hon. Amb. Liberat Mfumukeko, Secretary General - EAC
11. Hon. Dr. Anthony Kafumbe - Counsel to the Community - EAC

The Clerk: I am now required to lay the same list of names on the Table.

(The Clerk laid the document on the Table)

ADMINISTRATION OF OATH

The Clerk: Honourable Members, next in accordance to our Rules is Rule 5 (2) which says that the Clerk shall administer oath of allegiance to Members. Therefore, without further ado, after confirmation of that list and the names of Members, I will proceed to administer oath to each Member. Again, we will proceed in alphabetical order beginning with the Republic of Burundi. When your name is called out, honourable Members, you will move and come to the podium where you will take your oath.

The Republic of Burundi

The Oaths were administered to:

1. Hon. Ahingejeje Alfred
2. Hon. Burikukiye Marie Claire
3. Hon. Burikukiye Victor
4. Hon. Karerwa Mo-Mamo
5. Hon. Muhirwa Jean Marie
6. Hon. Nduwayo Christopher
7. Hon. Nzeyimana Leontine
8. Hon. Rurakamvyé Pierre Claver
9. Hon. Nsavyimana Sophie

Republic of Kenya

The Oaths were administered to:

1. Hon. Aburi Mpuru Lawrence
2. Hon. Aden Omar Abdikadir
3. Hon. Ali Ibrahim Fatuma
4. Hon. Kalonzo Musyoka Kennedy
5. Hon. Mbugua Nganga Simon
6. Hon. Muhia Wanjiku
7. Hon. Nooru Adan Mohamed
8. Hon. Dr. Oginga Oburu
9. Hon. Sergon Jematiah Florence

The Clerk: Honourable Members, as you know, we are supposed to move to the next

group, the Republic of Rwanda. However, as per your agreement yesterday, we need to empty the gallery now so that the families and friends of Members from the Republic of Rwanda can come in.

Honourable Members, for the benefit of Members who may not be aware, some high profile dignitaries are witnessing your ceremony. For the sake of those who may not be aware, let me introduce those who are seated up here so that you get to know them.

On my left is Rt. hon. Anthony Lino Makana, the Speaker of the National Assembly of South Sudan - (*Applause*).

On my extreme right is Rt. hon. Kenneth Lusaka, the Speaker of the Senate, Parliament of Kenya – (*Applause*).

On my immediate right is Rt. hon. Bernard Makuza, Speaker of the Senate, Parliament of Rwanda.

The Speaker of the Kenya National Assembly is represented by hon. Rosalinda Soipan Tuya – (*Applause*). Welcome, Rt. hon. Speakers. We will introduce other guests as time goes.

We will now proceed with the Republic of Rwanda.

The Republic of Rwanda

The Oaths were administered to -

1. Hon. Bahati Alex
2. Hon. Barimuyabo Jean Claude
3. Hon. Gasinzigwa Oda
4. Hon. Kalinda Francois Xavier
5. Hon. Ndangiza Fatuma
6. Hon. Ngoga Martin
7. Hon. Rutazana Francine

8. Hon. Rwigema Pierre Celestin
9. Hon. Uwumukiza Francoise

We will now move to the Republic of South Sudan, but before we do that, we will take a short pause so that we can reorganise the gallery. As we do that, I would like to introduce Hon. Mussa Zungu, who is representing the Speaker, Parliament of Tanzania – *(Applause)*.

We have Members of Parliament from Kenya. May you rise up for recognition?

(Members from Parliament of Kenya stood in their places for recognition)

- *(Applause)* -

We also have Members of Parliament from the United Republic of Tanzania. Please, stand up for recognition.

(Members from Parliament of Tanzania stood up in their places for recognition)

- *(Applause)* -

We also have a very famous former Member of this House, hon. Peter Mathuki - *(Applause)*.

Do we have any Members from Parliament of Uganda?

(Members from the Parliament of Uganda stood in their places for recognition)

Do we have Members from Parliament of Rwanda?

(Members from the Parliament of Rwanda stood in their places for recognition)

Do we have Members from Burundi? Do we have any Members from the Republic of South Sudan?

We have a former Member of this House who is now the Deputy Secretary General of the EAC, hon. Christophe Bazivamo – *(Applause)*.

We also have my colleagues, the Clerks. We have the Clerk of the Senate, Parliament of Kenya, and the Clerk of the Burundi National Assembly. We have the representative of the Clerk of the Parliament of Tanzania – *(Applause)*. We will continue to introduce our guests as we move along.

Let us now proceed with the Republic of South Sudan.

The Republic of South Sudan

The Oaths were administered to –

1. Hon. Dr. Arol Garang Aher Gabriel
2. Hon. Ayason Mukulia Kennedy
3. Hon. Deng Deng Nhial Gai
4. Hon. Deng Dut Gatkek Thomes
5. Hon. Duop Gai Rout Kim
6. Hon. Garang Alaak Gabriel
7. Hon. Dr. Leonardo Itto Ann
8. Hon. Dr. Odok Woda Jareemiah
9. Hon. Thoar Gatpan Gideon

We will pause again and bring in our visitors from the United Republic of Tanzania. Meanwhile, I will take this opportunity to introduce hon. Mussa Zungu who is representing the Speaker, Parliament of Tanzania – *(Applause)*.

Honourable Members, we have tea and coffee outside. You can quietly move out without disturbing if you feel that your sugar levels are down.

We will now proceed with the United Republic of Tanzania.

The United Republic of Tanzania

The Oaths were administered to -

1. Hon. Kimbisa Adam Omar
2. Hon. Lemoyan Josephine Sebastian
3. Hon. Lugiko Happiness Elias
4. Hon. Maassay Pamela Simon
5. Hon. Dr. Maghembe Ngwaru Jumanne
6. Hon. Dr. Makame Abdullah Hasnuu
7. Hon. Eng. Mnyaa Mohamed Habib
8. Hon. Nkuhi Fancy Haji
9. Hon. Yahya Maryam Ussi

That marks the end of the Members from the United Republic of Tanzania. We will again have a pause so that we bring in our visitors from the Republic of Uganda.

The Republic of Uganda

The Oaths were administered to -

1. Hon. Akol Rose Okullu
2. Hon. Kasamba Mathias
3. Hon. Mugenyi Mary
4. Hon. Mukasa Fred Mbidde
5. Hon. Musamali Mwasu Paul
6. Hon. Nakawuki Susan Nsambu
7. Hon. Namara Dennis
8. Hon. Odongo George Stephen
9. Hon. Opoka-Okumu Christopher

We will now move to *ex-officio* Members. I know that they too have their visitors. We will reorganise the gallery for them.

We are proceeding with the swearing in of the *ex-officio* Members of the Assembly.

Ex-Officio Members

The Oaths were administered to -

1. Hon. Maganda Julius Wandera, Minister of State for East African Community Affairs, Republic of Uganda.
2. Hon. Dr. Suzan A. Kolimba, Deputy Minister for Foreign Affairs and EAC Cooperation, United Republic of Tanzania.
3. Hon. Isabelle Ndahayo, Minister for EAC Affairs Republic of Burundi.
4. Hon. Moses Hassan A. Tial Minister, Ministry of Trade, Industry and East African Community Affairs, Republic of South Sudan.
5. Hon. Ambassador Liberat Mfumukeko, Secretary General – EAC
6. Hon. Dr. Anthony Kafumbe - Counsel to the Community - EAC

The Clerk: Thank you honourable Members. That marks the end of the first phase of this morning's business. I take this opportunity to congratulate you for successfully swearing in as Members of EALA. You are now set to begin real business. I will ask for a 20-minute break so that we reorganise the House with papers, which are relevant for the next business. You should be here at 12.15 p.m.

[The House was suspended at 11.55 a.m.]

[On resumption, the Clerk, (Mr. Kenneth Madete) presiding]

ELECTION OF SPEAKER

The Clerk: We will proceed to item No.3 on the Order Paper, Election of Speaker. Honourable Members, the next item is

Election of Speaker as provided for in the Rules. The rule governing election of Speaker is Rule 6(6) of the Rules of this House, which provides that:

“The Clerk shall preside over the Election of the Speaker.”

I have been introducing myself since yesterday. I am the Clerk of the House. Rule 6(3) provides that:

“The names of the candidates for election to the Office of Speaker shall be entered upon nomination papers obtained from and handed to the Clerk at least, forty-eight hours before the time appointed at which the House is to meet to elect a Speaker, and shall be accompanied in each case by the signatures of two Members who support the candidate, and a declaration by them that the candidate is willing to serve.”

By Saturday, 11.00 am, I had received names of all those who wish to be nominated. It is now past 11.00 am, the forty-eight hours have elapsed. Further, Rule 6(4) states that:

“A Member shall not be proposed as a Speaker unless that Member has given his or her consent to the nomination in writing and handed it to the Clerk.”

All those who wish to be nominated consented in writing and handed that to me. Before I proceed, by way of history, it was in accordance to the provisions of Rule 94 and Section 11 of the *East African Legislative Assembly Elections Act, 2012*, that the Third Assembly stood dissolved on

4th June 2017, upon the expiry of its term. That is why, vide my letter of 21 December 2016, I communicated this to all National Assemblies, which culminated into your elections. Subsequently, in accordance to Rule 4, vide mine of 22 May 2017 I issued a notification for the First Sitting of the new assembly for 5 June 2017. However, as you are all aware, that First Sitting of the Fourth Assembly could not take place on 5 June 2017 for reasons, which I clearly communicated to you.

I subsequently issued a new notification for the First Sitting of the new Assembly, which is taking place today, 18 December 2017 vide mine of 1 December 2017.

Therefore, in accordance, to Rule 6(3), those wishing to be nominated as Speaker should have obtained and returned nomination forms to the Clerk latest by Saturday, 16 December, which was 48 hours before the date of the election of Speaker. I had communicated this to you. By that deadline, I had received the following nominations who all fulfilled the requirements as set out in the relevant rules as set out above.

1. Hon. Kimbisa Adam
2. Hon. Ngoga Karoli Martin
3. Hon. Nzeyimana Leontine

Therefore, we have three candidates, and as provided for in our Rules, we shall proceed to vote for them in accordance with Rule 6(5). However, before we proceed to that rule, Rule 5(7) provides that:

“At the election of a Speaker, the Clerk shall invite secondment by, at

least, two Members for the nominated candidates.”

There is a requirement for secondment for a Member who has been nominated. We are now going to move to secondment for each Member who has been nominated. First, I will invite secondment for Hon. Kimbisa.

(Ms. Maryam Ussi Yahya and Dr. Maghembe Ngwaru Jumanne escorted Mr Kimbisa Adam Omar)

I invite secondment for hon. Ngoga Martin.

(Ms Nakawuki Susan Nsambu and Mr Rwigema Pierre Celestin escorted Mr Ngoga Martin)

I invite secondment for hon. Nzeyimana Leontine.

(Dr. Maghembe Ngwaru Jumanne and Ms Nkuhi Fancy Haji escorted Ms Nzeyimana Leontine)

We are now supposed to move to the next stage of casting the ballot. However, before we do that, I wish to inform you that hon. Mukasa Mbidde filed a Motion in my office yesterday relating to the election of the Speaker. As the Clerk, I had to receive it, and I have to bring it to your attention. He filed the Motion under Rule 36. I have circulated copies to you all.

I will invite hon. Mbidde to tell us why he filed that Motion – *(Interjection)*.

Ms Nzeyimana Leontine (Burundi): Thank you Mr. Clerk. I would like to inform you that the quorum required has not been met.

The Clerk: Honourable Members, we have to ascertain whether quorum has not been met. She has brought this to our attention.

The rule that governs quorum is Rule 12, which says:

“The quorum of the House or the Committee of the Whole House shall be half of the elected Members, and such quorum shall be composed of at least one third of the elected Members from each Partner State.”

Rule 12(2) says:

“If at any time of Sitting, or when the House is in Committee, any Member objects that there is no quorum present, the Speaker or the Chairperson shall, on ascertaining it to be true, suspend the proceedings of the House for an interval of 15 minutes during which a bell shall be rung.”

Could we ascertain whether we have quorum?

(The Sergeant-at-Arms took a roll call of Members to ascertain quorum)

The Clerk: From our records, I can see only one Member from Burundi present. The requirement is that we should have a third from each Partner State. That alone is enough to constitute lack of quorum. Therefore, in accordance with Rule 12(2), I have to suspend the proceedings for 15 minutes. The bell will be rung and we will continue from there. The House is suspended for 15 minutes.

(The House was suspended at 11.56 a.m.)

(On resumption at 12.26 p.m. the Clerk presiding)

Ms Susan Nakawuki Nsambu (Uganda): I seek your guidance, Mr. Clerk, on two issues. First, in today's sitting, since morning when you swore in Members, you ascertained that all Members were present in the House and no one was missing. As you know, the operation of this august House, Members can be present either in the corridors, in the washrooms or in the restaurant. I am just wondering whether their being where they are right now is tantamount to being absent.

Mr. Clerk, you also alluded to the fact that this is an informal sitting chaired by you. I am just seeking your guidance on whether we cannot transact business when our colleagues, particularly from the Republic of Burundi, are somewhere refreshing themselves.

The Clerk: Thank you hon. Nakawuki. First, I did not say that this is an informal sitting, because the rules say that at the election of a Speaker, the Clerk shall preside. The word "informal" is not anywhere in that rule.

Secondly, Rule 12(2) about quorum says,

"If at any time of sitting, or when the House is in Committee, any Member objects that there is no quorum present, the Speaker or the Chairperson shall, on ascertaining it to be true, suspend the proceedings of the House for an interval of fifteen minutes during which a bell shall be rung."

- *(Interjection)* -

Mr Omar Abdikadir Aden (Kenya): Further guidance, Mr. Clerk. Thank you for the opportunity. I want to seek your guidance with regard to the rule concerning quorum. This House has not yet started transacting any business. Where then does the opportunity arise for a Member to stand and talk about quorum?

The first transaction that this House is required to do is to elect a Speaker. If we allow the situation we see now, where our colleagues, who were in the House with us moments earlier, decide to go to the corridors so that this House does not have a Speaker, that will be a very unfortunate thing, and it denies us the opportunity as legislators. Everyone here has a secret ballot. Who knows where my ballot will go? Why would somebody walk away? What gives them the guarantee that my vote belongs to somebody else?

Mr. Clerk, I would like to seek your guidance with regard to the issue of raising quorum before this House which is formally in place. I thank you.

The Clerk: Honourable Members, Rule 6(2) says,

"No business other than the election of the Speaker shall be transacted in the House at any time the office of the Speaker is vacant."

The gist of what the Member has said is that until we elect a Speaker, the issue of quorum does not arise. I am allowed to seek guidance on the Floor on what the House thinks - *(Applause)*.

Mr Mathias Kasamba (Uganda): Mr. Clerk to the Assembly, you conducted a roll call just a few hours back. We were all

present and we were considered to be fully constituted. It is now, just a few minutes after we were sworn-in and taking up our noble duties. I appeal and concur with my colleagues that we are fully constituted, and the first business we will begin with is the Election of the Speaker before we move on to the Assembly business.

Dr. Ngwaru Jumanne Maghembe (Tanzania): Thank you for the opportunity. Rt. hon. Clerk, the House was constituted this morning when we had the swearing-in. Members were sworn-in, and everyone had some tea or coffee. You rung the bell and we all came back here. Under Rule 12, the Member from Burundi asked that we ascertain the issue of quorum. We must all remember that this is a Community where all six members have paid up. We are all Members. When there is no quorum, we cannot proceed. Thank you very much.

Ms. Mary Mugenyi (Uganda): Thank you Mr. Clerk. As far as we are concerned, we have just been sworn-in. The business of the House has not started because we have not elected a Speaker. Without a Speaker, there is no business of the House. Therefore, the issue of quorum does not apply at all. We need proper guidance here - (*Applause*).

Ms. Wanjiku Muhia (Kenya): Thank you, Mr. Clerk. I want to refer the House to the Rules of Procedure of the Assembly. Rule 12 that our colleague has referred to is in black and white that:

“The quorum of the House or of the Committee of the Whole House shall be half of the elected Members, and such quorum shall be composed of at least one third of the elected Members from each Partner State.”

Mr. Clerk, I want to hammer the point that my colleague has raised, of conducting the business of the House. We want a clarification or your guidance on what business we are conducting here. We are electing a Speaker. Does this rule apply? Must we be full house when we are electing a Speaker? We feel that the first business of the House is to elect the Speaker. We will need this quorum when we are transacting other business.

Having said that, I want to persuade our people from Burundi by telling them that democracy is about speaking. You cannot have democracy when you run away. It is better for them to come here, talk, and persuade us. I will probably vote for them. However, if they stay outside, we may not know what their point is. All those people who wish to present their candidature, I wish to persuade them to come here. The Assembly is already six months late. You can see the Kenyan delegates. All our Members are here, the Permanent Secretary and other people are in the gallery. All those people came here because the other Partner States were already upset because Kenya was delaying them. For that reason, the Senate Majority Leader and his team made sure that the Kenyan Members are here and that is why we are still here.

Mr. Clerk, I want to persuade madam and her team that for the sake of the Community, we do not need to begin on the wrong foot. We need to start this business, move on very fast and recover the six months lost so that we move the Community together.

Mr Adam Omar Kimbisa (Tanzania): Thank you, hon. Clerk. Members, most of us were elected in April, May and the latest in June. We hanged around without doing any

business up to now. What does that mean? We were waiting for our colleagues from Kenya to come on board. Why did we not come, elect and go on? Why did we wait for one Partner State all this time? We were in a position to wait for our colleagues to come. However, we now want to say that we should move on even though not everyone is on board? We are saying that it is okay for as long as we are in? That is not fair. Colleagues, the best way to solve this issue is to deal with higher echelons. After all, we have already been sworn-in. After all, we are in. As long as there are hiccups, I advise that we wait for the higher echelons to help us with this issue. It is complicated and sophisticated. Thank you very much, indeed.

The Clerk: We have the principal legal adviser for the Community. What do you have to say about the issue? (*Interjection*)

Mr Aden: Mr. Clerk, if you could give me an opportunity to correct some information. I want to make some clarity on the point that hon. Kimbisa has just mentioned. The Kenyan delegation was not here because an election did not happen to elect Kenyan Members to EALA. However, today, and indeed, this morning, the Members of Kenya and, indeed, those of the other five member states of the EAC are now here. We have all taken an oath and we have been sworn-in. For God's sake, the Community with its little resources is already paying us to be here. Hon. Kimbisa is one of the aspirants for this position, a man we all look up to and admire. This is the moment for you to offer leadership. Let us not put a burden on our Heads of States when they and our Parliaments have delegated us to make that decision. Why do you want to wait for further deliberations to happen when we, the elected Members who have been entrusted

by our respective countries are here to make that decision for our people? Thank you Mr. Clerk.

The Clerk: We have our principal legal adviser here. Give him an opportunity. I will give him an opportunity by asking him this question. Since he is here, we are supposed to utilize him. We should listen to him first, and before we do so, I will ask him the following questions. One, the issue of quorum under Rule 12(1) and 12(2). This one says:

“If at any time of Sitting, or when the House is in Committee, any Member objects that there is no quorum present, the Speaker or the Chairperson shall, on ascertaining it to be true, suspend the proceedings of the House for an interval of fifteen minutes during which a bell shall be rung.”

Is the Clerk right now a Speaker or a Chairperson? Can this matter be raised to the Clerk? Does he qualify to be a Chairperson?

The Counsel to the Community (Dr Anthony Kafumbe) (Ex-Officio): Thank you, Mr. Clerk. It is true that some of the challenges we are grappling with are not excessively addressed by the Rules. What is happening now is the election of the Speaker. Certainly, it is not tenable to say that you will elect a Speaker when some Partner States are not represented. You need all Partner States to be around in terms of the percentages that are referred to under Rule 12(2) to proceed and elect the Speaker. Therefore, as it is right now, we need to ensure that the Republic of Burundi has representation in this House before we can transact business of electing a Speaker.

Tanzania is not also represented in the House. I advise that we have all Partner States represented before we elect a Speaker.

Mr Fred Mukasa Mbidde (Uganda): Rt. hon. Clerk, the Assembly reserves the right to take his opinion or not to under the circumstances. I associate myself with the submissions of my colleagues. I disassociate myself from the opinion of the learned friend, the Rt. hon Counsel to the Community because of the importance that the Treaty attaches to quorum. The Treaty looks at the quorum in two major ways. One, where the Rules of Procedure provide for quorum, they have a right to do so. Two, where a vacancy exists - and not absence - where a vacancy exists. Of those that are intended to attend, Article 57 creates a principle for the Assembly to follow, and it applies in equal force. The Article reads:

“Subject to this Article, the Rules of Procedure of the Assembly shall make provision as to the number and composition of the elected members that shall constitute quorum of the Assembly.”

That is the first realm. The third realm is:

“The Assembly may transact business, notwithstanding that there is a vacancy among its members, and the attendance or participation of any person not entitled to attend or participate in the proceedings of the Assembly shall not invalidate those proceedings.”

Mr. Clerk, these are the principles we are looking at. The Rules of Procedure are governed by the quorum and the decisions

of the House. What we are handling is a specialised matter, a matter to do with the election of the Speaker. The requirement of quorum is specified under Rule 6 - by way of election - two-thirds majority.

Rt. hon. Clerk, let us not invite the semantics of the application with strict and *pari passu* force of the rules when we are not properly constituted as an Assembly with a Speaker presiding, lest you invite yourself to sit comfortably amongst the lounge of those who are performing the activities beyond those stipulated in the rules. You are supposed to perform the activity under the rules stipulated for presiding over the election of the Speaker. Any matters arising therein must be matters that are commensurate and are within the realm of the election of the Speaker. Any other matter extraneous to this is lackadaisical. It cannot be acceptable or be debated in the House.

This matter, Rt. hon Clerk, the election of the Speaker and the removal of the same, have already obtained. Not the election per se, but the Speakership of the Assembly has obtained a few decisions before the East African Court of Justice. Rt. Hon. Clerk, this is not an exception.

A Member does not win speakership by being absent – (*Applause*). You only win by having those available to vote for you. These semantics are known. There is even a provision under Rule 30 of the rules of this House that we can suspend the application of any rule and the rule on quorum is not entrenched.

Rt. hon Clerk let us not play around with the people’s decision that the Assembly exists. Let us have an election conducted. If need

be, we can suspend the application of the rule on quorum for the purpose of this business to take shape – (*Interjection*).

Mr Paul Mwasa Musamali (Uganda): On a point of order, Mr. Clerk. I thank you Rt. hon. Clerk. My name is Paul Musamali. I am in possession of an anonymous written material. When I look at my colleagues, I see that they too have copies of the same material. The material is in the form of a photocopy. I can see a stamp of the East African Legislative Assembly, Clerk's Chambers. Therefore, I guess that you have also received this material. The material says "*Concern on the Election of Speaker, EALA IV Process*" - (*Interruption*) -

The Clerk: Hon. Musamali, what is your point of order?

Mr Musamali: My point of order is coming. I want to draw you to one point...the points are not numbered. If you may count to number five, it says,

"Convinced that it is the right of the Republic of Burundi to only apply for that position of the vacancy of the Speaker by considering the alphabetical order in respect of rotational principle"

The eighth item says,

"And recalling that the alphabetical order is the only solution to respect the rotational basis, especially in this current situation of confusion, and because the Republic of Burundi and the Republic of Rwanda acceded to the Community on the same date"

Mr Clerk, the Members from Burundi were here. All of them were here, and a number of them stood up to second their candidate. If they are using this point to suffocate the business of the House, I find that peripheral because the first Speaker of this Assembly was from the Republic of Tanzania. If we were to go alphabetically - using this - Kenya would have been the first. However, it was the Republic of Tanzania first, the Kenya and then Uganda.

Rt. hon Clerk, if we were to use this to suffocate the business of this House, I find it not tenable, not acceptable and not in the spirit of integration. Is it, therefore, in order, for us to suffocate or not to continue with the business of this House using these peripheral reasons?

The Clerk: I have to respond to that. One, the document before us is not anonymous because it is signed. It was brought and handed to me in person by hon Nzeyimana, and so I had to receive it because my Members signed it. I had no alternative but to receive it and to bring it to your attention. That is what I did. I have no power to debate what is there because it is addressed to the East African Legislative Assembly. So, it is addressed to you. That is one.

Honourable Members, you will have to excuse me because I, as an Officer of the Community, have to take advice from the Counsel to the Community. I am different from you. I take advice from the Counsel to the Community.

Hon. CTC, what is your way forward on this? (*Interjection*)

Ms. Nakawuki: On a point of procedure, I thank you very much Clerk for allowing me.

I am rising on an issue of procedure. I want to refer all of us to the rules of this august House before I can take the advice of the Counsel to the Community or his add in law.

First, Rule 12, which refers to quorum. I want to read it verbatim, but emphasise a few words.

“The quorum of the House or of the Committee of the Whole House shall be half of the elected Members...”

Now, what is the meaning of “House”? Let us go to Rule 1 of our Rules, which defines “House”.

It says, “*House means the Assembly.*”

I will still take you to the meaning of the “Assembly:” under section one.

“Assembly means the East African Legislative Assembly established under Article 9 of the Treaty.”

When I move to Article 9 of the Treaty for the Establishment of the East African Community, the East African Legislative Assembly is established under Article 1 clause 1(f).

Article 48 of the Treaty - this one talks about the membership of the Assembly and who should be there. However, I want us to draw particular attention to Article 56 of the Treaty, which provides for who can preside over the Assembly.

“There shall preside, at any sitting of the Assembly, the Speaker of the Assembly, and in the absence of the Speaker of the Assembly, such elected Member of the Assembly as

elected Members may elect for the sitting.”

Now, in this case, hon. Clerk, the Assembly is not yet constituted because there is no Speaker. For this matter, I am hesitant to allow the Counsel to the Community to misguide these Members, the newly sworn-in Members who will be part of the Fourth Assembly by saying that the rule on quorum, which talks about the House, means that we cannot do any business without some of the Members. There is no rule pertaining to this informal sitting we are having now, unless he gives me the law he is using. I submit.

The Counsel to the Community (Dr. Anthony Kafumbe) (Ex-Officio): Thank you Mr Clerk. Let us look at Article 56. Article 56 is only applicable if a Speaker has been elected and for one reason or another, he is not available in the House. That is when you can invoke Article 56. What we are looking at here right now, are the provisions of Rule 6. Rule 6(e) says,

“A Member shall not be elected as Speaker unless he is supported by two-thirds of all the Members.”
(*Interjections*)

Now, two-thirds of all the Members means that you have membership from all the six Partner States.

Ms Nakawuki: No, you are wrong. Order!

The Clerk: Just hold on. Give him a chance to finish - (*Loud consultations*). Honourable Members, order, order! Let us hold on. Mr CTC, could you go ahead and read the whole of that rule?

The Counsel to the Community (Dr. Anthony Kafumbe): Mr Clerk if the intention was that you could elect without some Members being around, then this Assembly should have convened in June or July this year – (*Loud consultations*). There is a case going on in court. This Assembly respects the rule of *sub judice*.

A hon. Member: You are misleading the House!

The Counsel to the Community (Dr. Anthony Kafumbe): As we talk now, the United Republic of Tanzania is not even in the House.

Ms Nakawuki: Why?

Mr George Stephen Odongo (Uganda): How do you know?

Mr. Mbidde: Let me move this Motion. Let me move this Motion.

Mr George Stephen Odongo (Uganda): Honourable Clerk, I appreciate the dilemma that we are in but the process of electing a Speaker did not just start with voting. It started with nominations, and during the time of nominations, a candidate from the country that is apparently absent was seconded by the membership of that country. In that respect, there was quorum because the election of the Speaker, if we entertain the interpretation that the Counsel to the Community has given us, began when we nominated. That is the time when this House was fully constituted.

Burundi, which is absent right now, seconded their candidate. Tanzania, which has no quorum right now, had their candidate. Election is a process, and we

should not draw the example of Kenya because the Kenyan situation was quite different. Kenya was not here. Today, as we speak, we have all the six countries constituted. We are all here. What we are dealing with is the spirit of the East African Community, which is lacking in this election. We seem to be dragging this House because there are interests that are subverting the democratic process in the House. I think it is important that if we come here, we come in the spirit of integration.

If there is an issue...right now, I am seeing before me “*Concern on the Election of Speaker EALA IV Process.*” How do you bring a concern and yet you are not here to defend it? (*Applause*)

Hon. Members: Yes!

Mr. Odongo: ...and you are bringing it to the attention of this House for us to discuss it in your absence? Are you not dishonest? Let this House proceed. In my opinion, if there is an issue that Burundi wants to present, and if there is an issue that Tanzania wants to present, it is in the spirit of the East African Community that we discuss them. You must provide the issues to this House and present yourselves to speak on them. We shall continue to engage. This is not the only business we have in this House, and we should not set a bad precedence.

Hon. Clerk, could we proceed with this election?

Ms Deng Deng Nhial Gai (South Sudan): Thank you hon. Clerk, and thank you my colleagues for giving me this opportunity. I will not refer to any of the documents. Of course, we are the new kids on the block. It is quite disheartening and actually said that

we have to start on this footing. I will not refer to any of the rules or regulations because, obviously, everybody has their own interpretations and none of it will help us.

I will appeal to our brothers from Tanzania and Burundi, as my brother from Uganda has said, we have to be here in the spirit of the EAC – (*Applause*). Now, what is the motivation? Is it the question of wanting to be the Speaker because you want that power, or is it because you have a chance? Burundi will have their chance and South Sudan will have their chance. So, if we sit here...my question to my brothers from Burundi and Tanzania is what is your back up plan? What is it that you have in mind by walking out and expecting that we will resolve this? It cannot happen if you are not in the Assembly with us.

I will give a proposal. Let us go democratically. You if you want to stand for speakership and you do not want to compromise, fine, come back to the Assembly, let us vote and the person who wins, wins. Obviously, you must be having some hesitation by walking out because you feel that you will not win. If we will go democratically, you cannot win it all. Some lose, some win and, eventually, one of us will have a chance. So, I appeal to my brothers and sisters from Burundi and from Tanzania, let us move on. We will not sit here forever. We are here and we already swore allegiance that we will be faithful and honest, but I do not think we are being honest. Thank you. (*Applause*)

Ms Fatuma Ibrahim Ali (Kenya): Thank you honourable Clerk. I think this is the Fourth Assembly. We had the first one and we are not the beginners. I wanted to enquire from your legal team what the

precedence has been. This is not the only time that such a challenge may arise. I want to add that in case this scenario continues and the Assembly is paralysed for six or seven months, what is the exit? We cannot continue like this. We have not come here to sit, waiting for the bell to be rung and yet we are not here. I think the best thing is to advise Partner States to come to the table to present their agenda. Instead of circulating a piece of paper, which is faceless, it is better to have the actual face – (*Applause*).

Dr Maghembe: Hon. Clerk, I have heard the spirited arguments of my fellow brothers and sisters but the point remains. First, we cannot hear a Motion when our next business is to elect a Speaker. There is no quorum in this House. The fact that other Members are not here, whether they had not been elected in Kenya or they are outside having a drink does not matter. This Community was built on the premise of consensus; we agree together – (*Loud consultations*). Okay? Our Members are not here, there is no quorum. I do not even know the basis of this discussion. What is the basis of this discussion in the rules? Hon. Clerk, there is no quorum. Please make a ruling and let us continue.

Mr Ngoga Karoli Martin (Rwanda): Thank you Mr. Clerk. Unfortunately, there is no specific rule that is clicking in my mind, but I want to make a suggestion to you because I understand the precarious situation you are in. There is a provision for you to adjourn briefly so that we consult amongst ourselves and for you to consult with the Front Bench, the Council. I think when we come back here after a short while we will be in a better position to find a way forward.

The Clerk: Honourable Members, as you can see, I am getting different opinions from different sides. It is now 1.30 p.m. I suggest that we break for lunch and resume at 3.00 p.m. We will proceed from there. Thank you.

The House was suspended at 1.30 p.m.

[On resumption at 3.00 p.m., the Clerk presiding -]

The Clerk: Honourable Members, as you may recall, we took a short suspension of the proceedings upon an agreement that Members were to consult on a matter, which we were discussing before we put a conclusion to it. Is there a report I could get from any Partner State on whether you have consulted on the way forward?

Mr Aden: Thank you honourable Clerk. Not that I want to report any specific progress on consultations that might have happened but seeing that not much change has happened on the Floor of this House, the fact that our brothers from Burundi...at least earlier we had some hope because we had one person. Now it appears that the situation is even worse than it was before. Not much has changed with our brothers from Tanzania either.

Honourable Clerk, I want to share a view, which will be open to my colleagues as well, that, time as it is, has the power of healing. You were wise enough and you guided us, by the request of a Member. You gave us time to go and consult but as it appears, that might not have necessarily been adequate. It is also good or obvious to understand that the consultations, which are likely to bring a solution and an end to this stalemate, are likely not to happen at this level only. They

probably need to touch on other organs of the Community, which may have to consult. I want to propose to my fellow colleagues that we seek ourselves a time of 24 hours between now and tomorrow 2.30 p.m. so that we take the opportunity of that period of time to engage the other organs or the Community so that we hopefully bring this matter to an end. That is the proposal I want to put forward, Mr Clerk. Thank you.

The Clerk: We have one organ, which is in this House. May I seek the views of the Council as well because they have conspicuously been very quiet? They could give us some guidance from their point of view.

The Minister of State for East African Community Affairs, Uganda (Mr Julius Wandera Maganda) (Ex officio Member): Hon. Members, I want to appreciate the debate that has been in this House since morning. I know that we had generated the business of the House on a good note. Along the way, I know that there are many dynamics that have emerged, which have caused the stalemate.

I am aware of the communication that has been done between the Summit, and of the Communication from Burundi to the Chairperson, Summit, and the President of Uganda. I saw a document which may not be a document of this House but which, at least, has some information, which I can build on.

I had the privilege of having communicated with the Chair of Summit yesterday about the same, and on some of the issues, which would have come to the Floor, probably what Burundi was trying to build on as a basis for the issues they wanted addressed. I

believe that consultations between the Summit are still ongoing and may take slightly longer. We are anticipating that the Summit will be called in February, which is if all the Summit members agree on February. The date will definitely be communicated.

In reference to all this and the discussion that has been in this House, it is true that we do not seem to be moving on the same and similar direction. Like the honourable Member who sought to move a Motion in reference to adjourning this House, I am in total support that the Clerk adjourns this House to a future date when he will deem it necessary to call it back. I will also use this opportunity to call for a Council meeting tomorrow at 9.00 a.m. together with the Counsel to the Community so that we have our own discussion in-house. By the time we come back here, we should have business that will put us to a level that will put this region to a platform that will not show conflict emerging from the first sitting. I wonder whether this is the first sitting. This should be a process of determining the first sitting. Therefore, I just want to seek your indulgence, Bwana Clerk, that I am in support of the Motion, let the House be adjourned, but I propose that we resume tomorrow. I believe that if we sit overnight and have discussions, we may come back here with a change of what our intentions would have been this morning. Thank you very much - (*Applause*).

The Clerk: Unless there is a Member with a contrary view, I will adjourn – (*Interjection*).

Mr Mbidde: In addition, Mr. Clerk, I also rise to support the Motion seeking to adjourn this august House to tomorrow with

qualifiers that in the matter and circumstances, let those concerned with handling whatever matters are available for handling take it very seriously that this House, which sits here, has the mandate of the people. The adjournment to tomorrow - let it be the only adjournment, for purposes of this matter.

Rt. hon Chair of this session, we are extremely perturbed, we the elected Members, because doing away with the business of the House is taking a casual nature. You are extremely casual with whether we should continue serving East Africans or not. I have sensed this particularly with the Council of Ministers, the Secretary General and the staff of the Community. We already have grievances before the East African Court of Justice, and we shall address ourselves to those matters. I do not have to mention them here.

Let the adjournment for tomorrow be the last on this matter. East Africans are waiting. We are the only people elected for integration purposes. The rest are appointed and even elected to lead their own countries. It is only Members of EALA who are the elected persons from East Africa to serve integration affairs. Therefore, holding us away repeatedly, consistently and even casually, to me, may begin to constitute a coup against the Assembly, for which we shall take appropriate action. I thank you Rt. hon Chair.

The Clerk: Honourable Members, I think we had agreed by to adjourn through consensus, but I can see hon Adan Mohamed Nooru.

Mr Mohamed Adan Nooru (Kenya): Mr Clerk, I want to oppose the Motion as

proposed. When we leave this room, everybody will go to do his business, or even retire to his or her own hotel room. We are adjourning to come back here tomorrow without engagement. What are the rules of engagement? That is my concern.

Apart from waiting and consulting our relevant countries and Heads of State as some delegates want to do, what are the rules of engagement as Members of Parliament who are in this room? When we leave, will we come back here tomorrow at 3.00 p.m. and continue in the usual way? How will we get in touch with each other to discuss or dialogue on this matter so that we convince those with a different opinion on the best way for the Community? That is my concern.

Mr Ngoga: Thank you Mr Clerk. I support the idea of adjourning until tomorrow for further consultations but let us be a little bit legalistic on the way we proceed. You are not yet aware of what the problem is. At least, this House is not yet seized of what the matter is. Maybe the Council should be in a position to tell us what the Summit is deliberating. This House will have, before we leave this place, be it tomorrow or the day after, make a conclusion that is independent of whatever is taking place in another organ. The Summit will continue to deliberate on something we do not know. We need to address the situation of delegating a particular problem, which is not properly explained, to another organ. Therefore, we have to conduct our processes independently and without prejudice, of course, to whatever may be taking place elsewhere.

Ms Ali: I totally support the adjournment to allow people to consult and understand the

dynamics. Some of us have not picked up the dynamics. I think the Chairperson of the coordinating committee should have elaborated the communication from Burundi and other countries. Honourable Clerk, I want to understand whether this Assembly recognises Chapter Chairs. I know that these are informal caucuses but I want to appeal to Chapter Chairs to engage. We have so far elected Chapter Chairpersons to see how they can handle issues at the Legislative Assembly level. Sometimes we may be overburdening our Summit or Heads of State. Sometimes, as an independent legislative Assembly, we need to handle some basic things like this one so that we do not overburden other organs and try to reach an element of understanding, even if we do not resolve the matter. We are experienced people, mature, and we have been elected by our countries so that we can do certain level of negotiations and consultations and reach some conclusions.

I support the Motion.

Mr Odongo: Mr Clerk, first, I would like to support the Motion. I would also like to tie in the two submissions, one from hon. Nooru about the rules of engagement and the other about the Chapter Chairs. One, if this House will be productive tomorrow at 3.00 O'clock, then there have to be some substantive issues being addressed by each chapter. Those substantive issues are the ones that should be raised by the delegations that are not here; the Tanzania delegation and the Burundian delegation, because they are the reason why we are suspending business today. Therefore, I am requesting that in the next 24 hours...I would like to persuade the Burundian and the Tanzanian delegations kindly to come out and engage on the core issues that they want to put

under consideration so that this House is focussed on finding a solution. If we get out and begin to speculate what their interests are, we will still come back here and we will be in a wild goose chase.

I think it is important that this House begin to drive the process into a conclusion. Otherwise, if we go as we are right now, what issues will we be engaging in? Why should we just speculate? The reason why we are here, one of the principles, is consensus building. I am glad that one of the Members of the Tanzania delegation raised this. Consensus is built around issues. We do not just speculate around them. The issues that are frustrating your delegation, and which have, perhaps, motivated the delegation to move out, should be tabled. If you cannot do it here, can we get a commitment from those that are present that when we get out of here and our Chapters have those meetings, we will consider those issues so that the issues are common to all the delegations and so that we can begin to propose solutions? When we come back here, we should have some proposals. Otherwise, we will come back here and we will be shooting in different directions and still end up in a stalemate.

The Clerk: Thank you very much hon. Odongo and honourable Members. I also want to add one issue, which I want you to discuss. This is the understanding of the provisions of Article 53(1), which reads in part:

“The Speaker of the Assembly shall be elected on rotational basis by the elected members.”

It does not say the “Assembly” but, by “elected Members.” I want a definition of

what elected Members means. According to me, that will give us a way forward. Does “elected Members mean the Assembly or Members one by one as elected? That could be the way forward. That is the only law we can use. If we get a way forward through this, I think we will move.

With that, and with your consensus, I adjourn to 2.30 p.m. tomorrow. We will begin with a statement from the Chairperson, Council of Ministers and probably from the Counsel to the Community on this matter. Thank you very much.

ADJOURNMENT

The Clerk: I adjourn to tomorrow. The House stands adjourned until tomorrow, 2.30 p.m.

(The Assembly rose at 3.35 p.m. and adjourned until Tuesday, 19 December 2017 at 2.30 p.m.)