



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

19TH SITTING – SECOND ASSEMBLY: FIFTH MEETING - FIRST SESSION:

Wednesday, 20 February 2008

*The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Assembly,
5th Floor Ngorongoro Wing, AICC Building, Arusha*

(The Speaker, the hon. Abdirahin Haither Abdi, in the Chair)

PRAYER

(The Assembly was called to Order)

QUESTIONS FOR ORAL ANSWER

Question No. EALA/PQ/OA/01/2008

Mr. Daniel Wandera Ogalo asked the Chairman of Council of Ministers:

- (a) Article 123(d) of the Treaty provided for “*peaceful resolution of disputes and conflicts... within Partner States*” as one of the objectives the Community shall pursue. The American Secretary of State, Bishop Desmond Tutu, Graca Machel, Benjamin Mkapa, Kofi Annan, and the President of Ghana all went to Nairobi in the aftermath of the general elections to resolve the dispute in Kenya.
- (b) Can the Minister inform the House what role the East African Community has played to attain a peaceful resolution of the conflict in Kenya?
- (c) As a result of the conflict, many people died; others were displaced and a lot of property destroyed. Can the Minister inform the House if there is in place a policy in the Community on elections in Partner States? If so, what is the policy? And if there is none, what is the status of a report of an organ of the Community duly accredited by a national electoral commission to observe elections?

The Chairman of Council of Ministers (Mr. Eriya Kategaya, Ex-Officio, Uganda):
Mr. Speaker, sir, this is the answer to the hon. Ogalo's question:

The Treaty for the Establishment of the East African Community and the East African Community Development Strategy, 2006-2010, acknowledge that peace and security are a prerequisite for regional development. The development strategy also provides for development of regional frameworks on conflict management and resolution in line with Article 132(4)(d) of the Treaty. Further, the development strategy also provides for development of a regional framework for good governance in line with Article 3(c), which provides for consolidation of democracy, the rule of law, and respect for human rights as encompassed in the principles of good governance, which guides the East African Community in the achievement of its objectives.

Mr. Speaker, sir, following the eruption of conflict in Kenya after the announcement of the December 2007 elections results, the Secretariat convened a consultative meeting of Ministers responsible for the East African Community affairs, on 11 January 2008. The meeting was attended by the Chairperson of the Council - that is myself - the hon. Dr. Wilfred Machage, the Minister for East African Community, Kenya, the hon. Dr. Ibrahim Msabaha, the then Minister for East African Cooperation, Tanzania, the hon. Bakabyomusaya, Minister for Regional Integration, Burundi, the hon. Rosemary Mseminari, Deputy Minister for Foreign Affairs, Republic of Rwanda, the hon. Dr. Mary Ngu, the then Minister for Justice and Constitutional Affairs, Tanzania, the hon. Joseph Mongai, the then Minister for Home Affairs, Tanzania, Ambassador Richard Sezibera, Special Envoy of Rwanda to the Great Lakes Region; the Secretary-General of the East African Community, Ambassador Juma Mwapachu, senior officials from the East African Community Secretariat and from the Partner States.

The purpose of the meeting was to brainstorm and consult on possible humanitarian and reconciliatory interventions that the East African Community could undertake in this regard. The meeting received a ground status report from the Minister for East African Community, Kenya, the hon. Dr. Machage, on both the political and humanitarian situation. The meeting deliberated on the humanitarian situation and issued a press release. A copy of the communiqué of the meeting is available for Members for ease of reference.

Mr. Speaker, sir, on the role played by the East African Community in attaining a peaceful resolution of the Kenyan conflict, the East African Community political leadership has all along been seized of the difficult situation confronting Kenya. The Heads of State have all along been engaged in consultations on how to deepen the East African Community engagement in bringing about *modus operandi* and rapprochement in the Kenyan political stalemate.

His Excellency, President Museveni, being the Chairperson of the Summit, has been leading this effort on behalf of the East African Community from both the front line and on the ground. The Secretary-General himself held consultative meetings on the Kenyan

situation with President Kikwete in Bukoba on 18 January 2008, and with the Chairperson of the Summit, President Museveni, in Entebbe on 21 January 2008. The Chairperson of the Council of Ministers was also in Kenya for a whole week from 28 January 2008 to the end of the week, using all diplomatic channels available to assist in resolving the conflict in Kenya.

Mr. Speaker, sir, in conclusion, the situation in Kenya has indeed come up as an eye opener necessitating the development of a clear policy framework on governance issues and peaceful resolution of disputes and conflicts between and within the East African Community Partner States. The development of this framework has been identified as a priority programme. Mindful of the provisions of the Treaty and East African Community Development Strategy, the Secretariat has commenced development of a regional mechanism for governance and resolution of conflict within and among Partner States. It is hoped that this will be developed within the time frame stipulated in the Development Strategy.

Mr. Speaker, sir, as to whether a policy exists on elections in Partner States, the Treaty authorizes the East African Community to develop and consolidate democracy and promote adherence to the rule of law. On the basis of the Treaty provisions, the East African Community usually sends observer missions to all the Partner States' general elections. The East African Community observer team to the 2007 Kenya general elections was led by the East African Legislative Assembly. Indeed, the report of the East African Legislative Assembly observer mission was made public on behalf of this august House on this matter.

In an effort to consolidate and promote democracy and good governance in East Africa, the East African Community Secretariat has scheduled a meeting of heads of national election commissions during the last week of February, 2008. The output from the meeting will be policy proposals towards a clear East African Community policy on elections in the Partner States.

Mr. Speaker, sir, furthermore, as I had already notified this House, the Council will soon submit a comprehensive Bill on elections to this House for consideration and enactment into law. Mr. Speaker, sir that is my reply – (*Applause*).

Mr. Ogalo: Mr. Speaker, I have a supplementary question on part (a). The Minister – and I am grateful for his answer – has described the efforts made through meetings of the Secretary-General with the Heads of State, and also his own efforts in Kenya. Does the Minister consider that the East African Community would have played a more central role if it was involved directly in the negotiations taking place between the parties, rather than having to hold meetings in Mwanza or in Entebbe with the presidents? Does the Minister not consider that the East African Community should take a more central role in the negotiations between the parties?

On part (b) of the question, I noticed from the East African Community website that the report was termed an East African Legislative Assembly Observer report; not East

African Community. I also noted that when the Secretary-General was interviewed by *The East African* newspaper, which was reported in the 21st to 27th January 2008 issue, it was stated: “*Meanwhile, the Secretary-General, Juma Volta Mwapachu has distanced himself from the report, which was earlier announced as an East African Community Observer Report.*” Does the Minister consider that what was led by the East African Legislative Assembly was an East African Community observer mission, and that, therefore, the sentiments of the Secretary-General were not in line with his policy?

Mr. Kategaya: Mr. Speaker, sir, as I said in my statement, the East African Community has been central, but maybe not visible – (*Interjection*). Right from the beginning after the elections in December, I remember very well that the Chairperson of the Summit was in constant touch with his colleagues in the region. The advice that was given collectively was that talking to the parties quietly before going public may bear results faster and may be more useful than going out on air or in the newspapers.

While this was going on, Bishop Desmond Tutu arrived in Nairobi to participate, and this was a visible intervention. Later on, the Chairman of AU at that time, President Kuffour of Ghana also came, visibly. And from our reading of the situation in Kenya, both President Kibaki and the ODM were not amused by these visible interventions, because the attitude in Kenya at that time was that, that was an internal matter. I remember very well my colleague here asking me one time that, “why are you even calling the Council of Ministers?” (*Interjections*) He said, “You in Uganda have also had elections and disputes but you did not call an East African Community Council of Ministers. Tanzania had a problem in Zanzibar, but there was no Council of Ministers meeting, why Kenya?” That was the attitude.

So, therefore, Mr. Speaker, sir, the central role of the East African Community was there but was not visible, as I have said, in respect to public statements or publicity. And, when I was in Kenya that week, I remember very well that both parties expressed the kind of interest that East Africans should show in the matter, and so we have kept engaged in this exercise quietly in our own way. Therefore, the central role of the East African Community is still there. We are supposed to have a Summit specifically on Kenya. It is still in the pipeline, but there was an interruption following developments in Tanzania when the Prime Minister resigned. So, in other words, I am saying that the East African Community has been very central in the negotiations, but quietly behind the scenes, visiting all the parties.

On the second issue, I do not think I would want to answer on behalf of the Secretary-General, because I was not present during his press conference. He is here and he can explain himself. But as far as I am concerned, the report of the East African Legislative Assembly was the report of the Community – (*Applause*). I personally do not have any problem with it. The East African Legislative Assembly is one of the organs of the Community, so I do not how it can have an independent...or a report which does not belong to the Community.

Maj-Gen. Mugisha Muntu (Uganda): Mr. Speaker, I have a supplementary question.

We appreciate the concerns of all the players at the highest levels from all the five countries. We also appreciate the decisions they made in the circumstances that rather than being visible, they would play a low-key role. However, the concern here is this: Considering the magnitude of the problem that is in Kenya, more so, in view of the fact that people were dying...actually, from the last count we heard that there were about 1,000 peasants who had already died in the conflict, which was one of the most critical things that made people become concerned about the situation in Kenya; and considering the effect the instability was having on the main trade route from Mombasa up to Malaba, Busia, and on the hinterlands of Uganda, Southern Sudan, Eastern Congo, Rwanda and Burundi, had everybody else, including the UN, the AU and all the subsequent interventions, decided to take that non-visible, low-key involvement, if, for example, Kofi Annan had not come and sat tight and not left, would the strategy that had been taken by the East African Community been effective; the strategy of not being involved directly, considering that Kenya had reached a precipice, from our own assessment, and that it needed quick action to bring it back?

Thanks to the intervention of the former UN Secretary-General Kofi Annan and his team, we now notice the situation in Kenya improving, but considering that situation, the strategy which the East African Community organs took, is it a strategy that is advisable to the extent that should this ever happen elsewhere – we hope that nothing like this ever happens in any of the other Partner States - that the East African Community would take the same stand, considering that people were dying in the process?

I remember the present Chairman of the Summit, during the AU meeting in Addis Ababa, publicly condemned the rest of Africa that when people were dying in Uganda all the other countries just kept quiet and said that, that was an internal matter of Uganda. Is that the same stance that the region is going to take or not? I would like to get a response to that, Mr. Speaker – (*Applause*).

Mr. Kategaya: Mr. Speaker, sir, I think there is a bit of misconception here. Mr. Annan is not in Kenya on his own; it is not a personal initiative. Mr. Annan is there on behalf of the Chairman of the African Union, and East Africa is part of the African Union – (*Laughter*). Therefore, we did not want to have double or many prongs. Once the AU came in, there was no way we could come and take a separate initiative from what the AU was doing. So, Mr. Annan's mission should not be seen as a personal initiative. No! He is there on behalf of the Chairperson of the African Union. Therefore, there was no way the East African Community could have a parallel and open system from that of the AU.

Secondly, when I went to Nairobi, I was sent by the Chairperson of the Summit to work with Mr. Annan and other government authorities and concerned people in Kenya. But the idea was that we should not have a parallel approach to the problem; we should support one system. So, to say that we are totally...I did not get the word that the hon. Muntu used ...we were not visible, but we were not laying back and doing nothing. That

is not true. We are not doing nothing; we are doing a lot actually. But, I believe that in this type of situation, press conferences are not the best way to get results.

On the question of the Northern Corridor – the highway that runs from Mombassa up to Eastern Congo - I came out in the open. I met the Minister in charge of internal security in Kenya, and it was publicized in the media in Kenya. We addressed the question of the safety of the traffic on the Northern Corridor. So, this one was visible; I was there.

Mr Speaker, also, I do not agree that what we did was a precedence that will have to be repeated. I think this kind of situation, if it happens again in the region – I hope it will not – we shall handle it according to the circumstances, if we will be around handle it.

Ms. Dora Kanabahita-Byamukama (Uganda): Mr. Speaker, I have two supplementary questions for the Minister. If I heard the Minister correctly, he said that the situation and what happened in Kenya was an eye-opener on the need for governance issues. He also talked about a regional mechanism that is being put in place. He also said that the role of the East African Community was central but not visible. I think this is a very important phrase.

My question is, when you look at the objectives of the Community under Article 5, the very first issue that is stated is that “*The objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the Partner States in political, economic, social, cultural fields and research and technology, defense, security, legal and judicial matters for their mutual benefit.*” “Political” is the very first objective. Then, when you go to Article 5(2), it talks about establishment of a Customs Union, Common Market, Monetary Union and ultimately, a Political Federation.

I would like to ask the Minister, apart from this being an eye-opener, and also, apart from saying that our role was central but not visible, whether this should not provide an opportunity for us to also do an audit check. Are we still bound by the Treaty obligations, and, particularly, these objectives? Because, at the end day, if you use, for example, the case of Zanzibar to say that there was a problem in Zanzibar when Tanzania held elections and nothing happened, and you also justify it by what happened in Uganda and then you say you cannot come in, is it not time that we did an audit check to find out whether we are still bound by the Treaty obligations and what we have signed on to?

Secondly, Mr Speaker, I listened very carefully to the hon. Chairperson of the Council of Ministers, and as he informed the House on the role of the East African Community, he clearly stated that the role the East African Legislative Assembly played should be recognized as the role of the East African Community but I did not hear him mention two other important activities that this august House participated in, namely, the goodwill mission and our humble contribution in the amount of Kshs1 million. I thought that since we are part of the East African Community, he would maybe have mentioned them. So I would like to find out why we were not mentioned – (*Laughter*).

Mr. Kategaya: Mr. Speaker, on the last part - which is easier to dispose of - on the goodwill mission of EALA, I am aware of it; I have seen and read the report, and I thank them for that and also for your contribution of Kshs1 million, but I had another occasion when I wanted to thank you for that – (*laughter*). But also, I think we should not demand thanks for a job well done - (*Laughter*). If you do a good job in good faith, I do not think you should be demanding for thanks; I do not believe in that. But, I was going to say so in another forum – (*Interruption*).

The Speaker: *Mheshimiwa*, all that the *Mheshimiwa* Byamukama said was that we are part of the East African Community; it was not about thanking but to mention the role of the East African Legislative Assembly in this matter as an organ of the East African Community.

Mr. Kategaya: For sure, Mr Speaker. When I was answering the hon. Ogalo's question, I said yes, the report is an East African Community report, because the East African Legislative Assembly is part of the Community. So I have no problem with that one.

Mr. Speaker, before I come to the actual question, there is a point I forgot in terms of information on what the East African Community did in the ongoing process in Kenya. When these negotiations were being started in Nairobi, the Chairperson of the Summit, President Museveni was present. He went there physically and met all the gentlemen and ladies involved in the negotiations. He was there for two days to see that the process starts. So, there was participation, and this time visible.

The hon. Byamukama asked whether we should not do an audit to see whether Partner States are still committed to the Treaty. Mr Speaker, sir, let me inform the House that the first letter I got from the hon. Machage when he was sworn in was to assure everybody that I saw that Kenya was still committed to East African integration – (*Applause*). It is in writing, so for me I do not want to do an audit on that one because I have the evidence in writing from the Minister in charge of the East African Community from the Republic of Kenya that they are committed to the integration of East Africa, and, therefore, the Treaty.

Ms. Zziwa: Thank you very much, hon. Speaker, sir. I just wanted to follow up on the mechanism. I did not have the opportunity to have a copy of the answer, so maybe that is why I was not able to get the details of that mechanism, but I believe it follows on Article 123(d) of the Treaty, which talks about peaceful resolution of disputes and conflicts between and within the Partner States, and maybe also Article 124(3), which states that: "*the Partner States shall evolve and establish a regional disaster management mechanisms...*" My concern here is how far?

Mr Speaker, in the case that the Partner States do have that mechanism, how far is the East African Community going ahead to harmonise or enhance that disaster management mechanism? Certainly, at the face value, when conflict subsides, we will want to hear tangible arrangements which are going to help the people of Kenya or the people affected

to be able to resettle and get back to their normal lives. We want to hear some concrete suggestions coming from the hon. Minister.

Mr. Kategaya: First of all, Mr. Speaker, I have my colleague from Kenya here who may shed more light, but from what I read in one of the paragraphs, I said that: *“The Secretariat has commenced the development of a regional mechanism for governance and resolution of conflict within and among Partner States.”* In other words, we are saying this conflict has been an eye-opener, and we are going to see how we can work out a mechanism to help resolve conflict within and among the Partner States. At the moment, it had not been worked out until this situation arose.

Dr. Machage: Mr. Speaker, sir, whereas I would not want to dilute what my colleague has said, I want it to be known that His Excellency the President of Uganda did play his part efficiently, effectively and at the status of being seen. The problem that arose was that the Opposition felt a bit jittery with the inclusion of the President in the Committee on Negotiations. I want that to be known. In his wisdom, he chose what I think was the best; to allow eminent persons of Africa - the group of three - to continue with the discussions, with him as the Chairperson of the East African Community as a good observer.

It should also be known that among the three eminent persons, the hon. Mkapa, who was a President of this country, is included. So, we should not make statements to dilute the eminence of this respected statesman from Tanzania. Indeed, East Africa is playing a role.

Kenya's economy has not been affected much with the one month...I would say two weeks crisis. Leave alone the media reports. Indeed, at the end of January, the expected tax collection was surpassed by one per cent. So you can see what that meant. His Excellency the President of Kenya did send special envoys to all the countries of East Africa, and even to Sudan, Ethiopia and Eritrea. I was myself sent to Bujumbura to assure our sister States of the importance we put on bringing normalcy in the Kenyan political system as soon as possible and to make sure that the Northern Corridor is opened. And, indeed, transportation is back to normal, and there is peace in Kenya. I want that to be known. Of course there was a bit of a backlog of goods at the port of Mombasa, which is being addressed. All the taxes that accrued during the two weeks of crisis were swallowed up by the Government. What else could Kenya do? I thank you.

Maj-Gen. Mugisha Muntu: Mr. Speaker, I would like to seek some clarification, but first, let me thank the Chairperson of Council of Ministers for clearing one issue, which I think has been causing a lot of anxiety in the public. When you read newspapers, there has been an opinion that President Museveni had gone to Nairobi, actually not as the Chairperson of the East African Community Summit, but as the Head of State of a neighbouring country. Opinions have been written in the newspapers, letters to the Editor have been written, and, unfortunately, there has not been any response from the East African Community. So, the clarification I am seeking is, if this opportunity had not arisen for this clarification by the Chairperson of the Council of Ministers from the hon.

Ogalo's question, was there going to be a response to the public concern in the region about that issue?

Secondly, I would again like to thank the Chairperson of the Council of Ministers on the issue of the strategy taken on the situation in Kenya; the strategy of no visibility but effective action behind the scenes. I would like to draw examples from ECOWAS because it is also another regional organization. Well, unfortunately for West Africa, they have had more situations of conflict than we have had here in East Africa, thank God, but looking at the example of ECOWAS in Liberia, Sierra Leone, Cote d'Ivoire, ECOWAS has been taking active involvement while the AU and the UN build on that, even when at that point ECOWAS draws back. So the clarification I would like to seek is; does East Africa think that this is a good lesson to learn from or not?

Mr. Kategaya: Mr. Speaker, sir, I did not know that the visit of the Chairperson of the East African Community Summit was an issue of public concern. He went there in that capacity, and even the letter he gave me when I was going to Kenya was in his capacity as Chairperson of the Summit. He told me to go there as Chairperson of the Council of Ministers; to participate in that capacity. It is in writing. So, if it is an issue, I thank the hon. Ogalo for giving me an opportunity to clarify that one – (*Laughter*).

Mr. Speaker, you know, the Kenyan situation is a new situation; we have never had it here before. Compared to ECOWAS, ECOWAS has had a lot of upheavals: Sierra Leone, Liberia, and Ivory Coast. So, when the situation demands, people actually evolve a mechanism for handling that situation. And as I said in my statement, maybe we now we could sit down and say, should we not prepare for such unfortunate events happening in East Africa; how do we respond? (*Applause*)

Fortunately, so far we do not think the situation in Kenya warrants the intervention of the armies or security arrangements, but supposing the Kenyan situation gets out of hand and we want to assist those in authority, how do we come in? There is no mechanism because we have never had this situation before. I pray that we do not come to the ECOWAS situation. This has been unfortunate, and I pray that we do not have it again in this region. But I am sure if it happens, those who are around in charge of defence will take the appropriate measures.

Mr. Speaker, what I have seen - and that is why I had a bit of an argument with my colleague, Dr. Machage here. He was saying that this is a Kenyan situation, but I said no, it is not because our economies have been affected. The Ugandan economy has been affected, same as that of Southern Sudan, Eastern Congo, Rwanda and Burundi. So, being together now seems to be obvious in my view. It is a bad example, but it shows how we must work together.

No one Partner State should think it can be an island of peace and not affect the rest; that is not true. We should be concerned if there is a problem in any one of our Partner States and we should come in. The Kenyan example is very, very clear. You could see that the East African region was affected. For instance, we had some delegations that had come to

see East Africa; a big delegation from Japan of top corporate executives. But when they heard of the problem in Kenya, they cancelled everything because East Africa is on fire. Of course to the outsiders, even if you say Tanzania or Uganda is peaceful, they do not see the difference; to them we are all the same. So, what has unfortunately happened in Kenya should open our eyes that we are in this together for better or for worse, as they say, and we should work together to solve any problem that is affecting the region.

Mr. Lotodo: Mr. Speaker, last year when we went to visit the Chairman of the Summit in Uganda, we raised the issue of pastoralists and the problems in northern Uganda and Kenya, he promised to call for a meeting to address the issue. I do not know how far that issue has gone - (*Laughter and Interjection*).

The Counsel to the Community (Mr. Wilbert Kaahwa): Mr. Speaker, sir, I stand on the premises of Rule 47(a) of the Rules of Procedure. Is my honourable Friend asking the question in order to make a well articulated question by the hon. Ogalo, which has received a well articulated response from the hon. Chairman of Council a pretext for debate, taking into account the clear, succinct and unequivocal provision of Rule 17(4) of the Rules of Procedure?

The Speaker: He is out of order. Even though I am a pastoralist - (*Laughter*) – I will not let him go on.

Question Ref: EALA/PQ/OA/02/2008

Mr. Daniel Wandera Ogalo (Uganda) asked the Chairperson, Council of Ministers:

Article 123 of the Treaty requires the Community to establish and implement common foreign and security policies. The Council of Ministers is required to determine when Article 123 paragraphs 2, 3 and 4 shall become operative and how they shall be implemented. When, if at all, did the Council of Ministers operationalise that Article? Can the Minister lay on the Table of the House the regulations/directives it issued, if any, on the implementation of the Article?

The Chairperson, Council of Ministers (Mr. Eriya Kategaya, Ex-Officio, Uganda): Mr. Speaker, sir, Article 123 of the Treaty provides for the establishment of a common foreign and security policies. The Council established annual meetings of Ministers for Foreign Affairs on the structure of policy organs of the Community for proper co-ordination of foreign policy issues. An application has been made to the Council to establish a Sectoral Council of Ministers for Foreign Affairs. The Council has also commissioned a study on the operationalisation of Article 123 of the Treaty. On the basis of the findings of this study, the memorandum of understanding on foreign policy co-ordination was signed and is due to be upgraded into a protocol.

On security, the Council adopted the EAC Strategy on Regional Peace and Security, and has directed the development of an EAC Protocol on Peace and Security. Furthermore, a

memorandum of understanding in co-operation on defence has been in operation since the year 2002, and is due for upgrading to a protocol. That is all, Mr Speaker.

Mr. Ogalo: Mr. Speaker, sir, Article 123(5) reads: *“The Council shall determine when the provisions of paragraphs 2, 3, and 4 of this Article shall become operative...”* That is one ambit of it. So, what I am asking is, if it has been done, what is the date that was set? The second aspect reads: *“...and shall prescribe in detail how the provisions of this Article shall be implemented.”*

So, if we are talking about foreign and security policies, under sub-article 5, I would like to know the date when this Article 123 became operational? Was it last year, was it two years ago, or has it not yet been set? If it has not yet been set, we should know so that the rest of the things will fall by the wayside. But the thrust of my question is whether the Council of Ministers has set a date as required by sub-clause 5, when this whole Article shall become operational. If the answer of the Chairperson is in the affirmative, then the other questions would be about the regulations and the directives that you have issued under this Article. So, could I know whether a date has been set, and if it has, what is that date?

Mr. Kategaya: Mr. Speaker, first of all, this Memorandum of Understanding on Defence has been in operation since the year 2002, and at the moment we are in negotiations to upgrade it to a protocol because a memorandum of understanding does not bind Partner States but a protocol does, because it becomes part of the Treaty.

On foreign affairs, again, negotiations are in place to upgrade the memorandum of understanding into a protocol. That is what we are doing. So, in a sense, I can only put a date on defence and security, which is was the year 2002. I cannot remember the month and the date, but I know it was in the year 2002. On foreign affairs, I think the first meeting of Ministers for Foreign Affairs was in Kampala some time in June or July last year. This year, they had another meeting in Addis Ababa during which we tried to push candidates for offices in the AU mission.

The Speaker: Honourable Minister, I think you are only reading Article 123(1). If you look at Article 123(5), it says: *“The Council shall determine when provisions of sub-articles 2, 3, and 4 shall be operative...”* What the hon. Ogalo is asking you is, are they operative? And if you go on, it says: *“...and shall prescribe in detail how the provisions of this Article shall be implemented.”* So, in essence, you are only talking of sub-article 1. He is asking about 2, 3, and 4. Are they there? I think it is a simple answer of yes or no. If not, when is it going to happen?

Mr. Kategaya: Mr. Speaker, I was not trying to be categorical – *(Laughter)*; I just wanted to check. As I said, foreign affairs and defence have been meeting, and there have been memoranda of understanding on those. To be fair to me, you could give me time to check on the actual position as far as sub-articles 4 and 5 are concerned. I am seeking your indulgence, Mr Speaker, to check with the officials.

The Speaker: Yes you can check with the officials. But I think since the Counsel to the Community is here, maybe he can help us.

The Counsel to the Community (Mr. Wilbert Kaahwa, Ex-Officio): Mr. Speaker, sir, much as I would be willing to assist this august House in respect of the supplementary question on the floor, I am a bit handicapped because the implementation of Articles 123 to 125 does not fall within the specific assignment of the Office of the Counsel to the Community. But as is wont of me, let me say that these provisions are operative to the extent that the implementation of what is contained therein has been the basis for the negotiation and conclusion of the two memoranda of understanding, which the hon. Chairperson of Council referred to; the Memorandum of Understanding on Co-operation in Defence and the Memorandum of Understanding on Foreign Policy Co-ordination. The development and conclusion of those two memoranda is a step towards the establishment of common foreign and defence policies.

Mr. Gervase Akhaabi (Kenya): Mr. Speaker, sir, my reading of Article 123(1)(2)(3) and (5) is that Article 123(1) enjoins the East African Community to establish common foreign and security policy. Sub-article 2 enjoins the Community and Partner States to define and implement common foreign and security policies. Sub-article 5 requires, as Hon. Ogalo has said, the Council to determine when the provisions of paragraphs 2, 3, and 4 shall become operative. That is when the common foreign and security policies shall become operative. Now, is there a common foreign policy for East African Community? Secondly, is there a common security policy for the East African Community for the purposes of sub-articles (3) and (4)? And if there exists such a policy, then sub-article (5) requires - and that is the question that the hon. Ogalo is asking; when shall the Council determine when such common security and foreign policies shall become operative...and the details. So my question is, are there such common policies? If they are not there, then, when can this be done?

Mr. Kategaya: Mr. Speaker, sir, partly it is true that there is some common foreign policy, but it is not complete. For instance, we have now implemented the idea that the East African Community should support certain candidates for certain offices in international organizations. We are doing that: We sit down, go through the lists and make sure that when we go to the international organizations we support that candidate, regardless of whether he or she is from Kenya, Uganda, Tanzania, Rwanda or Burundi. That part is on, but we have not yet defined in detail what the common foreign policy in the region should be. So, in essence I could say yes, partly it is there, but it is not yet complete.

Mr. Speaker, sir, we have also said that we have a memorandum of understanding on foreign policy; we are evolving a protocol. And once the protocol is in place, I think that is when we will implement Article 123(5), because the protocol will spell out exactly what we have agreed as a Community.

Now on security, I think I would combine both defence and security, because security means intelligence groups, the organisation of meetings, police, C.I.D and crime

detection. This one, in practice, I know is there. I know for sure that our intelligence services meet to discuss what is happening in the region and exchange information. On crime detection, again, our Police forces co-operate. If you commit a crime in Uganda, you cannot run to Kenya and think you will be safe.

On defence, Mr Speaker, I know for sure we have developed a common training programme for officers, and even allocated areas. For example, Monduli starts with junior cadet officers; Kimaka in Uganda does second grade staff, and then Karen in Nairobi is doing the senior staff courses. So, there is something going on in that direction in defence. What we have not done...as I said, a memorandum of understanding in itself does not bind Partner States; it is a protocol which can do that. We are in the process of creating protocols on foreign policy, and on defence and security matters as per Article 123. Once the protocols are in place, then that is when we can implement Article 123(5), in my view.

The Speaker: Honourable Members, I think what the Minister is saying is that Article 123 is not yet operational, and it will not be until they have a protocol in place. So, in essence it is not there. *(Interjection)* So, to help the hon. Ogalo out, I think what the Minister is saying is that although the article is not yet operational, they are in the process of operationalising it by having a protocol. The Minister mentioned something about the security officers. I think that is covered under Article 124, and not Article 123. But, I think the Ho. Ogalo's question has been answered; Article 123 is not yet operationalised, but they are working on it.

MOTION

For the Consideration and Adoption of the Report of the Committee on Accounts on the Audited Accounts of the East African Community Projects

(Resumption of Debate interrupted on 19 February 2008)

Ms. Kate Kamba (Tanzania): Thank you, Mr. Speaker for giving me this opportunity to say something on this report of the Committee on Accounts. First of all, let me congratulate the two Ministers who were sworn in yesterday as ex-officio Members of this Assembly. Fortunately they are not new to us and to this House, we therefore bank on their support, and we expect to work with them towards the realization of a federal East Africa – *(Applause)*.

Let me also congratulate the Committee on Accounts, starting with the Chairperson who presented his report very well yesterday, and the Members who helped us to understand more the details of their report – *(Applause)*. I totally agree with their recommendations and what they observed from the auditors' report. I would not agree more with *Mama Janet Mmari* when she was tried to explain why this report should not be qualified. But I think it is up to us now to look into the anomalies and make the necessary corrections.

Mr Speaker, I also want to add to the voices of my colleagues in this House that we have a mandate. We have a role to play in this House; an oversight function. Unfortunately,

some people think we as a Legislative body are part time. But we are full-time - I should expound on that.

The way we are actually taken, especially when it comes to the budget that is given to us, it is very little. We have a very big role to play in this House, but the 60 days that they have given us, in a way they are telling us that we do not have much to do. But we want to tell them that we have a lot to do, and that there is a need to enhance our budget. Short of that, the will be undermining our role as overseers of the East African Community affairs – *(Applause)*.

Mr Speaker, sir, I was of the opinion that now that we shall have another budget, the money should be increased – *(Applause)*. We need to have a substantial amount. Maybe they should double the days. Instead of 60 days, I think they should make it 120 days so that our oversight role can be seen. As it is now, we cannot work much on such a tight budget. As the case is now, we are actually allowing more loopholes for the misuse of funds and non-performance of all the planned activities within the Community – *(Applause)*. We cannot expect the Secretary-General and his staff to have an oversight role; it is not their function. We are the ones to oversee what has been budgeted for, how the money is being spent, and whether these people are performing or not. So, since the entire Council is here plus the Secretary-General, I urge them to really labour on this to see to it that we get a substantial amount of money so that we can work comfortably in looking at the activities of the Community – *(Applause)*.

Mr. Speaker, sir, I will not say much because a lot was said yesterday. I support the Motion, and I hope the accounting authorities who are here; those who have the mandate to look into our budget should not allow the junior officers who just come here to cut and cut our budget. Rather, they should enhance our work by giving us more money.

I support the Motion – *(Applause)*.

Mr. Daniel W. Ogalo (Uganda): Thank you, Mr. Speaker for giving me this opportunity to contribute to this Motion. I want to begin by thanking the Committee for putting this report before us for debate.

Mr. Speaker, sir, some of the findings of the Committee on this audit report are very frightening. They are frightening because it shows that a lot is going on and there are no control mechanisms in place to ensure that the work of the East African Community is done.

Mr Speaker, sir, let us take, for example, the Mt. Elgon Regional Ecosystem Conservation Programme (MERCEP), which was worth US\$4,874,342, and it was a contract between the East Africa Community and the Norwegian Government. This is the point which the hon. Kamba raised. If I was the Norwegian Government and I read this report, I would never listen to you again even if you wanted only US\$1. Why would I, the Norwegian Government, take my taxpayers money to put down the drain? This is what this report is showing.

Mr Speaker, sir, we apparently appointed a manager in the names of IUCN and left the manager to put in place implementing agencies and forgot about it: no monitoring or evaluation, and the taxpayers' money from Norway, which they think is doing good work here is going to waste! That is why the point raised by the hon. Kamba on the question of the oversight function is very important. If this money is supposed to be doing some projects, where is the voice of East Africa to make sure that the money is doing its work? (Applause) It is only when we are able to exercise our oversight function that we can come up and say IUCN in Mbale has simply pocketed the money and they have done nothing. But if we do not have sufficient time, we will not know what is happening with NEMA in Uganda, or in the Mt. Elgon project, and the auditors come and tell us that things are not good, then the back stops here in this Assembly to oversee both how this money is being spent and whether there are mechanisms in place to avoid waste, fraud and contravention of financial regulations.

Mr. Speaker, sir, in terms of monitoring of these funds which we get from outside so that the people of East Africa can benefit, I will put this squarely on the Office of the Secretary-General, and I want to refer to Article 71(1) where we have the functions of the Secretariat.

Article 71(1)(h) reads: "*The Secretariat shall be responsible for the general administration and financial management of the Community.*" Sub-section (i) is "*the mobilization of funds from development partners and other sources for implementation of the projects of the Community*", and under (c) "*the strategic planning, management and monitoring of programmes for the development of the Community.*"

Mr Speaker, the Secretariat fulfilled this function under sub-section (i); it mobilized the money from the Norwegian government and brought it here. Yes, the Secretariat did its work of mobilisation of funds from development partners and other sources for the implementation of our projects – (Interruption) - but when it came to the other functions, the strategic planning, management and monitoring of programmes for the development of the Community, and the administration of the financial management of the Community, unfortunately the Secretariat did not fulfil its function. It let down the people of East Africa. And if a development partner sees the way we are managing the money we get from them, it would be difficult for us to get any more money for our projects.

So, I would call upon the Secretariat at this stage not to just go and mobilize funds to bring here and give to IUCN to pocket. Also, when you are appointing managers of these programmes, they should be people we are sure of, people whom we should be able to monitor. In the report I have seen that IUCN does not even have bank accounts for this money. I think they just put all the money together and whoever wants removes whatever they want! So, there was a failure by the East African Community; we failed the people of East Africa, and it is up to this House to correct these errors – (Applause).

Mr. Speaker, sir, if we have appointed a manager to manage funds on our behalf and that manager fails; if he breaches the contract, make it very clear, cancel the contract; he is in breach, and find somebody able and capable of doing the work for the East Africans. A

four-year project and two years down the road you realize that you are being failed, why should you continue with such a manager? I think time may have now come for the Council of Ministers to consider making certain that when we have people managing finances on behalf of the people of East Africa, there are mechanisms to ensure that there is value for the money. This means setting up a monitoring mechanism.

Some of the things in this report show that we are not mindful of the people who help us. I have seen, for example, that somebody is putting in travel allowances of 1.7 million for travelling between Jinja and Mbale, and for me who comes from that country, I know there is no way you can spend that kind of money on transport between the two towns; it is impossible – (*Interjection*).

So, Mr. Speaker, I propose that this Assembly should not simply look on where the Audit Commission has told us things are going wrong. We should now set up a select committee to investigate these matters with a view of bringing to book the people who may have misused the funds – (*Applause*). It is not okay for us to simply say money was badly spent and we leave it there. Somebody must answer; somebody must be prosecuted for that, and then we will be able to justify it to our donors for them to be able to give us more money.

Mr. Speaker, sir, it appears to me that the way these projects were handled simply shows that we have not been concerned. The money comes, we give it to NEMA and IUCN in Uganda and we say, do the work with that money, and the people of East Africa do not even know that we are the ones who are giving that money to do that work. I think we have failed the people of East Africa, and we should cancel some of these contracts to send a very clear message to whomever does work on behalf of East Africa that we shall not tolerate impunity; just stealing public funds – (*Applause*).

Mr. Speakers, sir, when I went through this report, I was also surprised to find that even we here seem to have a problem because, under part 4, which is dealing with the East African Customs Union project, the Report is saying: “*The Committee is concerned that the East African Community management has persistently withheld vital information from the Audit Commission.*”

Mr. Speaker, sir, if this can be done by our own management here, then there is a lot to be done. There is a need for control of our management by the policy maker; the Council of Ministers. We cannot start blaming IUCN in Mbale, NEMA in Uganda - and there is one I saw in Kenya - when even we ourselves here do not even adhere to the financial regulations – (*Interjection*). In fact, on the Customs Union project, our Committee on Trade should be very concerned, and using its oversight function should summon the officers under this department and find out how come they are just ignoring the regulations. We cannot blame others when we cannot put our house in order!

Mr. Speaker, sir, I also think that in these matters, at the end of the day - this is nothing personal, but at the end of the day, there is only one officer who will have to take responsibility. It is not that he is making any mistakes, but his officers and the systems

under him are making mistakes, and under the Treaty, the buck stops with the Secretary-General. He is the accounting officer; he is the Chief Executive Officer of the Community.

So, since we have the Secretary-General sitting in this House, I think it is important that he brings everything under him to order. He should put in place mechanisms which will ensure that when tomorrow he goes to a development partner, he is not met with statements such as, “well you see we do not have money, and even when we give you money, it is not put to proper use!” The buck stops with the Secretary General, Mr Speaker, sir, so, if there are people under him, he should bring them to order if they are doing things the wrong way.

It is an embarrassment to read in a report of the Legislative Assembly that some of our own departments are flouting financial regulations. It is not a good thing for any of us. And why I say that the buck stops with the Secretary General is because I have seen in the report something about the Deputy Secretary-General in charge of Projects and Programmes. When we were making the interpretation law, we wanted to put all those offices together, but we were told no, there is one Secretary-General and the others just assist him under the Treaty. So, we have no business to do with the Deputy Secretary-General, Projects. For us, we will only look at the Secretary General and ask him to take care of his deputies.

Mr. Speaker, sir, even the way we have structured the institution here causes a problem. You have, for example, the Chief Executive Officer of the Lake Victoria Basin Commission, the one of CASSOA and the one of Customs and Trade. These appear to be at the same level as a Deputy Secretary-General. It seems we have to look at this whole thing again because they are chief executives in their own rights, so how do they relate to the Deputy Secretary-General in charge of Projects and Programmes, for example, if they can handle their matters on their own? So, it is important that we structure these things properly so that ultimately there is a chain of command, not a situation where you have some members of staff at the same level with the deputy secretaries general and then reporting becomes difficult.

Mr. Speaker, sir, I want to conclude by thanking the Committee, and by emphasizing that this House will only have done its duty when it sets up a Select Committee to look into all these projects so that then we can be sure that what we are seeing in this report is not happening in other areas – (*Interjection*).

Dr. Kabourou: Mr. Speaker, sir, I want to seek your indulgence. I would like to second hon. Ogalo’s suggestion for a Select Committee – (*Interruption*) - but is that a Motion?

The Speaker: It is not a Motion, but I think he can move a substantive Motion and then we see what happens.

Dr. Kabourou: In that case, I would like to move a motion for – (*Laughter*) -

Mr. Ogalo: Mr. Speaker, sir, I was winding up, and I am grateful that the *Mheshimiwa* has found favour with my suggestion for a Select Committee, and I hope that the House will find favour with the idea of a select committee with a wide range of terms of reference, which will look at all the projects which have been funded and to report back to the House whether there is value for money; who our executing agents, managers, implementers are, so that at the end of the day, we can walk with our heads high. I thank you – (*Applause*).

Ms. Catherine N. Kimura (Kenya): Hon. Speaker, sir, I thank you for giving me this opportunity. Let me declare that I am a Member of the Committee on Accounts, and I appreciate the manner in which the honourable Members have received our report. We are happy that it has generated a lot of debate, and this reflects – sorry to part us on our backs - the seriousness with which the Committee undertook this task – (*Applause*) - in spite of the fact that we did have our differences, sometimes with the Audit Commission, when we felt that they had come short of doing what one would consider an excellent, professional job, evidenced by the facts that were well enumerated yesterday by the honourable Mmari.

Hon. Speaker, sir, I want to take comfort - and I also want the House to take comfort in the fact that this is the first time that the accounts of projects of this Community have been brought to the House. During our last session, it is this Committee that requested that these accounts should be brought to the House. I see the Counsel to the Community looking at me and maybe thinking that I am not correct that this is the first time, but I have checked this – (*Interjection*).

The Counsel to the Community (Mr. Kaahwa): On a point of information, Mr. Speaker, sir, may I inform the honourable Member on the Floor that I was just turning and enjoying listening to her contribution to the Motion? (*Laughter*)

Ms. Kimura: Mr. Speaker, I thank the honourable Counsel to the Community, and because this is the first time, it gives us an opportunity to learn from what is going on with these three projects and, therefore, even challenge the Audit Commission as they bring the next report to us.

As the honourable Muntu said yesterday, we are privileged to be here, and, in a way, to be pioneers in some of these areas. Therefore, let us learn from the situation that we are confronted with, and let this House make very fundamental recommendations as to how this project should be managed in terms of value for money and in terms of physical value for the benefit of the people of East Africa.

The issue of ownership of these projects is very paramount, Mr Speaker. It appears from the work that we did that there is not enough information out there for the people who are supposed to be beneficiaries of these projects. Therefore, the East African Community has a job to carry out very intensive awareness campaigns on some of these programmes, and indeed, to try and encourage the local beneficiaries. Whether it is the Namanga-Athi River project, whether it is the one for Taveta, or the ecosystem project in Mt. Elgon,

wherever our East African Community projects are, people must be made to own them so that they can see the benefits of the Community. Right now if you ask the people what the benefits of this East African Community are, they do not know that we have projects like these. Therefore, as an Assembly, we would wish for the Secretariat to do its part in publicizing these projects and in encouraging programme managers to make sure that there is a programme for awareness and for ownership as they draw up their work plans so that the people can feel part and parcel of these projects.

Once again, let me thank the honourable Members of this Assembly for their very good debate on these issues. I beg to support – *(Applause)*.

Dr. Gharib Bilal (Tanzania): I thank you, hon. Speaker, for giving me this opportunity to contribute to this debate. I must also admit that I am also a sitting Member of the Committee on Accounts, but I feel that I should make some contribution with respect to what is going on, on the Floor.

First of all, let me add my voice in congratulating the two Members who have just joined this august House, namely; the hon. Dr. Machage and the hon. Dr. Kamara. I remember in Zanzibar when Dr. Machage was first sworn, some of us wished that he would be back here after the short recess. I think our prayers have been answered, and I want to agree with Dr. Machage that there is sainthood in this august House – *(Laughter)*.

Hon. Speaker, let me begin by saying that there are two dimensions that I wish to bring to this debate on how the Secretariat can outsource management in the running of the EAC projects. Much has been said before about the issue of lack of adequate supervision and what appears like some kind of mismanagement of the money from listening to the Audit Commission.

Hon. Speaker, first of all let me say that our work was not easy. I want to agree with the hon. Kimura that in Kampala we did not enjoy at all. In addition to the rain that we brought with us, there was no fun in Kampala – *(Interjection)*. There was a lot of bickering amongst ourselves, and arriving at this report was not easy. So, if you think this debate is heated, our discussions were even more heated.

Hon. Speaker, sir, the other dimension which I wish to bring to the fore is the fact there was not enough co-operation from the implementing district. I will refer you to the issue of Sironko in Uganda – *(Interjection)*.

Ms. Byamukama: On a point of clarification, Mr. Speaker, sir, I would like to seek clarification from my colleague, the hon. Dr. Bilal. He says that life in Kampala was very difficult. I would like to know from him whether that beautiful country known as the “Pearl of Africa”, which is in the East African Region, in any way had any shortfalls that could not have been mitigated. We, as hosts, felt that we had done everything possible to make his life comfortable – *(Laughter)*.

Dr. Bilal: Hon. Speaker, I must say that I always anticipate enjoying the city of Kampala whenever I have the opportunity to go there. What I wanted to say was that our deliberations were made very difficult because of what has been brought out in the report, which I did not want to mention, namely; lack of co-operation, withholding of information and apparent lack of supervision in the way these projects were being run. That is what made our lives very difficult. We were not there as bloodhounds seeking out officers for mismanagement or misappropriation of funds; we were there to do post-audit examination. And our assumption was that the officers entrusted with running the projects were people of good standing, with impeccable qualifications and that everything would be done properly.

So, we went there with that in mind. But that was not the case, as this report has amply shown. I did not want to repeat what has been amply brought before this House that there was this aspect. So all I was saying was that we did not have comfort in discussing this report, and that is what I meant when I said Kampala was not an enjoyable place for the Committee to do its work.

Mr Speaker, I also wanted to say that there was apparent lack of co-operation. Take the issue of the Sironko Prisons Department; how could they plough down the seedlings knowing very well that this was a project of the Community? This is the lack of enthusiasm that we were experiencing, and it is not the first time we have encountered such lack of co-operation.

On the issue of Trans-Zoia, a project which is being duplicated, I think there is lack of enthusiasm which is open here. Does it need this kind of report to tell people that we need to sit down and marry the two projects? So I think this dimension must also be brought into this debate.

The issue of non-remission of VAT is not something that has been brought to the fore for the first time; I think we have been hearing this again and again. We have been lamenting that are we really in East Africa? Are the implementers of these projectors really part of the process of integration? So I think this is the dimension which has been lacking in debating this, namely; lack of cooperation by the implementers of these projects.

Hon. Speaker, sir, our suggestion that some of the queries should be substantiated was just a way of making sure that this report - short of what the hon. Mmari said that it must be qualified - comes out in its totality, and there should be some semblance of responsibility on the part of management in bringing out adequate information when answering queries by the Audit Commission.

I wish to say that I am encouraged by the contributions of Members to the report. On the positive side, this report should serve as a pointer in as far as outsourcing management by East African Community is concerned. I think in the future we should try to be hands-on and make sure that most of the people we engage are properly supervised from the very outset. I think some of the delays and working outside budget lines should have been avoided or ironed out. For example, the issue of having separate accounts could have

been avoided if there was proper supervision from the outset. I thank you, Mr Speaker – *(Applause)*.

The Chairperson, Council of Ministers (Mr. Eriya Kategaya (Ex-Officio, Uganda): I thank you, Mr Speaker, for giving me the opportunity to contribute to the debate on the Report of the Committee on Accounts, but let me first join my colleagues here to congratulate the ministers from Tanzania and Kenya; Dr. Kamara and Dr. Machage for joining us. They are not new faces here, but I want to congratulate, first Dr. Kamara for having been elevated from a Minister of State to a full Minister and Dr. Machage for bouncing back – *(Laughter)*. He seems to have a knack of jumping in and out.

Mr. Speaker, from the outset, I wish to acknowledge the services that were rendered to the House by Dr. Msabaha when he was the Minister in charge of East African Affairs. There is always a tendency to congratulate the new ones and forget those who have contributed in the past. Well, I think Dr. Msabaha contributed a lot and I worked with him very well and we were co-operating almost in every field. Whenever I had no time, he would step in and vice-versa. I hope that spirit will continue – *(Applause)*.

On behalf of the Council, I would also like to thank the Members of the East African Legislative Assembly, and particularly on behalf of Dr. Machage, for their contribution of Kshs1 million towards the victims of the unwarranted violence and unfortunate incident in Kenya. Mr Speaker, I had prepared this before I was prompted by the hon. Byamukama. I wanted to say that we are grateful that the East African Legislative Assembly came out to show its solidarity with the people of Kenya – *(Applause)*.

The Committee has said it had difficulties in compiling this report, but to me, I think it is a good beginning, because you were looking at audited accounts of 2006, which is about two years ago. But you were asserting your role as a House. I want to say – as I have said many times before - that the East African Legislative Assembly should assert itself. Your role should be felt, not by the Council or the Secretariat, but by all the East African Community institutions – *(Applause)*. My experience is that if you do not assert yourself, nobody will listen to you – *(Laughter)*. Sitting there and lamenting that you are not recognized will not do. I think the Treaty is clear; you should exercise your oversight role. That is very, very important. Governments do not move by just being booed; they are moved by rules and by those who are supposed to enforce the rules doing so.

Mr. Speaker, I share the sentiments that were expressed by the hon. Sebalu. When I was reading the report, it seems that the Audit Commission was also lamenting “we were not given papers”, “the people we summoned did not do this or that”! I think the next time we should demand more detailed information from them. Who was summoned and refused? Who was asked to give information and did not give it? That would help us; that is the only way people can know that if they do not give information, they will be named – *(Applause)*. To me I think this should be done. The Audit Commission was given powers under the Treaty and they should exercise it.

When you read on page 29, paragraph 5(2), they are just lamenting; we do not know who is supposed to be responsible, there is no implementation...I think we should ask them to be more specific. They should give us names of offices, officials and institutions that are not co-operating then we can bring them to account for what they have not done. Also, I would have liked to know whether the Audit Commission wrote to those who were supposed to give them information and the copies available for us.

In my view, the Audit Commission should ask those who are supposed to supervise these officials to ask them to comply. If it is the Secretary-General or Deputy Secretary-General or the Chairperson of Council, there should be letters on record. I think that is why these *Wazungu* beat us; for them everything they do is on record. We should stop this native way of doing things - "I talked to the person but he did not turn up"; what evidence does he have? The other person may say, "No, you never talked to me" and you say "no, I met him on the corridor"! But, putting it in writing is helpful.

As some honourable Members were saying, if we are pioneers, then we should not expect the systems to be working as such. I think pioneers' job is actually to put the systems in place. If the system is in place but it is not working, make sure it works. This is the way I look at this oversight role of the Assembly. Please bring us all to account. That is my advice – (*Applause*) - of course within the bounds of the law - (*Laughter*).

The second point I want to touch on, which was also touched on in the report, is the issue of co-ordination and liaison between the East African Community organs and the Partner State organs. I know that one is very weak, starting with the East African Legislative Assembly and the national parliaments. I think the East African Legislative Assembly and the national Parliaments do not have much co-ordination and liaison in what we are doing.

Under the Treaty, the Clerk of the East African Legislative Assembly is supposed to be working together with the Clerks of Parliaments at the national level, even to know what Bills are coming up in the national parliaments, which touch on the East African Community matters. But I do not know how much of this is being done, because sometimes when we are in meetings in Kampala - at least in my experience – you will find that the officials in the ministries do not have any idea whether the reports they are proposing have an effect on the integration process.

In fact, the East African Community Management Act which was passed here, some of the officials do not even know that there is a law governing the whole of customs in the region. They are not aware! So, they go on operating as if they are still on their own. Even at government level, sometimes there are questions asked which show that somebody really does not know that there is a Treaty to which we are a signatory and, therefore, some of our powers have been ceded to the Community. So, I think we need to work consciously to establish these links between the East African Community organs, institutions and offices with the Partner State organs.

I am sure the prison officer in Sironko who uprooted your trees was not aware who he was answerable to. I do not think he was aware that he is answerable to East Africa. That is the problem – *(interjection)*. He believes he is the chief there in the Prison ward; he has the officers so he just goes and razes the whole place. So, I think we need to consciously start cultivating these links for co-ordination and liaison, starting with the House here. Please, demand to know what is going on in these Parliaments, and how they affect our work here with regard to the East African integration so that everybody knows. There ought to be concern at the national level of whatever policies are being proposed on the integration process. For example, nobody can ignore Brussels in the European Union; Even the growing of tomatoes must be in conformity with the rules of the Union, but here, we do not see much of that.

National institutions are not aware there is something called the East African Community, and some of the powers have been ceded to the Treaty. I do not want to repeat some of the incidents but you hear people say, “The sub-rule says we are a sovereign State, how can the Community come in?” But I said, “*Mheshimiwa*, there is something called a Treaty, and you signed it” *(Applause)*.

So, co-ordination is important, I agree, but it should be consciously cultivated. And, Mr Speaker, I think we should start with ourselves here by making sure that the Clerk to the East African Legislative Assembly is in touch with the Clerks of the National Assemblies of the Partner States. In fact, according to the Treaty, we are supposed to receive all the proposed laws of the Partner States and we see how they impinge on the integration process – *(Interruption)*.

The Speaker: Honourable Minister, I just wanted to inform you that all information that comes out of this House is transmitted to the Clerks of the National Assemblies after every sitting. It is the responsibility of the Ministers in charge of the East African Community to bring those matters to the Floor of the House for debate - *(Applause)*.

Mr. Kategaya: Being supposed to and doing it are two different things - *(Laughter)*. This is the point. I am sure even the Clerk here, whether he gets acknowledgement that his information has been received by those who are supposed to receive it...you send it, they send it to a filing system and that is all. The point I am making, sir, is, both of us...if the Clerk sends how does his colleague reply, or does he give copies to the ministers responsible for the East African Community? They system must work; it must co-ordinate. One cannot assume it works on its own – *(interjection)*. Mr. Speaker, sir, if I could be protected me from the lady behind me - *(Laughter)*-

The Speaker: Hon. Minister, in this House, everyone is an “Honourable Member”; not a lady.

Mr. Kategaya: Or honourable lady! *(Laughter)*

Ms. Wanyoto-Mutende: On a point of information, hon. Speaker, I would like to give some little information to the Chairperson of the Council of Ministers. I would like to tell

him that the systems of the East African Legislative Assembly and the national Parliaments are working. They may not be visible – (*Laughter*) - but maybe it is a tactical strategy like the one the Summit employed during the recent issues in Kenya. But for us as Members of Parliament who ply between Arusha and the Partner States, we have been following up these reports. Since we do not sit in the Chambers of the national parliaments, we expect the ministers who sit here and also in the national parliaments to take these matters to the Floors of the Houses. Otherwise, for us as Members and the Clerk, we are doing invisible co-ordination – (*Applause*).

Mr. Kategaya: Mr. Speaker, I think there is no need not to be visible - (*Laughter*).

Mr. Speaker, sir, on the question of the Lake Victoria Basin Commission, first on the Bill, I would like to report to the House that the Sectoral Council will be sitting from Monday, the 25th, to look at the proposals from this House and come out with a comprehensive and co-ordinated Bill for the Lake Victoria Basin Commission. There were requests by many members for the debate to come here, so after the Sectoral Council has sat, we shall definitely come here.

The other point I wanted to raise on the Lake Victoria Basin Commission is that in my view, there are so many un-co-ordinated programmes in that basin. All sorts of people are there, and I have not yet got a clear picture of who is actually in charge of those programmes. Where do they report? There is Victoria I and now Victoria II; they are so many. Maybe now that we have a Commission, perhaps we should now insist that it should be in charge of all these programmes and co-ordinate them, because it seems one arm does not know what is happening in the other one – (*Applause*). So my comment on this one is that the newly established Commission should really co-ordinate the very many activities on that lake.

Mr. Speaker, sir, I think the concerns of Members on monitoring and supervision of projects has now been raised. I think as Council, we should take our responsibility to call people to order – (*Applause*). And if there is money, we should make sure that we find out what is happening. I think that sometimes the Council may be given what it should see rather than itself taking initiative. There was a proposal for us to be here full time so as to do something important in terms of supervision. I am saying that this could be done, because coming here for a week of meetings from Kampala...I am not so sure that we have enough time to follow what is happening - (*Applause*). And since we are supposed to be fulltime ministers on the East African Community, then I think we need to be here and supervise and know what is happening – (*Applause*).

I know there are people who did not want us here, but I am sure that is not an issue now - (*Laughter*). That is not an issue because those who do not want us here did not appoint us, so there is no problem. But it is, again, a question of adjusting yourself and seeing that there is a new situation. Therefore, I think the co-ordination and monitoring should be there, and I pledge that as long as we are around, we are going to follow this up.

Lastly, there is the issue of the historical importance of participating in this integration process. I think this is very important and we should be proud that at the end our term we can say, yes, we found no monitoring and now it is there; we found no supervision, but now it is in place; we found no visible co-ordination of the parliaments, but now it is there. But again, as a pioneer, you must not cry so much, but actually innovate. That is what being a pioneer means! There was no East African system, now we are going to create one, and it is our job to see that we criticize in a creative manner by putting things in place, or by making sure those structures which have not been functioning properly do so. Mr. Speaker, sir, with these remarks, I support the Motion - *(Applause)*.

Mr. Christopher Nakuleu (Kenya): Mr. Speaker, sir, first of all I want to join my colleagues in welcoming the two new honourable ministers into the Assembly, without forgetting the Chairman of the Summit...sorry, I mean Chairman of Council – *(Laughter)*. I thought I was here with His Excellence, President Museveni.

Honourable Speaker, first allow me to thank the Members of my Committee who took much of their time to make sure that they bring to the Floor of this House a report that is objective, and for going ahead to put their own recommendations for the consumption of and further action by the Members of the Assembly.

Hon. Speaker, I wish to concur with the honourable Members who have debated this report since yesterday. All they have said goes along with our recommendations, but please allow me to react to a few comments made.

My first reaction is to the comments made by the hon. Dr. Machage. Although he was making his Maiden Speech, allow me to react because it what he said touches slightly on the Committee. First, the Minister asked what the Audit Commission's mandate or its terms of reference was. According to my knowledge, the hon. Minister is a doctor in human medicine, and normally the first terms of reference a doctor of human medicine is to treat people as a professional. From there, you can then continue to specialize in other fields; paediatrics, gynaecology and so on - *(Laughter)*.

By the same token, the first term of reference for the Audit Commission is that, first and foremost the members are accountants, wherefrom they specialized in audit. And the mandate they have been given by the East African Community is purely financial audit. And unless the East African Community expands their scope of work, the Commission will restrict itself to what it has been directed to do.

Hon. Speaker, the other issue that the honourable Minister raised was that Parliament does not bite properly. Of course, being a Parliament that is seven years old, we have tried in many areas. Article 49(2)(c) of the Treaty for the Establishment of the East African Community confers on the Assembly the authority to form Committees for the efficient discharge of its duties. One such Committee established by the Assembly is the Committee on Accounts, which went ahead and convened a meeting in Kampala and managed to come up with this report. This report has highlighted so many issues that

were not known to us or the Assembly. So, I wish to congratulate the Assembly for performing its function.

Hon. Speaker, the other thing is that Parliament has a unique role of oversight. Now, by the time we wrote this report, we had not seen some of these projects. So I concur with the honourable Members who said that there is a problem with the flow of information between the Assembly and the Secretariat, and, possibly, with the other organs of the Community.

Mr Speaker, here with me I have a letter I wrote on 8 June 2007, under the mandate of the Accounts Committee and through the office of the Clerk requesting the Office of the Secretary-General to furnish the Committee with all the EAC projects and their status of implementation. Up to now, my Committee has not got a feedback to this letter. And that is evidence that there is something wrong with the Secretariat. Whenever communication is effected, you must reply, otherwise there is a problem. The Clerk's office forwarded this letter in August and it is about six months since then and we have not got a reply. I am going to table this letter for reference by the Members – *(Interjection)*.

(Mr. Nakuleu laid the letter on the Table)

Dr. Wilfred Machage: On a point of order, Mr. Speaker, sir, I think it is prudent to look at the letter to see whether it is a legal document so that it can be accepted by the House.

The Speaker: I was going to ask for it.

(The Speaker perused the letter)

The Speaker: I think hon. Nakuleu failed to disclose that he also copied the letter to me. So, the letter is there and it is authentic – *(Laughter)*.

Mr. Nakuleu: Thank you, Mr. Speaker. I want to assure the Minister that whenever some of us bring issues to the Floor of this House, it is usually true information and we are always honest – *(Laughter)*.

Mr. Speaker, alongside that, I wish to concur with other honourable Members in requesting that the Lake Victoria Basin Commission Bill should be brought back to the House. Secondly, in our last audit report we recommended that an internal auditor should be recruited for the Lake Victoria Basin Commission, but even now the same recommendation is appearing in our report. At times you get tired of making the same recommendations again and again – *(Interjection)*.

I concur with the Chairman of the Council of Ministers that this Assembly should create its own space by being assertive. I therefore urge all organs of the Community to respect each other because we perform complimentary roles – *(Applause)*. There is no way the Secretariat can go and inspect projects when they are the implementing agents. So let that work be brought to the Assembly, so that whenever such issues arise on the Floor, we

will blame ourselves for not doing our work. Otherwise, we are also tired of blaming the Secretariat all the time – *(Laughter)*.

Hon. Speaker, on the issue of instituting a Select Committee, I totally support the hon. Ogalo's proposal, and I request you, Mr Speaker, to use your good office to expedite this so that when we come to be present the next report of the Accounts Committee, we will do it from an informed position.

Hon. Speaker, I would not wish to make a very long speech because I am not a linguist; I am a mathematician. Normally I speak little, and in form of formulas. So, with those remarks, I beg to move - *(Applause)*.

(Question put and agreed to)

MOTION

MOTION

For the Presentation and Adoption of the Report of the EALA Goodwill Mission to Kenya

Dr. F. Lwanyantika Masha (Tanzania): Mr. Speaker, Sir, I beg to move:

THAT, this Assembly, pursuant to the provisions of Article 49(2) of the Treaty and Rule 79(1)(h) of the Rules of Procedure of this House do consider and adopt the report of the Goodwill Mission to Kenya.

Ms. Safina Kwekwe Tsungu (Kenya): Seconded.

Dr. Masha (Tanzania): Mr. Speaker, before I present the report, may I also take this opportunity to welcome the two new Members who were sworn in yesterday. It was pleasant and a pleasure to hear the hon. Minister from Kenya when we were in Zanzibar, and I want to congratulate him for both winning his seat and for coming to join us here this time again. We are glad he was appointed to his position - *(Applause)*.

I have known Dr. Kamala for quite a while. He is a very effective voice for East African integration in Tanzania. I believe he will be an excellent addition to the voices that Tanzanians need to hear and move them towards political integration, which we are all seeking under the Treaty - *(Applause)*.

Mr. Speaker, you will recall that on 10 January 2008, you appointed a team of six Members of the Assembly to go to Kenya due to the violence which followed the announcement of the Presidential results of the 27 December 2007 elections in Kenya. Members of the goodwill mission were the hon. Margaret Zziwa, the hon. Dr. Said G. Bilal, the hon. Safina Kwekwe Tsungu, the hon. Maj-Gen. Mugisha Muntu, the hon. Sarah Talaso Bonaya and I, as the leader of the team. We were assisted, very ably, by Mr. Lugola, the Serjeant-At-Arms and Mr. Charles Kadonya, the Research Officer both staff of the East African Legislative Assembly. I wish at the very outset to record my most sincere appreciation for the wonderful team spirit which prevailed in the team throughout the duration of the mission.

Mr Speaker, the Mission had four main objectives:

1. To appraise itself of the humanitarian situation on the ground and the arrangements in place to deal with the crisis.
2. To reaffirm the Assembly's commitment to Kenya and to assist in finding a lasting solution to the crisis.
3. To visit the affected areas and console the victims of the crisis.
4. To deliver a contribution from EALA Members to the Red Cross as a show of solidarity and sympathy with the people of Kenya in their hour of need.

Mr. Speaker, the Mission arrived in Nairobi on the 11th of January and went to the headquarters of the Kenya Red Cross, where it was received by the Secretary-General,

Mr. Abbas Gullet. Mr. Gullet briefed us on the situation throughout Kenya and the humanitarian efforts by the Red Cross and other charitable institutions.

Quoting from official government data, Mr. Gullet told us that there were at that time 211,513 internally displaced persons throughout the country following the major eruption of election related violence on 30 December 2007. Most of these victims, according to Mr. Gullet, were in Nyanza, the Rift Valley, Eastern, Coast and Nairobi, and the worst affected areas were reported to be in Busia, Bungoma, Eldoret, Kibera and Mathare.

Mr. Gullet told the Mission that hundreds of homes had been burnt or destroyed, shops looted, crops burnt and at that time, 575 people reported dead. We have since learnt that over 1,000 persons have died. He also told the Mission that they had adequate supplies of relief food and non-food items which were being distributed to the various centres using the Red Cross network of 58 field offices in the country.

We presented Mr. Gullet a cheque of Kshs1 million as a token contribution by the Members of the East African Legislative Assembly to assist the commendable work being done by the Red Cross and other humanitarian agencies. So I want to thank honourable Members for that contribution – *(Applause)*.

Mr. Speaker, sir, for the next three days as we went around the country, we saw the magnitude of the tragedy that had befallen Kenya. We were not able to visit most centers with displaced persons. We visited, as you will read in the report, the following centers: Jamhuri Park Show Ground in Nairobi, the Roman Catholic Cathedral Camp in Eldoret, Langas Police Station Camp in Eldoret, the Eldoret Agricultural Showground Camp and Vihiga Police Station Camp in Nyanza.

By way of illustration, the camp at the grounds of the Roman Catholic Cathedral in Eldoret had about 5,400 persons; men, women and children, most of them just in the open without shelter and all crowded in the church grounds, each family cooking for itself the rations they received from humanitarian agencies.

In contrast, the camp at the Eldoret Agricultural Showground had 4,132 displaced persons, and I must say mostly Kikuyu and Kisii from North East, South Nandi and North Nandi. The camp was properly set with a good supply of food and non-food items, including tents. At the Eldoret Agricultural Showground, we were told of the ordeal they suffered from the Kalenjini and the Luhya, whom they had lived with for decades.

At the Roman Catholic Cathedral in Eldoret, we were received by Bishop arap Korir, who told us, among other things, that the clashes in the Rift Valley could be attributed to post-independence implementation of africanisation policies on redistribution of land, which was formerly owned by white settlers. According to the Bishop, the land was historically owned by the Kalenjini and the Maasai. After it was recovered from the white settlers, it was given mostly to the Kikuyu.

We also visited the remains of the Church of the Assemblies of God at Kiambaa on the outskirts of Eldoret where people seeking refuge in the church were doused with petrol and burnt to ashes. Another emotional moment was the visit to the home of the hon. Karan, our colleague and Member of this Assembly, whose home, family members and some neighbours miraculously escaped the wrath of their own ethnic group because of their support for PNU – (*Interjection*). Mr. Speaker, I am informed that as I speak, the hon. Karan is hospitalized in Nairobi, not for any violence related to these events, but for a medical case. We wish him early recovery and hope he will be able to join us soon.

The Mission met for about one and half hours with the leadership of the Orange Democratic Movement (ODM), including its leader, the hon. Raila Odinga. We also met some leaders of the Party of National Unity (PNU), but unfortunately those who had just been elected as Members of Parliament were in Naivasha, so we did not meet the Members of Parliament but we met most of the leadership at their headquarters in Nairobi.

The meetings with ODM and PNU were, perhaps, the climax of our Mission. I wish to refer Members of the Assembly to paragraphs 32 to 38 on what we learnt from these two parties.

Mr Speaker, this was neither a fact-finding mission nor a mission of inquiry into the crisis which followed the elections in Kenya. Given the time and resources that were available to the Mission, it was only able to visit a few of the affected areas as indicated in the report. It was also not possible to explore exhaustively the causes of the conflict and other aspects related thereto. The observations and conclusions in the Report are based on what we saw and the brief exchanges we had with the various parties, including the principals; meaning ODM and PNU. That notwithstanding, the Mission is confident that its recommendations, if implemented, would greatly assist reconciliation efforts, as well as help to deal with similar situations in the future within our region.

Mr Speaker, the Mission was well received in every instance, and almost all expressed gratitude to the East African Legislative Assembly for showing concern and solidarity with the people of Kenya in their hour of need – (*Applause*). Both ODM and PNU expressed trust and desire for the East African countries and the East African Legislative Assembly to remain engaged in efforts for reconciliation between the two parties to the conflict.

The Mission noted that despite the high level of mistrust between ODM and PNU, there were areas of convergence, which could lead to finding a solution to the conflict. The Mission was assured by both parties that they would not close the doors for dialogue.

Mr Speaker, the violence which erupted almost simultaneously in various parts of the country was triggered by the announcement of the Presidential election results. In several incidences, there were deep-rooted causes, especially related to land questions.

The Mission noted the generous contributions and donations in terms of goods and supplies by individuals and organizations in aid of the displaced persons. Similarly, the

Mission was impressed by the work of the Kenya Red Cross, religious and other humanitarian agencies for a commendable job to assist the displaced persons.

The Mission was concerned, though, about the reported lack of police protection for victims of violence during its initial stages, the separation of families of inter-ethnic marriages and cases of relocation of internally displaced persons to ancestral districts. These aspects have serious social and political implications to the future of the Kenyan nation.

We wish to underscore the very friendly welcome which we received from all those we met. We particularly wish to stress the confidence in the Mission expressed by the two principal parties in the conflict namely, ODM and PNU, and their hope that the East African Community Partner States and the East African Legislative Assembly could play a positive role in the search for reconciliation.

In light of the above observations and conclusions, the Mission recommends the following:

1. Given the confidence expressed by all the parties to the conflict regarding the role of East African countries and the East African Legislative Assembly in helping to resolve the conflict, the Mission recommends that:

(a) The Summit should appoint a team of eminent East Africans acceptable to the parties in order to facilitate reconciliation among the parties.

Please note that this report was completed on 23rd of January.

(b) The EALA should continue to be seized with the question of the conflict of Kenya until its resolution.

2. In conformity with Article 3 of the Treaty which requires “*adherence to universally accepted principles of good governance, democracy, rule of law, observance of human rights and social justice*” as well as Article 123(3)(d), the Mission recommends:

(a) That there should be established an East African Electoral Commission to manage future elections in Partner States – (*Applause*). The Mission believes that if the management of elections is removed from the level of a Partner State, it will remove some of the frustrations and mistrust that exist within States because of the fight for power internally.

(b) The Community should set criteria and establish a mechanism to respond to situations of breakdown of peace in Partner States. This would be in conformity with the Articles which I have referred to.

Mr Speaker, you will note that we do have those Articles in place but we have not set up the criteria and mechanisms which would allow the Community to respond to situations of break down of peace in Partner States. So the Mission is asking that we should set up criteria for the Community, or for another Partner State, to intervene in the interest of peace in our region – (*Applause*).

3. In conformity with Article 124(3) of the Treaty, which deals with regional disaster management mechanisms, the East African Community should establish a regional mechanism for disaster preparedness which would co-ordinate humanitarian efforts in any Partner State.
4. The East African Legislative Assembly should commission an in-depth study into the underlying causes that led to the eruption of violence in Kenya, and as a practice, should commission studies, as and when they are required, into any situation of potential conflict in any Partner State as a way of pre-empting conflicts.

Mr Speaker, we believe that all the Partner States of the East African Community have potential elements for similar situations to occur. Indeed, in some cases, these have occurred. In the case of Tanzania, there was the problem in Zanzibar; the cases of Rwanda and Burundi are well known, and the case of Uganda – the conflicts in the north is also well known. So this is not a unique conflict situation in the East African region, and we are saying that the East African Legislative Assembly should commission studies to look at how to pre-empt such violence erupting in Partner States.

Mr. Speaker, as you will note in paragraph 9 of the report, the Secretary-General of the Kenya Red Cross, Mr. Gullet sought EALA's help to get a waiver on duties on goods which they import for humanitarian assistance. We were told that at the moment, the waiver is done on a case by case basis, and they thought that delays processing. The Mission did not make a specific recommendation on this request because it was not in a position to study the ramifications of such a move. The Assembly may wish to direct the relevant Committees to study the matter.

Mr. Speaker, I have followed with anticipation the mediation efforts being undertaken by the team lead by former United Nations Secretary-General, Mr. Kofi Annan. Their efforts have raised hope that a solution to the Kenya crisis is possible and is in the offing. As we debate our Mission's report, I hope we will note Mr. Annan's commendable efforts and render support to his work and encourage the parties to reach an agreement. The people of Kenya need, and the people of East Africa need it. The success of Mr. Annan's mediation efforts would restore faith in our capacity and ability as Africans to solve our own problems – (*Applause*).

Mr. Speaker, let me conclude with an expression of appreciation for the security given to the Mission by the Kenyan authorities throughout our visit, and for the wonderful work done by our Sergeant-At-Arms, Mr. Lugola, who helped in liaising with the relevant authorities in this matter – (*Applause*).

As a goodwill Mission, its impact depended in part on getting wide publicity on its movements, pronouncements and financial contribution to the Red Cross. As I have heard this morning and this afternoon that a lot of the work of the Community is not known and that people do not own it because they do not know about it, the lack of an information officer in the team was a great handicap to the Mission. The Mission wishes to strongly recommend the recruitment of such an officer to publicize the work of the East African Legislative Assembly and its missions – *(Applause)*.

The team wishes to thank you, Mr. Speaker, for giving it an opportunity to observe history - albeit a tragic one - while in the making.

I beg to move that the report and the recommendations therein be adopted by the Assembly – *(Applause)*.

(Question proposed)

The Minister for East African Community, Kenya (Dr. Wilfred Machage (Ex-Officio)): Mr. Speaker, sir, may I thank this House for the time and energy it took to get concerned and to take action in to visit my country at a time of need? Thank you very much. May I also thank the Members of the East African Legislative Assembly for having gone into their own pockets and contributing a good Kshs.1 million for the purpose of helping the people of my country. I thank you very much. Your contribution, both in cash and kind is highly appreciated by my country and its citizenry. You have shown the unity that has to be learned and followed by the leadership of the East African Community. In this House, we have legislators from Kenya who were chosen by many parties to be Members of this House and I believe we will all work together as one team – *(Applause)*.

Mr. Speaker, sir, it is not very pleasing...I am not proud to stand in this House and speak about anarchy in my own country. It is actually shameful. If history is anything to be respected, no other country should go through that. However, inevitability cannot be avoided at times, and that is why we have history as a subject.

Kenya got her independence in 1963 with a constitution that was arrived at during the Lancaster House conference, most of it was the British constitution. Over the years, it has been amended and re-amended piecemeal to an extent that it cannot serve the Kenyan people. What we see in Kenya right now is actually a growing of a society that has overtaken the size of the constitution that was given to the Kenyans at that time. Our issues are more advanced than what the constitution can address.

We may have made a mistake two years ago by not adopting a new constitution despite the 15 per cent or so of clauses that were not acceptable to another party, but I think we could have amended them. But that, again, is history. But when all is said and done, a country must operate within the recognized legal and constitutional system. That is what the Head of State swore to do.

Yes, currently we have lost about 1,000 people; we have about 350,000 internally displaced people. Over the years Kenya had prided itself for being a haven, accepting refugees from nearly every country in Eastern Africa: Ethiopia, Sudan, Somalia, Uganda, Rwanda, Burundi and even Tanzania. When I was in Home Affairs, we had 235,000 refugees in camps. Now, I am told that in Uganda we have about 12,000 Kenyan refugees. In Tanzania, the records we have are a bit patchy, may be about 50, but all the same, refugees. This must be stopped.

The Committee has made good recommendations; I think they are wise recommendations, most of which is actually being implemented now. The revenue loss, the socio-economic loss, the political impact in the region will never be forgotten. We, all of a sudden learnt how much we are one country. I was actually jittery when the Chairperson of the Council said, “hon. Machage, can you come to Arusha”, through a letter written for him by the Secretary-General. I said, “What? Did you ever call me and have you ever called me in Uganda, when you have been having problems in northern Uganda even up to now? Was Kenya ever called when Zanzibar had problems?” But that is history – (*Laughter*).

Indeed, the neighbouring countries felt it. But for quite some time, and actually even now, Kenya still thinks - and we think rightly so - that this is our internal problem. We are a sovereign country who cannot be dictated upon by the likes of President Bush, that we share authority with the losers of an election when he himself did not share authority with Al Gore...after he is claimed to have rigged him out – (*Interjection*). That is a fact. When a spear is sweeter to the pig and painful to you...really there must be standards. But, again, that is history.

There is now peace in Kenya; that is the information I bring here, the good tidings; the gospel – (*Applause*). Kenyans are tired; it took a very short time for Kenyans to be tired of anarchy. Clap for us; it took a very short time. Right now I do not think anybody can call for a demonstration in Nairobi and succeed, because Kenyans have learnt the hard way. I wish we had learnt from the history of Rwanda and Burundi. Nonetheless, we have learnt a lesson.

The internally displaced people are being well attended to. The enormity of the population was not anticipated, but all the same, resources were there. We thank all the other countries, apart from this Assembly, who in one way or another helped Kenyans at their time of need. The population you found in those centres is either dwindled or no more in some centres, because people have either gone to their areas of residence or to other areas of their own homes.

The principal contenders of the whole episode are in talking terms, but everything must be done within the framework of the constitution, and that is the prayer I give to anybody who dares to comment on the Kenyan issue. Whatever is being done must be done within the framework of the constitution, otherwise the constitution is changed before anything is done. I hope this is a language that cannot be debated on; otherwise we will have a

precedence set, not only in Kenya, but in the whole region. If a precedence is set in Kenya that a group can rise up against the government and is accepted by disobeying the constitution...that must not be allowed to happen.

The picture we see in my country is a picture of an electoral process where two giants fought and they had nearly equal support. That is the truth, but one was bound to win. That is the truth with any election. It is a two sided coin; you toss it, it is either heads or tails. There are laid out machineries for arbitration or complaints. When you lose in politics - we are all politicians here; it could either fairly or unfairly, but all the same you have lost. It depends on who is addressing the subject. The loser will always say he lost unfairly and the winner will always say he won fairly. That is the truth about politics. The civilization of accepting that you have either won or lost is subjective. Some people are gentlemen or ladies, others are not. I am not directing that at anybody – *(Laughter)*.

Mr. Speaker, we need the support of the East African Legislative Assembly and the sister countries to my country. I thank so much the Chairman of the Summit for the work he has done, both visibly and invisibly, in the mitigation of the crisis – *(Applause)*. I thank the Chairman of Council, who has more-or-less been in Nairobi throughout – *(Interjection)* - to you invisibly, but to me very visibly – *(Applause)* – because more often than not, he has had to come through my office, we make appointments with the Head of State and sometimes he comes alone on a special mission...these are details that I may not want to reveal here. I thank the Tanzanian government for the part they have played to bring normalcy in Kenya.

Mr Speaker, what has happened really underscores the fact that we need a federation – *(Applause)* - because if we were in a federation, we would not have had that kind of thing; it would have been easy to start an East African commission of inquiry, as recommended, which can still be done before the federation – *(Applause)*. We need to mature our politics to a certain level, instead of some people thinking they were born to be chiefs and kings and what not. I agree that power distribution is important, but looking at our own constitutions, the Swahili say, “*ukiona kichwa cha mwenzako kinanyolewa anza kutia tia chako maji.*” Do not look at Kenya the way some people may want to look at it. Learn from what has happened in that country. Learn! I thank you, Mr Speaker – *(Applause)*.

Ms. Safina Kwekwe Tsungu (Kenya): Thank you, Mr. Speaker, sir. Since I seconded this Motion, allow me to say a few words.

Mr. Speaker, sir, there are some things that happen to us as humans that we never appreciate until either they happen to us personally or we see them happening to others. I think, for the situation in Kenya, some people may not be able to appreciate it as much unless they either live it or see it happening. The indignity of displacement and the loss of life is not something that anybody should ever go through, be they losers or winners of an election. As this report has clearly outlined, there are both symptomatic causes and systemic and structural causes that lead to conflicts of the kind that we have seen in

Kenya. What the nation saw were the symptoms, but we also learnt that there were structural and systemic causes to this conflict.

Hon. Speaker, at the time of the visit - as the report clearly says - there were 575 people who had died. That number has doubled now, in a span of two and half weeks. The number of the displaced has also almost doubled. Therefore, as we sit here and discuss a situation that has happened in a Partner State, we must at it from a very serious perspective. I was one of the people on the Goodwill Mission team, and I am speaking as a person who saw and experienced it happening. Therefore, I am speaking from a point of knowledge.

Mr. Speaker, sir, on the issue of human life, neither the means justifies the end nor the end justifies the means. On either side of the equation, so long as there is loss of human life, there can never be any justification for that equation. Therefore, whether the loss of life is through the excessive use of force by security forces or it is through anarchy or civilians against civilians, there can never be any justification for that, and this House has clearly said so – (*Applause*).

Mr. Speaker, the honourable Minister actually read my mind when he quoted the Swahili saying that “*ukiona kichwa cha mwenzako kinanyolewa, anza kutia chako maji.*” But why is it so? As much as it may be more comfortable to be forcefully shaven when your head is wet, it is still not fun to be forcefully shaven. So, whether you wet it or not, it is not fun. It will only be less painful but it is not fun nonetheless. Therefore, I want to quote another Swahili saying that: “*Zimwi likimla mgonjwa mzima, wewe mgonjwa funga mlango.*” For the benefit of a few of us, that literally means that if the ogre eats the able, you who are disabled you better close your door. I am not insinuating that there is anybody who is disabled in this Community, but what we are saying is that history gives us lessons, and as wise people we learn from those lessons. Only fools disregard history.

Mr. Speaker, sir, I therefore take comfort in the fact that during our visit, we saw remorse in the people who had participated in either destroying property or killing. And, this in itself paves way for repentance and forgiveness, and that is part of the healing process. So, I take comfort in that. I think that is why, as we sit here today, we are saying that the Kofi Annan initiative has shown that there can be peace in Kenya and I believe there will be peace in Kenya.

Hon. Speaker, I also take comfort in the fact that everybody we spoke to had one message: we want to see ourselves as East Africans being engaged in the Kenyan situation. We want a home-made solution to our home-made problem. Paragraphs 35 and 38 of the report clearly underscore that.

But, hon. Speaker, as much as we sometimes want to play invisible roles in situations that are precariously volatile like the one in Kenya, sometimes invisibility creates a vacuum, either perceived or real – (*Applause*) - and a vacuums are very dangerous, because they will always be filled with something; either a rumour, a misconception...Mr Speaker, we would probably be talking about other issues in this Assembly now because when we

were in Kenya, there was a rumour going round that there were Ugandan forces in Kenya, and that the van that we were using as the goodwill mission was the van that had brought the forces from Uganda. Hon. Speaker, probably that was because they saw Maj-Gen. Muntu in that van and thought that we were his forces – (*Laughter*). But, supposing action had been taken on these “illegal forces” or “aliens”, what would we be speaking about today in this Assembly? Probably something else! But this was because there was a vacuum, and that vacuum was filled by rumours.

There were even rumours that the Tanzanian government was turning back refugees at Isebania whereas in Uganda they were being hosted and, therefore, Tanzania was very hostile. Those were rumours. But because there was a vacuum, because we were there invisibly, the Wanjiku, Atieno, Fatuma were not seeing those invisible efforts and they were filling them with their own creative creations and ideas; rumours.

Hon. Speaker, I want to conclude by saying that the recommendations that this report has put forward are not in any way apportioning blame on anybody, but they are aimed at setting the stage for a peaceful region. As we grow as a Community, we anticipate that we shall also bring on board many divergences in terms of minds and ideas. And we know that if we were to take on board these recommendations, those divergences would be amicably dealt with. Therefore, for the East African Community, if the truth be told, by the time we were going to Kenya, people were saying “we do not see the relevance of the East African Community.” That was the truth. They were saying they do not see the relevance of the East African Community. Therefore, I think now it is time for us to prove our relevance. And we can do that by adopting the recommendations of this report.

Mr. Speaker, sir, I beg to support the motion – (*Applause*).

ADJOURNMENT

The Speaker: Honourable Members, I saw many hands raised, but after the Minister dared, I saw all the hands go down – (*Laughter*). So, for us to better read and internalize the report, I will adjourn the House until tomorrow at 2.30 p.m.

(The House rose at 5.30 p.m. and adjourned until Thursday, 21 February 2008 at 2.30 p.m.)