



## EAST AFRICAN COMMUNITY

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### IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

#### 94<sup>TH</sup> SITTING - THIRD ASSEMBLY: FIFTH MEETING – THIRD SESSION

Thursday, 26 March 2015

*The East African Legislative Assembly met at 10:16 a.m. in the Chamber of Deputies, Burundi National Assembly in Bujumbura, Burundi.*

#### PRAYER

*(The Speaker, Mr Daniel .F. Kidega, in the Chair.)*

*(The Assembly was called to order)*

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#### COMMUNICATION FROM THE CHAIR

**The Speaker:** Honourable members, good morning. I would like to announce an adjustment on the Order Paper. Due to administrative difficulties, I am sure some of you have the right Order Paper just like I do, but others may be having the older one. The adjustment is very simple, after item number two. Election of members of the Commission is the only adjustment, as I notified you yesterday in the evening.

Honourable members, I have a special announcement which is not a pleasant one. We would like this house to pay tribute to the late Justice Kassanga Mulwa, from the Republic of Kenya who died on 16 March 2015 at the age of 77 years after a short illness. The late Justice Kassanga Mulwa was buried on arc, 24 2015. Justice Mulwa was a politician per excellence and was MP for Makueni from 1969 to 1982. He served at the East African Community as the Judge President of the East African Court of Justice in 2004.

The Late Justice Kassanga Mulwa had a legal mind and was an astute businessman and lawyer and had a passion for education. May his soul rest in peace. May we rise for one minute for a moment of silence in his memory.

*(The members stood and observed a moment of silence.)*

**The Speaker:** Honourable members, the floor is open to you to move a motion to nominate a member to replace hon. Bazivamo Christophe from the Commission.

**Ms Valerie Nyirahabineza (Rwanda):** Thank you very much, Rt hon. Speaker. I beg to move that this House do approve the nomination of hon. Martin Ngoga to replace hon. Bazivamo Christophe. I beg to move.

**The Speaker:** May I ask the person nominated to stand up and we know him or her? And also give us his acceptance of the nomination.

**Mr Martin Ngoga:** Thank you very much, Mr Speaker. I accept the nomination and thank you, hon. Valerie for nominating me.

**The Speaker:** Nomination is still open unless somebody moves to lose it.

**Mr Christophe Bazivamo (Rwanda):** Mr Speaker, I beg to move that the nomination process is closed.

**The Speaker:** Thank you so much. With the clap I approve that motion be closed. Being the only person nominated, I now declare hon. Ngoga Martin unopposed and therefore elected as a member of the commission of this House in accordance with the EALA Administration Act. Congratulations, hon. Ngoga.

## PAPERS

The following Papers were laid on the Table: -

by Mr Straton Ndikuryayo (Rwanda):

The Report of the Committee on Accounts on the on-Spot Assessment of the Internal Audit Systems of the Lake Victoria Basin Commission Projects and Programs

by Ms Valerie Nyirahabineza (Rwanda):

The Report of the Committee on General Purpose on the Conclusion of the Millennium Development Goals Transitioning into Agenda 2015 Plus, and other Global Agenda.

## BILLS SECOND READING

The East African Community Customs Management (Amendment) Bill, 2014

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson EAC Council of Ministers (Dr Abdallah Saadalla Abdalla) (Ex-Officio):** Thank you, Mr Speaker. I beg to move that the East African Community Customs Management Bill, 2014 be read for the second time. I beg to move.

**The Speaker:** Seconder? Hon. Mumbi, hon. Pareno, hon. Mbidde, hon. Maryam and all those standing. Chair, Council of Ministers, proceed and justify.

**Dr. Saadalla:** Mr Speaker, the principle object of this Bill is to amend the East African Community Customs Management Act, 2014 to facilitate the discharge of functions of a Directorate of Customs and Trade as provided for in the act and to facilitate smooth implementation of the Act particularly on the procedures that facilitate the implementation of the East African Single Customs Territory.

The East African Community is implementing a single customs territory. The procedures under this phase were not properly catered for at the beginning of the implementation of the Customs Union, 2005. Presently, the Partner States are considered as one customs territory and therefore it is necessary to provide for procedures that take into account this status. The procedures to be modified related to entry of movement and transit of goods.

Mr Speaker, the purpose of this Bill is therefore to provide for simplified and harmonised procedures relating to entry and movement of goods within the East African Partner States under the Single Customs Territory regimes and the procedure relating to the movement of goods that transit through the Partner States to third countries.

Mr Speaker, I beg to submit.

**The Speaker:** Thank you so much, Chair, Council of Ministers for the justification. I now call upon the Chairperson of the Communication, Trade and Investment to present the report of the committee on the Bill.

**The Chairperson, Committee on Communication, Trade and Investment (Mr Fred Mukasa Mbidde) (Uganda):** Mr Speaker, the report of the Committee on Communication, Trade and Investment on the East African Community Customs Management (Amendment) Bill, 2015 is available and here I move to read it before the august House.

Honourable members, In January 2015, the EAC Council of Ministers introduced to the Assembly the East African Community Customs Management (Amendment) Bill, 2015 for consideration and ultimately passing. The object of the Bill is to amend the East African Community Customs Management Act, 2004 to facilitate the discharge of the functions of the Directorate of Customs and Trade as provided for in the Act and to facilitate smooth implementation of the Act, particularly on the procedures that facilitate the implementation of the EAC Single Customs Territory.

After the Bill was introduced and read for first time, the Rt. Hon. Speaker of the Assembly referred the Bill to the relevant Committee, which is the Communication, Trade and Investment Committee for consideration and report back to the House. To discharge its mandate therefore, the Committee convened a meeting on March 18<sup>th</sup> 2015 to consider the Bill together with the Council of Ministers.

## 2.0 Methodology

The Committee met the EAC Council of Ministers together with experts from the EAC Directorate of Customs and Trade and those from the Office of the Counsel to the Community (CTC) to provide explanations and rationale for which the Bill was introduced.

The committee discussed the provisions of bill with experts and Council of Ministers and made the amendments, which are herewith attached and will be presented to the House at an appropriate time. The Committee appreciated the initiative by the Council to amend the East African Community Customs Management Act, 2004 to facilitate its smooth implementation and more particularly so, on the procedures that facilitate the implementation of the EAC Single Customs Territory.

### PROPOSED AMENDMENTS TO THE EAST AFRICAN COMUNITY CUTOMS MANAGEMENT (AMENDMENT) BILL, 2015

#### (1) Clause 2

Clause 2 is replaced with the following new clause: *“The East African Community Customs Management Act, 2004, in this Act referred to as the “principal Act” is amended in section 14 (4) and (5) by inserting immediately after the word “owner” wherever it appears in those subsections, the words “or operator.”*

Justification: The owner should take equal responsibility as that of the operator.

#### (2) Clause 5

Clause 5 (a) is amended by inserting immediately after the words “three months” the words “and where this further period is not sufficient, the Commissioner may extend it to another further period not exceeding three months”.

Justification: The Commissioner should be allowed discretion to administer the provision, but the law should put a limit within which this discretion should be exercised.

#### (3) Clause 8

Clause 8 of the Bill is deleted.

Justification: The decision to release seized goods should be made by an authority above the Commissioner and not by the same authority, which seized the goods.

#### (4) Clause 9

Clause 9 of the Bill is replaced with the following: “Section 243 of the principal Act is amended by inserting immediately after the word “auctioneers”, the words “inconsistent with this Act”, and the word “not” after the word “shall”.

Justification: Since this Act does not provide modalities for auctions, the Partner states laws should, if consistent with Act, fill in the gaps.

(5) Clause 10

Clause 10 (4) is amended by inserting immediately after the word “applicant”, the words “for a period not exceeding twelve months”.

Justification: To provide certainty and predictability on the period within which the decision of the Commissioner should be valid.

**The Speaker:** Thank you so much, hon. Mukasa Mbidde, Chairperson of the Committee on Communication, Trade and Investment. Honourable members, the motion before the House is that the East African Community Customs Management (Amendment) Bill, 2014 be read for the second time. Debate is open.

Honourable members, there being no member taking the floor to debate, I will assume that members are in agreement. I therefore invite the Council of Ministers to give a brief comment on the report of the committee and then we move to the next stage. It would ordinarily have been with the comments on the debate but now you can comment on just the committee report.

**Dr. Saadalla:** Thank you, Mr Speaker. I thank the chairperson of the committee and the committee members together with the experts and the acting CTC for sitting down to discuss the amendment of this Bill in detail.

I would just like to bring to the attention of this august House that Council together with the committee sat down and agreed mutually with the amendments, which would be brought by the committee.

I hereby stand to thank the committee and to beg the members to go along and accept this Bill to be enacted. Thank you so much.

**The Speaker:** Thank you so much, Chair, Council of Ministers. Honourable Members, I now put the question that the East African Community Customs Management (Amendment) Bill, 2014 be read for the Second Time.

*(Question put and agreed to.)*

THE ASSEMBLY IN COMMITTEE

*(The Rt. Hon. Dan Kidega in the chair)*

**BILLS'****COMMITTEE STAGE****The East African Community Customs Management (Amendment) Bill, 2015**

## Clause 1

**The Chairperson:** Honourable Members, the proposal on the floor is that Clause 1 be part of the Bill. I now put the question.

*(Question put and agreed to.)*

## Clause 2

**The Chairperson:** Honourable members, the proposal on the floor is that Clause 2 be part of the Bill.

**Mr Mukasa Mbidde:** Thank you, Mr Speaker. The proposal of the committee is that Clause 2 is replaced with the following new clause. That the East African Community Customs Management Act, 2004 in this Act referred to as the principle Act is amended in section 14(4) and (5) by inserting immediately after the word 'owner' wherever it appears in those sub sections the words 'or operator'. I beg to move.

**The Chairperson:** Seconder? Hon. Ndahiro, hon. Frederic. Chair, proceed and justify.

**Mr Mukasa Mbidde:** The justification is that the owner should take equal responsibility as that of the operator in the circumstances.

**The Chairperson:** Debate is open on the amendment.

**Dr Ndahiro:** Thank you, Mr Speaker. The amendment as proposed by the Council was to initially replace the owner with the operator so that the responsibility goes to the operator and not to the owner.

Mr Speaker, as we went around as the Communications, Trade and Investment Committee, we met different players especially transporters and the owners of bonded warehouses and other infrastructure and transport systems and they all requested the committee to ensure that the owners of trucks and those facilities should be brought to understand that the responsibility on the roads does not end with the operator or the driver because in most cases when they go back to their bosses maybe to seek for funds or other resources to comply with the laws, they are sometimes denied the resources and when the penalties are applied, they go straight to individuals who have no role to play. That is why we thought that it was necessary to hold both parties accountable. Thank you, Mr Chairman.

**The Chairperson:** Thank you, hon. Ndahiro. There being no more members debating, I put the question on the amendment as put by the Chairperson of the committee. Before that, let me seek the opinion of the Chair, Council of Ministers.

**Dr. Saadalla:** Thank you, Mr Chairperson. I have no objection and I concede to the amendment.

**The Chairperson:** There being no objection from the Chair, Council of Ministers, I now put the question on the amendment as moved by the chairperson.

*(Question put and agreed to.)*

Clause 2, as amended, agreed to.

Clause 3, agreed to.

Clause 4, agreed to.

Clause 5

**The Chairperson:** Honourable members, the proposal on the floor is that Clause 5 be part of the Bill.

**Mr Mukasa Mbidde:** Mr Chairperson, the proposal of the Committee of CTI is that Clause 5(a) is amended by inserting immediately after the words ‘three months;’ the words ‘and where this further period is not sufficient, the commissioner may extend it to another further period not exceeding three months. I beg to move.

**The Chairperson:** Secunder? Hon. Bazivamo Christophe. Proceed.

**Mr Mukasa Mbidde:** The justification is that the commissioner should be at liberty to administer the provision but the law should put a limit within which this discretion should be exercised.

**The Chairperson:** Debate is open.

**Mr Ndahiro:** Mr Chairperson, the objective of this amendment was to give powers to the commissioner to sell or expose off goods that exceed three months before they are cleared or before the owner claims them.

The committee was of the view that probably that would be too punitive as three months is short and we were asking for extra time to allow people to be able to remove their goods from the warehouses before they are sold or before they are penalised. That was the intent.

**The Chairperson:** Thank you, hon. Ndahiro.

**Dr. Saadalla:** Thank you, Mr Chairperson. I do not have any objection and I concede with the amendments.

**The Chairperson:** I now put the question on the amendment as moved by the chairperson.

*(Question put and agreed to.)*

Clause 5, as amended, agreed to.

Clause 6, agreed to.

Clause 7

**The Chairperson:** Honourable members, the proposal is that Clause 7 be part of the Bill.

**Mr Mulengani:** Thank you very much, Mr Chairman. I am a member of the committee but while they were looking at this Bill, I was not a member then. I am looking at a proposal of amending Clause 7(6). ‘Where the commissioner does not refund the cash deposit, an interest of 2 per cent per month shall accrue on the deposit for the period it remains unpaid.’

Mr Chairperson, I am looking at – *(Interruption)* -

**The Chairperson:** Can you be seconded first? I am asking for secondment to your motion. Hon. Dora and hon. Mwinyi. You can proceed and justify.

**Mr Mulengani:** Thank you, Mr Chairman. I am proposing an amendment on the percentage of interest to be increased on whatever can be agreed but I was looking at the bank rates that if a person transacting is using borrowed money from the bank, the bank rates are usually higher. If this person is going to be delayed in refund, he will be subjected to higher interest rates from the source where he got the funds.

Therefore, I would propose that maybe we would say the bank rate running in that member state for purposes of guarding the people – *(Interjection)* -

**Mr Mwinyi:** I just wanted to inform my brother that this is 2 per cent per month, which is much higher than the banking rules.

**Mr Mulengani:** Mr Chairperson, I want to withdraw the amendment.

**The Chairperson:** Thank you. Having withdrawn the amendment, can I now put the question that Clause 7 be part of the Bill?

*(Question put and agreed to.)*

Clause 7, agreed to.

Clause 8

**The Chairperson:** Honourable members, the proposal on the floor is that Clause 8 be part of the Bill.



**Mr Mukasa Mbidde:** Mr Chairperson, it is proposed by the committee that Clause 8 of the Bill is deleted.

**The Chairperson:** Secunder? Hon. Kessy, hon. Yves, hon. Frederic and the rest standing. Proceed to justify.

**Mr Mukasa Mbidde:** Mr Chairperson, the proposal for deletion maintains the substantive section of the Act. The justification is that the decision to release the seized goods that in effect have been seized by the directive of a commissioner should be made by an authority above the commissioner and not by the same authority which seized the goods. That is to take care of the principle of natural justice.

**The Chairperson:** Thank you, debate is open.

**Mr Mwinyi:** Thank you very much, Mr Chairperson. Although I am in agreement in principle that the function should sit with a different authority, it is not clear who that person above the commissioner is. I think it should be clarified so that we know if it is feasible. Does the committee mean that they want the minister to manage this function because that would present other issues in terms of bureaucracy in terms of timing? I think they need to clarify further as to which authority should do this function.

**Mr Mukasa Mbidde:** Thank you very much Mr Chairperson. The section pursuant to the deletion of the proposed amendment maintained under the Act in section 2(1)(8) reads as follows, “Where anything has been seized under this Act, the Council may, whether or not the thing has been condemned, direct that the thing be released and restored to the person from whom it was seized or to the owner upon such conditions as the Council may deem fit.” So under the parent Act we sought to maintain this provision. I beg to move.

**The Chairperson:** Thank you. Hon. Mwinyi, are you clarified?

**Mr Mwinyi:** Yes, so the Council will make that decision? I still have a problem with that in relation to how the Council functions. Under the Treaty, the Council meets twice a year. Can it truly be in a position to deal with the multitude of claims throughout the East African Community Partner States and to be efficient in the manner in which it discharges its duty? Thank you.

**The Chairperson:** Thank you, hon. Mwinyi.

**Ms Hajabakiga:** Thank you, Mr Chairperson. Maybe we may receive explanation from the Chair, Council because initially that was in the Act and I am sure following what hon. Mwinyi has just said, it might have been impossible to actually implement that provision because the way the Council meets and where it meets – It may not be possible for them to make those decisions all the time and that is the reason why they might have come up with a commissioner but if our committee thinks that probably the commissioner needs a higher body, maybe we could have proposed a different body but not the Council.

**Dr. Saadalla:** ... (*Inaudible*)... Council works because there is always a misconception that Council cannot handle this type of things especially those which occur frequently.

Mr Speaker, normally when the issue is sent to the Council, it directs the Secretariat or even itself to formulate a select committee which investigates, does an assessment and gives recommendations to the Council on how that specific issue should be handled according to the policies, rules and regulations.

This has happened several times. To give an example of the flour which was handled at Mombasa, eggs or hepatitis issues. Therefore when the Council meets, there is a subcommittee, which feeds to it and gives decisions. So I think there is no problem with that – (*Interjection*) -

**The Chairperson:** Clarification from hon. Dora to the Chair, Council of Ministers.

**Ms Byamukama:** Mr Chairman, I seek clarification because...

**The Chairperson:** Proceed. The Chair will always have one ear left for the House at any given time.

**Ms Byamukama:** I am not sure about that...but anyhow – (*Interjection*) -

**Mr Mulengani:** Mr Chairman, I rise on a point of order. Is my colleague, hon. Dora Byamukama in order to engage the Chair after you have guided?

**The Chairperson:** The practice of parliament for the Speaker to move from his chair to come to the table of the Clerk is to constantly confer with the Clerk, while he pays attention to the House. That is the purpose. Therefore, honourable member, I am attending to you. Proceed.

**Ms Byamukama:** Thank you very much, Mr Chairman. The point I was making was that I am not sure about what the honourable Chair, Council has submitted. I wish hon. Mulengani had listened a bit longer to what I wanted to say and that is why I sought a point of clarification. (*Interjections*)

**The Chairperson:** Proceed, hon. Dora.

**Ms Byamukama:** I want to put that on record. I am very obedient. The clarification I would like to seek is in respect of the justification and I would like to know- When you look at the justification, it says the decision to release seized goods should be made by an authority above the commissioner. I have verified and I was part of this committee that this commissioner referred to in this particular instance is the heads of the Customs office in the revenue authorities and therefore in this case, maybe the authority above would be for example the commissioner general or depending on the arrangement in that revenue authority, somebody who is above the commissioner.

Therefore in view of this, I think it is important that when we make these amendments – I do not have the original law here but we need to appreciate who is a commissioner. We need some kind of interpretation. Also, does the commissioner have the same status as all commissioners for

example provided for in this law? Therefore if they have the same status, do they have the same hierarchical order so that when we talk about an authority above it will be understood as to be at the same authority as others?

I think here we are trying to achieve some degree of harmony. In view of all this, my understanding would be that the appeal should be made to the highest authority in the entity and in that instance, if this does not go against what the nomenclature in the Partner States says, maybe we could say 'the head of the revenue authority'. Maybe that can capture what we want to say. That is my proposal, Mr Chairman.

**The Chairperson:** Thank you so much, hon. Dora. Before you take the floor, if you look at Article 15 of the Treaty on meetings of the Council, the grounds on which hon. Mwinyi has raised that the Council only meets twice, it is true but if you read further, it says the Partner State or the Chairperson of Council can call for extra ordinary meetings to deal with any matter that may be upon it. I thought it was important to draw your attention to that.

**Ms Nakawuki:** Mr Chairperson, thank you for your indulgence. I think time in this matter is of essence. I still want to concur with hon. Mwinyi regarding the number of times the Council sits. Even if they can call for extra ordinary meetings, you realise that the procedure which was being talked about by Council whereby they have to constitute a select committee, which will look into the matter and report back to the Council. That is a lot of time. Remember you are dealing with business and somebody's goods have been seized and they are waiting for the goods.

There is a maxim that justice delayed is justice denied. We are looking at time being of essence and we need a quick solution so that the businessperson does not lose out in the process. By the time this committee is constituted and by the time Council sits to constitute the committee, time is lost and money is lost at the same time. I still think we should re-look into this clause. Thank you.

**Mr Mulengani:** Thank you, Mr Chairman. I want to pick it from where my sister hon. Dora left off. Indeed I respect hon. Dora for her ability to follow and be guided. What hon. Dora was raising in the issue of structures is that we need to be clear in the law. Is the commissioner a commissioner of tax or revenue or is it the commissioner general of a member state who is higher than the commissioners within the setting of the tax offices?

The other point I want to raise is that the East African Community Customs Management Act is a legal framework with structures. For us to start waiting for the Council to look for select committees to handle things that are on routine basis when we are making a law is not good enough. I would propose that if it is the wish of this House, it would be good if the Council brought formation of a regional structure that will be charged with looking into these things. (*Interruption*)

**Dr Ndahiro:** Thank you, Mr Chairman. I wanted to give information to my friend hon. Mulengani that the Customs Management Act has structure. Actually it is an appeal process and I have established a Trade Committee, which has the mandate to go between the private sector players, the government operators and other policy and decision makers. Therefore, the issue of identifying the higher authority and the people to deal with specific issues were given to that committee, which again reports to the Council.

Therefore, we thought it was redundant and not useful to introduce another role in the Bill of a commissioner who is an operator and who is involved in the day-to-day operations. He is the one who seizes goods and other items belonging to the business community. For him at the same time to be the person to release them at his own will we thought was redundant and not necessary and that is why we are proposing for deletion so that we maintain the structure that is already laid out in the Act itself. Thank you, Mr Chairman.

**Mr Mulengani:** Thank you very much hon. Ndahiro for enriching my submission. However my worry is these structures that are enshrined in the Act are not yet fully operational. Maybe the challenge here would be that the council comes out to operationalise some of these committees that are formed. I thank you for the opportunity.

**Mr Mwinyi:** Thank you, Mr Chairperson. I think we are going round in circles but in line with my sister hon. Nakawuki's submission, time is of essence as far as these matters are concerned. In how we set up the structure, we need to minimise bureaucracy and increase efficiency. Therefore, it would be better if the office of the Commissioner itself does both functions than to transfer to a higher authority that happens to be political and through the council; to leave it as originally.

There are many instances where offices are vested with both functions provided they have clear processes on how to make those decisions then they can be objective. We may want to kill one ill and end up completely messing up this entire process. Therefore, my proposal would be to leave it as it is and allow the commissioner to do both functions. I thank you.

**Ms Hajabakiga:** Mr Chairperson, I sought clarification from the Chair, Council that when they brought this amendment, what was the mischief they wanted to cure and I did not get that answer.

**The Chairperson:** I think let me invite the Chair of the Committee to respond to some of these matters raised then the Chair, Council of Ministers will also give a final position before I put the question.

**Mr Mukasa Mbidde:** Thank you, Mr Chairperson. Honourable members, maybe what we need to ask ourselves is, what was the intention of the enactment of the East African Community Customs Management Act? When you look at the definition of commissioner that is the commissioner appointed under Section 5 and he is a commissioner appointed by a Partner State. The intent of this law is to have East Africa manage its customs territory as one.

The only Organ by which we can extend a decision on decisions taken by Partner States by way of their commissioners under the realm of trade facilitation as East Africa this time is by inviting such decisions to be appealed against before the Council of Ministers. Therefore, the intent of section 2(1) (8), which intention the committee seeks to maintain without any amendment is that pursuant to a decision made by the commissioner to seize commodities and goods of a trader, the appeal process cannot still lie with that commissioner who is still a commissioner deciding in accordance with decisions and aspirations of a Partner State. This time, there must be an appeal process where East Africa has a decision to take and that is before the Council of Ministers.

Under your guidance, Mr Chairman, we have discovered that actually the Council of Ministers can sit even 100 times pursuant to the business available. In my opinion, honourable members I appeal to you to leave the proposed amendment by the committee as it stands, we delete the proposed amendment by the

Council of Ministers so that we maintain section 2(1)(8) of the parent Act. I beg to move.

**Ms Nakawuki:** Mr Chairperson, the clarification I am seeking from the committee chair is in his explanation he is talking about the appeal process. When I look at the justification here in the report, it is that the decision to release goods- I feel these are two different things. He is explaining an appeal process and here they are talking about the decision to release and that is the initial one. If it is just an appeal that is a different story but here it is the major decision to release goods. We are trying to avoid the bureaucracy in this case. Please clarify more for me.

**Mr Sebalu:** On top of that, are we considering the possibility of very high volumes in terms of these people who are disadvantaged and they want to be assisted and the capacity of Council to live up to that demand?

**The Chairperson:** Honourable chair, you will clarify to those two then hon. Ngoga will take the floor.

**Mr Mukasa Mbidde:** Thank you very much, Mr Chairperson. On the points of clarification that were raised, hon. Nakawuki, what we are obviously dealing with is the attempt to amend section 2(1) (8) of the parent Act and the section reads, *“Where anything has been seized under this Act, the Council may, whether or not the things has been condemned, direct that that thing be released and restored to the person from whom it was seized or to the owner upon such conditions as the Council may deem fit.”*

The justification for the proposal by the committee read that the decision to release the seized goods should be made by an authority above the commissioner and not by the same authority, which seized the goods. Therefore, the proposed amendment is completely in conformity with the substantive provision within the Act. However, what we are intending to have is East Africans to have a remedy by their own region against a decision taken by a Partner State under the office of the commissioner.

Regarding the clarification from hon. Sebalu, the Council of Ministers is a wide entity. You do not look at it in terms of the volume of work that is available to them. You look at it in terms of the capacity of those that occupy the Council to handle any amount of volumes that are required. For example, these are Organs that were established in the Community and they know how to handle their work. They also know whatever the volume because the bigger the volume, I think the better for East Africa in terms of trade facilitation. I beg to move.

**Mr Ngoga:** Thank you very much, Mr Chairperson. I am disadvantaged not having been part of this debate before but the contribution by hon. Dora was very informative to me. I think we can find a middle ground here because the idea is not to rush to the higher authority when possibly within the revenue authority of a Partner State there are internal mechanisms that can resolve the problem without having to resort to the higher authority.

Therefore, possibly we could find a phrasing that makes it mandatory for the internal mechanisms to be exhausted before one resorts to the higher authority. Therefore, it becomes mandatory that the domestic process within the authority that seized the goods- And I am looking at a possibility where some of the revenue authorities have internal processes that can reverse the decisions of the commissioner. Therefore, that should become mandatory before the Council is sought.

**Ms Abisai:** Thank you, Mr Speaker. I am looking at this in terms of the principle and practice; the way we want to look at this justification and whether or not we want to look at a higher authority. What higher authority in terms of the decision because issues of customs- there is a principle and practice. Practice is that whether we like it or not, it is the customs office and the revenue authority that will still be consulted even within making that decision. Whichever office that comes through will still consult them so the decision will still remain with the commission and the commissioner general.

Whether we look at it from any form or not, even the Council will still come back to the commission. My take is that we should look at it in practice because these are the technocrats and these are the people who understand issues of seizing goods or releasing them. It will still lie with the Customs office and the revenue office. Thank you, Mr Chairperson.

**Mr Mwinyi:** Thank you very much, Mr Chairperson. I do not want to belabour this point but we need to be practical in terms of practice. Those of us who have done some importation or any type of trade will know that it is quite often that you will be asked to pay a particular penalty or fee by a particular authority. What happens in practice is that you walk into that office and you put your case and very often it changes. In most of the times it is the same office that assesses you and it is the same office that you go to and put your case.

Even if you have a consultant or an assistant that will put a case before the same authority for them to change- We have to be very careful in pushing it to higher authorities where it will take enormous amount of time. Furthermore, I am very cognisant of Article 15 of meetings of Council and I would like to read it again. *“The Council shall meet twice in each year, one meeting of which shall be held immediately preceding a meeting of the Summit. Extraordinary meetings of the Council may be held at the request of the Partner State or Chairperson of the Council.”*

There are quorum issues. You cannot have 100 Council meetings, it is unrealistic – *(Interruption)*

**Mr Mulengani:** Thank you, Mr Chairperson. I am seeking clarification from hon. Mwinyi. Given the constraint of the meetings that Council faces and the issue of quorum as you are raising, could it be that Council is continuously putting itself in certain functions to create jobs for themselves?

**Ms Byamukama:** Mr Chairperson, I would like to get more clarification from hon. Mwinyi and maybe members of the committee. I believe that we want to operationalize the law which we already have which is the Customs Management Act. As has already been stated by hon. Ndahiro, this Act provides for a Trade Committee, which committee is comprised of one member from each Partner State. This committee is flexible and can be able to move from Partner State to Partner State in order to resolve these issues.

The clarification I would like to seek is that the minute this Trade Committee was put in place, it must have been to address what hon. Mwinyi has raised because Council of Ministers does not meet regularly and secondly within Council of Ministers, they do not have specific portfolios which we wanted before.

Thirdly, Council of Ministers meets mainly in Arusha so the clarification I would like to seek here is that even as we propose and debate, I would like clarification from hon. Mwinyi as to what he proposes to be the better hierarchical order, taking into account that the commissioners are already involved in the process and even when you look at the law; clause 7(6) it says, 'Where the commissioner does not refund the cash deposit, an interest of two percent which we have just talked about and passed, per month, shall accrue on the deposit for the period it remains unpaid.'

So taking this into account, I think it is very important that we become clear and say look, the Trade Committee at that point should take on this issue so that we do not take it back to this particular commissioner who may have already handled the issue. In that case, I would like to propose and also support and get more clarification that there is no value added by including this particular clause in this law. Let us operationalize the Customs Management Act as is. We are still here. If there is any problem and the Trade Committee senses that there is a problem, they can come back to us so that we are able to put in place a law rather than put in place more bureaucracy.

Therefore I would like some clarification from hon. Mwinyi to propose a particular kind of structure which he thinks will be operational in view of what he is raising and in light of the Council of Ministers. Thank you.

**Mr Mwinyi:** Thank you, Mr Chairperson. I have had a number of clarifications which I am not sure should be directed at me but I will give them my best shot.

In relation to the Council of Ministers, I assume positive intent. I do not think the Council wishes to create unnecessary work for itself. It just has more than enough work than it can handle.  
*(Interruption)*

**Ms Hajabakiga:** Mr Chairperson, I would like to thank hon. Mwinyi for forgiving me way. I was curious why the Council in the first place brought this amendment. Since they do not have a CTC in the House, I tried to ask the technical people who are in the House and the response I have from them says there are operational issues and since the Council – It is not easy to operationalise this kind of matter, the Customs Management Act, at the level we are in now as a Community where we do not have the Commission of Customs of the whole region, it is managed by the commissioners of the Partner States.

Therefore, I can imagine. If we bring everything to be managed at the level of a Partner State by the commissioners and now we want to take away the responsibility of those commissioners and take it to the centre- If we really need an appeal, let us look for an appeal at the Partner State level but not at the regional level because today the Customs Management Act is still managed at the level of Partner States. It is not done at the level of the region and that is where I find there is a problem.

I wanted to give that information to hon. Mwinyi so that he can continue.

**Mr Mwinyi:** Thank you very much. I am duly informed. My concern is the practicalities of revenue and from my understanding and from the update that I have, this committee is not yet in place. It is provided for under the Cat but it has not been created and does not exist. Therefore is we legislate and give the partner to an entity that does not exist, what will happen in effect is that this Act will not be operational.

My concerns and I am talking about practically as a small time trader, I have dealt with the customs and revenue authority and you go back to the same place where you have had issues and you usually sit and discuss and argue and come up with a conclusion. If we are pedantic and legalistic and move the appeals process to an entity that is either inefficient or does not exist, we will put ourselves in a lock jaw and that is my concern.

I will finalise and allow – (*Interruption*)

**Mr Sebalu:** Thank you very much, Mr Chairperson. The information I want to give which supplements your submission is to the effect that the issues we are dealing with right here are technical from a trade perspective and therefore they need to be addressed by technical people and the Trade Committee would play that role. However in its absence we can settle for what is other than putting it to more or less a political process. Thank you.

**Mr Mwinyi:** In summary, I accept the information and it is very pertinent and adds to the argument I am making in that we leave it as is and perhaps within the Act itself, we put a time frame for this Trade Committee to come into being.

**Mr Zein:** Thank you, Mr Chairperson. I would like to add one dimension to this debate- (*inaudible*) - to ignore the operationalization of the Act and the facilitation of the institutional development within the Act in order to give them the power. In fact I am very worried that every time this House passes a law, many a time that law is not faithfully implemented and then we are required to either repeal the law or delete it and say there are difficulties in operationalization.

I beg this House not to accept that argument at all and I agree with the committee that we just delete that preposition from the Council and move forward.

**The Chairperson:** Thank you. Chair, Council of Ministers, before I put the question-

**Dr. Saadalla:** Thank you, Mr Chairperson. I am cognisant of all the issues which were raised by the members and I recognise the problems of politicians getting into day to day operational issues. Again even though Council has the option of creating sub committees, we may get the problem of meeting frequently due to the financial and business of the ministers in the Council. as such, I agree that this job must be done by technicians and according to the Customs Management Act, the only hierarchy between the commissioner and the Council is the Trade Remedies Committee.



I recognise that this Trade Remedies Committee is not in place currently but I promise the House that we will fast track the process of creating it and I do not have any objection to putting this Trade Remedies Committee at the level of Council as amended by the CTI Committee. I would urge and please my chairperson of the committee to accept with my amendment that we change from the Council to Trade Remedies Committee.

**Mr Mukasa Mbidde:** It is actually provided for under Article 24 but still it is Council that refers it to the Trade Remedies Committee. That is why we were saying the section remains.

**The Chairperson:** Thank you. So the issue is clear, I must put a question to the amendment as provided by the committee, fully aware that Council stands by his position and the chair has conceded. I put the question.

*(Question put and agreed to.)*

Clause 8, as amended, agreed to.

Clause 9

**The Chairperson:** Honourable members, the proposal is that Clause 9 be part of the Bill.

**Mr Mukasa Mbidde:** Mr Chairperson, it is proposed by the committee that Clause 9 of the bill is replaced with the following: Section 243 of the principle Act is amended by inserting immediately after the word 'auctioneers' the words 'inconsistent with this Act' and the word 'not' after the word 'shall'. I beg to move.

**The Chairperson:** Seconder? Hon. Frederic, hon. Ndahiro. Chair, proceed and justify.

**Mr Mukasa Mbidde:** The justification is that since this Act does not provide modalities of auctions, the Partner States, if consistent with this Act, should fill in this gaps.

**The Chairperson:** Thank you. Chair, Council of Ministers.

**Dr. Saadalla:** I do not have any objection and I concede.

**The Chairperson:** I put the question to the amendment as moved by the Chair of Communication, Trade and Investment Committee.

*(Question put and agreed to.)*

Clause 9, as amended, agreed to.

Clause 10

**The Chairperson:** Honourable members, the proposal on the floor is that Clause 10 be part of the Bill.

**Mr Mukasa Mbidde:** Mr Chairperson, it is proposed by the committee that Clause 10(4) is amended by inserting, immediately after the word ‘applicant’ the words ‘for a period not exceeding 12 months’. I beg to move.

**The Chairperson:** Secunder? Hon. Ndahiro, hon. Yves and hon. Nancy. Proceed.

**Mr Mukasa Mbidde:** Mr Chairperson, the justification is that this is for purposes of providing certainty and predictability on the period within which the decision of the commissioner should be valid.

**Mr Ogle:** Thank you, Mr Chairperson. Before we go to the committee’s suggested amendment of Clause 4, I wanted us to add something further to sub section 1 that is 248(a)(1) and I wanted to add another one (d).

**The Chairperson:** Honourable member, let us first dispose of this amendment and then before we put the question on the clause you can introduce a new amendment to it. Chair, Council of Ministers on the amendment as moved by the Chair, CTI.

**Dr. Saadalla:** I do not have any objection and I concede with the amendment.

**The Chairperson:** Char, Council having conceded, I put the question on the amendment moved by the Chair, CTI Committee.

*(Question put and agreed to.)*

**Mr Ogle:** Thank you, Mr Chairperson. The addition I wanted to suggest was on (1). I wanted to add a fourth one (d) to read: double taxation. I will justify that shortly.

**The Chairperson:** You want to add (d) to read double taxation. Secunder to this motion? Hon. Ogle, you seem to have lost your motion because I do not see anybody seconding it and therefore you cannot – Okay, hon. Ndahiro. Hon. Ogle, proceed to justify your amendment.

**Mr Ogle:** Mr Chairperson, I know this is a Customs Management Act and there is a thin line between customs management and taxation. What the Act proposes as it is now is that the person intending to import goods may make a written application to the commissioner for advanced binding ruling son any of the following and they are all critical: (a) tariff classification; (b) rules of origin; (c) custom valuation and another critical area that importers also require is double taxation because these are bi-lateral arrangements between Partner States. Thank you.

**Dr Ndahiro:** Thank you, Mr Chairman. I supported hon. Ogle for him to justify ad for the House probably to debate on this issue because it is a crucial one. However, it is not related to customs. I think it is a lesson to all of us that double taxation issues should be dealt with faster in the Community because it is a non-tariff barrier in itself.

I know there are discussions and negotiations between Partner states on double taxation treaty but double taxation falls in other areas that handle fiscal issues apart from customs issues. I know it is within the Monetary Union and within the monetary policies of our Partner States and that issue should be dealt with. My appeal to the Council is that it is long overdue. People are suffering, we want the Council to fast track this process – (*Interruption*) -

**Ms Byamukama:** Mr Chairman, yesterday we considered a report on the Single Customs Territory and part of that report was talking about collection of taxes by the different Partner States. Therefore my argument even yesterday was that this is an issue that we must look at by creating a single customs authority which will be able to help us when it comes to the issue of harmonisation of taxation and therefore avoidance of double taxation.

For the record, if this committee we have been talking about and it is called the East African Trade Remedies Committee, for the record, it is established under the East African Community Customs Union Protocol. If this particular EAC Trade Remedies Committee is put in place, it can have the function of authoritatively advising on issues of taxation. So I think it is a matter which cannot wait especially when we are talking about a common external tariff and when we are talking about a single customs territory. It is an urgent issue.

**The Chairperson:** Thank you so much.

**Dr Ndahiro:** I totally agree with hon. Dora. I think it is urgent. However, on the issue of double taxation, it relates more with income tax which appears at the end of the trade process. What we are concerned with here in this Act are taxes related to the trade process itself and what we are trying to cure here is to make sure that efficiency and effectiveness in our trade regimes or our trade policies is of importance and we ensure that the private sector benefits from the integration by having an Act like this one that is on their side.

Otherwise, I support the idea of fast tracking the double taxation idea. Thank you very much.

**The Chairperson:** Thank you so much. I think what hon. Dr Ndahiro and the members who have taken the floor are saying is that they concede that what hon. Ogle has raised is very crucial, it is a matter that needs to be fast tracked but this is more to do with taxation than this Customs law and maybe hon. Ogle, in case he does not take the day, should not lose track of that matter and the CTI Committee should take note of the concerns of the member. I now put the question –

**Mr Ogle:** Mr Chairperson, before you put the question to the House, I really need to explain this point. Information related to tariff classification and when an importer is seeking for that kind of information on tariffs, I think tariffs could both be a customs matter and at the same time a taxation issue. So is the avoidance of double taxation.

I think it is very critical and it does not do any harm to include it as one of the issues that a trader or a potential importer will be seeking from –

**The Chairperson:** Hon. Ogle, there is some information from the Chair, CTI Committee.

**Mr Mukasa Mbidde:** Mr Chairperson, I would like to inform hon. Ogle that the intent of this section seeks to implement the aspirations of traders under the realm of speculation that when a trader intends to trade, there are some decisions he wants to be comfortable with for example if he is to budget properly and he wants to get these decisions from an appropriate organ. This is the intent of this section and that is why he writes to the appropriate organ; the commissioner to give specific decisions and rulings on his future transactions on matters to do with tariff clarification and what he intends to trade, on matters to do with rules of origin, on matters to do with customs valuations.

He intends to have decisions and this section by the ministers is intended to protect the decisions so made. Once they have affected the transactions at a time they are conducted, they apply with equal force. Therefore, applying the *ejusdem generis* rule, you cannot categorise cats, goats, cows and you put aeroplanes. This is totally different and I am trying to persuade my brother to withdraw that amendment.

**Mr Ogle:** Mr Chairperson, much as I do not agree with the honourable chair's take on this, I concede on this matter.

**The Chairperson:** Thank you so much, hon. Ogle and Chair, CTI for the compromise. I now put the question that Clause 10, as amended, be part of the Bill.

*(Question put and agreed to.)*

Clause 10, as amended, agreed to.  
The Title

**The Chairperson:** Honourable members, the proposal is that the Title be part of the Bill.

*(Question put and agreed to.)*

#### MOTION FOR THE HOUSE TO RESUME

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson EAC Council of Ministers (Dr Abdullah Saadalla Abdulla) (Ex-Officio):** Mr Chairperson, I beg to move that the House do now resume and that the Committee of the Whole House do report thereto.

**The Chairperson:** Honourable members, I put the question that the House do now resume and the Committee of the Whole House report thereto.

*(Question put and agreed to.)*

The Assembly resumed, the Speaker presiding.

**BILLS  
REPOT STAGE**

The East African Community Customs Management (Amendment) Bill, 2014

**REPORT OF THE COMMITTEE OF THE WHOLE HOUSE**

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson EAC Council of Ministers (Dr Abdullah Saadalla Abdulla) (Ex-Officio):** Thank you, Mr Speaker. I beg to report that the Committee of the Whole House has considered the Bill entitled *the East African Community Customs Management (Amendment) Bill, 2014* and passed it with some amendments. I beg to move.

ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson EAC Council of Ministers (Dr Abdullah Saadalla Abdulla) (Ex-Officio):** Mr Speaker, I beg to move that the report of the Committee of the Whole House be adopted.

**The Speaker:** Honourable members, I now put the question that the report of the Whole House be adopted.

*(Question put and agreed to.)*

**BILLS'  
THIRD READING**

The East African Community Customs Management (Amendment) Bill, 2015

MOTION

**The Assistant Minister for East African Cooperation, Tanzania, and Chairperson EAC Council of Ministers (Dr Abdullah Saadalla Abdulla) (Ex-Officio):** Mr Speaker, I beg to move that *A Bill for an Act to amend the East African Community Customs Management Act 2004* be read for the Third Time and do pass.

**The Speaker:** Honourable members, the motion before us is that *the East African Community Customs Management (Amendment) Bill, 2014* be read for the Third Time and do pass. I now put the question.

*(Question put and agreed to.)*

Bill read a Third Time.

**The Speaker:** Honourable members, I now declare that the East African Customs Management (Amendment) Bill, 2014 has been duly passed by this Assembly. I congratulate the Chair, Council of Ministers, the Committee on CTI and the whole House for doing this justice to the Bill. Congratulations.

**BILLS'  
SECOND READING**

The East African Community Cross Border Legal Practice Bill, 2014

**Ms Dora Byamukama (Uganda):** Mr Speaker, in accordance with Rule 68 of our Rules of Procedure, I beg to move that the East African Community Cross Border Legal Practice Bill, 2014 be read the Second Time. I beg to move.

**The Speaker:** Seconder? Hon. Maryam, hon. Taslima, hon. Hafsa Mossi, hon. Valerie and all those standing. Hon. Dora, proceed with the justification.

**Ms Byamukama:** Mr Speaker, Rule 68 requires that I substantiate to some extent, and I will be very brief because the report carries most of what I have to say.

I would like to point out only four premises for justification. Number one, this particular Bill which is on cross border legal practice has already been endorsed and supported by His Excellency Jakaya Mrisho Kikwete when we had him address us as Chair of the Summit and I believe that even when it comes as a private member's bill, this endorsement goes to support what we are doing and gives us marching orders as well as giving marching orders to the Council of Ministers. I am eternally grateful to him for his leadership and his excellent and brilliant State of EAC Address.

Number two, I would like to say that in the East African Community, lawyers are already practising across borders so the question is, if they are already doing this, do we need a law and I would like to affirm that we do need a law because in order to practice in certain Partner States, one needs a permit and in other instances, one may not be allowed to get this permit for a long period of time. This permit is for a very short period of time and most of the lawyers have resorted to partnerships which obviously hinder them from actually practising law fully.

Having said this, I would also like to quickly say that under the Commonwealth system, most of our advocates Acts allow lawyers in the Commonwealth system to practice in Commonwealth countries and therefore I would like to say that this East African Community Cross Border Legal Practice Bill will enhance what is already provided for to some extent because some of our Partner States are not yet Commonwealth and at the same time, enable free movement of persons, goods and services.

Number two, I would like to say that some Partner States have actually gone ahead and amended their Advocates' Acts to include the fact that any lawyer in the east African Community can practice in their Partner States and I would like to herald the republic of Rwanda and the Republic of Kenya for doing this.

In this vein, I would therefore seek to say that when we have this law, it will enable lawyers in the whole region to be able to traverse and offer very valuable services.

Three, we recently had extended jurisdiction of the East African Court of Justice on issues related to trade and obviously this extended jurisdiction would require that lawyers are able to practice across borders in order to actualise this extended jurisdiction and it goes hand in hand and I know that we do actually have some lawyers who are already practising at the East African Court of Justice. I know for a fact that hon. Mbidde is a well-known figure there and therefore, this will enhance such lawyers to do even more in those particular Partner States.

I would also like to say very quickly that this particular Bill is premised on Article 126 of the Treaty and this particular provision provides for harmonisation of legal training and certification and encourages standardisation of judgements of courts within the Community. This is very important and it is progressive. You cannot, for example, say that until we attain this, only then can we practice across the borders because most of our countries actually have a Commonwealth background and even those which do not, legal principles are the same across the board and therefore it is progressive in nature.

Certification to practice in the East African Community will help us put in place standards and quality and therefore protect the consumers, the peoples of East Africa to ensure that they get quality services from the lawyers. Therefore in passing this law we shall be representing our people effectively to ensure that they get quality service in form of lawyers' services.

This law is also premised on Article 76 of the Treaty which provides for free movement of labour, goods, services and right of establishment. I would like to say that much as other professions may have their kind of agreements like mutual recognition agreements which we could also have, the legal services are so critical for the right to move freely across borders and offer services and goods such that, like was said yesterday, we need lawyers to accompany this and they are a critical ingredient in the whole process so this cannot wait.

Actually when we met the honourable Chair, Council of Ministers hon. Mwakyembe, he said categorically that this law should have come yesterday. On behalf of the committee, I am glad that it is coming today and having heard from the Chair of Summit, I am confident that this will be expedited and that we shall have a law to be able to perform our functions across the borders thus enhancing the deepening and widening of integration because the more we move and practice with each other, the more we partner, the more we deepen and widen integration.

With those few comments, Mr Speaker, I thank you and I thank the chair of the committee for finding time and your office for giving us space to bring to the floor this very important Bill. I thank you again and ask kindly that honourable members support this very constrictive Bill. I thank you.

**The Speaker:** Thank you so much, hon. Dora. I now invite the Chairperson of the Committee on Legal, Rules and Privileges to present the report and I am duly informed that in the democratic principles that the committee enjoys, the chair has delegated hon. Taslima to read the report on behalf of the committee.

**Mr Twaha Issa Taslima (Tanzania):** Mr Speaker, I hereby tender our report on behalf of the Chair of Legal, Rules and Privileges Committee on the consultative meetings on the EAC Cross Border legal Practice Bill, 2014.

Mr Speaker and honourable members, we will start with the third page, the third paragraph. The Cross Border Legal Practice Bill, 2014 is premised on a study commissioned by the EAC Secretariat and undertaken by the International Law Institute. It is also premised on the objectives of the Community as provided for under Article 5 of the Treaty. Article 5 of the Treaty states that: *5(1) "The objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the Partner States in political, economic, social and cultural fields, research and technology, defense, security and legal and judicial affairs, for their mutual benefit."*

*5(2) In pursuance to the provisions of paragraph 1 of this Article, the Partner States undertake to establish among themselves and in accordance with the provisions of this Treaty, a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared."*

Accordingly, the object of the Cross Border Legal Practice Bill is to provide for conduct and regulation of cross border legal practice in the EAC and to make general provisions for purposes connected to the legal profession.

The Cross Boarder Legal Practice Bill which was read in the Assembly for the first time on 22<sup>nd</sup> January 2014, in particular, operationalizes Article 76 of the Treaty on Establishment of a Common Market, which provides for *inter alia*, "free movement of labour, goods, services, capital, and the right of establishment."

It further operationalizes provisions of the Protocol on the Establishment of the East African Community Common Market, and in particular:

- (a) Article 10 on Free Movement of Workers; and,
- (b) Article 11 on Harmonization and Mutual Recognition of Academic and Professional Qualifications.

The Bill is also premised on Article 126 of the Treaty, which among other things, requires the Partner States to "take steps to harmonize their legal training and certification; and to encourage the standardization of the judgments of courts within the Community" through, *inter alia*, the establishment of a common syllabus for training of lawyers and a common standard to be attained in examinations in order to qualify and to be licensed to practice as an advocate in their respective superior courts.



## 2.0 OBJECTIVES

The key objectives for the interactive meetings were to:

- (a) assess views from key stakeholders on the EAC Cross Border Legal Practice Bill, 2014;
- (b) assess the readiness of Partner States in implementing cross border matters with reference to free movement of labour and persons;
- (c) outline progress made in the implementation of any existing Mutual Recognition Agreements between Partner States;
- (d) take into consideration any amendments on Bill thereto; and,
- (e) forge a way forward on the finalization of the Bill.

## 3.0 METHODOLOGY

The Committee with coordination from the Ministries of East African Community Affairs (MEACA's) of the EAC Partner States held a number of interactive meetings with the following key stakeholders in Bujumbura, Burundi; Kigali, Rwanda; Dar-Es-Salaam, Tanzania; Kampala, Uganda; and finally in Nairobi, Kenya before compiling and drafting the report:

- (a) the Law Societies/Bar Associations;
- (b) Ministries of Justice and Constitutional Affairs;
- (c) Law Schools and Faculties; and
- (d) Civil Society Organizations.

In addition to interacting with the aforementioned stakeholder, the Committee had very constructive and productive discussions with the Council of Ministers in Bujumbura, Burundi on Friday, 20 March, 2015 on Article 126 of the Treaty; silence of the United Republic of Tanzania offer on schedule VI of the Common Market Protocol on Cross Boarder Legal Practice; the dilemma of Mutual Recognition Agreements (MRAs) without harmonized training and certification; and existence of two parallel running processes i.e. the Private Members' Bill versus the Council process on harmonization of all national laws appertaining to the Community.

## 4.0 KEY FINDINGS AND OBSERVATIONS

Arising out from the interactive meetings with various stakeholder and very constructive and productive discussions with the Council of Ministers, the Committee made the following key findings and observations:-

1. Notwithstanding the existence of a common law and civil law system in EAC Partner States; lawyers in the EAC have ingeniously already devised ways practicing law across borders through partnerships; and short term permits which at times are cumbersome and not reliable and thus the need for a specific law to ease what is already in practice.
2. In principle, the East African Law Society and National Law Societies in the EAC acknowledged the need for the enactment of an EAC Cross Border Legal Practice law to facilitate provision of Cross border legal services.

Accordingly the East African Law Society and most National Law Societies provided specific amendments to the Cross Border Legal Practice Bill, 2014.

3. It was observed that some national law societies had unfounded reservations on the implications of enactment of an EAC Cross Border Legal Practice law based on the perception that it would increase competition for legal services negatively, interfere with their turf and swamp their certain with lawyers from other jurisdictions.

On the contrary, it was noted that denial to recognize and accept that Cross Border Legal Practice is already legally permitted and practiced in some EAC Partner States; and being done without a specific legal mechanism to regulate and harmonize standards had the potential to encourage unfair competition and unfair trade practices.

In respect to fear of competition veiled under other pretext; it was observed that the very essence of EAC integration was to enable EAC citizens access services which include legal services and that access to quality services would of necessity be accompanied by regulations to ensure fair competition.

It was further noted that protection of turfs was no longer tenable in a globalized world and specifically in the EAC where most professionals such as engineers and architects were in advanced stages of harmonizing standards and had already initiated mechanisms to enable them practice across EAC borders.

4. In respect to professional discipline, it was noted that most professions have similar codes of conduct provided for under the Advocates Act. It was further noted Members of the legal profession have a duty to respect the national laws and disciplinary matters could to some extent be left to be handled by national law Councils.
5. The need to take into account the law syllabus, interpretation services and harmonization of civil and common law practice was noted.
6. The fact that lawyers in the EAC were already effectively utilizing the EACJ which has had its jurisdiction extended to cover trade related matters in addition to interpretation of the Treaty was noted as a progressive development which would be best facilitated by Cross Border Legal Practice.
7. Reference was made to mutual recognition agreements (MRAs) noted in the Common Market Protocol. It was noted that MRA could form part of the Cross Border Legal Practice Law principles and that since these MRAs do not have an enforcement mechanism, a law would be better in order to ensure protection of consumers of legal services and to set standards for legal practice in the EAC.
8. It was noted that provision of legal services with ease is an integral part of fundamental principles of the EAC integration considering that movement of goods and services would necessitate legal services and thus further justification for urgent enactment of the Cross Border Legal Practice law. Linked to this, opening up the legal services sector is explicitly provided for under Annex VI to the EAC Common Market Protocol by 2015.

9. Research showed that under some EAC Partner State laws, there was provision under the Advocates Act that permits lawyers to practice in commonwealth countries without impediment; and that what was needed were laws to operationalize this principle. As such, the proposed Cross Border Legal Practice law should be viewed as such a law.
10. It was further noted that some Partner States such as Rwanda and Kenya had already enacted laws that legalized lawyers from another Partner State to practice law in their respective Partner States. This development should therefore catalyze other Partner States to facilitate lawyers from their Partner States to do likewise under the wider umbrella of the EAC.
11. It was observed legal practice in some jurisdictions such as the Republic of Rwanda is in Kinyarwanda; whereas French is extensively used in the Republic of Burundi and some Court users prefer to use vernacular - which would necessitate interpretation services. In respect to this, it was noted that this is not a new phenomenon; and that in such instances Courts utilize interpretation services as and when need arises.
12. Proposals for operationalization of Article 126 of the Treaty which include - harmonization of legal training and certification; standardization of judgments; establishment of a common syllabus for training of lawyers; harmonization of national laws pertaining to the Community.

In respect to this, the Committee noted that certification for lawyers to practice could be preceded by a requirement which could include the need for lawyers to have attained a law degree, a post graduate diploma in legal practice, possession of a certificate of legal practice at the national level and evidence of continuing legal education.

It was further noted that harmonization of article 126 would be progressively realized just like other pillars of integration are and that what is proposed there under can also be undertaken by other entities such as the Inter - University Council and other Partner State entities such as the Law Reform Commissions and Ministries in charge of EAC.

Members observed that enactment of the proposed EAC Cross Border Legal Practice into law would actually expedite the attainment of what is provided for under Article 126 since more lawyers in legal practice would be advocating harmonization of the legal practice at all levels - starting with training and certification.

## 5.0 RECOMMENDATIONS

In light of the aforementioned key findings and observations, the Committee came up with the following recommendations:

1. Enactment of the Cross Border Legal practice law is hinged on Treaty provisions and in particular the Common Market Protocol and should therefore be expedited in order to regulate quality services to all EAC taking into account the increased pace of integration and expanded jurisdiction of the EACJ.

2. The fact that some aspects such as legal training and certification have not been harmonized should not deter what is already in operation. The fact that lawyers are already practicing across EAC border requires that a legal framework be provided to encourage harmonization, ensure standardization and to protect the consumers of legal services whom EALA represents.
3. The Cross Border Legal Practice bill was supported in principle by all stakeholders; taking into account the fact that commonwealth countries advocates are allowed to practice in any commonwealth country as a principle.

An assessment of readiness of Partner States to implement free movement of labour, goods, and services points to varying degrees - some Partner States already have explicit laws that permit cross border legal practice whereas others have temporary mechanisms for this.

In view of these circumstances, the Committee recommends that an EAC Cross Border Legal Practice be expeditiously enacted in order to enable all EAC citizens with access to legal services which are critical and a catalyst to EAC integration.

4. The Committee recommends that Mutual Recognition Agreements, if any, on Cross Border Legal Practice should form a building block for a legal mechanism which is enforceable and obliges Members of the legal profession to adhere to quality, set standards and gradually encourages harmonization of legal services.
5. The Committee has received several proposals from The East African Law Society, National Law Societies, the Academia and other stakeholders which will be tabled for further discussion and incorporation subject to the Committee's and Assembly's deliberations.

## 6.0 ACKNOWLEDGEMENTS

Finally, the Committee would like to thank the following personalities and institutions for having facilitated the interactive meetings with stakeholders in all the five capitals of the EAC Partner States:

- (a) The Rt. Hon. Speaker EALA for facilitating and making sure that the Committee got the funding on time to enable it carry out its oversight functions effectively in all the five EAC Partner State capitals;
- (b) The Ministries of the EAC Affairs in all the Partner States for the coordination, warm reception, hospitality and courtesies extended to the Committee throughout the exercise;
- (c) The EAC Council of Ministers and the Secretary General for the very constructive and productive discussions on the Bill held in Bujumbura, Burundi on Friday 20<sup>th</sup> March, 2015;

- (d) Various stakeholders in all the capitals visited for turning up in large numbers to share with the Committee their thoughts and inputs on the Cross Border Legal Practice Bill, 2014; and
- (e) The Office of the Clerk for ensuring that all logistics were in order prior to the interactive meetings to the respective EAC Partner States.

**The Speaker:** Thank you so much, hon. Taslima for presenting the report on behalf of the Chair, Legal Rules and Privileges. Honourable members, the motion before the House is that the East African Community Cross Border Legal Practice Bill, 2014 be read for the Second Time. Debate is open.

**The Assistant Minister for EAC Cooperation, Tanzania, and Chairperson, EAC Council of Ministers (Dr Abdallah Saadalla) (Ex-Officio):** Thank you, Mr Speaker for giving me way. Council recognises the importance of this Bill and it is true we wished it could come yesterday and not today. However, we met and interacted with the legal officers, acting CTC and the Committee of Legal Rules and Privileges and consolidated all views.

Mr Speaker, in view of all the opinions from the consulted parties, I am hereby prompted under Rule 30 (c) of the Rules of Procedure to move a motion for adjournment of debate of the report of the Committee on legal Rules and Privileges until the First Meeting of the Fourth Session of this Assembly. I beg to move.

**The Speaker:** The Chair, Council has moved under Rule 30(c) seeking adjournment on the report of the committee and I am seeking for a seconder of the motion. Hon. Mathuki, hon. Pareno, hon. Mbidde, hon. Maryam and all those standing. Honourable Chair, you can go ahead and justify your motion and then I will subject it to debate.

**Dr Saadalla::** Mr Speaker, I thank hon. Peter Mathuki, the chairperson and the entire Committee of Legal Rules and Privileges for tabling the report of the committee with regard to the Cross Border Legal Practice Bill. In doing this, the committee has acted within the parameters of its responsibilities as provided under the Rules of Procedure and assisted the East African Legislative assembly in discharging its obligations provide under Article 59 of the Treaty for establishment of the East African Community.

Mr Speaker, the Council of Ministers had an opportunity of interacting with the members of the committee. We carefully considered the report of the committee and noted some issues that still require further consultations at Council level. However we commended the work well done by hon. Dora for bringing this Bill.

There was an issue of applicability of Article 126 of the Treaty. The Bill is premised on Article 126 of the Treaty yet the Article deals with operation in legal and judicial affairs in only two areas i.e. harmonisation of the legal training and certification and two, standardisation of the judgements of court with the Community.

Article 126(3) further provides that the Partner States may take such other additional steps as the Council may determine. Therefore for this article to serve as the legal basis for this Bill, Council needs to first make that determination.

Secondly, there was an issue with the Schedules of the Common Market Protocol. This Bill seeks to operationalise the provision of the EAC Common Market Protocol that relate to free movement of labour, goods, services, capital and right of establishment. It should however be recalled that the cross border legal practice falls under free movement of services which is implemented according to Article 23 of the Common market Protocol. Article 23 directs that implementation of liberalisation of services shall be in accordance with the schedule of the progress liberalisation of services specified in annex 5 to the protocol.

According to annex 5, some Partner States included legal services in the services they opened under the Common Market while the United Republic of Tanzania did not open it up. In light of the foregoing, it is obvious that the Common Market Protocol does not provide for free movement of lawyers and legal services in the entire Community as yet.

The third issue is about the parallel efforts towards cross border legal practice. Mr Speaker, this Bill originated from the study commissioned by the Secretariat on harmonising a legal regulatory framework concerning legal training, certification and practice within the East African Community. The Bill on cross border legal practice is one of the annexes of the report of the said study.

At its 14<sup>th</sup> Meeting held on 24 October 2012, the sectoral Council on Legal and Judiciary affairs considered the report and noted that the study was on measures under negotiation by the sectoral Council on education, Culture and Sports related to the development of annexes to the Common Market Protocol known as EAC Common Market harmonisation and Mutual recognition of academic and personal qualifications and regulations.

The sectoral Council on legal then directed that the report be submitted to the sectoral Council on Education, Culture and Sports for consideration in the development of the said annex.

Mr Speaker, at its 12<sup>th</sup> meeting held in February 2015, the sectoral Council on Education, Culture and Sports finalised and cleared the EAC Common Market earnings on harmonisation and mutual recognition academic and professional qualification. Therefore, as Council is finding the policy and at the same time the Assembly is also pursuing the enactment of the Bill, it is thus necessary that the two organs synchronise their efforts and avoid parallel processes.

Mr Speaker, it is our considered view that in light of what I stated above, there is need for Council to make a determination under Article 126(3) of the Treaty or identify another appropriate Article on which to anchor the Bill. It is also necessary to synchronise the efforts of the Assembly and come up with one common Bill.

Mr Speaker, the Council therefore needs more time to consider this report and consult further on the Bill to best assist this august House in the discharge of its legislative responsibilities.

After interacting with the committee, acting CTC and legal offices, we found that there is further need for consultation and very active consultation by the Government of Tanzania authority so that it can give its way on allowing the annexes to be opened on cross border legal practices.

Mr Speaker, on this basis I am therefore prompted under Rule 30 (c) of the Rules of Procedure to move a motion to adjourn the debate and I hereby beg to move. Thank you.

**The Speaker:** Thank you, Chair, Council of Ministers. Debate is open for the motion for adjournment.

**Mr Mike Sebalu (Uganda):** Thank you very much, Mr Speaker. I do appreciate the issues raised by my much respected senior, the minister and the Chair, Council. He gave his submission a good intro in terms of getting this to be considered in the First Meeting of the Fourth Session but when he went deep in his submission, it was like a debate against the Bill. It sounded like that to me and yet with the very good reasons and intentions that this Bill has been brought with, we should appreciate it.

Mr Speaker, I also have a problem because this practice is not happening for the first time. Some of us who are in agriculture have been very serious victims of this arrangement. It comes well packaged and very nice but at the end of the day, very strategic Bills have totally disappeared in oblivion. The Disaster Risk Reduction Bill is a Bill that was brought at the time when the region was facing a lot of disasters. Actually from one of the meetings that we had to do with that very Bill, Jomo Kenyatta International Airport went on fire and we were caught up in Bujumbura.

Some of us actually could not make it to our capitals in good time. The fire in Bujumbura market got us right here. We also had a blast in Dar es Salaam so we had disasters at the time and an arrangement was made, it was well packaged but up to today, nothing serious has come out of that to the extent that the Chair, Council then, His Excellency Uhuru Kenyatta in Arusha in the State of the East African Community Address gave a directive regarding that Bill to be reintroduced –

**The Speaker:** Hon. Sebalu, did you say the Chair, Council or Chair, Summit?

**Mr Sebalu:** The Chair, Summit, and then - (*Interruption*) -

**Ms Hajbakiga:** Thank you, Mr Speaker. The information I wanted to give is just recently, a world conference on disaster risk reduction was held in Japan Sendai and there were very highly powered delegations from this region. His Excellency President Uhuru Kenyatta, His Excellency the Prime Minister of the Republic of Tanzania, the Vice President of the Republic of Burundi, the Prime Minister of the Republic of Rwanda and Uganda was delegated by the Minister in charge of disaster Preparedness. That shows how important that Bill was. Everybody in the world is asking and wondering why this region is – (*Interruption*)-

**Mr Mathuki:** Mr Speaker, thank you very much. My clarification to the honourable member is she is making reference to a Bill that is not even before the House and I think it is only fair that we concentrate on the motion the minister has moved and we debate on that because now she is introducing issues of another Bill that is not now before the Hose. My clarification is that there is

some sort of confusion that she is likely to bring in if she brings on board the debating of that other Bill.

**The Speaker:** Thank you so much. Hon. Patricia, before you take the floor, this clarification will go to the substantive holder of the floor because hon. Patricia is just giving information. However, I would also like to make it abundantly clear that the two are connected because this is seeking adjournment just like it happened on the other Bill but the debate should not be on that Bill because there is already a directive from the Speaker here this week that Council must come on the floor ...*(INAUDIBLE)*...

**Ms Hajabakiga:** That at this very sitting, H.E. the President of the Republic of Tanzania and Chair, Summit of Heads of State commended that this House at this particular sitting, will be considering this particular Bill in which we are being asked to adjourn the debate.

So, I think we should take cognisance of that, Rt Hon. Speaker and my colleague may continue, but I think there is a big problem in the way we work in this region. *(Applause)*

**The Speaker:** Thank you.

**Mr Sebalu:** Thank you very much, Rt Hon. Speaker. Rt Hon. Speaker, the situation can't be any worse when it take your good office to direct on a matter where a commitment was made. That is why I am bringing this point that we have had a precedent before where a good arrangement is put but the good will has been abused to the extent that it has called for your Chair to intervene. That is the point I am making.

The Hon. Chair of Legal should the last person not to appreciate our intervention because this Bill is before him and he should, therefore, appreciate it. *(Applause)*

Finally, Rt Hon. Speaker, we had the Lake Victoria Management Bill. It suffered the same fate. If I am to go into the list of these commitments that have been made and have not been upheld, they are quite many. And the undertaking that I really want to appreciate that this time round it will allow this very good law to be given space. We really need to come out - the Common Market is so important for us and this Bill seeks to open space to allow the East African citizenry to benefit from such services. *(Applause)*

If you are to do a comparison of the lawyer population ratio of East Africa; if you get the number of lawyers in East Africa and the total population of East Africa, you will still find that the ratio is so high. So, when you open up space, you leverage the problems that certain areas might be having in terms of having a good ratio.

So, Rt Hon. Speaker, my only concern is that we have seen this happen before and it had to take your intervention. I don't want to see a scenario where again it will call for your office to get this law back on the table. Thank you very much, Rt Hon. Speaker. *(Applause)*

**Ms Susan Nakawuki (Uganda):** Thank you very much, Rt Hon. Speaker. I would actually say that when we had that meeting with the Council of Ministers, they actually showed good will towards this very Bill and so, I rose to support the motion by the Minister.



Rt Hon. Speaker, the issues which have been raised by the Chair, Council of Ministers are very critical issues. These very issues were raised before the Committee and I personally took an initiative to look scrutinise them, one by one, and I realised these are issues, which cannot be under looked if we are to go ahead with this Bill.

Rt Hon. Speaker, I am really confident that the Council will be able to do their part because they made a commitment. Whichever way, even if we go ahead and debate this Bill, it will still have to go back to the same Council. So, I think it is important that - (*Interruption*) -

**Ms Byamukama:** I do agree with what my sister, Hon. Nakawuki is saying, but when we have debated and enacted this Bill into law as an Assembly, it doesn't go back to the Council of Ministers at all. It goes to the Presidents for assent.

I also want to give information that when we worked on the East African Parliamentary Institute and The Administration of EALA Act, we had the same struggles. It is only until we make sure that we have our space and ensure that our space is not interfered with that we can be respected because they have their mandate and we have our mandate. This is the humble information I would like to give.

**Ms Nakawuki:** Thank you, Hon. Dora for that information. But my issue is still that it doesn't just get to the Summit. The Council has to forward it to the Summit either way - [*Hon. Member: "No, it is the Speaker."*]- Okay, the Speaker, thank you.

So, what I am trying to say, let us not be liking we are acting on parallel pages with the Council of Ministers because they have expressed commitment when they met us as the Legal Committee. And I think it is just prudent to give them time to study those concerns they raised.

I request that they work with the legal team of EAC such that we have answers to these issues that are raised and then we can go ahead because I am trying to avoid a scenario where we come up with a law and then it is shelved. It will not help us; it will not serve us any purpose; it will not do us any good. So, I beg my colleagues that we give them the time they have requested. After all, it is not so much time and then they get back to the Assembly and then we go ahead with the Bill. I thank you.

**Ms Judith Pareno (Kenya):** Thank you, Rt Hon. Speaker. I sit on the Legal Committee and we did public hearings; we heard the people. But since our meeting with the Council of Ministers, we do appreciate that there are issues that have arisen and we did discuss that with them.

One major issue that needs to be addressed before we can proceed with this Bill is the issue of an annex to the Common Market Protocol where one Partner State is said not to have opened up the issue of legal services. Before we address this, I think we will be facing a hitch. That is why at the end of the day, as the Legal Committee, we had to interact with the Council of Ministers. And they undertook that they are going to address this issue and then we shall be able to proceed from there.

So, I think this particular time, we might not really say that this Bill will suffer the same fate as the Disaster Risk Reduction and Management Bill could suffer. This is because for the one of the disaster, we had all Partner States involved. They opened up for all this but again it was delayed.

But for this particular Bill, we have one Partner State that has not opened up the legal services, though in actual practice, when we did the interaction, we know that legal practice is all over.

You not opened up in an annex to the Common Market Protocol but we are in this country; we are all over East Africa practicing law. So, that is why we are saying, let us be practical; let us see what is on the ground. Lawyers are already crisscrossing; lawyers are already practicing law. Let us agree to have this law but then we also need to address this mutually so that we don't look like we pushing a law into a territory that it is not required.

So I support that we support the motion by the Chair, Council to give us room so that we don't just push a law when we have a hurdle that we can clearly see. Thank you, Rt Hon. Speaker. *(Applause)*

**Mr Fred Mukasa Mbidde (Uganda):** Thank you very much, Rt Hon. Speaker. Rt Hon. Speaker, let me begin by also associating myself with the sentiment, which is rightly put before us and, which is correct that we shall not at all times, and we shall never as an Assembly, support the Council of Ministers when they are seeking to defeat the purposes for which stand here. *(Applause)*

I would like to qualify my statement; that where the Council of Ministers seek to extend and adjourn debate over a matter for which substantial reasons have been advanced, again this Assembly, must always be immediately at liberty to agree with the Council of Ministers for such adjournments to take effect. *(Applause)*

Now, why am I raising this? Rt Hon. Speaker, this is a very important law. It is so important that where the Council of Ministers see to also consult further, this Assembly needs to work as brothers and sisters therewith for purposes of a concluded atmosphere under this law.

I am looking at this as a blessing in disguise, Rt Hon. Speaker, because of the following that are ongoing: I am looking at a scenario, and with this, I am looking at it as a blessing because we may have to interact with my Hon. Sister, Dora, to find a mechanism of harmonising the following, which I am trying to put before us.

We know that negotiations are still ongoing on the annex to the Common Market Protocol on mutual recognition of professional and academic qualifications. That matter has also equally been raised by the Chair, Council of Ministers.

We also know that architects, accountants and engineers have already concluded their mutual recognition agreements and what they are waiting for is just regulations and guidelines to move forward.

Now, I find this kind of adjournment the best in such a way that instead of coming up with a law for only one profession, we may now come up with a Cross Border Trade in Professional Services Bill, which will take care of all the professions as agreed upon, by the way, substantially and from time to time under the protocol so that we can create schedules of which professions have been agreed upon under the law.

**Ms Byamukama:** Mr Speaker, Sir, we have heard these arguments in the Committee and as a Committee we came up with a report. We also came up with the principled understanding that we should go ahead with this Bill because legal services are a special category of services that cannot wait.

Now, I hear my brother talking about engineers and other professionals, and when you look at the annex, they are at different timeframes for all these to adhere. I would like to ask, how do we reconcile this with the fact that lawyers are already practicing in Partner States?

Secondly that some Partner States have already opened up borders for lawyers to practice in those Partner States?

And most important that when you look at one of our operational principles of the Community, it provides under Article 7(1) (e) that: *“The principle of variable geometry which allows for progression in cooperation among groups within the Community for wider integration schemes in various fields and at different levels shall be allowed.”*

My further clarification is, we have Article 9, where we were given a directive from the EAC Chair of Summit, should we now mix it up with other professionals which were not even mentioned? This is clarification I would like him to take into account basically because for us as a Committee, we are moving on that basis and this is the premise, maybe, we could consider. I thank you.

**Mr Mbidde:** First of all, I think it will be out of order for us to consider the speech of the President at this stage who is the Chair Summit, especially when we don't have the speech. My take on the speech was the introductory remark. But this is where the problem comes in because we don't have the speech. He said, “I am made to believe that part of the business that you are going to handle in this session, includes among others, the Cross Border Legal Practice Bill.” So, clearly the Chair, Summit had been told.

Rt Hon. Speaker, we don't know who told him but at least, he is aware that it is part of the business and it is what we are doing. Hon. Members, what he stated is what we are doing and the committees that we sit on deliberate and decide. But no committee under the sun debated a motion seeking to adjourn debate because this cannot be a motion that was debated in a committee.

So, the debate that took place in a committee has now been provided for. It has rendered the report to be brought before us here but we are now discussing the motion seeking to adjourn this debate and entirely this is where I am coming from.

Finally, another clarification that was sought by my Learned sister; there are different dates on which agreements under the annex shall occasionally be reached. And this is why I said that the possibility of creating a Bill for all professionals and in addition create a schedule; a schedule Hon. Members is created at the back of an Act.

That kind of schedule is the type that is always amended each time a decision is taken over a profession so that on the 10<sup>th</sup>, where lawyers have been okayed, the schedule is immediately amended to include lawyers. When doctors are also okayed within the Community – the Community is a negotiated affair; it is not an order. So, once negotiations take effect - and that is why a Common Markets Protocol was concluded but they created annexes because there are new decisions that had to be taken from time to time as Partner States agree.

So, I am persuading my learned sister to agree to this adjournment so that it also gives us time as committees to liaise and find a point of conformity where we can now enlarge this Bill to include all the other professions before we get back to the House. I thank you.

**The Speaker:** Thank you. Hon. Zein; Hon. Mwinyi and then I put a question on the matter.

**Mr Zein Abubakar (Kenya):** Thank you, Rt Hon. Speaker. Allow me to say that I will be very reluctant to accept this motion. I am not saying I will not accept but I am saying, I will be very reluctant.

I would like the Chair, Council to understand my reluctance. My reluctance is partly informed by what other Members have spoken and also what I would like to add.

Let a message be sent to the Council of Ministers that we respect them and that every time they bring a motion to this House, we respect their right to bring a motion but that this House is determined and dedicated to make proposals in making laws that are beneficial to the peoples of East Africa. And we do believe that the law that is before this House would be beneficial to the people of East Africa. *(Applause)*

Secondly, I will be reluctant as some people say, there is an old English saying, which says, “Once bitten, twice shy.” So, when we are being shy in readily accepting things, and not falling over ourselves to accept this motion, we are sending a subtle message to the Council that let them not take us for granted that any motion that they move to this House will be accepted because the motion has come from Council.

Thirdly, allow me to say this with humbleness that this Bill, as far as I am concerned, helps me pay tribute to the lawyers, not in this House, but in the Community. If we truly seek to implement the principle of rule of law, and make a great contribution to upholding constitutionalism, then we must open up our borders to allow lawyers to traverse the breadth of our Community in order to provide the necessary services.

The right to a lawyer is a fundamental right that cannot be negotiated. *(Applause)* A right to be represented by a legal counsel is a fundamental right and a human right. *(Applause)* And since we seek to build our democracies, we must encourage any efforts that seek to increase access to our people to legal counsel.

Allow me to say the last thing. Mr Chairman of the Council of Ministers, Sir, you normally hear me say, “Aye” very loudly in this House when I support something. But I assure you of my “aye”, this time, will be a whimper. I thank you. *(Laughter)*

**Mr Abdullah Mwinyi (Tanzania):** Thank you very much, Rt Hon. Speaker. Once bitten, twice shy. I will start with that and I think the debate in this House is centred upon that sentiment.

I have been a Member of the Second Assembly, I have seen the number of Bills that have been brought before this House, and an adjournment has been sought and have never seen the light of day. We can go to numerous Bills that have happened in that instance. But I believe on this particular occasion, there will be an exception.

Why do I say so? One, unfortunately, I am no longer part of this Committee and so I was informed that the discussions between the Chair, Council and the Committee were extremely amicable and was in a manner of assisting to ensure that this Bill is successful.

Secondly, the Chair of the Summit commented on this particular Bill. But I will urge my colleagues to agree with the Chair of Council to adjourn simply upon one reason; it is well settled in jurisprudence that protocols are part of the Treaty. And a protocol includes its annexes. So, if we as an Assembly, it is our right, to push this Bill, if I wear Hon. Zein's glasses and look at the future scenario, I will see that there is going to be a letter from the Chair of the Summit to say that: "I am unable to assent to this Bill because this matter has not been finalised through the Council and the Schedule to the Common Market Protocol has not been amended."

The Chair of the Council has assured us, and the manner in which he has engaged the Committee, gives me confidence that there is good will in this particular instance and I will urge all Members to give the Chair, Council the benefit of the doubt and support the adjournment until, as he stated, it will take a few months. He will come back to this House and on that day, we shall still put him to question. He will still be there.

So, I urge everyone, instead of going through the motions and having the Bill come back to us, we can give them the benefit of the doubt this time. But once bitten, twice shy. I thank you. *(Applause)*

**The Speaker:** Hon. Peter Mathuki, Chair, Legal.

**The Chairperson of the Committee on Legal, Rules and Privileges (Mr Peter Mathuki):** Thank you, Rt Hon. Speaker. Rt Hon. Speaker, I stand to appreciate, of course as I support the motion, sentiments by Hon. Colleagues, particularly by Hon. Sebalu that once bitten, twice shy and repeated by Hon. Mwinyi.

I say this because it is our cardinal responsibility as an Assembly to debate and pass Bills. That will be one of the key parameters of determining our performance and the success at the end of our time.

Therefore, when Members are expressing their fear. It is because, possibly, they have gone through this before and that is why they are pleading. And I stand by colleagues and what they are saying on this particular issue.

Rt Hon. Speaker, I chaired that meeting where we interacted with the Council of Ministers to discuss this particular issue. What I read from the discussions was that there is a good will from the Council of Ministers.

In fact, they have gone further to say they will be meeting in April as the Council of Ministers to look through some of these issues, appreciate some of the developments that will have taken place by that time, particularly the issue of schedules and annexes to the Common Market Protocol.

The Chair, Council here has also committed that Tanzanian authorities will be consulted. In fact the Chair, Council at that time, Hon. Mwakyembe himself, is a lawyer and he said he has interest in this besides being the Chair, Council by virtue of his profession. And he said the following day as he was travelling to Dar es Salaam he was to meet stakeholders to see how they would unlock this obstacle.

I am convinced, therefore, they did so and the adjournment and the motion moved by the Chair, Council is in good faith. It is to support us so that it gives way to finalisation of this particular Bill.

He has gone further to say they will be meeting in April and we are likely to finalise this Bill in the First Meeting of the Fourth Session, which possibly will be one Meeting after the next.

So, this is, in my own opinion, very special given that they have given timelines on how they are proceeding. So, given that, I would like to appeal to my colleagues, please, let us support this so that they can go, organise themselves, try to handle some of the technical issues that they raised in the meeting - I am confident from what I read on the minds of the Ministers during the meeting that they will support this. And having been raised by the Chair, Summit, I don't think that there will be any challenges. Rt Hon. Speaker I thank you very much and support the motion.

**The Speaker:** Thank you so much, Hon. Members. We have heard the justification of the motion and I would now want to put the question as moved by the Chair, Council of Ministers under Rule 30 (c) of our Rules of Procedure that the report on the debate of Legal be postponed. I now put the question.

*(Question put and agreed to.)*

## BILLS

### SECOND READING

The East African Community Integration Education Bill, 2014

**Mr Zein Abubakar:** Mr Speaker, I beg to move that *The East African Community Integration Education Bill, 2014* be read the Second Time.

**The Speaker:** Seconded by Hon. Kessy, hon. Kimbisa, Hon. Dora, Hon. Rwigema and all those standing. Proceed to justify your motion, Hon. Zein.

**Mr Zein:** Sir, I would like to be precise and short. Each and every Summit member who has served diligently this Community has, in this House and outside this House, made reference and articulated on the importance of knowledge and information among East Africans as a necessary ingredient for integration.

Thus each and every Summit member has said that it is critical for us if we are determined to make our integration processes market driven and people centred that the people who are in the market have the necessary information, knowledge, values, attitudes and skills that will allow them to implement their strategies that will enhance integration.

Even more so, if we want our integration project to be people centred, people need to know how, when and why they should take part in the integration process.

In order to have the necessary information, knowledge, skills, attitudes and values that will allow them to meaningfully participate in the integration process, is a cardinal principle that has been articulated many times in this House and by many people in our Community.

This law seeks to do exactly that and we are called upon to invest a belief in the people of East Africa if they fully know and, therefore, I associate myself completely with the position taken by this Committee and that is my second principle of justification.

The third and the last one is a small matter. To me, if you invest in a good process, you are likely to get a good outcome. And process is as important as content and outcome. Therefore, I beg and cajole this House to have faith in the people of East Africa in all our Partner States that if they know, they will do the right thing. I submit.

**The Speaker:** Thank you, Hon. Zein. I now invite the Chairperson of the Committee on Regional Affairs and Conflict Resolution.

**THE REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND CONFLICT RESOLUTION ON THE EAST AFRICAN COMMUNITY INTEGRATION (EDUCATION) BILL, 2014**

**The Chairperson, Committee on Regional Affairs and Conflict Resolution (Mr Abdullah Mwinyi) (Tanzania):** Hon. Speaker, I beg to lay on the table the Report of the Committee on Regional Affairs and Conflict Resolution on the East African Community Integration Education Bill, 2014. I beg to lay, Rt Hon. Speaker.

**The Speaker:** Just a second. Hon. Mwinyi, I beg that you present the report of the Committee.

**Mr Mwinyi:** Thank you Rt Hon. Speaker. In accordance with Article 59 (1) of the Treaty for the Establishment of the East African Community (EAC) and rule 68 of the Rules of Procedure of the Assembly (2015 Edition), we wish to submit the report of the Regional Affairs and Conflict Resolution Committee (RACR) on the East African Community Integration (Education) Bill, 2014. The Bill was read for the first time on Wednesday, 22 January 2014, during EALA's Fourth Meeting of the Second Session of the Third Assembly held in Kampala, Uganda.

2.0 THE OBJECTIVES OF THE BILL

1. The objectives of the East African Community East African Community Integration (Education) Bill, 2014 is to facilitate acquisition of information, knowledge, skills, values and attitudes that are necessary for the people of East Africa to meaningfully participate in the integration process.
2. Specifically, the Bill seeks to:-
  - (a) facilitate increased participation of the people of East Africa in the integration process and activities;
  - (b) provide for facilitation mechanism for citizens' engagement in East Africa;
  - (c) build a sense of belonging and common identity among the people of East Africa, including developing initiatives that are designed to create the East African identity; and,
  - (d) facilitate and provide education on the Treaty for the establishment of the East African Community.
3. The Committee first considered the Bill on Wednesday March 18<sup>th</sup>, 2015 in Bujumbura, Burundi. The Committee recommended drafting instructions to amend the proposed East African Community Integration (Education) Act 2014. The recommendations are based on the

public hearings held in all the partner States and written submissions received as well as the consideration of the proposed Act by the Committee.

4. The Committee felt the proposed Bill is timely and an important effort to establish a legal framework to provide for provision of civic education for the integration process in the Community. The civic education for integration is a necessary ingredient that will increase the ability of citizens of Partner States to participate meaningfully in the integration process. The proposed Bill will play an important role in creating a sense of East Africanness and the desired East African Identity.
5. The Bill seeks to implement policy directives by the Summit on public education, sensitization, and participation of citizens in Partner States in integration matters and process.
6. The Committee therefore developed proposed amendments and are herewith attached as Annex I.

### 3.0 Background on the consideration of the Bill:

Chronology of events:-

7. During the 4th Meeting of the 2<sup>nd</sup> Session of the Third Assembly held on Wednesday 22<sup>nd</sup> January, 2014 in Kampala, Uganda Hon. Abubakar Zein Abubakar sought leave of the House and was granted to introduce a Private Member's Bill on East African Community Integration (Education) Bill, 2014.
8. The First Reading of the Bill was moved during the 4<sup>th</sup> Meeting of the 2<sup>nd</sup> Session of the Third Assembly held in Kampala, Uganda on Wednesday 22<sup>nd</sup> January 2014 where it was referred to the Committee on Regional Affairs and Conflict Resolution for consideration.
9. In accordance with the Rules of Procedures of the Assembly, the Committee thoroughly scrutinized the Bill. The Committee further analyzed the Bill and *developed a schedule of amendments which is attached to this report as Annex I.*

### 4.0 Methodology

10. In carrying out its mandate, the Committee employed various methods, which included the following:
  - (a) Presentation of the Bill by the mover;
  - (b) Stakeholders' public hearings in all the EAC Partner States' capitals;
  - (c) Consideration of written memoranda from various stakeholders in all EAC capitals including inputs from the National Parliament of Kenya and the Bicameral Chambers of Rwanda;
  - (d) Literature review of the Treaty and other relevant documents;
  - (e) Compilation of the report based on inputs from various stakeholders;



- (f) Consideration of the Bill by the Committee;
- (g) Amendments to the Bill by the Committee taking into account comments raised by the Members.

## 5.0 Conclusion

11. As it has been stipulated in this report that the East African Community Integration (Education) Bill, 2014 seeks to establish a legal framework to provide for provision of civic education on the integration process in the Community. The East African Community Integration (Education) Bill is a necessary ingredient that will increase the ability of citizens of Partner States to participate meaningfully in the integration process. The Committee also observes the proposed Bill will play an important role of developing a sense of East Africanness and the East African Identity. 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 Article 5 (1) of the Treaty for the Establishment of the EAC.

## 6.0 Recommendation

12. In light of the above emerging issues from the Members and stakeholders to enrich the Bill, the Committee henceforth recommends THAT this August House adopts the Bill with amendments annexed to it.

## 7.0 Acknowledgements

13. The Committee would like to thank the following institutions for supporting and facilitating the Committee:

- (a) The Office of the Rt. Hon. Speaker for enabling the Committee to commence this important process of considering the Bill for adoption;
- (b) The Office of the Clerk for ensuring that all logistics were in order prior to the experts' public hearings to the respective EAC Partner States as well as to the process of considering the Bill for adoption;
- (c) The Office of the Counsel to the Community for providing the legal inputs on the Bill;
- (d) The Ministries of the EAC Affairs in all the Partner States for the coordination, warm reception, hospitality and courtesies extended to the Committee throughout the experts' public hearings; and
- (e) Various experts in all the capitals visited for turning up in large numbers to share with the Committee their thoughts and inputs on *the East African Community Integration (Education) Bill, 2014*.

**The Speaker:** Thank you very much, Hon. Mwinyi, Chairperson of the Committee on Regional Affairs and Conflict Resolution. Hon. Members, the motion on the floor is that the East African Community Integration Education Bill, 2014 be read for the Second Time. Debate is open.

**Ms Hafsa Mossi (Burundi):** Thank you, Mr Speaker for giving me the floor and I would like to declare that I am a member of this Committee.

I stand to support the Bill because it gives a legal framework so that East Africans can be educated, sensitised and informed on the East African integration agenda in order to be able to embrace the integration itself.

Secondly, it will enable East Africans to participate in the integration as actors.

It will also allow them own the process and ultimately reap the benefits and opportunities that come with the integration.

Mr Speaker, Sir, the East African Community is people centred and the if the people of East Africa are not well educated, informed and sensitised on matters regarding the integration agenda, then this integration will merely be on paper. The common *Mwananchi* cannot adhere to what they don't understand.

That is why there is a need to develop a strategy of participation; we need a participatory communication approach with citizens. I say this and it is very important that we use the media to reach out to the citizenry.

But also it is very important that when we do this approach of educating our people, we use the languages that they understand.

Much as we appreciate the Partner States involvement sensitising the people of East Africa on matters of integration agenda, we think that the information, which is given is still not enough for them to understand.

Mr Speaker, it is very important also that while implementing the Bill, if it is approved, we give the focus to the main stakeholders who could be the civil society, the media, and the private sector.

Mr Speaker, Sir, while implementing the Common Market Protocol, the people of East Africa need to know how to access the EAC markets, what are the measures which have been put in place to reduce the cost of doing business, what are the efforts in removing Non-Tariff barriers et cetera.

Finally, Mr Speaker, I would like to commend the provision, which gives this Assembly the prerogative to follow up on the mechanism reporting, which can be done through the Council of Ministers. With these few remarks, I beg to support. (*Applause*)

**Mr Celestine Rwigema (Rwanda):** Thank you, Rt Hon. Speaker for giving me the floor. I stand to support this Bill. I would like to declare that I am a member of the Committee.

Rt Hon. Speaker, I would like to thank Hon. Mwinyi, the Chair of this Committee and all the members of the Committee for the hard work that they have done. (*Applause*) But I would also particularly want to thank Hon. Zein, the mover of this motion. (*Applause*)

Mr Speaker, this Bill is among the strong pillars of our integration. Why? It is because the East African Community is people centred.

We have a round 140 million citizens and for us to get a complete integration and development, we have to educate our citizens. This Bill provides an opportunity education for education for our citizens. It also provides a common sense of common identity of East Africans; and it will provide facilitation mechanisms for our citizens on moral engagement and it also increases participation of East Africans.

Rt Hon. Speaker, citizen participation in a democratic society must be based on informed and educated citizens on critical reflection and on understanding of right and responsibility, which go to the membership.

Hon. Members, membership implies participation, but not participation for the sake. Participation must be fully active and must be involving everybody as a citizen.

Mr Speaker, to be effective, civic education must be realistic. It must address the central truths about political, social and economic life.

In some countries, Rt Hon. Speaker, like the US, for example, they have what they call the state of civic education, which means providing the teachings for citizens of tomorrow. They also provide a task force for civic education and I think we could also adopt the same to sensitise our citizens.

Rt Hon. Speaker, in a democratic society, there are some possibilities of effecting social change. These are easily present when citizens have the knowledge; if citizens have the skills; and if citizens have the good will to bring it about. The knowledge, skills and will of a good character are a product of good civic education. If you don't have civic education for our citizens, we won't go far.

If I extend it to the whole of Africa, we have a lot of natural resources and every form of raw material but our citizens are not educated. It is the reason why we are still not making good progress. I think we have to focus on civic education and to be sure that we are making some progress.

Rt Hon. Speaker, again as I said, I would like to support this report and once again thank the mover of this Bill. Thank you. (*Applause*)

**The Speaker:** Thank you so much. Hon. Members, I will restrict every Member to only three minutes in the interest of time.

**Ms Nancy Abisai (Kenya):** Thank you very much, Rt Hon. Speaker. I will be very brief but to start with, I would like to congratulate the mover of this Bill and also the Chair of the Committee on Regional.

Mr Speaker, sir, I would like to say that this Bill couldn't be as timely as it is now. This is the best time that this Bill could come through.

As clearly stated by the mover of the Bill, I would want to support the idea that the process is as important as the content. And this we have witnessed even as we have been out in the Partner States trying to disseminate information and carry out sensitisation activities to our citizens.

One of the fundamental aspects that you would realise when we go out there, and in my own research, is that materials being used and information that is getting out there to the citizens from different Partner States is very different on integration.

What it means, therefore, is that people will disseminate and talk about integration in their own understanding. But do we communicate and get this information to the people? I don't know.

I think it is important because we as East Africans we share common languages, rich history, rich cultures and same borders but the way some of this information comes out and the way it is disseminated is important. So, civic education is key.

One of the reasons why I strongly support this Bill is that it sets out an integration education unit whose main purpose would be to develop content, materials on integration and even come up with issues on integration that are supposed to be disseminated to the people.

I think the whole aspect of ownership, sense of belonging, participation and engagement - those are things that can be addressed through this education integration unit.

We have been out there and one of the things that personally I have been asked by people three questions: What is this integration all about? So, why should I be in it? What is in it for me? And as long as we cannot answer these three questions eloquently and make the public get the sense of ownership, then they will not have a buy into this integration.

Education is power; I feel that this Bill is timely because even when that unit is put up, it will give Members and any other citizen opportunity to be able to contribute or give out information that they think is relevant or content that they think is going to be relevant towards the integration process.

For that, Mr Speaker, Sir, I support this Bill. Thank you. (*Applause*)

**Ms Judith Pareno (Kenya):** Thank you, Rt Hon. Speaker. I would like to support this Bill and the report.

Rt Hon. Speaker, there is no better way that we can spread the integration message than to have a legal framework that guides the same. And I would like to say and remember that I always remember the last address that we got from the then Summit Chair, H. E. Yoweri Museveni. In his last address he told us, "It is now upon you to sensitise the East Africans so that they know this integration message."

I think this has been a call from all; our Chair, Summit and our Presidents and there is no better way to respond to that call that we have this particular Bill.

So, I thank my brother, Hon. Zein for coming up to make a response to this call that we sensitise East Africans through a legal framework.

It is important that we don't continue having a Summit that is integrated; an EAC Secretariat that is integrated; an EALA that is integrated; the institution of the - EAC itself being integrated but not the 140 million East Africans. It is time that we woke up, did this law and use this law to reach the people.

Rt Hon. Speaker, you know we have kept saying that it is a people centred process. I was just wondering, you know you cannot say it is a people centred process when the people don't even know the process. Or when even the people don't understand that we have pillars of integration; Customs Union, Common Market, what are these?

I think it is time we use this law to reach to the people to tell them that we have pillars and at the end of the day we are even going to have a federation so that they anticipate and they will be asking questions; how do I benefit from this?

I think when we do this law, it will help us to reach the people. It will guide us to reach to the people and the people will be able to understand. They will not be surprised that we have an EAC integration that they are not participating in and yet we say it is people centred.

I want to give an example, Rt Hon. Speaker. The other day we had an activity of agriculture and we went to the Republic of Rwanda and ended up in Mwanza. We were visiting the LVWATSAN Programme that is an EAV project. Reaching there in two schools, they had done very good ablution blocks. We asked the students whether they knew who had helped them get the projects that they were now benefitting from.

The said it was a very good project but said it was the World Bank. They even didn't know that they were EAC projects. So, we had to tell them and ask then what EAC is all about.

Then we asked them whether they knew the countries. They were able to name with confidence only about Uganda, Tanzania, and Kenya, and then quietly say Burundi like they were not even sure they are part of East Africa.

We ended up with the Hon. Shy-Rose teaching them the EAC Anthem and together we sang. But I tell you it was so exciting; they came to know we were their representatives.

One of the recommendations, Rt Hon. Speaker, we thought could come in - because I don't know, we have not yet gone through the report as a Committee - is that when we do this EAC project, we should label them "EAC Project" so that there is no doubt that it is not an EAC project. So, when someone sees it, they know it is an EAC project and then we start explaining to our children and whoever uses that project to appreciate and know what EAC is all about.

So, I think these are some of the things that we need to do so that at the end of the day, everybody knows what EAC is. In this law we shall be able to come up with this unit that will coordinate and be able to tell people what EAC is all about and how they benefit.

I have made it a business nowadays at every official or public function that I go, I must tell people that I am a Member of Parliament for East Africa and I even go ahead to tell them East Africa has five countries and they start saying, "Oh! You mean you are a Member of Parliament for this big Parliament that has five countries." So, they keep on asking, how do I go to Rwanda? They already want you to give more information.

If you are asking you are opening up borders; if you are saying your business is integration, how do I benefit from this integration? So, I think this is a Bill in the right direction. It will help us and I am particularly happy about the unit that is going to be established because it will be able to coordinate.

There is one aspect that I like about this Bill; accrediting institutions to help us disseminate the EAC integration process. You see, we have 140 million East Africans. We cannot reach all of them. Even as an Assembly, we have done our bit. The EAC Secretariat have done their bit; our Ministries of EAC have done their bit but you can see that the population still do not know what EAC is all about.

So, this issue of accrediting institutions is a way of disseminating this information in a very fast way because you can imagine several institutions as opposed to just the Ministries of EAC disseminating the information. This is a very good law and I really support it. I thank my brother for coming up with this law. Thank you very much, Rt Hon. Speaker.

**The Speaker:** I will take Hon. Mumbi and then I will go to Hon. Kessy, Hon. Sebalu and finally Hon. Celestin. Three minutes each.

**Ms Mumbi A. Ng'aru (Kenya):** Rt Hon. Speaker, I will take less than three minutes. I want to thank Hon. Zein for this Bill.

There are two things about it that are important to me. So long as we don't go out there talk to the people in a structured manner, the integration process is going to remain an elitist kind of a club where we come and sit in the house, talk to ourselves about ourselves and that is it. So, it is important that it is structured in a way to make our work easier, reach out to the 140 million East Africans out there.

I am giving an example of the Kenyan chapter that we have programmes that are helping us disseminate about integration. And for Hon. Zein to bring it so that it goes out to all the other partner States is an exciting thing.

The last one is that it will help us as an Assembly that once you are doing ...

**The Speaker:** Thank you very much Hon. Mumbi.

**Dr Kessy Nderakindo (Tanzania):** Thank you, Rt Hon. Speaker. I think that this Bill is timely because I have personally been participating with other academicians in trying to promote the integration process through the East African Vision Platform and honestly I will say that sometimes it is very difficult for the administration of some universities to open their doors.

As long as they see that there is Hon. Nderakindo Kessy, she is from an Opposition party, therefore, maybe she is coming for a political gain here. It is the university students who are considered to be really moving the politics in countries. *(Laughter)*

Many times, we write to the universities, they acknowledge but it takes so long for them to respond and sometimes even when they give you an appointment, when you get there, you have to wait for a long time to get the person to receive you.

When we go with disseminating awareness materials, they will only receive it, and sometimes when we want to capture them camera, they will hesitate. So, this is really timely that we are going to form an integration education unit that it will be legal and, therefore, the doors to many of the stakeholders, institutions and all that will be ready to receive is because it will be a legal unit that has been established for that.

For that, I support the Bill because it is good for the integration. Thank you.

**Mr Mike Sebalu (Uganda):** Thank you very much, Rt Hon. Speaker. First of all, I want to proceed on a very happy note that this law has been allowed to take its normal course without any technicalities of further consultations. *(Laughter)* That is a plus for this law. Chair, Council, I would like to salute you for that. It is a very harmless law. *(Laughter)*

Secondly, Rt Hon. Speaker, I am also happy that this debate is being carried out in Bujumbura because I want to put the record straight in terms of historical perspectives. The genesis of this law – this law was an outcome of a conference that was hosted in this capital where we invited all stakeholders including academia, private sector and civil society to see how best we could make this process understood and appreciated by the people and also the issues of security related to the same.

Out of this meeting, there was a very strong recommendation that EALA considers coming up with a Civic Education Bill. One Member, Hon. Kabourou undertook to do the same but the events were overtaken and I want to thank Hon. Zein for having taken on and followed up that recommendations. It was the famous “Bujumbura Recommendations.” *(Applause)*

So far two laws have come out of that conference. The first one was to do with conflict management and the second recommendation was to do with civic education. So, when we get this law on our statute books, we will have fulfilled the desires and focus of that great conference that was held in this great capital. *(Applause)*

So, the best thing that we can do is to have this law passed in the same capital where the idea was nurtured. *(Applause)*

Rt Hon. Speaker, I just want to make a few observations in terms of this law. One, we appreciate that this law is fulfilling our desire of ensuring that the integration is people centred.

Two, we want to create a sense of East Africanness. You know this idea of Ugandan should become secondary; East Africanness and we move. And in order to do this, Hon. Members, we need to appreciate that we are not integrating governments; we are not integrating countries; but we are simply integrating people. I mean without people, you can't have integration. So, the centrality of the people in the integration process is something that we need to give due consideration. And this law seeks to fulfil that.

By doing so, we will seek to empower the people with information and knowledge about integration.

We also want to make ourselves actors; the Executives, the bureaucrats and we the Legislature to be accountable to the people. We need to come out and be accountable. And by doing so, we are creating ownership of the integration –

**The Speaker:** Hon. Sebalu, in the interest of time, summarise.

**Mr Sebalu:** I am dealing with my final submission- to create ownership of the integration and when people own this integration agenda, they will definitely appreciate it; they will defend it and be able to promote it. With that, I beg to support.

**Mr Celestin Kabahizi (Rwanda):** Thank you, Rt Hon. Speaker. I stand to support the Bill and to thank the mover, Hon. Zein. I should also declare that I am a member of the Committee.

I just need to emphasise on the objective of this Bill. For me, it seems it is an easy Bill to implement if you look at how the structure is through the national focal point and the unit, which will be held in the Secretariat to coordinate and for purposes of reporting.

But also an important thing in this Bill is the methodology. We have said that it will facilitate acquisition of knowledge, skills, attitudes and behaviour which will be based on citizens culture, which means that it is not an education which is classic as we have seen in many ways of process integration. It will be anchored on culture, attitude and skills, which is related to the behaviour and the knowledge of the citizens of the Partner States.

So, I think the implementation – the follow up and the goals we need to reach will be easily attained. I support the Bill.

**The Speaker:** Thank you so much. I have recognised all Members standing up but in the interest of time, you know, I am constrained by our Rules of Procedure but I also beg for your indulgence based on the submission given by Hon. Sebalu. Historically, we must pass this Bill here. So, I beg for your indulgence and I invite the Chair of the Committee for a brief reply before I also invite Hon. Zein for a brief comment.

**The Chairperson of the Committee on Regional Affairs and Conflict Resolution (Mr Abdullah Mwinyi) (Tanzania):** Thank you very much Rt Hon. Speaker. I must thank all the colleagues for their positive response and support of the Bill.

In particular, I would like to take this opportunity to thank Hon. Rwigema, Hon. Pareno, Hon. Abisai, Hon. Mumbi, Hon. Hon. Kessy, Hon. Sebalu and Hon. Kabahizi. I thank you very much. *(Applause)*

**The Speaker:** Thank you very much, Hon. Chair. I now invite the mover, Hon. Zein to make comments.

**Mr Abubakar Zein (Kenya):** Thank you, Rt Hon. Speaker. Allow me to say very few words. I would like to thank first and for most, the Chairperson of the Regional Affairs and Conflict Resolution Committee for his good leadership and wise counsel. I would also like to thank all the members of this honourable Committee.

I also echo the words of the Chairperson to thank each and every honourable Member who contributed to this debate and say that, Chair, we appreciate their kind words and also their wise counsel. I thank you.

**The Speaker:** Thank you, Hon. Zein. Hon. Members the motion before the House is that the East African Community Integration Education Bill, 2014 be read for the Second Time. I now put the question that the East African Community Integration Education Bill, 2014 be read for the Second Time?

*(Question put and agreed to.)*



THE ASSEMBLY IN COMMITTEE  
(The Rt. Hon. Dan Kidega in the Chair.)

**BILLS'**  
**COMMITTEE STAGE**

The East African Community Integration (Education) Bill, 2014

Clause 1

**The Chairperson:** Hon. Members, the proposal is that Clause 1 stand part of the Bill.

**Mr Mwinyi:** Thank you, Hon. Chair. We propose an amendment to Clause 1 to read as follows: "This Act may be cited as The East African Civic Education for Integration Act."

**The Chairperson:** Seconded by Hon. Celestine. The Chair, Hon. Mwinyi, you can go ahead and justify.

**Mr Mwinyi:** Thank you, Hon. Chair. The purpose of this change is to create clarity on the purpose of the Bill and to avoid confusion between education and civic education carried out in the Partner States.

**The Chairperson:** Thank you so much. Hon. Zein?

**Mr Zein:** I concur, Sir.

**The Chairperson:** Thank you so much. I now put the question on the amendment as moved by the Chair of the Committee.

*(Question put and agreed to.)*

(Clause 1, as amended, agreed to.)

Clause 2

**The Chairperson:** Hon. Members, the proposal on the floor is that Clause 2 be part of the Bill.

**Mr Mwinyi:** Hon. Chair, we would like to amend Clause 2 by replacing the definition of "Integration education" with the following: "Civic education for integration means the total sum of information, knowledge, skills, values and attitudes that are necessary for the citizens of East Africa to meaningfully participate in the integration process." I beg to move.

**The Chairperson:** Seconded by Hon. Taslima, Hon. Hafsa and everybody standing. Proceed to justify.

**Mr Mwinyi:** Our reason for the changes is to be consistent with the new short title and to create clarity on what encompasses civic education for integration. I beg to move.

**Mr Zein:** I concur.

**Dr Nderakindo:** Thank you, Mr Chairman. Mine is of a concern that we are not consistent in what we call the population of East Africa. Do we call them the people of East African Community? Do we call them the citizens of the Partner States of the Community? Do we call them the citizens of East Africa?

I am concerned about the last one because we are still going towards the one country, which we have not decided which name it is going to be. But we are going for the political federation for which as yet we don't have a country, which has citizens of East Africa. Therefore, in many other places it is written that "The people of East Africa." So, I would ask – (*Interruption*) -

**The Chairperson:** Hon. Kessy, I need help here. Are you debating the amendment?

**Dr Nderakindo:** I am proposing an amendment.

**The Chairperson:** You just have to wait and we dispose of this and then you move at an appropriate time after we have disposed of the amendment. Are you amending the amendment of the Committee? (*Interjection*) Okay, can you go ahead and amend before substantively debating the amendment.

**Dr Nderakindo:** I am proposing an amendment for instead of "The citizens of East Africa" to be "the people of East Africa" because we do not have a country called East Africa as yet.

**The Chairperson:** Seconded by Hon. Dora – do you concede?

**Mr Mwinyi:** I concede.

**The Chairperson:** I now put the question on the amendment as moved by Hon. Kessy.

*(Question put and agreed to.)*

**The Chairperson:** Chair, I think you have part (b)?

**Mr Mwinyi:** (b) we would like to amend Clause 2 by inserting the following definitions: "Assembly" means the East African Legislative Assembly established under Article 9 of the Treaty;

"Partner States" means the Partner States of the Community under the Treaty."

**The Chairperson:** Seconded by Hon. Taslima, Hon. Bazivamo. Chair, proceed.

**Mr Mwinyi:** The definitions are consistent with the Treaty.

**The Chairperson:** Thank you so much. Hon. Zein?

**Mr Zein:** I concur.

**The Chairperson:** I now put the question on the amendments moved by the hon. Chair of the Committee.

*(Question put and agreed to.)*

*(Clause 2, as amended, agreed to.)*

Clause 3

**The Chairperson:** Hon. Members, the proposal on the floor is that Clause 3 be part of the Bill.

**Dr Nderakindo:** I am proposing an amendment.

**The Chairperson:** May the Chair receive the amendment as per the rules?

**Dr Nderakindo:** Thank you.

**The Chairperson:** Has the Chair conceded to the amendment? Okay, let us proceed. Can I hear your amendment if the Chair can easily comprehend?

**The Chairperson:** But Hon. Members, if you have amendments, please write and send them to the Chair.

**Dr Nderakindo:** Thank you, Chair. I thought that it was very small that is why I did not take off time to put it on paper. I was just asking to insert; I am proposing for an amendment to Clause 3 (1) to insert the words “the” and “of” before and between “people” and “East Africa” to read “The people of East Africa...”

**The Chairperson:** Noted. Seconded by Hon. Patricia and Hon. Rwigema. And I think it is clear. Yes, Hon. Zein.

**The Chairperson:** I now put the question on the amendment as moved by Hon. Kessy.

*(Question put and agreed to.)*

**The Chairperson:** I now put the question that Clause 3 be part of the Bill.

*(Question put and agreed to.)*

Clause 4

**The Chairperson:** Hon. Members, the proposal is that Clause 4 be part of the Bill.

**Mr Mwinyi:** Thank you, Mr Chair. We would like to propose an amendment by replacing Clause 4 with the following new clause: “Clause 4 Institutional Framework

The Secretariat shall develop the necessary institutional framework and capacity in the Community for carrying out and facilitation civic education for integration.” I beg to move.

**The Chairperson:** Hon. Taslima. Chair, justify.

**Mr Mwinyi:** The justification is to comply with provisions of the Treaty for the Establishment of the East African Community.

**Mr Zein:** I concur.

**The Chairperson:** I put the question to the amendment as moved by the Chair of the Committee.

*(Question put and agreed to.)*

*(Clause 4, as amended, agreed to.)*

Clause 5

**The Chairperson:** Hon. Members, the proposal is that Clause 5 stand part of the Bill.

**Mr Mwinyi:** Mr Chairman, we propose an amendment where Clause 5 is replaced with the following new clause: “Clause 5 Functions of Institutional Framework

The functions of the institutional framework and the capacity under Section 4 shall be to:

- (a) Coordinate civic education for integration in the Community;
- (b) Develop relevant information, communication and education materials by the Secretariat for dissemination in the Community;
- (c) Set standards and quality control mechanisms in the provision of civic education for integration in the Community;
- (d) Develop curriculum standards for civic education for integration;
- (e) Develop a monitoring and evaluation framework on the carrying out and facilitation of civic education for integration in the Community; and
- (f) Perform any other functions as when may be required to achieve the objective of this Act.”

Hon. Chair, I beg to move.

**The Chairperson:** Seconded by Hon. Rwigema. Chair, move.

**Mr Mwinyi:** The justification is to clarify what should be performed by the Secretariat.

**Mr Zein:** I concede, Sir.

**The Chairperson:** I now put the question that the amendment as moved by the Chair be part of the Bill.

*(Question put and agreed to.)*

*(Clause 5, as amended, agreed to.)*

Clause 6

**The Chairperson:** Hon. Members, the proposal is that Clause 6 be part of the Bill.

**Mr Mwinyi:** Mr Chair, we propose that Clause 6 be replaced with the following new clause: “Roles and Functions of the Partner States:

- (1) The Partner States shall be responsible for carrying out and facilitation of civic education for integration in their territories;

- (2) The Ministries responsible for East African Community Affairs in the Partner States shall be the focal points for the carrying out facilitation and coordination of civic education for integration in the Partner States;
- (3) A Partner State may designate institution(s) to conduct civic education for integration in that Partner State; and
- (4) The Ministry responsible for East African Community Affairs in each Partner State shall submit biannual reports to the Assembly on the provision of civic education for integration in the Partner States.”

Hon. Chair, I beg to move.

**The Chairperson:** Seconded by Hon. Nancy, Hon Ngoga and Hon. Leonce. Yes, Hon. Zein?

**Mr Zein:** I concede, Sir.

**The Chairperson:** I now put the question that the amendment as moved by the Chair of the Committee be part of Bill.

*(Question put and agreed to.)*

*(Clause 6, as amended, agreed to.)*

Clause 7

**The Chairperson:** Hon. Members, the proposal is that Clause 7 be part of the Bill.

**Mr Mwinyi:** Mr Chair, I propose that Clause 7 be replaced with the following new clause: “Clause 7 Biannual Reports

The Secretariat shall submit biannual reports to the Assembly on the status and progress made in carrying out and facilitation of civic education for integration in the Community.” I beg to move, Mr Chair.

**The Chairperson:** Seconded by Hon. Taslima. Hon. Member move ahead and justify.

**Mr Mwinyi:** Mr Chair, the justification is to establish a reporting mechanism to the Assembly.

**Mr Zein:** I concede.

**Dr Nderakindo:** Thank you, Mr Chairman. Mine is small; again in Clause 7, can we be consistent in the word “biannual” let it be “bi” because sometimes they are writing it as “by”

**The Chairperson:** Thank you, Hon. Kessy. Hon. Chair?

**Mr Mwinyi:** Mr Chair, this is a typo issue. It should be “bi,” I concede. Thank you.

**The Chairperson:** I now put the question that amendment as moved by the Chair of the Committee be part of the Bill.

*(Question put and agreed to.)*

*(Clause 7, as amended, agreed to.)*

Clause 8

**The Chairperson:** Hon. Members, the proposal is that Clause 8 be part of the Bill.

*(Question put and agreed to.)*

The Title

**The Chairperson:** Hon. Members, the proposal is that The Title be part of the Bill – yes, Hon. Mwinyi, is it on the title?

**Mr Mwinyi:** We had moved on but I propose a re-committal on Clause 8 there was a proposal, which has been circulated and is with you, Sir. But the pace was a bit too fast. But at an appropriate time, I will request for a re-committal.

**The Chairperson:** Hon. Zein.

**Mr Zein:** Thank you, Chair. We actually don't need a re-committal because actually the Committee is proposing a new clause. So, it is right to admit 8 and then we suggest the new clause.

**The Chairperson:** Hon. Chair, you can move on a new clause 9 before I move on The Title.

**Mr Mwinyi:** Mr Chair, I would like to move on a new Clause 9 to read as follows: "Clause 9 The principle guiding the civic education for integration in the Community include:

- (1) Respect of the Treaty for the Establishment of the East African Community, Community laws and laws of the Partner States;
- (2) Respect of the independence and mandate of all actors who will be engaged in the carrying out and provision of civic education for integration;
- (3) Promoting of national ownership involving both state and non-state actors at Partner State level;
- (4) Inclusive of all segments of society and actors in the implementation of the programme, particularly involving persons with disability, women, youth, the aged and other marginalised sections of society;
- (5) Promote the use of participatory methods and the use of the official language of the Community, Kiswahili and other local languages used in the Partner States;
- (6) Civic education for integration that inform, empower and engage people for meaningful participation;
- (7) A non-partisanship and objectivity in the delivery of civic education for integration;

- (8) Mainstreaming interests of women, person with disability, minority and marginalised groups in the design and implementation of civic education for integration programmes and activities; and
- (9) Accountability and transparency in the process of management, engagement, implementation and reporting of civic education for integration programmes and activities.”

Hon. Chair, I beg to move.

**The Chairperson:** Seconded by Hon. Dora, Hon. Ndahiro, Hon. Nancy, Hon. Mariam, Hon. Kimbisa and all those standing. Chair, go ahead and justify. Or we can go ahead and debate; you have put a good case. Hon. Patricia.

**Ms Hajabakiga:** Thank you, Rt Hon. Chair. I just wanted to move a small amendment on No. 4, where they talk about the “aged” and replace it with the “elderly.” *(Laughter)*

**The Chairperson:** Yes, thank you. It looks like taken but we don’t have a copy here. So, if there are going to be more amendments to the amendment, it is going to be difficult for us to follow.

**Ms Byamukama:** Mr Chairman, Sir, actually I wanted to say what she has said, “The elderly,” which is the UN terminology and also to sat that the categorisation changes. In one group of special needs, there are minorities and the elderly are left out in the second grouping. So, it should be consistent so that you have the same categorisation ... *(Inaudible)*...

**Ms Abisai:** Mr Chairman ... *(Inaudible)* ...

**The Chairperson:** Hon. Nancy can you repeat yourself so that the Chair can get it?

**Ms Abisai:** I was just seeking to add an amendment to either 6, to include our culture and rich history. So, I was suggesting that we keep the sentence as it is and after the full stop, we put a comma say, “...and also promotes our shared culture and rich history.”

**The Chairperson:** Hon. Chair?

**Mr Mwinyi:** An excellent proposal. I will concede.

**The Chairperson:** Thank you. Hon. Members, I now put the question that a new clause 9 be part of the Bill.

*(Question put and agreed to.)*

*(Clause 9, as amended, agreed to.)*

The Title

**The Chairperson:** Hon. Members, the proposal is that The Title stand part of the Bill.

*(Question put and agreed to.)*

## MOTION FOR THE HOUSE TO RESUME

**Mr Abubakar Zein (Kenya):** Rt. hon. Chairperson, Sir, I would like to move that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

The Assembly resumed, the Speaker presiding.

## BILLS

## REPORT STAGE

The East African Community Integration (Education) Bill, 2014

**Mr Zein:** Mr Speaker, Sir, I beg to report that the Committee of the whole House has considered the East African Community Integration Education Bill, 2014 – *(Interruption)* -

**The Speaker:** Yes, Hon. Mwinyi.

**Mr Mwinyi:** I am standing on a point of procedure to request for a re-committal to the Committee of the whole House. My justification for the re-committal is that during the process of review, we missed a critical amendment on Clause 2 (c). The deletion of “unit.” After Clause 2 (b) we moved to Clause 3 without amending Clause 2 (c). I beg to move.

**The Speaker:** Re-committal recognised, and we shall give you a chance to move just before moving to the Third Reading after the Chair has reported. Chair, please, proceed.

**Mr Zein:** Thank you, Mr Speaker, Sir for your guidance.

Mr Speaker, I beg to report that the Committee of the whole House has considered *the East African Community Integration Education Bill, 2014* and has adopted it with amendments.

**The Speaker:** I now put the question that the report of the Committee of the whole House be adopted.

*(Question put and agreed to.)*

**The Speaker:** I now invite the Chair of the Committee to move his amendment based on the earlier re-committal.

**Mr Mwinyi:** Thank you, Rt Hon. Speaker. In accordance with Rule 72 of our Rules of Procedure, “If any Member desires to delete or amend any provisions contained in a Bill as reported from the Committee of the whole House or to introduce any new provision in the Bill, he or she may at any time before the Member rises to move the Third Reading of the Bill move that the Bill be recommitted either wholly or in respect of some particular amendments or amendments.”

So, in accordance with Rule 72 (1) and in light of our missing Clause 2 (c), I wish to recommit to the Committee of the whole House to amend.



**The Speaker:** Seconded by Hon. Dora and Hon. Rwigema. Chair, proceed and justify and then we move.

**Mr Mwinyi:** Hon. Speaker, I wish to move that we move to the Committee of the whole House. I beg to move.

**The Speaker:** I now put the question that the re-committal moved by the Chair be taken.

*(Question put and agreed to.)*

## **BILL'S**

### **COMMITTEE STAGE**

The East African Community Integration Education Bill, 2014

Clause 2 (c)

**Mr Mwinyi:** Mr Chair, I beg to amend Clause 2 by deleting the definition of unit. I beg to move.

**The Chairperson:** Seconded by Hon. Dora, Hon. Rwigema, Hon. Bazivamo, Hon. Leonce and Hon. Patricia. Justify.

**Mr Mwinyi:** Mr Chair, this provides a consequential deletion. The aspect in relation to unit was deleted by replacing a number of provisions, which we had already done. So, there will not be a unit within this Bill. I thank you.

**Mr Zein:** I concede, Sir.

**The Chairperson:** Hon. Members, I now put the question that the amendment as moved by the Chair be part of the Bill.

*(Question put and agreed to.)*

### **MOTION FOR THE HOUSE TO RESUME**

**Mr Zein:** Rt Hon. Chairperson, Sir, I would like to move that the House do now resume and the Committee of the whole House do report thereto.

**The Chairperson:** Hon. Members, the motion is that the House do resume.

*(Question put and agreed to.)*

## **BILLS**

### **REPORT STAGE**

The East African Community Integration Education Bill, 2014

**Mr Zein:** Mr Speaker, Sir, I beg to report that the Committee of the whole House has considered the East African Community Integration (Education) Bill, 2014 and passed it with one further amendments.

**The Speaker:** Hon. Members, the motion is that the report of Committee of the whole House be adopted.

*(Question put and agreed to.)*

## BILL'S

### THIRD READING

The East African Community Integration Education Bill, 2014

**Mr Zein:** Mr Speaker, Sir, I beg to move that the *East African Community Integrated Education Bill, 2014* be read a Third Time and do pass.

**The Speaker:** Hon. Members, the proposal is that The East African Community Integrated Education Bill, 2014 be read a Third Time and do pass. I now put the question.

*(Question put and agreed to.)*

#### A BILL FOR AN ACT ENTITLED THE EAST AFRICAN COMMUNITY INTEGRATION EDUCATION ACT, 2014

**The Speaker:** I now declare with that the East African Community Civic Education for Integration Bill has been dully passed by this Assembly. *(Applause)*

I would like to take this opportunity to congratulate Hon. Zein for moving this Bill. *(Applause)* I would also like to thank the Committee for the good work they have done on the Bill. *(Applause)* I would also like to thank the whole House for passing the Bill. *(Applause)*

Hon. Members, the Order Paper is not completed but I am constrained by so many challenges that we cannot proceed and complete it. But I would like to take this opportunity, in a very special way before I adjourn this House, to congratulate you for a good job done. *(Applause)*

This has been a very successful Meeting. You successfully hosted President Pierre Nkurunziza, the President of the Republic of Burundi and also successfully hosted the Chair of the Summit, President Jakaya Kikwete, and President of the United Republic of Tanzania. *(Applause)*

You have passed a historical Bill; the elimination of the Non-Tariff Barriers Bill.

You have done a great job to complete the Rules of Procedure of this House by passing the procedure and the code of conduct.

You have passed a law, which I have just mentioned now and considered also the Cross-Border Legal Practice Bill that shall be passed in the next Sitting. *(Applause)*

I would like to say, thank you so much for the commitment you have shown in undertaking the mandate that the East African people have entrusted you to undertake. I encourage you to continue with the same spirit. *(Applause)*

With those few words, I now adjourn the House sine die. House stands adjourned.

*(The House rose at 2:06 p.m. and adjourned sine die.)*