



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

FOURTH MEETING- FIFTH SESSION - SECOND ASSEMBLY

Monday, 23rd April 2012

*The East African Legislative Assembly met at 2.30 p.m. in the in
the County Hall, Nairobi, Kenya*

PRAYERS

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

The Assembly was called to order.

LAYING OF PAPERS

Mr. Frederic Ngenzebuhoro (Burundi): Mr Speaker Sir, I beg to lay the report of the Committee on Legal Rules and Privileges on the audit of EAC laws and legislation on the Table of the House. Mr Speaker Sir, I beg to lay.

THE EAST AFRICAN COMMUNITY HIV/AIDS PREVENTION MANAGEMENT BILL,
2012

RESUMPTION OF DEBATE WHICH WAS INTERRUPTED ON THURSDAY 19TH APRIL
2012

The Speaker: Hon. Members, as you are aware, we had an interactive debate on this matter but I am informed that the committee wants to make a small announcement or correction before we continue debate on the same.

Dr. Odette Nyiramilimo (Rwanda): Thank you Rt. hon. Speaker. We had given the report of the General Purpose Committee on this Bill but we reconsidered the amendments that we had brought to the Bill and we gave another paper that was circulated to all the Members which is addendum to the amendments to the EAC HIV and AIDS prevention and management Bill to add on the report that we had to correct some amendments that had been made. Thank you, Mr Speaker.

The Speaker: Hon. Members, I think the document has been circulated so debate is open. I think the committee was very clear and we can go to Committee Stage?

Ms. Nusura Tiperu (Uganda): Thank you very much, Mr Speaker. I wish to support the report and also to add my views on to the report but first of all I would like to thank you, hon. Speaker that it is during your time when EALA is discussing a matter that is very pertinent to the hearts of many East Africans.

I want to make it clear that I support the East African Community HIV/AIDS prevention management Bill and I also urge my colleagues to support the same.

Mr Speaker, allow me to thank the organisations like EANASO, the East African Law Society, our clerk Ms Barinda and others who worked tirelessly with the committee members to ensure that we come up with an appropriate Bill befitting the interest of the people of East Africa.

I will give reference to one of the consultations we had in Uganda where we had participants including those who were living with HIV and they were very excited. They told us that many of the Partner States have got policies to do with HIV. Some have Acts but however, they were not rights based and this Bill for the first time was a right focused Bill and that it catered for the interests of the people living with HIV. It looks at issues of not only control but also prevention and management and

therefore it puts it at a level befitting to the condition of the scourge in the region.

Many of them said they were facing discrimination and that this Bill will help to ensure that those who have been facing discrimination among the society will have at least legal mechanisms to seek redress.

I also support this Bill because it is timely. There is a regional trend in the whole of Africa where we have regional blocks coming up with laws to fight the HIV scourge. For instance in West African and Central Africa, there is already a law which is called N'Djamena Model Law on HIV. In SADC there is also a model law and what was lacking was in East Africa. So with this Bill, at least as East Africans we are also going on record or in history for having at least vehemently come in to fight the scourge.

As East Africans we are proud about our population. Our population is slowly dwindling and so as a regional Parliament if we do not come up with a Bill like this then we would have nothing to brag about.

I will give you a case in point of a report in 2008 from Uganda where over 120,000 children between 0-14 years were tested

positive, 61,360 died in 2008 and out of 1 million women who attended antenatal care, 57 were discovered to be HIV positive. This is an indication that the disease is there and a regional approach would be the best way to ensure that at least something is done.

The people also demanded that the role of EAC be made clear so that the contribution of EAC to the control of AIDS in the region is put in clear terms and where Partner States cannot manage, a regional mechanism especially to provide ARVs is sought.

I wish to take this opportunity to call upon my colleagues to support the Bill once more because this Bill provides for the interest groups like children, women, persons with disabilities- People who are vulnerable. This Bill focuses more on information, education and communication, a matter that is very crucial because we still lack information on mechanisms of prevention at our work places, in the institutions and so forth.

The Bill further talks about testing, counselling services and so forth but what seemed pertinent was the issue of voluntary testing other than compulsory testing and so the people within the region are wondering what happens to the armed forces where people are forced to test. I think the House has to come out

clearly on whether we will have exceptions where testing may not be voluntary. Maybe Gen. Muntu may help us in that regard but there was serious concern on what happens to armed forces and pilots who are always mandated to do compulsory testing other than voluntary testing.

I therefore wish to call upon pregnant mothers to continue taking tests because through that, we have had many children saved. I also want to call upon husbands to escort their wives whenever they go for tests.

According to most of the surveys, while women go for testing, many men refuse to go. I can share with you my own personal experience. When I went to hospital and the doctor told me and my husband that we should test, he took off. At my level, if my husband could take off when he is told- Hon. Kidega is warning me because they are friends, he is going to tell him. If he could take off then what happens to the husbands of those women in the villages in Kisii and so forth?

So I want to use this opportunity - (Interruption) -

The Speaker: Hon. Tiperu, are you in order to talk about somebody who is not here to defend himself that he took off?

Ms. Tiperu: Hon. Speaker, hon. Kidega is around to defend him. Otherwise it is sad because when you see most of the women going for antenatal clinics, sometimes when a man appears the rest wonder what that man is made of so there is a problem. There is need for husbands to take their women and also be tested because many are using their women as yardsticks to know whether they are positive or not so this is really very crucial.

I also want to call upon the public not to discriminate those who are living with HIV because in all the consultative meetings, we stay with people who were positive. We could not tell who was and who was not but during the responses, that is when somebody is giving testimony on how many years he has spent with the disease and you could look at some of those who were not positive looking more unhealthy than the ones who were positive.

So let us not discriminate one another. We should love those who are positive even more and support them where necessary.

I support this Bill because it is one of the Bills since I came to Parliament that has had the highest level of consultations; where we have had consultations with Partner States, Members of Parliament, civil society, we have had consultants engaged and I

believe that with what we have before us, I think the region will really be proud.

Some of the people actually called upon us as EALA under your leadership to pat our backs for this job. It is the first of its kind and I think we really need to feel proud because for the first time we are going to do something that is really a demand of the whole Community.

The people feel that they have been let down by their governments. You know many of the governments have always been part of declarations both regionally and internationally and yet when they come back, they do not commit to what they have agreed to do like the issue of health care or provision of ARVs to all by 2010 according to some of the UN and continental declarations but up to now, nothing is done.

We pray that with the coming in of this Bill, something tangible may happen and governments may really begin reflecting on the responsibility on their necks so that they try to help. Mr Speaker, the Bill is comprehensive on the issue of information and information is crucial so for that matter, I would like to support.

We also have an issue of the difference in the legislations in the Partner States so through this Bill, we will get a harmonised policy in the region that can be used in the fight against the scourge.

On the overall, I think this is a good Bill and I pray to my colleagues that we join hands and support the Bill. The Bill is good right from the way it is named; a Bill for prevention and management of HIV. This disease is real. If you do not have it, you have a parent or friend or relative suffering from it. This is the time for us to look deeper into the disease and also look at those affected by it in totality.

I wish to stop here, I thank you hon. Speaker and I call upon my colleagues to overwhelmingly support this Bill. *Asanteni sana.*

The Speaker: I think I will call hon. Kidega, maybe he can confirm some of the things hon. Tiperu said.

Mr. Dan Kidega (Uganda): Thank you so much Rt hon. Speaker. From the onset, I would like to thank the mover of this Bill, hon. Lydia Wanyoto Mutende.

Mr Speaker, this Assembly deserves a pat on the back for the about 35 and now tending towards 37 Bills that have been passed in this house and many of them have been Private Members' Bills. So I would like to use this opportunity to thank hon. Lydia for coming up with this Bill but go a little further and thank all the hon. Members who have made this Assembly very active by introducing Private Members' Bills. I am personally grateful to all of you.

HIV/AIDS scourge is a very dangerous disease. It has attacked an area which is very sensitive. Had it been that it was found in red meat, we would all stop eating red meat or had it been that it is in beer or any other thing, we would find a way of circumventing it but where this thing lives is the source of humanity. It is the area of procreation and assurance of human continuity so it is very difficult- (*Interruption*)

Dr. Nyiramilimo: Thank you, Mr Speaker Sir and I thank you, hon. Kidega. I wanted to give the information that HIV/AIDS does not live in a localised place of the body but it circulates in the blood so it does not stay only in one place. Thank you, Mr Speaker Sir.

Mr. Kidega: Thank you hon. Dr Nyiramilimo. I guess that is technical information which I do not want to go deep into but I know for a fact that of the many ways through which the HIV virus is acquired, about 60 percent is through tendencies towards procreation or looking of ways of making sure that humanity continues in existence and that was the point I was driving at. The fact remains that it is a sensitive disease in a sensitive place. *(Interruption)*

Mr. Sebalu: Thank you very much Mr Speaker, Sir. Definitely hon. Kidega is right when he says that 60 percent is got through activities to do with procreation but I just want to inform him that the recreation aspect also contributes because there are those who engage in activities of recreation from the localised hon. Odette talked about. *(Laughter)*

Mr. Kidega: Thank you, hon. Sebalu. This Assembly deserves to give this Bill the seriousness the Bill deserves. We have challenges that are associated with our health sectors. In specific terms, we still have problems of access to health services. Last week the leading daily newspaper in Uganda called New Vision published a story of a young girl who used to walk about 17 kilometres looking for access to ARVs. She died and that saddened me. In the category of that young lady, there are so many East Africans who are dying in search for treatment be it ARVs or other preventative measures.

So if this Bill can move further and address problems of that nature, we should really support it and make sure that it curbs such situations.

Many mothers to date still give birth to children infected with HIV vertical transmission can be prevented but because of lack of access to medical services, we have a huge population of innocent children suffering from this virus. So I think we should work hard with the Partner State governments to make sure access to health services is improved specifically in this area of HIV/AIDS.

Mr Speaker, this drives me to the second point of the issue of procurement of drugs and other inputs used for addressing this

problem. I know there are efforts towards harmonising procurement processes of drugs generally in this region but for this particular case I know for a fact that there is a factory in Uganda which is manufacturing ARVs that can be used to treat people in this region.

I think we should support our scientists and initiatives that tend to produce drugs and inputs that can help us treat ourselves locally than looking for far places and expensive drugs and inputs. So this Bill should also go further and address questions of procurement.

The relation between man and woman in our society is still skewed towards man being the dominant character. This is a fact and most times you find that our sisters or wives and mothers are put upon unnecessary burden to deal with societal problems. I am yet to see when we go clause by clause how this Bill can help to make sure the disease burden on the woman is made less by making sure there is shared responsibility in dealing with the challenge.

My dear good friend hon. Nusura Tiperu alluded to the fact that some men always take off when they go to the clinics for antenatal care when they want to check for the HIV status of their pregnant wives. Yes, that practice could be there but the

personality referred to- I know him as a very sensitive good gender sensitive gentleman who takes care of my good friend very well and I am sure he is one of those gentlemen in this region who will do all that it takes to make sure his family is healthy. I think many men in this region should emulate him.

Finally, I would like to appeal to our governments to make sure that testing becomes compulsory in all institutions of learning from tertiary where people become sexually active to all the colleges and universities such that our young population that is growing up is aware of their HIV status and made more sensitive.

Finally I appeal to all leaders to continuously take and sensitise populations about this disease. I thank you, Mr Speaker and I support the motion.

Ms. Emerence Bucumi (Burundi): Thank you, Mr Speaker Sir for giving me the opportunity to give a small comment on this Bill. Before I proceed, I want to sincerely thank His Excellency Mwai Kibaki, the President of the Republic of Kenya and the Chair of Summit of Heads of State for joining us during the opening ceremony of this session. (Applause)

I would also like to thank our host members of EALA from Kenya for the warm hospitality. We feel at home. (Applause)

Mr Speaker Sir, this Bill is one of the legal instruments which give hope to the people of this region. Since 1982 up to now, we heard that the Sub Saharan Africa is one of the areas in the World which is highly affected with the HIV/AIDS pandemic. Even after a lot of effort when made to fight the HIV/AIDS pandemic, so many new cases continue to be detected. This is the reality.

What does prevention of HIV/AIDS mean? In my understanding, this means to stop new cases of infection of HIV/AIDS. We should aid at ensuring that one day we shall have no more new cases of infection of HIV/AIDS. This is my dream but I hope that one day this will become a reality.

It is our role to put in place this legal instrument so that we can protect our people. We should not only out this legal

instrument in place but we should also ensure that it is implemented effectively, I support the Bill and thank you once again, Mr Speaker Sir.

The Speaker: Hon. Members, if you could all emulate hon. Bucumi. She was to the point; she said what she wanted to say and with a few minutes. *(Applause)* Hon. Members, we can learn from her.

Mr. Mike Sebalu (Uganda): Mr Speaker, Sir, now I am the one to begin the test. I will try. That is a very good example and I will try, as much as possible, to emulate her very good example. This Bill is timely, it is necessary and I believe well thought out given the situation we find ourselves in as a region.

You will appreciate that we are undertaking an integration arrangement that is people centred and therefore in all that we do, we need to put that at the centre of our integration. We therefore need to come up with pro-people laws in terms of ensuring their healthy status.

The population of 130 million people or slightly over needs to be healthy if we are to achieve the targets and objectives that we have set for ourselves as a region because whatever we intend to do in terms of improving our trade and our infrastructure, it is all aimed at ensuring that the welfare of the people is top of the agenda of our priorities as a region and nothing can be more important in this respect than ensuring that our people are healthy.

One way of dealing with a problem of this magnitude is by acknowledging and appreciating that indeed there is a problem. This law is doing exactly that. We are simply saying we do have a problem in this area and we need to have in place a regulatory

framework to deal with it. So that is a very important point of departure of we are to be able to achieve what we have set ourselves to achieve and it could not have come any better at the stage of the Common Market, which envisages high mobility given the freedoms and rights that are enshrined in the Common Market.

So as people move, we need to have some regulatory provisions in place to ensure that infection and re-infection are managed and this law does a good job in looking at that area.

Finally, we do have to put a lot of emphasis on information, education and communication strategy because through good information, through empowering the population with information regarding ways and means of avoiding the scourge, this can go a long way in helping our people to avoid those risk activities that may put them in risk of acquiring the scourge.

So the law is definitely a good one and I pray that once it is passed, implementation is made easy and is done in a timely manner so that at the end of the day, the people benefit from the provisions of this law in terms of helping them prevent and manage the HIV scourge.

I have really tried to emulate her example; I am not too sure whether I have- Thank you Mr Speaker, Sir.

The Assistant Minister for EAC Affairs, Tanzania (Dr Sadala Abdallah): Thank you so much, Mr Speaker Sir. There is no doubt that AIDS has been declared by the WHO to be a pandemic. It is not an epidemic but a pandemic so intervention to wards it for East Africans at least has to be done at the regional level.

We are saying that because through the Common Market, we have a lot of cross border modalities of infections. We have truck drivers moving around, we have frequent travellers and business men and there are also people moving from Zanzibar and some of them going to get married in Uganda in the spirit of deepening and widening the integration.

So I have to stand here and support this motion because being a doctor, I believe that this Bill is very good. However, it has also been declared by our heads of state that this is a national disaster so I think there is no way out. If a member of Summit declares things to be a national disaster, we should not support this for the benefit of East Africans.

A lot has been done on HIV/AIDS especially curative and preventive measures like provision of ARVs, bulk procurement of ARVs at the regional level and even the move towards the production of ARVs within East Africa. However, I have to accept that there is a very big gap on the social aspects of it.

A lot of trainings must be done at work level, awareness, counselling and VCTs must be done, intensive ... of the people and also home based care which was very tense at the beginning but nowadays starts to go down.

The second thing is the legal aspects of affected people; widowers and widows, orphans and other vulnerable groups, people living with HIV/AIDS and others are not fairly treated within our Community. There is a lot of mischief, disputes especially to widows and children who are vulnerable so I believe that this Act will bring up together policies and other Acts related to this within the region and harmonise them to be under one umbrella.

Lastly, I saw the Act with some elements of economically empowering the affected and vulnerable groups. Most of them are children, poor ladies who are dependent so I take this opportunity as a Tanzanian to urge my Partner States that we should also include the issue of economic empowerment of this people in this Act.

Having said that, I support the Bill and I commend the mover that she brought a very good Bill for the Community. Thank you so much, Mr Speaker Sir.

Ms. Catherine Kimura (Kenya): Thank you, hon. Speaker for giving me the floor. Let me start by commending the move of this Bill, hon. Lydia Wanyoto and indeed the framers of this Bill because indeed we call ourselves a people centred Community and I believe this is one of the Bills that we have debated in this House that goes to the heart of people centeredness, it touches us.

I do believe that each one of us here present must know somebody; a relative, a friend or a friend of a friend who has succumbed to this scourge so it is timely and indeed we do hope that it will be implemented and the Council of Minister will put the mechanisms in place and the institutions that are called upon to be created under this Bill will indeed come to light sooner than later.

I want to specifically talk on one issue bearing in mind your comments that we be brief and to the point and this is the issue of bio-medical research that is contained in this Bill. I want to commend the framers of the Bill in putting this particular clause in this Bill.

We are aware that researchers have come into our region and particularly talking about Kenya where they have gone into

children's homes and particularly homes that are set up for HIV infected children and they have carried out unethical research.

They have also taken other groups of infected people, done research on them without disclosing why they are taking certain specimen, medical tissue or blood removed from these people.

So we do hope that this will put an end to that kind of research. It has been unethical for some reason, sometimes it has gone on unchecked but now that we have a law in place, it becomes necessary for the ministry concerned to make sure that any research that is done is done in an ethical manner.

So I really want to commend the framers that this particular issue has been taken into consideration because one may also want to ask, who does this research benefit? We never hear of what they have come out with. Some of the specimen the research is not even done here, they just collect the specimen and they go to do their research overseas.

So this is very important that it will be done now within the law. Hon. Speaker, the issue of information and communication is very important because unless people know that there are ARVs, unless they know that there are counselling services, unless they know that not anybody coming out of there should come and

take blood samples from them, the people with HIV/AIDS will continue to be a very vulnerable group, open to abuse by a whole lot of people.

So let me hope that the relevant authorities will see it fit to continue with communication strategies that reach the people who are suffering. I want to stop there, hon. Speaker cognisant of the fact that I am sitting next to a person who set the pace. I support the Bill, thank you hon. Speaker.

Ms. Dora Byamukama (Uganda): Mr Speaker Sir, thank you very much for this opportunity. I want to commend the committee for the great work they did as well as the mover of this very important Bill.

Since most of the point shave been said, allow me to just make a few since you have warned us on time. First and foremost, when you look at the research on HIV/AIDS, you find that although Africa is home to 14.5 percent of the World Population, it is estimated to be home to 69 percent of people living with HIV/AIDS and it also has 72 percent of all AIDS deaths and this is as at 2009. I think these figures speak a lot about our continent because it is indeed a continent which is being stalked by death by this very pandemic.

When you look closely at the figures at the East African Community and I was able to get some on Tanzania, Kenya and Uganda and I believe this also goes for the others, you will find that the deaths in 2009 were totalling to about 80,000 people dying annually from HIV/AIDS. This is very grave and it is of course combined with malaria, TB and other aspects. Therefore, I want to thank you and the House for bringing this issue to the fore because it is very central and very important to our wellbeing. It is a matter of life and death.

My second point goes to the fact that this particular Bill address issues of protection and promotion of human rights of persons living with or affected by HIV/AIDS and other related matters. Most of the East African countries have some form of laws against HIV/AIDS. Some are very comprehensive; others are in the criminal law. Having said this because some of these aspects such as exposure to HIV/AIDS or HIV transmission have been criminalised, it has brought very many challenges and I am glad that this particular Bill will be able to look at this particular aspect and rectify this dimension which is detrimental to most of our people.

Let me give an example of mother to child transmission on the issue of HIV/AIDS. The mother may have taken all the precaution but the child still gets infected with HIV/AIDS. Do we punish the mother in these circumstances? So this criminalisation of exposure to HIV/AIDS or transmission needs to be reviewed in light of this particular Bill.

Mr Speaker Sir, I would like to make note of one particular issue which has been touched on and this is the A, B, C campaign; abstinence, be faithful and condom use campaign. There has been some degree of fatigue on this kind of constant message

and therefore there is need for nouveau ways of talking about this particular issue.

There are some nouveau methods being used for example in Uganda whereby someone calls another and tells them to get off the sexual network because by sleeping with one, you are in effect are sleeping with all the people that person has slept with. This is very nouveau and I believe that instead of criminalising exposure to HIV/AIDS or HIV transmission, we should focus on nouveau ways and messages of ensuring that we stop this scourge.

Finally, my point is on the issue of research. As hon. Kimura has said, I think we need to do more and I am glad that the Treaty is very explicit in this area under Article 11(8)(d) it says that we should "harmonise national health policies and regulations and promote the exchange of information on health issues in order to achieve quality health within the Community". It also talks about the issue of research. With this in mind under (d) it is very specific about pharmaceutical products within the Community. In this regard, I believe it is high time that we consider looking at the issue of intellectual property especially as far as pharmaceuticals go so that we have joint funding, which will enable us research into these areas such as

those that touch on very important issues which would avail our people with medicines as well as prevention and maybe finally a cure to HIV/AIDS.

Mr Speaker Sir, I support this Bill and I believe that it will enable us to reach out to all East Africans and in particular a category of people whom we have not been very keen to spot on and these are the young people who have abstained, who have been faithful and who have used condoms but because now they were born in the early 1980s, they find that they are already infected with HIV/AIDS because they got this from their mothers.

This is a group of people which is increasing and I think we have to find a way of making sure that they live a normal life and that they are able to enjoy the benefits- (*Interruption*)

Mr. Kidega: Thank you, hon. Dora for giving way when you are almost tending towards your conclusion. When you are categorising a group of people who are innocent and who are being infected because of negligence or lack of certain framework to protect them, culturally in this region there is a group of people also who claim to be African doctors. They run clinics in villages and minister certain treatments and even confuse particularly the female gender. They infect them so this Bill should also look into areas of our cultural practices. Thank you.

Ms. Byamukama: Thank you, hon. Kidega. The Bill does actually take that into account and that is why I highly commend what it has done. I am particularly looking at this age group of people who may be 30 years because they were born in 1980 and they are the biggest group in our community because they make a big component of the youth and they were born with HIV/AIDS. They are sexually active and it is not because of their own doing but they have to live normal lives and fund families.

So I believe that we need to look at this more closely to find a way of encompassing their needs and making sure that we all live a healthy life.

All of us are at risk. Anybody who is sexually active is at risk and therefore this law addresses all of us and I want to thank you again and I support the Bill.

Mr. Peter Munya: Thank you, Mr Speaker. I would also like to start by saying that the Council of Ministers supports this very important Bill. I also thank the committee for accepting to withdraw some of the amendments that could have forced us to look for money which we do not have. So I encourage that spirit of reproachment between the Council and the committee so that we can be able to make positive forward movement.

The Speaker: Honourable, I thought you were going to- For the council to say they support it, this rarely happens so I am surprised you are so quiet when the minister says he is supporting the Bill.

Mr. Munya: Mr Speaker, I don't know whether the House does not believe. Indeed the Council supports this Bill firmly.

When the HIV/AIDS monster reared its ugly head in the early '80s and then devastation was caused in the '90s, most of the people were afraid that this was going to clear humanity and especially Africa. I even remember there was a debate that went around that there was something peculiar about the Black race, why was the disease concentrated in those areas? So there was that fear that went around the countries all over in Africa and in black populations even in America because you could again see black

populations in the World having more HIV infections than other places.

I think that debate is no more because in Africa and especially in East Africa, programs were developed that were able to bring this forward movement of this monster to some manageable level in fact to slow it down completely. Now you see people confidently speaking saying that we have been able to manage the disease.

So Mr Speaker, I therefore wanted to take this opportunity to laud and congratulate the government of East Africa for carrying out very successful programs in partnership of course with Global Fund and other donors that were also fighting this disease.

Despite these successes that have brought down AIDS related deaths and that have also prolonged the lives of people who have the disease and also removed some of the taboos and also considerably removed the discrimination that was going on, we still do not have a harmonised approach to dealing with the disease at the East African level and this is the gap that this Bill comes in to fill.

Mr Speaker, I am also quite encouraged about the approach that the Bill takes; that of a rights-based approach emphasising the rights of people living with HIV/AIDS and the rights of the people who are affected by it.

This reminds me of last week when the Kenyan Constitutional Court declared sections of our Anti-counterfeit law that was banning the buying of generics to deal with HIV/AIDS and we were declaring them illegal. Our court, a progressive human rights court, declared those sections of the law unconstitutional and I think that court needs to be congratulated.

Uganda also needs to be lauded for actually starting producing cheaper drugs that can be bought and used by people who cannot afford the expensive drugs from the West in partnership with companies from India that produce cheaper rugs that are equally effective in dealing with the scourge.

So Mr Speaker, there are many challenges that of course are still remaining like challenges of funding- In fact we have been reading in the media recently that the funds that were coming from the Global Fund are now reduced to very minimum levels. But as we have always been saying, challenges are also opportunities for us as people in charge of our own destiny to come up with alternatives and cheaper options like the ones we have already

talked about that can still equip us and make us able to deal with the scourge even without support from outside countries.

Mr Speaker, the Bill also puts a lot of emphasis on education because still, that is the area where we still have very many challenges. People in various pockets still discriminate people living with HIV. There are still people who believe in East Africa that if you have sex with a virgin, the virus goes away automatically. So these are the people who need to be targeted by constant information that that is not going to work but not only information but also the law taking its course to take such people to court so that they can answer for their deeds. That way, we can be able to deal with the remaining challenges that are facing us in terms of controlling this monster.

With those remarks, Mr Speaker, I support.

Ms. Wanyoto: Thank you, hon. Speaker and hon. Members for all the very supportive contributions to the Bill I was honoured to move. This Bill is an important Bill and that is why we have all supported it. Like a colleague has said, it is a Bill about life and death but my own spirit and that of my colleagues was that this is a Bill that moves, like hon. Kimura has also said, within the life and statements we have made and the commitments we have made within the Common Market.

One of the fundamental pillars of this Bill is, it is going to move with one of the pillars of free movement of people. Mr Speaker, you have warned us about the issue of time but I would like to recognise each Member in your own right for having supported this Bill; hon. Nusura Tiperu, hon. Dan Kidega, hon. Emerence Buchumi, hon. Sebalu and hon. Minister Abdallah, hon. Kimura, hon. Dora Byamukama, hon. Munya- I hope I have not left out anybody who has contributed to this Bill.

This is an important Bill and I think that to date it has made every body- For many works that we have done as EALA, this is one of those that we shall move away with our heads up knowing that we have done something that affects each individual of 120 million East Africans. It will affect a child in the womb, it will affect a child born even if it is a day old, it will affect

a woman in the last household in the villages of East Africa, it will affect somebody in the working class, it will affect somebody flying on the flight, it will affect someone crossing the border by foot. It will affect each one of us in East Africa.

This is one law that is going to help all East Africans know that the East African Community lives and that it is a people centred Community. I thank you very much for supporting the Bill. I have nothing to add only to say *Asante sana*. Hon. Speaker and colleagues, I beg to move.

(Question put and agreed to.)

THE EAST AFRICAN COMMUNITY HIV/AIDS PREVENTION AND MANAGEMNET

BILL, 2012

BILLS'

COMMITTEE STAGE

The Chairperson: Hon. Members, you may be seated. If you look at the geography of this place it will be difficult so we will use this table for the Committee Stage as well. I can see the clerk is very happy sitting up here.

(Laughter)

Clause 1

The Chairperson: Hon. Members, I propose that Clause 1 be part of the Bill. I put the question.

Hon. Kaahwa, you should have stood up before I put the question. Now you are telling me you want to stand up before- Anyway continue because-

Mr. Kaahwa: I am very sorry, Mr Chairman for not catching your eye in time but I now crave your indulgence. There is a matter I am raising but the reason I am saying I crave your indulgence is because I have not circulated a written proposal on Clause 1.

Normally, the short title also goes with a provision for commencement which is also based on the Acts of the Community Act as a requirement and normally when this House enacts legislation, it adds, "And shall come into force on such a date as the Council may by notice publish in the Gazette to appoint." That is the style this House is used to enactment by providing for the short title together with the commencement and I propose, Mr Chairperson Sir that in this clause of this Bill, we add that phraseology.

The Chairperson: Honourable, are you talking on the same issue or a different one?

Mr. Kaahwa: The same article, short title but a different issue. Just the year.

The Chairperson: The year is changed automatically so there is no problem. Hon. Lydia, do you have any problem with the CTC's amendment?

Ms. Wanyoto: Mr Chairperson, I do not have any problem with it. It is in order, thank you.

The Chairperson: Hon. Members, I now put the question that Clause 1, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 2

The Chairperson: Hon. Members, I propose that Clause 2 be part of the Bill.

Dr. Nyiramilimo: Thank you, hon. Speaker. There have been some amendments on Clause 2; interpretation. We, as the Committee on General Purpose, found that it was appropriate to also define what is 'Council' and Council means the minister of East African Community established under Article 9 of the Treaty. We also would wish to define 'guardian' which means a person who has responsibility appointed by a court or has taken responsibility customarily to take care of and manage the affairs of a minor child or adult with mental disability.

We also need to define 'fake' and/or 'counterfeit medicines' which means a formulation of medicines sold or marketed as if it were a particular proprietary substance produced by a particular

manufacturer with specified ingredients which it may or may not contain.

We also need to qualify the standard of health care provider and say that we will put the health care provider who meets the profile.

Mr Speaker Sir, there are places where it talks about bio-medical human research in this interpretation and we thought that it was appropriate to delete 'human bio-medical' and only consider research because it may include nay research that is involved in HIV/AIDS.

There is also a need to use standards used by UNAIDS terminology because in this Bill it says 'parent-child transmission' but we need to say 'mother-child transmission'.

Another correction that has been brought into this interpretation is that there is a need to qualify post exposure prophylaxis to take cognisance of and advantage of the new knowledge that treatment helps with prevention and so that is what we wanted to correct in this and say' post exposure prophylaxis means to help prevent HIV infection and transmission.

The Secretariat also should be defined and it means the Secretariat of the Community established by Article 9 of the Treaty.

We also wish to delete the new marginal note 'the role of the Secretariat in the Assembly' under the new Clause 5 and actually this new Clause 5 that we had brought in these amendments has now been deleted in full.

The Chairperson: Let us deal with one at a time. I think we were in Clause 2. Anybody who has a problem with the definitions? Hon. CTC?, you have been given the floor so do not look at anybody else.

Mr. Kaahwa: Thank you, Mr Chairperson. I thought I was just-

Ms. Nyiramilimo: There was just the last one-

The Chairperson: Hon. Member, I think the CTC is on the floor right now. Take your seat.

Mr. Kaahwa: Mr Chairperson Sir, first of all I would like to appreciate the committee's proposed amendments. I only have two comments; first of all with regard to the definition of guardian which appears on page one of the schedule of amendments. There is reference in the last line to the affairs of a minor child or adult with mental disability. I don't have any problem with an

adult with a mental disability but I thought that the addition of the word 'minor' does not contribute much to the definitions and also the substantive parts of the Bill because in Article 34, the thrust of the Bill is to address matters relating to children irrespective of whether they are minor or major.

So my proposal and subject to agreement by the committee is that we delete the word 'minor' and remain with 'a child or adult with mental disability.'

Mr Chairperson, I have another one but after that one.

The Chairperson: Honourable, do you agree with that one?

Dr. Nyiramilimo: We agree as a committee that 'minor' can be deleted. Mr Chairperson Sir, I also wanted to define vulnerable groups as it has been put by the committee. There was need to define 'vulnerable groups' without risk of omission about the listing and therefore we wanted to add 'including but not limited to' to make sure we do not miss any of these vulnerable groups. Thank you, Mr Speaker.

Mr. Kaahwa: Mr Chairperson Sir, still on Clause 2 there is a bit of a problem I am seeing and I want to bring it to the attention of the committee. This is in the definition of health service. On page four of the Bill, I think. On the definition of health

service and with particular reference of part (e) of that definition, if I may read, "Health care service means the prescribing dispensing, supplying or applying of any medicine, appliance or apparatus in relation to any defect, illness or pregnancy." I am a bit uncomfortable when you group pregnancy with defect or illness and I am of the humble view that when you are referring here to that equipment, you may leave out pregnancy, well knowing that matters pertaining to pregnancy are already covered in part (g) of the definition.

So my proposal is that when you are defining health service here we delete pregnancy from (e) knowing very well that (g) covers the health service part relating to pregnancy because it relates to nursing, midwifery etc. and in my experience, pregnancy is part of nursing and midwifery but it cannot be related to defects or illnesses. I thank you, Mr Chairperson.

The Chairperson: Maybe we can get the doctors now.

Dr. Nyiramilimo: Thank you, Mr Speaker Sir. When we talk of health care services, even the pregnancy is classified and the list of what or for which reasons people will seek health care services so we think it is appropriate to also leave it here because what is in (g) nursing and midwifery is not necessarily the old health care given to pregnant women because many times

they will seek more appropriate health services which are not midwifery only.

The Chairperson: That is from a doctor to a lawyer. What do you say?

Mr. Kaahwa: Mr Chairperson, notwithstanding the experience I indicate to the committee, I have heard with matters relating to pregnancy, I stand to be guided by advice from a medical point of view.

The Chairperson: She is a medical doctor and she guided you.

Mr. Kaahwa: That is what I am saying, I stand to be guided.

Ms. Wanyoto: Thank you, Chairperson. I agree with all the amendments of Clause 2.

The Chairperson: Hon. Members, I now put the question that Clause 2, as amended, be part of the Bill.

(Question put and agreed to.)

The Chairperson: Hon. Members, I propose that Clause 3 be part of the Bill. Hon. CTC, I can see nobody is saying anything but I was wondering, when it says, "The Act shall apply in Partner States of the East African Community", what is it adding to

this? I thought this Act was going to determine- I don't understand what this Clause 3 is trying to do.

Mr. Kaahwa: Thank you, Mr Chairperson. With due respect, this clause does not have value addition because we know that pursuant to Article 8 paragraph four of the Treaty, once Acts or legislation is enacted by this august House then it automatically applies to the Partner States once gazetted.

So I propose that it be deleted and I believe that the committee will agree with both the chairperson and me.

The Chairperson: I was just pointing it out.

Ms. Wanyoto: Thank you, Chair. Actually it was a candidate for deletion. I thank you.

The Chairperson: Hon. Members, I now put the question that Clause 3 be deleted from the Bill.

(Question put and agreed to.)

Clause 4

The Chairperson: Hon. Members, I propose that Clause 4 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 5

The Chairperson: Hon. Members, I propose that Clause 5 be part of the Bill.

Mr. Kaahwa: I am sorry, Mr Chairperson. I was standing up not in respect of the clause as it appears but in reaction to a proposed amendment which I believe the committee will be tabling.

The Chairperson: They have not moved so I think they are not pushing that deletion. If you look at the amendments- Hon. Members, I now put the question that Clause 5 be part of the Bill.

(Question put and agreed to.)

Clause 6

The Chairperson: Hon. Members, I propose that Clause 6 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 7

The Chairperson: Hon. Members, I propose that Clause 7 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairperson. In Clause 7 we would propose that the end of the paragraph be deleted 'end groups' so it might read, "the government shall promote public awareness about the nature causes, modes of transmission, consequences and means of prevention, control and management of HIV/AIDS for all persons." Thank you.

The Chairperson: You have heard the proposal, hon. Members. Anybody?

Ms. Wanyoto: Mr Chairman, I support the proposal of the committee. I beg to move.

The Chairperson: Hon. Members, I put the question that Clause 7, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 8

The Chairperson: Hon. Members, I propose that Clause 8 be part of the Bill. I put the question. Hon. CTC, if you could please stand up, I think you already know what you are going to move because next time you might have to re-commit this Bill if you take your time. Anyway CTC, continue.

Mr. Kaahwa: I am sorry, Mr Chairperson. I think it because of the geographical configuration of this room that I am failing to catch your eye most of the time. I am extremely sorry.
(Laughter)

Mr Chairperson, Clause 8 refers to HIV and AIDS education in learning institutions. The opening words are, 'the ministry responsible for education'.

In Clause 1 we have the ministry defined and for purposes of our Bill, we have defined the ministry responsible for matters relating to HIV and AIDS in a Partner State-

The Chairperson: Sorry, hon. CTC. Hon. Members, let us be fair with each other. I think there are people here who are using their mobile phones. If anything you cannot even put them on silent. If you read your rules, you are not even allowed to come in with your mobile phones here. Please let us respect each other and switch off your mobile phones or put them on silent please. Not even on silent, switch them off.

Mr. Kaahwa: Mr Chairperson, I was referring to the opening wording of Clause 8 paragraph 1, "The minister responsible for education." In clause 2, for purposes of this Bill, we have

defined ministry to be ministry responsible for matters relating to HIV and AIDS in the Partner State.

Now when you have a clause reading like this, you risk problem in implementation. You risk problems in that you are targeting two different ministries rather than specifically providing for ministry responsible for education in Clause 81. I propose that we delete those words and leave it as ministry because we know ministries collaborate in so many related matters.

In fact in most pieces of legislation, you always find the minister being referred to. When it comes to particular aspects where he has to collaborate and coordinate, he does that without providing for another ministry specifically which may give rise to confusion when it comes to the level of implementation.

So in short I am proposing that in Clause 8 paragraph 1, we delete the words 'responsible for education. The minister shall...' That minister will be the minister responsible for HIV/AIDS and in doing what is expected here, he will of necessity collaborate with the minister of Education and other ministers. I thank you, Mr Chairperson.

Dr. Nyiramilimo: Thank you, Mr Chairperson. Here it is the side of education and learning institutions. When we defined

minister, it is the minister in charge of HIV/AIDS and here it has to be specific; to be the Ministry of Education because that ministry will have the responsibility to make the curricular and the teaching of the students so we cannot ask the Minister in charge of HIV/AIDS now to go and the Ministry of Education and do the work there. But the one in Education will consult with the HIV/AIDS ministry to know what has to be taught. I think that is clear if we maintain the Ministry responsible for Education to do it. Thank you. (*Hon. Lotodo rose*)

The Chairperson: You don't need information here, you can stand up and give whatever you want to say because remember we are in Committee Stage. But I want to say honourable that if you look at your definitions, you define minister, you define ministry. What hon. CTC is saying is that it is that minister and ministry that are responsible and will collaborate with other stakeholders, which means the Ministers of Education and other stakeholders to come up with a correct... That is what the CTC is saying instead of confusing the matter by bringing a lot of ministries. I think that is what he is trying to say.

Hon. Lotodo. I think you have been here for the last week.

Mr. Lotodo: Thank you, hon. Chair. I just wanted to provide some information that actually in our various countries, the ministry

responsible for HIV might not be the Ministry of Education so I do agree with the hon. CTC that we do not need to specify that it is the Ministry of Education. We need to say that- Because we have inter-ministry consultations on different issues so specifically saying the Ministry of Education- For example in Kenya I don't think it is relevant as such. Thank you.

The Chairperson: I don't know whether that information helped you but- You have agreed with the CTC's amendment?

Ms. Wanyoto: Mr Chair and hon. colleagues, I agree with the CTC's amendment.

The Chairperson: Hon. Members, I now put the question that Clause 8, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 9

The Chairperson: Hon. Members, I propose that Clause 9 be part of the Bill. Seeing that the geography is bad, let me look at the CTC to see whether he wants to stand. I now put the question.

(Question put and agreed to.)

Clause 10

The Chairperson: Hon. Members, I propose that Clause 10 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 11

The Chairperson: Hon. Members, I propose that Clause 11 be part of the Bill.

Dr. Nyiramilimo: Thank you, hon. Chairperson. In Clause 11, I wish to add a new paragraph and that will be under (f) and will be 'challenge harmful cultural practices' that abuse and/or expose the body to HIV/AIDS. Thank you.

The Chairperson: Hon. Members, I hope you understand that the Members are using that smaller version; the new addendum that they gave us earlier. Anyone wants to say something on that?

Ms. Wanyoto: Thank you, Mr Chair and hon. colleagues. I support the new amendment.

The Chairperson: Hon. Members, I now put the question that Clause 11 as amended be part of the Bill.

(Question put and agreed to.)

Clause 12

The Chairperson: Hon. Members, I propose that Clause 12 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. In Clause 12 we need to make some amendments in order not to miss any of the listed groups of problems or challenges that can happen, in the fourth line where is 'such as' to replace these with 'including but not limited to'. Thank you.

Ms. Wanyoto: Thank you, Mr Chairperson and hon. Colleagues. I support and second the new amendment.

The Chairperson: Hon. Members, I now put the question that Clause 12 as amended be part of the Bill.

(Question put and agreed to.)

Clause 13

The Chairperson: Hon. Members, I propose that Clause 13 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. The committee amended Clause 13. We wanted to include health care givers who are not strictly health workers and bear the burden of care. Therefore, on (c), we would add after care workers, 'and care givers'. We found it appropriate to add a new paragraph (f) to recognise

that treatment also contributes to prevention and transmission and it will read 'promote and put in place prevention programs which take cognisance and advantage of and put in practice the new knowledge which demonstrates that treatment contributes to prevention'. Thank you.

Mr. Akhaabi: Thank you, Mr Chairman. I see the proposed amendment but I do not understand or appreciate what value the additional words 'which demonstrate that treatment contributes to prevention' really adds to the proposed amendment. I would, if the committee agrees, propose that the amendment stops at the word knowledge and they drop the words appearing after the word 'knowledge.

Dr. Nyiramilimo: Thank you, Mr Chairman. What we wanted to add on this clue is that people have for long ignored giving treatment as one of the measures of prevention. They have been spending a lot of funds and tools and activities on other sides of prevention ignoring that giving treatment is the most appropriate tool of prevention because when somebody is given treatment, after a certain time he is not infectious anymore. So that is why we included this and we wanted it to be known and practiced as a tool of prevention not only as treatment as such

but it is known also as a preventive measure. Thank you, Mr Chairman.

The Chairperson: Hon. Dora, which one do you want to talk on? The same one or-

Ms. Byamukama: Mr Chairman, I am not deferring from what hon. Dr Odette has said but I also know that treatment in most cases goes with nutrition. So I don't know whether these two- Or how it has been taken care of.

Dr. Ndahiro: Mr Chairperson, I wanted to make a simple clarification on the issue raised by hon. Odette. In one of the consultations we had, we had people giving us testimonies and one of them happened to be a medical doctor who told us that families have been breaking because they have cases where one partner is infected and another is not. One is positive and another is negative.

Now the new information or knowledge available to the market today is that when one partner is negative and another is positive, the one who is negative is also put on medication by taking one pill a day so that the one who is positive does not infect the other partner.

That is new information and knowledge now which we thought was important to be put under this article. Thank you.

Mr. Akhaabi: Thank you, Mr Chairman. I do not have a problem with the issue of new knowledge. The only thing I am referring to and I am cautioning the committee and the House is that when you read that paragraph then, 'that the government shall take measures and promote practices and procedures that prevent or reduce the risk of HIV/AIDS transmission and shall in particular promote and put in place prevention programs, which take cognisance and advantage of and put in practice the new knowledge which demonstrates that treatment and contributes to prevention- that when it comes to interpretation then the government will not be under any obligation to put in place those preventive programs and they expose themselves unless they demonstrate that the treatment contributes to prevention.

I am not quite sure that that is where we want to go because what I understand we want to do is to take cognisance and advantage of and put in practice new knowledge so that if we stopped there then even if it doesn't demonstrate that treatment contributes to prevention, it will still be important. But if you go where we are going then somebody may say this one does

not demonstrate that treatment contributes to prevention and therefore that program should not be accepted.

So I am simply trying to help, Mr Chairman.

Dr. Sadala: Thank you, Mr Chairman. Just to have a small contribution on this issue. It reads that it should promote- the main heading here is prevention measures, practices and procedures and not treatment. It reads, 'To promote and put in place preventive programs, which take cognisance and advantage and put in practice the new knowledge on prevention.' We are talking about prevention so I propose that it should start from new knowledge, which contributes to the prevention.

I am saying this because when you say that there is treatment somewhere, that means there is a patient so you are going to cure something. So I think if we put the words to demonstrate that there is treatment then the topic here should not be preventative measures. So I propose that it should end at 'to which contributes to prevention'. Thank you so much.

The Chairperson: Hon.Odette, do you have a problem to that amendment to your amendment?

Dr. Nyiramilimo: Thank you, Mr Chairman. I tend to agree with the proposed amendment but if we look also at (e), there is 'promote any other scientifically proven measures or practice'.

The Chairperson: Hon. Members, if you remember we were in Clause 13 where the hon. minister had suggested an amendment whereby he said we say 'new knowledge which contributes to prevention.' I think hon. Odette was there agreeing at that time.

Dr. Nyiramilimo: Thank you, hon. Chairman. I was agreeing but I found out and also consulted with the committee members and we found that this was well taken of in sub clause (e) where it says 'promote any other scientifically proven measures or practices that have been shown to be effective in reducing or eliminating transmission of HIV'.

So as a committee, we thought that deleting this new clause (f) that we wanted to bring in would be appropriate. Thank you.

The Chairperson: So are you withdrawing the amendment on Clause (f)?

Dr. Nyiramilimo: Yes, Mr Chairman. We withdraw our amendment that we had proposed to be (f) because it is covered by (e). Thank you.

Ms. Wanyoto: Thank you, Mr Chairman and hon. Colleges. I agree with the latest developments and support the new arrangement. Thank you.

The Chairperson: So the amendment is only on (c), is it?

Dr Nyiramilimo: Yes, Mr Chairman. The amendment is only on (c) on this Clause 13.

Ms. Wanyoto: Thank you, Mr Chairperson and hon. Members. I support the new amendment on (c).

The Chairperson: Hon. Members, I now put the question that Clause 13, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 14

The Chairperson: Hon. Members, I propose that Clause 14 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. The clause is fine but the marginal note could be-

The Chairperson: Hon. Member, I think the marginal note will be taken care of when they are printing the final Bill. It is not a

substantive matter. Hon. Members, I now put the question that Clause 14 be part of the Bill.

(Question put and agreed to.)

Clause 15

The Chairperson: Hon. Members, I propose that Clause 15 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. We propose to correct parent to child transmission by mother to child transmission. Thank you.

The Chairperson: Where is that one? Where have you moved that amendment?

Dr. Nyiramilimo: That amendment has been given and it says, there is a need to conform with acceptable UNAIDS terminology and say 'prevention of mother to child transmission'.

The Chairperson: Honourable, I think you took care of that in the definition, didn't you?

Dr. Nyiramilimo: Yes, Mr Chairman.

The Chairperson: I think it is fine then, we do not have to go through that process again. Hon. Members, I put the question that Clause 15 be part of the Bill.

(Question put and agreed to.)

Clause 16

The Chairperson: Hon. Members, I propose that Clause 16 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 17

The Chairperson: Hon. Members, I propose that Clause 17 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 18

The Chairperson: Hon. Members, I propose that Clause 18 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 19

The Chairperson: Hon. Members, I propose that Clause 19 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 20

The Chairperson: Hon. Members, I propose that Clause 20 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. The committee would wish to add after health care provider 'or health care worker' so that the sub clause 1(b) is completed. Thank you.

The Chairperson: Is it health care worker or health worker?

Dr. Nyiramilimo: Health worker. It might read, 'A person shall not carry out an HIV test on another person unless the person carrying out the test is a health care provider or health worker approved by the minister for that purpose.'

Ms. Byamukama: Mr Chairman, health care provider is provided for amongst the definitions so now if you introduce health care provider or worker, you may be bringing in another terminology. I just want clarification on that because health care provider in the definitions seems to encompass the worker that she is talking about unless the worker has to be distinguished in

another way. So for consistency, I don't know what value addition- Maybe hon. Odette can clarify.

The Chairperson: Or she can define it if she wants.

Dr. Nyiramilimo: Thank you, Mr Chairman. I would like to explain that health care worker is an individual or person while health care provider can be an institution. So it is very different. Thank you, Mr Chairman.

The Chairperson: you know the problem is, when you stand up to talk, you talk of health care worker and the document we have says health worker. So what is what? I think you have already said you are talking about a health worker. But hon. Byamukama is also saying, don't you have to define a health worker?

Dr. Nyiramilimo: Mr Chairman, we thought that health worker might be understood by any person but if need be, we can add it in the definitions as-

The Chairperson: Then maybe you can provide the definition then we can continue from there. I don't know, is that okay with you, hon. Dora who wants a definition provided?

Ms. Byamukama: Yes sir, if she can define I think that will be fine. But I would also like to propose that maybe under health

care provider, we could say health care provider means a person, a hospital- maybe she can take that into account.

The Chairperson: We were defining health worker. Now you have moved again to health care worker.

Mr. Ndarubagiye: Thank you, Mr Chairman. I think to put health care worker would be a repetition as in the finishing of health care provider, it is said that it includes the persons handling health care services in these institutions. So we can delete that, it will have no harm. That is my proposal. Thank you very much.

The Chairperson: Maybe we are getting confused. I thought with health provider it is an institution like hon. Odette said, that the health worker is an individual who is working in an institution or any other. They are two different things. The provider, if you read this means hospital, nursing home, maternity home- It is an institution. What does it say? "Pharmacy or other institution whether private or public where health care services are rendered and includes the persons rendering health care services in these institutions."

But the question hon. Odette was saying is, I might not be working in that institution. To be a health worker, you don't have to work for institution.

I think the honourable has agreed to define what a health worker is and then we can go from there.

Ms. Wanyoto: Thank you, Mr Chairperson. I appreciate the input of Members and I agree to all of them.

The Chairperson: Hon. Members, I now put the question that Clause 20, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 21

The Chairperson: Hon. Members, I propose that Clause 21 be part of the Bill. Hon. Odette, if you could read quicker please.

Dr. Nyiramilimo: On 21 (b) any other written law by any other applicable law. Thank you, Mr Chairman.

Ms. Wanyoto: Thank you, Mr Chairperson and hon. Members. I agree to the amendments by the committee.

The Chairperson: Hon. Members, I now put the question that Clause 21, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 22

The Chairperson: Hon. Members, I propose that Clause 22 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 23

The Chairperson: Hon. Members, I propose that Clause 23 be part of the Bill.

Dr. Nyiramilimo: In sub clause 5 at the end, the committee wants to add 'including but not limited to emergencies, neglected or abandoned children'. Thank you.

Ms. Wanyoto: Mr Chairperson and hon. Members. I agree to the amendments by the committee.

The Chairperson: Hon. Members, I now put the question that Clause 23, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 24

The Chairperson: Hon. Members, I propose that Clause 24 be part of the Bill.

Dr. Nyiramilimo: Thank you. In sub clause 2 of Clause 24, we wanted to delete the plural 'spouses and partners' and just read 'to inform the person's spouse or sexual partner or any other third party' but spouses or partners, we decided it should be deleted. Thank you.

The Chairperson: What about those who have spouses and partners? Because it says, a person informs persons of spouse or spouses of sexual partners- It takes care of both of them so I don't know why you are excluding those who have more than one partner or spouses.

Dr. Nyiramilimo: Mr Chairman, we say sexual partner. They can be many- A sexual partner- if a person has many but each of them will be a sexual partner. Thank you.

Dr. Bilal: Thank you, Mr Chairman. I think the issue here is of the interaction of one to one. It is a question of you always engaging one person at a time. The spouses still do so even if you delete the spouses or partners. I am saying when you talk to or consult or engage, you always engage one at a time. Thank you.

Ms. Wanyoto: Thank you, Mr Chairman, Hon. Members, if you look at Article 24 clause 2, there is the part which says, 'On any

other third party who is at significant risk of HIV.' So we thought that should be able to cover in the same paragraph.

If I could read it again, 'A person providing treatment, care or counselling services to a person living with HIV shall encourage that person to inform the person's spouse, sexual partner or any other third party who is at significant risk of having HIV transmission from the person living with HIV.

We thought that that third party would be able to cover any other person that would have been left out including what hon. Bilal was saying.

The Chairperson: Honourable there is something else here. I think let us make it clear. It is not about encouraging partners or spouses. This is where a person who is treating you is being told to encourage you not to talk to your spouse but spouses or partners. It is a fact of life, let us not run away from it because like you read, a person providing treatment, care or counselling services to a person living with HIV shall encourage that person to inform the person, spouse- if I have more than one, what happens? That is what I am saying. That is the correct thing but you are removing the spouses and that is what I am trying to tell you.

Do you understand here I am coming from? This is not about the person, it is the person who is treating you so maybe you came with one. Is he going to tell you to only tell this one? I am just trying to look at it properly because it talks of a person providing treatment. While you can engage one at a time but still you have more than one spouse. What are we running away from?

The Chairperson: Hon. Chairman, I think you should look at the way it has to remain in totality. I am suggesting that it should be deleted and remain spouse or spouses. Because we are talking about people here who need to be informed. Thank you.

The Chairperson: Hon. Odette, I can see most of the members of your committee are nodding a yes. I don't know what you are saying.

Dr. Nyiramilimo: I think with the proposal that you made and also hon. -

The Chairperson: No, I did not make a proposal. I was just guiding.

Dr. Nyiramilimo: For the good guidance you provided to us, I think we might leave spouses and partners if the members of the House agree. Thank you.

The Chairperson: Hon. Members, I now put the question that Clause 24 be part of the Bill.

(Question put and agreed to.)

Clause 25

The Chairperson: Hon. Members, I propose that Clause 25 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 26

The Chairperson: Hon. Members, I propose that Clause 26 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 27

The Chairperson: Hon. Members, I propose that Clause 27 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 28

The Chairperson: Hon. Members, I propose that Clause 28 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 29

The Chairperson: Hon. Members, I propose that Clause 29 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 30

The Chairperson: Hon. Members, I propose that Clause 30 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 31

The Chairperson: Hon. Members, I propose that Clause 31 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 32

The Chairperson: Hon. Members, I propose that Clause 32 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 33

The Chairperson: Hon. Members, I propose that Clause 33 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. We want to add 'quality' before 'health care services' to read 'access to quality health care services.' Thank you.

Ms. Wanyoto: Thank you, Mr Chairman; I support the new amendment of inclusion of quality health care services.

The Chairperson: Hon. Members, I put the question that Clause 33, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 34

The Chairperson: Hon. Members, I propose that Clause 34 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 35

The Chairperson: Hon. Members, I propose that Clause 35 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 36

The Chairperson: Hon. Members, I propose that Clause 36 be part of the Bill.

Ms. Muhongayire: Thank you, Mr Chairperson. While women and girls have their issues stipulated under Clause 35, there is need to assure that adolescents and youth as a particular group receive special attention by this Act and be given wide information, education and on protection and prevention on HIV/AIDS. In our society today, sexual matters and reproductive health in sexual relationships are taken as taboo or an unspeakable subject. Through that situation, our youths and adolescents are misled by their own friends, TVs and websites instead of talking with their families. I think this Act should take this particular group of adolescents. Here they have different categories; women and girls, people with disabilities, prisoners, children and as you know, the group of adolescents is a highly vulnerable group, which must be given special attention by this Act.

It is on this note that I have submitted to you, Mr Chairperson, a fresh amendment, which should be taken as 36, after women and girls. Can I read it?

The Chairperson: Yes. You want a new clause, is it?

Ms. Muhongayire: It is a new clause.

The Chairperson: Continue.

Ms. Muhongayire: Clause 36, 'Notwithstanding the generality of this provision of this Act, the government shall ensure access by adolescents and youth to information, education about the sexual and reproductive health in general, the causes, the modes of transmission, means of prevention and management of HIV and AIDS.' I thank you, Mr Chairman and I beg to move.

Mr. Kaahwa: Mr Chairperson Sir, if you go back to the object of the Bill read together with part 6 of the Bill, you will find that the promoters of the Bill have identified that within society there are some vulnerable groups which must be specially protected by the measures which are contained in this Bill. Now this Bill in part 4 attempts to identify those vulnerable groups and they include children living or affected by HIV in Clause 34, women and girls in Clause 35, persons with disabilities in Clause 36, prisoners because of their conditions in Clause 37 and other vulnerable groups.

If you go by statistics from the Ministries of Health of the Partner States, you will find that one group which is specifically infected or affected by AIDS are the youth and

adolescents. It is a specific vulnerable group which needs as much special protection as these ones which are listed here so I support the propose amendment.

Mr. Kidega: Mr Chairman, I also rise to support the amendment and I am very sure that the mover of this Bill must have just glossed over that aspect of the youth and adolescents because I know she is a strong person in terms of support of youth movements where she comes from.

Mr Chairperson and Members, this will be consistent with the African Youth Charter that has provision for specific protection of persons defined as those between the age of 18 and 35 and also goes down that the other adolescents; people who are actively living like adults but not defend within the definition of youth. So I think it is a good provision if we can take care of youth and those people. Thank you.

Ms. Wanyoto: Thank you, Mr Chairperson and hon. Members. I would like to thank our colleague for that amendment. It will support and augment what we have already provided for under Article 35 Clause (a) which talks about youth friendly, sexual and proper health services and also under 2(a) that talks about girls and boys. If we add what hon. Jacqueline has raised, it will be able

to supplement and build synergies towards the support of young people. I beg to support, I thank you.

The Chairperson: Hon. Members, I now put the question that the new Clause 36 be part of the Bill.

(Question put and agreed to.)

Original Clause 36

The Chairperson: Hon. Members, I propose that Clause 36 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 37

The Chairperson: Hon. Members, I propose that Clause 37 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 38

The Chairperson: Hon. Members, I propose that Clause 38 be part of the Bill.

Dr. Nyiramilimo: Thank you, hon. Speaker. We gave an addendum where the committee found it appropriate to add a Clause for older persons who are also very vulnerable groups. We have put

this new Clause 38 which says, "Notwithstanding the generality of other provisions of this Cat, the government shall ensure that older persons living with or affected by HIV are protected from all forms of abuse, discrimination and are provided with appropriate support, care and treatment services."

2. The minister in consultation with relevant stakeholders shall develop and implement strategies, policies and programs to promote and protect the health and wellbeing of older persons infected or affected by HIV particularly providing age appropriate quality and comprehensive information, education on HIV and AIDS transmission, prevention testing, care and treatment services. Thank you, Mr Chairman.

Ms. Wanyoto: Thank you, Mr Chairperson and hon. Members. This is in line with the other vulnerable groups I would beg to support. I thank you.

The Chairperson: Hon. Members, I put the question that a new Clause 38 be part of the Bill.

(Question put and agreed to.)

Clause 38

The Chairperson: Hon. Members, I propose that Clause 38 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 39

The Chairperson: Hon. Members, I propose that Clause 39 be part of the Bill.

Dr Nyiramilimo: Mr Chairman, again we correct where it is 'written law' with 'applicable law'. This is the last line of Clause 39. Thank you.

Ms. Wanyoto: Mr Chairperson and hon. colleagues, I support the new formulation from 'written' to 'applicable'. I thank you.

The Chairperson: Hon. Members, I put the question that Clause 39, as amended, be part of the Bill.

(Question put and agreed to.)

Clause 40

The Chairperson: Hon. Members, I propose that Clause 40 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 41

The Chairperson: Hon. Members, I propose that Clause 41 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 42

The Chairperson: Hon. Members, I propose that Clause 42 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman for the clarity. It says 'the provision of these parts commits an offence'. We would like to say 'the provisions of part 7 of this Act commits an offence' just for clarity. Thank you.

The Chairperson: *Bwana* CTC, can you help here? Does it make a difference what it says there and what they are trying to amend? We are all lawmakers but we also have lawyers here. Maybe they can help us.

Mr. Kaahwa: Mr Chairperson, I think it makes sense because it is requiring for specific provisions but I would rather have it read '...the provisions of this part of the Act commits an offence'.

The Chairperson: Honourable, it says 'A person who undertakes research or clinical trials in contravention of the provisions of this part commits an offence.'

Mr. Kaahwa: Mr Chairperson, as a committee we should recollect the words used by hon. Odette. It is for clarity of this part of this Act.

The Chairperson: I am being advised here. Which part of which other Act are you talking about other than this Act? Because when you talk of the part, you are talking about the part of this part we are talking about part 7, isn't it? So why do you have to say part 7? Why do you have to stress it when it is already a part? I don't see which other Act we are talking about other than this part of this Act.

Mr. Akhaabi: Mr Chairman, I think you are absolutely right because this Clause 42 is in part 7 and the offences are created under that part and they can only refer to that part of the Act so the proposed amendment does not seem to- Apart from simply being verbose, it does not add anything to it.

The Chairperson: The other thing I wanted to ask is, when you talk about these offences, have you talked about what the offences are and have you put a fine or imprisonment or is there anything of those offences? Let us finish with one first of all. CTC, how would you advise?

Mr. Kaahwa: Mr Chairperson, I concede regarding the necessity of adding the words I had earlier proposed of this Cat. I was only trying to remember what was being said that when you legislate, you should not legislate for only lawyers, you legislate for the Community and if you used probosity, then you would be understood to be addressing the Community's interest. So I concede.

The Chairperson: Hon. Odette, are you okay for us to leave it the way it is?

Dr. Nyiramilimo: We agree, thank you.

The Chairperson: Hon. Members, I now put the question that Clause 42 be part of the Bill.

(Question put and agreed to.)

Clause 43

The Chairperson: Hon. Members, I propose that Clause 43 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 44

The Chairperson: Hon. Members, I propose that Clause 44 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 45

The Chairperson: Hon. Members, I propose that Clause 45 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 46

The Chairperson: Hon. Members, I propose that Clause 46 be part of the Bill.

Dr. Nyiramilimo: Thank you, Mr Chairman. The committee wants to add a new clause that will say 'regional actions' in the marginal note and it will read, "For the purpose of implementation of this Act, the Secretariat shall:

- (a) Coordinate regional mechanisms for follow up, monitoring and evaluation of joint initiatives undertaken under this Act.
- (b) Coordinate joint regional and cross border initiatives under the provisions of this Act.

- (c) Initiate and support joint HIV surveillance and issue a regional HIV/AIDS indicator survey report and other reports as may be deemed appropriate to the Council.
- (d) Coordinate and facilitate information sharing as well as exchange of best practices relating to HIV/AIDS responses as appropriate.
- (e) Coordinate cross border and other researches of a regional nature aimed at generating new locally relevant knowledge on and responses to HIV/AIDS."

Thank you.

Ms. Wanyoto: Thank you, Mr Chairman and hon. Members. I support the amendments as read by the committee.

The Chairperson: Hon. Members, I now put the question that a new Clause 46 be part of the Bill.

(Question put and agreed to.)

Clause 46

The Chairperson: Hon. Members, I propose that Clause 46 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 47

The Chairperson: Hon. Members, I propose that Clause 47 be part of the Bill. I put the question.

(Question put and agreed to.)

Clause 48

The Chairperson: Hon. Members, I propose that Clause 48 be part of the Bill. I put the question.

(Question put and agreed to.)

The Title

The Chairperson: Hon. Members, I propose that the Title be part of the Bill. I put the question.

(Question put and agreed to.)

MOTION FOR THE HOUSE TO RESUME

Ms. Wanyoto: Thank you, Mr Chairman and Members. I beg to move that the House do resume and the Committee of the Whole House reports thereto. I beg to move.

The Chairperson: Hon. Members, I put the question that the House do resume.

(Question put and agreed to.)

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

Ms. Wanyoto: Hon. Speaker and hon. Members, I beg to report that the Committee of the whole House considered the Bill entitled: "The East African Community HIV and AIDS Prevention Management (Amendment) Bill, 2012."

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

Ms. Wanyoto: Hon. Speaker and hon. Members, I beg to move that the report of the Committee of the whole House be adopted. I beg to move.

The Speaker: Seconded. So, now hon. Members I put the question that the report of the whole House be adopted.

(Question put and agreed to.)

BILLS THIRD READING

Ms Wanyoto: Hon. Speaker and hon. Members, I beg to move that The East African Community HIV and AIDS Prevention Management (Amendment) Bill, 2012 be read for the third time and do pass. I beg to move.

The Speaker: Seconded. Hon. Members I put the question that The East African Community HIV and AIDS Prevention Management (Amendment) Bill, 2012 be read for the third time and do pass.

(Question put and agreed to.)

A BILL FOR AN ACT FOR THE COMMUNITY TO PROVIDE FOR THE
PREVENTION AND MANAGEMENT OF HIV AND AIDS AND FOR THE PROTECTION
AND PROMOTION OF THE HUMAN RIGHTS OF PERSONS LIVING WITH OR
AFFECTED BY HIV AND AIDS AND FOR RELATED MATTERS

BILLS'

SECOND READING

EAST AFRICAN COMMUNITY CONFLICT MANAGEMENT BILL, 2011

Dr. Odette Nyiramilimo (Rwanda): Rt hon. Speaker, I beg to move that The East African Community Conflict Management Bill, 2011 be read the second time.

The Speaker: Seconded.

Dr. Nyiramilimo: Rt hon. Speaker, conflicts can happen anywhere in this world. But our region particularly and the region where the East African Community is located, that is, the Great lakes Region has been classified among the regions where conflicts have been prevalent for many years. It is in this concern that the Committee on Regional Affairs and Conflict Resolution had conferences on how to prevent conflicts in our region. And we also considered the provisions of the Treaty for the establishment of the East African Community in its Article 123, which provides for common foreign and security policies including peaceful resolution of disputes and conflicts between and with the Partner States.

Article 124 specifically provides for regional peace and security with a view of prevention, better management and resolution of disputes and conflicts between Partner States.

Mr Speaker, the East African Community Protocol on Peace and Security which is not ratified yet but I understand it has been

signed, in its Article 2 (3) enumerates areas where the Partner States agreed to cooperate starting by conflict prevention management and resolution and further in sub-clause 4, it talks of establishing an early warning mechanism to facilitate the anticipation preparedness and early responses to prevent, contain and manage conflicts and crisis situations in areas of cooperation.

There are also many other documents of the Community like the EAC draft Protocol on Good Governance and considering all those and the recommendations that came out of the two conferences, the regional and conflict resolution committee decided that it was appropriate to bring in the House this East African Community Conflict Management Bill whose objects are:

Identification of potential sources of conflict and devising responses options;

Provision of pre-emptive measures to address conflict situations;

Development of capacity for mediation and negotiation to forestall and diffuse conflicts;

Proposing modalities for intervention and stabilisation of conflict situations and operationalisation of conflict early warning and responses mechanisms for the Community;

Facilitation and support of negotiation and mediation capacity for the Community;

Provision of appropriate mechanism for conflict management;

Enhancing of planning capabilities of the Community in relation to regional tensions;

Development of capacity at the Secretariat and the Partner States to anticipate and mitigate conflicts and sensitisation and popularisation of the East African Community conflict prevention management and resolution mechanisms.

Mr Speaker and hon. Members, this Bill went through different stages and I urge to pass it so that we can give to our Community these mechanisms. I beg to move. (*Applause*)

The Speaker: Hon. Members, the proposal on the floor is that the East African Community Conflict Management Bill, 2011 be read for the second time. Debate is open. Report of the committee; hon. Abdul Karim?

Mr. Abdul Karim Harelimana (Rwanda): Thank you, Mr Speaker for giving me this opportunity. Mr Speaker, I will start with the introduction; in respect of Articles 49, 59 and 62 (1), (2), (4) of the Treaty of the establishment of the East African Community in accordance with rules 62 and 65 of the Rules of Procedure of the Assembly, I wish to submit the report of the Regional Affairs and Conflict Resolution Committee on the East African Community Conflict Management Bill, 2011.

The Bill was read for the first time February, 2012 during EALA's Third Meeting, Fifth Session of the Second Assembly held in Kampala, Uganda.

The Bill seeks to operationalise the East African Community conflict resolution and establish a legal framework of cooperation between East African Community Partner States in the conflict management areas.

The committee first considered the Bill from April 17th to 22nd 2011 in Arusha, Tanzania and again during the last plenary session held in Kampala, Uganda from February 4th to 8th 2012. During the Kampala meeting, the committee prepared the report which I am reading now.

The committee, however, made some inputs from the Kampala workshop and are consolidated into a matrix of proposed amendments hereby attached as Annex 1.

Acknowledgement

Mr Speaker, the committee would like to thank the following institutions for supporting and facilitating it.

(1) The Rt hon. Speaker for enabling the committee to commence this important process of considering the Bill for adoption.

(2) The office of the Clerk for ensuring that all logistics were in order prior to the process of considering the Bill for adoption.

(3) AWEPA and ACBF for financial support extended to the committee to facilitate the conference on the causes of conflict in the East African Community region which recommended for the initiation of the Bill.

Background to the consideration of the Bill

Chronology of events

Hon. Speaker, internal consultations commenced in October 2008 after "The Causes of Conflicts Conference" held in Bujumbura, Burundi, which drew participants from all East African Community

Member States, National Parliaments, Ministries of Defence, Internal Affairs, civil society organisations and the academia.

After the above named conference, the committee deliberated on the conference's recommendations to enact a law on conflict management in the region and tasked one Member to draft the Bill.

During the Second meeting of the Second Session held in Kigali, Rwanda the committee sought leave of the House, which was granted to introduce a Private Member's Bill on conflict management, 2011.

In accordance with the rules of procedure of the Assembly, the committee invited Members of the East African Community Council of Ministers and other stakeholders. The mover presented the Bill to the committee by sharing the challenges and remedies in the areas of conflict management in the East African Region.

The committee considered the Bill and incorporated a number of views and proposals prior to producing a matrix of proposed amendments, which is now before you for consideration and adoption.

Methodology

Mr Speaker, in carrying out its mandate, the committee reviewed a number of literatures, which includes the following:

(a) The conference report on Causes of Conflicts in the East African Community, 2008.

(b) The Treaty for the establishment of the East African Community.

(c) The draft East African Community Protocol on Peace and Security.

(d) The draft East African Community Early Warning Mechanism.

(e) The draft East African Community Conflict Resolution and Management Mechanism and other relevant documents.

Consideration of the Bill

Mr Speaker, the committee analysed the Bill clause by clause and noticed some gaps that were improved on by introducing proposed amendments. These include among others; clause 2(a), (b), (c) and (d); clause 3(i) and (ii); clause 4 (3); clause 5(b), (e), (f), (g) and (h); clause 6 (i), (ii) and (iii), (iv) and (v); (c) and (d); clause 10 (i); clause 14; clause 16(i); clause 17; clause 18; clause 19; clause 20 and clause 21.

The committee developed a schedule of amendments which are attached to this report as Annex 1 as I said before. So, I will be moving these amendments during the committee stage of the whole House.

Recommendations

Having analysed the Bill and got a number of emerging issues from the Members and stakeholders about the Bill, the committee henceforth recommended that this august House adopt the Bill with the amendments annexed to it.

Conclusion

As it has been stipulated in this report that the East African Community Conflict Management Bill, 2011 seeks to establish within the East African Community a conflict resolution, management and resolution mechanism to give a legal framework to mitigate the challenges facing regional conflict situations, it is, therefore, the view of the committee that this Assembly supports and passes this Bill so as to facilitate the integration process in accordance with Articles 123 and 124 of the Treaty for the establishment of the East African Community. I beg to move.

The Speaker: Hon. Members, I would like to wholeheartedly thank the committee but not only this committee also the previous committee we had in terms of General Purpose. I do not see you analysing the report we have here; if somebody were to come and read it today, he would not know what you are talking about in terms of a Bill. I think you guys should have guided us in terms analysing the Bill; we should have seen an analysis. I don't mind if you had given us a bigger report which gives us everything.

So, I hope both committees will have another report; I hope this is a summary and there is another bigger report you are going to give to this House on this issue. I find it very difficult for one to follow what really happened in both committees; this one and the previous one of General Purpose. Anyway, hon. Members, debate is open.

Mr. Gervase Akhaabi (Kenya): Thank you, Mr Speaker. I would like to thank the mover of this motion; the initiator of this Bill together with the committee. This is a very important Bill for our region. It is in conformity with the provisions of Article 6 of the Treaty which enjoins Partner States to resolve any disputes among them amicably.

Mr Speaker, up to this point in time we have not had and we do not have a mechanism for resolution of conflicts within the Community. And we cannot say that we have not had conflicts. We have had conflicts, which called for urgent resolution, but because of absence of a mechanism to do this, they have protracted and they have caused stress to the members; to the Partner States and to the general populace. So, I support this initiative; I support this Bill; I support the motion for the Bill.

In clause 6 of the Bill, it is proposed to establish an office of eminent persons. Mr Speaker, I wish we had and could have a certain criteria established for appointment to this office. But I notice from its report that the committee is suggesting that the number of eminent persons appointed from each Partner State be reduced from two to one. I would urge the committee to reconsider this position and see if we can retain the number as

two. The reason for my proposing this is that two minds are better than one. And even form one Partner State if you have two minds, it would be better than having only one mind.

Secondly, it has been proposed that the term of office for these office holders be limited to two terms of three years each. But Mr Speaker and hon. Members, matters of conflict resolution require trust; they require patience, and this is a skill that is developed over time. It is an experience that you gain and you don't learn it in school. So, I would suggest that again we consider opening up the period or the term that a person may be appointed as an eminent person in this office so that it is open.

The more experienced, the more knowledgeable and let us utilise the vast reservoir of knowledge within us but in terms of conflict just like even in the homes; the older the person and the more that that person has gone through the process of resolving conflicts the more likely that person will be able to reach a more lasting and just advice in respect to proposal of a resolution of a conflict. With those few remarks, I beg to support the motion. Thank you, Mr Speaker.

Mr. Christopher Nakuleu (Kenya): Thank you, Mr Speaker for giving me this opportunity. Mr Speaker, I rise to support this Bill, which is of great importance for the Community's social economic development. In fact, this Bill will play a big role in conflict prevention not only through its existence to which we contribute to avoid some unfounded conflicts by giving a neutral room for communication and exchange of information at a regional level but also by bringing a legal framework for conflict management and resolution, especially being a home grown legal framework.

Mr Speaker, we all know that conflicts are important and actually not negligible factors of underdevelopment. They are at the origin of human beings infrastructure destruction and social economic achievement destruction impacting negatively on development and the lives of East Africans.

This Bill has come as an important tool or element to promote business by promoting or sustaining a favourable and enabling environment for investment towards sustainable improved welfare of our population and thereby development in an economic sense, which actually the overall goal of the East African Community integration. For all these reasons, Mr Speaker I support this Bill. Thank you, Sir.

Ms. Lydia Wanyoto Mutende (Uganda): Thank you, Mr Speaker and hon. Members. I congratulate hon. Dr Odette upon this very important Bill. This Bill should have actually come like yesterday because conflict lives with us in the region and I am happy that we have been able to have an opportunity to debate this Bill, which I support that we should pass into law.

Mr Speaker and hon. Members, matters of conflict, peace, security and stability are important even within our own Treaty. It is a standalone provision and in Article 59(3) they tell us that we must have an annual report that this House must debate on progress made in areas of common foreign and security policies. But these are also issues of conflict, peace and stability. So, I would like to congratulate our colleague but also the committee responsible for this for having worked hard so that we are able to debate this Bill.

At the beginning of this Assembly when I had chance to speak, I said that it is very important to deal with the logs in our eyes, the scriptures say that, before we deal with the specks in other neighbour's eyes. We have conflict in terms of natural based conflicts.

Mr Speaker and hon. Members, I had an opportunity to be part of the Natural Resources Committee in the First Assembly and we

handled matters of the natural resource based conflict where we went to the Turkana Region of Northern Kenya in the morning and so it was dry. We crossed some kind of valley and went to look at areas that are caused because of arid areas, where people are compelled to fight over grass and water. When it rained in the afternoon, we couldn't cross back because the dry area had become a river. So, we were held up the other side of the region and we couldn't cross back to Nairobi at that time called Kenya. So, hon. Members, at an appropriate time, Mr Speaker I will be moving a friendly amendment in this Bill to ensure that we at least list the serious and apparent conflicts that bedevil the East African Community.

We have political related conflicts; we have natural resource based conflicts; we have cross border conflicts issues of land conflict that we need to listen to so that when somebody does research, like is provided for in this Bill. We have to be focused on the early warning mechanisms; where is the problem so that we begin with the obvious conflicts that bedevil the East African Partner States and then we can move to those which are unknown so that we can provide for the early warning mechanisms. With those few remarks like we were guided earlier. I would like to support this Bill and I would like to beg my colleagues that

at an appropriate time when I move my amendments, I get support so that we are more focused in terms of where the conflicts are and how we can solve them. Thank you.

Mr. Frederic Ngenzebuhoro (Rwanda): Thank you, Mr Speaker. I stand to fully support the purpose of this Bill but I would like to be guided. In the report it says that they have made reference or consulted some documents like the draft on the EAC early warning mechanisms.

The Speaker: Please, get closer to your microphone so that you can be heard.

Mr. Ngenzebuhoro: I was saying that in the report it is said that they have made reference to reports like the draft on EAC early warning mechanisms, a draft on EAC conflict prevention and resolution mechanisms but in the Bill it is already said - prematurely- that the Partner States will have to operationalise those which are not yet a reality on the ground. Can we refer to something is not already there? Thank you.

The Speaker: Hon. Member, I wish you could also be brief.

Major General Mugisha Muntu (Uganda): Thank you, Mr Speaker. Let me first thank hon. Odette for sponsoring this Bill. It is elaborate and I really hope that the Council and the Senate will support it because if they do so, what it will do is to focus our minds on how to deal with these conflicts. When you look in the past, I don't know of any country among these five Partner States which hasn't gone through a conflict and its cause was never known. So, the Bill is good.

What I would like to request the Council of Ministers to think about and subsequently ask the Summit is beyond the written law, how do we change from acting in a manner of kneejerk reactions because there is no time and we didn't see it coming? I don't know of any conflict so far that we didn't see coming and there are still other potential conflicts that are still brewing. Some of them we see them coming but most likely if we go by how we have been acting in the past, we will not react early enough. We will not be proactive; we will get into the conflict situation and then respond.

So, I think beyond this, we would like to ask the Council and the Summit-I don't know how they will resolve this but they need to apply their minds and our minds and focus them to say, how do we change? Why do we normally act amidst a conflict when it has

already erupted? And you can count so many which we saw coming but we never reacted until we were caught up in it.

Again I may say that I don't want to go through the number of conflicts that we can see brewing and I am not so sure that we are specifically applying our minds to them. Hopefully we have changed and now we would be able to resolve them before they happen. I don't know; we will wait and see.

So, our request to Council first is to support the Bill and to ask the Summit to also support the Bill so that we are well focused on how to be proactive in solving issues which unless resolved, are going keep causing us having difficult lives throughout. The past generations have gone through difficult lives; the present generation is going through many challenges that we can change from the way we act and operate. Mine was simply to point out that and put it on record. Thank you, Mr Speaker.

The Assistant Minister for EAC, Kenya (Mr. Peter Munya) (ex-Officio): Mr Speaker, I thank you for this opportunity to contribute to this very important Bill. I consider the Bill to be important because;

(i) Conflict management is an offshoot of the commitment of the EAC Partner States to cooperate in the maintenance of regional peace and security.

Secondly, the East African region and the whole of Africa falls within a conflict ridden region. I, therefore, thank hon. Dr Odette Nyiramilimo for introducing this Bill. I also thank the Regional Affairs and Conflict Resolution Committee for having studied this Bill.

Mr Speaker, let me also state that the Council of Ministers appreciate the stated objectives of this Bill and notes the following key features: identification of conflict sources and devising response options to be preventive measures to address conflict situations; development of capacity for mediation and negotiation to forestall and diffuse conflicts; proposing modalities of addressing conflicts situations; operationalisation of a conflict early warning and response mechanism for the Community; facilitation and support of negotiation and mediation capacity for the Community; provision

of appropriate mechanisms of conflict management; enhancement of the planning capabilities of the Community in relation to regional tensions; development of capabilities at the Secretariat and in the Partner States to anticipate and mitigate conflict; and sensitisation and popularisation of the East African Community Conflict Prevention, Management and Resolution Mechanism.

The Council of Ministers appreciation of these features of the Bill stems from our realisation that the Bill should go a long way in actualising Article 124 of the Treaty. Article 124 provides in part that: *"The Partner States agree that peace and security are a prerequisite to social and economic development within the Community and vital to the achievement of the objectives of the Community."* In this regard, the Partner States agreed to foster and maintain an atmosphere that is conducive to peace and security of the Partner States with a view to better management and resolution of disputes and conflicts among them.

(ii) The Partner States undertake to promote and maintain good neighbourliness as a basis' for promoting peace and security within the Community.

(iii) The Partner States shall evolve and establish regional disaster management mechanisms which will harmonise training, operations, technical cooperation and support in this area.

(iv) The Partner States undertake to establish common mechanisms for the management of refugees.

(v) Partner States agree to enhance cooperation in the handling of cross border crime, provisional mutual assistance in criminal matters including the arrest and repatriation of fugitive offenders and their change of information on national mechanisms for combating criminal activities.

To this end, the Partner States undertake to adopt measures for maintaining and promoting security in their territories.

Mr Speaker, I have outlined this in detail to show that the Council appreciates this Bill very much and it is in no way questioning the progressive basis of this Bill.

Notwithstanding the very good objects of the Bill, the Bill raises a few policy matters which require further consideration. For example, (a) on institutional matters, the Bill proposes the creation of an East African Community office of eminent personalities of that office and clause 6, a directorate with departments for purposes of day to day operations.

On strategic matters, the Bill provides for the deployment of an East African Community Force - clause 20- at a time when the East African Community lacks a clear and common command and structure.

On financial matters, the Bill purposes the establishment of a special fund to facilitate the implementation of The Conflict Management Act once enacted.

Clause 17, the Bill includes noncompliance with the Act as a ground for suspension of a Partner State. This is tantamount to amending the Treaty in a manner outside Article 150 of the Treaty.

Mr Speaker, the matters I have outlined above are critical in the operationalisation of a statutory backed regional conflict management regime. From a policy point of view, these are matters that call for close consideration and consultation by the Council of Ministers.

There is need for example, to determine the status of the proposed office and the directorate within the EAC institutional structure. The reporting arrangement between the proposed office and that of the Secretary General is, for example, not clear and may cause conflicts and calls for more clarity.

Mr Speaker, you will recall that this Bill was introduced during this august House's Third Meeting which was held in January/February, 2012 in Kampala. Between that time and the time the Fourth Meeting was convened, the Council has not had time to consider this Bill and especially its policy related matters.

Mr Speaker, we are not opposing the Bill but simply seeking more time so that we can go through the decision making processes to get the mandate from the Council because when we sit here, we are only representatives of the Council and cannot take decisions on such matters. So, the relevant Sectoral Council has not had time to look at this Bill and advise; the Legal Sectoral Council has also not had time to look at it.

So, Mr Speaker, I am sure you understand my predicament. Whereas I appreciate the Bill and I think it is a forward looking Bill; a very important Bill for us, the policy decisions proposed by the Bill are momentous and they require input from the entire Community. If we could be given time, I am sure this Bill will be considered favourably. But we need to get the mandate to be able to say yes because if we said yes without the mandate, then we would be asked under whose mandate we were supporting a Bill

that has not gone through the decision making processes of the Community.

Therefore, Mr Speaker with those reasons, I would like to move a motion of adjournment of debate on this Bill under rule 131 of the Rules of Procedure to give the Council more time to consider the Bill. Thank you, Mr Speaker.

The Speaker: Hon. Members, there is a motion for adjournment of debate on this Bill to a further date. So, the proposal currently on the floor is for this matter to be deferred until a later date. But I must say that a later date must be by the next sitting of EALA and I can see Council also has a sitting next week. So, I don't know what they will do during that period?

But I would like to correct one issue that the Minister talked about the Bill coming in January. It didn't come in January because when you look at when this Bill was published, it was in 6th September, 2011 when it was brought before the House. You have only looked at the report of the committee. The committee considered it in January after it had been referred to it by the House. Let us look at the proposal on the floor for this Bill to be deferred.

Mr. Kidega: Rt hon. Speaker, the question of conflict cannot be opposed by any sensible person in East Africa. I definitely know the Minister has put very eloquent and good arguments for deferring the debate on this Bill and I am actually rising to support him but with a promise from the Council of Ministers that they give us a time frame.

I think we are having a lifespan that is almost collapsing as an Assembly. Personally as Member of this Assembly, I would like to walk out of the Second Assembly proudly saying that we passed a record number of 40 Bills; this is my target as person. We are already tending towards 40 and so any delay to the contrary will make me miss the target I have set in my head. So, I am counting this Bill as part of the Bills that must be passed by this Assembly. So, I genuinely request that the Council of Ministers gives us a roadmap that doesn't go beyond our time span here.

Secondly, Mr Speaker I was also at a loss because most times we generate debate from then committee report but this committed report was so summarised that I couldn't find entry points into the chronological arguments and the issues that the committee encountered during the various stakeholders meetings they had. So, I think in deferring this, it will give some of us who are not members of the committee some time to dig deep and come up

with some more findings on the issues related to this Bill and effectively debate and ensure that we enrich the Bill to include other aspects that could be lacking. But right now, I am in a very difficult situation to effectively participate in the debate of this Bill based on the summary that the committee has given us the report. Based on that, I support the Ministers motion. Thank you.

Ms. Dora Byamukama (Uganda): Thank you Mr Speaker. I would like to make some few comments. When the Chair Council of Ministers stood up, I thought that he was going to support that this Bill be treated as an urgent Bill considering that it was printed as far back as 6th September, 2011. This means that it has had about seven months of existence and I am saying this premised on what hon. Muntu said.

We have had conflicts, which is common knowledge and these conflicts could have been averted if we had a mechanism of handling them. One of the sad conflicts is that of Migingo which was about to tear us apart for no good reason.

We also have looming conflicts and I will not mince my words about this. We know the issue of South Sudan right on our borders is a looming conflict, which I thought would be treated as an urgent Bill. I know the Army has cooperated and we should actually be talking about an East African Army sooner than later. So, to say that we don't have these mechanisms and, therefore, we should not even put this in our law when the Treaty is very clear makes me wonder as to whether we are treating these conflicts with the seriousness they deserve.

We have other conflicts which may not be as eminent but which we know are eminent and this is, for example, the issue of

terrorism and others. So, I thought that may be you would suggest that we treat this as an urgent Bill and expedite the process so that we have a mechanism for dealing with these issues.

This is a very noble Bill, hon. Dr Odette and it will go down in our history and I believe that maybe after we have discussed a little bit further the Chair Council of Ministers will be convinced that it is better for us to have it rather than to wait for the consultations when some parts of our House are on fire. How long can you wait? For example, you are in a house and you are seated in the sitting room enjoying a cup of tea when the kitchen is beginning to catch fire, would you say, "Let us first wait and finish our cup of tea before we attend to the kitchen," because this fire will definitely spread?

I believe, Mr Speaker that when the hon. Chair, Council of Ministers explains the urgency of this Bill and draws in the Partner States. No Partner State will be against us and, therefore, for me what is pertinent is the time frame. I hope with these comments when we sit next in Arusha, we shall handle this as urgently as we can and that the Council of Ministers will support us in principle as it has already agreed to do so. I thank you.

Dr. Lwanyantika F. Masha (Tanzania): Hon. Speaker, I am a member of the committee and I support the Bill. It is unfortunate as you mentioned that the Bill does not contain analysis including some of the substantive discussions that took place during the committee stage, which could have answered some of the comments made by the hon. Minister.

I hope I am not pre-empting the chairperson of the committee or the mover of the Bill, hon. Odette by saying that some of comments which the Minister makes were taken care of and if there had been some patience, would have been noted in the amendments which will be moved in some of these areas. But indeed there are still some areas raised by the Minister, which require further discussions. Essentially the point is whether this office and the group of eminent persons would have an advisory capacity or would have an executive capacity. This is something that needs to be thrashed out and perhaps further consultations between the committee and the Council of Ministers might thrash out some of these elements.

But indeed I agree with all those who have said that there is an urgent need to have something that addresses these points and I am glad the Minister made those comments and pointed out the areas which are really important. So, the Bill is very important

but we must acknowledge that there are some areas which need further consultations with the ministers on the basis of what the Minister has said. I can only pray as hon. Dora has said, that they treat it with urgency and hopefully not for the reasons hon. Kidega put but in the same tenor for the urgency of something like this for our people in East Africa, I hope we can come to an agreement sooner than later and we pass the Bill ourselves or in the next EALA but we should not be pressed by the timeframe of EALA. We should treat EALA as a continuing institution so that whether this is done by the next EALA, I will have no problem. I thank you, Mr Speaker.

The Speaker: Hon. Members, while I would have no problem with the next EALA dealing with this issue, there is a problem that I have with the hon. Ministers who are Members of this Assembly and so shouldn't pretend to have seen this document for the first time. Before it was published, somebody came here to bring a notice of intention whether the House allowed the hon. member to bring it. The CTC sits here all the time and should I remind you when the hon. Member brought the intention to bring a Private Member's Bill, from there it went for the first reading and was published. Does it mean that these ministers will just sit here and wait for a report to come and then claim to have just seen it? Where have you been all these months? It is nearly a year.

Mr. Muntu: Thank you, Mr Speaker. I really don't want to seem as if I am throwing blame at the Council of Ministers but I think they are operating within a culture that affects us all. They could help us and the Summit in getting a way of how they themselves and also helping all of us get out of that culture which we are so stifled in. I some time back talked about a story of a frog and I was made to understand that if you throw a frog in hot water, it will immediately jump out. There is that response mechanism - a reflex - that makes it jump out though it would of course get burnt. However if you put a frog in cold water and start heating it slowly, it actually dies in the water because it gets used to increasing temperatures on a gradual process and by the time realises it is in danger, it is already dead or doesn't have the capability of jumping out. *(Laughter)*

That is the culture we are operating in.

We are so used to challenges and kneejerk reactions; we are never proactive and you don't see it in just one country out of the five Partner States. You literally see it on this whole continent of Africa. So, it is the responsibility of those whom are in leadership positions at the Summit level and the Council of Ministers to realise this and help to pick all of us out of it. Because a Bill like this, how many conflicts have gone

through in this region? Many. How many thousands of people have dies in this region? Many. But even it has to be a Private Member's Bill, which is telling. I don't really want to be seen as if I am making judgements but this is the reality of the situation and there are situations which you can basically see that it they are not well managed, in another five or 10 years we could end up in other conflicts.

Some of them can be seen within maybe one or two years but there is no mechanism to address them. Now there is a Private Member's Bill to address our minds; the Summit; the Council; and ourselves but we don't see responses; we don't see the sense of urgency. But if you get 1,000 to 3,000 people dead is when you will see reactions and mobilisation of teams of people; you will see mobilisation of resources. Why do we have to wait for people to die first like it happens? Why? But anyway breaking habits is not an easy process and the worst part is breaking out of a culture.

But let me tell you; the Summit; the Council you need to understand this. You take absolute responsibility. There is no way our communities are going to move until we break the culture that ties us down. Sometimes people look at the individuals, presidents and ministers and think it is their fault that we are

not moving. No, it is the culture. Many of them have the intentions to move but they can't move because they are also stuck in the same culture. So, until we breakthrough it we will keep rotating around the same thing.

Anyway, Mr Speaker my proposal is that I don't see any problem with deferment as long as we get a feeling that the Council is serious about it because we would want to move together on this. If it is possible for them to meet between now and the meeting in Arusha, that will be the best and then they can have their input and we pass the Bill. There will be future amendments and there will be no problem with that. But they should impress it on the Council and Summit that we need to see them doing certain things.

You can imagine within the space of the next year or two or three if we are to get a crisis and you just hear people dead and then you start running all over the place and you ask them whether they didn't see it coming. Because we always see it coming and we all know it. Thank you, Mr Speaker.

Ms. Wanyoto: Thank you, Mr Speaker and hon. Members. I listened carefully to the Chairperson, Council of Ministers because he had promised that they would always cooperate. So, I was waiting to do the usual acclamation and thanking him for supporting the Bill. And he did say that the Council supports the entire objectives of the Bill, which he did read. But what remains I think consultations on policy issues within the Bill. So, the feeling I got while I was listening carefully is that they have read this Bill; they have appreciated the objectives and the principles of the Bill and the spirit of the Bill, which is really important and what Members have said the spirit of the Bill were on the same page. Now, what remains is to agree or consult more on the policy issues that are raised in the Bill.

My take on this is that you don't need a Council of Ministers meeting. My thinking about what the Minister has said, if you agree on the principles and objects of the Bill, you don't need a Council of Ministers meeting because we know and understand three difficulties it takes to convene and put on the agenda between now and June. I think that since you have highlighted the areas that you need to build consensus on which are the institutional policy issues in the Bill. List them, build consensus on them even before we end this session because you

have done this before on the other Bills. You can begin the process now; your colleagues are now within the region and maybe we can build consensus here with the committee so that by the time we meet in June before we end this session, we would have agreed and we pass this Bill.

The importance of this Bill cannot be over emphasised. We have conflicts living with us and this is the best way we can resolve them by having people to mediate and help us solve the problems within our own mechanisms. So, Mr Speaker, I thought that I should raise the issue that the Council of Ministers have already said that they like the spirit of the Bill and agree with the principles and objects of the Bill but only want to consult on the institutional provisions of the Bill, which are not more than two or three. So, make a phone call and we move. I thank you, hon. Speaker.

Mr. Munya: Thank Mr Speaker. The Council can understand the situation that the House is in especially at this point in time when the mandate of this particular House is almost coming to an end. But Mr Speaker, as hon. Masha stated, this House should be seen in terms of an institution that is continuous; that is permanent so that what has been started by this particular House can be carried forward by the next House. And indeed the Bill is already there; it is on the *Hansard*; I am sure the Members of this House who will survive can take over.

The Speaker: Hon. Minister, let us speak realistically with each other. The point is not about the House moving on or whatever. The House is going to there. But it is about you requesting for adjournment for debate. You requested for adjournment of debate; it is not about the next House or whatever. We know there is going to be the next House.

Mr. Munya: Mr Speaker, I was really trying to say that history has already been made. The fact the Member came up with the Bill and it is on record will whichever way build up for the future. It is not an effort lost in vain. But because of the way decisions are made in the Council, I cannot give an indication that the Council can be bale to meet before the next sitting of the House because the Bill must go through the Sectoral Council

first before it is brought to the full Council. And the information I have is that the House may be meeting in May, which is a few weeks from now. I don't see the possibility of the Council meeting and deliberating on this Bill before then.

Some of the proposals in the Bill are really groundbreaking; they will need to even change the structure of the Community. When you want to create an Army that can intervene in a conflict, that Army must be under one command and who is going to instruct? We don't have one commander because the Chairman Summit is not a commander-in-chief of East Africa. We have five commanders-in-chief; if one says, "No, my Army will not be involved." How do you deal with that? So, I am saying these are serious proposals. Important as they are, they are very serious and require time for the Council to deliberate on them; it is not that Council has not made steps in that direction.

In fact the Summit that is meeting next week is going to approve a joint Defence Pact among the five East African States.
(Applause)

Is that not a major movement in East Africa that we must acknowledge? But sometimes big changes require to be taken slowly and deliberately so that they don't take us backwards and that is why we are saying can we be given time to take these

issues through the decision making process then we are sure that we are supporting something that is as well being supported by the constituencies that we represent. Thank you, Mr Speaker.

The Speaker: Hon. Members, maybe to help the Minister so that he is not raffling any feathers and not doing anything that is you know- I think he is only talking on behalf of Council. One thing I will say is that this Bill did not just drop out of the blue. The CTC is here to advise Council in terms of what is going on and the SG in terms of what comes to this House when the ministers are not here or even take it to the relevant sectoral committees and what have you.

But I would like to say one thing; I don't think this House requires that a sectoral council should sit to approve a Bill before it is passed here. That is No. 1.

Two, when they talk of this sectoral what have you; you remember hon. Members the same Council here has taken two years to bring a single amendment Bill. Why? They tell us that the Sectoral Council of Legal and Judicial has never sat for two years. They only brought us that amendment Bill the other day. Nothing has come to this House.

I would also like to say that they should go back to the first sitting we had; I wish hon. Kategaya was here because he hasn't come to this House. I don't know what we are going to do to him under the rules because he has missed more than seven sittings of the House. *(Laughter)*

Hon. Members, I think the rules should be recognised. If the hon. Minister is here, you should convey that message to him because he has missed more than seven sittings of the House and the rules are very clear on what happens to a Member. Hon. CTC, I hope you can advise on that matter.

But hon. Members, I must say that I at times find it very difficult to sit here because when I saw hon. Kategaya, he came to us in 2007 when we were passing the budget and gave us a list of what he called Bills that he was going to bring to this House, has anybody ever gone back to find out how many Bills he said they are bringing in terms of legislative calendar and how many have come to date? He mentioned them. I don't know. Have you guys ever checked? You know I don't debate but I at times I find it funny for a minister to come during the Budget Speech and say, "We are going to bring a, b, c, d in the next financial year," and not even bring one of them for five years and nobody is asking anything. So, hon. Members, I think you are the ones to ask the hon. ministers to be serious in the way they conduct business in this House.

The CTC know how procedures happen, this thing should have been sent to the Partner States and be channelled through there. The reason why you are here is to inform your Partner States of

Bills that have come here so that you can go through the process fast. You can't come here and tell us that you are seeing it for the first time and then to has to go through Council. Those are things that you knew.

But hon. Members, I said that let us allow these ministers to go and consult, meet the committee - some of the things you are talking about I can see that the committee has taken care of because I find "delete" all over the Bill. Maybe they can sit with the committee so that hopefully by the next sitting they can come up with something concrete for the House. We cannot just say because the House will continue, we forget about everything. If genuinely that is the case, then we may as well not sit and wait for the next House to do whatever business that they need to because there is going to be a next House. So, Members, we should do our work until the 4th of June, 2012.

(Applause)

So, hon. Members, with those few remarks I would like to put the issue to vote that we adjourn debate on this Bill.

(Question put and agreed to.)

So, hon. Ministers, I need you guys to be what we call serious to meet the committee and come to the House in May.

QUESTION: REF: EALA/PQ/OA/03/2012

Mr. Ngenzebuhoro: Thank you, Rt hon. Speaker. I would like to ask the Chairman Council of Ministers to answer my question ref: EALA/PQ/ OA/03/2012.

During the last budget meeting held in Arusha in May 2011, the Committee on General Purpose noted that the 2010/2011 financial year had been characterized by underutilization of the approved budget with the consequence of slow pace in implementation of the programmes.

The Secretariat explained that the main reasons for such a regrettable situation was the delays in recruitment due to the ongoing institutional review process, the suspension of the recruitment of mainstream staff and the implementation of the Roadmap for the integration of Burundi and Rwanda. Delays in recruitment have led to understaffing and overworking for some staff.

Can the Chairperson of the Council of Ministers, (nearly ten months after the budget debate and approval by the Assembly), inform this August House:

- a) *What problems the Council of Ministers faced in the Institutional Review Process?*
- b) *If there are, how has the Council of Ministers sorted out or intends to sort these problems?*
- c) *What measures have been undertaken to fast track the institutional review process?*
- d) *How far is the implementation of the Roadmap for the full integration of Burundi and Rwanda?*

Mr. Munya: Mr Speaker, I beg to reply; During the Dedicated Session of the Sectoral Council of Ministers responsible for EAC Affairs and Planning held in Zanzibar from 24th to 29th October, 2011 the institutional review report as prepared and submitted by the Institutional Review Tax Force was discussed, considered and adopted a phased approach for the implementation of the institutional review. Partner States were directed to consult on the report and submit their comments during the meeting of experts to be held in the second week of November, 2011 and still directed the Secretariat to convene a meeting of experts from Partner States to consider the proposals and recommendations contained therein and make appropriate recommendations to the 24th Meeting of the Council of Ministers in line with the following terms of reference:

- (1) Adherence to the provisions of the Treaty;
- (2) Ensuring appropriate realignment of functions as per the functional analysis; and
- (3) Ensuring that the institutional review caters for the consolidation of the Customs Union, Common Market and preparation of the Monetary Union.

Mr Speaker, in line with the Sectoral Council directive, the Secretariat convened a meeting of experts from Partner States in Bujumbura, Burundi from 9th to 14th November, 2011 to discuss the institutional review report.

At its 24th Meeting held in Bujumbura on 26th November, 2011 the Council of Ministers considered the report of experts on institutional review and observed that the report deviated from the terms of reference issued by the Dedicated Session of Ministers Responsible for EAC Affairs in the planning as indicated above.

Accordingly, the Council noted the need to subject the report of the institutional review to an independent consultant for study and review in the next financial year to enable the Community get an independent view of the institutional requirements of the Community.

The Council subsequently directed the Secretariat to engage a consultant to undertake a second review of the institutional review in the next financial year, 2012/2013. The Secretariat has already commenced a process of procuring a reputable consultant firm to first track the exercise of reviewing the institutional review report as prepared by the Institutional Review Tax Force and validated by a team of experts from partner

States. It is expected that the report of the consultant will enable the Council to finalise a decision on the way forward in regard to the institutional review requirement for the Community.

Mr Speaker, regarding the implementation of the full integration of the Republic of Burundi and the Republic of Rwanda into the EAC, a quota based recruitment system for EAC staff was approved by the Council of Ministers at its 24th Meeting. This system is already under implementation by the EAC organs and institutions. The quota system will ensure an equitable distribution of staff positions to the citizens of the Partner States of Burundi and Rwanda as part of the integration process.

At its 24th Meeting, the Council of Ministers also endorsed a decision of the Dedicated Session of the Sectoral Council of Ministers responsible for EAC Affairs and Planning to host the East African Science and Technology Commission in the Republic of Rwanda and the East African Health Research Commission in the Republic of Burundi as part of the roadmap for the integration of the two Partner States into the EAC. Thank you, Mr Speaker.

Mr Ngenzebuhoro: Thank you, Rt hon. Speaker. According to the response given by the Council of Ministers we are at the beginning of the process and we must wait for the next financial year. Let us hope that the reputable consultancy firm can create a miracle and produce a report which will be acceptable by the Council of Ministers and help in the fast tracking of the institutional review process. I am not sceptical but I will say let us wait and see probably this will happen one day. Thank you.

Mr Ogalo: Thank you, Mr Speaker. Now that it is clear that this institutional review is going to take very long, more so that we know that there is a process of having an expert in the next financial year, maybe it will go into the other financial year, and thereafter another one, would the Council of Ministers consider, in view of the fact that it is going to take very long, upgrading the offices of CTC, the Clerk and the Registrar of the Court while we await this long drawn up process because this is a matter which has been pending for the last eight years? Thank you.

Mr Munya: Mr Speaker, that question is still pending and I will be answer it within this week. But I am sure that if the review takes a long time, I don't see anything wrong with the Council looking at those particular offices and making a decision. Being a member of the Council, I will take the concerns of this House to the Council in regard to those three offices.

Mr Masha: Mr Speaker, in answering part of the question raised by hon. Ngenzebuhoro, the Minister referred to a quota system that is now in use for staff in the Community. Now, I am familiar with the quota system in the United Nations where certain positions at the top are not part of the quota system and where the positions which are for the quota system are in a range. Since we have not received the numbers that are involved in this quota system, would the Minister make this available to us so that at least we know what range of staff posts are available for each of these countries?

The Speaker: I maybe need to help this House. I think we are talking about consultants; how many consultants have we had for this institutional review and how much have spent on it in terms of consultancy and high level task force so that we could at least know how much money has been spent so far?

Mr Munya: Mr Speaker, we can give that information on the money spent on institutional review - we can do the tabulation and table it in the next sitting of the House. I understand why the House is concerned because of the time taken and the resources spent. But sometimes when you hire experts they go outside their mandate and don't give a clear response because in a review you need a clear indication and a justification on why you need to change things. Sometimes you are forced to seek further review because there is nothing that can be worked on by the Council directly.

Then sometimes when you give it to people internally, those who need to be reviewed, you find vested interests where people are to review their own positions and just enhance them. So, you are forced to seek an independent voice on the matter because if you ask me to review my office, the tendency is for me to give myself more power and parts. So, that is why the Council was forced to hire an independent view from outside before it makes a decision on the institutional review.

On the quota system, it is also to provide the statistics. I think the countries that were not meeting the quota already know the jobs that they are supposed to fill and they have been told when the jobs are being advertised they know priority is being

given to those particular countries that have not met the quota. And the quota is also limited to the offices below the Secretary General and the deputies, which are already filled up and are known. So, it is those other jobs below that are provided for under the quota. If you want an additional report on the quota system, we could also table it in the next sitting of the House.

Mr Kidega: Thank you, Mr Speaker. I am informed that the quota system is applicable to all professional staff of the Community. I would like to know from the Council of Ministers whether the principle of the quota system is in tandem with the Common Market Protocol whose pillar provides for free movement of labour. Doesn't it affect the spirit of free movement of labour where a member of a particular Partner State is limited by a principle adopted by the organ of the Community yet in the Protocol for Common Market, labour is supposed to be moving freely in the region and any capable person is supposed to get that job and you are now ring fencing certain jobs? Thank you.

Mr Speaker: When you are answering, you need to talk about competence as well. What do we do with competency in terms of the quota because there are some instances where you advertise a job and there is nobody who is competent in that job.

Mr Munya: Yes, Mr Speaker this quota system when it was proposed was quite controversial because the Community was before the adoption of this system following a merit based system. But the merit based system was bringing serious imbalances where you found some countries with very few employees. So, need arose to combine both merit and equitable distribution principles. So, we use both because we have to first of all meet the basic qualifications for that job before you can be hired through the quota system. So, you have to merit the position in terms of having the basic qualifications and then of course you have to be seen whether you come from a country that deserves that job at that particular time.

Mr Speaker, obviously there are very qualified and experienced people who could give better services to the Community who are left out when the system is applied but we cannot have our cake and eat it. We have to decide on how to do things and once a decision is made, because a decision had to be made in order for us to move forward, and for the new members to feel comfortable that they are also properly integrated into the Community. Those are painful decisions that had to be made.

The Speaker: Next question.

QUESTION: REF: EALA/PQ/OA/04/2012

Mr Ngenzebuhoro: Thank you, Mr Speaker. I would like to request the Chairman Council of Ministers to respond to my question:

The Inter-University Council for East Africa (IUCEA) is expected to play a crucial role in the implementation of the Common Market Protocol of the East African Community, especially in the sector of Education, where harmonization will be essential.

At its 22nd Ordinary Meeting held in April 2011, in Arusha, Tanzania, the Council of Ministers referred the issue of arrears due to the IUCEA to the Sectoral Council on Education, Science and Technology, Culture and Sports, for appropriate action.

Can the Chairperson of the Council of Ministers inform this Assembly what the current status of arrears to IUCEA is at the moment and the appropriate action taken to avoid the same in future?

Mr Munya: Mr Speaker I beg to reply; upon the establishment of the current EAC in 1999, the Inter University Council of East Africa was identified as one of the surviving institutions of the EAC. It was then also realised that the Inter University Council needed revitalisation in order to enable it play a significant role in the development of higher education in the Community. Therefore, after its revitalisation and subsequent signing of the Protocol on the establishment of the Inter University Council of East Africa in 2002, the Inter University Council of East Africa financing arrangement continued to be based on equal contribution by the Partner States. This arrangement has continued to date as provided for by the Inter University Council of East Africa Act, 2009 Article 15(1) and (2).

However, by the year 2000 Kenya, Uganda, and Tanzania were already in arrears in their contributions. Currently although all Partner States have accumulated arrears except Rwanda, only Kenya has been paying over and above its annual contributions as a way of clearance of outstanding arrears.

At its 22nd Meeting held on 11th to 15th April, 2011 in Arusha, Tanzania the Council of Ministers raised concern that the financial disbursement trend to the Inter University Council of

East Africa budget by the Partner States had not been adequately corresponding to the expected levels. Therefore, the Council directed all Partner States to settle their arrears to the Council that had accumulated to more than US \$10 million.

During its 24th Meeting of the Council of Ministers held from the 21st to 26th November, 2011 the Republic of Uganda informed the Council that she had earmarked the funds through the Ministry of Education and Sports and that it would provide an update during the 25th Meeting of the Council scheduled for August 2012.

The Republic of Kenya informed the Council that she was still in the process of reducing the arrears and was committed to remit the funds to the Inter University Council of East Africa as per the Council decision, which is in fact what Kenya has been currently doing .

The United Republic of Tanzania informed the Council that she was committed to clear the arrears in the near future.

In the end, the Council of Ministers directed the partner States to fulfil their commitments by fully remitting their financial contributions to the Inter University Council of East Africa.

Mr Speaker, so far it is only the Republic of Kenya that continues to reduce outstanding arrears thus for the financial

year 2011/12, the Republic of Kenya has already paid US \$ 347,311 over and above its annual contribution of US \$ 76, 278.

The republic of Rwanda recently informed the Inter University Council of East Africa Secretariat that she was processing payment of the remaining US \$ 468, 395 to make up for a total payment of US \$ 764, 278 for the financial year 2011/12.

The Republic of Uganda has already paid US \$ 109,877 out of the US \$ 764,278 that she has to contribute for the financial year 2011/12.

The Republic of Burundi and the United Republic of Tanzania have not paid any amount as their contribution for this financial year 2011/12.

As of 31st March, 2012 the status of the arrears stood as follows: Tanzania- 2, 970, 616; Kenya- US \$ 2, 483, 041; Uganda- US \$ 1, 932, 578; Rwanda- US \$ 0; Burundi-US \$ 275, 718; total arrears US \$ 9, 661, 953.

Mr Speaker, regarding the appropriate action to avoid the same occurrence in future, the Council has directed the Secretariat to explore the possibility of mainstreaming the Inter University Council of East Africa budget into the EAC Budget Framework.

(Applause)

Mr. Ngenzebuhoro: Thank you, Rt hon. Speaker. Arrears which are approximately US \$ 10 million is a very big figure that should handle EAC activities. Partner States like Burundi and Tanzania for this financial year haven't remitted any contribution. So, I would like to ask the Council of Ministers what kind of conference they can use to force those countries to force those countries to pay their contribution? Thank you.

The Speaker: Even if you are commending the Republic of Kenya, if it continues to pay in that way, it will only be able to pay up in the next 12 years.

Mr. Munya: Mr Speaker, the real challenge here is because the budget of the Inter University Council of East Africa is usually paid separately from the rest of the budget, once we streamline that so that it is incorporated in the budget of the line ministry, which is the EAC Ministry, these arrears will be cleared and this is a directive the Council has given to the Secretariat so that instead of Ministries of Education being the ones to remit for the Inter-University Council of East Africa, the budget is streamlined into the main Ministry of the East African Community, which is equipped for pursuing budget for the Community and then the monies would be paid. I believe the problem would be solved through that approach.

Ms. Byamukama: Mr. Speaker, Sir, I want to thank the Chairman, Council of Ministers for his response. I think this House should commend the Republic of Rwanda for being exemplary.

Having said that, my supplementary question is this; I think this is a point at which we could have Article 143 of the Treaty kicking in. It states:

"A partner State which defaults in meeting its financial and other obligations under this Treaty shall be subject to such action as the Summit may, on the recommendation of the Council, determine."

Has Council, at any one time, made a recommendation to Summit? The IUCEA, one of the few surviving entities of the defunct EAC is about to close shop. It is in red. They may even fail to pay salaries, at this rate. So, has there been a proposal or thought to operationalise Article 143 of the Treaty, because I think this is such a time when it should be operationalised?

Mr. Munya: Mr. Speaker, Sir, there is no such proposal before the Council for sanctions. We believe we can still resolve this matter in good time. Even before we adopted the system we are operating in now of combining all the budgets through the Ministry of East African Community, we had problems with payments to other institutions like the Court. But once we combined the budget, now we are able to get the money. So, I am sure once this is implemented, these arrears will be cleared in good time.

QUESTION REF EALA/PQ/OA/05.25.12

Mr. Ngenzebuhoro: Mr. Speaker, Sir, I beg to ask the Chairman, Council of Ministers the following question:

For long time now, we have been told about the establishment of a Commission on issues of Culture and Sports in the Community, but so far there seems to be no progress towards this end.

Can the Chairperson of Council of Ministers explain to this House why it has taken too long to establish this very important Commission which will play a crucial role in the quick and full integration of our region?

Mr. Munya: Mr. Speaker, Sir, I beg to reply. I would like to commend Hon. Ngenzebuhoro for being very thorough in asking questions. I am now answering three questions from one Member.

(Applause)

Mr. Speaker, Sir, I wish to inform this august House that it is true that the Establishment of Culture and Sports Commission has take longer than was anticipated. However there is progress made. The Council of Ministers at its 20th Meeting held in March 2010 adopted the draft Protocol on the Establishment of the East African Culture and Sports Commission and referred it to the Sectoral Council on Legal and Judicial Affairs for legal input.

The Sectoral Council on Legal and Judicial Affairs at its 10th Meeting held in October 2010, considered the draft protocol and raised the following issues that need to be addressed:

- i) That the Protocol focused on the establishment of the commission rather than spelling out the scope, objective and mechanism of cooperation,
- ii) That the Protocol deals with institutional matters that would be best provided in the Community law, and
- iii) That the EAC is still carrying out an Institutional Review exercise which makes it difficult to establish new institutions including commissions.

In view of the above, Mr. Speaker Sir, the Sectoral Council on Legal and Judicial Affairs recommended to the Council to refer the draft Protocol on the Establishment of the East African Culture and Sports Commission to the Sectoral Council of Education, Science and Technology, Sports and Culture to comprehensively address among others, the institutional matters, scope, objectives and mechanisms of cooperation in the draft Protocol.

The draft Protocol on the Establishment of the East African Culture and Sports Commission will therefore be presented to the 10th Meeting of the Sectoral Council of Education, Science and Technology, Sports and Culture slated for June 2012 to comprehensively address the said issues.

Thank you Mr Speaker, Sir.

The Speaker: Supplementary hon Ngenzebuhoro?

Mr. Ngenzebuhoro: Thank you Mr Speaker, Sir. I thank the Chairperson council of Minsters for the response given to my questions but on this issue I would like to have further clarification. On one side, he that progress has been made and we see that the establishment of this Commission is pending on the existence of the Institutional Review and that is exactly what he said. He said that EAC is carrying out the institutional review which makes it difficult to establish new institutions including commissions. And on the other side he said that the Draft Protocol of the establishment of commission will be slated for June to comprehensively address the same issues. How can this be possible when at this time, the institutional review will not be in place because it will be for next year. I would like the Chairperson Council of Ministers to clarify because for me it's a contradiction.

Thank you Mr Speaker, Sir.

Mr. Munya: Mr Speaker, Sir, the basic point here is that the protocol is pending before the Sectoral Council on Education Science and Technology which is meeting in two months time and most probably I cannot anticipate the decision it will make. Most probably it will clear the commission for establishment or may be recommending that it stays until the institutional review is done. I cannot anticipate. There is this general feeling that many things should wait for the institutional review when you cannot a decision, you cite institutional review. *(Laughter)*

But some decisions have to be made and so I cannot anticipate. We will try to look at it in that Sectoral Council with other members of the Council who are here to convince them that this commission need not to wait for the belated institutional review.

Ms. Hajabakiga: Thank you Mr Speaker, Sir. It is in the same spirit that I wanted to know now that they have approved the three commissions: the Kiswahili Commission, The Science and Technology and the Health Commission which are going to Burundi, Rwanda and Tanzania. What is the particularity of this particular commission if the other ones have been accepted? Why couldn't this one move on, while the other three have been approved? *(Applause)*

What is so special about this one to wait for the Institutional review?

Mr Munya: Mr Speaker, Sir, I entirely agree with hon. Hajabakiga that there is nothing special about this commission to warrant it to wait for institutional review. That's why I am saying that we will attempt to convince the Sectoral Council to allow this Commission to be established when the Sectoral Council meets.

(Applause)

QUESTION: REF: EALA/PQ/OA/06/2012

Mr. Gervase Akhaabi: Mr. Speaker, Sir, I rise to ask the Chairman, Council of Ministers for oral answer for the following question:

The Treaty for the Establishment of East African Community has, as one of its objectives, the development of policies and programs for the deepening and widening of co-operation among the Partner States in the Community for the mutual benefit of the Partner States.

The Partner States have agreed to progress their integration in phases and by cooperating in different areas in order to attain the objectives.

Under and by the Protocol on the Common Market the Partner States intended to guarantee within the Community, among other things, free movement of goods and people.

Could the Council of Ministers:

- 1. Confirm whether or not the Council of Ministers is aware that the United Republic of Tanzania has, with effect from February 2012, imposed a levy of US\$200 on commercial motor vehicles entering that Partner State from the Republic of Kenya;*

2. *State whether or not this levy was authorized in accordance with the East African Community statutes particularly the Customs Union Protocol or the protocol on the Common Market;*
3. *Explain whether or not this levy in any way promotes the EAC integration and the attainment of the objectives for which the Community was established; and*
4. *State if the Council has taken any action, in exercise of its powers under Article 14 of the Treaty, to require the United Republic of Tanzania to adhere to the provisions of the Treaty, the ratified Protocols and the laws of the Community?*

Mr. Munya: Mr. Speaker Sir, I beg to reply. The Council is aware that The United Republic of Tanzania has with effect from February 2012, imposed a levy of US\$ 200 on commercial motor vehicles entering the Partner States from the Republic of Kenya.

This levy is not authorized as per Article 13 of the East African Customs Union on non tariff barriers which outlaws imposition on non tariff barriers. The levy does not in any way promote the EAC integration and the attainment of the objectives for which the Community was established as it adds into the cost of doing business in Tanzania.

The imposition of the levy was deliberated upon by the EAC dedicated Ministerial Meeting on tariff barriers which was held on 14th February 2012. The Ministers decided that Tanzania consults and removes the levy by May, 2012.

Thank you Mr Speaker, Sir.

Mr. Akhaabi: Mr Speaker, Sir, I thank the minister and I would wish to get a confirmation from the minister that upon the meeting on 14th February 2012, the minister will during the meeting of this House in Arusha in May report to the House what decision the United Republic of Tanzania will have made. Could the minister confirm that?

Mr. Munya: Yes, Mr Speaker, Sir, I undertake to report to the House progress made on this matter in the next sitting of this House.

I also wanted to add that the levy is actually an imposition by a local authority; it is not by the government itself. It is a local authority and that is why they were saying they would consult and deal with it to stop the levy and that is why they were given by the ministerial session until May to deal with matter. They greed they will deal with it by that time.

The Speaker: Hon.Ogalo but hon. Munya can also answer and tell us that if the local authorities don't the follow the laws in Tanzania, they have their own laws but anyway-hon Ogalo go ahead.

Mr. Ogalo: Thank you Mr Speaker, Sir. Having established that the levy was contrary to law what decision if any did the Council make on refund to the people who had paid \$200?

The Speaker: Hon. Minister, the hon. minister is not answering questions unless he was giving the information to the minister.

Mr Munya: Mr Speaker, Sir, I can accept the information from my colleague. *(Laughter)*

The Speaker: may be as he answers he can tell us how a central government can consult a local authority instead of directing.

Dr. Saadalla: Mr Speaker, Sir, what happened was that normally within the region there are local levies which are being requested by the local government for example in the auction of selling maize, 2% of that must be given to the local government. So this was the advantage which was taken by the Kilimanjaro border to request for levy without consulting the Tanzania Revenue Authority. We found out that is not the right way of doing that and we have asked them to remove it but in reality the same has been found in Kenya. They were giving 2% levy for every tone of tea which was crossing over. It was noticed to be a NTB on bilateral barrier issues. We have planned a meeting in Mombasa; we will meet and remove all these NTBs.

The Speaker: Hon. Sadalla are you telling us that the two governments are fighting and the general public is losing out because your imposing retrospective levy because the two governments are trying to show each other rough? Are you telling us that it is a reaction to a levy, which was, imposed somewhere else?

Dr. Saadalla: Unfortunately, it was not a reaction but it was a coincidence which happened and we noticed it.

The Speaker: The issue of refund.

Mr Munya: Mr Speaker, Sir, I also undertake to report on that possibility and we will raise it when the bilateral meeting takes place. We will discuss it and then we will report to the House.

The Speaker: Hon. Munya may be there is something worrying here. Is this a bilateral issue or is it the Customs Union Protocol or is this Customs Management Act? Why has it become bilateral when it is an issue of the Community law?

Mr. Munya: Mr Speaker, Sir, I want to agree with you that these matters are supposed to be community matters and should be handled at the community level and not at bilateral level. The EAC has also peculiar ways of behaving. It is a ministerial session that met and agreed that if we have the two governments meet at an informal level. It is not a formal EAC meetings but an informal level to brush out some of these issues. It might be better than discussing them at formal meetings. It was mutually agreed across the Council meeting and this is one of some of many issues that will be dissused in that meeting bilaterally.

Mr. Kidega: Thank you Mr Speaker, Sir. I would like to know from the Council of Ministers whether they consider it really legally within the framework of the EAC integration that issues which are supposed to be governed within the framework of the East African integration are bilateral treated even using institutions of the EAC. Just when I was coming to Kenya for this session, there was a bilateral meeting being facilitated by the Directorate of Trade between Uganda and Kenya. Is this trend accordance with the legal frameworks within the institution? Is it not discrediting the integration process?

Secondly, is this levy which the Tanzanian government was putting on the trucks from Kenya was it specific to trucks from Kenya because I know there also trucks from Uganda that go to Tanzania and if so why specifically Kenya and then the reverse levy on tea. Can this thing grow into a danger to the Community or the integration process?

Mr. Munya: Mr Speaker, Sir, from my answer I said that this levy was specifically from trucks entering the United Republic of Tanzania from Kenya and I want to admit that this trend doesn't in any way contribute to the integration of EAC. It is based on the failure of the Partner States to treat EAC Law as supreme law over the national law. *(Applause)*

Mr Speaker, Sir, if we want to move the EAC forward, the governments of the Partner States must start accepting that the Community Law is above municipal laws of the Partner States. *(Applause)* Until we accept that we will have many of these issues coming up.

Dr. Masha: Mr Speaker, Sir, on the basis of the last comment by the minister, doesn't this express clearly the need for a regional customs authority which we hope the ministers will be presenting for passage in this Assembly. *(Applause)*

Because if these matters were administered centrally, these kind of things wouldn't happen. Would the minister comment on that?

Mr. Munya: Mr Speaker, Sir, I want to agree that if there was a common customs authority these matters should be minimised if not eliminated and indeed there is a report the creation of a single customs territory that is going to be considered by the Summit of the Heads of State next week. This will be a positive development in eliminating some of these issues but a single customs territory will not in itself deal with that trade of not giving the EAC Law the status it deserves in terms of the hierarchy of laws in the Community. That is why you will find even in Common Market we are still making references to the Partner States laws when those Partner States laws are supposed to be super-ceded by the Common Market Protocol. This is a trend we need to revise and it is good that these issues are also coming into the House and because the House also plays a major role in helping the community move forward in terms of integration.

The Speaker: Hon. Members, I think we have come to the end of business today and I think the final issue we were discussing is very important. When we see that countries are coming to talk bilaterally, the question I asked is that what is the Directorate of Customs doing in Arusha because their job is to monitor and evaluate the Customs Management Act. I hope the Committee has called the Directorate and even the ministers. And now I take this opportunity to direct the Committee to look into this matter and also the matter of tea levy that has been talked about. Let us not make this a bilateral issue when it is a regional issue. If they want to make it a bilateral issue, we also have a right now as an Assembly to call the ministers from those countries to the Assembly because they are the ones who have made community issues bilateral matters.

The Committee on Communications, Trade and Investment should look into this matter and may be report to this House in the next session.

Hon. Members with those few remarks I now want to adjourn the House until tomorrow 9:30 a.m. in this chamber.

(The House rose at.... p.m. and adjourned until Tuesday 24th

April 2012 at 9.30 a.m.)