



THE EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY

The Official Report of the Proceedings of the East Africa Legislative Assembly (EALA)

55TH SITTING - SECOND ASSEMBLY: FIFTH MEETING - SECOND SESSION

Wednesday, 25 March 2009

The East African Legislative Assembly met at 2.30 p.m. in the Old Chamber of the Kenya National Assembly, Nairobi, Kenya.

PRAYERS

*(The Speaker, Mr Abdi H. Abdirahin, in the Chair.)
The Assembly was called to order.*

BILL, First Reading

The East African Community Customs Management (Amendment) Bill, 2009

MOTION

The Minister for East African Cooperation, Tanzania, and Chairperson, EAC Council of Ministers (Dr. Ibrahim Msabaha): Mr Speaker, I beg to move that the Bill entitled *the East African Community Customs Management (Amendment) Bill, 2009* be read for the First Time.

The Counsel to the Community (Mr Wilbert Kaahwa): Seconded.

Dr. Msabaha: Mr Speaker, the principal object of this Bill is to amend the *East African Community Customs Management Act, 2004*, to facilitate the smooth implementation of the Act and the discharge of the functions of the Directorate of Customs and Trade as provided for in the Act. I beg to move.

Bill Read a First Time.

The Speaker: The Bill is referred to the Communications, Trade and Investment Committee for consideration.

**BILL,
Second Reading**

The East African Community Tourism and Wildlife Management Bill, 2008

**THE REPORT OF THE COMMITTEE ON AGRICULTURE, TOURISM AND
NATURAL RESOURCES ON THE EAST AFRICAN COMMUNITY TOURISM AND
WILDLIFE MANAGEMENT BILL, 2008**

The Chairperson, Committee on Agriculture, Tourism and Natural Resources (Dr George Francis Nangale): Mr Speaker, you will recall that the Second Reading of this Bill was done in February, in Arusha. I asked the House to give us time so that we could consult stakeholders around the region. We had the opportunity to do that.

Let me start by giving the chronology of the events. The internal consultations started in May 2008, when the Committee members deliberated on the idea of making a law on tourism and wildlife management in the region. During the Second Meeting of the Second Session held in September 2008, in Kigali, hon. Safina Kwekwe Tsungu sought and was granted leave of the House to introduce a Private Member's Bill on Tourism and Wildlife Management, 2008.

The First Reading of the Bill was done during the Third Meeting of the Second Session in December, 2008, in Kampala, where it was referred to the Committee on Agriculture, Tourism and Natural Resources for consideration. In accordance with the Rules of Procedure of the Assembly, the Committee invited Members of the East African Community Council of Ministers and other stakeholders. The sponsor presented the Bill to the Committee by sharing the challenges and proposition of remedy in the areas of tourism and wildlife in the East African region.

After a thorough presentation and explanation of the Bill, the Committee made substantial changes to the Bill in form of amendments at the Committee Stage. The Committee met the Council of Ministers to get their input. During the consultations, the Committee learnt that there was a parallel process to the Bill, namely, the development of a protocol on the same. After consultations the Committee noted with concern the lack of streamlined — *(Interruption)* -

The Speaker: Honourable member, I can see that the honourable members are lost in the House. I think you should table the report first so that the Members can at least know what you are reading.

Dr Nangale: Mr Speaker may I table the report, and then I will come back to it?

(Dr Nangale consulted briefly with the Clerk)

Sir, the report is on the way. It will be here very soon.

Mr Speaker, Members of the Committee found it rather disturbing to get information on another activity at the very last stage of consultations, when the Council had received an invitation a month earlier and was informed of the existence of our Bill since May 2008. Furthermore, the Minister promised to support the Bill while introducing the same subject in Kampala in December 2008. The Committee having been convinced that both the protocol and the Bill had the common objective of legislating good laws and advancing the Community, it resolved to go ahead with its Bill by presenting the report on it to the House, and expressed the need to further consult stakeholders on the same. After that, the Committee got leave from the Assembly to go ahead and get views from stakeholders.

The Committee held public hearings with relevant stakeholders in the five capitals of the EAC Partner States and got significant proposals for amendment of the Bill from them. The Committee considered the Bill and incorporated a number of views and proposals from the stakeholders prior to producing a report, which is now before you for consideration.

Having regard to the Treaty for the Establishment of the East African Community, the Committee made a thorough analysis of the Bill initiated by hon. Safina Kwekwe Tsungu, and made several observations, among which are the following salient issues:

Mr Speaker, Article 49(1) of the Treaty empowers EALA to legislate on all matters of the Community. Article 59 of the Treaty allows members to propose any motion and to introduce any Bill in the Assembly. The EAC Tourism and Wildlife Management Bill moved by hon. Kwekwe had been brought to the Assembly, referred to the Committee, analysed and amended in the spirit of enacting a viable and strong legislation for positive transformation of the Community in line with the objective of the common good of the people of the East African region. This power is further enhanced by the Rules of Procedure of the Assembly.

Mr Speaker, the object of the Bill is to establish a corporation and legal framework in natural resources, particularly in the tourism and wildlife sectors. It seeks to operationalise Articles 114, 115, 116 and 119 of the Treaty. It proposes the creation of a commission responsible for, among other things, coordination of stakeholder participation in substantial development of tourism and wildlife in the region. This Bill has no financial implication to the Community in so far as the institution it proposes will be both self-sustaining and self-funding.

During the consultations, it came to light that there already exists a protocol on environment and natural resources, which was signed in April 2006, which covers general cooperation in areas of tourism and wildlife management in its Articles 12 and 26 respectively.

Sir, the Committee analysed the Bill clause by clause and noted certain gaps, which were improved on by introducing proposed amendments. These include, among others, guiding principles, vacation of office by a commissioner, a stakeholder advisory council, the East African Tourism and Wildlife Development Fund, decisions of the commission, and sanctions, which were not covered in the original Bill. In the course of analysing the Bill, the Committee also took into account the views of stakeholders and, therefore, elaborated a schedule of proposed amendments. I shall be moving these amendments during the Committee of the Whole House.

Mr Speaker, the Committee decided to include and create new clauses in the text regarding guiding principles, the stakeholder advisory council, the East African Tourism and Wildlife Development Fund, decisions of the commission and sanctions, which were not covered in the original Bill, with the following reasons:

1. Guiding Principles

The Committee introduced a new clause on principles, which will guide the commission with respect to gender balance, rotation of senior posts and equitable sharing of positions among Partner States.

2. The Stakeholder Advisory Council

The Committee renamed the “Stakeholders’ Council” to become the “Stakeholders’ Advisory Council” in order to clarify its role in the commission.

3. The East African Tourism and Wildlife Development Fund

The Committee introduced a new Clause 14 to facilitate the establishment of a fund, which will finance the commission in a stable and self-financing manner.

4. Decisions of the Commission

The Committee created a new Clause 21 in order to facilitate the enforceability of the decisions of the commission by Partner States in line with the operating principles of the Community.

5. The committee created a new Clause 22 to provide for sanctions in case of breach of the provisions of this Bill.

Mr Speaker, the Committee, having analysed the Bill and got a number of emerging issues from various stakeholders to enrich the Bill, hereby recommends the following:

1. That the august House adopts the Bill with amendments annexed to it.
2. That all organs of the Community should streamline ways of communication among themselves.
3. That the approach of consulting stakeholders in the process of legislation should be institutionalised, where appropriate.

Mr Speaker, sir, as it has been stipulated in this report, the EAC Tourism and Wildlife Management Bill, 2008, seeks to give a legal and corporation framework to mitigate the challenges facing regional tourism and wildlife industry, which includes high marketing costs, fierce competition and fragility of the region's tourism base. It is, therefore, the view of the Committee that this Assembly supports and passes this Bill so as to facilitate the integration process in accordance with Articles 114, 115, 116 and 119 of the Treaty for the Establishment of the East African Community.

Mr Speaker, I beg to move. (*Applause*)

Mr Mike Kennedy Sebalu (Uganda): Thank you very much, Mr Speaker. I rise to support the motion. I would like to declare that I am a member of the Committee, and I was able to interface and be part of the process of coming up with the report. However, there is something I would like to make a contribution about. This is the issue of the stakeholder consultations.

This is something that as a legislative Assembly, we really need to institutionalise to make it a procedure that we must always undertake in the process of coming up with legislation. Currently it is undertaken, but you will find that in most cases no provisions, in terms of funding, are sufficiently put aside for these kind of processes, thereby leaving this very important process to the magnanimity of our collaborative development partners yet the laws that we are supposed to come up with are in line with the objective of streamlining our operations as a Community, and creating legal framework for the provisions of the Treaty.

When we went around in the various capitals, the stakeholders were indeed very enthusiastic about their participation in decision making on major activities of the Community. I had the opportunity to attend public hearings in Bujumbura and in Kigali. You will realise that these are new members in our Community, and they were indeed very grateful for this kind of opportunity that was accorded to them to learn about the Community, and also to participate in the process of coming up with a regional legal framework for the management of this very important sector.

This sector is indeed important, and in specific reference to a country like Burundi, they do not have serious tourism. When this idea came to their knowledge, the aspects of tourism that they are developing in terms of eco-tourism and culture tourism - they were able to give us quite good ideas of how they can fit into the broader picture of the sector of tourism within the East African perspective. If there was no opportunity accorded the populations, they would definitely not have made their input. For us to come up with laws that are going to be respected and complied with, this aspect and approach of engaging stakeholders at an early stage creates a higher degree of compliance, ownership and appreciation of the laws that we make.

The recommendation regarding institutionalisation of this process is something that we really need to look at very seriously. We should have funds provided for in our budget for

committees to be able to involve the people. There is a paradigm shift embedded within the Treaty clearly indicating that the integration process is going to be people-centred. If we are indeed going to actualise that kind of provision, both in spirit and in letter, then the earlier we get the people involved the better. The process of engaging them in these public hearings, consultations or workshops is one major way of ensuring that they are indeed involved.

Mr Speaker, when we met a variety of stakeholders: we had the public stakeholders, the government bureaucrats; the civil society organisations, the private sector and you could see that this provided them an opportunity of convergence. They were able to come up with suggestions to harmonise and corroborate their efforts in this sector. When we finally come up with this law, it will definitely have a very high degree of ownership from the population, given that they were given an opportunity to make their input.

I would like to support the motion, and to impress it upon Members that this is indeed a good initiative. This law is unique. There are aspects of innovation in terms of creating avenues of financing some of the institutions that we create so that we do not depend on the same sources of funds all the time. The earlier we look at creativity in coming up with new areas of funding for the operationalisation of the Treaty the better, and as leaders, we need to make a contribution in this direction.

Mr Speaker, I beg to support this motion, and to call upon the Members of this House to do likewise. It is well intentioned; it is for a good cause, and as we did indicate yesterday during the debate on the speech of the Chairperson of the Summit, he clearly indicated that something drastic needs to be done in this area. The Committee is coming in, in a very timely manner, so you better give us your support and we will start implementing some of the directives given to us by the Chairperson of the Summit.

With those few comments, I beg to support and call upon Members to support the motion.

Mr Augustine Lotodo (Kenya): Thank you, Mr Speaker. I also want to declare that I am a member of the Committee. I would like to support this motion because it is long overdue, given the fact that the EAC started almost ten years ago. The income from tourism in the Partner States is actually high, especially for Kenya and Tanzania. I want to say that tourism enjoys a very special place in their budgets.

I just want to stress that given the fact that we have been trying to harmonise our laws and systems, this motion requires the support of each and every one of us so that we are able to work together. The issues of tourism cannot be underestimated. We know the benefits, but we need to control the sector. That is exactly what the Bill is trying to address.

Coming to wildlife, it is a special sector. We know that we have endangered species across our region. It is in this Bill that these animals are going to be protected jointly across the partner states. So, this motion requires all the support it can get.

The issue of culture is also very significant. We know in East Africa we come from diverse backgrounds. We really need to protect our culture and traditions. This Bill actually mentions that we need to market our culture because we have cultural practices that are in line or actually co-exist with wildlife and tourism. We really need to appreciate and ensure they are protected. I don't think that this is such a very complicated Bill that we really need to discuss it. We just need to put our heads together and support it, ensure it passes so that we can be able to move ahead with other items on the agenda. Thank you, Mr Speaker.

Mr Bernard Mulengani (Uganda): Thank you very much, Mr Speaker. From the onset I want to say that we at the regional level should be able to address the issues where the region has advantage over and above other elements that we are trying to give priority to in the region. I am saying this because it is now ten years down the road - we are ably told and we do know that the issue of tourism is the issue of the Treaty. To us, Members of the Legislature, we also understand that the backbone of the countries of the region is based on agriculture and, therefore, tourism.

I rise to say all these words because after ten years, issues we would have addressed in the areas like tourism, which bring us a lot of finances in the region, have been set aside. Protocols are being written but to date they are not coming out. We are addressing issues of forming institutions like commissions of the Community while leaving behind issues that are tangible to the public. These are issues like tourism and wildlife. These are tangible issues, and if addressed, they will bring results to the people. People will be able to see the advantages of coming together.

Mr Speaker, I call upon this House to support this motion overwhelmingly for the importance that we attach to the historical background of our livelihood of agriculture and tourism. We have lost a lot of rights in terms of intellectual property because we have abused the advantages we have. I am told people are using names like the Nile Perch; they have taken the fish from Lake Victoria. And really, this is because of our method of work. We are very slow in working on areas where we have strengths. Agriculture and tourism are our strengths in this region. I think the Council of Ministers will agree with me that where we have strength we should not give room for anybody to take advantage of these areas. I therefore request that colleagues and Council of Ministers join us to support this motion. It is well intended, and it will actually ease their work. In fact, the way we are going, now is not the time to go for protocols. We are urging that we start using the legislature so that we bring out Acts of Parliament other than protocols.

Mr Speaker, I would like to sit down. I support this motion and urge Members that we should support the East African Tourism and Wildlife Management Bill, 2008. Thank you. (*Applause*)

Ms Nusura Tiperu (Uganda): Mr Speaker, thank you for giving me this opportunity. I also want to be counted among my colleagues who have come here and given support to this motion. As you know, the East Africans have always looked for a law that involves the people who are in the sector. I am supporting this motion because it is going to help

those who are involved in the business of tourism. I am also supporting this motion because at least consultations took place, but I urge that in future while consulting, the parliamentary committees relevant to the sector should be fully involved.

As you may realise, due to financial constraints we just picked a few representatives from the Committee on Tourism to participate in the stakeholders' meetings. I hope that in future, when funds allow, the whole committee will be involved so that our output can be more than it is today. Otherwise, I do not want to say so much, but I want to say that this is a very good Bill. While we were moving in our Partner States, we realised that the population was anxious to see that a law of such a nature is put in place. So, it is now up to us as Members of the Legislative Assembly, to ensure that their dreams come true.

Most of the people involved in tour companies have always undertaken to market East Africa on their own and that has made the business very expensive. They have had to send their marketing managers to areas like Sweden and other parts of the world to ensure that they market the mountain gorillas, whatever is there in the *Maasai Mara*, name it, including all the cultural and tourist attractions we have in East Africa. That becomes very expensive if you do it as an individual. So, I am very glad because this Bill addresses mechanisms of marketing the region as a block.

This Bill does not create a lot of financial demands for the Secretariat because it addressed mechanisms through which the Commission will raise money. This Bill creates bodies that will make East Africa look at our tourism sector being coordinated, organised, focused, and that will go a long way in ensuring that those who want to come in and adventure and enjoy the tourist facilities, find life very easy. For me, that will help boost the industry.

With those few remarks, I would like to stop and urge all my colleagues to support the motion. I would also like to thank my colleague, hon. Safina Kwekwe, the mover of the motion for the work that she has done. It is not easy. She has had sleepless nights trying to ensure that she comes up with something befitting. Thank you.

Dr F. Lwanyantika Masha (Tanzania): Mr Speaker, I wish also to declare my membership to the Committee on Agriculture, and to say what a pleasure it has been to be involved in the deliberations on this Bill. I wish to start with a lot of thanks and gratitude to hon. Safina Kwekwe for initiating the Bill, and for all the work that she has put in up to this point.

I look at tourism and wildlife management as I look at Lake Victoria, and the skies over the region, which are among the elements that give us commonality in the region. These are the things that defy compartmentalisation by borders. We know about animals, which see no borders when they cross over either into Tanzania or the *Masai Mara* in Kenya. The waters of the lake flow freely in the Partner States, as indeed do the fish in the lake, and the air in the atmosphere. This happens to a point where it has been found necessary to even propose a law and have a protocol on the use of the atmosphere in the region.

These are matters, which put us together as a people of the region. We, therefore, should look at these as major assets that put our people in the region together.

My colleagues have already made comments on several of the elements in the Bill. I just want to elaborate on one aspect only in support of this motion. The Chairman of the Committee, in introducing the report, has made reference to information that came to the Committee on the existence of another process of developing a protocol on the same subject. Mr Speaker, we also became aware, in the course of considering this Bill, of the existence of another protocol on the same matter and several other matters, which was signed in April 2006. So, there is a protocol, which contains paragraphs, very relevant, very clear, on these matters which have been negotiated by the Partner States and signed.

I know that protocol has not yet been ratified, but there is a protocol which exists, which has been signed. As we were developing this Bill we were informed of another process, which started much after we had started on the Bill; again, a protocol on the same subject. It was not a protocol seeking to annul the previous protocol, which has not been ratified, but yet another protocol. This time it was different from the previous protocol. It is a protocol seeking to establish an agency with very detailed elements of how that agency shall be. This is similar to what we were having in the Bill. I am almost tempted to suggest that there must have been some very careful plagiarism from the Bill to the proposed agency in the protocol.

This is a slightly disturbing matter. That is why I think that the language used in the report is that we were really concerned about what was happening. This is because there already was a protocol on the same subject. A protocol, which would have given us the basis of agreed principles by the Partner States, a protocol which contained principles that we incorporated in the Bill. Even though it was not ratified, it was signed. Now they started another process of another protocol, more detailed almost parallel to the Bill.

The biggest surprise was the information which we found in the course of the consultations that those working on the second protocol were not aware that we were working on a Bill. This makes me feel awkward. I am trying to find some other tame words for this. That is what they claimed, almost forgetting that they had already negotiated another protocol. This suggests that we would have to await the protocol, which they were working on before we could come to a Bill. Indeed, it appeared that they would be developing a protocol which is so detailed that there would be no need of a Bill later. I am trying to elaborate this point because it is very critical, and I hope Members of the Council will understand this and appreciate the dilemma we face when we deal with this kind of situation in our relationship.

There are elements in a protocol that cannot go into a Bill and there are elements in a Bill that cannot go in a protocol. That is why one is called a protocol and one is called a Bill. For example, you cannot have enforcement measures in a protocol. If somebody violates the principles signed on in the protocol, there is no enforcement mechanism to force compliance. That is why we need a Bill, which provides for a process of enforcement and compliance with the elements in the Bill. *(Applause)*

A protocol, according to our Treaty, becomes an integral element of the Treaty. If a protocol is ratified with the kind of details which they are processing, and I hope some copies will be made available so Members can see – (*Interjections*) - if something goes wrong and there is need to change that institution, which they are calling an agency, it will have to go through the process of amendment of the Treaty. And we know how difficult it is to amend the Treaty. So, if is a commission or an agency established through an Act of this legislature, any change in it - if need be - would be done through an amendment through this House.

The signatures required including the assent will not have to go through the ratification process that a protocol would have to go through.

So, I want to appeal to the Council to accept, one, that there is a protocol. We already have a basis for Partner States to understand what they have in this area, in the protocol, which they signed in April 2006. Two, the new protocol, which they are processing, is an attempt to circumvent our legislative process.

Mr Speaker, I know that there are several organs in the Treaty, including the sectoral committees, and that before the Legislative Assembly was activated, there was a system of legislation by protocol. But after the legislature was activated, there ought to have been consideration to remove this parallelism in legislation. I would recommend to the Council to consider amendments to the Treaty, cumbersome as the process may be, to accept the authority given in the Treaty for the legislature to legislate. (*Applause*) I would like to say something else in connection to this.

As we will see later, by the time we go to the Committee of the whole House, there will have been a lot of amendments moved to the original Bill. Some of these amendments have picked up the parallelism between what is being proposed in the draft protocol and in the Bill. There are so many things that are the same that most of what is contained in the protocol is in the Bill. There should not be any problem unless there is just a fight for turf.

The Council should find no difficulty in accepting this Bill because it does not contain anything drastically violating what they intend to have in their protocol. There will be a lot of amendments as you will see when we go into Committee Stage. These amendments have been developed after consultations within the Committee as well as with the stakeholders. Fortunately, also, it is with the knowledge of the elements in the draft protocol.

So, I find this to be a comprehensive Bill, as it emerges after the amendments. I appeal to everybody to accept it and give hurrah to hon. Kwekwe for the wonderful work she has initiated and allow this Bill to pass and become an Act of the Assembly. Thank you and I beg to support. (*Applause*)

Ms Dora Kanabahita Byamukama (Uganda): Thank you, Mr Speaker, for allowing me to also add my voice to those that have supported this motion. I would like to start by thanking hon. Nangale, the Chairperson of the Committee on Agriculture, Tourism and Natural Resources for presenting this report. I would also like to congratulate hon. Safina Kwekwe for her innovativeness and for being proactive enough and persistent in bringing up this issue of a law on the tourism sector. I have only three points. My first point is on the issue of what this particular Bill will cover in tourism.

Reference is made in the preamble to three Articles of the Treaty. The first Article is Article 114, which is on the management of natural resources; the second one is Article 115 on tourism, and the third one is Article 116, which is on wildlife management. I would like to state that this Bill is very important, considering that this august House has, in the recent past, enacted a law on the joint trade negotiations. I believe that as we negotiate trade and as we market East Africa as a single entity, the issue of tourism will be high on the agenda. Therefore, this particular Act on tourism will augment the work that will be done in respect to the *EAC Joint Trade Negotiations Act, 2008*, which is already in place.

I would also like to say that following up on what hon. Mulengani has said, especially in respect to Article 114(1) (c), and please allow me to quote: “*Partner states shall adopt common regulations for the protection of shared aquatic and terrestrial resources*”, Article 114(2) (b) (v) states that Partner States shall do this through the establishment of common rules of origin for flora and fauna. Mr Speaker, this is very important because mention has been made in respect to agriculture.

I would like to bring out another angle, which is in relation to intellectual property. This is a very key aspect, and I have heard my colleagues refer to Mount Kilimanjaro and Lake Victoria. If we do not protect these geographical indications, we will go to China, like what happened in the case of the *Kiondo* bag, and you will find that a product of one of the East African countries is being marketed as another country’s product. I would like to say that at an appropriate time, I will bring to the House a motion so that we debate the issue of protecting our intellectual property in respect to the geographical indications, as well as the natural resources. For example, if you look at the aspect of what is found in Lake Victoria, there are a lot of medicines that could be made out of what is found in that particular lake. If we do not have a law on how a person accesses the vegetation in this lake, people could come into our region and take these resources without our knowledge and make medicines without us benefiting at all!

I would like to move on to my next point. This is in respect to Article 115 on tourism. This Article is very explicit. When you look at Article 115(1) it states that Partner States will undertake to develop a collective and co-ordinated approach to the promotion and marketing of quality tourism into and within the Community. I believe that the word “quality” is not here by mistake. Of course we have tourism, which may not be qualitative. If it is not qualitative, it will water down other quality tourism in the region and, therefore, marketing tourism will become adulterated and weakened by virtue of the tourism, which is not qualitative.

This particular Article also talks about the need for Partner States to establish a common code of conduct for private and public tour and travel operators. It is very important that we establish standards and classify our hotels and harmonise professional standards in order for us to market tourism as a package. Therefore, for me, this Bill on tourism will be able to help us harness this resource as a region, and will also help us to bring into effect qualitative services as well as standards in the area of tourism.

Having said that, I would like to talk about an element of tourism, which most of us do not want to talk about, yet it is real. This is the issue of sex tourism. People come to the East African region for a number of reasons. In light of the fact that we now have a common market where there is free movement of people, this is an element we must take into account. Accompanied with sex tourism is the issue of trafficking in persons. This is modern day slavery. This has many components, which are negative to the country and also brings with it security concerns. Mr Speaker, again I would like to give notice that at an appropriate time I will move another motion for this august House to discuss the issue of trafficking in persons or modern day slavery.

My third point is on the issue of recommendations. I do not wish to go on and on, on the issue of protocols and Acts of the Assembly. The hon. Dr. Masha was very clear. However, permit me to say that at this particular time, after we have had the East African Community in place since November, 1999, and now it is ten years, maybe it is time for us, as we look at the issue of amendment of the Treaty, to also audit and evaluate as to whether we should continue using protocols. If we think that we should not continue to use protocols, then we should be able to make these amendments. However, if in the alternative we would like to continue using protocols, I would like to propose that we also put in place a framework, which will explicitly outline what a protocol should have, so that the area of enactment of laws, which areas is a preserve of this august House, is preserved.

Mr Speaker, even when you look at the definition of the word “protocol” in the Treaty, Article 151 defines a protocol as forming an integral part of the Treaty. When you go to the definition section of the Treaty, which is under interpretation, protocol is defined to mean “*any agreement that supplements, amends or qualifies this Treaty.*” Therefore, if a protocol is an integral part of the Treaty, I would presume that when it comes to the issue of enforcement, we know the enforcement mechanisms that exist in the Treaty. These are under Article 143. It states that “*A Partner State, which defaults in meeting its financial and other obligations...* the words “other obligations” - I would presume that this includes obligations to respect laws of the Community. These laws, under Article 84, take precedence over the national ones in respect to the Treaty. Therefore, we would be in a position to use this particular Article to enforce a protocol.

But this said, we have in the past recommended that there should be amendment to this particular Article 143. When you read it, it states that “*a Partner State, which defaults in meeting its financial and other obligations under this Treaty shall be subject to such action as the Summit may, on the recommendation of the Council, determine.*” So, the

problem we have had is as to whether the Council has within its means – for lack of a better word – capacity to recommend to the Summit. I think we need to look at this very squarely, especially as we move towards political federation and as we also meet other challenges in respect to remittance of funds. This is an area where enforcement of the Treaty would be helpful.

Mr Speaker, I would like to conclude by saying that when you are moving a Private Member's Bill there are many hurdles. With my past experience, I know that this cannot be done with the support of the Council. Therefore, I would like to salute the support that the Council has given and implore Council to continue supporting this Bill. Thank you very much. (*Applause*)

MOTION

FOR THE ADJOURNMENT OF DEBATE

The Assistant Minister for East African Cooperation, Tanzania (Mr Mohamed Abood): Mr Speaker, I stand to move a motion under Rule 31(c) of the Rules of Procedure of the Assembly for the adjournment of the debate on the Motion on the Floor.

On behalf of the Council of Ministers, please, allow me to thank hon. Safina Kwekwe, the Committee of Agriculture, Tourism and Natural Resources and all Members of this august House for their commitment to the development of tourism and integration as a whole. (*Applause*)

Mr Speaker, the Council of Ministers would like to appreciate the importance of the *East African Community Tourism and Wildlife Management Bill, 2008*. The Council further appreciates the object of the Bill, which in principle is to actualise Articles 114, 115 and 116 of the Treaty.

Mr Speaker, legislation for tourism and wildlife management will enable the Partner States to put the key areas of tourism and wildlife management on proper legal footing. The Council would, therefore, support the legislation process in this regard, but much as the Council appreciates the long-term points that the Bill has brought to bear on this House, the Council also feels that there is a need to allow for further consultations at Council level, as was pointed out to the Committee on Agriculture, Tourism and Natural Resources.

The Sectoral Council on Tourism is right now consulting all the five Partner States to reach a consensus on the Tourism Management Bill. As you know, integration is a negotiated process and it is important that we enact laws that are agreeable to all Partner States. The Sectoral Council on Tourism is urgently following up the ratification of the Protocol on Environment Resources Management. The Sectoral Council is also negotiating a further protocol to specifically justify the establishment of a tourism coordination agency.

Mr Speaker, the Council is fully seized of the urgency of this Bill, and in this regard, it will expedite all the sectoral council activities in order to expedite its support for the Bill. I request the House to consider the enactment of this Bill to be a joint effort. This will allow for a smooth enactment process. It is under that cause that I think adjournment of the debate until the Sixth Sitting of this august House is necessary. I beg the indulgence of this House in this matter.

Mr Speaker, I beg to move that the House adjourns debate on this motion. Thank you.

The Counsel to the Community (Mr Wilbert Kaahwa): Mr Speaker, if it were not out of my profound respect for the Chairperson and this House, I would have sought your leave to second this motion from a seated position, under Rule 38(2) of our Rules of Procedure, the reason being that I am indisposed, and you will bear with me if my voice does not come out as eloquently as it should, as I support the motion for adjournment of debate.

I second the motion moved by the Council of Ministers for adjournment of debate of the motion on the Order Paper.

Mr Speaker, I stand to support the motion for adjournment of debate of the motion on the Order Paper today. Sir, I was asking that I could have your indulgence, because I am feeling a little bit indisposed. I will say, first of all, three things by way of background to my support for the motion. I also mentioned two other things being the very reasons why I support the motion for adjournment of debate.

In the first instance, pursuant to the provisions of the Treaty, and indeed to the whole essence and mission and vision of the integration process, the business of this House must be taken very seriously by all organs and institutions of the Community, and by all stakeholders in the integration process. Further to that, the importance of legislation in the integration process cannot be gainsaid. It is through legislation that the Community will have a fundamental basis for actualising the Treaty and annexing the Treaty, and for supporting the effective implementation of decisions of the organs and institutions of the Community. In this regard, the Council appreciates the legislative process and the calendar of this House.

Mr Speaker, indeed, this Bill has been in the House for quite some time, after it was first introduced and after it went through the First Reading. I would not like to say that period has been inordinate or long, but it has not been unnecessarily inordinate. That is why, the Council, according to the mover of this motion, undertakes to ensure that the debate on this Bill proceeds not far from today, but at the Sixth Meeting of this august House, which is scheduled for May this year.

The reasons I support the motion, given that preamble, are only two. There is need to ensure, as we have been saying, inter-organ cohesion in the discharge of our respective functions. Indeed, this is what underlies what of recent has come up as the “Kigali Spirit”. In this, I entirely agree with hon. Lotodo that as we discharge our respective

functions, we need to cross-consult. We need to always know what was indicated in the State of the EAC Address by the Chairperson of the Summit. We need to always have a common purpose.

Secondly, the honourable minister has indicated that consultations are going on, and giving strength to the Council of Ministers and the Sectoral Council on Tourism, is a better position for supporting the Bill. It is not that the Council is opposed to the Bill. The Council supports the Bill, but it wants to make sure that it has fully consulted in the public domain. The deep consultations which the Committee on Agriculture, Tourism and Natural Resources undertook in the Partner States mainly addressed the wider section of stakeholders. It is the Sectoral Council which consults with the Partner States and to have a negotiated position so that when it comes to supporting the Bill, the Council is clearly in tandem with the House.

Those are the reasons I stand to support the motion for adjournment of the debate. At the Sixth Meeting, the debate can be re-opened with a common purpose of enactment the Bill.

Mr Speaker, allow me to mention one thing: the enactment of legislation by this august House has been afflicted by the circumstance where you have protocols being concluded and yet the Community, under the Treaty, also expects appropriate legislation to be enacted. I would like to assure you, Mr Speaker and honourable members that this matter is before the Council of Ministers. At its last meeting, the 17th Meeting, which was held on 27 February 2009, the Council of Ministers realised the dichotomy, which exists in this area of cooperation.

The Council of Ministers took time to debate what should be done in order to ameliorate the situation. The Council of Ministers exchanged views on whether we need an advisory opinion of the Court of Justice. The Council of Ministers also exchanged views on whether there is a need to amend Article 151 of the Treaty, which provides for the conclusion of protocols. The Council of Ministers, pending the final decision on this matter, has come up with a requirement that in the negotiation of protocols, all parties involved in the Community should be consulted. This is to avoid a situation where we have a protocol, which may provide for matters, which will militate against subsequent legislation.

The timing which the honourable Minister has requested the House for adjournment of debate is, in my humble opinion, not very long. He has assured you that by the Bujumbura sitting, the Sixth Sitting of this honourable House, the Council will have consulted. Mr Speaker, I support the motion.

Dr Aman Kabourou: On a point of order, Mr Speaker, I just want to be clear about this. At the national Parliament level, when we engage in the budget session of Parliament, usually we do not have any other business but the Budget. I wonder, now, if the Council of Ministers is proposing that we defer the debate on this Tourism Bill until the Sixth Meeting, which I honestly believe will be a budget session, would that be in order?

Mr Mike Sebalu (Uganda): Mr Speaker. I want to thank the Council of Ministers for its intervention and request to have this debate deferred. However, I would like to get some clarifications. One: I want the Minister to be very specific about the nature of the consultations they are going to have. This is because you may find that the nature of consultations could be just a way of buying time to make further assault on the process. So, what is the nature of the consultations? Is it progressive in terms of streamlining? We have a history. We have had previous commitments made by the Council on similar issues and the history is not good. If we take the Lake Victoria Management Act, the consultations have been indefinite, and we have never got any feedback. The Chairperson of the Committee will agree with me on this. This is the same Committee that has had this kind of frustration before. So, we really need to be assured of the nature of consultations and the goodwill of the Council because there is a record, and I would hasten to add that that record is not so good in terms of living up to the commitment.

I would also like to know the status of the earlier protocol on natural resources. That protocol does substantively address matters to do with tourism and wildlife. So, if you indicate that you are going to enhance the process of having it ratified and operationalised, then what is the status of this proposed protocol? Are we saying that the formers of this protocol saw weaknesses in the earlier one and they are trying to upgrade it? What will be the status of this one that is proposed vis-à-vis the Bill we are proposing? I think you need to come clean on those issues, if you are to be given any goodwill. Thank you.

Mr Augustine Chemonges Lotodo: Mr Speaker, mine was a clarification, although it has been addressed by my colleagues. I just want real commitment from the Minister. This is because we cannot just have an open ended promise. I would also like guidance about the procedure on how we will meet. This issue is before the House. Will the Council of Ministers meet the Committee before they bring the Bill to the House?

Mr Abdul Karim Harelimana (Rwanda): Mr Speaker, I stand here to oppose the proposal of the hon. Minister. First of all, he presents to us the reasons for which the proposed adjournment should be accepted by this House. The reasons are consultations. The previous speakers and the report itself showed that members of the Committee went to the capitals of the Partner States and met different people who are stakeholders in the matter of tourism and wildlife. To mention just a few of them, these were people in tourism, hotels, wildlife management, nature conservation, environment and other areas that touch on the matter of tourism and wildlife. All of these people were met in Dar-es-Salaam, Kampala, Kigali, Bujumbura and Nairobi. As earlier stated by the Chairperson of the Committee, they contributed richly to the Bill. That is point number one.

Point number two is about the meeting which is to take place in May. As the hon. Kabourou rightly put it, the Council of Ministers, together with the Secretariat, is preparing the Budget now. They know that when we meet in Bujumbura we will be discussing the Budget of the East African Community. If this Bill is an important Bill, do they think that we can discuss it in only one or two days and finish it?

Mr Speaker, the last one is just a question. Among the people the Committee consulted was the Council of Ministers. We met in Arusha somewhere in February this year and even yesterday the Chairperson of the Council sat with us for at least one hour. We exchanged views, and as a committee, we took a decision to continue with this work. So, these consultations which are being prepared are going to meet which people? Are they outside the industry of tourism and wildlife or they wanted to meet all the people of East Africa? I beg to oppose. *(Applause)*

Mr Clarkson Karan (Kenya): Thank you, Mr Speaker, for giving me this opportunity to oppose the proposal of the Council of Ministers to curtail the debate on the Floor of the House. In our last sitting in Arusha, the Committee sought for more time to be able to consult more stakeholders. If you look at methodology in the report of the Committee, it indicates that the process included the Council of Ministers, and the Committee has done its work. But, let me say this: if I was a bank and I was dealing with this Council of Ministers as a borrower, I would not take the Council to be credit worthy. This is because no promise that the Council has made on the Floor of this House has been honoured. *(Applause)*

Mr Speaker, you will remember when we were in Kigali, the Chairperson of the Council of Ministers promised this House that when we would be sitting in Uganda, the issue of the Lake Victoria Basin Commission Bill would be concluded. To date, that Bill remains outstanding. You will also remember the number of promises that the Council has given to this House, including more sitting days for the Assembly, reallocation of funds from the Secretariat, and none of those promises has been honoured, Mr Speaker, so how would you expect this House to believe that the request being made by the Council of Ministers now will be made good? No bank can deal with this Council of Ministers because it does not honour its promises! *(Applause)* Mr Speaker, I want that to go on record.

I think what the Council of Ministers is trying to do is to seek for more time so that they conclude an ambiguous protocol, a much more ambiguous protocol than the one we are facing on the Lake Victoria Basin Commission. This House has its obligations, and we agreed unanimously that we should be able to put in place a Bill to enable the East African region to capitalise a lot more on tourism, much more during this period that the President of the United States of America comes from this region – *(Laughter)* - which resolution the Secretariat took the first advantage to communicate. If we are not putting this Bill in place to enable the East African region to capitalise on tourism, what is that we are actually doing? So, I oppose this motion because I know this commitment will never be made good, just like the previous commitments made by the Council of Ministers. *(Applause)*

Mr Bernard Mulengani (Uganda): Mr Speaker, I rise to say a couple of things, and one of them is to seek clarification from the Council of Ministers.

Mr Speaker, during the time that the Council has proposed to defer the Bill, will they be harmonising the protocol into the Bill or harmonising the Bill into the protocol? The other issue that I want to get clarification on is that eventually this Bill is going to end up in the hands of the Council of Ministers. What is wrong with the Council just taking this Bill considering it and proposing amendments to it so that come May, the Council will then come with proposals for amending the Bill? Because, Mr Speaker, if the Bill does not satisfy the needs of Council, we could just pass it as it is, and then as we forward it to the Council for consideration and onward forwarding to the Summit for assent – (*Interjection*) - I beg your pardon, it goes through the Speaker.

What I am proposing is that we should just pass the Bill as it is but give the Council of Ministers time to propose amendments. This is because the method of work that is being portrayed in this House makes it look like when we meet the Council of Ministers in our committees, we interact and think that we have agreed and concluded but when we come to the House, the Council comes up with another method of handling the same issue, like the proposal to defer this Bill.

The other thing is that the Assembly is in place; the Assembly can make laws. The cost of making protocols, I think, is far more than the cost of making Acts of Parliament. Why should we end up spending money to call sectoral councils and coordination committees to make laws that the Assembly can make? I think this Assembly can make laws equivalent to all the protocols that we have made to date. If we look at the cost that has gone into making protocols, it is not really worth it for our taxpayers.

Mr Speaker, I feel constrained to support the motion of the Council if they do not clarify these issues I have raised.

Ms Dora Kanabahita Byamukama (Uganda): Mr Speaker, after thanking the Council of Ministers, I do not know whether I should withdraw my appreciation. I will, however, retain it because I believe that the Council of Ministers is supportive. I believe that maybe what the Council is proposing is in good faith. However, I would like be satisfied before I support the motion. Right now I do not support the motion, which has been moved. I have two points for this; the first point is a procedural issue.

When you look at Rule 68 of our Rules of Procedure, which provides for the Second Reading of a Bill, it talks about the chairperson of the committee to which the Bill has been referred giving a report. Rule 68(3) states that “*a debate shall then ensue on the merits and principles of the Bill on the basis of the explanatory memorandum and report from the committee.*” My question is: is this motion to adjourn the House made in light of the merits and principles of the Bill or because the explanatory memorandum from the committee is defective? Does it go to the heart of what we should be debating on for us to be able to stop? I just need some explanation as to whether we are off course, and as to why we should stop, if as has been debated, this Bill is of great significance.

My second point is on the issue of broken promises. It is said that once bitten twice shy. I would like to say that pegging the debate of this Bill to the May session at this particular

moment is not realistic. The reason I am saying this is that our number of days, which were allocated to us in the budget, end on Friday this week. That is why we could not have a two-week sitting as we would have liked. Therefore, our May meeting hangs in the balance because we do not have this catered for in our budget. So, is the Minister in essence assuring this House that we shall have three weeks' sitting in Burundi in order for us to have the two weeks we would have had and an additional one week to cater for his interests? (*Applause*)

I would like to go to my third and last point. This issue has been brought out by hon. Mulengani. Laws are not cast in stone. We have a precedence right here before us, which has been introduced by this very Minister. Even in Kampala he introduced it. These are the several amendments to the East African Community Customs Management Act. In effect, in Kampala we amended to push the deadline for the East African Partner States to move from regional economic blocks to a two-year time frame. That is to December 2010, and right now, before us is another amendment to the very same Act. In effect, if there is nothing in the Bill that goes against the merits and principles of the Treaty, what harm would it do if this august House went on to enact this Bill and thereafter the Council of Ministers, in its wisdom, brings the amendments, like it usually does? I would like to be satisfied, and then after that, I can support the motion.

The Third Deputy Prime Minister and Minister for East African Community Affairs, Uganda (Mr Eriya Kategaya) (Ex-Officio): Mr Speaker, I support the motion, of course, for adjourning the debate.

First of all, this idea of broken confidence, if that were to be the way to proceed, I think it would be very dangerous and we would not move, because a Bill passed in this Assembly needs to be assented to for it to become an Act of the East African Legislative Assembly, and I am sure that for a Bill to become an Act, the Council plays a part. So, we cannot work on the basis of lack of confidence.

Mr Speaker, I will come to exactly why I think this debate should be adjourned. There are the general issues of protocol vis-à-vis legislation. I think I have had occasion to state that, yes, we need to separate the two, and I have also suggested that we could have a standard kind of Protocol – (*Applause*) - to conform to what we think a protocol should contain, so that it can leave room for legislation. That one, we have proposed, maybe what you could ask is what the Council has done to implement that – (*Yeah, yeah!*) The Counsel to the Community has been instructed to work out a standard protocol, which will leave room for legislation, because, I do agree that some of the protocols are too detailed, and once a protocol is part of the Treaty, it becomes difficult to meet the exigencies of administration. But, Mr Speaker, I was looking at this consultation, I think we should be honest.

If you look at Section 10 of the Bill, which lists the people who are supposed to be consulted; there is supposed to be a stakeholders' council, which should include tour operators, travel agents, hoteliers, curio outlets, institutions of learning relevant to the sector, communities hosting wildlife, civil societies advocating wildlife conservation and

cultural tourism actors. Honestly, can anybody say that all these were consulted...including communities hosting wildlife? Of course communities hosting wildlife are not in Kampala, not in Dar-es-Salaam, and not in Nairobi! That is the first point I want to raise: was consultation really done to satisfy Section 10, which we are proposing to pass as a part of the law?

That is why the Sectoral Council dealing with this matter was saying, "Give us more time to do more consultations to cover what we are talking about in Section 10". Mr Speaker, we are not opposed to the Bill; that is not the problem. We are not opposed to the aims and objectives of the Bill because they are noble. Nobody has a problem with that one – *(Interruption)* -

Mr Sebalu: Mr Speaker, on a point of clarification, I would like the hon. Eriya Kategaya to clarify to me whether the adjournment they are seeking is for purposes of enabling them to audit our consultative process in terms of consulting the various categories of people that have been identified in Bill. And I would like to state that those various stakeholders were represented in the meetings that we conducted. However, if he wants to give them a second hearing, that is another matter, but they were consulted. So, my point of clarification is whether the consultation which the Council is now seeking for is going to be done with the sectoral councils, committees and those other public sector stakeholders, or is he saying that we can also go back and widen, as a committee, our consultative process? Is it only for the Council to consult or are we collectively going back to consult widely?

Ms Zziwa: Mr Speaker, may I also ask the Council of Ministers to perhaps tell this august House the kind of activities it has engaged in since Bujumbura when the hon. Tsungu sought leave of the Assembly to bring this Bill, up to date? Maybe then we will be able to judge that considering the speed at which they have worked both as individual members of the council and jointly, they still need some little more time. I just want to seek that clarification.

Mr Kategaya: Mr Speaker, the clarification from the hon. Zziwa is not for me to give; I will answer the first one from hon. Sebalu.

Mr Speaker, in fact when I say consultations, what I mean is that I want to be able to come up with a Bill that would be acceptable to all of us. Not to the Council alone; not to the EALA alone, but it should be acceptable to all those mentioned in Section 10 because it is important; it is touching on the management of the resources of the Community.

So, I am not saying that I want to audit...I do not have the power to audit honourable members' findings. Of course I can read them and find out if it was as widely done as is stated in Article 10, but my argument, Mr Speaker, is that let us really go by fact that the Sectoral Council is part of the Council of Ministers, actually, so they are working on behalf of the Council, and they want to be sure that when we are moving towards having this law, which is a good law, everybody is on board. This is the whole point I would like to make, and the more reason why I would like to support the motion for adjourning

debate on the Bill for the time being so that we can have more consultations with the groups mentioned in Section 10.

Mr Speaker, I heard my good friend saying that this Council and the other people will not need any money from the Community, but if you look at Section 17(1) (ii), it states that one of the sources of funding is the EAC budget. This means that if we set up these councils and secretariat and director-general, they will need money from the Community – *(Interruption)* -

Ms Byamukama: There is an amendment!

Mr Kategaya: Where is the amendment? No, we have not come to it. I am just reading the Bill as it is. I cannot assume that it has been amended. Therefore, this conflicts – and I think it has been raised by Tanzania that this conflicts with Article 59(2) because it is going into the budget of the East African Community. If it has been amended, then you will need to allay the fears of everybody that actually we are going to raise money to run these structures without going into the EAC budget. Mr Speaker, if it has been amended, I am not aware and there is no record of that, but, as I have already said, one of the Partner States did raise the issue that Section 17(1) (ii) conflicts with Article 59(2) of the Treaty.

Lastly, Mr Speaker, is there a protocol on tourism? My answer is that there is no protocol. There was a proposed protocol. A protocol is a protocol if it is ratified. Before it is ratified, it cannot be a protocol to be cited as an authority. So, as far as I am concerned, there is no protocol in law on tourism. The only protocol that is being worked on by the Sectoral Council, I imagine, has taken into account whatever had been proposed in 2006, and the effort is to make a protocol actually. That is to say, have a protocol signed and ratified by all Partner States. So at the moment you cannot go by a proposed protocol. It is not yet a protocol; it is a proposed protocol in law. It is not a protocol as such because even if it was signed it would have to be ratified. So, it cannot be cited as the authority for proceeding on this debate.

With these few points, Mr Speaker, I would urge this House that there is no harm in adjourning the debate so that all these areas we are talking about can be fully addressed and everybody is on board and satisfied.

On the issue of confidence, Mr Speaker, as my approach has been, we have been working to come together find rules. In fact when I was listening to the hon. *Mzee* Masha, I could see that there was even no need for any more discussion. There were so many areas he was raising. “What is this? What are we supposed to do on this one?” So that is more reason I would like to ask this House to give an opportunity to the Sectoral Council to look at all these areas, and when we come back here we are all agreed on what to do. We are not opposed to the Bill; nobody is opposed to the Bill; nobody is opposed to the enthusiasm and energy that the honourable members have put in this Bill because we want East Africa to be one tourist destination.

Mr Speaker, with these few words, I support the motion for adjournment of debate.

Mr Reuben Oyondi (Kenya): Mr Speaker, I stand to oppose the motion for the adjournment of Debate for the following reasons:

This Bill has been with the Council of Ministers since last year. If indeed they had any reason to put in or chip in something, this should have been done much earlier. This Bill did not drop from heaven this morning for them to perhaps say that the mover has ambushed them; this thing has been with them. And the reason that they are giving - as I have heard the minister say - is that even if it is passed here and they do not give consent to it, it would be useless. That is what I am hearing from him.

Mr Speaker, we cannot be put under that kind of stress that we are working – *(Interruption)* -

Mr Kategaya: On a point order sir, is it in order for the honourable member to put words into my mouth? I did not threaten anybody. All I said was that the passage of a Bill into an Act needs the co-operation of the Council. Did I threaten anybody? Is it in order to impute words of threatening the House to me?

The Speaker: You implied it but you did not threaten. *(Laughter)*

Mr Oyondi: Mr Speaker, when the Minister says that he will not co-operate, what does that mean? He is just saying no, that they are not going to accept it even if it is passed here. And if he is looking for co-operation, then he should have co-operated much earlier. He should have looked at this Bill, and if there was any input, they do it and we go ahead.

One of us has suggested that we should go ahead, pass the Bill, and if there is any amendment to be brought in, then let them do it, rather than saying we should postpone it until, God knows when! The hon. Byamukama has just said that the two weeks we have in Bujumbura – if they are going to be two weeks anyway - will not be enough to cover the work scheduled for the two weeks plus the work we are now leaving behind because the Council of Ministers are not willing to proceed. Mr Speaker, I beg to oppose the motion. *(Applause)*

Ms Sarah Bonaya (Kenya): Thank you, Mr Speaker, for allowing me to add my voice to this very important debate. I want to register my objection to this motion. I am not supporting it, because we have a history of lack of goodwill over the years. The Council of Ministers, which is supposed to steer most of these processes, has actually had a very long time to consider the whole issue.

Mr Speaker, when we were going through our budget processes, we discovered that this sector was one of the sectors that had been given a raw deal. The last time they met was so many years back. Maybe from 2004 there has been nothing much that has happened in this sector. The tourism sector has been left to lag behind the other sectors, and yet as we all know, it is one of our major income earners in the region. I think that if we are serious

about our objectives of coming together as a region, we should be able to protect and preserve our resources so as to be able to improve the welfare of the people of the region. I think that our resources, as we all know, have become curses to this region. This is basically because we fail to manage them as we should.

In this case the tourism sector is mainly left to the foreigners, and I think the status quo will only encourage us to watch from a distance as our resources get ripped – (*Applause*) - and they benefit the outside countries, yet with good legislation and better management we can be able to benefit as a region.

Mr Speaker, the minister has stated that there is no harm. I think there is a lot of harm. We all know the current economic global trend. It tells us to be weary of development partners, who themselves are in crisis. So, what we know is very urgent is that if we do not manage our own resources, and if we do not take charge, I think we will be wasting our time.

The other issue is the climate change and degradation of the environment. Forests are the habitats of the wildlife, which we treasure so much, but, Mr Speaker, currently we have a crisis in this country; we cannot even grow crops because of failed rains resulting from climate change. Soon we will have our forests disappearing, and with it will go the wildlife. So if as a region we cheat ourselves that we are coming together to manage our resources better and benefit ourselves better and yet we keep on postponing one of the major sectors which would have earned us resources...one thing we have to know is that wildlife is nomadic like me.

I come from Northern Kenya, where you move across borders without respect to international boundaries. Animals move across the different borders, and because the different states have different laws, the animals get killed on the side. For example, if one of the states allows culling of animals, and once the animals cross the border into that state, then there is no protection for them.

Mr Speaker, I think we need to be realistic. We need to protect our resources and there is no better way of doing it than passing relevant legislation and taking responsibility collectively. Otherwise, we are actually wasting our time just carrying a beggar's bowl as a region. Thank you. (*Applause*)

Mr Abdullah Mwinyi (Tanzania): Thank you very much, hon. Speaker, for giving me the chance to lend my voice to this debate. I stand in support of the motion. I have especially been persuaded by hon. Kategaya, with his sound arguments as to the need for consultation.

This august House has many virtues, and one of them is patience. What the Council of Ministers is seeking to do is to postpone the debate on this Bill to the next sitting, for further consultation; nothing more. And for those of you, who have had their patience stretched to the limit, let me appeal to your pragmatic sense. What do we achieve by forcing through this Bill? Will it be the objective of us passing the piece of legislation we

deem to be very important? (*Interjection*) I stand corrected, but what I am saying is that, we the EAC – (*Interruption*)

Mr Sebalu: I seek clarification, Mr Speaker.

Mr Mwinyi: I agree.

Mr Sebalu: On a point of clarification, I thank my good friend hon. Mwinyi, who is proceeding quite nicely, but all I wanted to know is whether you are standing surety for the Council, and if so, in case they default, how do you make good to this House? (*Laughter*)

Mr Mwinyi: Mr Speaker, the Council of Ministers have stood before the plenary and given their word that they will deal with this matter in the next meeting, and I have every confidence that they will do so. (*Interjection*) - I will not take any further clarification, Mr Speaker.

The Community is people centred, and according to hon. Kategaya, what the Council is seeking is further clarification from the people. We as the people's representatives should not be a hindrance in that matter. So I urge everyone, on your patience and pragmatism, to support this motion. I thank you, hon. Speaker.

The Minister for East African Community Affairs, Kenya (Mr Jaffah Kingi): Thank you, Mr Speaker, for giving me this opportunity to have a bite at this debate. Allow me from the onset to state my position. I stand to support the motion to adjourn debate on this Bill.

For the very short period that I have been a Member of this House, I have observed something with a lot of concern. Many times it comes out like it is a House against the Council. I think the fundamental principle of every organ of the Community is to serve East Africans and to do whatever it takes to make sure that we serve East Africans better. Therefore, we should not be seen to be competing with each other. It should not be seen as if other organs are more committed than the other. It is true that there were some commitments and may be undertakings that were made by the Council, and they have not been fulfilled. But I think we should look at the reasons this has happened as opposed to saying it is a general trend of the Council.

The reasons that have been given for this particular motion of adjournment, to me, are very strong reasons. We would wish to come out together, both as a House and as a Council, to come up with a Bill that we believe will better serve East Africans. Therefore, this particular motion for adjournment should not be seen as if the Council is less committed to serving East Africans and, therefore, some question marks are being raised.

Mr Speaker, if you get the very reasons that were raised by the mover of this particular motion, the issues dealing with the protocol that is to come, of course we cannot cite it as an authority in this debate, but the mere fact that the relevant sectoral council is working

very much and has given us word that by the time we next sit, certainly a protocol will be in place. And certainly, that protocol will come up with a broader policy on the issues touching on this particular Bill. And from that policy, this Bill should then be able to draw its provisions.

That takes me to one question: Which is which, Mr Speaker; is it the tail that wags the dog or is it the dog that wags the tail? I think we need to put the protocol first, to give us the broad policy on the aspect of tourism and wildlife across the region. Then once you are seized with the wider policy of the region, from there we can be able to craft an appropriate Bill that will be able to – *(Interruption)* -

Ms Patricia Hajabakiga: Mr Speaker, I would like to get some clarification. Initially I had thought I would support this motion, but after listening what hon. Kingi has said, I have realised that it might be very difficult if we have to wait for the protocol before this Bill is moved once again in the House.

Mr Speaker, the proposal of the mover of the motion, which was underscored by hon. Kategaya and also by the Counsel to the Community, was that the debate would resume in Bujumbura. Now taking into account the lengthy period required to passing the protocol, which is still under negotiation as per what hon. Minister of the Council, hon. Kingi has said, I am wondering if in Bujumbura, that protocol will already be in place; negotiated, signed and ratified by the five member states. *(Applause)*

Ms Byamukama: Mr Speaker, I just want to go through the same trend. When hon. Kategaya talked, I was persuaded. He said they needed further consultations with stakeholders; that is legitimate, but now when I hear from hon. Kingi the issue of protocol, I go back to my earlier questioning. If my memory serves me correctly, hon. Dr Masha talked about the issue of two protocols. He said that there was a protocol, which was there before and had not been finalised, and that there was another protocol, which had been recently initiated, which seemed to have plagiarised the contents of the Bill. So, why are we talking about the tails and bodies of the dog? And which is the tail and which is the – *(Interjections)* - that is my problem!

Secondly, I am very much aware that in the Treaty – *(Interjections)* - Mr Speaker, can I be protected?

The Speaker: Yes, you are protected, go ahead!

Ms Byamukama: ...in the Treaty there are some areas, which require protocols specifically. For example, you need a protocol on the Customs Union; there is need for a protocol on the Common Market. However, this is an area where the Treaty talks about a framework. If there is no explicit mention of a Treaty, why then are we having this protocol issue coming before this very great initiative? And if you are in support of the principles of the Bill, then what is so detrimental that would make us hold back until a protocol is in place? I have all those questions and now it takes me back to opposing the motion.

Mr Sebalu: Mr Speaker, I just want to make myself clear on what the motion is all about. Is this a motion seeking to defer debate on this Bill to allow consultations so that when we meet in Bujumbura we resume debate on the same Bill or it is...? What I am reading from hon. Kingi is that it is deferring so that in Bujumbura, a protocol will be ready to be discussed. That is what I am reading – *(Interjection)*. Maybe he can make himself clearer, but that is what I am reading. So I am seeking for clarification: what is it exactly that we are doing, and what are we intending to achieve by this motion?

Maj. Gen. Mugisha Muntu: Mr Speaker, I have not made up my mind whether to support or oppose this motion, because, to me, beyond the debate on whether to postpone debate or not, lies the critical issue of the credibility of the Council of Ministers in the eyes of the House, and I have not yet heard the Council of Ministers' address that.

Mr Speaker, as far as I am concerned, trust is a very critical element in many societies, so it beats me to understand that in Africa we never care so much about the question of trust. Strong societies are built on the basis of trust. *(Applause)* Quite a number of times I see many public officials who make promises knowing very well that they are not going to fulfil them. And I can tell you that this is at the base of the biggest weaknesses that we have in the African continent. I do not know whether the Council of Ministers is addressing itself to that!

Mr Speaker, you can see that the basis of resistance in this House is not so much that we do not want to postpone debate; the resistance is based on the history that we have had with the Council of Ministers. In actual fact I heard hon. Karan raise a number of cases where promises have been made by the Council of Ministers and they have not been fulfilled. The Secretariat is aware of that - I heard the Counsel to the Community also making a presentation on that - but there have not been any attempts to come and explain! We know that there can at times be a problem in implementing or making decisions, but we have not had the Council of Ministers come back on the Floor of the House, when a promise has not been fulfilled, to give reasons as to why it has not been fulfilled, or to say, "Give us more time, we are going to do that" - *(Applause)* - for example, the question of the Bill on the Lake Victoria Basin Commission!

So the clarification I would like to seek from the Council of Ministers is -because they are only dealing with this Bill - why are they not, on the request for the postponement, bothering to give us an explanation as to why the other promises have not been fulfilled, so that we can make informed consideration whether to accept or not? The moment we regain trust – they could apologise but I know it takes courage to apologise - *(Laughter)* Maybe we can regain trust and then give them the benefit of doubt this time round. The clarification I would like to seek from the Council of Ministers is: do they want to regain our trust? If so, what are they ready to tell us on the Floor of the House when putting this request forward? *(Applause)*

Mr Kingi: Mr Speaker, I do appreciate the interventions as given by the Members of this House. If I was given the chance to proceed, I could have addressed those issues.

Mr Speaker, what I was giving was a general principle of how we would be able to do legislation. In law there is something called a general rule and then there are exceptions. What I was giving was the general rule on how we do legislation; that we need the policy guideline, and then from there we do legislation. However, of course this general rule is not rigid; there are exceptions. And, certainly, looking through this particular Bill, as my colleagues have said, we are not opposed to the intentions of this Bill; it is a very noble Bill, and, therefore, I am not trying to tie this particular Bill to the protocol. *(Applause)* That should be very clear. I am not tying this Bill to the protocol.

If you can read through the Bill and you know that it is well intentioned, then if it has a wider consultation, we can be able to accept it knowing very well that that protocol should be able to embrace the provisions of this Bill if at all it is going to be there. So, the reason that has been given by my minister colleagues on the need to widen the process of consultations, to me, is very valid. May is not far, Mr Speaker.

I know there is a saying that once bitten, twice shy, but we should not look more to the past. The present Sectoral Council of Ministers in charge of the East African Community is extremely committed to make sure that whatever resolutions and undertakings we make before the House are actually implemented - *(Applause)*. This is because we understand that as Ministers in charge of the EAC, we belong to the two organs: we are both Members of the House and Members of the Council of Ministers. And so, for us, we are just a bridge, and certainly, we will never undermine any decision or resolution that has been passed by this House because we have also taken part in passing that resolution as Members of this House. And, certainly, if we go before the full Council, then we are there to defend what we actually took part in passing here. *(Applause)*

Therefore, whatever difficulties we have in the Council, we would be able to communicate that. Maybe the reason why Members are finding it very difficult to go with our explanation is that we have not been forthright in explaining the delays of implementing these decisions. But I can assure you that this particular Sectoral Council of Ministers in charge of EAC - whatever hurdles or problems we face before the full Council in as far as implementation of decisions and resolutions passed by this House is concerned, we will report back to you because we believe we are Members of this House, and therefore we ought to speak with one voice - *(Applause)*.

It would be extremely unwise for us to view you as the House and us as the Council of Ministers. We are members of both because it is provided for in the Treaty, and therefore we are here to defend the dignity of this House before the House, before the Council or any other organ of the Community. Therefore, if we seek such extensions or put an adjournment motion, know that it is legitimate.

We are not in any way trying to run away from our responsibilities; we are not in any way trying to play cat and mouse games with the House to which we do belong. So please, bear with us. This motion is put before this House because we feel we need to do more. Certainly, by May we should be able to resume debate, and I believe that by that

time we will have consulted more widely and be able to move together as a House. Thank you, Mr Speaker. (*Applause*)

Ms Safina Kwekwe Tsungu (Kenya): Mr Speaker, having the opportunity to speak almost at the end makes me a little disadvantaged because my colleagues have said most of what I wanted to say, but I wish to get more information from the mover, hon. Abood, because I heard from his presentation that the reasons that he is seeking for adjournment of this debate are:

- i. To get time for more consultations.
- ii. To give the Council time for them to speed up the ratification of the first protocol on environment and natural resources management.
- iii. To conclude the Protocol on the establishment of the East African Tourism Coordination Agency.

I heard that when he was presenting the motion.

On the issue of consultations, no one is against consultation because even the Treaty itself says that this integration shall be private sector-led, people-driven and market-centred. So consultation is a noble thing, but the question is, why now? Why now when we know that this House has in its record that this Bill has been in this House from December to date? Those are four months, Mr Speaker.

In January, the Office of the Clerk sent communication to the Ministries of East Africa Community Affairs in every Partner State, one, to notify them of the intention of the committee of the House to hold public hearings with stakeholders, and, two, asking the ministries to co-ordinate because that is their role.

Mheshimiwa Spika, February came, the Committee sat, nothing happened. Again, the House was very generous with the Committee and gave it more time and money to go to the capitals this time, and consult with the stakeholders in the Partner States. The Committee did that, but prior to that, again, the Office of the Clerk communicated to the same ministries to, again, mobilize stakeholders.

In some areas like in the Republic of Burundi, the ministry did a superb job. (*Applause*) The ministry itself participated fully; the sector ministries participated fully; and even the people who host wildlife participated fully, but, in the other Partner States, it did not happen! So, if we could not consult then, how are we going to consult now? That is my worry, hon. Speaker! I want to be convinced that this is genuine; that there shall be consultations and the Ministry for East African Community Affairs of each Partner State shall take charge to facilitate that consultation process.

And these consultations, who is going to do them? Is it the ministry; is it the Council of Ministers with the sectoral councils? Shall this House be party to those consultations? Who is going to fund these consultations? These are questions that I hope the Minister shall be able to clarify for me because I need to be convinced.

Mheshimiwa Spika, it would indeed be good practice to draw legislation from policy, but, when policies are not forthcoming and there are apparent gaps, should legislation be sacrificed because of lack of policies? The principles in the Treaty are very clear, *Mheshimiwa Spika*. So I am reserving my support for the motion until when and if I am convinced that this time round the Ministries of East African Community Affairs shall indeed be the number one partner in the consultation process. Until that is done, we shall always be seeking for more extensions because there are people who shall never come on board until the Ministry of East Africa Affairs tells them to do so. Those are the sector ministries that support the tourism and wildlife industry.

The Minister for East African Cooperation, Tanzania (Mr Mohamed Abood): Mr Speaker, first I want to thank you for giving me the Floor, and for your excellent clarification. I also thank my fellow ministers, and special thanks go to the Members of this august House for their good contributions. I understand that their contributions are based on the time frame. They want us to speed up and finalise this process. I want to assure them that we will do all we can so that in the next meeting we will consider the issue and finalise this debate.

Mr Speaker, it is just a matter of time. We have all said here; we know the importance of tourism development in our region. It helps our people very much; we understand that, but we seek for more time to improve the Bill so that we get something which will be tangible and more reactive to what we need.

Therefore, hon. Speaker, on the side of the Council of Ministers, as the Ministers have said here, we are not opposed to the Bill at all. What we want is time for the Council of Ministers and the sectoral council to sit and consult on issues regarding the budget implications, reflection of policies on tourism matters, expediting ratification of the protocol on environmental and natural resources – this protocol is already signed; what is remaining is only ratification. These are the areas where we need consultations on, and we are sure that by the next session all these will be in place, and of course, we are going to consider the issues you have raised. We know that it is very important, but we still request you, Members, to consider adjournment of this debate until the next meeting. I thank you Mr Speaker.

The Speaker: I now put the question on the Motion for adjournment of debate on the Bill.

(Question put and agreed to)

ADJOURNMENT

The Speaker: This brings us to the end of the business for today. I now adjourn the House until tomorrow at 2.30 p.m.

(The Assembly rose at 5.00 p.m. and adjourned until Thursday, 26 March 2009 at 2.30 p.m.)