



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

63RD SITTING – FIRST ASSEMBLY: THIRD MEETING – FIFTH SESSION

Wednesday, 24 May 2006

The East African Legislative Assembly met at 2.30 p.m. at the Chamber of the Assembly, Ngorongoro Wing, Sixth Floor, AICC Complex, Arusha

PRAYER

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

The Assembly was called to Order.

BILLS
Second Reading

The East African Community Standardization Quality Assurance, Metrology and Testing Bill, 2005

Chairperson, Council of Ministers (Mr. John Koech) (Ex-Officio, Kenya): Mr Speaker sir, I thank you for availing me this opportunity to move that the East African Community Standardisation, Quality Assurance, Metrology and Testing Bill, 2005 be read a Second Time.

Allow me, however, to join you and the rest of my honourable friends in paying tribute to our fallen colleague, the late hon. Gen (Rtd.) Adan Abdullahi, a Member of this august House who lost his life in an air crash in Marsabit while undertaking a peace mission along with

other senior government officials and Members of the National Assembly of Kenya. I knew hon. Abdullahi for a long time; first as a gallant leader of the Kenya Army, secondly as an able and active member of this House, whose contributions to regional peace and security, among other Community pursuits, stand to be emulated. I pray to the Almighty God to rest Gen. Abdullahi's soul in eternal peace and to give the rest of us strength to continue the good fight to which he lent his whole career in life.

Mr Speaker, sir, when I introduced the East African Community Competition Bill, 2004 on 8 March 2005, I did underscore the importance of enactment of laws that are meant to buttress the Community's pursuit and achievement of trade liberalization and development. This objective is well articulated in

Chapter Eleven of the Treaty for the Establishment of the Community, read together with the related provisions in chapters twelve and thirteen. I would also like to remind you of the importance attached to trade liberalization and development as we develop our Customs Union, and as we fast-track the political federation.

It is against this background that I urge this august House to circumspectly analyse this Bill and enact it into law. This is a straightforward technical Bill, which I believe the honourable Members have already studied. So, I express my gratitude to the Chairperson, hon. Dr. George Nangale and hon. Members of the Committee of Communications, Trade and Investment for having studied the Bill in extension to the extent that the Committee is able to effectively interact with all stakeholders in both the private and public sectors on such an important Bill as the Standardisation, Quality Assurance, Metrology and Testing Bill. The input of the Committee has enriched the Council's initial work.

Mr Speaker, since I came this time, I was very happy with the Committee in the way we have been getting along together. I find that it really benefits the development of the Community – *(Applause)*.

Mr. Speaker, allow me to reiterate the fact that the East African Community Partner States have, for purposes of strengthening their economic, social, cultural, political, technological and other ties for their fast, balanced and sustainable development, agreed on the establishment of the East African Community Customs Union and Common Market as transitional stages

to, and integral parts thereof, subsequently a monetary union and ultimately a political federation.

Mr Speaker, these ideals which are enshrined in the Treaty – I have introduced the Bill on Metrology and other Bills – are to ensure that what we are trying to achieve is going to be buttressed by these Bills to allow the smooth operations of the Customs Union, and finally the coming into effect of the Common Market, which I believe the people of East will take very seriously and that we are not going to backtrack. We must continue because this region of East Africa is enriched with various potential natural resources, which are not dissimilar in all the three countries. And I think that utilising those resources together within the context of East Africa, we shall be able to remove the poverty which is prevailing in our communities.

Mr Speaker, as I had talked about the natural resources which are abundant in East Africa, and when you look at the development of the Customs Union and the Common Market, and maybe finally, the political federation, the people of East Africa should know that if we are going to utilise the resources which the good Lord gave us in East Africa together within the context of the East African Community, we shall be able to advance our development faster than if we do it as single countries.

In this regard, the Council of Ministers has been guided by the East African Community Development Strategy (2001 – 2005) to enhance trade liberalization and development among other sectors.

Our last development plans highlighted the question of the Customs Union, which is trade liberalisation, and which I think we have gone a big step forward towards achieving, in spite of the fact that we still have a few problems; a few hitches. But I think as we sit here as Council of Ministers, through negotiations and understanding each other, we shall be able to overcome those problems and then make the Customs Union to become completely successful.

The key cornerstone of the strategy is the development and adoption of an East African trade regime with a Customs Union and a Common Market. The Partner States have, in the context of the Treaty for the Establishment of the East African Community, agreed on standardization, quality assurance, metrology, and testing as a mechanism for facilitating sustainable modernization of the East African Community.

The Partner States also recognize the significance of standardization, quality assurance, metrology, and testing in the enhancement of the standards of living, reduction of unnecessary variety of products, the promotion of trade and investment, consumer protection, the enhancement of savings in public and private purchasing, improved productivity, the facilitation of information exchange, the promotion of health as well as the protection of property and the environment. The Partner States, therefore, undertook to evolve and apply a common policy for standardization, quality assurance, metrology and testing of goods and services produced and traded within the Community.

This Bill will allow for the assurance of the standards of our goods and also the protection of the environment. We all know that protection of the environment at this age is extremely important. When we read the Bible, when God created the world, on the last day after he had finished everything, he looked at the earth and then he said, "All is good". If He stood where he stood before and looked at the earth at this time, I do not think he would come up with the same compliment – (*Laughter*). So, we must try our best to ensure that we return the earth to its original form.

The Partner States concluded a Protocol on Standardisation, Quality Assurance, Metrology and Testing in the year 2002. The Protocol, which is in force, provides for:

- (a) the role of Standardisation, Quality Assurance, Metrology and Testing;
- (b) obligations of the EAC Partner States in the establishment of standards, quality assurance and quality management, environmental protection, certification and accreditation, co-operation in metrology, co-operation in testing;
- (c) co-operation in handling related documentation, information; funding of personnel and publicity; and
- (d) undertaking to establish an accreditation body to promote recognition of certification and laboratories within the EAC region as well as around the world.

Mr Speaker, sir, in tandem with the establishment and operationalisation of the East African Community Customs Union, the Council of Ministers, at its 7th Extraordinary Meeting held on 12 September 2004, decided that Bills on Customs management and administration, competition policy and law, and standardization, quality assurance, metrology and testing be prepared for submission to the East African Legislative Assembly.

This Bill seeks to translate the policy on standardization, quality assurance, metrology and testing into legislation in order to make the work of the Customs Union successful.

Mr Speaker, with regard to its principal object, the East African Standards, Quality Assurance, Metrology and Testing Bill seeks to principally:

- (a) make provision for ensuring standardization, quality assurance, metrology and testing of products produced or traded in the Community in order to facilitate industrial development and trade;
- (b) make provision for ensuring the protection of the health and safety of society and the environment in the Community; and
- (c) formally establish the East African Standards Committee and the East African Accreditation Committee, which will look into this to make sure that what we are trying to regulate in East Africa is taken into effect.

So, a body to look into that has got to be established.

Mr Speaker, permit me to highlight to this august House the salient components of this Bill:

Clauses 1 – 3 provide for the citation, commencement, interpretation and objects of the proposed legislation.

Clauses 4 – 12 provide for the establishment of an institutional framework that is conducive to the implementation of the legislation. The institutional framework includes an East African Standards Committee and an East African Accreditation Board for purposes of linkages on the basis of asymmetry. The bill provides for the establishment of rational institution including standards bodies, metrology institutes, legal metrology departments, regulatory authorities, accreditation bodies and laboratories.

Clauses 16 – 19 make provision for the publication and catalogue of the East African Standards.

Clauses 19 – 25 make provision for the enforcement of the law. These clauses establish and define the extent of conformity assessment requirements, enforcement of compulsory standards, regulation and administration of compulsory standards.

Clause 25 provides for the Partner States' enactment or amendment and approximation of national laws on offences contravening the law on standardization, quality assurance, and metrology and testing.

Clause 26 provides for a mechanism for handling of disputes between the Partner States regarding the development of East African Standards, the establishment and *modus operandi* of the East African Standards Committee, and the development and implementation of metrology; legal metrology, testing, certification or accreditation systems.

Clause 27 obliges the Partner States to approximate their relevant national laws and align them with the EAC Legislation.

Mr Speaker, the Council is of the considered opinion that this Bill incorporates the input of the Committee on Communications, Trade and Investment and the considered technical views of all stakeholders, and in principal, the Directorate of Customs and Trade and the Bureaux of Standards. The Bill is, therefore, in a form that fits the bill of our legislative requirements as a Community.

Mr Speaker, sir, since this is a very straightforward Bill, and I know that the honourable Members have gone through it, I do not think I need to say too much. I have already outlined all that is necessary; the reason for establishing this Bill, the bodies which are going to implement the Bill, the legal requirements and also the punishments which will be meted to those who will contravene this particular law. Also, the way the Partner States are going to co-operate, especially by use of the bodies in the national states for use for this particular purpose.

With these few remarks, Mr Speaker, I beg to move that the *East African Community Standardisation, Quality*

Assurance, Metrology and Testing Bill, 2005 be read a Second Time.

The Secretary General (Mr. Juma Mwapachu): Seconded.

(Question proposed)

Chairperson, Committee on Communication, Trade and Investment (Mr. George Nangale (Tanzania): Hon. Speaker, sir, on 27th September, 2005, the Interim Chairperson of the Council of Ministers, hon. John Koech, introduced in the House Bill No. 8 entitled the “*East African Community Standardization, Quality Assurance, Metrology and Testing Bill, 2005*”.

In accordance with the Rules of the Assembly, the Bill was referred to the Committee on Communications, Trade and Investment for consideration. The Committee met on 28th and 29th September, and later from 23rd to 25th November, 2005, to consider the Bill.

In order to comprehensively understand the policy behind the Bill, the Committee invited and made consultations with the Counsel to the Community and the Director of Trade, at the Directorate of Customs and Trade of the East African Community Secretariat, and the East African Standards Committee, which is comprised of the chief executives and other experts from the Bureaux of Standards of the Partner States.

As a result of these consultations, the Council of Ministers and the relevant Sectoral Committees took leave to further improve upon the Bill.

The Committee also met the Chairperson of the Council of Ministers yesterday to discuss the latest developments on the Bill, and I can say that the meeting with the hon. Minister went very well – *(Applause)*.

Mr. Speaker, sir, the policy behind the Bill is rooted in the fact that the East African Community Partner States have, for purposes of strengthening their economic, social, political and other ties for faster, balanced and sustainable economic development, agreed to the establishment of a customs union and a common market as transitional stages to fuller integration in the form of a monetary union and a political federation.

In the context of the Treaty establishing the East African Community and the EAC Development Strategy (2001-2005), quality assurance, metrology and testing are recognized as significant in the enhancement of the standard of living, consumer protection, promotion of trade and investment, improved productivity, promotion of health, as well as the protection of life, property and the environment. As a result, the Partner States concluded a protocol on SQMT (Standardisation, Quality, Metrology and Testing) in the year 2002. This Bill therefore seeks to translate the policy on standardization, quality assurance, metrology and testing, into law.

Mr Speaker, sir, the principle object of the Bill is to make provision for a common approach to standards, compulsory standards and conformity assessment in terms of metrology, testing, certification and accreditation in both the public and private domain

within the Community. The Bill also intends to ensure the adequacy of the quality system infrastructure at national level in order to facilitate industrial development and trade, as well as to help protect the health and safety of the people and the environment in the Community. Therefore, the Bill seeks to:

- (a) enhance consumer confidence and to limit consumer exploitation by increasing the number of processes and services that conform to established standards. In the final analysis, it is then hoped that there will be improved product quality and reliability that will enhance the reputation of East African goods and services;
- (b) harmonise domestic and regional standards with international standards in order to reduce costs, enhance compliance and to develop trade opportunities;
- (c) ensure due regard for the WTO Agreement on technical barriers to trade requirements and obligations.

The Committee was however informed that under the East African Community principle of subsidiarity, it was not the intention of the Bill to create supra-national bodies at regional level. For this reason, most of the activities envisaged under this Bill are to be implemented at national level and not at regional level as the Committee would have wished. The Committee however still maintains its long-held view that due to the successes

registered so far in the integration process, it was high time that the Partner States begun to think of establishing regional institutions as the only sure way of consolidating those achievements.

Consideration of the Bill: General Observations on the Scheme of the Bill

Mr Speaker sir, the Committee noted that there is an attempt by the drafters of the Bill to be exhaustive in respect of objectives of the Bill and the functions of the different organs established by the Bill. Notable examples are clauses 4(2), 5(2), and 9(1).

While it was appreciated that it is necessary to define functions, it was noted that there is a potential risk in doing so in that some circumstances may arise that fall within the ambit of the Act, but which could prove difficult to deal with if not listed as part of the general objectives of the Act, or functions of any of the organs established by the Act.

The Committee was of the opinion that it would have been better if the Bill was a brief on functions, but with a residual clause that gives general powers to handle eventualities of that nature.

The Committee was advised that it was necessary to retain the exhaustive nature of the Bill because of the extensive nature of the activities that are involved in standardization, quality assurance, metrology, and testing. It was however agreed that it was necessary to have a residual sub-clause under each of the clauses 3, 4(2), 5(2) and 9 (1). The Committee will at the appropriate stage propose the necessary amendments.

Reliance on Partner States' Regulatory Authorities and Reporting Relationships

The Bill seeks to set up East African bodies such as the East African Standards Committee and the East African Accreditation Board however, all the core administrative duties are to be carried out by the national bodies which operate under the authorities of their respective parent ministries in the Partner States. In such circumstances, the Committee was not clear as to the reporting relationships and allegiances of these bodies, vis-à-vis the parent ministries and the East African Community institutions.

The Committee was of the opinion that the East African Community bodies are not empowered enough to oversee the national bodies. The Committee further noted that there is great reliance on Partner States' regulatory authorities to administer the Act. There is no standing East African body that will have the authority to enforce the Act. The provisions in question are clauses 4(6) and (7); 20(1) and (3). Further, clauses 7, 8 and 9 provide that it is the national bodies of Partner States that shall continue to represent individual Partner States in international forums and institutions. Neither the Committee established under Clause 4 nor the Board under Clause 11 shall have any relations with international regulatory bodies for matters envisaged by the Act.

Mr Speaker, sir, the Committee was informed that this decision was based on experiences elsewhere, and in particular the European Union.

That the reasons why a supra-national body like an East African standards body or an East African metrology institute may not be the best way forward are that: -

1. It was necessary for the administration of the Act to be performed by the respective national regulatory authorities in line with the East African Community's principle of subsidiarity. It was therefore not the intention of the law to establish a supra-national standards body in East Africa;
2. Service delivery needs to be fast in the fast-moving technological world of today, hence the service provider should be as close to the client as possible;
3. Since the respective national regulatory authorities are funded by the parent ministries of the respective Partner States, there was need to retain closer linkages with the respective governments;
4. In International forums like ISO, IEC and ARSO, three national bodies would have three votes, whereas a single body representing the East African Community would have only one vote.

Be that as it may, it was the considered opinion of the Committee that as the integration process continues to take shape, it is imperative that proper and well functioning institutions of the Community should begin to be established as the first steps to building federation structures.

Mr Speaker, sir, the Committee was unable to establish from the experts the actual value in real terms to the East African Community of having three votes at international forums as opposed to one strong vote.

Development of East African Standards

The East African standard created under Clause 13 is to be developed, not by an East African body, but jointly by the national standards bodies of the Partner States. The Committee's fear is that the scheme may function easily at the initial stages but could create problems later, especially with regard to who has to take credit for the initial development of the standard.

The Committee was of the opinion that this function should have been vested with the East African Standards Committee. This could have been in line with clauses 15-19, which are rather consoling in that they vest useful strengths in regional authorities and in the East African Community Secretariat.

The Committee was advised that the process of standards development is an all inclusive exercise involving consultations with the stakeholders and government agencies hence it cannot be commenced at the Community level.

Institutional Nomenclature

Clause 4 seeks to establish the East African Standards Committee, which is comprised, *inter alia*, of chief executives from the national quality system institutions.

The Committee noted that at the national levels, the bodies in charge of standards are known as the bureaux of standards, and it was not clear why at the regional level this body was not named the East African Standards Bureau as well. The committee was advised that it was in order to refer to the East African Standards Committee as such since referring to it as the East African Standards Bureau would cause confusion. The East African Standards Committee would be merely a facilitative body without the infrastructure that is ordinarily expected of a Bureau.

Conclusion

Mr Speaker, sir, the Committee extends its appreciation to the current East African Standards Committee for accepting to travel to Arusha to assist in the consideration of this important Bill. Their technical advice was invaluable.

The importance of this Bill cannot be over emphasized; issues of standards, quality and measurement are a basis for trade. When they are uniform there is fairness to both the buyer and the consumer.

For the East African Community's products to be competitive on the international market as exports, the quality of its products must be guaranteed at source. On the other hand, if quality is not guaranteed, especially when imported products into the East African Community have a bearing to human health or the environment, there is likelihood of disaster, and the potential outcomes may be irreversible.

In this world of growing competition, counterfeit goods, dumping, use and handling of poisonous substances etcetera, there is need to ensure that the standards bureaux and other relevant bodies are adequately resourced in order to meet these enormous global challenges.

In this respect the Committee is urging the Council of Ministers to complete preparing the East African Community Legal Metrology Bill, which will cover issues of weights and measures – which is not covered by this particular Bill - so that the East African Legislative Assembly expedites its deliberations and enactment before the end of its tenure this year.

Mr. Speaker, sir, with the Chairperson of the Council of Ministers and the new Secretary General, I am confident that *yote yanawezekana*, especially in this era of “*Nguvu Mpya, Kasi Mpya na Ari Mpya*” – (Applause).

During consideration of the Bill, it was found necessary to make a few amendments to the Bill. Mr. Speaker, as I said earlier, the committee met the Chairperson of the Council on Tuesday 23 May 2006 to consider the Committee's proposed amendments to the Bill. It is our pleasure to report to this august House that the Council of Ministers is in full agreement with our proposed amendments. At the appropriate stage, the Chairperson of the Council of Ministers will propose the adoption of those amendments, which have been circulated.

The Committee commends to this House the Bill, and I move that the House do

pass the Bill, subject to the proposed amendments – (*Applause*).

The Speaker: Any Member wishing to contribute to the debate? I would like to give priority to Members who do not belong to the Trade Committee.

Mr. Calist Mwatela (Kenya): Thank you, Mr. Speaker for giving me the first opportunity for the Members outside the Trade Committee.

First of all, I would like to congratulate the Council of Ministers for bringing the Bill, albeit late, but it is before the House, and also to congratulate the Trade Committee for the very excellent work they have done on the Bill – (*Applause*).

Mr. Speaker, I observe that one of the major complaints about the Bill is the insistence of the Partner States to cling onto functions that can be centralised at the East African level. I have seen the reasons that have been given as to why it was necessary to take that position, and I would like us to revisit those reasons on page 4 of the Committee's Report, which reads as follows:-

“The Committee was informed this decision was based on experiences elsewhere, and in particular the European Union.”

Beginning with that very general statement, Mr Speaker, the Council of Ministers finds it very necessary to use examples from other bodies which work in their favour, but when it is a situation where we are using the same examples to work in favour of the East African Legislative Assembly, such become irrelevant. I wish the experiences of the

European Union were used across the board, this Assembly would be vibrant; it would be able to carry out its mandate very effectively. I wish therefore to call upon the Council of Ministers to look at how the European Union operates as far as legislation is concerned, and using the same reasons they are using here, to borrow from the European Union and bring to this House – (*Applause*).

Mr. Speaker, the first reason on that page 4 is that “*it was necessary for the administration of the Act to be performed by the respective national regulatory bodies in line with the East African Community's principle of subsidiarity. It was therefore not the intention of the law to establish a supra national standards body in East Africa.*” But here we are, moving into a common market.

In other words, products that are produced in Dar es Salaam should meet the exact standards as products that are produced in Kampala and in Nairobi, and you still want to have different bodies supervising those standards! Mr Speaker, I do not find it a problem for the Kenya Bureau of Standards, the Tanzania Bureau of Standards and the Uganda Bureau of Standards to become subsidiary bodies of the East African Bureau of Standards! (*Applause*). We should have one body and have departments in Nairobi, Kampala and Dar es Salaam under one authority of East Africa!

Mr. Speaker, the number two issue is that “*service delivery needs to be fast in the fast moving technological world of today hence the service provider should be as close to the client as possible*”. That is very hollow reasoning!

We are not saying that if you have a central authority then there will be no arms extending to the villages of East Africa. The central authority will be there, but they will be able to act inside every town of East Africa because they have subsidiaries. So, again, it is not a valid reason.

Mr Speaker, the number three reason is that *“since the respective national regulatory authorities are funded by the parent ministries of their respective Partner States, there was need to retain closer linkages with the respective governments”*. That is being very selfish!

It would actually be very economical to have one body managed by a central bureau of standards. These state bureaux becoming member bodies of this bigger one is more economical in the long run, just like we have been saying that instead of calling people all the time to drive from Kampala, Nairobi and Dar es Salaam to come to Arusha, we would have a body here which would make decisions and pass the decisions to the Partner States; it is much more economical. Currently, if we look at the budget of the different bureaux of standards put together, it would be much less than if we had one bureau of standards of East Africa.

Mr Speaker, the number four reason is that *“in international forums like ISO, EC and ASO, three national bodies would have three votes whereas a single body representing the East African Community would have only one vote”*.

Again, Mr Speaker, we want to speak as 90 million people but you still want to put us back to speak as 25 million, 30

million and 35 million people. Mr Speaker, a voice from 90 million people is much bigger than small little voices, one from there *gee gee gee!* It is not any effect – *(Interjection)* -

A hon. Member: That is not English! How will that be put in the *Hansard*? *(Interruption)*

The Speaker: Order! Hon. Members!

Mr. Mwatela: Thank you very much for protecting me, Mr. Speaker. We would like this opinion of the Trade Committee to be taken very seriously by the Council of Ministers and an amendment to be made so that we have one East African Bureau of Standards, so that we are a stronger body than these little bodies. Thank you very much for giving me the opportunity.

Mr. Daniel Wandera-Ogalo (Uganda): Thank you, Mr. Speaker, sir, for giving me this opportunity to contribute on this report. Mr. Speaker, sir, I wish to begin by thanking the Minister for bringing this Bill to enable the integration process move forward. I also wish to thank the Committee for dissecting the Bill and making this report.

Mr. Speaker, sir, I have some problems with the report, and I hope that the Minister and the Chairperson of the Committee will be able to assist me - when eventually winding up - with the problems I have with the report.

Mr Speaker, the Chairperson of the Committee, while presenting the report, did mention *“Nguvu Mpya, Ari Mpya and Kasi Mpya”* and I hope we will be moving in that spirit. Mr Speaker, the basis for my arguments is to be found in

the Treaty, which deals specifically with the area we are now debating. This is Article 81(3) of the Treaty, which says:

“The Partner States undertake to evolve and apply a common policy for the standardization, quality assurance, metrology and testing of goods and services produced and traded within the Community.”

The policy of the Bill and the arguments which have been put forward seem, in my view, to negate that fundamental principle in the Treaty. It negates it because, whereas there is an attempt to move towards a common policy by decentralising all those powers back to the Partner States, you move away from the possibility of evolving a common policy for standardization.

The Committee has, rightly, in my view, pointed out, and I think it is very right, that this position is not a proper position, and that we should have rather gone for a regional body to deal with SUMATRA. It defeats logic for us to say that we are creating ministers for East Africa, resident here to handle matters for East Africa and to deal with those matters we want to have solved here and at the same time say that parent ministries will handle these matters of East Africa in the Partner States – *(Applause)*. It is contradictory!

What are these ministers coming here to do if we will never have anything done here? Because, what the Committee was given as justification was that there is a principle of subsidiarity, which does not allow us to have supra national bodies. If that is the reasoning, then it means that there we will never at any one time have

anything controlled from Arusha. It means that everything will continue to be done in the Partner States, just like it was done with the Customs Union. Now, why then are we fast-tracking? *(Laughter)* To do what if even standards are going to be done in Kampala; it can not be done here?

Mr. Speaker, there seems to be too much caution; there seems to be too much fear in the Partner States. There is this reluctance to cede sovereignty so that whenever people come together to agree on something or a common policy, they end up saying yes, we shall have a common policy but we shall handle it from the Partner States!

The problem with that for standardization, for example Mr Speaker I have seen in the Bill, anyone contravening the law will be dealt with in the Partner States; anything which deals with the registration of service providers will be dealt with by Partner States. In other words, there is nothing in it for Arusha!

We are even telling the national parliaments in this Bill that Partner States shall pass a law to deal with that thing. How can we do that? We should be saying that the Partner States shall enforce this, but not that the Partner States shall pass a law to deal with this matter!

Mr. Speaker, sir, I think it is a step forward, but there is too much fear. It is high time the Partner States took the plunge. They want the thing, so they must be able to take the plunge and work. But every time we move one step and move two behind, like we did with the Customs Union.

Our customs officers are here listening to us. Instead of controlling Customs business, they are now here, why, because all the power is in the Partner States!

Mr Speaker, I would appeal to the minister that when evolving policy we should not be over cautious; otherwise we are negating what the Summit is telling us. In fact now I am confused, because the Summit says fast-track, but we are passing a law which is moving in the opposite direction.

I therefore would like, on this issue, to conclude like this, that the Committee should have gone ahead and brought an amendment to create a regional body, and then when we create it through the amendment here, it would go to the Summit and the Summit would test whether our view is the correct one or whether the one of the Council is the correct one. Because, the Summit is saying fast-track, and by creating a regional body I believe we would be fast-tracking, but by doing what this Bill is proposing, we are not fast-tracking!

Now, in case of our disagreement with the Council of Ministers, the Summit is the judge, because they would have to assent to this law. Eventually, if we disagree with the policy as evolved by the Council of Ministers that these matters should be dealt with in the Partner States and move amendment to this Bill to say that we should create this body, the Bill will be taken for assent to the Summit. If the Summit thinks the way the Council thinks, well they will assent to it, and if they agree with us, it will pass our Bill the way we want it. So, in my view, Mr Speaker, I think we should be courageous enough to move

amendments to create a regional body – *(Applause)*.

Mr. Speaker, I also want to turn to the reasons which were given. In the first place, it says that the Committee was informed that this decision was based on the experiences elsewhere, and particularly in the European Union. The reason why a supra-national body like the East African Standards body may not be the best...then they gave the reasons. I want to go to reason number three, which states that: “...*the respective national regulatory authorities are funded by their parent ministries of the respective Partner States, there was need to retain closer linkages with the respective governments.*”

Mr Speaker, sir, in the first place, these regulatory authorities are funded with funds from the national budgets, not from the parent ministries. Secondly, we even have other bodies here funded by the Partner States but they carrying on work here – *(Interjection)* - including this Assembly, and I do not think we can say we do not have linkages with our countries because the funding is coming from the national budgets and not from our ministries. So, this reason does not make sense that you can only work with the ministry if the funds come from the ministry. You can still work with your ministry even when the funds are coming from elsewhere.

Mr. Speaker, sir, this reason number one - and I hinted on this; the principle of subsidiarity. Well if this principle says that we shall never create supranational bodies, then we might as well pack up and go because it means that we were never meant to come here in the first place, because we put there a principle

which says we shall continue doing things in the Partner States! Why are we here? I hope I will be guided properly on what exactly this principle of subsidiarity means, which says that we cannot do things regionally.

Reason number two was that service delivery needs to be fast, and that in the fast moving technological world of today, service providers should be as close as possible to their clients. On the contrary, technology is such that you do not even need to be close because you will be able to communicate – (Yah!) That is what technological advancement is all about! How can you say you have technological advancement and then you say you must be in my village in order to talk to my mother? It does not make sense, Mr Speaker – (Applause).

Mr. Speaker, the reason number four was that if we are separate, then we shall have three votes instead of one. But then the Committee tried its best to find out the advantages of three votes and they say: *“Further, the Committee was unable to establish from the experts the actual value in real terms to the East African Community of having three votes as opposed to one strong voice”*.

So, if our experts cannot even tell us what the three votes are going to do to us, why are we advancing it as a reason here? The experts do not know whether actually having three votes is an advantage to us. But, in any case, this also negates the principle of the Summit that we should be negotiating as a bloc. So, in the long run, when you look at the reasons given to the Committee they are excuses for us not to create a strong supranational body. I think time has come for this Assembly now to depart

from the policy of the Council and move an amendment to create a regional body.

Mr Speaker, sir, if there had been a regional body in place in terms of the Customs Union we would not be having the problems we have had as a result of that law. You have now a Customs Union, you see traders in Kampala complaining about *mivumba* and then you have the authority in Kampala deciding on its own, and also at the same time negating what is agreed regionally. There are very many things which can make you not to follow what you had originally agreed upon. Then you have complains about pharmaceutical companies in Dar es Salaam claiming that they have been short-changed, and each country is carrying out all these activities in the context of its own legal framework! At the end of the day you ask yourself why we even had to pass an East African Community Customs Management Act!

So, if the standards are going to be set in the Partner States, they are going to be regulated in the Partner States, the legislation to apply is going to be made in the Partner States, enforcement is going to be done by the authorities in the Partner States, then I think we should allow this law to go back to the Partner States and each one passes their own law, because we are not being sincere to the people East Africa.

Mr. Speaker, sir, in conclusion, I just wish to comment on the conclusion on page 5 of the committee report which reads as follows: *“The Committee was advised that the process of standards development is an all inclusive exercise involving consultations with the stakeholders and government agencies*

hence it cannot be commenced at the Community level.”

Really, with respect to whoever gave this advice, to say that stakeholders and government agencies can only be consulted at Partner State level, and that it is impossible, if you are in Arusha, to contact Dar es Salaam, Nairobi and Kampala and say, “what is your view on this?” and to say it can only be done when you are in Kampala or Dar es Salaam or Nairobi...I think whoever gave this advice, with due respect, was misleading the Committee. I would rather go with what the Committee says on the same page 5 that *“It is the considered opinion of the Committee that for the integration process to continue to take place, it is imperative that proper and well functioning institutions of the Community should begin to be established as the first steps to building the federation structures.”*

It is in that light, therefore, that I conclude by saying that the very first step we should take is to move an amendment to this Bill to create a regional body.

I thank you, Mr Speaker – *Applause*).

Ms. Sheila Kawamara-Mishambi (Uganda): Thank you very much Mr. Speaker, sir. First of all I would like to also pay tribute to our fallen comrade, hon. Lt. Gen. Adan Abdullahi, whose seat has not yet been filled, and I think his place will remain unfilled in most of our hearts. I would also like to thank hon. Members, including you, Mr. Speaker, who represented us for the funeral, and for the support you passed onto the family. Lt. Gen. Adan will remain a pillar of peace, somebody who

tried to bring reconciliation amongst Members in this House, and we shall greatly miss him.

I would also like to this opportunity to congratulate the new Secretary General, hon. Ambassador Juma Mwapachu, and to welcome him to this august Assembly. Hon. Mwapachu, you are extremely welcome. I know that there has been a lot said about this Assembly, but I am sure we are going to have a very cordial working relationship with you – *(Applause)*.

I would also like to thank the hon. Minister for bringing this Bill before the Assembly. For a long time we have complained that the Council of Ministers has not played its noble role of giving us work, and hon. Minister, we commend you for bringing this Bill to the august House for debate. We are confident that during your tenure as the Chairperson of the Council, we shall continue getting very many more Bills.

I also thank the Committee on Communication, Trade and Investment for the wonderful job they have done, and to say that first of all this is a Bill that has been pending for very long and finally we are glad that it has come.

Reading from the policy statement on page 30 it says:

“At last, finally the Partner States have recognised the significance of standardization, quality assurance, metrology and testing in the enhancement of the standards of living, reduction of unnecessary variety of products, the promotion of trade and investment, consumer protection, the enhancement of savings in public and

private purchasing, improved productivity, the facilitation of information exchange, the promotion of health as well as the protection of life, property and environment.”

Mr Speaker, to me this statement was very heavily loaded. At last they have recognised that we need all that. And there I would disagree with hon. Ogalo when he says let this Bill go back to the Partner States. This Bill belongs to the East African Community and it is this House that has got a duty to pass it. I think we should not even think about it. It is our job; it is not the job of the Partner States. Now that they have recognised that we need our standards of living to be improved, the Bill is here, so thank you very much, hon. Minister.

To me this Bill goes far beyond simply the dumping of cheap products, let say, from the Far East that we have been having. It goes to the standardization of goods and services; the standardization of our banking industry, insurance, telecommunications, the hotel industry, the media, name it. So it is a very, very important Bill.

I know that the Committee on Agriculture, Natural Resources and Tourism had it at one time in its coffers, and we agreed that the Committee on Communications, Trade and Investment would proceed with advancing this Bill. So, our interests in this House are really pertinent for all the Committees, because what we are dealing with here is the trade of goods and services, and we are looking at their standardization in complete terms.

Mr. Speaker, sir, when the Chairperson of the Committee on Trade was making

his report, what I read in it was another safeguarding of national jobs, and not looking at the East African Community - or what we are looking at, moving towards an East African federation.

I am seeing technocrats trying to advise this House on protecting their national jobs and saying, “let us leave these things in the national spheres”. There is a fear of the East African Community, and I am wondering whose Community this is? That remains a question not answered.

Who does the Community belong to? Do the Partner States view this Community as some animal somewhere that is threatening their sovereignty? I think that is a question that the hon. Minister may have to really try to answer before this august House.

Mr. Speaker, sir, in the report of the Committee, it is clearly pointed out that the core administrative duties of the law that is before this House will be carried out by national bodies which operate under the authority of their respective parent ministries. Then I wonder; where is the spirit of political federation? Where has it gone?

Recently we got a new Deputy Secretary General, and I think we should congratulate our Summit for eventually thinking about women as secretary general material! (*Interjection*) We have a new Deputy Secretary General in her office right now and she is supposed to be fast-tracking the political federation. Her job is being made irrelevant when we are saying that we are establishing bodies that are going to continue operating under the authority of the respective parent ministries. So what are

we talking about? When you say that you will continue paying allegiance to the parent ministries, then what is this law all about?

Mr. Speaker, sir, I am really not sure about the bodies we are trying to establish: the East African Standards Committee instead of an East African Standards Bureau. Maybe it is the English or whatever, but I do not understand what the difference between the two is? I am told one will not have infrastructure and another one will have.

So, to me, if we are committed to the political federation of East Africa, if we are committed to having this East African Community work, then we should be thinking about establishing bodies that are relevant rather than creating laws that are irrelevant. Probably the honourable Minister may have to explain to us: is this yet another law just like the Customs Union Management Act, a law which we are going to pass here and then quickly say “you see, this law cannot work,” so that our ministers will remain in charge of modifying it as and when they need to?

Mr. Speaker, sir, I would also pose the same question about the funding, where they say the best way to move forward is to have the national bodies in the Partner States because they are funded by the parent ministries. Is it impossible to create a fund at the East African Community Secretariat to fund a regulatory body that can take charge of the East African standards?

Mr. Speaker, sir, to me, with all due respect, I think that much as we may want to pass another law brought to us by the Council of Ministers, we should

be very, very careful of the motives. Is it creating for us work so that at the end of the day we can say that there was another law passed by the East African Legislative Assembly, or are we sincerely committed to ensure that the people we represent in East Africa enjoy the quality of life they are supposed to enjoy? Are we sure that we are improving trade and the services industries? Are we improving our industries in their performance? Will they be competitive at the end of the day or are we trying to say, yes, there was another law passed by the East African Legislative Assembly?

So, hon. Speaker, as I conclude, I would like the honourable Minister to really consider the proposal put before this august House so that we amend this Bill so that it becomes an East African law without any reference that...the Members of the Partner States apparently sent the honourable Members to this august Assembly to pass laws for East Africa. I think they would even laugh at us to say that actually we want you to make laws now to maintain standards for East Africa. It is a complete hoax.

So, Mr Speaker, I hope the honourable Minister will be take our views into account so that we have a law that is relevant but not an overdose for our Community so that it is amended after it is passed.

With that, I thank you, hon. Speaker – *(Applause)*.

Mr. Gilbert Ochieng-Mbeo (Kenya):

Thank you very much, Mr. Speaker. First of all I would like to congratulate the minister for attempting to bring a Bill before this House. I also would like

to congratulate our new Secretary General. For me, I say, "there goes the neighbourhood; I will not have no punching bags!" (*Laughter*) I believe we will be working closely together.

I also would like to congratulate the Chairperson of the Trade Committee, who has also attempted to do a good job – (*Interjection*) - and analysed the Bill.

Mr. Speaker, we have a good skeleton of what the Bill is attempting to achieve. I think you can begin to see where this House is headed. We do not want to oppose the Bill, but we would like to ensure that the spirit of East Africa is maintained.

Mr Speaker, I just wanted to give you a simple example of what might happen, and I will take you through the *Jua Kali* activities, of maybe making sockets with the *Nguvu Kazi* activity we had from Tanzania, with the *Jua Kali* in Kenya, and I do not know what they call it in Uganda.

When you put that together and they try to make sockets for this Assembly and tender it, the one from Uganda might come round, the one from Tanzania might be square and the one from Kenya might be a rectangle. It is simply because they will definitely meet the standards in their Partner States. They will meet those standards and they will have the label, but what happens when you come to the activities for a businessman in Kenya doing business in Tanzania? We will find that they are not even able to meet those tenders because they do not conform to what is happening in Tanzania.

Mr Speaker, I am saying this because the idea which was started in this House after we saw the Treaty...hon. Maj. Gen. Muntu turned it upside down and said let us fast-track. Before we knew it, the Summit came to our aid and said let us fast-track the political federation, and in doing so we are also fast tracking business, and now you get back to a situation which reminds us of what has just happened to the Customs Management Act; we are still struggling to make sense of that Act.

In the last Budget Speeches by the Ministers for Finance, they realised that there were so many problems...so many gaps that were left hanging, and that for the Act to be operationalised, this House was supposed to come out with some amendments, which they proposed. But they did it in the Partner States.

I was in the gallery with hon. Mwatela and the rest of the Kenyan parliamentarians when the then Minister for Finance read his Budget and realised that this Customs Management Act could not really be operationalised unless certain amendments were made. To date they have not come before this House, but we passed the Bill. Now, I get so frightened when we just pass Bills and hope that at the end of the day there will be some rescue operation, because at the end of the day, after you have passed it, it goes.

Mr. Speaker, I am headed back to this so-called East African Standards Committee. We insist that we must be East African, and for this purpose, we must give power where it is due. We must create this power of standards in Arusha. That is what is coming out here; it should not be in the Partner States.

Then you will hear a minister talking about harmonisation and saying that we will bring the amendments back to the East African Legislative Assembly, which will never come, and they will continue to illegally operate those activities without coming back to this House!

Mr Speaker, because I would like to bring fresh ideas to our minds, I want to refer to...we created the position of a Director General of Customs and Trade, but I am very worried that up to this time everything is still being handled in the Partner States, and you can see what is happening. The situation is getting more chaotic by the day!

Our Deputy Secretary General has just come back from Malaba; I saw in the papers today they were inaugurating some fast-tracking activities at Malaba border where goods can now just pass *p-e-e-p* from Mombasa to Uganda – *(Laughter)*.

Mr. Speaker, because of all these uncertainties which we ourselves create here, we create more messes out there. At the Malaba border, as we are talking now, there is a six mile long queue to get into Uganda because of all these things we are trying to create - assuming we are doing it for East Africans - being forced down the throats of Members by the Council of Ministers, and at the end of the day they are not there when the “s” hit the creek! *(Interjection)*

Mr Speaker, we need to look at this with a tooth comb. The Competition Bill is still fresh in our minds, and it is not even before this House yet. It is back to these committees from the Partner States. Hopefully when it is presented by the

Chairperson of the Council of Ministers, we will now have a body within the Community that will handle this situation. But you can see where they are headed. Everything is in the Partner States!

Mr. Speaker, Lake Victoria Management...the protocol was signed; it was not brought to this House for debate and there is still no law that has been brought, but I can tell you that the spirit is the same: the Partner States shall individually handle those activities at their level! So I go back to hon. Ogalo’s question: in view of that, what in the world are we doing in Arusha if we cannot make laws? *(Interjection)*

The Speaker: Hon. Members, he is asking the Speaker, not you – *(Laughter)*.

Mr. Ochieng-Mbeo: Thank you, Mr. Speaker, for protecting me. I was not talking to you gentlemen, I was talking to the Speaker as he says. You can listen to the Speaker and listen to me talk to the Speaker – *(Laughter)*.

Mr. Speaker, look at the situation as it is now; look at the situation! And because of this I am saying, if we are going to be working for the East Africans and developing structures, the Bill before the House on the surface looks very complete, but you can see that there are a lot of gaping holes; it might not be operationalised.

Just the other day I was talking with some of my good friends in Dar es Salaam in a hotel – *(interjections)* - where we had some drinking water. My friends happened to be very good Tanzanians in good standing –

(Interjection) - and that water happened to have been branded with the Kenya Bureau of Standards rubber stamp, which meant that it was from Kenya. But because you can see that this oneness is not there, if we had one East African Standard, the problem I am going to state would not have arisen. My friend refused to drink that water because – *(Interjection)* - he said it is from Kenya Bureau of Standards and not Tanzania Bureau of Standards, so it had not passed the standards of Tanzanian Bureau of Standards!

Mr Speaker, I would like to say that if we are really serious that we must bring back East Africanness, as our Summit has categorically said, then hiding behind Partner States must end – *(Applause)*. This Bill must come out very clearly and bring the powers that be to the regional level of management of standardization and quality assurance. You are still going to metrology, and I want to give you a clear example of what is happening.

On Lake Victoria on the Tanzanian side, as of now there is no law that governs the vessels traversing the lake. In other words, even if my capacity is 200 persons, if I load it by a thousand, I have not broken any law. This is the truth, Mr Speaker! I have not broken any law! *(Interjection)* Mr Speaker even if you checked whether we have any signs in the whole of Lake Victoria showing the routes of ships – which routes they can follow based on capacity, there is none! And even if there was, Mr Speaker, with the receding waters, they would have to keep on changing and meandering to find a route to take because they must look for deeper waters! Problems are

being created by the day, Mr Speaker; a lot of problems.

So I am saying, unless we bring this issue back to Arusha, Uganda will be doing her own thing on the lake, Tanzania will be doing her own thing on the lake, and Kenya with our lousy 6 per cent will be doing her own thing at the gulf – *(Interjection)* - including pollution of the Lake. Mr Speaker, it is a complete mess!

So, if we brought all these activities as proposed by our colleagues here, we might be heading somewhere. I am bringing this because I know that when one gets time like this, one has to at least spill it out. I am spilling this out because if we had activities centralised in Arusha, the things that are happening, even in Lake Victoria, under metrology, might not be taking place right now.

And so, with these few remarks, I support the Motion with the amendments that shall be brought at the appropriate time. I thank you.

The Speaker: Hon. Capt. Ddudu – *(Interruption)*.

Hon. Members: Major!

The Speaker: I apologise, hon. Maj. Ddudu; and congratulations! *(Applause)*

Maj. Richard Baker Ddudu (Uganda): Thank you very much, Mr. Speaker. I would like to begin by paying tribute to the late Lt. Gen. Adan Abdullahi. He was such an officer and a gentleman. I will take so long to forget our last moments together because we travelled from Arusha to Nairobi by road together, and we talked extensively about the

peace process that he was involved in, which he was going to attend to. May his soul rest in peace!

Mr. Speaker, I would also want to congratulate the Secretary General, Ambassador Mwapachu, and I would like to say that now both arms of the East African Community, that is, the Secretariat and the East African Legislative Assembly, will be knowing what the other is doing – (*Applause*). We have had several secretaries general in the past, and each one has made his mark on the history of the East African Community. Hon. Mwapachu, you are welcome to this House – (*Applause*).

In the same breath, I would also like to congratulate the Chairman of the Trade Committee for having come up with such a nice critique of this Bill. I would also want to congratulate all the hon. Members who have spoken before me, and I would only like to add one small thing, which I have often said before.

I would always want to look at the bigger picture, the bigger picture in terms of which should come first: Should we have a political federation first or we should we go through all these processes step by step and then ultimately the political federation? To me, the problem lies therein.

Mr Speaker, if you look at the former East African Community, where it started and the levels at which it finally reached before it collapsed, you will note that there was only one force driving it to that level, and that was the colonial government. It had authority, and therefore it would decisively take action on whatever matter that went on in the three Partner States then. A

decision would be made centrally and the decision would be driven through all the bodies within the East African Community, which would comply. There were even institutions that were built under the same colonial governance.

So, it is my considered opinion that ultimately - maybe by the year 2013 - we shall finally say that let us have a political federation. By then we would have decisively agreed that all these steps we have gone through have come to nothing, because going through what we are going through now, judging by the Bills that we have passed before and the protocols that have been signed, we are not getting anywhere! So what are we fast-tracking? If we went straight into a federation, then we could talk about fast-tracking towards the institutions and what have you because there would a central authority to drive it.

Look at the elements of a federation: the finance element, the politics, the coercive arm, and the judiciary; all these would come to enforce these Bills we are passing as law, and therefore create the institutions. You would have no need to blame the technocrats and what have you; they would take it from the central federal government that we need a law and that law would be enforced.

This opportunity we missed in Mbale during the times of Obote, Nyerere and Kenyatta. Nyerere had sacrificed to wait, and I think that was the major reason why he had sacrificed the commencement of the independence of Tanzania. You can see the gravity and seriousness in it.

To me, the way we are going, I think we are still practising how to go to federation. If you think practice is okay at that expense, fine; we can go ahead with it; just like the protocols hon. Mbeo has talked about.

Recently we went around Mwanza, Kisumu, Jinja and Entebbe to see the effects of the reduction of the levels of Lake Victoria. One of the things we happened to be awakened to through the people who have been in contact with the lake for so long is that actually these Bills that we may be putting forward - and some of them in form of suggestions through protocols- are things that actually exist as law within the three Partner States already but they are not being implemented.

Now, if you give the Partner States as reference such that we pass this Bill into an Act and the Partner States are going to be responsible for carrying out the day-to-day activities according to this Act, then, in my view, we are still just doing practice, because these things have failed before and there is evidence about it but we are still going back to do the same things. It does not even happen here!

In the European Union recently there was a case about the North Sea - or the Baltic Sea; a discussion about the reduction of the level of that particular water body, the extinction of the species in that water body, and yet they had all the protocols and laws in place to be operationalised by the nation states that came together to form that body. They have finally come to see clearly that these things do not work in that manner.

Mr. Speaker, in my opinion, we may go on with this thing as it is; we may pass this Bill into law - just like we did with the Customs Union Act - and say the rest will follow, but building a strong East African Community will only depend on the formation of the political federation first because at the bottom of it all, we do not really want to be a Community.

In my own opinion, we are not coming into the East African Community just because we like it, or because we are related and we have been historically; it is the circumstances forcing us to do it. The only thing would be to go back to the history of the world. We have got federations like the United States of America. It had to go through wars to be able to realise that actually they needed to have a federal state to drive these things home!

Mr. Speaker, I would like to recommend that this Bill should have the necessary amendments to centrally create the institutions of East Africa that will operationalise the rest of the activities and look into our standards.

Mr Speaker, I beg to stop there. I thank you very much – (*Applause*).

Mr. Yonasani Kanyomozi (Uganda):
Thank you Mr. Speaker, sir. I would like, first, to take this opportunity to start on a sad note of recognising the demise of our comrade and friend, Lt. Gen. Adan Abdullahi. We hope the Good Lord will give him peaceful rest.

Also, I would like, on a pleasant note, to welcome our new Secretary General to join us at this time. I hope the period this House will be with you, Mr. Secretary General, you will help us to move in the

direction that we all require. We all need to make this House meaningful to the body called the East African Community.

Mr. Speaker, sir, I would like to start with the Standardisation, Quality Assurance, Metrology and Testing Bill before us and say, first, that this House, through its Committee, did recognise the need to have consultations with the bigger body of the East Africans, and we actually did have the first public hearings on the Bill when it was still a protocol when we went round the capitals of East Africa at the time that we were discussing the Customs Union.

Those public hearings revealed many things, some of which, of course, are not incorporated into this Bill, but all the same, I would like to thank the chief executives and staff of the national bureaux of standards in the Partner States and the ministers responsible for Trade for having given us information which we thought was useful and helpful and which is indirectly reflected in the misgivings expressed in this report. That was some time ago.

Mr. Speaker, sir, we have looked at this Bill, and in trying to support it, we knew we were held a bit captive by the fact that this was one of the first protocols signed by the Partner States. We looked at that and thought that maybe it was better to have the Bill and amend it, but wiser counsels in this House are suggesting that it may be even better to amend now rather than wait for the future.

Why? Reasons...without revealing what we have found during the recent public hearings on the Common Market since

the report is not yet before you, Mr Speaker, the complains we have got about the Customs Management Act are really devastating. Even those who at the beginning were supporting separate collections instead of the one we have are now saying “no, we made a mistake; we should have actually centralised this thing. This thing is impossible to implement” And the facts are there!

So, given that, Mr Speaker, and those of us who are here and who can propose amendments or write amendments now, I am sure the Minister will be able, with his able team, to accept them so that we can amend this and make this Bill an East African Community Bill, and it does what it should do. I am saying this on the realisation of the problems we are facing.

The Summit has asked us to fast-track, and in this fast-tracking, we are now leaving things which would enable us to move very fast. If we are going to have effective Trade arrangements, an effective customs union working, an effective common market coming, we need to start building up institutions which are East African in character.

There is a great misunderstanding about building and creating institutions. The institutions which the Community does not want to set up are institutions of economic nature: having a common railways corporation, an East African posts and telecommunications. Those are economic things which in the modern age we are moving away from. But institutions of a regulatory nature like the bureaux of standards and collecting customs revenues centrally, these are not the same institutions that people are talking about.

I think we need to make the distinction that what we are trying to avoid in creating supranational institutions are those institutions which are best done by private sector. Once this one is understood, having a regulatory body like an East African standards bureau or authority is not in contradiction with the other things that people are so scared of.

It is important, Mr Speaker, that we distinguish this movement and this direction so as to be able to create institutions of regulatory nature that we need to move this Community ahead. It is meaningless to start saying we are going to have an East African Standard and then say no, no, it must be developed at the national level, and then come up and become an East African standard!

I know that at the moment the bureaux have been able together to move and have 600 standards, which they have submitted to the World Trade Organisation, but it would be even much easier if it were done centrally instead of calling these people, because it is easy to do it here and spread it out. I am sure even in the bigger countries like the United States of America where the member states are allowed to have supervisory roles in standards, there is the United States of America co-ordinating body with authority, with vigour and with direction, which looks at all the standards in that country, and that is what we are advocating for.

Mr. Speaker, I am also convinced that it is necessary to avoid a situation that has now developed in former Eastern Europe. I think you have heard about the wars between Russia and Georgia, about not accepting standards on wine from

one country to another. If what hon. Mbeo has just told us that somebody refused to drink water because the standards stamp on that bottle was not the one he was used to, you can see that...well, we will always get crazy people taking positions in these things – (*Laughter*) – we can have a problem in future – (*Interjection*) - and we want to avoid a situation like that, so what do we do?

Let us look at the report presented by hon. Nangale on behalf of the Committee very critically. The reservations therein should be looked at critically and where amendments are possible, they should be suggested. I am sure our honourable Minister, the Chairperson of the Council of Ministers, together with the Secretary General who is also a lawyer, plus the Counsel to the Community plus those of our good lawyers who are here can produce amendments which can turn this Bill into an East African Community Bill covering the entire region.

Let us look at the arguments which are being presented. Yes, it is true that the funding of bureaux is from the Partner States and the Partner States will be responsible, but so is the funding of this august House; it is from the Partner States! And if we are going to insist on who is funding, we are going to get into trouble because we could take that very far. Some of our budgets are 60 per cent donor funded, so are we going to say that because we should be pulling whereby whoever pays the piper calls the tune? That would mean that our own countries would go back to being colonised!

Let us look at the best practice which can help us.

Similarly, to say that we have three votes -as honourable Members have said- instead of one, is the present international practice not holding water? People listen to big voices; they do not listen to small voices. Except if we are saying "small is beautiful, because it is mine," instead of saying "big is better".

I think the major problem we are having in this region is that we are looking at "small is beautiful because it is mine" instead of looking at the common good and common welfare of our society. We need to move away from that. Yes, small may be beautiful, but it does not pay to remain small. I think the best thing now in the world is that big is not only beautiful and pretty but it helps you to move. And I think that is what we should be emphasising.

Lastly, Mr Speaker, I would like to suggest that on issues of institutional structure, we need to look more carefully at what we have presented. Structure and authority as we have done or are proposing to do, for purposes of competition, but for co-ordination let us give it more powers at the centre. It does not mean that the bureaus in the Member States will be abolished; they will be part of this authority, supervision and directive, given that modern communication will come from here.

It is also to our advantage, because it would avoid repetition and duplication of effort. Then we can sit down in Arusha -or wherever the Community headquarters will be- and say, you, Uganda Bureau of Standards or branch, you are going to concentrate on food

standards; you in Tanzania will concentrate on Marine standards, and you in Kenya will concentrate on industrial standards. One, we will have economies of scale that way; two, we will develop specialisation; three, we will have labs and testing equipment spread all over the region.

At the moment, what will happen if we continue with this direction is that each small bureau of standards in each Member State will be trying to develop a whole range of things, and as a result we will be using more money, losing the things we should do and it would not be helpful.

Mr Speaker, I thank you for giving me this opportunity to say something about this report and this Bill. I hope wiser counsels are going to start working on the amendments and that the Minister will accept those amendments when they come.

Mr. Mohammed Zubedi (Kenya):

Thank you, Mr. Speaker, sir. First of all, I would like to join my colleagues in paying tribute to our late brother, the hon. Lt. General Adan Abdullahi. May God rest his soul in eternal peace in Heaven! Secondly, I would also like to join my colleagues in congratulating our new Secretary General, Ambassador Juma Mwapachu, and welcome him to our family, if I may say so – (*Interjection*).

Coming to the Bill, Mr. Speaker, my problem is not in either forming the supranational body or not. As we have been told by the experts, and as we study the situations elsewhere, a supranational body is not very necessary at the moment, albeit it will be a very

expensive exercise and a very expensive body to put in place now, considering the infrastructure necessary. So, that at the moment is not primary, as far as I am concerned, but secondary. Maybe later on when we need it, we shall establish one, but my main concern, Mr Speaker - which I mentioned in the Committee when we were looking at the Bill, and also to the hon. Minister as well - is that as we pass this Bill into law and the Committee is put in place...fine, we have no problem with the Partner States having their own bureaus carrying on the work as they are doing now, but the danger that we have - and this must be looked into very fast and taken care of - is that, because we are already a Customs Union and in a few years to come we will be a fully fledged Customs Union, the East African Customs Union will be one market. Now as far as trade is concerned, one market means any goods or services entering any of the Partner States within that bloc can go across without any hindrance. Now, it will be very important that we have at least all our goods and services produced within that bloc of having a uniform standard, an East African standard.

That is of paramount importance as of now because all the goods produced within this bloc will have to conform to those standards and all the goods being exported outside this bloc will have to meet a certain international standard and also be a standard acceptable elsewhere without any problem.

Now, because of that, and if you look at the report, Mr Speaker, on page 6 it is very clear here that - if I may quote:

“The importance of this Bill cannot be overemphasised; issues

of standards, quality and measurement are a basis for trade. When they are uniform, there is fairness to both the buyer and the consumer. For EAC’s products to be competitive on the international market as an exporter, then quality of its products must be guaranteed at source.”

Although the European Union does not have a supranational body, Mr Speaker, we have goods now labelled “*Made in the EU.*”

My concern is that, at least let us pass this law, have a committee, have institutions in place where we can reach that stage, because as a Customs Union we will need to do that. So, what I am saying is that yes, let us pass this Bill into law and let us have this institution called the East African Standards Committee in place, because if we reject this Bill now and we go back with the amendments which might be rejected by the Partner States, which might be too difficult to implement, Mr Speaker, the Customs Union will become fully operational before even we have East African standards; we will remain with only 600.

Now, if we are forming the Customs Union for trade purposes, and we want to harmonise our standards for the same trade purposes locally within ourselves and internationally, then let us have the Committee in place, but at the same time let us lobby and push that we can have this institution working very effectively so that we can have our goods first of all locally acceptable on the East African standards and secondly internationally acceptable. Even by labelling them

“*Made in East Africa*” we will not have that problem.

Secondly, Mr Speaker, as we all know – I think most of us know, in Europe at the moment, even if they have individual standards for Partner States and collective standards for the European Union. The European Union has closed its eyes on individual companies setting up their own individual standards which maybe will not conform to the EU Standards or maybe even not to the international standards, just as a trade barrier to stop imports into their own countries.

There are very good examples of companies saying, “This product is coming from...let us say, Kenya, and it conforms to your standards but our company will not import these products until you put this, this and this in place!” So, these are all barriers that are coming up now. These are non-tariff barriers coming into place to stop goods going into those blocs because... it is just trade distortion.

Now those types of barriers have nothing to do with the standards of those goods either locally or even those goods in Europe at the moment. So, what we are asking is that let us have this body in place so that even in East Africa we can do the same for goods coming into our countries. It does not mean that if goods conform to international standards we should open our doors and let them in, because if we do that, then our Customs Union and the East African Community will only be a dumping place for goods that come from abroad, not necessarily sub-standard goods.

Mr Speaker, although we shall always say we do not want substandard goods or counterfeit goods, goods will still come in as standard goods conforming to international standards. They are not counterfeit but maybe we are already producing the same goods here of the same standard or better, and we need to protect our industries. So, we must have this body in place - and a very strong body - so that it can do that work.

As far as the standards are concerned, the Partner States bureaus of standards at the moment are doing a wonderful job and they are quite advanced because they have the infrastructure in place. It is not that we do not want an East African institution; yes, we do, and finally we must have one, but that does not stop us from enacting this law now and having this institution in place so that we build and get prepared for that supranational body that we might need later on. But we should not stop this Bill and go back to pros and cons of this Bill at the moment, because if we do that, Mr Speaker, we will not even have this body in place, and with the dangers of free trade and the World Trade Organisation, the laws that are coming into place, this market will just open up and then things will just come in, and we will not even know which standard to apply when.

Another problem Mr. Speaker, that we have at the moment, and which I would like the Minister to take into consideration, which I also mentioned before, is that we have 600 East African standards in place now – (*Interjection*) – exactly; only 600 hundred - but we still have a lot of goods that can come into the region that are acceptable to one Partner State or two Partner States but not acceptable to the third one.

The danger here again is that those goods...I will give a very good example of *Tiger Head* batteries. *Tiger Head* batteries are banned in Kenya – (*Interjection*). *Tiger Head* batteries, I understand, are also banned in Uganda, but *Tiger Head* batteries are not banned in Tanzania – (*Interjection and Laughter*). Are they banned now – (*Interjection*) - I hear that they are still being sold, but anyway, that problem might have been solved now that the product is banned, but there are products that are still acceptable in one or two countries and not acceptable in the third one. Now, the importance here, again, is that let us speed up the process of having all our products coming under the East African Standards so that what is banned in one country is also banned in the other, or what is open in one country is also open in the other.

With those few remarks, Mr Speaker, I beg to support.

Ms. Irene Ovonji-Odida (Uganda): Thank you hon. Speaker. I would also like to join my colleagues in paying tribute to the late Lt. Gen. Adan, who was not only a Member of this House but was also the Chairperson of the Regional Affairs Committee, and he played a big role in looking at conflict issues, not just within this Assembly, which was mentioned, but actually within the whole Community.

Actually, before he died, in the meeting that we had before the Summit, we had a meeting of few Members of the Committee – Gen. Muntu, Lt. Gen. Adan and myself, and there was an initiative that we had started to develop, to look at two conflict issues in the region, and he was really playing a major role in

spearheading this. And, although the work will continue, I do know that his demise will be a big loss; that personal representation that he was going to have. So, it is a big blow to this Assembly, and I know that all of us will miss him terribly.

I would also, at the same time, like to welcome the new Member of the Assembly in the person of the Secretary General and heartfully welcome him to the work of this Assembly. I have always felt that for us to achieve anything in the East African Community the different organs must work together in tandem. And I believe that there is an opportunity to do this.

Hon. Speaker, as a Member of this Committee, I have been listening carefully to the concerns that have been raised by Members on the Floor, and indeed those concerns reflect the discussions and debate that we had in the Committee when we received the Bill and when we were consulting with the experts.

In the same manner we also strongly wanted to see a very strong central authority to administer this law and to oversee and co-ordinate what happens at the Partner State level however, in the course of the consultations with the experts from the Partner States, we realised that the way that has been proposed may be what is workable at this moment, and there were different reasons that were given, some of which were captured in that report.

One of the issues which really tied our hands is that the Treaty is the overall - I could call it the constitution of the East African Community, and the tensions

between the different directions, or the different trends and decisions often relate back to the Treaty. And indeed, this Assembly has seen that there are many things in the Treaty that need amendment, but as a lawyer - and I am sure my learned friends in this House are aware of this, in legal jurisprudence we talk about...we have a subject that we do in First Year Law called "Jurisprudence" in which we learn that there is a difference between law as it is and law as it ought to be. And when we are dealing with legislation which exists, we are dealing with law as it is.

We would like to see those tensions in the Treaty resolved, but until they are resolved, the Treaty remains the supreme law of this Community. So, those tensions which are built in the Treaty continue then to govern the protocols and the laws that are enacted as part of the legal rubric of the East African Community. And I just want to mention some of them.

If you look at Article 7 (1) (c) of the Treaty, it talks about the need to have - one of the objectives - an export oriented economy with free movement. That is a principle. If you look at the next sub-clause (d), it introduces something which has been debated here; the principle of subsidiarity with multi-level participation. And that is one of the principles there as well. If you go to the next one, it talks about variable geometry at different speeds. So there is some tension between these.

At the same time, when we go to Article 81 which has been quoted here, which deals specifically with the subject of this Bill, the Standardisation, Quality Assurance, Metrology, and Testing Bill,

it gives objectives and commitments of the Partner States, and while it recognises the importance of SQMT in facilitating modernisation and development in Article 81(1) and (2), when you look at clause (3) it says the Partner States will evolve and apply a common policy for standardisation, quality assurance, metrology, and testing. So, it brings it down to the Partner States. And when we in the Committee stressed the need to have a strong central authority, some of these clauses were brought to our attention, and once again to the principle of subsidiarity.

So, these then are the tensions that we tried to resolve in the Committee and in our consultations with the experts from the Partner States. I must say that we benefited from the explanations that they gave to us about the role of standardisation, quality assurance, metrology, and testing and what part it plays in promoting industry and trade.

I think hon. Zubedi has expounded very clearly and in practical terms what is the use or the need of such a law. So I concur with the sentiments expressed here, even though in frustration, by the colleagues that we need to have this legislation. Indeed, not just that we need to have it but we need it enacted as an East African Community law. I think we cannot get away from that. We need such a law, particularly as the Customs Union implementation becomes deeper and faster.

Having said that, I believe that we need then to go ahead and pass the legislation, but in the implementation of this law, there is a need for Partner States to move further and further towards strengthening

these institutions. That is something that they cannot get away from, and it is really in line with the stated objective of fast-tracking towards the political federation.

Finally, because I do not want to speak for long on this as a Member of the Committee, I would just like to emphasize the importance of what has been said, especially when we went around last month as Members of the Committee, holding public hearings and meeting with stakeholders in the private sector in the three countries. This issue of non-tariff barriers and technical barriers to trade also came up.

One of the points which I noted which was raised by Members of the Summit was that there is need to have standardization and harmonisation because the lack of standards can create non tariff barriers, which then constitute barriers to trade. For example, in tourism, if there are different standards between the different countries and you are talking about movement of tourist services, you may not be able to enter another market as a service provider in that sector because you do not meet the standards operating in that country and yet you are talking about free movement of services, of labour and so on.

When we met the Kenya Bureau of Standards in Nairobi, and also the Uganda National Bureau of Standards in Kampala, both raised this issue and said this issue of standards can constitute - and many times it does - a major non-tariff barrier. They specifically said that one of the goals of a standardisation, quality assurance, metrology and testing law should be to have joint clearance of products. So, they did recognise that

there was a need to move towards jointly doing some of these things.

They also said that there is a need to assess and test for compliance at one point and move to a situation where products can be tested in Kenya and that clearance is accepted in Uganda and Tanzania, as an example. So, one should not have to duplicate for the product to move from Kenya into the other countries, once again pointing to the need for East African standards and for creating one institution at the end of the day.

Other users of these bodies said there is need to reduce the bodies involved in standardisation, quality assurance, metrology, and testing regulation, and to improve co-ordination between them, because for them as business people, this creates delays: that they go to too many bodies and the cost of doing this - the clearance - is also increased because they are dealing with many different agencies.

Finally, and this came out very strongly even from those bureaus, that they will ultimately need to have one clear competent authority to clear the products as having complied with the standards in order to boost export and trade; the point hon. Zubedi has raised. So ultimately, this is the sentiment coming from both the users and the regulatory bodies.

I think there is a need then, for our Partner States to begin to move further in that direction, but in view of the tensions in the Treaty and the assurances that were given by the experts, the Committee reached the point where it did. In light of that, I would like to

support the report of the Committee. Thank you.

The Speaker: I have two more speakers, hon. Shamala and then finally hon. Marando.

Mr. Maxwell Shamala (Kenya): Thank you Mr. Speaker, for giving me this opportunity to make my contribution on the Bill before the House.

First, I would like to join my colleagues in paying tribute to the late Lt. Gen. Adan, who was a Member of this House and the Chairman of the Committee on Regional Affairs and Conflict Resolution. I remember Lt. Gen. Adan very well on the issue of the African Peace Forum. When all of us had given up on the African Peace Forum, Gen. Adan was still pursuing them hoping that they would come back to us and we pursue cattle rustling issues in the northern part of Kenya and Northern Uganda. May God rest his soul in eternal peace!

I also wish to congratulate the new Secretary General on being sworn in as a Member of this House. We had a Secretary General who was here and we generated a lot of heat. I am hoping that this time round we shall generate a lot of light – (*Laughter*) - so that the peoples of East Africa can benefit from the office of the Secretary General and the Assembly.

Mr. Speaker, sir, the very purpose of the Customs Union was to liberalise trade in the three Partner States, and when we formed the Customs Union and this House enacted a law on the East African Customs Management, I thought the next logical item or law to be passed was

to be on standards. It did not come. We also thought the law on competition would follow suit; it did not come. But never the less, it is nice that after one year of having the Customs Union in place the law on managing trade in East Africa is at long last before the House.

Mr. Speaker, the Council of Ministers should lead. I would like to follow on the lamentations of hon. Ogalo. We have the East African Law Society and we have the East African Business Council. People are moving forward. The Council should lead in having bodies – Partner States should have bodies that reflect on the aspirations of the peoples of East Africa. We should lead. We should not wait for others to lead us and we become followers. I personally think that we need a strong East African body to manage standards in this region. But for reasons which have been advanced by the Committee on Trade, I will for the time being support them, but hoping that there will be necessary amendments in the near future to make sure that the body that is created has teeth and it can enforce standards within the region.

Mr. Speaker, sir, when we passed the East African Community Customs Management Act, the Act was put into effect on 1 January 2005, and it caused a lot of difficulties in this region, the reason being the hitches that arose out of lack of communication between the relevant authorities in the Partner States and the implementers of the Act in the same states.

There were no materials sent to the people at the border points or exit points, hence the confusion, hue and cry. This time round, it is my hope that the Council of Ministers will allow

sufficient time for this Act - when this Bill becomes an Act - to be advertised adequately in the Partner States so that when the day of implementation comes, there is nobody who will claim ignorance.

Since we have taken more than a year to debate this Bill, I propose that when the Bill becomes an Act - hopefully in June - the 1st of September 2006 should be the date when this law should become effective, and there should be adequate advertisement in the media and everywhere else that this is now the new Act to control trade within our region.

Mr Speaker, standards should not be a reason for non-tariff barriers. We have people at exit points that are sanitary and bio-sanitary authorities; we have Customs officials chasing taxes; we have police looking after issues related to terrorism and contraband goods; and, we have environmental authorities. These people in their operations become non-tariff barriers because you find the Customs officers have allowed goods to pass, the bio-sanitary fellows have said the goods can go and the police follow the same goods in the interior of another country and stop those people to ask for receipts for Customs duties.

The Council of Ministers should make sure that these non-tariff barriers are not allowed to exist. We should have completely unimpeded trade within our region because no country has prospered without trade with its partners.

Mr Speaker, we have another problem: The Kenya Bureau of Standards should recognise the Bureau of Standards in Uganda and the Bureau of Standards in Tanzania. There must be mutual

recognition of these bodies, but you will find that for goods coming into Kenya from Tanzania, some officer in Kenya is looking at those goods and looking at the Tanzanian rubberstamp and saying "no, we must verify this"!

The question of verification should not be done at the borders. If there are suspicions that goods emanating from Tanzania into Kenya or from Kenya into Uganda are sub-standard, the matter should be taken to the Committee in charge of standards to resolve, rather than individual countries deciding to re-examine goods that have been passed by another state.

I would like to talk about the milk industry. I am told that the dairy industry in East Africa controls approximately \$300 million, and the Partner States only handle about 20 per cent of that trade. In other words, we are importing a lot of dairy products from outside the region and yet quite often there are demands for milk in Kenya when there is a glut in Uganda, or there is a glut in Tanzania and so on. Because of lack of standards, milk has not been moving freely in our region. It is my hope that these standards are going to be effective in making sure that dairy products are sold in East Africa freely so that we can benefit from this big industry.

Mr. Speaker, sir, following on what hon. Ogalo was saying, we should have a body that is going to have teeth. And to do that... hon. Kanyomozi or someone else referred to the issue of some countries having their budgets financed by donor agencies. Maybe if we put a body here we might not be able to finance those bodies in the near future, but I recommend that we dig deeper into

our pockets and have bodies that will manage affairs of the Community from a central point. We cannot talk of fast-tracking the federation if we cannot have the bureau of standards based in Arusha, or other bodies that are controlling affairs of the Community based in Arusha. We must look into that matter very seriously. I wish to support the Motion, thank you.

Mr. Mabere Marando (Tanzania): *Ahsante sana Mheshimiwa Spika.* I had a lot to say but after the very able presentation by my good friend, hon. Irene Ovonji-Odida, I will leave out those parts that she has referred to.

The only difficulty here, Mr Speaker, is whether we should have a supra regional body or not, and I am standing here just to make a few clarifications on whether what we have now has teeth or not. But I am glad to say that I wish to assure our good friends that we in the Committee had the same and similar apprehensions when we met the experts and the team led by the honourable Minister. What is recorded in our report is only a summary of the very deep discussions we had with the experts on this matter. And of course that is why there is no general quarrel in relation to the whole Bill as presented, except for this one aspect as to whether the Committee will have sufficient strength to implement the other very good parts of the law as it appears.

Mr. Speaker, sir, the membership of the Standards Committee is at page 10 of the Bill, and it is in Clause 4(4). The important thing to note here is that the Committee draws membership from people who are not part of the present regulators.

In Clause 4(a) the Committee comprises the chief executives of the national quality systems institutions designed, but (b) refers to representative of a private sector testing laboratory and certification, and paragraph (c) mentions two representatives of national manufacturing associations, trading associations and consumer organisations from each Partner State. So, it does not restrict this team strictly to the regulators; it brings in people who are capable of acting very independently and bringing new ideas into the operation of the Act. So I think that will allay some fears that when these people were advising us they were only looking to safeguard their jobs.

Mr. Speaker, sir, one thing that was pointed out by the experts and regulators is that there are other areas which deal with standards but which do not fall within the ambit of this Act. If you look at the long title of the Bill at page 3, it says:

“An Act to make provisions for ensuring standardization, quality assurance; metrology and testing of products produced or traded in the Community in order to facilitate industrial development and trade...”

So this thing does not deal with standards for food and drugs for example. These are under different regulatory authorities of our Partner States. So, even if we formed a regional body in this Act, there are still other areas that will be left out uncontrolled by this supra national body – (*Applause*) - and that is just one example I have pointed out. So I think this is a good starting point.

We were also in arms when this matter came to us. We were in arms seeking just the very thing that we are now mentioning here which are the concerns of our good friends here. We also wanted a regional body, and a strong one, but when they mentioned such things as the existence of other standards which are not controlled here, we thought we could rather give it a trial under the present system that appears from the law.

Mr Speaker, sir, another thing which I wanted to point out is that, after having had these exhausting discussions with the experts, we were persuaded and we insisted on the inclusion on the provisions that appear at pages 18, 19 and 20 of the Bill.

Pages 18, 19 and 20 deal with clauses 13-15 of the Bill and these provisions made us believe that this Committee as so comprised under Clause 4(4) may be appearing to have some teeth.

Clause 13(1) on page 18, it reads:

“An East African Standard shall be developed jointly by the national standard bodies of the Partner States.”

Now, the word “shall” is a compulsive word in law; it means it must be complied with. There is no option. It says “...*shall be developed jointly by the national standards bodies of the Partner States*”, which means that whenever an East African standard is being developed, these people must come together and work together to develop an East African Standard.

Sub-clause (2) at the top of page 19 says

“...Standard shall be developed in accordance with procedure approved, published and maintained by the Committee.”

So it must conform to a certain procedure: First they meet to develop it, and there is a laid down procedure that has been made up by the Committee and they must conform to it. “Shall” means compulsory; “*shall be developed*”- they cannot go outside that procedure. And, hon. Speaker, sir, after doing that there is no possibility of having three standards on the same product if that procedure is followed. It will be one standard for the whole of East Africa.

Clause 14(3) (a) shows that the Council shall only declare and gazette a standard after it has ensured that it has complied with the rules as required by the Committee. So the Council is also compelled by law that it cannot gazette and declare a standard unless it is in conformity with the rules and procedures as recognised by the Committee.

Clause 14(3) (b) says:

“The Council shall, before declaring an East African Standard, ensure that the interests of all relevant parties, including the manufacturer, supplier and consumer are considered.”

When we looked at that, we thought there appeared to be sufficient safeguards if everyone performed his or her duty properly.

Clause 15 at the bottom of page 19 comes up again very strongly. It says:

“Within six months of the declaration of an East African Standard, the Partner States shall adopt, without deviation from the approved text of the standard, the East African Standard as the national standard and withdraw any existing national standards with similar scope and purpose.”

So, once an East African Standard has been developed then the Partner States must adopt it; and it says also, “*shall adopt*”. So this standard will automatically replace any existing national standards; it will not be there. So, again, once an East African Standard is developed and adopted, there is no iota of possibility of there being three standards in East Africa in respect of the same product.

At the top of page 30, sub-clause (2) caps it all. It says:

“The national standards bodies of the Partner States shall publish a text of the adopted East African Standard as a national standard in accordance with ISO and IEC directives.”

So, once they have adopted it, then it now becomes their own national standard. So, it will be the same national standard for Uganda, for Kenya and for Tanzania, while the law recognises it also as an East African standard.

So, Mr. Speaker, sir, considering all these, we felt that the Bill now achieves the goals that we require, namely, to establish an East African Standard instead of the national standards that exist in respect of the same product. Not as a complementary of, or *ku sambamba*

na - in parallel with, but it replaces it; it cancels it; it does not exist anymore.

So, Mr Speaker, sir, I think this really took care of the fear that exists. What we are lacking now is the supra national authority, but they explained to us that even if we had it now, it would not cover the whole spectrum of the requisite standards that are there.

Another thing that they said - there was a query about the existence of the East African Bureau of Standards. They told us that a bureau as known in their profession in the world means such an institution that will have its own laboratories, for example. So, when you go to the USSR...oh, it does not exist any more – (*Laughter*) - to Russia or Australia and refer to the East African Bureau of Standards, they will believe that you have laboratories that have testing facilities.

Now, as was mentioned by hon. Zubedi, the expenditure and infrastructure is such that we cannot manage at this particular time. Without such facilities it will not build the credibility as to be recognised internationally.

So we believe, Mr Speaker, that maybe we should persuade our good friends that much as we all share the sentiments that we needed to have a supra national body, but we think that maybe what we have now is not too inadequate – or maybe not inadequate at all.

The last thing that I would like to point out, which hon. Ochieng-Mbeo brought to my attention here is that on this Bill the memorandum of policy, objects and reasons for the Bill appear to have been tabled by hon. Kikwete. Maybe the

Chairperson of the Council of Ministers may remark on that. The printed Bill still bears the name of hon. Kikwete, who is now the President. Maybe the Chairman may say a word on that. *Mheshimiwa Spika ahsante sana – (Applause).*

The Speaker: I now invite the hon. Minister to respond.

The Chairperson of the Council of Ministers (Mr Koech): Thank you very much hon. Speaker. First and foremost, I should like to thank the Chairperson of the Communications, Trade and Investments Committee for having done a very good job in going through the Bill, and for proposing some amendments to improve the Bill. Secondly, I want to thank the honourable Members for their contribution towards adding to the significance of the Bill. I also want to thank the honourable Members who have raised their concerns about the ability of the Committee to oversee the East African Standards.

I believe that some of the views which may not be taken into consideration today are views that will give us a challenge in future to either strengthen the Committee or have a regional body instead of depending on a Committee.

Hon. Speaker, I think Members of the Committee have explained fully how they arrived at the amendments that they have made, and how they have accepted the Committee instead of a supra national body. They have told the House they met with the experts from the three countries and how, having got their advice, they came to support the Bill.

I think we are all desirous of having regional bodies, and of course it is

important that as the East African Community we should strengthen our institutions in such a way that they become very strong in order to enable us to progress and even move to a political federation. But of course we must move with the understanding of our people, because it is the people of East Africa, the private sector and all concerned who are going to drive the process forward. This is why the Committee found it good to accept a committee which is going to work with the national bodies, which are fully established, to oversee the standards for East Africa.

When you look at the Treaty for the Establishment of the East African Community, Article 7 specifies the principle of subsidiarity on how we are going to work. Also, Article 81(3) very clearly states that, “*the Partner States undertake to evolve and apply a common policy for the standardization, quality assurance, metrology and testing of goods and services produced and traded within East Africa.*” So, we cannot avoid working with all the stakeholders to ensure that we have got smooth operations and also smooth harmonization of the standards.

For the Members who felt that this Bill may not be effective, I think going through the Bill more closely you will find that the Bill is very clear, and in quite a good number of areas it has been expounded. In fact I do not want to go to the details because I believe hon. Marando and hon. Ovonji have made it very clear how this Bill can be sufficient at this time. I only want to alert the Members on standardization.

It is very clear that we are going to have East African standards, which are going

to be worked out by our national bodies, but the Committee has got to ensure that we have got the East African standards. I think we need it now in order to make sure that we move smoothly on the question of the customs union, and finally to the common market.

So, I want to appeal to the honourable Members who might have thought that we needed a supra national body immediately, to rethink their positions because at this time we want to move and make sure that we have a smooth operation of the Customs Union. If we do not have this law to succeed, as you know, most of what we do at the Community, we still have to negotiate with the Partner States, it is very important that we move together. There is no way we can be able to move without agreement.

As you all know, everything we do is through consensus; we do not do any voting. We have got to come to consensus in whatever we do. So, I think this Bill has come up through the consensus between the Committee on Trade and the experts from the three Partner States – *(Applause)*.

I think one of the things which I need to emphasise also is the question of funding. I think it is good to start a supranational body, and we need funds immediately. I am not saying, of course, that we should not be careful and not take a supranational body very strongly and that we do not have the money, but all I am saying is that we have got to be realistic.

It is very difficult to start off immediately with a body which is going to supervise all the East African states

within a very short time. But I do hope that when we come to a full common market we shall be able to have a body which is going to be completely East African; in fact, not only on the question of standardization and quality assurance, but in everything.

I am happy with the Members here because...in fact I always say they are more East African than us. I think some of us are more national. I think it is sharpening our ideas and also giving us a challenge that we should think more as East Africans. I think it is very important that we should think as such – *(Applause)* - but we need to move with the understanding of everybody in the countries. We need to move with the private sector, the civil society and everybody.

On political federation, our Heads of State found it prudent that they appoint an officer at the level of a Deputy Secretary General who is going to oversee the fast-tracking of the political federation because we need to involve everybody. We need to have the people at the grassroots know that we need the East African federation, or that we need economic integration in East Africa and then finally the East African federation. So, we need to move with everybody.

I think some of us are already convinced that East African Community economic integration is necessary and political integration is necessary but it is not true with everybody in this region. And we have got to be careful so that we do not repeat the mistakes of the past.

It is true that the Community of the past was formed by the colonialists. They did not have to require anybody else to do

that. They were in power and they were not elected; it was the Queen or the King who was ruling. But right now, I do not know what would happen if we said that today we are going to have the federation; I do not know whether we would get our seats back – *(Interjection)* – because the electorate might say “we have not given you the mandate”.

We are living in a democratic world and our people are free to exercise their rights. They have also to make a decision as East African people on the federation. If we were to talk of having the federation today, I do not know what the reaction of the people of East Africa would be, right from the grassroots; from the village in Uganda, to the people of Iringa and to the people of Garissa, they may not even know about this political federation. So, we cannot rush. Let us go slowly but surely so that we can ensure that we succeed in economic integration and also at the same time, in political federation.

So, I do not want to say so much about this Bill, because quite a good number of the Members of the Committee and many honourable Members have expounded and shown that this Bill is sufficient to guide us through up to the Common Market. So, I want to appeal to hon. Members that we support it, and with these few remarks, I beg to move – *(Applause)*.

(Question put and agreed to)

THE ASSEMBLY IN COMMITTEE OF THE WHOLE HOUSE

[The Chairman, Mr Kinana, in the Chair]

BILLS COMMITTEE STAGE

The East African Community Standardization, Quality Assurance, Metrology and Testing Bill, 2005

Clause 1, agreed to.

Clause 2:

The Chairperson of the Council of Ministers (Mr John Koech): Mr. Chairman, sir, I beg to move that Clause 2 be amended by inserting the definition of the Secretariat to mean: “*Secretariat*” means the Secretariat established by the Treaty for the Establishment of the East African Community” between the definitions of “*reference material*” and “*standard*”.

Mr. Med Kaggwa: Mr. Chairman, I see that they have amended “Secretariat” and I would recommend that they maintain the words used in the Treaty rather than the words used in the amendment sheet.

The Chairperson: Is that not what it says? I think this is correct! *(Interjection)*

The Counsel to the Community (Mr. Wilbert Kaahwa): I agree with hon. Kaggwa.

(Question of the amendment put and agreed to)

Mrs. Rose Waruhiu: Mr. Chairman, just to note the spelling of the word “Secretariat”. I do not think the typo will be transferred.

(Question of the amendment put and agreed to)

Clause 2, as amended, agreed to.

Clause 3, agreed to.

Clause 4:

The Chairperson of the Council of Ministers (Mr Koech): Mr. Chairman, I am proposing amendment of Clause 4(2) by adding at the end of paragraph (j) the following words: “...or as directed by Council”, in order to give general powers to the East African Standards Committee established under Clause 4(1), to take care of future developments

(Question of the amendment put and agreed to)

Clause 4, as amended, agreed to.

Clause 4, agreed to.

Clause 5:

The Chairperson of the Council of Ministers (Mr Koech): Mr. Chairman, I propose the amendment of Clause 5 (2) by adding a new paragraph (p) to read as follows: “(p) perform other functions consistent with the objects of this Act”, in order to give general powers to the liaison office established under Clause 5(1).

Mr. Med Kaggwa: I think we have to improve on that. They cannot be “objects” of this Act; they must be “objectives” of this Act.

The Chairman: The learned brothers and sisters, is there any difference between “objects” and “objectives”?
(Interruption)

Hon. Members: Yes, very big difference!

The Counsel to the Community (Mr. Kaahwa): We accept that proposal.

(Question of the amendment put and agreed to)

Clause 5, as amended, agreed to.

Clauses 6, agreed to.

Clause 7, agreed to.

Clause 8:

The Chairperson of the Council of Ministers (Mr Koech): Mr. Chairman, I propose the amendment of Clause 8 (2) by:

(a) Adding a new paragraph (b) to read as follows:

“(b) the International Committee of Weights and Measures (CIPM) Mutual Recognition Arrangement”; and,

(b) Re-numbering the existing paragraph (b) as (c) accordingly.

This is because at international level, CIPM is concerned with issues of scientific metrology.

(Question of the amendment put and agreed to)

Clause 8, as amended, agreed to.

Clause 9:

The Chairperson of the Council of Ministers (Mr Koech): Mr. Chairman, I propose the following amendment on Clause 9:

(a) Amendment of Clause 9(1) by adding the following new paragraphs:

“(j) ensure that legal metrology measurement standards are traceable to national measurement standards”, as it is necessary to make a provision that all measurements are traceable to the national measurement standards; and

“(k) perform other functions consistent with the objects of this Act – I think it should be “objectives” of this Act also.

(b) Amendment of Clause 9(2) by deleting the existing paragraph (b) and re-numbering the existing paragraph (c) as (b) accordingly.

At international level, CIPM is concerned with issues of scientific metrology, which are dealt with in Clause 8. The provision had been wrongly placed under Clause 9, which is dealing with legal metrology.

Mr. Mabere Marando: Mr. Chairman, sir, the amendment which has been proposed by hon. Kaggwa was to change “objects” to “objectives” wherever it appears in the Bill.

Counsel to the Community (Mr. Kaahwa): Mr. Chairperson, sir, on the use of the two words, “objects” and “objectives”, whereas I understand the amendments which have been proposed by my honourable friends, Med Kaggwa and Marando, you will see that this Bill

right at the beginning in its Clause 3 provides for the “objects of this Act”. The use of the word “objects” in Clauses 9 and 5 is intended. Hon. Chairperson, the message I am passing to this honourable Committee is that the word “objects” is the one we should consistently use in the Bill. It is the intended word.

The Chairman: Can you briefly tell us the difference between “objects” and “objectives”? *(Laughter)* In this case, what would happen if we used “objectives” instead of “objects”?

Counsel to the Community (Mr. Kaahwa): Hon. Chairperson – *(Interjection)*. I have the Floor honourable members – *(Laughter)* “Objects” is derived from the policy of the Bill and it is a wider word than “objectives”. We use “objectives” in reference to the functions of institutions. And for this purpose – and we debated this one – the correct word should be “objects” for purposes of Article 3, in underlining the purposes of the Act, and subsequently in clauses 5 and 9.

The Chairman: Anyone wishing to challenge? I think they have all yielded – *(Laughter)*. Those of us who are not “learned” are happy that the “learned brothers” have submitted – *(Laughter)*.

(Question of the amendment put and agreed)

Clause 9, as amended, agreed to.

Clauses 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and Clause 28, agreed to.

Title

The Chairman: Any amendment to the Title of the Bill? There was an issue raised by hon. Ochieng-Mbeo through hon. Marando – *(Interjection)* – Is it not an issue? *(Interjection)* - The enactment is the one which will change? *(Interjection)* So it is President Kikwete signing for Minister Kikwete? *(No, no!)* So what is it? *(Interjection)*

Counsel to the Community (Mr. Kaahwa): Hon. Chairperson, on the schedule of amendments, on the first item there is a reference to words of enactment, and the Council proposes the deletion of the words “*Be it enacted by the East African Legislative Assembly*” as it appears at the beginning of the sentence and substituting therefore the words “*Enacted by the East African Community*” in order to conform to the provisions of Article 62(3) of the Treaty and Section 5(1) of the “*Acts of the Community Act, 2004*”. That is an amendment proposed by the Council of Ministers.

(Question on the amendment put and agreed to)

The Title, as amended, agreed to.

MOTION FOR THE HOUSE TO RESUME

The Chairperson, Council of Ministers (Mr Koech): Mr. Chairman, I beg to move that House do resume and the Committee of the Whole House reports thereto.

(Question put and agreed to)

(The House resumed, the Speaker presiding)

BILLS Report Stage

The East African Community Standardization, Quality Assurance, Metrology and Testing Bill, 2005

The Chairperson of the Council of Ministers (Mr. J. Koech): Mr. Speaker, I beg to report that the Committee of the Whole House has considered the Bill entitled “*The East African Community Standardization, Quality Assurance, Metrology and Testing Bill, 2005*” and passed it with some amendments.

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

The Chairperson, Council of Ministers (Mr. J. Koech): Mr. Speaker, I beg to move that the report of the Committee of the Whole House be adopted.

(Question put and agreed to)

BILLS Third Reading

The Chairperson, Council of Ministers (Mr. J. Koech): Mr. Speaker, I beg to move that “*The East African Community Standardization, Quality Assurance, Metrology and Testing Bill, 2005*” be now read a Third Time and do pass.

The Secretary General (Mr. Mwapachu): Seconded

(Question put and agreed to)

The Bill was read a Third Time and passed.

The Speaker: Hon. Members we have now come to the end of our sitting this afternoon, we resume again tomorrow afternoon at 2.30 p.m. for the Budget Session. The House is therefore adjourned until tomorrow at 2.30 p.m.

(The Assembly rose at 5.43 p.m. and adjourned until Thursday, 25 May 2006 at 2.30 p.m.)