



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

105TH SITTING – SECOND ASSEMBLY: THIRD MEETING – FOURTH SESSION

Thursday, 3 February 2011

*The East African Legislative Assembly met at 9.00 a.m. in the Old Chamber of the
Parliament of Kenya, Nairobi.*

PRAYER

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

(The Assembly was called to order)

PAPERS

The following Papers were laid on the Table: -

By the Chairperson, Committee on Communication Trade and Investment (Dr. James Ndahiro):

The Report of the Committee on Communication, Trade and Investment on the
Petition by the Tanzania Business People dealing in imported Chicken and Eggs.

By Dr. George Nangale:

The Report of the East African Legislative Assembly Delegation to the Second African Parliamentary Speaker Conference and E-Parliament Conferences.

By Ms. Jacqueline Muhongayire:

The Report of the 123rd IPU Meeting.

BILLS

SECOND READING

The Lake Victoria Basin Commission Bill, 2007

The Minister for East African Community Affairs, Burundi and Chairperson, EAC Council of Ministers (Ms. Hafsa Mossi) (Ex-Officio): Mr. Speaker, Sir, on the basis of Rule No.34 of the Rules of Procedure of this August House I request to withdraw the Motion which the then Chairperson of the Council of Ministers on behalf of the Council moved on the 21st June 2007 to introduce a Bill for an Act entitled the Lake Victoria Basin Commission Act (2010).

This is a Bill that was initiated by the Council of Ministers pursuant to Articles 14(3)(b) and 59 of the Treaty for the establishment of the East African Community. Mr. Speaker, Sir, the object of this Bill is to make legislative provision for the establishment of the Lake Victoria Basin Commission and for the other related matters. The Lake Victoria Basin Commission an inter-Governmental Organization was established by the Protocol for sustainable development of the Lake Victoria Basin in 2003. It is an established policy of the Council of Ministers to base the establishment of the EAC institutions on legal premises.

Mr. Speaker, Sir, following the introduction of this Bill, in its first reading and in accordance with the Rules of Procedure of this august House this Bill was committed to the Standing Committee on Agriculture, Tourism and Natural Resources. Since then the Committee has addressed the content of this Bill. The Committee has recommended the amendment of the clauses from two to 23 and clause 25 and these provisions that relate to the institutional framework proposed for the management of the Lake Victoria Basin.

In this regard, the Committee has interacted with the Sectoral Council on Lake Victoria Basin, with the Ministers responsible for EAC affairs and with officials from both the EAC secretariat of the Commission. The Council of Ministers having carefully considered the amendments that have been proposed by the Committee is of the considered view that:-

- (a) The proposed amendments such as the replacement of the sectoral committee with the governing board that excludes Ministers in its composition and the establishment of a stakeholders advisory consultative committee are inconsistent with the provisions of the Protocol and the sustainable development of the Lake Victoria Basin which is an integral part of the Treaty for the Establishment of the East African Community.
- (b) The proposed changes in the institutional framework are already addressed in the Bill and any need to streamline the clauses does not require a fundamental change from what is provided in the protocol.
- (c) Given the nature and implications of water management, the Lake Victoria Basin Commission is an inter-Governmental organization that is fully owned and funded by the Governments of partner States, to this extent in the current set up the Sectoral Council on Lake Victoria Basin plays a significant role in policy formulation. It is important, therefore, to continue involving this Sectoral Council and indeed the full Council of Ministers in the management of the Lake Victoria Basin.
- (d) The establishment of the proposed governing board and the advisory consultative committee is likely to give rise to the imposition of charges on the community, a development that would be contrary to the provisions of Article 59(2) of the Treaty.
- (e) To the extent that the proposed amendments seek to amend the protocol any proceeding with them by way of legislation will be in breach of Article 150 of the Treaty and Article 51 of the protocol both of which provide the mechanisms for their respective amendment. The Council is therefore of the considered opinion that adoption of the proposed amendments has the effects of transforming the Lake Victoria Basin Commission as conceived under the Treaty and the Protocol into a substantially different institutional arrangement. The committees' proposed amendments may be well intended, however, we need to appreciate that the Treaty is the foundation of all EAC legislation.

Accordingly, any attempt to transform the institutional framework for the Lake Victoria Basin into a mode different from that provided in the Treaty and the Protocol may, if the Bill is enacted, lead to withholding of assent as was the case with the East African Civil Aviation Safety and Security Oversight Agency Bill.

Mr. Speaker, Sir, the Council, the Sectoral Council on Lake Victoria Basin and the Committee on Agriculture, Natural Resources and Tourism have since the year 2007 had intensive consultations on this Bill and the proposed amendments. This has been with the view to resolving the divergent views. However, the situation is that the divergences have not been resolved. The parties are aware of the need to contribute to and support the legislative programmes of this august House. However, given the current impasse the Council has decided to withdraw this Bill.

The Council as the initiator of the Bill remains conscious of the need to further consult on these matters outside this august House's legislative programmes. In this regard, the Council will at an appropriate time and on the basis of the outcome of the consultations with all the relevant organs and institutions of the Community and stakeholders seek leave to reintroduce the Bill on the Establishment of the Lake Victoria Basin Commission with such amendments as will have been deemed appropriate.

I beg to move.

The Secretary-General (Ambassador Juma Mwapachu) (Ex-Officio): Seconded.

The Speaker: Hon. Members, as you have heard the Council has decided to withdraw the Bill from the Floor of the House. Therefore, it is withdrawn.

I would also like to tell the Council of Ministers that I listened very carefully to what the Minister was saying when withdrawing the Bill. She talked about assent and the CASSOA Bill. I would like to say that the Treaty is very clear in terms of our roles. In terms of assent the Summit is also allowed not to assent to a Bill if it feels it infringes on the Protocol. Even if it does not infringe on the Treaty as long as they have their own reasons they should do so they will do so.

The Committee Report that you have referred to however, has not come to this House. It would be better if the Council would have come here and convinced this House. It is only a Committee Report's recommendation to this House. The Council could have tried to convince this House on what it felt was the right position instead of saying we said from a statement here.

Any way it is your Bill, you have withdrawn it and we hope to see it sometime soon.

MOTION

FOR CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENT ON THE WORKSHOP ON EAC CROSS BORDER TRADE

Ms. Catherine Kimura (Kenya): Mr. Speaker, Sir I beg to move:-

THAT, the Report on the Committee on Communication, Trade and Investment on workshop on EAC Cross Borders Trade be adopted.

Dr. James Ndahiro (Rwanda): Seconded.

(Question Proposed)

Ms. Kimura: Mr. Speaker, Sir, the EALA is one of the seven of the EAC. Under the provisions of Article 49 of the Treaty for the establishment of the EAC it is mandated to

exercise both legislative and oversight functions on all matters within the scope of the EAC. The overall objective of the assembly is to ensure that all required legislations of the Community are enacted as quickly as possible for the efficient functioning of the institutions of the Community. To achieve high standards in its performance therefore, capacity building in terms of trainings, workshops and study tours are at the forefront of deliberate efforts aimed at strengthening the capacity of Members of EALA to discharge their mandate.

Based on this background the EALA members of the Committee on Communications, Trade and Investment as part of their oversight role conducted workshop to assess the EAC cross-border trade in the context of Customs Union and Common Market implementation.

Participation

The workshop drew participants from the EAC partner States' Ministries responsible for Trade as well as relevant officials from EAC secretariat and the EALA members of the Committee on Communications, Trade and Investments.

Mr. Speaker, Sir, the overall objective of the workshop was to assess the policies, strategies and lack of legal instruments for facilitating the East African Common Market implementation.

The specific objectives of the workshop were:-

1. To find out how the EAC partner States trade policies are embracing EAC common market.
2. To share and exchange experiences and explore opportunities challenges and come up with recommendations in the implementation of the common market.
3. To enhance the professional and technical skills of the EALA members in the performance of their legislative and oversight mandates in the EAC common market implementation process.

Participants at the workshop discussed the opportunities and challenges among other things in the EAC cross-border trades in the context of the Customs Union and Common Market.

The Concept of Cross-border Trade:

It was observed that cross-border trade is buying and selling of goods across geographical border, national boundaries, and it involves movement of goods and services across borders guided by national policies, laws and regulations of the trading parties. Trade across has become key with the help of globalization, trade facilitation and economic integration.

Mr. Speaker, Sir, the Customs Union and Common Market are part of the economic integration process. Both focus on market enlargement, expansion of cross-border trade while the Customs Union integrates the product market with free movement of goods between the member States.

Essential features are:

- Elimination of tariff on the Inter-region trade
- Common external tariffs.
- Removal of non-tariff barriers.
- External trade policy convergence and harmonization.

The Common Market builds on the Customs Union by adding integration of the factors of production that is capital, labour, enterprise and services, and deeper micro-economic convergence. Elimination of obstacles to freedom of movement of factors of production is done through removal of legislative and administrative restriction upon the factors, adoption of positive harmonization measures for effective non-discrimination of the market of labour, capital, services and enterprise.

The free movement of goods, services, people and capital provided under the East African Common Market Protocol will enhance growth of informal trade which is critical to the well being of small businesses and traders that constitute a key part of our economies.

The common market also provides a framework for harmonization and collaboration in the implementation of the regional trade policies. Customs Union and Common Market are legally binding voluntary commitment integration processes but common market is deeper and stronger functional integration.

2. The total elimination of internal tariffs was attained on 1st January 2010 after a gradual progressive reduction programme over a five year transition period. Removal of charges of equivalent effect such as Import Commission on imports in Uganda, suspended duties imposed on Tanzania and surcharges in Kenya.
3. Removal of discriminatory domestic tax measures on goods from partner States.
4. A common external tariff – created stable tariff regime devoid of intervening tariff changes within physical levels at national level.
5. Cross-border investment due to zero tariff policy on capital equipment.

6. Tariff policy, tax legal regimes and reforms are functioning at the regional level with uniform application and joint review process through a consultative pre-budget mechanism hence administrative efficiency.
7. Reduced discretionary leverage exercise led to reduction on price differential on goods.
8. Significant reduction of smuggling hitherto pertaining prior to the commencement of the Customs Union.
9. Consistent improvement in revenue yields with positive performance on international trade taxes and increased volumes of imports.
10. Time bound programmes and other developed programmes to address other non-tariff programmes.
11. 24 hours working cycle at the ports and borders.
12. Information exchange between customs administrations, automation and interconnectivity and introduction of simplified certificates of origin for small scale cross-border trade.
13. Harmonization of standards.

Mr. Speaker, Sir, the opportunities that have been accrued are:-

1. Similar economic structures that structures that will enable inter-linkages and synergies across the borders micro-economic convergence criteria.
2. Impetus and direction at the political level.
3. Existence of organs and institutions at the regional level to facilitate the implementation process. These are EALA, EACJ, IUCE and Council and the Secretariat.
4. Vast experiences of the first EAC which we can draw lessons from without reinventing the wheel.
5. Technological advances that can promote information sharing.

Challenges of Customs Union:

They are: Limited awareness, non-tariff barriers, limited regional mechanisms to enforce compliance, fear to cede some of powers to the centre, lack of free circulation of goods, non-harmonized domestic taxation, full capital account liberalization is not yet attained in some partner States which hampers cross-border capital flows and over-dependence and reference to National legislations in the implementation of Protocol provisions rather than

development of regional laws as was the case with the Customs Union. National laws may not address and support the principal of non-discrimination.

Challenges of the EAC Common Market:-

1. Poor infrastructure which increases costs of doing business.
2. Un-harmonized laws not consistent with the regional policy framework.
3. Alignment process is national driven rather than being regional driven.
4. National focus on revenue maximization that compromises trade facilitation.
5. Limited awareness in border areas and the use of legitimate roots.
6. Inadequate regional institutional framework to manage the implementation of the Customs Union and the Common market particularly in the secretariat. The whole process seems to be partner State-driven.
7. Structural rigidities, capacity inadequacies, unsuitable systems and processes.
8. Concentration of decision making powers including operational related to the Council. This hampers timely implementation of programmes.
9. Limited jurisdiction of the East African Court of Justice to handle cases related to the Common Market. The protocol makes reference to national courts.
10. Very low trickledown effect of the policies and decisions made at the centre.
11. Lack of enforcement mechanism to ensure compliance to instruments of the Common Market.
12. Restriction by other border agencies such as pest control and poor sanitation on cross-border trade.
13. Limited financial resources to fund the integration process. This has led to reliance on donor support which may be distortional and unsustainable.

Mr. Speaker, Sir, the Committee looked at the implementation of the East African Common Market and the following was observed:-

It was observed that:-

1. there is need to develop a national plan of the Common Market with sequenced priority interventions which would be undertaken as a spring board for subsequent activities and restructure the institutional framework to facilitate implementation of the Common Market.
2. Undertake a comprehensive public awareness programme to inform the people about the benefits of the Common markets.
3. The Ministries of EAC should monitor implementation of programmes at national level and give a feed back on the same on a regular basis.

Mr. Speaker, Sir, the Committee observed that the East African partner States' trade policies had an impact on the implementation process. The participants observed that the EAC as a region has no trade policy and as such partner States will cling on their national trade policies. The greatest costs is loss of sovereignty which in effect means that national policies and laws have to be in accordance with regional treaties and protocols.

All EAC partner States' trade policies face common challenges of non-tariff barriers which are a great hindrance to the development of trade in the region. Therefore, non-tariff barriers must be addressed with a view of eliminating them immediately if the benefits of the EAC Customs Union and Common Market have to be enjoyed in the regional development agenda.

It was also observed that the EAC secretariat is in the process of establishing a regional customs authority to deal with non-tariff barriers.

Challenges of Cross-border Trade:

Mr. Speaker, Sir, the participants at the workshop identified the following challenges that affect cross-border trade in East Africa:-

1. Use of un-authorized routes and smuggling of prohibited goods.
2. Insufficient capital to ensure consistent supply chain of merchandize throughout the year.
3. During bumper harvests traders involve in cross-border trade face serious storage problems of goods which end up compromising their quality and market prices.
4. Lack of sufficient market information to enable traders benefit from existing trading opportunities within the region.
5. Lack of knowledge of the trade laws, taxation systems, EAC and COMESA Customs Union and the free trade area.
6. Non-harmonized internal trade laws.
7. Poor feeder roads connecting to border markets.

In conclusion, as EAC develops industrialization policy and strategy it should be accompanied by harmonization of trade laws under regional trade policy. While the statistics show trade growth between EAC States, more can still be done if the business climate is improved. Intra-EAC trade is still below ten per cent.

The common market can be the cartelist for further trade growth in the EAC growth. EAC cross-border trade survey should be carried out to inform regional policy.

There is need to invest in supporting institutions and infrastructure for trade is critical.

Mr. Speaker, Sir, the following recommendations were drawn from the workshop:-

1. EAC partner States should harmonize their trade policies.
2. It was recommended that the process of domesticating the protocol and identification of the national laws that require amendments at partner State level should be undertaken in parallel with the Council making and issuing operational regulations and or directives.
3. The secretariat should ensure that appropriate drafts of the regulations directives are available for the consideration of the Council.
4. Institutional capacity requirement should be road mapped.
5. The common market can be cartelist for further trade growth in the EAC region.

6. EAC informal cross-border trade survey should be carried out to inform regional trade.
7. The formation of cross-border trade cooperatives.
8. Establishment of information centre at all main borders that will help trades to access information on market prices, where to access finance, taxes and any other relevant information.
9. Developing cross-border infrastructure such as roads and railways is critical.

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

(Question proposed)

Dr. Ndahiro: Mr. Speaker, Sir, at the workshop Members of the Committee were inter-phasing with members from partner States discussed many things that would not be covered in this Report. What is in this Report is a summary of what took place in a two-day workshop.

Hon. Members, there are serious problems in our integration process. Partner States have continuously relied on WTO arrangements and considered those as if they were enough to replace trade policies. We faced a situation whereby each partner State have different trading regimes, incentives, etc, whereby this practice if not harmonized would cause serious problems among not only traders but the so called investors. If I may cite an example, if I were a foreign investor, I would come to Kenya register as a foreign investor be given five years tax holiday, perform my business activities in Kenya for four and a half years, sell and go to Uganda. Get a similar arrangement, trade for four years and nine month, sell my business and go to Rwanda.

If I go through all the countries, I will have enjoyed 25 years doing business in the region without paying a penny. We thought that harmonization is important if we are serious on integration process. We should have a regional investment code that one opens business in Kigali or Nairobi; he is seen to be operating in five partner States.

Mr. Speaker, Sir, another issue that confronted us is a mind of outsourcing our own responsibilities. Trade matters have been given to other groups some inform of NGOs, after the negotiation with the Customs Union every other activity is left to other stakeholders inform of donors, trade unions and there is little that we are doing at the community to really put our priorities together and manage them. An example is whereby a Customs Management Authority was envisaged but up to today, we hear echoes of groups of people trying to manage our trade regimes. They are trying to come up with strategies and policies of managing our transport, customs affairs, taxation etc. that is why we are calling upon the Council of Ministers to take charge of our integration process and strategies. Otherwise, we might negotiate, put all the necessary requirements on paper and turn our backs leaving it to other people who might use it for selfish interests.

Mr. Speaker, Sir, I am calling upon Members of this House to seriously look at this Report, adopt it and challenge the Council to implement recommendations in this Report.

I beg to support.

Mr. Mike Sebalu (Uganda): Mr. Speaker, Sir, thank you. I would like to associate myself with the recommendations of this Report. I would like to thank Hon. Kimura for presenting it very ably and illustrating it very well. I also want to thank the Committee for the initiative of undertaking this workshop whose recommendations we should support and have a mechanism of following them into concrete actions by the relevant organs of the Community that have the mandate of implementing them.

Mr. Speaker, Sir, the common market is a very important stage of our integration process. If anything, it is at that stage that the ordinary East Africans are supposed to partake of the benefits of integration. It is at this level that rights granted to East Africans are to be enjoyed at different levels and different categories. It is at this stage that we do have freedoms that are given to East Africans and it is at this stage that we should create a sense of oneness in terms of an entity of the region. Issues to do with free movement of people and goods and services give the necessary impetus for the people to appreciate that actually they are moving from one stage to another. The Customs Union is operational but its benefits are more or less limited to the trading communities. Therefore, the ordinary people may not actually get to appreciate and benefit from the provisions of the Customs Union.

When it gets to the common market that is where we need every one to get on board. We must do whatever we have to do to ensure that the ordinary people start feeling the integration taking route.

Mr. Speaker, Sir, this workshop could not have come at a better time than this. The recommendations must be followed up to ensure that at the end of the day everyone gets to know that something is going on in terms of the Common Market.

One thing that we have to do is to do with the recommendation on what needs to be done on page nine. The Committee request that there should be undertaken a comprehensive public awareness programme to inform the people about the benefits of the common market. This is a very important action point for all of us to follow.

Mr. Speaker, Sir, my view is that we have a deficiency in terms of communication strategy as an East African Community we should have an information, education and communication strategy developed. This issue has come up time and again. When you are undertaking an activity like this and you do not have information to get people informed about what is going on, educate them about what they need to do in order to benefit and to appreciate the trends as they unfold and communicate to them for purposes of understanding what is in there for them.

In all our partner States that you go to, even the traders themselves who are supposed to be the biggest beneficiaries of these stages do not seem to be aware of what is going on.

Mr. Speaker, Sir, you have time and again referred to the issue of the laws that are supposed to be either amended or put in place to give legal effect to the Common Market Protocol. These laws are not in place in any of the partner States. If you talk about the other activities that are supposed to enhance this process, they are not in place.

When His Excellency Mwai Kibaki was opening our session when he addressed us during this session he did emphasize that we need to make the common market a working common market. In essence it is not working as I speak and yet it is in our statute books. It has already been passed but nothing has been done.

Therefore, as a Parliament I think we need to ensure that we follow up to ensure that the information, education and communication strategies are in place. Once that is in place each organ of the Community can use that to disseminate the information to the constituencies. This is where Parliament can be very useful. As Parliamentarians whenever we go for any meetings we are faced with questions of what about the common market? How is it performing? How is it moving? So if we get an information, education and communication strategy I believe each organ will be able to disseminate the relevant information to its constituents or stakeholders within that. That way we will be able to popularize. If people are not aware then we have not done much.

Mr. Speaker, Sir, I thought that I should underscore this point because at the end of the day if people are not aware, if people do not have information, if the relevant actions that are supposed to be undertaken are not undertaken then we will simply not be doing enough in terms of making sure that our people get to benefit. This stage is critical and we should treat it so because it lays the foundation for the other stages. If we are going to talk about political federation, people need to see the benefits at the level of common market for them to appreciate that being together as one unit will add value to their welfare and livelihood and entities are a region.

The idea of ensuring that a comprehensive public awareness programme is undertaken is something that must be done. I believe that Members of Parliament can never be found wanting in terms of inter-phasing with their population to educate them, inform them and communicate with them about the benefits of integration. If we do not get people to appreciate that there is something good in the integration in terms of benefits, this is what we call quick fixes; those short term benefits that people can see. Otherwise if you are going to talk about long term in terms of federation and security the ordinary person like my grandmother would never appreciate this. She needs to appreciate it from a view point of where Hassan is across, getting a job and she picks a penny out of that.

We need to make the integration simple to make it understood and appreciated by the ordinary people in the markets and the traders. It is not for air conditioned rooms and sophisticated people around Nairobi. It should go to the ordinary people. Like the President indicated when you come to Kenya and meet a few busy people around Nairobi, do not think you are doing serious integration. Let us go to the market and meet the ordinary people and get them to appreciate and for them to know that they can move to Uganda without any hindrance. Remove the non-tariff barriers and make it practical.

Make it a living common market. Make it a working common market not a theoretical and hypothetical undertaking.

I beg to aggressively support the recommendations of this Report and beg that we follow them up to a point that they are actualized and we get action points. We should have people following up on actions and benchmarks set to ensure that at the end of the day we live, walk and talk a common market not prophesizing about a hypothetical undertaking.

Thank you.

Ms. Dora Byamukama: Mr. Speaker, Sir, I want to put on record my support for this Report and I thank you for allowing me to intervene.

I have three points; one, on the issue of harmonization of trade, policies and laws, the issue would be our song until we put a time frame to it. I think we have a challenge whereby in the Treaty it says it will be progressive. However, even with progression we should have some kind of road map and time line set especially for harmonization of trade policies and laws.

Mr. Speaker, Sir, I would like to propose that maybe one of the things we could do is to come up with some model laws and model policies which could facilitate this exercise. Even as different countries come up with a form of harmonization when you eventually look at them you may find that some of the countries are not harmonizing. We need to have a standard model which will guide each country as it harmonizes.

I also want to propose that we need to come up an East African Community law on the issue of trade. We can keep on talking about harmonization and this might never come to pass. We have the powers and I would like to ask kindly that the Committee looks further and sees ways on how this can be done, maybe as Hon. Chairperson said, modeled on the WTO so that we can move. We shall sing this song on harmonization, the Customs Union has been in place since 2005 and up to now we do not have any country which has come near what is expected. I would like to propose a pro-active approach in this respect so that we do not continue talking about this issue.

Mr. Speaker, Sir, that said sometimes we talk about this very important aspect and the Council of Ministers and the secretariat decides to keep quiet. I think we would like to have a brief or some kind of statement on issues such as this, which is considering the issue of cross-border trade. This is the heart of integration and I beg to request that maybe at an appropriate time the Council makes a comprehensive statement on what has been undertaken and what needs to be undertaken so that we can make some progress on this matter.

The second point is on the issue of the cross-border trade cooperatives. This is a noble idea by the Committee and it is an idea which I believe can be taken up by the East African Business Council. Sometimes we leave some of these recommendations on paper but when we give a clear direction on whom we think should take responsibility I think this will bring to life this proposal to form a cross-border trade cooperative. This should be put squarely to the East African Business Council which has an office so that they can

assist. I think and believe that in so doing even the cross-border surveys which are mentioned in this Report will be made easier because we will have a point. We will be able to consult with the cross-border trade cooperatives to get the required information.

Finally, I would like to make note on the recommendation (8) – developing cross-border infrastructure; roads, railways and others. I believe that the Committee has more that could have been said on this point. For example, we need to know which particular cross border points. I think it would be good for the Committee to be specific. They should tell us that they are 20 or 30 cross border points. I know the Committee has visited them.

We also want to know what kind of infrastructure? If it is railway or waterways and we also want to know who is responsible. Is it the two partner States? Is it the East African Community? I think by getting specifics on the recommendations we will be able to do an audit so that we know for example, out of 20 border points we have infrastructure as per required standard of the EAC in five, we need to work on 15. Amongst the 15 work has started on five, on the other ten there are plans to do a, b, c, d. So I would recommend that the Committee goes further and gives specifics so that we use those specifics so that we can interrogate further and therefore achieve action.

I beg to support.

Mr. Augustine Lotodo (Kenya): Mr. Speaker, Sir, thank you. I want to add my voice to this Report. I want to say that the Report is well intentioned. I want to add my voice by saying that one of the biggest challenges to this Community is that we need to create awareness to our people. I think that point has been well elaborated. I just want to add that the awareness should include the EALA Members. Why do I say so? I think the challenge to our partner States is that for East Africans to trade it means our countries need to produce the goods and services for trade. From statistics, trade has increased since we started together 11 years ago. We need to do more. That is where the challenge is. We have so much untapped potential within our partner States. That is why I am saying our partner States need to take this issue seriously.

There are so many projects, programmes, and activities that need to be undertaken for us to achieve the aspect of common market. We need to go back to the partner States. We need to see if our policies are right. If they are we need to encourage our local people. Let them be aware of the opportunities that this Community provides for them. I think we have been talking but we really need to go down to them. That is very important. It is very important to address that issue.

Another point I would like to add is that we really need to encourage our partner States to, as far as goods and service are concerned, those that can be exported are very important. Today, we are talking about so many countries taking accreditation in Arusha. They are coming to be accredited so that they become observers. However, their intension is to bring their goods and services to East Africa. Now what happens to our own goods and services? There will be an equal balance of trade. We are only seeing their investment but what about what we are able to produce? We need to capture our optimal potential. So as much as we would like to have our development partners with us,

as much as we would want our colleagues help us develop our infrastructure, we have to maximize our potential within our countries so that to be able to increase our output and take advantages of what the Report has talked about.

The vision is very that we need to enhance what we have within our borders. However, the challenges alluded to in this Report need to be developed. Infrastructure has been talked about for some time. We know these things are there. We know our limitations, but can we do what we can do? I know what we can do is go back to our people try to talk to them that we really need to take advantage and increase inter-trade amongst ourselves.

I beg to support.

The Secretary-General (Ambassador Juma Mwapachu)(Ex-Officio): Mr. Speaker, Sir, I wish to contribute to this very important Report which has very serious recommendations to the interest of consolidating the Customs Union as well as the common market in the EAC.

Mr. Speaker, Sir, this Report has outlined the current status of cross-border trade very well and the challenges that we face in so far as cross-border trade is concerned. I believe that the Council will be supporting this particular Report. I wish to add my voice by pointing out the following.

First of all, inter-EAC trade is the highest in any regional economic community in Africa. It currently stands at 12 per cent. This is still very low compared to our trade with the rest of the world.

Mr. Speaker, Sir, the Statement which was read by His Excellency Jakaya Kikwete during the Summit discussed the second decade of the EAC. He did point out that the EAC should move towards a rate of about 20 per cent by the year 2020. We want to believe that we can actually reach 25 per cent intra-regional trade by 2020 of course there are a number of matters that need to be done in order to realize that goal. I think Hon. Kimura's Report has outlined some of the critical factors that need to be taken or addressed in order for the EAC to reach that higher level of inter-regional trade.

Secondly, I want to point out that it is correct as the Report has shown that some partner States are yet to develop trade policies. I know for example, Tanzania has been working on a trade policy for almost 20 years. They are still trying to revise it. I think Kenya, only last year, came up with a trade policy. Burundi is yet to have a coherent trade policy. There will be need for all our partner States to have these trade policies. I am saying this to underscore the point that all the five partners States have separate development visions which also proves to be a problem. It is not just an issue as the Committee has recommended that we move towards the harmonized trade policy regime in East Africa but it is also important that we reveal critically all the development visions of the partner States and see how best they can be harmonized.

Mr. Speaker, Sir, I am saying this because EAC is a customs union and a common market and we are now moving towards a monetary union. Therefore, we cannot work on the

basis of desperate development visions as well as trade policies. So, I fully endorse the Committee's proposal in this regard but I think we need to go further and see how best we can harmonize our development visions as well.

Having said that, I just wanted to inform this august House that the EAC has now reached an advanced stage in its negotiations with the UNECA to establish at the EAC secretariat a regional trade policy centre. This trade policy centre will be fully supported by UNECA or UN Commission for Africa - (*Applause*).

This regional trade policy centre will undertake all the recommendations or proposals that feature in this Committee's Report.

Mr. Speaker, Sir, the third point that I want to raise is that the EAC as you know has been working on the NTBs for quite some time. This assembly has done considerable work as far as NTBs are concerned. There is a report that was tabled in this House on this particular challenge which we have also been working on. as we all know particularly Kenya and the United Republic of Tanzania which are the main transit centres for linking with the other partner States which are landlocked have been trying to provide political impetus to address some of these NTBs. Listening to the Right hon. Raila Odinga two days ago he was still lamenting that in spite of his efforts over the last two years to address issues regarding the way bridges and transit stops which delay the free movement of goods adding cost to doing business in our region, not much has been achieved on the Kenyan front. I know that on the Tanzanian side the Government has been working with JAIC and I think there is a report out now to trying to reduce the way bridges as well as the enroute stops which are largely police border posts on the way.

We heard from Rukia Shamte who is the CEO of the Central Corridor Transit Systems two days ago saying that between Dar-es-Salaam and the border with Burundi and Rwanda there will only be four transit stops. I truly hope that that will work.

Ultimately, Mr. Speaker, Sir, we also know that these NTBs are very much driven by bureaucratic mind sets of some of our public officials at the border post.

Mr. Speaker, Sir, if I could just crack a joke last year just before the launch of the common market I had come to see President Kibaki here. I saw him and then went to see President Museveni. I was telling him the results of my discussions with President Kibaki on the launch of the common market. I was saying that a discussion had ensued but EAC establishing surveillance in the oversight office at all our border posts to ensure that the public officials were actually undertaking work in consonance with our dream of having a well functioning common market and customs union. I was telling President Museveni, Mzee Kibaki was saying something has to be done on the disciplinary front in so far as to how to deal with public officials is concerned. President Kibaki said, "Well, I think I have something now to say on the 1st July when I launch the common market. That is to fire one or two officials at these border posts to show them that we are really serious". I do not know whether President Museveni actually did proceed on that front.

I am saying this because we are committed at EAC. This proposal was made when we met President Kibaki. It came from the Chief Secretary Mr. Muthaura. It is something that we will be working upon in trying to improve the management of our border posts.

As you know also, we are working on the establishment of one stop border post. We have finalized the draft legislation on harmonized trade one stop border post. We hope that the Council will be able to bring a Bill to this effect when we next meet in Kigali. That legislation should enable us to harmonize the whole system of one stop border post.

To answer Hon. Dora we will be determining which are the strategic border posts that we will need to have this one stop border post as a way to alleviate the problems of NTBs.

Mr. Speaker, Sir, there has been an interesting discussion about border markets. I think this is something that we really must push forward. We have seen, from experience with "*Jua Kali, Nguvu Kazi*" exhibitions, which have been rotating in all our partners States every year; there is a vibrant product line from our informal and small manufacturers and traders. To say that we should just display these wares and products once a year in one capital and another is not the best way in which to empower our informal traders who contribute significantly to the inter-regional trade in the EAC. Therefore, the establishment of cross-border markets is a brilliant idea which we will definitely take up as well as looking into the whole idea of border cooperatives something that we may entice the East African Business Council to work along with us.

Mr. Speaker, Sir, of course we face enormous problems as far as statistics are concerned. We are still very weak in the EAC as far as trade statistics are concerned. Even we talk about 12 per cent inter-regional trade, sometimes those figures can be quite fuzzy. It could be lower or a bit higher. We believe that we are not capturing most of the informal trade data at our border posts. We hope that when we establish these regional surveillance and oversight centres at our strategic borders posts, we will also be able to establish statistical bureaus at these borders posts where we can capture some of these trade statistics so that we are able to show exactly the level of inter-regional trade.

Maybe on the point of border markets, if you allow me Mr. Speaker, Sir, last year I was visiting the armed forces in Burundi. Somebody told me that there was trade exhibition in one of the major halls in Bujumbura. The way he put it to is that it an EAC trade exhibition. I went there and what I discovered was about 300 Kenyan informal sector women had taken a special KQ flight to Bujumbura and hired a hall to exhibit their wares and trade. I really found this to be a very innovative way of moving away from border markets to actual marketing in our partner States. I think we really need to congratulate those Kenyan women for being that innovative and to encourage them and have this system replicated right through the countries.

Mr. Speaker, Sir, let me end by saying that the infrastructure challenge is huge. We are trying the best that we can on this matter and if there is one area where I am really quite sad even at the end of my term it is not really to have seen much progress having been done on the infrastructure front. At national level a lot has been done to improve particularly the road, I think we are still way behind in terms of doing something concrete

as far as our railway system is concerned. What I regard as being very dear to my heart is lake transport. That is the transport on Lake Tanganyika as well as transport on Lake Victoria. Lake transport used to be the cheapest means of transport linking the original three countries and now the five countries. More needs to be done to revive lake transportation.

Recently, in early December we had the Lake Victoria Basin Investment Conference to try and attract investments into cargo as well as passenger transportation on Lake Victoria. We resolved that the next one will be an investment conference for Lake Tanganyika to promote it as a tourism area and a transport area. We will also be looking into this.

Mr. Speaker, Sir, we are trying to work with our colleagues SADAK and COMESA. There will be a huge investment conference in September this year here in Nairobi linking IGGAD, COMESA, SADAK and ourselves to see how best we can address the key transport corridors; the Central Corridor in Tanzania, the Northern Corridor in Kenya and Uganda and linking with our other partner States of Rwanda, Burundi and Eastern DRC. The third corridor is the Lamu – Juba – Addis Ababa Corridor and the fourth being the Addis Ababa – Djibouti Corridor.

Working on the experience of the North – South Corridor conference which we held in April 2009 and we were able to raise US\$1.2 billion on the spot. This was meant for the development of the corridor from Dar-es-Salaam Port to Durban Port. We believe that this investment conference in September this year will be crucial in terms of mobilizing resources for addressing some of our infrastructure challenges in the region.

I support the Motion.

Ms. Kimura: Mr. Speaker, Sir, I am encouraged at the support that this Report has received. I want to thank those who have contributed to its support; Hon. Ndahiro, Hon. Sebalu, Hon. Dora, Hon. Lotodo and the Hon. Secretary-General.

I feel recommendations have been made which if this House agrees should form part and parcel of the Report. A recommendation was made that there should be a regional investment code which is very critical to harmonize and put order to the investment climate within the region.

There was also a proposal by Hon. Sebalu and an emphasis on the communication strategy that should ensure that the common market is a live one for EAC citizens. We hope that this can be taken on board and the necessary effective communication strategy would be put in place.

Hon. Dora did propose that there should be a modal law of policies so that we can sort of quickly start the process of putting in place the necessary regional legislation to operationalize the common market.

Mr. Speaker, Sir, the Secretary-General has recommended that there should be a review of the development visions and harmonization and trade policies. With your permission I

hope that this can be taken on board. At the same time we welcome the news from the Secretary-General on the regional trade policy centre and at the same time the initiative on the surveillance at the border posts.

With those remarks, I thank those who have supported and I beg move.

(Question put and agreed to)

Resolution adopted.

MOTION

FOR THE CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON LEGAL, RULES AND PRIVILEGES ASSESSMENT OF ADHERENCE TO THE TREATY BY PARTNER STATES

Mr. Frederick Ngenzebuhoro (Burundi): Mr. Speaker, Sir, I beg to move:-

THAT, the Report of the Committee on Legal, Rules and Privileges Assessment of Adherence to the Treaty by Partner States be adopted by this House.

Mr. Gervase Akhaabi (Kenya): Seconded.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, the Report that had already been distributed to hon. Members is – *(Interruption)* -

The Counsel to the Community (Mr. Wilbert Kaahwa) (Ex-Officio): On a point of order, Mr. Speaker, Sir. It is not my habit to interrupt debate or proceedings of this august House, however, I wish to humbly seek your directives with regard to the Report the hon. Chairperson of the Committee on Legal, Rules and Privileges is about to present to this august House. The copy of the Report I have received and which I believe the rest of my honorable friends have received, is not wholesome in the sense that the Report only has its odd numbers only. It does not have the even numbers. It therefore, becomes very difficult to follow the presentation when the Report is in this format.

Mr. Speaker, Sir, I therefore, humbly request you, using your abundant powers as provided under Rule 8 of the Rules of Procedure to give directives on how we proceed with a Report which is not wholesome.

The Speaker: The Report I have is correct. Hon. Members, I do not know if you have different Report. The one I have is correct and has all the pages.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, the Report I laid on the Table of the House is this. It is correct. I do not know what the others have. The one I have in my hands is correct.

The Speaker: Sergeant-at-Arms, we cannot hear each other even though these microphones are on, can they put the volume up please!

Mr. Ngenzebuhoro: Mr. Speaker, Sir, I am saying that the Report I laid on the Table of the House is correct and complete. The one I have here is complete and has all the pages.

The Speaker: Hon. Members, do all the Members have the wrong Report? *(Laughter)* So, does it mean it is only hon. Fredrick and I who have the correct Report? Hon. Fredrick I think if that is correct it will be very difficult for the hon. Members to follow the debate on this Report if they do not have the correct Report. Do you work in the Clerk's Office Mheshimiwa?

Hon. Members, I think we will have to adjourn debate on this issue so that we can continue with it in Kigali so that we can have the proper Report and hon. Members can follow debate on this Report.

MOTION

FOR CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENT ON THE PETITION BY THE TANZANIA PEOPLE DEALING IN IMPORTED CHICKEN/EGGS

Mr. Abdullah Mwinyi (Tanzania): Mr. Speaker, Sir, on behalf of Hon. Ndahiro, I beg to move:-

THAT, the Report of the Committee on Communication, Trade, and Investment on the Petition by the Tanzania People dealing in Imported Chicken/ Eggs be adopted.

I beg to move.

Dr. Lwanyantika Masha (Tanzania): Seconded.

Mr. Mwinyi: Mr. Speaker, Sir, I stand on behalf of my Chairman Hon. (Dr) James Ndahiro to present a Report of the Committee on Communications, Trade and Investment on the petition by the Tanzania people dealing in imported chicken and eggs.

Mr. Speaker, Sir, the Tanzanian business group dealing in imported chicken and eggs sent their petition to the EALA on August 2010 in accordance with Rule No.79 of the Rules of Procedure. This petition was forwarded by your good office to the Committee on Communication, Trade and Investment for consideration. It is in this regard that the Committee on Communication, Trade and Investment is hereby reporting to this august House.

Mr. Speaker, Sir, the complaints from the traders in Mwanza is that importation of eggs from Uganda is prohibited while eggs from Kenya are allowed into Tanzania. The traders noted that in 2006 a global outbreak of bird flu came into effect and this precipitated a ban on the movement of birds and all bird products throughout the world.

Tanzania's Ministry of Livestock Development in particular slapped a ban on imported chicken and chicken products from all countries and this ban did not specify time frame. However, the disease has been controlled and eliminated which gave rise to lifting of the

ban all over the world but Tanzania is still using that ban to prohibit the birds and bird products specifically coming from Uganda.

The brief detail of the petition highlight that when these traders get eggs or chicken from Uganda, taking them to Tanzania they cross the Uganda – Kenya border without hindrance but when they arrive at Sirare a border between Kenya and Tanzania they are denied entry into Tanzania once immigrations officials realize that the eggs are coming from Uganda. The same restriction is experience at Mutukula border between Uganda and Tanzania as well as the Port Bell, South Port borders. What surprises them is that the birds or the bird products are not prohibited from entering into Tanzania at all.

Members of the Committee wondered why Tanzania is applying discriminatory treatment on imported chicken and chicken products from Uganda as opposed to those from Kenya. The Director of Customs at the EAC informed the Committee that the EAC Customs Management Act provides for prohibitions where and when necessary. However, he further noted that under the EAC Customs Union protocol the partner States undertook not to discriminate against similar products from partner State in form of administrative or legislative measures. In addition, the Council of Ministers is the responsible body to give directives to that effect. Therefore, any prohibition imposed should be presented to the Council of Ministers for gazetting in accordance with the EAC Customs Management Act of 2004.

Mr. Speaker, Sir, as a way forward the meeting resolved that the Director of the EAC Customs investigate the matter and find out whether these allegations are true and then report to the Committee during our next meeting which was in Arusha in 2010.

Mr. Speaker, Sir, on the 22nd of September 2010 the Director of Customs in the EAC wrote a letter to the Commissioner General of the Tanzania Revenue Authority bringing the complaint to his attention and requesting to find out and establish facts on the grounds and provide information back to this Committee. This was copied to the Secretary-General of the EAC, the Clerk of this august House and all Commissioner Generals of the revenue authorities of the East African partner States. However, since that time the TRA has not responded in any way.

Recommendations:-

Mr. Speaker, Sir, since these actions contravened the law and the spirit of both the Customs Union Act and the Common Market Protocol the Committee therefore, makes the following recommendations:-

1. Urge the council of Ministers to take action to restore trade in chicken and eggs between Uganda and Tanzania.
2. The establishment of a regional customs management authority as envisaged both in the EAC Customs Management Act and the EAC Development Strategy which would, among other things, administer and ensure compliance by partner States with regional customs laws and policies.

3. The Committee recommends that the Council of Minister report back to this august House during the next session of the EALA in April 2011.
4. The Committee requests that the office of the Clerk notify the petitioners of the steps taken so far by the EALA.

Mr. Speaker, Sir, I beg to move.

(Question proposed)

Dr. Masha: Mr. Speaker, Sir, this is a very interesting item about chicken and eggs. I want first to say any related topic that it is perhaps the Clerk's office should consider providing us some of these Reports in time and not when we are seated here. I notice, for example the Report of the Trade Committee which we have just adopted has a lot of information which I would have wanted to use in my debate here. I got it only when I sat here shifting pages. Several other reports have been given to me while I am seated here. Maybe I am getting a little—

The Speaker: Hon. Masha, I think the only Report which was tabled here if you look at the Order Paper is the Report on chicken and eggs. The other Report you are referring to was tabled in the last sitting. I know Members of Parliament do not lose a Report but because they thought you would lose your Report that is why they put it for you here. We however, got this Report last week.

Hon. Masha, while you continue with this you can read the rules also; when someone has an interest in a subject matter he should disclose his interest. I hope you will start with that because of these eggs.

Dr. Masha: Mr. Speaker, Sir, I appreciate your comments. Let me go through a little history of this petition.

I was approached by chicken and eggs traders in Mwanza complaining about this discriminatory treatment which they were getting which was causing them losses in trade they engaged in for quite a while; importing eggs and chickens from Uganda to Tanzania. As has been stated by the presenter of the Report they felt this was discriminatory since similar products from Kenya were entering Tanzania without any problem. Indeed, they mentioned to me that even the application of the ban which was imposed in 2006 was partially lifted a month later. To me this would have been a matter of investigation by the Customs officials. The original was on public notice, the partial lifting even though it was not distributed to everybody although it stated as public notice. It was left to the authorities of the veterinary officers at the borders to use their discretion on who to allow and who not to allow to import eggs and chicken into Tanzania.

With those that discretion powers in the partial lifting these authorities under whatever inducement, I do not know, have indeed allowed others to import eggs from Uganda into Tanzania but not these particular ones because they were not giving any inducements to allowed to carry through their trade.

Dr. George Nangale (Tanzania): On a point of order, Mr. Speaker, Sir. Could the Member on the Floor be very specific? Which chicken and egg traders? He is saying “them”. Last time we were discussing a petition we were very specific, “General Motors”. Who are the chicken and eggs traders in Mwanza he is talking about?

Dr. Masha: Mr. Speaker, Sir, the hon. Dr. Nangale who frequents Mwanza will know some of the names that I have here in the petition which was presented to the Committee. Let me perhaps start by saying when they sent me the letter of complaint that I passed on to the Speaker, the Speaker was very generous and very expeditiously passed it on to the Committee and hence the Report before us.

These traders call themselves *Wauza Mayai Soko Kuu Mwanza* and it was brought to me by one of their leaders called Unus Alsen Chilongozi. There is a whole list of them with their signatures in the petition.

I have stated my pleasure at how expeditiously the Speaker passed this information to the Committee. I want to say as indeed somebody has expressed there is need to make our people in the region be aware of some of the laws which we pass and where there is a complaint, who they can approach. It only happens that these people know me in Mwanza because I live in Mwanza. I am sure there are many others who might have some complaints but they are not able to convey them to the Community because they do not know who to go to. They do not even know what the laws are.

In this case they brought to me. The Committee has been very active in dealing with it.

The last point they mentioned in their Report is that they requested the Director of Customs to investigate the merits of the petition as well as what recommendations to make.

In the course of his intervention, I am glad he referred to things I want to repeat so that we are also aware. Where there is a prohibition of that kind by Member State, according to the Customs Management Act it is supposed to be gazetted in the EAC gazette. I do not think this was done.

The only kind of investigation which the Customs Director did according to the Report was to write a letter to the TRA asking for--- I am not sure that is an investigation but I do not want to be hard on a person who has no opportunity to comment. I can only say I am surprised that the Committee has not put more pressure to have real investigation, which, in my judgment would include a visit to where people were complaining.

Mr. Speaker, Sir, in the Report we adopted this morning I see reference on page ten...I realize you said I only deal with the current Report but since there are matters which are connected I beg your indulgence to allow me to make reference to them.

On page 10 the Report by the Trade Committee observation No.3.2.1.2 dealing with matters about trade, non-tariff barriers and others they are talking of the EAC secretariat is in the process of establishing the Customs Authority Enforcement of instruments to deal with non-tariff barriers. This is their language and not mine. I just

wish they included this in the recommendations as well because it is not very specific in the recommendations.

In all the legislations we do, particularly those which require action to be done as has been stated in the harmonization of laws and policies, unless members States and Governments are willing to accept inclusion of machinery of enforcement we will have a problem. We will be coming to cry here, our people will be crying. We will be wondering what it is all about. We will not have helped our people. We need to establish instruments, mechanism, structures which will help enforce some of the decisions taken by member States. The question of the Customs Act in addition to the protocol which was signed by members States, I do not see why members States would not be willing or prepared to establish a mechanism for enforcement.

So, I am in total agreement with the recommendation by the Committee; that is seeking regional customs authority to ensure compliance by partner States with the Act as well as the protocol. It might have sounded very hard that in the net recommendation they are putting a deadline by which the Council should report. However, without deadlines everything sort of hangs in the air. I hope the Council will see that invocation not as being frivolous or being hard on the Council but as part of the need to have both time frames and enforcement machineries for the laws that we pass.

Mr. Speaker, Sir, since this matter started in August up to now I had not seen what action was being taken, since the petition came through me I was having some difficulty facing these petitioners in Mwanza. They kept calling me and asking whether there was anything done.

I feel awkward that the Committee has found it necessary to request the Clerk to write to them on where the matter stands. Now with the Report I will also be able to go to them and ask them to read the Report and explain that the issue is still under consideration by EAC.

However, when there is a complaint especially of a business nature where people might be losing money, I think we ought to take these kind of petitions seriously, expeditiously to make sure we do not allow more lose to these people otherwise they will think we are a party their problems.

Mr. Speaker, Sir, in future I will be insisting that our officers respond very quickly to such complaints where there is lose of money for our people otherwise they will think as indeed one Member said, we just come to these wonderful capitals in suites and pretend we are doing a lot of good work whereas we are not paying serious attention to their problems.

With these comments I beg to support and look forward from the Council of Ministers later.

Ms. Kwekwe: Thank you Mr. Speaker, Sir. I thank the Committee on Communication, Trade and Investment for having found time and the need to deal with this petition.

Let me start where Hon. Dr. Masha ended. I do not think we pretend when we come to capitals that we are serving East Africans. We actually do. I want to make special reference to an issue that this House was with for quite some time; the issue of visas charged by Tanzania on Burundi business persons.

Mr. Speaker, Sir, I am proud that this House engaged in that process and in March last year...to be more specific when we were sitting in Kigali in April it was reported by the then Chairperson of Council of Ministers who was also the Minister for EAC Affairs of Tanzania that indeed Tanzania had acted. Even communication to the same effect was distributed to every Member.

Mr. Speaker, Sir, when we are dealing with these issues it may not be overnight or in two weeks but this House has taken these issues seriously and has in previous occasions made efforts to ensure that matters like this are handled. They have been handled. We have had the General Motors case, the Burundi visa case. What I am trying to say is that this House does not pretend that it works but it works. However, my plea is that the United Republic of Tanzania is a very serious partner of the EA. It has demonstrated this in previous occasion like in the Burundi visa case. I believe and trust that they shall do the same in this case.

Mr. Speaker, Sir, what is the basis of slapping a ban on eggs from Uganda? There should be some justification on that. Is it because of the animal feeds? Is it because of the medicine used during rearing? The traders should be made to understand why is it important to slap a ban on eggs from Uganda. It is that somebody woke up one day and said, "I do not like eggs from Uganda"? Members of the private sector demand to understand why actions are taken. If it for the good of public health, they should be made to understand that it is for public health.

If it is a matter of somebody arbitrarily doing this then it should be the case. What I have not learnt and I wish that when the Chairperson is responding to the comments raised is; is this only at the Sirare border or is it on all the borders between Tanzania and Uganda? Then probably we could be able to narrow down the problem.

If it is on all the borders, then it means it is a Government position to slap bans on eggs and chicken from Uganda. If it is only on the Sirare border then something is wrong. We cannot speculate until we know why such an action was taken. When the Committee makes a recommendation that the Council of Ministers come to this House in April and report back, I concur because many of the traders we are promoting are not just the big multi-national but even the small traders who trade in eggs. There are farmers involved because they rear the chicken, which lay the eggs. Then there are the people who buy those eggs from those farmers. So this is a matter that affects the livelihood of ordinary East Africans. I trust and pray that in Kigali we shall get to the core of this matter.

I know the (??) has acted before on similar concerns and I trust that it can do the same on this concern.

Dr. Kabourou: Mr. Speaker, Sir, let me first of all congratulate the *Wauza Mayai Soko Kuu la Mwanza* for bringing forward their petition to the EALA where we get an opportunity to look at whatever seems to be a problem for them.

Mr. Speaker, Sir, all I can say is that I am in total agreement with the recommendations of the Committee. I think they are very fair recommendations and recommendations that can be achieved or solutions to which can be achieved in very short time. We really do not need to wait forever for these *wauza mayai* to get their rights.

Mr. Speaker, Sir, what I can see from this is that this is basically a non-tariff barrier. It is not specified anywhere but some anxious official somewhere could literally take matters into their own hands and decide to make it difficult for the people of East Africa to enjoy the environment we are creating here. I should support the Secretary-General in the proposals that he has stated here are being made to have some above institution that can chastise officials who do not want East Africans to enjoy the market, which is guaranteed by the Common Market.

Mr. Speaker, Sir, one of the problems I see is the slowness or the slow efforts by the Community or partner States to actualize some of the Articles in our Treaty. Article 81 is very clear; this is about standardization, quality assurance, and testing. The main purpose for this chapter in the Treaty is to ensure that there is a comparable standard of living for East Africans. If this Article is actualized and operationalized honestly how can you then say you can allow eggs from Kenya and not those from Uganda? You would have no basis to say that because these standards will be the same. It has been alluded here that perhaps the Ugandans use different feeds or chemicals. Again, this would be not an issue because we would have already known that certain things are allowed within the East African or not because they have been approved or not by the relevant authorities. However, even more concerning to me is the whole issue of corruption as a non-tariff barriers.

Somebody has said here that some of these *Wauza Mayai* have been able to bring in *mayai* from Uganda simply because they paid a little to those officials at the border. So, again, it makes it lucrative for the officials to come up with all kinds of disincentives to the traders in East Africa. Perhaps it is not proper for me to say but hopefully I can come up with this. I am waiting for hon. Ngenzebuhoro to talk about human rights. There should be a Motion and a resolution here against corruption in East Africa. This is something that we all experience and everybody is upset about corruption in East Africa. These are the outcomes of corrupt practices. They make it difficult to sustain our integration process.

Finally, I should just say that I too have some difficulties with some of these officials in Kigoma. We have been talking two days ago about food shortages. I am very glad that His Excellency President Kagame made a statement to the effect that hunger really is shameful and that people should not allow themselves to be hungry. If this takes requires them to work hard to make enough food for themselves that should be. To be hungry is a shame. Nobody should be allowed or allow themselves to become hungry.

We have been talking about the issue of integration. Even within countries, some people in Nyanza Province and some people in Garissa have more than they need. This also affects the region. I know there are shortages in countries – (*Interruption*) -

The Counsel to the Community, Mr. Kaahwa: On a point of information, Mr. Speaker, Sir. May I inform my honorable friend that to be hungry is not a shame. It is a shame to be hunger stricken.

Dr. Kabourou: Thank you for the clarification but to allow yourself to be affected by hunger is a different thing from being hungry. We get hungry all the time; we go out for lunch and then dinner. Not to be able to have that is what I mean by hunger in this respect.

We have this situation in Burundi where one of my colleagues, hon. Manasse to be specific informed me that it is extremely difficult to import food from Tanzania. I know that the Tanzanian Government has already said it is okay to export surplus foodstuff. I am one of those people who actually wrote a letter to the grain reserve in Tanzania asking them to allow me to have people sell food outside of Tanzania and I was given the authorization. When people try to take food out of Tanzania some corrupt officials says, “No”. the Government of Tanzania allow this, the people in Burundi want the food, the people in Tanzania want to sell the food, we are all East Africans, we are all trying to improve our standards of living and yet somebody, because they want something on the side make it very difficult for our people to trade. This makes it very hard for our integration process to progress.

Mr. Speaker, Sir, I want to reiterate my support.

Mr. Leonce Ndarubagiye (Burundi): On a point of information, Mr. Speaker, Sir. I just want to remind my dear colleague and friend from Kigoma that in Burundi when there is a shortage of some goods, we get them either from Tanzania or Congo and Rwanda sometimes. There has never been any prohibition or restriction. He knows very well that between Bujumbura and Kigoma and especially from Kigoma and Rumonge there is permanent flow of food all the time. We even have difficulties that now our fishes have moved to Tanzania.

Dr. Kabourou: Thank for the information. I was concerned that all over a sudden somebody has jumped up and said they are about to stop it. You know this is something that should be free. My concern is this corrupt official who is now saying, “You cannot do it”.

Let me once again reiterate my position that I support these recommendations and hope that once these are done we should also operationalize the chapter on standardization to avoid these kinds of stabbings in the back.

Thank you.

Mr. Clarkson Otieno-Karan (Kenya): Thank you Mr. Speaker, Sir, for giving me this opportunity to support this Report.

My take on it is that how many traders in our region who are not privy to this avenue are still suffering? The entire region is supposed to benefit out of this arrangement. But who is supposed to tell the traders in East Africa that there is an avenue they can follow to be able to sort out their problems? Taxation process should be done by everybody but much more so it is the work of legislatures.

When the Secretary-General was contributing to the Trade Report he was lamenting that one of the issues that he is so sad about is that his term is ending before the issue of infrastructure is finalized. I want to ask him that the period he has remaining can properly be utilized to impress upon East Africans that he has done something. Quite often when the Assembly asks for money to enable the Committees do their work, sometimes they do not see the need for that. Today, you are witnessing that if we have active committees of Parliament they can make East Africa region a better place to live in. I hope before you leave Secretary-General, in the next budget we will ensure that there is adequate fund for committees to operate and sensitize East Africans that there are avenues they can follow to benefit from trade within this region.

Mr. Speaker, Sir, it is not enough to restore this. Actually, the Council of Ministers should go further to find out who are these public officers responsible for this action? As we intend to move as East Africans and reap the benefits of integration, some elements within us prohibit this good venture. They should be disciplined.

I agree with the sentiments of the Attorney-General that the President of Uganda was saying he would discipline officers involved hindering trade within the borders. Surely, I believe that after investigations it is found that it is the laxity of officers or their attitude some kind of action should be taken so that these officers come to know to know that the integration of East Africans to be able to do trade and other things is something that is so dear in the hearts of East Africans and should be supported.

Mr. Speaker, Sir, this is the second petition in this Assembly. The other one was the one of General Motors. I would want to agree with Hon. Masha to the effect that when it is an issue affecting trade the speed at which it is done should also prove to the traders that we are mindful of their activities within the region and we mean them well that they should be able to benefit out of the entire region.

Mr. Speaker, Sir, sometimes I do not know who would petition for legislatures because even when you go to Kilimanjaro you will find divided attention some officers asking you for yellow fever vaccine and others do not ask. I think it is upon the Council of Minister to ensure that information is passed properly to the public officers so that they act uniformly - (*interjection*).

Mr. Mike Sebalu (Uganda): On a point of information, Mr. Speaker, Sir. On yellow fever vaccine saga in Kilimanjaro we were told that there was supposed to be sensitization for those officers. To date I think that sensitization has never been because even the recent time I traveled to Kilimanjaro there was a lot of chaos where many East Africans were protesting for their rights. This is supposed to be reciprocal. Still Arusha, not even Dar-es-Salaam, has this kind of arrangement. Kilimanjaro still has it. Can I give

the information that it is still in force despite the promise we were given that these immigration officials are going to be trained and given information? It is still a problem. I think you have a big point to raise on that.

Mr. Otieno-Karan: Thank you for that useful information.

Mr. Speaker, Sir, let us not have double standards in dealing as East African. Sometimes we say these borders which were put by Europeans are imaginary, we are one country we should be moving. But you go to cross the border there are problems of accessing other partner States.

I think I do not want the Council of Ministers to start lamenting when their terms are ending. You have an opportunity to act now. Why do you not act? These are things which are within your domain. Just one circular can do away with this unless you are implying that the public officers working at these borders are more powerful than the Council of Ministers.

I believe if you would be interested in seeing East Africa integrated and proving to East Africa that they are actually one country then you are in a position to do this. I think this is bordering on people refusing to take their actual responsibilities so that they serve East Africans.

Mr. Speaker, Sir, if we are not serious then decades will come and end without East Africans seeing change in the entire process. If you assess the feeling of East Africans up to now they have a lot of hope and they know trade will improve. Any slightest action that negates this feeling we should be in the forefront in trying to ensure that the problem is solved.

I want to urge our Members of Parliament that if there is any problem, we should do the same thing Hon. Masha did by trying to sensitize the chicken and egg traders to bring a petition to the Floor of this House.

Mr. Speaker, Sir, I want to give notice to the Council of Minister and SG that there is now more serious need than ever before for the Assembly to be fully funded to be able to facilitate its committees to do this work.

Hon. Masha was complaining that the Committee never even went to see the traders. How do they go and they are limited in terms of funds? Give us allocations to be able to do the work. You normally appreciate after work is done. We are ready to it.

I beg to support.

Mr. Leonce Ndarubagiye (Burundi): Mr. Speaker, Sir, thank you very much for giving me the Floor. Mine will be very short because I really support the Report. I wanted just to remind the august House that while we are talking about these chicken things we may also learn something from the chicken. That is one time Burundi were members of East African Community for two years they know that when a cock crows in Gatuna it crows

also in the side in Rwanda at the same time. It is now time for Rwanda and Burundi come up and accept the East African hours. How comes? Thank you very much.

Mr. Speaker: Mr. Speaker, Sir, I think Hon. Leonce knew he was not talking on the subject matter.

Hon. Mwinyi, please, proceed!

Hon. Members, we have been Members of this Assembly for the last three and a half years. Hon. Ministers have been in this House for three and a half years. When you want to say something on the Floor of this House, you catch the Speaker's eyes. You are not different from any of these Members. If anything, you are ex-officio Members of this House. Therefore, if you want to say something please stand up so that you catch the Speaker's eye unless you want me to always want me to ask you if you want to stand. It is not like that.

If you want to say something, please say something. Because this petition is very important, I will allow the Chairperson to contribute.

The Minister for East African Community Affairs, Burundi and Chairperson of the EAC Council of Ministers (Ms. Hafsa Mossi) (Ex-Officio): Mr. Speaker, Sir, we do appreciate the Report and we support it. We will beg your indulgence we would like to report in the next sitting because we did not have time to look into the Report. Thank you.

Mr. Mwinyi: Mr. Speaker, Sir, I would like to thank my colleagues who supported this Report; hon. Masha, hon. Safina, hon. Kabourou and hon. Karan. I have no further comments other than to thank them all for their contribution and support. I am eagerly anticipating the Report from the Council of Ministers so that we can get into the bottom of this issue.

The Speaker: Hon. Members, before I put the Question I would like to say one or two things although I am not supposed to be debating on this issue. I just want to give guidance.

I think when we had the petition for GM, the Committee called the GM, Council of Ministers, and people from Customs and all the big people to talk about GM. If I look at this Report, I do not see anybody from the egg traders. However small they are they petitioned this House, they are the same East Africans. I never saw the Council of Minister. I never saw any of these other people from any of the partner States being called to talk on this issue. Let us not look at the petition depending on how big their pockets are but show that they are all East Africans. *(Applause)*

Hon. Members, next time we have a petition like this I request the Committee to do more than just bring us a report from the Director of Customs who gave a reply from the partner States. Now that we have time to do more in the next sitting on the Council Report, I now put the Question.

(Question put and agreed to)

Resolution adopted.

QUESTIONS FOR ORAL ANSWERS

Hon. Abdul Karim Harelimana (Rwanda) asked the Chairperson Council of Ministers:-

Article 132(4) of the Treaty provides that the budget of the Community shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other resources as may be determined by the Council. However, the 10 per cent annual increase of contributions by the Partner States to the Community budget is an arbitrary figure not based on the level and rate at which EAC activities are increasing as integration deepens. Moreover, 48 per cent of the EAC budget is externally funded.

Can the Chairperson Council of Ministers inform this august House:-

- (a) Whether the current mode of financing the Community is sustainable.*
- (b) If it is in order for the budget of the department of peace and security to be almost 80 per cent donor dependent, notwithstanding the sensitive nature of its work.*
- (c) What other internal financing alternatives has the Community opted for in order to minimize the involvement of the development partners in the core affairs of the Community?*

The Minister for East African Community Affairs, Burundi and Chairperson of the EAC Council of Ministers (Ms. Hafsa Mossi) (Ex-Officio): Mr. Speaker, Sir, the Treaty provides that the Budget of the Community shall be funded by the equal contributions by partner States and receipts from regional and international donations and any other sources as may be determined by the Council.

- (a) The current mode of financing the Community is not sustainable because being the mandate of the Community is expanding at rapid pace while the increase of the budget per year is a mere ten per cent creating a budget shortfall which is supported by donor funding. The ten percent increase was set by the Council to control and increase in the budget, which may be difficult for partner States to sustain. Also the Summit felt that equal contribution mode of financing need to be revisited because the economies of the five partner States are not at par. Therefore a lot of pressure is exerted on some partner to settle their full obligations.
- (b) It is true that major portion of peace and security if funded by donors. This is not in order because of the sensitivity of its activities. However, after the mode of financing has been determined this problem will be solved by the Council.
- (c) As early as May 2005 while considering the management audit report for the year the financial year 2003/2004 on the audit commission's recommendations that the management identify the possibilities of securing funds from other reliable

sources due to delayed remittances. The Council directed the secretariat to prepare proposal on alternative method of financing the community. Although the proposal was prepared, the Council thought it was pertinent to defer the discussion until 2010 when full implementation of the EAC Custom Union would have been achieved. Furthermore at its Ninth Summit and upon request by the Republic of Burundi on account of its inability to settle her outstanding contribution, the Summit directed the Secretariat to undertake a study on other budget-funding modalities for consideration by this Summit. The financing alternatives that EAC proposed to the Council were:-

Assessed Contributions:

A formula can be worked out that takes into account to pay and benefits derived from the EAC regional market. The formula could be on GDP, export base, custom revenue base, percentage of the value of imports base and VAT base. For the sake of equity and fairness there would be a need to have an upper and lower ceiling on contributions by any one partner State.

EAC Integration Tax

This presupposes that there would be benefits of integration and therefore an integration tax is introduced which will be levied against each end. The disadvantage of this option is the political implication of introducing a hard tax for purposes of integration. Political work will have to precede its introduction.

Mr. Speaker, Sir, at its 21st meeting the Council felt that more work needed to be done and therefore directed the secretariat, together with senior experts from Ministries of Finance, those responsible for EAC affairs, Revenue Authorities, Planning Authorities and National Bureaus of Statistics to carry out comprehensive study on the various options of financing the Community basing on the best practices of other regional economic communities by March 2011. The EAC has already embarked on this important exercise internally and will report to Council in March 2011.

Mr. Harelimana: Mr. Speaker, Sir, I thank the Minister for the answer she has given. I have one or two comments, which are very brief. On the answer to part (c) she has told us that the discussion is supposed to end in March 2010 and maybe some answers would be given from there. Can we be given a copy of the same if it not a secret.

I also have a comment on the last paragraph. The Report will be given somewhere in March 2010, is the Council of Ministers sure that the exercise is taking place and by March 2011 this report will be in their hands?

Ms. Mossi: Sorry, Mr. Speaker, Sir, I did not get the first question.

For the second one, I would like to assure this House that this work will be done by March 2011.

The Speaker: Hon. Abdul Karim, what was the first question?

Mr. Harelimana: Mr. Speaker, Sir, it was just about a copy of that work which was done in 2010.

The Speaker: The hon. Member is refereeing to a document that the Minister talked about. He is wondering whether he could get a copy of that document.

Ms. Mossi: Mr. Speaker, Sir, if it is to do with the audit report it is always tabled before the august House. Which document is he talking about?

The Speaker: Hon. Abdul Karim, could you be more specific and say you want a copy of which document?

Mr. Harelimana: Mr. Speaker, Sir, in her answer the Minister has said that as early as May 2005 while considering the management audit report for the financial year 2003/2004, on the Audit Commission's recommendations, management identified possibilities of securing funds from other reliable sources to address the problem of delayed remittances. The Council directed the Secretariat to prepare a proposal on alternative methods of financing the Community. Although the proposal was prepared, the Council thought it was pertinent to defer the discussion until 2010, when full implementation of the EAC Custom Union would have been achieved.

I think this proposal is in a kind of a document. Can we have a copy?

Ms. Mossi: Mr. Speaker, Sir, after the Council has considered it the copy of the proposal will be availed.

Dr. Ndahiro: Mr. Speaker, Sir, I wanted to ask a supplementary question whether considering the March report the Council of Ministers have considered the recommendations made in this House about funding modalities and our concerns about donor funding. We have made specific recommendations in this House. While considering alternative modes of funding did they consider whatever is debated in this House?

Ms. Mossi: Mr. Speaker, Sir, it is an on-going process and the Council will consider all the concerns and recommendation in this august House.

The Speaker: Last question, hon. Sebalu!

Mr. Mike Sebalu (Uganda): Mr. Speaker, Sir, I thank hon. Abdul Karim for this Question and the Minister for the response.

What is the scientific rational of the standard ten per cent increment of the budget given that at every other level the volume of work increases? When you consider the Customs Union, you add the common market and now you have the negotiations of the Monetary Union and you are still applying ten per cent standard increment. What is the scientific

rational of that? Does it make financial sense in terms of dealing with the volume of work that comes every other preceding year?

Ms. Mossi: Mr. Speaker, Sir, this is based on the fact that partner States cannot go beyond ten per cent of their budget.

The Speaker: I think the hon. Member asked for the rationale. He knows it is ten per cent; the question he asked was the scientific rationale.

Ms. Mossi: I think some partner States are under financial constraints and cannot go beyond that percentage.

The Speaker: Next Question!

QUESTION REF: EALA/PQ/OA/04/2011

Mr. Gervase Akhaabi (Kenya) asked the Chairperson Council of Ministers:-

“The Treaty for the Establishment of the EAC enjoins the Partner States to regulate industrial, commercial, and other activities so as to accelerate harmonious development and sustained expansion of economic activities and establishment and maintenance of a market economy.

Considering that the Partner States have in the past, in an effort to promote exports, developed and established Export Processing Zones and Special Economic Zones to boost industrialization, transfer of technology, sharpening of skills, promote exports and create employment;

The destination of the exports from the Export Processing Zones and Special Economic Zones included Partner States in the EAC and yet the Partner States to which the products of these factories were to be exported to now constitute part of the EAC Common Market domestic market.;

Could the Chairperson Council of Ministers:

- (a) Inform the House if an impact assessment was carried out on what the effect of coming into force of the Common Market Protocol would have on the Export Processing Zones and Special Economic Zones?*
- (b) Explain to the House what measures are being undertaken by the Community under the Common Market to preserve the investments and employment in the zones in light of the coming into force of the Common Market; and,*
- (c) Whether the Partner States could consider increasing the percentage of products exportable to the EAC domestic market by the zones to a level that will help these factories and investments survive the change economic environment upon such reasonable conditions as may be determined and compete favourably with imports from other markets.”*

The Minister for East African Community Affairs, Burundi and Chairperson of the EAC Council of Ministers (Ms. Hafsa Mossi) (Ex-Officio): Mr. Speaker, Sir, on behalf of the Council of Ministers I would like to beg your indulgence and refer this matter to the next session because we need some more consultation and more work needs to be done on this Question.

The Speaker: Okay, you will have a chance on the next session.

Question Reference: EALA/PQ/OA/05/2011

Mr. Frederic Ngenzebuhoro (Burundi) asked the Chairperson Council of Ministers:-

“In accordance with the provisions of Article 138(2) of the Treaty, the Secretary-General concludes with the governments of the Partner States in whose territory the headquarters or offices of the Community are situated, agreements relating to the privileges and immunities to be recognized and granted with the Community.

Further, Clause 3 of the same Article stipulates that each of the Partner States undertakes to accord to the Community and its officers the privileges and immunities accorded to similar international organizations in its territory.

At this moment, the Community has its properties in some Partner States. The Community is building its own headquarters in Arusha, Tanzania. Very soon, an institution of the EAC like the IUCEA will undertake to build its own headquarters. Many other organs and institutions of the EAC will do the same and their own headquarters or offices.

Could the Chairperson Council of Ministers:

- (a) Inform this House about the state of play of the implementation of the above provisions of the Treaty?*
- (b) Have there been any challenges faced, and if so what are they and what solutions does the Council of Ministers propose in order to have the above provisions of the Treaty fully implemented?”*

The Minister for East African Community Affairs, Burundi and Chairperson of the EAC Council of Ministers (Ms. Hafsa Mossi) (Ex-Officio): Mr. Speaker, Sir, it is true that Article 138 of the Treaty for the Establishment of the EAC takes Cognizance of the Community’s International Legal personality. As such, it requires the Secretary-General to conclude headquarters agreements with partner States in whose territory the headquarters or offices shall be situated for purposes of granting privileges and immunities.

Mr. Speaker, Sir, a draft protocol on immunities and privileges which aims at establishing common standards to guide all the partner States in the granting for immunities and privileges has been prepared and submitted to the partner States for study and comments. While awaiting the partner States responses the draft headquarters agreement has also been prepared and availed to partner States for comments. While this process is ongoing

the Secretary General has managed to conclude headquarters agreement with the Government of the Republic of Kenya and the Government of the Republic of Uganda in respect of the headquarters of the Lake Victoria Basin Commission and the Civil Aviation Safety and Security Oversight Agency (CASOA) respectively.

As for the headquarters of the Community, the headquarter agreement has been in place since 1996. Proposals for its amendment to take into account institutional changes that have emerged over time have been made to the Government of the United Republic of Tanzania.

Mr. Speaker, Sir, with regard to the second part of the question the biggest challenge is lack of a uniform set of immunities and privileges to be negotiated in respect of each agreement. Notwithstanding the requirement that partner States accord the Community privilege and immunities accorded to similar international organizations in their territories. Partner States do not have uniform grants for different international organizations. It is in this regard that a protocol on immunities and privileges is being developed to provide a common basis.

Another problem has been in regard to determining the level of entitlement of immunities and privileges to be enjoyed by the person in the employment of the Community. In some cases arguments arise against extending immunities and privileges to nationals or partner States where headquarters agreement are being negotiated. This matter is under consideration by the Sectoral Council on Foreign Policy Coordination which is due to meet in March 2011.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, I would like to thank the Chairperson of the Council of Ministers. Of course, it would have been better if I had those responses at my disposal. Anyway, we will wait for the comments from the partner States. We, of course do not know how long it will take.

My aim was to draw attention to the House that as the EAC the Community is widening we must have legal instrument, which can regulate the agreements. I have not special comment. I thank the Chairperson, Council of Ministers again.

MOTION

FOR SEEKING LEAVE OF THE HOUSE TO INTRODUCE A PRIVATE MEMBER'S BILL

Mr. Frederic Ngenzebuhoro: Mr. Speaker, Sir, I beg to move:-

THAT, this Assembly pursuant to the provisions of Article 59(1) of the Treaty and Rule 64 of the Rule of Procedure of the Assembly, do grant leave to Hon. Fredric Ngenzebuhoro, Chairperson of the Committee on Legal, Rules and Privileges to Introduce a Private Member's Bill entitled The East African Community Human Right Bill.

Mr. Akhaabi: Seconded.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, whereas Article 59 of the Treaty for the Establishment of the East African Community allows Members of the Assembly to propose any Motion or to introduce any Bill in the Assembly and whereas the provisions of Article 59 of the Treaty are translated in the Rules of the Procedure of the Assembly particularly in Rules 26 and 64; recognizing that the Treaty for the Establishment of the East African Community provides for establishment of the mechanism of recognition, promotion and protection of human and people's rights, which in itself is tandem with the provisions of the African Charter on human and people's life, further recognizing the need to foresee the process of deepening and integration by granting human and people's rights in the social, economic and political spheres, which will be addressed by enacting a Bill of Rights. Now, therefore, this House do resolve to grant the Hon. Fredric Ngenzebuhoro leave to introduce the Private Member's Bill entitled the East African Community Bill on Human and People's Rights (2011)

I beg to move.

(Question proposed)

Mr. Gervase Akhaabi (Kenya): Mr. Speaker, Sir, human rights, good governance, democracy and the rule of law are central to the Community. In the opening provisions of the Treaty for the establishment of East African Community adherence to the principles around these areas constitute a basic requirement for membership in the Community.

Mr. Speaker, Sir, these principles also constitute the fundamental principles of the Community. They also constitute the operating principles of the Community. As we move from the regime in the Community of Customs Union to the regime of the common market, the principles of human rights are going to play a central role because the rights of the people of East Africa as they exercise and enjoy their rights under the common market need to be protected. But before they are protected it is going to be necessary to recognize these principles. Therefore, there must be a mechanism for the recognition of these rights.

Mr. Speaker, Sir, I appreciate that the Treaty itself directs the Community as to where to find the basis for the recognition of these rights. This is the African Charter on Human and People's Rights. However, this Charter to which members of the EAC have ascribed to need to be translated into the laws of the Community.

Apart from recognizing these rights, they have also to be promoted. They have to be protected. Going together with the promotion and protection of the human and people's rights is the need for establishment of a recognized mechanism for the enforcement of these rights.

Mr. Speaker, Sir, it is in this regard that we do not have a recognized mechanism for the recognition for the promotion and for the protection and enforcement of these rights that we as people of East Africa need to have a uniform system and a uniform mechanism for doing this. Considering the time at which we are in our integration process, it is therefore, imperative that we establish such a regime for the recognition, promotion, protection and

enforcement of human and people's rights in East Africa in order to give effect to greater integration and in order to promote our cooperation with the EAC.

This Bill, therefore, could not have come at a better time than at this point in time. In fact, it ought to have come much earlier before we came to the common market.

With those few remarks, I fully support this Motion and urge the hon. Members of this House to support it so that we can make a contribution in the establishment in institutions and systems for the people of East Africa. We can then put into effect their aspirations.

I support.

Major-General Mugisha Muntu (Uganda): Mr. Speaker, Sir, let me take this opportunity to thank Hon. Ngenzebuhoro for moving this Motion. I rise to support it.

Like hon. Akhaabi has indicated it is long overdue. My only worry is that it is being moved as a Private Member's Bill. One would have hoped that this would have been one of the key Bills that would have been moved by the Council of Ministers. Unfortunately, it seems for whatever reason since the First Assembly we started from a different front. We have been working on the front of trying to ensure that the East African Court of Justice's jurisdiction is extended to deal with matters of human rights. I do not know whether that has succeeded or not. Nevertheless, even if that front had not been fully handled to extend the jurisdiction one would have hoped that the Council of Ministers would have moved such a Bill. It is central to the integration process..

If you look at the debate over the last century all over the world, there are those who think you can separate the two; that you can have economic development or economic well being of the human being minus the human rights. It can work, it has happened in other countries. If you look at the Asian model that is exactly what they do; push for the economic development agenda, forget about the human rights. Once you have reached a certain level, then you can observe human rights. If that is the path, we want to choose let us chose it and move on that path. However, it seems we have not chosen that. It seems our path is that we need to integrate both. That is the understanding we have in this Community. We have not had anybody contradicting that. if that is the path we have taken let us pursue them. If we are going to pursue them, some of these issues are key. Therefore, we would like to see the Executive arm of the integration process; that is the Government, Council of Minister, Summit take the lead. We should know that in East Africa we are looking at two things; one, we recognize that the human being must have economic well being and also the human rights of human beings are observed.

Some people say that peace is not absence of conflict. Peace is the presence of justice. I tend to believe in those who say that peace is the presence of justice and not just the absence of conflict. When you look at countries, which have the highest level of happiness in the population is lead by Denmark. The top five are; Denmark, New Zealand, Australia and another Scandinavian country. If it is not Norway it is Finland. These countries are not the most industrialized in the world. Norway has actually moved

where they are when they got the proceeds of oil and know how to use it. It is not like some of these countries, which are getting oil to cause a crisis.

Leaders focus and say when you have a society where people feel free and their rights are being observed it sparks off something within the human spirit. That is why you find that in such societies are innovative, constructive, disciplined and sensitive to each other. That is why you never find conflicts in such societies. That unleashes their productive potential. It is not just something that we talk about because when you talk about principles like human rights people would get them to mean human emotion. It is not just human emotions. That is the core of a human being. When you tap into it and largely when it affects a big majority of a people there is no way anybody can hold such a society down? We must make choices.

The other day I saw Hon. Kwekwe was laboring on the issues of environmental concern. I was here. I wanted to rise up and give information to her that we may talk from morning until evening about environmental concerns but if we are not sensitive about each other as human beings, how are we going to be sensitive about trees, rivers, and whatever else? *(Laughter)*

If you can do things that you very well know are going to lead this hospital and they do not have drugs and they will die, tell me how you will care about a tree.

Thank you. That is my contribution. We really encourage hon. Ngenzebuhoro to go ahead and move this Bill. I would have really hoped that the Executive arm of this region and the country are the ones who would be pushing for this. We need to choose what kind of a society we want to build. If we are looking at the quantum of human progress, we want to come from our nation States and move higher when we get to a regional level. If at nation States we are at around four or five when we go regional, we want to reach seven or eight. We do not want to get stuck or get down. Nobody is going to cause this region to integrate politically until we fundamentally observe the things we talk about here in theory. As long we are not sure that they are put in practice, some of us will fight this integration process. We are not going to move from where we have been the last 50 years and then move to regional level and repeat the same things we have been going through. Why would we want to do that?

We want to move from where we have been, learn from it and move higher and higher. Honesty, Chairperson Council of Ministers, we are about to reach ten years how can something this fundamental to the existence of human being in this region is being moved as a Private Member's Bill? We will move it, I hope Members will support it and we will pass it.

Thank you.

Mr. Mike Sebalu (Uganda): Mr. Speaker, Sir, thank you. I do appreciate the initiative by hon. Ngenzebuhoro in moving this Motion. I just want to give my thoughts about the same.

Mr. Speaker, Sir, our integration is defined in the Treaty and the different stages of our integration are very well elaborated in the Treaty moving from the Customs Union, common market, monetary union and political federation which essentially means that we envisage such a point in time when we shall be one entity. I think that is very critical. As we move towards that integration, certain actions and initiatives need to be undertaken. These will inform the process up to the point of federation. This federation or integration or the community we are creating is not a community of anything else. It is a community of the people. If we are creating a community of the people, then as of necessity there are certain tenets that you must look at to give the people a sense of belonging to a community that they would be proud of and a community under which they would have rights and freedoms that they enjoy. When you look at the common market it does that. It clearly defines some of the rights that the East African ought to enjoy in one common market and some of the freedoms that they are supposed to enjoy. But then you need to have a bigger regime in terms of legal framework to define those in details. I think that is where hon. Ngenzebuhoro is going.

If we, as a region, have defined our destination as being political federation which essentially means one entity then we need to have a clear path of progression in terms of certain institutional framework. Like hon. Muntu has indicated this ought to be one of those institutional frameworks that is supposed to be initiated by the Executive arm and the Council as part of the institutional building mechanism for those critical institutions dealing with those aspects that will make people appreciate and know what is in the Community for them in terms of their rights and freedoms.

Mr. Speaker, Sir, this is a good initiative which I hope the Executive will see in good light because then it is fulfilling the commitment that has already been made by our partner States through our Summit. There is something that we need to appreciate from this new point; this integration is people centred. If it is people centred now then do we give the people the centrality of the integration without giving them a regime that defines their rights within this Community? I think it becomes very important if we want to emphasize the centrality of the people as of necessity then we must provide for their rights within that community of people. This is a community of people and previously people had arguments that the community was so much of leader-led. You know you find leaders meeting in their Summit and that is all. That was found to be a big weakness. It partly explains why the previous integration efforts faced a bit of challenges. There was a paradigm shift this time round and the centeredness of the people was brought on board.

Now when you bring it in the Treaty and do not create other legal regimes in terms of institutional framework to actualize your commitment within the Treaty then something is not very right. So, my view is to appeal that the best case scenario should be that the Council of Ministers takes up this initiative because it is also possible that it has been brought but the Council can say, "Look, this is a good idea and you work with the mover" that is another matter. My view is not whether to take it on or not but to support it because it is a worthy course. It is something we need. It is something that will make posterity judge us right when we create a community that has rights and freedoms very well defined and East Africans get to appreciate and take advantage of them.

We have the common market. People are supposed to move freely. When you have a common market, you are talking about a population of 125 million people.

The Speaker: Hon. Sebalu, please summarize.

Mr. Sebalu: Mr. Speaker, Sir, I was getting worked by this thing.

I think I have made my point. Surely, I do not want to push it any further. I just want to appeal to the Council to look at this from an open heart. Do not misread it, it is a good course. Take it up, let us work together and create a community of people who enjoy rights and freedoms and are able to enhance their welfare.

Thank you Mr. Speaker, Sir, for your indulgence and permission for me to contribute.

The Chairperson, Council of Ministers, Ms. Hafsa Mossi (Burundi): Mr. Speaker, Sir, I do appreciate the importance of this Motion. The Council cannot, at this time, elaborate comments on the Motion. I know that the East African Community has been working closely with commission on human rights of the partner States in developing protocol in recognition, promotion and respect of human rights pursuant to Article 6 of the Treaty.

However, as part of the Draft Protocol on the extended jurisdiction of the EACJ the EAC for some time has been awaiting comments from partner States whereby deadline for receipt of comment was fixed by 31st December 2010. In other words, there is a two-front approach going on right now with respect to the Motion on the Floor.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, I must say that I have no further comments. I take note that the Council accepts this approach. I would also like to thank all those who contributed to this Motion namely; hon. Akhaabi, hon. Muntu, hon. Sebalu and of course the Chairperson of the Council of Ministers. On behalf of the Committee, I would like to say that this issue would be closely be followed.

Thank you.

(Question put and agreed to)

The Speaker: Hon. Members, before I adjourn this morning, may I take this opportunity, once again, to most sincerely thank His Excellency the President and indeed the entire Government of Kenya for the warm hospitality they have accorded to EALA for the last two weeks.

Special thanks also go to the Speaker, hon. Members, the Clerk and staff of the Kenya National Assembly for all the facilities and necessary assistance they have accorded EALA.

Hon. Members, as you are aware even though we have finished the formal plenary session, we have two activities. One is on Friday which is an interactive session with the

Kenya National Assembly which will be held at the Laico Regency. I think the programmes have been sent out. I think it should start at 8.30 a.m. so please be on time.

We also have another activity to deal with the Common Market and the 4th EAC development strategy which will be held on Saturday at the Intercontinental Hotel.

ADJOURNMENT

The Speaker: I now adjourn the House until Tuesday 29th March, at 2.30 p.m. in Kigali, Rwanda.

(The House rose at 12.00 p.m.)