



**EAST AFRICAN COMMUNITY**

**EAST AFRICAN LEGISLATIVE ASSEMBLY**

**42<sup>ND</sup> SITTING FIRST ASSEMBLY: THIRD MEETING – THIRD SESSION**

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

**Wednesday, 29 September 2004**

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

**PRAYERS**

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

*The Assembly was called to Order.*

**MOTION**

**FOR THE INTRODUCTION OF A  
PRIVATE MEMBER'S BILL**

**Ms. Rose Waruhiu:** Mr. Speaker, Sir,  
I beg to move\_

THAT this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House, do now resolve to grant leave to enable me to introduce a Private Members' Bill entitled "The East African Community Budget Bill, 2004". The proposed draft of the Bill has been circulated.

With those remarks, I beg to move.

**Mr. Isaac Sepetu:** Seconded

*(Question put and agreed to)*

**Mr. Med Kaggwa:** Mr. Speaker, Sir, I  
beg to move\_

THAT this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House, do now resolve to grant leave to enable me to introduce a Private Members' Bill entitled "The East African Community Immunities and Privileges Bill, 2004."

The proposed draft of the Bill has been circulated. With those remarks, I beg to move.

**Mr. Jared Kangwana:** Seconded.

*(Debate continued from 28  
September.2004)*

*(Question put and agreed to)*

**Mr. Daniel Ogalo:** Mr. Speaker, Sir, I beg to move\_

THAT this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House do now resolve to grant leave to enable Hon. Ochieng-Mbeo and I to introduce a Private Members' Bill entitled "The Inter-University Council for East Africa Bill, 2004."

The proposed draft of the Bill has been circulated. With those remarks, I beg to move.

**Mr. Ochieng-Mbeo:** Seconded.

*(Question put and agreed to)*

**The Speaker:** Honourable Members, I am delighted to inform you that I have received a copy of a letter written by the Secretary General to the Permanent Secretaries, Ministry of Foreign Affairs and International Co-operation of the Republics of Uganda, Kenya and Tanzania, expressing the desire of the Assembly to bring these three Private Members' Bills. It is my hope that the three Partner States will act accordingly. Thank you.

### MOTION

"THAT this Assembly do commend the Heads of State of the three Partner States of the EAC for their commitment in pursuing the integration of the East African Community."

**Lt. Gen. Adan Abdullahi (Kenya):**

Mr. Speaker, Sir, let me join my colleagues in commending and congratulating the Summit for this very important step to initiate the fast tracking of the East African federation. I recall way back in 2002 when a Motion was moved in this House questioning the rationale for the East African Community Treaty to place specific stages starting with the customs union, common market, common currency and finally a political federation. We debated this issue for a long time and we did not find an answer as to why it was provided that way. Our feeling is that maybe certain aspects of the four stages could proceed concurrently without delay. However, we were not able to conclude that.

Mr. Speaker, Sir, what I would like to emphasise now is that there is a very heavy burden, which has been placed on the Eminent Persons as well as the EALA, to find ways and means of expediting and accelerating the process of integration. My view here is that the Treaty places the citizens of the East African Community at the centre of all these things, and to the best of my understanding, except for occasions when we had tours and visits in the Partner States, and in a very general manner asked the citizens what their view on federation of East Africa was, we have not made serious efforts to consult the citizens of East Africa. In the process of expediting this federation, the views, opinions and consent of the citizens of East Africa should be given the paramount position it deserves. Mr. Speaker, Sir that was the only issue I wanted to raise in this debate. Thank you.

**Mr. Haither Abdi (Kenya):** Thank you very much, Mr. Speaker, Sir, for giving me this opportunity.

I would like to thank the Heads of State for appointing this team of Eminent Persons to fast track the process of EAC federation. I would like to pick from where Hon. Kagwa left yesterday. He said speed kills, and I would like to add that the speed that thrills is the speed that kills. The reason why I say that is that we all want the federation quickly, but by going there too quickly, I think we are going to destroy this Community the way we did in 1977.

There is the process of a customs union, common market, monetary union and finally a political federation. These people sat for over six years to come up with that. They said the entry point would be the customs union and they took a further four years to negotiate and come up with a Customs Union Protocol, which was signed recently. They said it would take five years to have a complete customs union. I think we should let things take their course. The European Union said it would take five years for them to have a customs union but within two years they scrapped their five-year plan and integrated within two years. Let us take time, build the confidence and we will get there – (*Interjection*).

**Capt. Richard Ddudu:** Mr. Speaker, Sir, may I take this opportunity to inform the Hon. Member that the method we are using for integration is the most medieval method. There are other modern examples where, for example, the most powerful country in this world, the USA, started with a federation and then the other issues he is alluding to for negotiations came later. Even Europe which is taking the longer route was actually the cause of

the shortcut the USA took. They had to run away from Europe in order to go and have independence.

**Mr Abdi:** I thank the Hon. Member for that information but I will not use it.

**Mr Jared Kangwana:** Mr. Speaker, Sir, for the benefit of the House, I would like to inform Hon. Abdi that Europeans are not planning to federate, they are merely developing an economic integration. In East Africa, we are talking about political federation!

**Mr. Abdi:** Mr. Speaker, Sir, if we have to move to a political federation, we have to ask East Africans what they want. If you look at what is going on right now, we do not have free movement of persons and we do not know when the protocol is going to be ready. We cannot even integrate at home. If I married a woman from here, she will always remain a Tanzanian and the children will be Kenyan. Some of us have been reluctant to marry because of that! (*Laughter*)

Mr. Speaker, Sir, in my local language, as the Secretary General would have said, we have a saying which goes like this: “*Tag malakudehe wahakutagta lukutusa*”, which means: someone will not tell you to go but will give you all the indications that he does not want you, and he wants you to go.

If you look at Article 67(3) (c) of the Treaty, it states that the Secretary General shall be the Secretary to the Summit. The Summit had the longest meeting the other day but they did not invite him. I think the message is loud and clear. The writing is on the wall. With those remarks, I beg to support the Motion. Thank you.

**Mr. George Nangale (Tanzania):** Mr. Speaker, Sir, I want to take this opportunity to congratulate you for conquering Mt. Kilimanjaro, hence inspiring many East Africans, including myself, to take such a physical and mental challenge. I also want to commend you for addressing the Pan African Parliament in Kiswahili in South Africa recently. That act alone dignified the status of this Assembly and the people East Africa in continental politics.

Mr. Speaker, Sir, I want to commend the Summit for their decision to explore means of fast tracking the integration process. When the current EAC was being formed in the 1990s, it was envisaged that it would be a fast track kind of integration. As the ball started rolling, the bureaucrats started to take it over and it was protocol after protocol but no ratification. The Customs Union Protocol, which is supposed to be the entry point in all these, took four years to be signed, and who knows, it could take another four years to be implemented. In this regard, I welcome the renewed political will by the Heads of State, and I am confident that the ball will now start rolling faster for the betterment of the people of East Africa.

Mr. Speaker, Sir, while the Eminent Persons are doing their work, I want to remind them that the individual East African countries still belong to different economic groupings. For example, Kenya and Uganda belong to COMESA while Tanzania belongs to SADC. This scenario is bringing a lot of complications in practical sense. In my opinion, I do not think this scenario will take us anywhere. In the light of the Cancun debacle, how can we strike a balance between multi lateral negotiations in the WTO and the bi-

lateral agreements? There is evidence that after Cancun, bi-lateral negotiations are accelerating. For developing countries like ours, this means a full exposure of uneven power relations. In my view, our countries should immediately consider their membership in these regional groupings and decide as a matter of urgency where they should belong. But they should belong to the same bloc.

Mr. Speaker, Sir, as we move towards federation, it is important that we revise the EAC Treaty. I believe that after this exercise there will be a revised Treaty. The Treaty should feature in all subsequent national constitutional amendments such as the forum at Bomas in Nairobi, the Third Term in Kampala and Marekebisho ya Katiba in Dodoma. This will legitimise its status and legitimise ownership of the Treaty to the people of East Africa.

Mr. Speaker, Sir, the dynamics of inter-state co-operation and globalisation are changing. In Europe for example, EU has just admitted ten new members, and now they are 25, thus bringing together 400 million people under one umbrella. The red-tape and being too conscious of asymmetry relationships will not take us anywhere. These are the same things which led to the collapse of the defunct EAC in 1977. Let us think in a different way. There is a famous physicist by the name of Einstein who once said that one cannot solve a problem in the same thinking that caused the same problem. I think we should think out of the box. Thank you.

**The Speaker:** Hon. Nangale, I am sure the House was waiting to hear from you how the theory on “e-federation” could fast track this process!  
(*Laughter*)

**Mr. Maxwell Shamala (Kenya):** Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Mr. Speaker, Sir, when you read that communiqué carefully, you will find that the Summit is disillusioned and frustrated with the progress of integration in East Africa. It is frustrated because the integration process started in earnest in the year 2000 and on 13 January 2000, the Summit ordered the Council of Ministers to have the Protocol on the Customs Union completed by December 2001. So, by the time we were being inaugurated, the Customs Union Protocol should have been in place. This Protocol was signed four years later on 2 March 2004. Those of you who were here will remember how difficult it was to get that Protocol signed because some people were still arguing at that late hour as to what should and what should not be included in the Protocol, after having had four years to negotiate the Protocol.

In my view, the Council of Ministers let down the Summit, hence the frustration I am talking about. The Summit was frustrated because they had a vision to bring the people of East Africa together and create a market of approximately 100 million people. This in turn would create a big investment area, and hopefully we would get economic growth of about 10 per cent. Other countries in Southern Asia have achieved this. If we got economic growth of 10 per cent, we would be doing a lot to ourselves by way of poverty reduction. The living standards of our people would go up. Unfortunately, this has not been the case. If we achieved this economic growth, we would have created job opportunities. In so doing,

we would minimise insecurity because young men and women who are leaving schools have no jobs and, therefore they revert to waylaying those they think they can get something from. And that is causing insecurity throughout our territory. This is their time and they want to leave a mark. Our past presidents tried and left us where they did. I am sure the current presidents would like to leave a mark in East Africa. If the economic growth of the people of East Africa improves during their tenure, they will be a happy lot.

Mr. Speaker, Sir, I also believe that globalisation threats are best confronted with our combined efforts as East Africans because the economies of the three countries cannot withstand the effects of globalisation. So, the Summit must have been frustrated because these things are not taking place and yet they put organs to make sure that the integration process takes place so that we can achieve the best out of the integration process. That was the vision of the Summit.

Mr. Speaker, Sir, who is responsible for the lack of progress in this Community? If one looked at the *Hansard* of the proceedings of this House from the first day up to now, it is not difficult to know who the culprit is. It is the Council of Ministers! Why do I say that? I have already told you that in January 2001 the Summit ordered that the Protocol on the Customs Union be ready by December 2001, but it was not. The Summit ordered that we should negotiate as a bloc in the year 2002 but by two weeks ago, they were still issuing instructions that a Commission be put in place to find out how we can negotiate as a bloc. Waswahili *wanasema kikulacho kinguoni mwako*. The Council of

Ministers is a led down –  
(*Interjection*).

**Ms. Wanyoto:** What do the Luhya say?

**Mr. Maxwell Shamala:** What the Luhya say is what the Swahili say. The Council of Ministers surrendered its role to the Co-ordination Committee composed of Permanent Secretaries, who in turn surrendered it to their juniors who come to Arusha day in day out to negotiate. When those junior officers come here and disagree over small things, they pack up and return to their offices in the capitals to go and consult their bosses. So, the Council of Ministers should bear their own cross. Had they taken time to have a ‘*Kamukunji*’ – an informal meeting with us, things would have been a little different. What we have in this Community is an integration of three governments instead of integration of the people and economies East Africa.

Mr. Speaker, Sir, we have had many protocols signed and it is up to the Council of Ministers to follow the Partner States to know whether they have ratified these protocols and so on because they have not followed it. It is the Council of Ministers who should have followed the ministers from the Partner States to ensure that those protocols are signed. They sit in those Parliaments and they know about those Protocols.

The Council of Ministers should be held responsible for the slow progress or no progress in the integration process that we envisage. Integration programmes all over the world succeed when decisions are taken. Lack of decision making causes problems. You cannot move. Lack of implementation monitoring mechanism, delayed implementation of what has been

agreed on is the things that can bring our regional integration efforts down. This is where our Council of Ministers comes in. They are the ones who should have spearheaded the progress in terms of implementation of agreed protocols. The Council of Ministers went to sleep and the Secretariat went to sleep and none of those protocols have been completed on time.

Mr. Speaker, Sir, I want to propose the way forward to resurrect the integration process through the Eminent Persons that are going round the countries of EAC to collect views. Like my colleagues said yesterday, we should have a Council of Ministers for East African Affairs only. I talked to Hon. Koech about coming to Arusha to be sworn in but he preferred to go to New York. He thought New York was more important than this Community. These ministers should attend, as a matter of policy, all the sittings of this House. In that way, we shall be able to have an oversight role over the ministers because we could then ask questions and they would give us answers in this Assembly.

Secondly, the line ministries in the Partner States should have retreats with their Parliaments together with members of that chapter so that they can address those Parliaments on issues of integration. In this way, the National Assemblies would be totally aware of the goings on in terms of integration within the Community. I am talking about things like the Customs Union. It took us a bit of time to understand what the Customs Union is all about. Let us not assume that all our Members of Parliament in our national parliaments understand it as we do now.

It is good that we bring them on board so that they can be our agents to

communicate matters of integration to the bigger community of East Africa. For instance, in the Lake Victoria basin, we have more than 100 Members of Parliament representing people who live around the lake. We want the management of Lake Victoria to be put under one organisation. We should involve Members of Parliament from around the lake in order for them to communicate with the communities living around the lake for them to co-operate with whoever will be managing the affairs of the lake so that we can reduce conflicts within Lake Victoria. In the same vein, we must address issues of pastoral communities. We cannot look aside and hope to integrate successfully.

Mr. Speaker, sir, the Council of Ministers should be present to support the line ministries that will be addressing those Parliaments and those ministers should also have the line ministries having forums within their states so that they can move together.

Mr. Speaker, Sir, through the Eminent Persons, I would like to ask the Summit to announce that we shall be a federation by the year 2010, and all process towards that end should be completed by the year 2009. A mid-term review should be done in the year 2007 and that the Customs Union should take three years to mature. The Common Market must come into place within two years and that the Monetary Union should come into being within one year and finally, we go into a federation. That is the way I would go about it. That is my proposal to the Eminent Persons.

Mr. Speaker, Sir, the advantage of involving our national assemblies in this matter is that they have access to all the peoples of East Africa and we, through them, have that access. We

want them to be involved. The advantages are that they will be communicating with the stakeholders in this integration process. In that way, we shall be able to fast track the integration of East Africa. Thank you.

**Ms. Sheila Kawamara Mishambi (Uganda):** Mr. Speaker, Sir, I would like to thank you for considering me to accompany you to the Republic of South Africa where you have been congratulated for the Speech you presented in Kiswahili. While in South Africa, we worked as a team and I was very proud of you for giving a speech in Kiswahili.

Mr. Speaker, Sir, since yesterday, we have had a very passionate debate about the communiqué given by our Heads of State after their meeting in Nairobi last August. I listened to the various members debating with a lot of passion. For the last two and half years we have heard the same passionate speeches and the same criticisms, and I have been asking myself whether it is really helpful. If we criticise, let us criticise with the spirit of being helpful. We have criticised the Secretary General, the Council of Ministers, and the Summit and now we have got our new target, the Eminent Persons, to criticise. What solutions are we offering as an Assembly? I see ourselves falling into a trap of always being critics of situations and yet offering few or no solutions at all. I feel that we can do more than that.

Mr. Speaker, Sir, I am very sceptical about the appointment of the Eminent Persons. Their appointment is somehow diversionary. For the last two and half years we have done what they are trying to do. We had outreach missions to the three countries and we heard from the people of East Africa, including their Heads of State, what

they think about the issue of federation. The political federation of East Africa should have been yesterday or the other day. What is delaying the process? It is simple! These are three sovereign states with three Heads of State elected by their people. They all still enjoy their powers. So, we are still jealous of each other, whether we like it or not. We are still suspicious of each other. When I say that, it is at the level of the State.

Mr. Speaker, Sir, I get extremely amused when our Assembly becomes a critic of the other organs of the Community; that they are the ones delaying the process because the Assembly has always wanted to fast track this process. I have a different opinion: I feel that this Assembly has played a part in delaying the process of political federation. That is if we ever have it. Why do I say that?

May be I do not understand what a political federation is, but I would think that a political federation brings people together to start having a common political ideology. But what do we see in this particular House? Do we really consider ourselves East Africans? We are Ugandans, Kenyans and Tanzanians, whether we like it or not. A number of times we have heard people here say those are Ugandan, Kenyan or Tanzanian issues. Did we come here to discuss as Ugandans, Kenyans and Tanzanians?

Mr. Speaker, Sir, if we are really out to convince East Africans then we should get serious in this particular House, we should begin thinking like East Africans. Let us act as East Africans in all circumstances. It is not only in this general talk that we should be speaking like this. We need to begin from this House to think as East Africans if we want our Heads of State to think as

East Africans, and we want the Council of Ministers to think as East Africans. So, despite all the passion with which members may discuss this issue, I muse and wonder. I think we are only being heroic comedians because East Africans are watching us – *(Interjection)*.

**Mr. Mwatela:** Mr. Speaker, Sir, is the Member on the Floor in order to refer to the honourable Members of this House as comedians?

**Mr. Speaker:** She is not in order and that is un-parliamentary. I request you to withdraw that statement.

**Ms. Kawamara Mishambi:** Mr. Speaker, Sir, my concern is whether we should really contribute to the talk-show that is going on in other areas. When do we really become East African? I know that two and half years from now I will walk out of this August Assembly as a Ugandan; that is how I see myself walking out! We have now gone almost three years. I am wondering whether things will change in the next two years.

Mr. Speaker, Sir, one Hon. Member said that the ministers are not here to listen to what we are saying and also answer to queries by hon. Members of this Assembly; but do they have answers to those questions? With those remarks, I beg to support the motion.

**Mr. Yonasani Kanyomozi (Uganda):** Thank you Mr. Speaker, Sir, for allowing me to add my contribution to the Motion before the House. I want to congratulate the Summit for a well-thought out communiqué, and for having sat for three days thus making history in the integration process. Mr. Speaker, Sir, the Heads of State had delegated this responsibility to the Council of Ministers. As you know in



your military science, when you delegate, you are still accountable. They have realised that they are still accountable to the people of East Africa and they have taken a stop to take up the responsibility so as to be able to account to the people of East Africa, hence the appointment of the Eminent Persons.

Mr. Speaker, Sir, some people feel that maybe the Heads of State want to rush us into something which will not work, but if you look at the terms of reference and the communiqué itself, the operating words are 'expedite' and 'compress' the process. They want the process expedited and compressed so that it is done in the shortest time possible. Why are they doing that? The reason is that they have seen from experience, problems which have bedevilled the Community.

Mr. Speaker, Sir, in terms of the protocols that are being discussed, the Treaty provides for so many Protocols. Some of these Protocols have taken four years to complete. For instance, Articles 15(4), 27(2), 75(4), 76(4), 81(4), 104(2) and of course, Article 124(5) provide for protocols in addition to Article 151, which states that there can be many more protocols. If one protocol takes four years to negotiate as the Customs Union has, by the time we end these protocols, Jesus will have come back! This is an issue which the Heads of State have realised and they want us to be in place as East Africans before Jesus comes back.

The suggestion to expedite and compress the timetable is in the interest of East Africans because out there the world is consolidating, and people are coming together. We have seen it in Europe, and for the information of others who may not have realised, they are also nearly moving towards a federation.

Otherwise, why do they want a Constitution? They have already drafted a Constitution towards a federation while we are still at the preliminary stages of moving towards integration. The delays are due to the Council of Ministers not talking charge.

Let me refer the House to Article 15(4) of the Treaty which states as follows:

“Subject to a protocol on decision-making, the decisions of the council shall be by consensus”

I do not think even that protocol has been done. There should have been a protocol on decision-making to speed up the decision making process!  
*(Interjection)*

**The Counsel to the Community (Mr Wilbert Kaahwa (Ex-officio):** Mr Speaker, sir, may I inform the hon. Member on the Floor as he continues in his zealous contribution that in accordance with the provisions of Article 15(4), a protocol on decision-making by the Council of Ministers was negotiated, concluded and signed on 15 January 2001.

**Mr. Yonasani Kanyomozi:** I thank the hon. Member for being so kind to provide that information. You can imagine a protocol that was signed in 2001 and has not been ratified! Therefore, it is not operational, hence our inability to have decisions done by the Council of Ministers. That is what I would like the Counsel to the Community to tell the Council of Ministers; that this protocol was agreed upon but has not been ratified. We know that there are a series of them, and the Heads of State have done us proud to come up with this communiqué and the appointment of the Eminent Persons.

Mr. Speaker, this House under your guidance has tried its level best to bring to the attention of East Africans what needs to be done. We have visited the region; we have interacted with whoever we have interacted with and whoever we can interact with, but to no avail. It is good that our cries have reached the Heads of State and they have come up to say enough is enough, and we need to move. The people of East Africa need to move.

While doing that, I would also like to remind the Heads of State that there are things that need to be done. First, the Secretariat of the East African Community needs to be looked at seriously. They only have three executives, and at the moment the third one is not yet appointed. As we speak, the Treasury Benches on your right are empty and they have not even detailed an officer to come and take note of what we are saying. Those chairs you see behind there are theirs and they should be used!

I must thank the Counsel to the Community for being always present whenever we are meeting. He is as zealous as he says, but the Secretariat is completely absent: The Secretary General is not here and his deputy is not here. I can understand part of the problem in the Secretariat. First, it is under funded, secondly it is undermanned. The Summit needs to look into that and provide a solution through the Eminent Persons.

I would suggest that a source of funding, with the introduction of the Customs Union, can be identified and resources can be extracted from the customs collection to be used to fund the Secretariat, the Assembly and the Court of Justice. A formula could be worked out and I hope the Eminent Persons will look at this and provide a

solution. But to make it work easily, the collection of that money must be centralised, and I hope this House will take a position on this when we will be debating the Customs Management Bill.

Mr. Speaker, Sir, the other problem I see is in chapters 6 and 7 of the Treaty. The Treaty has good things in it but the major problem with the Treaty is that there are too many layers of decision making. If you look at chapters 6 and 7, about the Co-ordinating and Sectoral Committees, you can see the problems which we have. The Civil Service has taken over the role of running this Community and to guide it up to the maximum, including deciding on our terms and conditions of service. This is not their role.

I hope the Eminent Persons will also identify this, reduce the layers of decision making, recommend that the Co-ordination Committee can do their work at home and stop crowding people in this place, which is already crowded. The e-system has made things easy. They can be exchanging information quickly on the internet so that decisions can be made quickly. These many layers of decision making have got to be removed from the Treaty.

Mr. Speaker, Sir, much as the Treaty is very good, the lacunae in it must be removed to make the document efficient and manageable for the speed with which the Heads of State want to move.

Mr. Speaker, Sir, a solution to the problem of the Council of Ministers can be solved by having resident ministers here in Arusha with their secretaries as we used to have in the old Community so that they can spend more time on issues that touch us. I

would also like to suggest that every year one of the Heads of State should come and address this House on the State of the Union. That would give us a programme which this House can use to monitor the progress of integration. We would like to see the Chairman of the Summit presenting to this House every year a State of the Union Address, reviewing matters which we have gone through and proposing the programme for us for the whole year to come. In that way we would be able to monitor and do our oversight role more efficiently and effectively because we would have a reference point. To recapitulate, I would like to propose the following as things which the Eminent Persons should look at:

- i. encourage the Summit to give us a programme in a State of the Union Address
- ii. fund the Community through the customs collection
- iii. review the Treaty to remove cumbersome organs and provisions
- iv. provide more human beings to man the Secretariat in order for it to serve the Community effectively – (*Interjection*)

**Mr. Wilbert Kaahwa:** Mr. Speaker, Sir, is the hon. Member holding the Floor in order to suggest that staffs of the Secretariat are not human beings?

**Mr. Yonasani Kanyomozi:** Mr. Speaker, Sir, I only suggested that we have more human beings or more people in the Secretariat to service the Community. I did not say the ones who are there are not human beings. I think Hon. Kaahwa in his zealous manner of wanting to intervene has overstepped himself.

Mr. Speaker, Sir, let me complete listing the proposals I was making:

- v. The activities of the Community should be programmed in such a way that we set targets for ourselves so that these are achievable and are known well in advance.

By so doing, we will help the Community to get what it needs. Thank you.

**Mr. Mohammed Zubedi (Kenya):** Mr. Speaker, sir, I would like to thank our three Heads of State for appointing the Committee of Eminent Persons to speed up the processes of integration so that we reach the final stage of a political federation as soon as possible.

Mr. Speaker, Sir, we should not doubt the political will at the highest level for a political federation in East Africa. By appointing the three Eminent Persons, the Heads of State would like to know what our problems are, what has delayed the process until now and what measures can be taken or should be taken so that this process is speeded up towards federation.

I think our role and that of the Secretariat is to sit down, look at the problems afresh, come up with solutions and advise the Eminent Persons, and through them and other means, take our message to the Heads of State and the Council so that this process goes faster than it has. Having said that, we must also understand that the process of federating is not as easy as one would like it to be. In a federation we are talking about ceding authority by Partner States, and that is easier said than done.

Mr. Speaker, Sir, the old Community went as far as uniting the three states together and it was actually at the last stages towards a federation when it

broke up. The break-up of the old Community created a lot of suspicion and fear amongst the people of East Africa - (*Interjection*).

**Capt. Richard Ddudu:** Mr. Speaker, I would like to inform the hon. member holding the Floor that if there had been a federation by then, the Community would not have collapsed.

**Mr. Mohammed Zubedi:** I thank him for that information, but I do not think I doubted that. I just said that we were very near a federation but it did not take place. We all wished that we were a federation, but as I said, the collapse created suspicions and fears that we see now. Those suspicions and fears, as much as we have gone around the three countries and the citizens of the three countries have demonstrated that they wanted the federation yesterday, when we sit down and start working out how to reach that federation, we will come across those fears and suspicions that have been there. That duty does not only belong to the Eminent Persons but it belongs to all of us to work hard and try to reduce as much as possible these fears and suspicions.

Mr. Speaker, Sir, the process of expediting and compressing this process of integration should be done as a matter of urgency. The Protocols that have been signed but have not been ratified should be done as fast as possible, and the operationalisation of these protocols should also be done as a matter of urgency. We should start with the Customs Union. I would also like to suggest that instead of the Customs Union Protocol taking five years to be fully operational, it should be operationalisation immediately it starts working in January 2005.

Mr. Speaker, Sir, the Customs Union is the entry point; the people of East Africa want the federation but before realising it, they want to see some fruits of the integration process. We have problems because the people of East Africa cannot move freely within the three countries; the East African Passport is more on paper than reality. They need to trade with each other so that they realise the benefits of a Customs Union and the benefits of coming together. But they have not seen anything yet. I am sure the Heads of State know this better than us.

We should open our borders and let our people integrate and move freely and trade together. Even now that we have famine within East Africa, we cannot trade freely with food! It is ironical that we have got to import food from outside East Africa to contain the famine. So, we must remove these obstacles first and request the Heads of State that these bottlenecks that exist, be it from the Council, the Secretariat or the technocrats, should be looked at in detail and they should be solved as soon as soon as possible, and get these protocols working.

We should move fast and make the people of East Africa realise the benefits of integration. It would be much easier even if we decided later on to go to a referendum. It would be difficult to go to the people of East Africa and ask them if they wanted a federation today. Some will say no, while others will say yes because of the high levels of poverty prevailing in the region.

So, the people of East Africa should be given a chance to enjoy some benefits and then we can go and convince the same people to federate. If that happened, it would be easier for them

to embrace the idea of federation because they would have tested its benefits. With those remarks, I support the Motion.

**Ms. Beatrice Shellukindo (Tanzania):** Mr. Speaker, Sir, I would like to extend my sincere gratitude to you and to all Members of this Assembly for the support which you gave me during the funeral of my dear father two weeks ago. I was overwhelmed to see most of you there. As a family, we would like to say God bless for what you did for us.

Secondly, I would like to commend the Heads of State for the decision they took to fast track the EAC federation. Much has been said by my colleagues, but I think I have only one or two points to add very quickly.

Mr. Speaker, Sir, I do recall our tour of Tanzania sometime this year when we visited Iringa. I think most of us were there. While paying a courtesy call on the Regional Commissioner Iringa, he clearly indicated that it is the politicians who are dilly dallying with the process of federation but the rest of East Africans have already started to federate and I think he cited a number of areas in which the people of East Africa had started working together.

Despite the fact that this House has tried as much as possible to initiate different programmes and activities for the people of East Africa, the Eminent Persons have come to discuss the same issues that we have been discussing all these days. You recall that it was Hon. Maj. Gen. Mugisha Muntu, who came up with the idea of a political federation, and it was taken up by the Standing Committee on Regional Affairs and Conflict Resolution, it came to the House and it was adopted by everybody.

It is very significant that during our tours of the three countries, wherever we visited, we had time to talk to the public, and we did address the same issues at no cost at all to the Community. We have a lot of information on these issues and I was surprised the other day to learn that a team of Eminent Persons had been appointed to do the same things that we have done. But the Summit has the right to nominate persons to do certain work for the Community.

Mr. Speaker, Sir, I am worried that this initiative of fast tracking might end up on paper just as many other issues have. I am saying so because there are so many other issues that are pending. I cannot even cite one thing that has been accomplished within the Community as of now. For us in this House we only have five years to work, and within those five years, we have to account for what we have done. I would really appeal to my colleagues that we need to work seriously and embark on issues.

As things stand now, all the organs of the Community are working in isolation. You will realise that officers of the Secretariat are not in this House to listen to what we say and so we are busy talking to ourselves. Sometimes it is tiresome to be talking the same things all the time to ourselves. Even if they are there, they do not even honour our views. When we discussed about the 9.8 acre plot in the presence of the Chairman of the Council of Ministers, Hon. Butime, Hon. Kikwete and the other Council Member, the Secretariat has not even honoured our views. That is why I am saying the fast track may not work.

Mr. Speaker, Sir, Members of this Assembly represent the people of East Africa, but the people of East Africa

do not even know what is going on here. Even the people we could use to get them the information are not here. We have been appealing from day one that we need the Press, but the Press are never here. Even the Information Officer of the Community is not here. I call him the “Information Officer of the Community” because I do not think he has any relations with this Assembly. How can we be talking of a fast track when these small matters are not being accomplished? Even the Summit is working in isolation. One President nominated a Minister for the East African Community Affairs but the other two have not! So, everybody does their own thing at their own time without any co-ordination.

Let us embark on this issue of the federation seriously since we are the ones who started it all. I suggest that we really hold the ownership. I think the report of the Eminent Persons should start with: “This has been initiated by the East African Legislative Assembly...” We are politicians; we need to account. At the end of the day, East Africans do not care about our problems here within the Community.

Mr. Speaker, Sir, I think the Summit does not know much of what we are doing here. I think we should start visiting them all over again. We have to tell them where we have reached so far. If they knew that we had done this, they would not have appointed the Eminent Persons who are mainly professors. With those remarks, I support the Motion.

**Mr. Gilbert Ochieng-Mbeo (Kenya):**  
Mr. Speaker, Sir, I would like to thank the Acting Secretary General for having quickly responded to Hon. Kanyomozi’s request by trying to bring

his people to the Civil Servant’s Benches.

Mr. Speaker, Sir, I would also like to join the rest of the Members in congratulating the Heads of State for having an insight into what is going on here, and finally deciding to appoint Eminent Persons to tackle the major issues we are now facing. I would also like to join Hon. Abdi in stating very clearly that it is a vote of no confidence in the Secretariat and the Council of Ministers. I would like to refer this House to the *Hansard* of our first sitting in Kampala, Uganda. I would like to read the terms of the Motion, which was presented on the Floor of the House then:

*“THIS ASSEMBLY, being appreciative of the immense efforts, work and resources so far utilised by the East Africans of all standing under the aspirations and forward-looking leadership of the presidents of the Partner States which harnessed and guided their resilient spirit and desire to nurture an environment conducive to social, economic and political integration in the form of the East African Community;*

*NOW THEREFORE, this House resolves to urge the Summit, the Council of Ministers and all organs of the Community to spare no effort in working with and mobilising East Africans towards the realisation of the terms, objectives and goals of the process of co-operation as enshrined in the Treaty.”*

Mr. Speaker, Sir, this was the first Motion debated in this House. I remember that the newspaper headline in all the three countries was: “*The East African Legislative Assembly wants Federation Now*” I remember with nostalgia meeting the President of

Uganda, who at that time agreed with this House and said we needed federation yesterday. He even told us that we were like big fish in a small pond and that if we continued like that, we were going to suffocate. All of that is contained in this *Hansard*.

I am saying that because in the middle of this debate, we also had Maj. Gen. Mugisha Muntu raise an issue on political federation, which had to be fast tracked and the Speaker ruled under Rule 8(2)(g) and referred that issue to the Committee on Regional Affairs and Conflict Resolution, which was duly debated in Nairobi and while debating in Nairobi, I also remember that we met the former President of the Republic of Kenya, His Excellency Daniel arap Moi of Kenya who said exactly the same thing which Hon. Museveni said when we were in Kampala that we needed the federation yesterday. In an informal meeting then, the President told us that they were in the process of appointing a team of three Eminent Persons to also carry this mantle, and they were to report by 30 November 2001! Mr. Speaker, Sir, we also toured Tanzania and while we were visiting, the President of Tanzania repeated the same things which his colleagues had told us. So, there is nothing new about what is happening.

We all agree that we must fast track the federation. What must be included here and noted is that the East African Legislative Assembly has played a very major role in this process of trying to fast track the federation, and that is why, through this resolution of the House, we tried to bend rules and bring the federation out of the sequence it was. The records are there and will be given to the Eminent Persons.

Mr. Speaker, Sir, I have with me here 15 protocols, and out of these protocols only three of them happen to have been concluded during the tenure of our current Secretariat. The others are from 1997 to 2001. I believe this was done in a hurry to close the other regime and start the other regime. All these protocols needed ratifications. It is shocking and mind boggling that all these 15 documents plus others have not been presented to date to any organ for ratification. This shows that there is some lack of good will somewhere. It makes one wonder, when you have a Council of Ministers meeting regularly, from what I am seeing, and continuously depending on a group called "Senior Officials" which later adds numbers and converts itself into the Co-ordination Committee, which again reconstitutes itself into the Council of Ministers, except some three guys who come at the end of it all! (*Interjection*)

**Ms. Kawamara Mishambi:** Mr. Speaker, Sir, is the hon. Member in order to refer to government officials as guys?

**Mr. Ochieng-Mbeo:** Mr. Speaker, Sir, I withdraw that remark. I was just saying that this group is made up of the same people who have been coming to Arusha whenever the Council is meeting, year in year out! For example, these people supposedly met here as late as 13-16 September 2004, knowing very well that there is a draft Bill on Immunities and Privileges. The so-called Foreign Affairs Ministers were supposedly meeting to discuss a matter which is before this House. That is according to the programme given to us by the Secretariat. When you start looking at situations like this, no wonder the Heads of State got very angry, because one of the things that was supposed to be discussed also was

a proposal made by the EALA on the establishment of the East African Political Federation! *(Interjection)*

**Ms. Waruhiu:** Mr Speaker is the hon. Member in order to suggest that the presidents of the three Partner States are capable of getting angry. Could he substantiate that?

**Mr. Ochieng-Mbeo:** Mr. Speaker, Sir, I had not realised that the LDP/NAK war in Kenya is now finding its way into this House! Now that it is there, I will withdraw my remarks. I thought I was saying it in very good faith because I wanted to prove that the Heads of State decided to take over the process of integration in order to move it faster. I did not mean that.

Mr Speaker, on the grid given to us - and I think these are some of the things that annoy Heads of State, from 11 – 14 October there will be an extraordinary meeting of the Council of Ministers in Arusha and while there is already a Bill tabled in this House for EAC to negotiate as bloc, the Council of Ministers will be discussing the same issue on that day, and yet the Secretariat was fully represented when the draft Bill was being prepared in Naivasha.

At that particular time, the Council of Ministers will also be discussing a report of another group of Eminent Persons who did the structure and terms and conditions of service for the EAC staff. To my amusement, those terms and conditions are also applicable to Members of this House. Would you believe that? They have also designed a document that will be presented to the Council for ratification.

Mr. Speaker, Sir, those Eminent Persons interviewed, among other people, the Head of the Public Service

and Secretary to the Cabinet of the Republic of Kenya, the three Permanent Secretaries of the ministries of Foreign Affairs of the Partner States, five out of the six Judges of the East African Court of Justice, three former executives of the EAC and two former deputy Secretary Generals, some members of the Finance and Administration Committee from the three Partner States, the Director General of the East African Development Bank and its management team, the Inter-University Council Management and other personalities in the ministries who are in charge of some sectors like Trade and Industry.

On top of that they purport that they met some Members of the EALA, including the Speaker, and that you decided and agreed that whatever the Members are getting is too much and it should be exactly that or even less. So, action has to be taken before the Council of Ministers approves this document. You can understand the situation we are in right now. To make it worse, this document was not signed by the Kenyan representatives in the group of Eminent Persons because it was doctored by you know who! *(Interjection)*

**Mr. Calist Mwatela:** Mr. Speaker, Sir, is the Member on the Floor in order to refer to documents that are not properties of this House? We have not seen those documents; could he table that document?

**Mr. Ochieng-Mbeo:** Mr. Speaker, Sir, this is a public document but if she wants me to table it, I will do so – *(Interjection)*.

**Ms. Kawamara Mishambi:** Mr. Speaker, sir, since the Hon. Member has decided to refer to a document by



some eminent persons, is it in order for him to make claims that the document is doctored without substantiating? Could he tell us who doctored this document?

**Mr. Ochieng-Mbeo:** Mr. Speaker, sir, I would like to go back to a situation which none of us has ever thought about. I would like to recommend that the Speaker, in his own wisdom, finds a way of extracting all that pertains to the EALA out of this, and we re-organise ourselves in the best way known to the Speaker, which I will leave to you to handle. But this document should not be handed over on 14 October because it will leave us in a very odd state of affairs to rectify the situation.

Mr. Speaker, Sir, there is something that we seem not to be touching base with. This Assembly within the next few days will be called upon to pass a Supplementary Budget. We have the Eminent Persons whose report must be submitted by 30 October 2004, and they are not cheap people as you know.

We will be called to approve that Supplementary for two months amounting to USD 400,000 for the three Eminent Persons to take care of their normal welfare, the trips and all that. But I see that we have another fourth "Eminent Person" that was not budgeted for in the person of the Secretary General, who has now joined the three Eminent Persons. I do not believe that this is what the Heads of State meant when they appointed the three Eminent Persons. They should be made to know that the fourth "Eminent Person" is not part of the group appointed by the Summit. He should be withdrawn, and I hope this budget will not cover him.

Mr. Speaker, sir, I recommend that since the Assembly is really in for fast tracking and activating a lot of other activities, we would include in this Supplementary Budget all the Committee budgets that were chopped off because of lack of funds. This is the time to bring them back and ensure that they reach the Heads of State because this one is going straight to them; it will not go through the Finance and Administration Committees and what not. This is the time to bring our Budget the way we wanted it and hand it over to the Summit just like we are going to hand over the USD 400,000. This is the time to do that so that we can bring real change in fast tracking federation and the activities of the EALA. With those remarks, I beg to support the motion.

**Maj. Gen. Mugisha Muntu (Uganda):** Mr. Speaker, Sir, I rise in support of the Motion, and I take this opportunity to thank the three Presidents for the position they have taken to fast track the integration process by appointing the three eminent persons to work on the federation.

Mr. Speaker, sir, I have got a friend who usually tells me that nobody can stop an idea whose time has come. If the question of the federation is ripe, it will happen. Let me first give a brief background to this issue of eminent persons. We seem to be treating it as if it is a new idea whereas it is not, whereas the issue of the eminent persons was initiated in 2002.

I remember we were in Nairobi and we met the former President of Kenya, His Excellency Daniel arap Moi, and he told us that the governments were going to set up a Committee of three eminent persons to work on the issue of federation. I also recall that around

that time, because there had been an initiative that had been started within this Assembly to work on the same, we were informed that we should slow down on that initiative. I was in that meeting and we had no problem with that. In fact I abandoned the initiative that had been going on within EALA and put all faith in the new process that had been started by the three governments because we had hope and were looking forward to undertaking this process much faster. Unfortunately it did not happen, because that was in June 2002. I want to take this opportunity to thank the presidents for actualising what had been promised then.

Mr. Speaker, sir, at the end of the day, it does not matter who manages the process. In as far as I am concerned the most important thing is the end product of the process. The end product of the process benefits all of us as East Africans: It benefits the countries, the government and individuals. So, I do not mind who manages the process. Now that there is such an opportunity, we need to see how we can integrate our efforts and see how it can be realised. My hope is that this is not another momentary burst of enthusiasm because we have seen some of these things happen in the base and within a very short time the burst of enthusiasm evaporates. But let us wait and see what happens.

Mr. Speaker, sir, the Summit indicated that they wanted to expedite and compress the federation process. I think it is good but it seems that they also indicate frustration as to why the process has been slow in the entire integration process. To me, it is not surprising that they are frustrated. What surprises me though is that tendency which I note in the African people; the way we keep doing the

same things the same way over and over and expect different results. What surprises me is that we expected success, considering the arrangements that have been in place. You can just see a few examples.

Some of our colleagues here have pointed it out here that the Summit meets once a year, and the Council meets twice a year, but look at what happens in our national governments. Cabinet meets once every week in Uganda, I do not know what happens in the other two countries but I am sure that might be the case. That means they meet roughly about 54 times in a year. That is the only way they can run governments. Here you have a Summit which meets once, a Council which meets twice and somehow people expect that things will move much faster with an understaffed Secretariat! It really beats logic to understand how people cannot be frustrated because they do not get success when there are such arrangements.

Mr. Speaker, sir, I do not understand what the difficulty is in appointing ministers responsible for EAC affairs. That does not require amendment of the Treaty or amendment of the national constitutions. It requires administrative re-arrangements. Where exactly is the problem; communication to that effect has been made to the three governments! One month ago we got excited when the Kenyan President appointed a Minister for EAC affairs, but the minister who was appointed is in charge of EAC and other regional Affairs and we have been asking for Ministers whose portfolios are specifically EAC! It is not surprising that the Minister who was appointed is not around. If he has to handle IGAD affairs, Sudan, Burundi and the Congo problems, how do we expect them to

concentrate on East African issues? So, what exactly is the problem?

This has been communicated over and over again to the presidents, not only by us but also by the Council of Ministers who made a recommendation that the issue of EAC Ministers should be addressed. But when the Presidents met in Dar es Salaam, they declared that there was not much work in the Community to warrant the appointment of Ministers. So, how can we fast-track the Community with all these pending activities that have not yet been done?

Look at the issue of the decentralisation of the customs collections, this is something which we finished a few months back but I do not know whether the report has been adopted by the presidents! If they endorse it as it is, that the governments should continue to decentralise the customs collections, then that will be an indicator as to what their mind set is on the question of integration. So, at some point, we shall not follow what they say but we will only get indicators as to what they think by what they do.

Mr. Speaker, on the issue of free movement of persons, you will realise that Uganda and Tanzania do not have identity cards, but the Sectoral Councils, and even this Assembly, indicated that the two countries should work together to have an EAC identity card to cut down on costs and secondly to expedite the process of having free movement of persons. As we speak now, I think Uganda is following up that issue separately and Tanzania is doing the same. So, what should we follow? Is it what they say or what they do?

There is a conflict between theory and practice here, and we need to keep our

eyes open and look at the two. Otherwise we may be prematurely excited about these issues. How do you normally know the area of strategic importance or the areas of priority if you are looking at a government or an organisation? You look at where they are concentrating their efforts and resources.

Mr. Speaker, when you look at the Budget of the EAC, that to me is an indicator as to where we are going. Let us hope that now that the three Presidents have said we fast-track the process, one of the things that will be telling for me whether there is seriousness or not is in the 2004/2005 Budget. I am going to look at the area of staffing for the Community; I am going to see whether the mandate of the EACJ is going to be enhanced through the Council of Ministers.

If we are willing to federate, then we should be willing to expand the mandate of the EACJ. If we cannot expand the mandate of the EACJ, then what would our fears be? Why can we not have a court here which can have a jurisdiction over human rights affairs and many other areas which we cannot look at? That is what can give an indication as to where our hearts lie.

Mr. Speaker, I see three possibilities here: Either the chief executives have a peripheral interest in the East African Community as a strategic development initiative, or they are interested but there is breakdown in communication among the organs of the East African Community and national governments, which therefore could have caused the chief executives to be out of touch with realities of the situation. That is the second possibility.

The third possibility is that they are interested but they do not know yet

how to cause a systematic and efficient advancement of the integration process. I do not know which of the three possibilities is correct. It would be quite helpful for us to ultimately manage and make a conclusion on where the chief executives are positioned in all these. Ultimately we will know them by what is done but not so much what is said in all these. If the conflict between theory and practice is not merged so that we see consistency in the two, then we will have to raise a lot of questions, and legitimately so.

Nevertheless, a lot has been done since 1992 and we must really thank the presidents who have been involved in this process like President Moi and the current ones, and also recommend them for what they have now done, but we must exploit this opportunity because the failures do not lie only at the level of the Summit. They only lie at the level of the Council and us, though in a different way.

We always limit ourselves in the sense that there are times when we think that it is not possible, and that has a danger in it. As human beings, we do what we think. The moment we do what the mind tells us is impossible, then we shall have halted ourselves in a trap. But if the mind tells you it is possible, even if you fail in the process you keep trying until there is success. I find that the way we operate limits us. Somehow, we think that things must come from the top but we are a Parliament and we are supposed to check the executive arm of the government, in this case the Secretariat and the Council of Ministers. I hope this time we are going to become active. We need to hold everybody to account so that should there be any sluggishness along the way, we should keep pushing hard until we achieve what we want.

I want to thank you, Mr. Speaker, because you have initiated a process where the Committees are supposed to meet and brainstorm and come out with recommendations which will be integrated by the lead Committee of Regional Affairs and then it will be presented to the Committee of Eminent Persons and from there henceforth, I hope there will be persistent and co-ordinated efforts amongst all stakeholders to make sure that this process becomes successful. By the grace of God, we will federate. With those remarks, I beg to support.

**Ms. Irene Ovonji-Odida (Uganda):** Mr. Speaker, I stand here to support the Motion moved by Hon. Mwatela and commend the Members of the Summit for appointing this Committee of Eminent Persons. It has been said by a sage that the journey of 1000 miles begins with one step. I hope this is a step in the right direction.

This Assembly has raised the issue of political federation in East Africa since its inception. I remember having a discussion about this with some of the Members of the Assembly including Maj. Gen. Muntu in 2002, and the question that I had about the proposal to fast track the federation of EAC was; what do we mean by a federation. I think that question has been answered by many members today. I think we need to move beyond rhetoric into reality.

For me, political federation is not simply about declaring that we now have the federation of East Africa; it has to be real. My understanding of political federation, and I stand to be corrected, is that we are talking about one country at the end of the day. We would be looking at one government, one central bank, one army, a common foreign policy and one foreign ministry

and one state. When we talk about it that way, then I fail to see how we will have a political federation without the other steps that are envisaged in the Treaty. Whether they go at the same time or some other parts can be speeded up, I think that is the question facing the Eminent Persons.

Mr. Speaker, with the federation we are going beyond the Customs Union, the Common Market and the monetary Union. We will be one state and that is the challenge which faces the Eminent Persons. But I commend the Summit for seeing the need to bring this issue to the fore so that it can be faced squarely. I will not talk for long because we have been here for a long time and a lot has been said.

Mr. Speaker, sir, the issue which I hope the Eminent Persons will address, and since they have informed us that they will be reading the *Hansard* for today, is for them to address their mind to the obstacles that exist. It is not that officials in the EAC have not worked out the strategies needed to integrate; if that was the case, then we would not be having the development strategy, we would not even have all the details in the Treaty. These things have been thought through. The issue is why is it not happening?

I agree with what has been said by some colleagues here and other East Africans that the problem is not with the common people of East Africa but those who stand to lose under the federation. These will be found in different places, but primarily in places of leadership. If the Eminent Persons are to fast track this process in reality but not in rhetoric, they have to address this squarely. It is those who come to Arusha and participate in meetings, receive per diems and would like that to continue, which will not if

we have one East African Government, or those who will lose control of their portfolios in the Partner States if there was one Government. So, they have to look at those who have something to lose. That is where the obstacle is.

Mr Speaker, there is the issue of sovereignty, and that is something that has been pulling us back even as an Assembly: the lust for power. But where does that power lie? It is in leadership! So, I would suggest that the Eminent Persons concentrate a lot of their discussions where that power is, for instance in the State Houses.

We also have issues of protocol, and unfortunately in many of our institutions in Africa, including in the African Union - but even in our own bodies - we lend so much attention to protocol and forget about substances. So, if the Eminent Persons are to get something moving, they need to break through that protocol and move into the hard issues. I think some of them were mentioned today by hon. Shamala and hon. Zubedi.

The third area is that of finance, which hon. Muntu referred to. We need the Partner States to put their money where their will is. If the will is in the issue of federation, then money must be put there. To that extent, in my view it is important to identify the institution that takes charge of this process. It does matter. So, the institutions of this Community, including this Assembly, have to be built-up. Part of the popularising of those bodies will lie in them being involved in the process of building the federation. So, it is important that this Assembly takes charge of this process.

This is not to say that we are not working with the Eminent Persons, but at the end of the day, much as they are

appointed by the Summit, we need to take charge of the political role involved in building the political federation as a political organ of the East African Community. Once they have prepared the report, we need to take back what is ours and play that political role to the hilt.

Finally, I would like to urge the Committee of Eminent Persons to capitalise on the positives that we have: There is the goodwill of the ordinary East Africans who believe that they have something in common. Ordinary East Africans do not hate each other. So, that is something positive. We are not in a situation which other countries have not faced. If you recall the suspicions in Europe, for example, when the wall came down, or now between the Germans, the French and the British, we do not have that problem among the ordinary people and that is something that can be capitalised on.

We also know from Nanyuki and other meetings that our National Assemblies do support the EAC. They have been with us at every step and there are many Members of Parliament at the National level whose hearts are in this process. Those are institutions which are well-founded and they have resources beyond what we have here and they should be brought into this process as well. There is expressed political will of the Summit which I do not want to talk about very much.

Finally, I would like to say we have organs of the EAC, for instance this Assembly, and these are the strengths that I would urge the Eminent Persons to build on, work with and work through if they are to deliver the political federation mechanism of the process through which it can be fast tracked to the people of EAC, and then

we can say we have started this journey and we are facing the right direction. Thank you.

**Prof. Margaret Kamar (Kenya):** Mr Speaker, sir, I would like to congratulate the Heads of State for doing what they have done. I would like to agree with Maj. Gen. Mugisha Muntu that since we have agreed to move on with this process, then we must take advantage of what is ahead of us and move on with the Eminent Persons. So, I think we owe it to the Heads of State that they have come up with this.

Mr. Speaker, I would like to mention one thing which I think must be addressed by the Committee of Eminent Persons. We have mentioned what the past was; the history of why the former Community collapsed; fears that must be addressed; what the situation currently is; the obstacles of the day, and if they are not addressed properly we might collapse. But there is also one aspect that I think must be addressed very carefully, and that is the current organs and institutions of the Community. Are they favourable to fast tracking or must we eliminate some and come up with those, which must work for fast tracking the Community?

Mr Speaker, Sir, we are limited so much by the Treaty, and I think it may be necessary for the eminent persons to address the limitations that we have in the Treaty that may not help us in fast tracking so that we are able to deal with them.

When we talk about the institution of the Secretariat for example, I did mention once that we seem to have misused and used them to go around the world looking for things.

Sometimes the Secretary General and his deputies crisscross at the airports and you ask yourself whether they are going for East African issues or what are they going for? I think if we are very serious about fast tracking, these people must be full time, eight hours in the Community doing what must be done. The issue of a conference on agriculture, for example, we have experts who must take care of that so that we have people who can concentrate.

If we seriously want to fast-track, we must look at the institutions, the organs and their duties as stipulated in Article 71 of Treaty. The duties of the Secretariat are well articulated but most of what we hear they are doing has nothing to do with what is there. I am saying this because if it is possible that our documents are correct, then the way we are implementing them is not correct.

Mr. Speaker I said I would take two minutes to comment on the institutions and organs. What must we put in place for us to fast track, and what must we eliminate for us to fast track? What can make people sit down and concentrate? Thank you.

**The Counsel to the Community (Mr Wilbert Kaahwa) (Ex-officio):** Thank you very much Mr. Speaker, sir. As I start my contribution, allow me to make it abundantly plain that I am sitting in this House as I normally do as Counsel to Community, who by virtue of Article 48(1) (b) (ii) of the Treaty is an Ex-officio Member of this House. I am not sitting here as Acting Secretary General! My specific instructions are to hold the portfolio of Secretary General and there is a difference between holding the portfolio and acting as Secretary General.

Mr Speaker sir, allow me to indicate to this august House that Chapter 3 of the Book of Ecclesiastes in the Bible, which has a corresponding *aya* in the Holy Quoran, states that there is a season and a time for every thing under Heaven. This time around it is not appropriate for me to assume and allow Members to refer to me as Acting Secretary General - *(Applause)*.

Mr. Speaker, let me observe that the time between the Second Sitting of this Third Session of the House and this Third Sitting has been a relatively short interval compared to the interval we had between the First Sitting and the Second Sitting. In my humble view, this is a clear manifest and resounding indication of the Legislative Assembly's fast tracking methods of work.

Thirdly, allow me to join the rest of the Members in congratulating you for scaling Mount Kilimanjaro up to Uhuru Peak, a feat, which to date has not been accomplished by many people. And this is notwithstanding your reported near defeat between the Ratzel and Rebmann glaciers.

The importance of such extra-curricula activities is that they rejuvenate our spirits, efforts and resolve to ensure the discharge of the Assembly's functions under Article 49 of the Treaty in particular, and implementation of the whole Treaty in general. In that regard, allow me to assure you that come next February when you reportedly intend to climb the mountain again, you will be joined by the likes of me, and I am sure honourables Mahfoudha, Bagalaaliwo, Zubedi and my friend Hon. Abdirahim Abdi, given his abundantly eloquent physique – *(Laughter)*.

Mr. Speaker sir, I intend to support the motion from three view-points: First of all I will have a legal angle to it, then a general perspective and a proposed way forward. From the legal angle, I can observe and laud Their Excellencies the Heads of State for fulfilling the role expected of them among their functions.

Under Article 11 of the Treaty, and for the avoidance of doubt, according to paragraph 1 of that provision the Summit is expected to give general directions and impetus to the development and achievement of the objectives of the Community, and under paragraph 3, the Summit is expected to review progress achieved towards the eventual objective of a political federation of the Partner States. In this regard, I would like to join the rest of the House in lauding the three Heads of State in continuing, not only to forge and sustain political goodwill but also to guide and give directions on the integration process with the eventual aim of realizing the political federation.

Mr. Speaker sir, the intervention of the Heads of State is quite timely given the global challenges and the need to ensure that the Community is receptive to the expectations of the people of East Africa if it has to remain people-centred. In this regard, let me indicate to the House that recently at the Third Ordinary Session of the Assembly of Heads of State of the African Union (AU), the AU Commission presented a strategic plan and vision for involving the Regional Economic Communities.

The AU intends to deal with what it calls, in the strategic plan, “the plethora and cacophony of regional economic communities” in a rational manner. Those are not my words, they are the words which were used by the

African Union Commission and adopted eventually by the Assembly of Heads of State.

Now when you read through this strategic plan, you realize how much we need to do as East African Community in order to fit within the continental plan. We need to fast track the integration process, otherwise we will be left by the wayside as far as NEPAD programs, and as far as programs involving human rights and development are concerned. So, I join the honourable Members who have already spoken before me in lauding the Heads of State for coming out with the directive to fast track the integration process.

Mr. Speaker sir, on the general perspective; how do I perceive what has happened now? A lot of blame has been poured on the Council of Ministers and other pillars of the executive arm of the East Africa Community. I have taken all this in my stride as I normally do and as I should, but let me remind the august House that what has been happening between the time the Treaty came into force and now is that we have been religiously following what is contained in the guiding provisions of the Treaty. Members have already alluded to this, and this is clearly reflected in the preambular paragraphs 15 and 16 of the Treaty, and Articles 2(2) and 5 of the Treaty.

In other words, as honourable Members who are not strangers in the thickets of law will know, the Partner States and all the organs of the Community have only been living to the maxim in international law governing international contracts of this nature of *pacta sunt servanda*. That is not to say we would always, as EAC, act as in a straightjacket.



Time has now come to reflect on this approach following five years of implementation of the Treaty. We take into account what has been guiding the Partner States and organs and institutions of the Community. We have to ask ourselves: with the guidance and directive of the Heads of State, how much has the approach delivered? How effective has it been? How satisfactory is it? This is where I welcome the role of the Eminent Persons as far as giving advice on guiding the EAC is concerned.

Mr. Speaker sir, I know I may get a lot of murmurs when I say this, but let me point out that the Council of Ministers is not oblivious to the problem. The Council of Ministers is seized of the need to reflect on what has been guiding us and see ways and means of changing it for the betterment of the implementation of the Treaty. This is the reason why the Council of Ministers, through its Sectoral Council on Legal and Judicial Affairs, took the initiative to draft terms of reference to evaluate the implementation of past decisions, to examine whether the five-year period for the establishment of the Customs Union can be abridged, and to determine the appropriate time frame for the operationalisation of the common market, monetary union and against all these, to determine an appropriate mechanism for the realisation of the political federation. In other words, the Council of Ministers is fully aware of the need to re-examine the approach to political federation so that the process can be fast tracked.

Mr. Speaker sir, on the proposed way forward, firstly let me applaud this Assembly for embracing the review process which honourable Members are doing through contributions to this Motion, and also for contributing ideas

to the Eminent Persons. The way I look at it is this: I cannot anticipate the outcome of the consultations on the fast track process; I cannot also anticipate the recommendations that will be made by the Fast Track Committee, but I can foresee change management in the EAC affairs. I would like to invite the honourable Members to mark my words carefully. I have not said "change of management". I have said "change management" which is a process within strategic management. Whatever the Committee comes up with, inevitably there will be, in accordance with the directive of Heads of State, need for change in the way we handle the integration process.

Mr. Speaker, unlike hon. Calist Mwatela, I have not had the benefit in my life of going through a seminary. I have not even been an altar boy. And at my age and in view of the escapades I have had in my life, I may not even qualify to be an altar man now but I have learnt a saying in Latin which goes like this: "*tempora mutantur et nos mutamur in illis.*" Translated into English this expression means "*Times change, and we have to change with them*". Confucius the Chinese scholar extrapolated this maxim to say "*They must often change who need and have to be constant in happiness and wisdom*". To me this means time has come for us to reflect on how we do things and that inevitably entails change.

In my own area, both as a lawyer and as Counsel to the Community, I can foresee a need to look at the supreme law of the Community, which is the Treaty for the Establishment of the East African Community. Through my participation in the Committee on Legal, Rules and Privileges, I have

already indicated that there is a need to re-look some of the provisions. The role of the Fast Track Committee comes in at a very appropriate moment to facilitate and to push ahead the work of the Community. This presupposes necessary amendments of the Treaty.

There are four general aspects of the Treaty which I have, through working with different EAC organs and Committees, seen as requiring review: The first area is the nature of the Treaty itself as a document in International Law. In that regard there are certain aspects to look at: the strategy and objectives, the question of sovereignty of the Partner States, whether Partner States can cede sovereignty or at least practise their sovereignty at EAC level appropriately.

The question of institutional framework, including the roles, functions and cross functions and cross-relationships of the organs and institution of the Community is another aspect worth studying. I felt elated yesterday when hon. Mwakyembe informed this House, as he has always done, that as early as 2001, I, Kaahwa, pinpointed in writing this question as part of those challenges which face the East African Community.

Mr Speaker sir, like Martin Luther King in 1963 had a dream on civil rights; I have also had dreams since 2001 on the need for cohesion and coordination among EAC organs and institutions. I have had a dream that time should come when the organs of the Community work together without misunderstanding each other, without working from parallel angles. I have always had that dream. And for this matter, I had much hope in Sopa One. I hope there will be a Sopa Two to

enable us forge a purposeful intra-organ rapport.

The second general aspect when we look at the Treaty is with regard to the administrative and legal arrangements; matters pertaining to decision making, hierarchy of institutions, prioritisation of milestones of integration and inevitably the time frameworks. We need time frameworks. When you look at the Treaty, except for the Customs Union, most of the other cardinal milestones do not have time frames tagged to them. We need in all aspects of the Treaty time frames which can guide us and on which we can gauge our progress.

The other general area I have very quickly looked at is with regard to provisions on various sectors. The Treaty is so rich in providing for different sectors. Perhaps it is only comparable to the COMESA Treaty in covering so many areas of cooperation. But then the areas are not succinctly elaborated: there are no time targets and some of the language requires more succinctness. Some of the language, like 'undertaking', or 'will', leaves the whole instrument in what the lawyers call "escrow form" and not a desired positive and action-oriented style. There is need now to reflect on those with an intention of ensuring that there is total commitment by all the stakeholders. There are also other specific areas like a need to have a monitoring mechanism for implementing decisions, the need to re-orientate the process of approximation of laws and so on.

The fourth area as far as reviewing the Treaty is concerned relates to the structural improvements and drafting requirements and making sure that there are inter-linkages which reflect a

legal regime. With those remarks, I support the Motion.

**The Speaker:** Honourable Members, it is now my pleasure to call upon the Mover to reply.

**Mr. Mwatela:** Thank you Mr. Speaker, Sir. I intend to be very brief because you specifically requested that we complete this business by 5.30 p.m. and I guarantee you that I will finish before that time. Before I go into the detail of thanking the Members for their contributions, may I just make two observations, one general and one specific?

Mr. Speaker, Sir, I think we should not lose sight of history when we debate the issues of integration. In the early 1960s and late 1950s when the African countries were getting or struggling for their independence, they were at the same time talking of integration, and we know that there was a very strong move towards federation. We even know there was at one stage a constitution that was drawn for the federation. But during that time it was the time of the Cold War; the powers of the world were also struggling for spheres of influence, and this lasted until the 1980s.

Then we saw a new insurgence of regrouping, but of a different type based on economics and trade, and this time as we are talking, the main thrust of the battle is not on the military as Lt. Gen. Adan and Maj. Gen. Muntu would prefer, but on trade and economics. And those who will be found weak will be swept not by the military but by the stronger ones. It's going to happen, and that is why you can see people all over the world are regrouping and trying to become as strong as possible economically. East Africa is not an exception; we

therefore should look at this issue of integration as a matter of survival and not cosmetic ventures.

I would like us to distinguish between mere economic integration and political federation. We can see that currently our donors are very supportive when we talk of economic integration because they see direct benefits; bigger markets for their goods and they see themselves benefiting from you people having one economic bloc. But I want us to see the benefit, as East Africans, of a political arrangement because it will enhance our ability to negotiate as a bloc with the rest of the world.

Mr. Speaker as much as our main target is economics we should look at the political angle to enhance that economic power. That was the general element I wanted to put into the debate. Mr. Speaker, Sir, we are representatives of the people of East Africa on economic and political matters. The Treaty for this Community is people centred and private sector driven, and you the Assembly are the law makers. It means you have to keep in constant communication with the people and with the private sector.

How do you keep that constant touch? You have to use your time. The current situation does not allow these Members here to keep in touch with the people and to keep constant communication with the private sector. Immediately I leave this place I have to think of my stomach; I have to go out there to fend for myself.

The remuneration of members is a key thing in ensuring that we succeed in the integration process. If we have Members who are well remunerated

they will be able to spend their time on issues of East African Community.

Right now I can see Hon. Ogalo holding his mouth very critically and thinking of what to do immediately he gets back to Kampala because he has to go to his Chambers so that he can make sure that ends met. The same applies to Hon Marando! Hon. Abdi with his transport business is getting quite a bit of a headache; Hon. Zubedi is also in the same footing. I know all these people, our members, are very involved in other issues because they are poorly remunerated. We are only paid USD 2000 while some hon. Members here pay up to Kshs90,000 for monthly rent! How much does that leave the hon. Member to use with his family?

Mr. Speaker, Sir, I hope the Eminent Persons will read the *Hansard*. I want to recommend that Members of this Assembly should be empowered, not just within the law but also in terms of remuneration, so that they can do their work. That is what I was referring to as specific to this House. If you remember, at Lake Manyara when we had our first Assembly we did talk about these things and Members were told that we would be given USD1000 as a token. But in July 2003 the USD1000 became 2000 and now it was baptized and called salary.

Mr. Speaker, sir, when you want to milk a cow you have to give it grass! I have not heard any single voice dissenting from supporting this Motion and may I say I would like to thank all those who spoke and even those who did not speak.

Mr. Speaker, sir, in 1962 Mwalimu Nyerere commented in one of the meetings thus: "*What is Tanganyika after all, East Africa is more*

*important.*" I know we have our countries and we love them. I love Kenya, you love your Tanzania and the Ugandans love their Uganda but East Africa is more relevant.

Lastly, may I say that only useless things have no problems because if you are going to embark on a serious mission, you have to have problems to solve, so our mission has problems! Let us move towards a federation and we agree with the Heads of State or what they have done. With those remarks, I beg to move.

*(Question on the Motion put and agreed to)*

## ADJOURNMENT

**The Speaker:** We have come to the end of this sitting, Hon. Members, and considering the importance of this debate, I intend to write a letter to the Chairman of the Summit with a copy to the other Heads of State to express our appreciation and also to commend their commitment and to renew our commitment and reiterate our desire to have a speedy integration of the East African Community. I also intend to send them copies of the *Hansard* of this Motion for them to read as testimony of our renewed commitment to the integration process. I am sure this *Hansard* will also be made available to the Eminent Persons.

After the House is adjourned, I will request you to come back after ten minutes so that we can hold an informal meeting to discuss a few housekeeping matters.

## **ADJOURNMENT**

So that brings us to the end of the House business for today. The House is now adjourned until tomorrow at 2.30 p.m.

*(The House rose at 5.30 p.m. and adjourned until Thursday, 30 September 2004 at 2.30 p.m.)*