



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

87TH SITTING – SECOND ASSEMBLY: FOURTH MEETING – THIRD SESSION

Thursday, 3 June 2010

The East African Legislative Assembly met at 10.25 a.m. in the Chamber of the Municipal Council of Mombasa, Kenya.

PRAYER

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

(The Assembly was called to order.)

MOTION

FOR THE CONSIDERATION AND APPROVAL OF THE BUDGET OF THE EAC FOR THE FINANCIAL YEAR 2010/2011

(Debate interrupted on Wednesday, 2 June 2010, continued)

The Speaker: Honourable Members of the Committee, I think you should allow the other Members to debate first and then you can have a chance later.

Dr Fortunatus Lwanyantika Masha (Tanzania): Mr Speaker, let me join you and others who have expressed

appreciation for the wonderful welcome we have received from the authorities in Kenya and Mombasa, and for the facilities afforded us.

I am not a member of the Budget Committee, and I appreciate the extensive report that was given to us yesterday by the chairperson of the Committee. I will not deal with all the items referred to, both in the Budget and in the Report of the Committee, but I have some comments on two or three matters, particularly regarding publicity.

The Chairperson of the Summit in his address told us about the need for greater political will and popular participation in the Community. He

referred to the overriding principle of a people centred integration, which demands that people of East Africa own the EAC regional integration process.

Every time I go around, people ask me questions about what we do and where we are going. This shows that there are major gaps in how we deliver information, and how we publicise what we are doing. I have tried to look through the papers given to us, and let me say that if you want to confuse people and make it difficult for them to look at the shortcomings, you stuff many papers in front of them, and they will find it difficult to read. *(Laughter)* So, here we have about four or five annexes. I wonder why the budget cannot be in one document. Why all these annexes? Now, the funny part of it is that some of these annexes have conflicting information. Some have references and figures, which are conflicting.

On the question of publicity, I cannot find sufficient information in these documents to give me a feel that, indeed, we are addressing this problem of making our people of East Africa know what it is that we are doing, and where and when we are taking them there. We may know about this, but if it is to be a people-centred organisation, if the people of East Africa are to own this integration process, we must restructure our method of publicity and information delivery.

I have looked at some of these documents, and in one document there is reference to funds provided for corporate communication. In one document there is \$919,000 for corporate communication. Let me say that there is a difference in delivering information for a corporate body in the

sense of an industry, and for a government related structure. Essentially, we are delivering information, not products for sale. We are delivering information to an audience, which we must define and be clear about. When it says a people-centred integration process, we have to be clear which people to whom we provide this information. We are not going to be able to provide information to the people of East Africa with less than a million dollars a year, and which includes the salaries of the people who are doing the work!

No doubt, I read in one of the documents – and they are so many – that they were providing \$1,000 for advertising in a year. Advertising what? Is this to reach all the people of East Africa? In another case, they are providing some tiny amounts for publicity. When I went into the document, I was trying to see whether there is an information strategy related to how we reach these people in East Africa. I could not find it.

In my intervention in Kampala when we were discussing the budget a couple of years ago, I made reference to this that if we do not look at our information and publicity programmes -either for EALA or for the Community- our people will continue to be left behind, not knowing what we are doing, and we will be surprised to find them asking us what the Community is all about.

I want, nonetheless, to commend the Ministry for EAC of Kenya, which has tried to put out some publicity materials. I don't know how coordinated it is with the work going on at the EAC or EALA, or whether they are promoting their ministry and the EAC and EALA references are incidental, but at least there is some

effort by them, and I want to commend that ministry for doing that. *(Applause)*

Equally, I want to commend the hon. Minister Dr Kamala. I have tried to follow his movements in Tanzania. He gets a lot of publicity. In the process, the EAC gets incidental promotion and publicity. *(Laughter)* Unfortunately, it is only when there are problems somewhere that we get to hear in the press about the problems, which Dr Kamala has had to address. Nonetheless, he has given some considerable visibility to the EAC through his movements in Tanzania, but this publicity is incidental. It is not a well-structured information publicity programme, knowing exactly whom we are going to reach, how and with what methods; radio, television, ICT as we have it now, or newspapers.

I see that for publicity of EALA there is very little money provided under public relations. In EALA it is “public relations”, in the Secretariat it is “corporate communication”. Nowhere is there information or publicity directly, except about the court, which I am going to talk about a little later.

Now what do we expect in terms of promoting EALA? There are a number of things about the presence or participation of EALA Members in several meetings; IPU and so on. I must acknowledge that when the Speaker goes to an organisation external to us, or goes to some meeting, even within East Africa, there is some publicity generated. I realise that his presence makes people know that we exist. Nonetheless, there is no structured information publicity delivery that would make the rest of the people know that we exist. It is this absence of an information strategy that I lament about – *(Interruption)*-

Mr Sebalu: On a point of information, Mr Speaker, what the hon. Masha is stating is very important, given that we have to deal with the issue of people centred-ness. What we need to emphasise is to have an information, education and communication strategy. Some of the information we give must be in form of educating the people to understand, appreciate and own the process. So, other than just advertising, our medium should concentrate on informing the people, educating and communicating the different developments regarding the integration process. That is lacking, and our budget should reflect that, if we have to carry the people along with us.

The Speaker: I am still waiting for the information you were going to give; I thought you were just debating – *(Laughter)*. Anyway, proceed with your contribution Dr Masha!

Dr Masha: Mr Speaker, indeed there was no information, but I appreciate the support of the stand I am taking. I thank hon. Sebalu very much.

There is so much known about how to deliver information in this world; how to reach audiences, but we have not taken advantage of this. If we don't have internal capacities to do this, we should source them out. I notice in front of me is one of the ministers who is a prominent communicator in her own right. Why don't we use these talents to show us how to reach audiences? I am referring to hon. Hafsa Mossi, the Minister from Burundi. She knows some external channels that probably if they were triggered, they could promote our cause. Let us use all the talents, efforts and the knowledge that we have. We now have schools of journalism in our areas. We have people with PhDs in journalism and information; we have people who have

been in this trade for years. For heavens sake, let us use them. This kind of budget I see here will never make it possible to have a people centred organisation, or to have the people of East Africa own the integration process. I am very unhappy that despite my reference to this kind of problem in the budget two years ago, the provision for information remains totally inadequate.

There is a reference in the report of the budget committee about the legality of Civil Aviation Safety and Security Oversight Authority and the Lake Victoria Basin Commission. I understand these are caught up in an on-going problem in EALA, namely the relationship between Protocols and Acts of the Assembly. We are told, and indeed it is in the Treaty, that Protocols are integral elements of the Treaty. I am not a lawyer, but I would wish for some lawyers to try and explain it to us in legal terms. I know the regular meaning, but perhaps there is a legal meaning to it. When something is an integral part of another, if it means that every protocol has the same stature as the parent treaty, then we have a serious problem, and I will keep saying it until I leave this House.

I am aware, and I have worked in an international organisation, the United Nations, for many years. My last years at the UN were as Director of Library and Publications. In the library, among the things we received were treaties. I have never seen a treaty which invokes subsequent protocols to be integral elements of it. Treaties will invoke previous protocols; protocols which came before the Treaty, not subsequent protocols. If subsequent protocols were to become part of the Treaty, we could end up with a Treaty which is that big; with contradictions, as indeed we are

starting to see, coming between the protocols and the Treaty.

The Treaty establishes the Court, for example, as the major judicial instrument of the Community. It gives it powers. Then the Protocol on the Customs Union, as we were told by the Registrar of the Court in Bujumbura when we were dealing with the Protocol on the Common Market, establishes another committee to adjudicate matters of the Customs Union, and that the decisions of this committee will be final! Where is the Court? I submit that, that is a contradiction between the Treaty and the Protocol, and somebody should come up and tell our esteemed leaders that there is something wrong there. Presidents Kibaki and Kikwete asked to tell them what we want to tell them. This is one area where I think we have a problem. *(Applause)*

We have now established the Protocol on the Common Market. The Registrar was complaining that the Protocol gives authority to national courts to adjudicate most of the elements in the Protocol on the Common Market. Where is the Court? And yet we are talking of an expanded Court, with more powers? What I see in the budget is that the budget of the Court has been reduced. We say the Court is the most important thing, and of course we give justification of lack of work as to why the Judge President cannot be resident in Arusha, and then we establish other entities to do the work of the Court! A contradiction of the Treaty again! Our esteemed Ministers and Presidents, please look at this thing. Either we are going integration or we are just talking about it!

Back to the question of publicity, the report of the budget committee addresses this question with respect to

the Court. I want to ask your indulgence to read this; how publicity for the Court is seen. I am reading from the report of the budget committee on page 25. *“What has the Court done in order to make itself known?”* The answer is that *“For the past four to six years, the Court has been providing for publicity in its annual budget to cater for buying space in newspapers, organising and attending stakeholders’ workshops and appearing for both radio and TV talks. In the Financial Year 2009/2010, the Court budgeted for US \$200,000 with the support from development partners to sensitise stakeholders on its arbitration jurisdiction.”*

Now, how do they conduct this? It was by participating in meetings and hoping that the media would see these wonderful leaders from the EACJ and would want to run to them to ask for information. That is not how it is done! Again, this shows the lack of an information and publicity strategy to promote the work of EAC, EALA and the Court.

Let me conclude by saying that the paperwork here is very sloppy and unsatisfactory. Even though the conclusion of the Chairperson of the budget committee is very positive, in the report I find phrases such as...if you will allow me to read some of these phrases, which make me wonder why the conclusion is so positive, Mr Speaker: On page 9, there is a mismatch in codes, objectives and activities, which is misleading. On the same page, *“the Committee notes with concern ...”* and then *“the Committee insists”* *The Committee is concerned about money...* *“There is no specific indication on projects”* All these are in the report, Mr Speaker. *“The Committee regrets that the sector continues to under-perform”* *“The*

Committee regrets that this sector is under-funded” *“The Committee expresses disappointment over the continued disregard of the directives of the Council”* *“The Committee notes that the activities of the department are particularly skewed”* And so on and so forth, but at the end, the Committee says *“The committee in general notes with appreciation”*

There are gaps in terms of both coherence and substance in the programmes; there are gaps and confusion in the codes; there are gaps and confusion in the explanations given. The presentation is disjointed and incoherent. But to give credit where it is due, I give credit to the Ministry of EAC Kenya for the work they have done in publicity. I give credit to Dr Kamala for the incidental publicity that we get through his travels in Tanzania. I am not too familiar with what happens in the other countries. Knowing that we are time bound in a way by the period allocated for us to debate this budget, I will go along with the conclusion of the budget committee that we pass it. But for heavens sake, next time, if I am around, I am going to be very hard on this. *(Laughter)* I thank you.

Ms Janet Deo Mmari (Tanzania): Thank you, Mr Speaker, for giving me this opportunity to contribute to this very important debate. Since this is my first time to take the Floor in Mombasa, allow me to extend my appreciation to His Excellency, President Mwai Kibaki, the Rt. Hon. Kenneth Marende, the Speaker of the Kenya National Assembly, His Worship the Mayor of Mombasa, the Ministry of EAC, Kenya, EALA Kenya Chapter, and the entire people of Kenya, but with particular emphasis to the people of Mombasa, among who

I also feel very warm. *“Ndugu zanguni, tumejienjoy tangu tulipofika na kwa kweli in Swahili, wanasema, Mgeni ni siku ya kwanza, ya pili, ya tatu inabidi mpe jembe akalime.”* We have enjoyed so much that I feel it is time we are given hoes so that we can go and actually dig. *“Asanteni sana watu wa Mombasa na watu wa Kenya.”* (Applause)

Mr Speaker, turning to the budget, I wish to congratulate every group that worked very hard to ensure that this participatory budget has come out. Specifically, allow me to congratulate my sister, hon. Nassor Sebtuu, the Chairperson of Committee on General Purpose, for her excellent maiden speech, which has hit hard on areas that needed to be hit, but then concluded with that soft motherly touch, not forgetting that she was also giving very hard advice and direction on what should be done so that at least things that have not changed can change.

It is against this background that I am saying that I will go along with every recommendation that was given by the committee that looked into this budget. However, I would want to be educated on three things.

The one that was really itching was the one that Dr Masha pointed out on the issue of ensuring that at least we reach the people of East Africa. We are saying that the theme is to ensure that the Common Market is implemented. My question is how are we going to reach somebody who is in Mtwara, in Mbeya, or on the border, who does not know whether we have something called the EAC? When you talk of EAC, what comes to mind is the defunct EAC. Since hon. Masha spent a lot of time on that one, I think I

would not want to actually water down what he said.

The second item I want to be educated on is why, when you look at the Lake Victoria Basin Commission, you do not see recurrent expenditure. Everything has been lumped under the development budget. So, I was wondering; maybe there is a good reason why that has happened. I just need to be educated. It is unlike me because usually when it comes to issues that I don't understand, I am hard. But on this particular budget, I cannot be hard.

The other thing is that when you look at issues to deal with women, children and the youth, we mention specific articles and we say, okay, these are the business people; they are going to be empowered. But when I was looking at the budget, I did not see anything that relates to that. But, as hon. Masha has said, maybe it has been put somewhere else where I cannot see it.

In addition to what I have just said that I need to be educated on, I wonder whether I have the moral authority to question anything in this budget, if at all. I want to give a few examples of the things that deny me the moral authority to comment on this budget. First, I think this Assembly has knowledge of the fact that we are paying rent in Arusha for Members' offices in which some of the Members have not set foot because they have not been to Arusha. My question is - unless I am amoral, and I don't want to allow that; I still have my conscience, and I don't want to be amoral - where do we get the moral authority to say, why have you done this or that, and this should be like that? I think that if we were not going to be in Arusha, then we would not need to incur those

unnecessary expenses, and that money could be spent elsewhere!

Along the same line, I think it was two years ago that we spent a lot of money to extend and re-decorate the Chamber of the Assembly. I know that we put in money to ensure that we maintain those offices, but we only sit in those offices once. I know we say that we go to the Partner States because we are needed there, but I agree with what Dr Masha said that we need strategies to ensure that we reach the people of East Africa. I think that there are better ways of reaching them other than by being tourists in the region.

I use that particular word “tourist” because there was an interview on the BBC, and people were asking about the Assembly; where do we sit, what do we do and why we must be seen as tourists! Specifically, when I take this very Fifth Meeting, and I am sorry to use this example, especially since I am enjoying myself in Mombasa, we spent 12 hours in a bus to move from Nairobi to Mombasa. I left my hotel at 7.00 a.m. and I was arriving here at 10.00 p.m. - actually it is 14 hours; my maths is wrong. I ended up being very tired. We only stopped in one place. The thinking behind this must have been good, because we were supposed to meet the people, but we only stopped in one place, and a number of people stayed in the buses, and only a few people spoke. So, I was wondering whether that was good use of the money that is allocated to us - *(Interjection)*.

Mr Mike Sebalu (Uganda): On a point of clarification, Mr Speaker, hon. Mmari referred to my earlier intervention regarding a comprehensive information, education and communication strategy, but my intervention was on the premise that in

the absence of that, which we must work towards as an Assembly, we need to engage in creative ways of taking the integration to the people. My clarification is that as we have gone round, doesn't hon. Mmari get a sense that we have done much better than if we had never, as an Assembly, gone out to interact with the people through our sessions on a rotational basis? We need to look at the cost benefit analysis. Yes, it comes with a cost, but aren't there any benefits in terms of enhancing visibility? That is the bit of clarification that I wanted to seek.

Ms Mmari: Thank you for the clarification. I do not think there is any contradiction at all. If you may allow me, I think I still need to go through what I feel denies me the moral authority to stand here and start talking about other institutions and what should be done, because I believe what is good for the goose is also good for the gander. Charity begins at home. If we can pay \$135,000 to rent a house for a year and we don't use it, and we cannot stop to question it - *(Interjection)* - it is on page 2002.

I also referred to somebody who said that we should use strategies that will ensure that we reach people and we become more effective, more cost conscious so that when we stand up to say that we are exercising our oversight role, we are really doing it from our hearts so that we are the example, and there is transparency in everything that we have done. We know that when we travel, and I am still on costs, we travel as Members and staff. If I take the list that was distributed of support staff - because we need them, we need the books and documentation; we need people who will support the committees - it is 30 people. At the rate of what is paid, we are talking about \$111,000. Are there

no areas where we could have needed to use this money? It does not end there.

If I take the example of this very Fifth Meeting, we are meeting here - we could have met in a tent; it does not matter, but at the same time we are paying hotel bills to hold committee meetings in Castle Royal Hotel. I do not have the cost because I don't know what was negotiated, but all in all, what I am saying is that there are many better ways we could have spent this money. So, we have to start by talking seriously about the way we conduct our own business. We should be open and transparent, just like we were able to sit and say we are going to appoint a probe committee that will look into the affairs of the Secretariat. Charity begins at home, and, what is good for the goose is good for the gander. We should openly put our house in order before I can say I have the moral authority to speak on this budget - (*interjections*). Mr Speaker, I said I was going to give a few examples, not many. Now it looks like there is a lot of information. Let me finish and you can give it to anybody who wants information. (*Laughter*)

The Speaker: Hon. Mmari, it is not you to decide who speaks in the House. You may proceed!

Ms Mmari: Thank you, Mr Speaker. I said I was going to give a few examples. We need to strategise on how to move forward. Because I have no moral authority to comment, being a Member of this House, I am saying we are approving this budget as it was brought here by the Council of Ministers, with recommendations to look at what the committee has suggested should be amended, and probably, if you find it fit, what I wanted to be educated on, but

specifically, where the Assembly has expenses that are not necessary. When we go vote by vote, those should be cancelled out. I thank you.

Mr Augustine Lotodo (Kenya): Thank you, Mr Speaker, for giving me this chance to contribute to the motion. First, I want to welcome everybody to Mombasa, though belatedly. I just want to say that we are glad that we have been able to come to this city for the people of Mombasa to appreciate what the Community is doing.

I would like to start my contribution by thanking the Chairperson, Council of Ministers, hon. Kamala for the speech well delivered. The issue that I want to talk about has not been captured in the budget. I want to go back to speech that the Chairperson of the Summit, His Excellency President Jakaya Kikwete, gave last week in Nairobi. If you go to pages nine and ten of his speech, he talked about drought and food security in East Africa.

Last year was not a good year, especially for the pastoralist people of East Africa. Nearly 80 per cent of Kenya is arid or semi-arid, and is occupied by pastoralists. In Uganda, almost 40 percent of the country is covered by people who keep livestock. In Tanzania, there are over 40 percent pastoralists. I believe in Burundi and Rwanda, we have a lot of people who keep livestock. Why these people keep livestock is because it is their source of income as well as food. Livestock is their bank. Last year, very many livestock died due to drought in Tanzania, Kenya and Uganda. People lost their livestock, and others even committed suicide. Our countries were not prepared for what happened. I remember livestock being shown on television dying at the Kenya Meat Commission holding site. What

happened between last year and this year was because there were floods. I know that in Northern Uganda people depend on sheep and goats, and when floods came, they lost nearly 50 percent of their sheep and goats. So, you can imagine how much livelihood has been destroyed by loss of livestock.

Now, turning to this budget, nothing has been provided for in the sector of livestock. That is my departure from this budget. There was a meeting of the Sectoral Council on Agriculture and Food Security that was held on 2 December 2009. In this meeting, some decisions were made, and just to mention a few, there was a meeting of experts on animal breeding and animal farm genetic resources, which was held on 11th and 12th October 2007. The Sectoral Council directed the Secretariat to facilitate the establishment of an EAC sub-committee on farm animal genetic resources drawn from the Partner States and stakeholders. That has not been done.

There was also a meeting of experts on livestock policies that was held on the 15th and 16th of October, 2007. The Sectoral Council directed the Secretariat to establish a taskforce to formulate a regional livestock development policy, which should address livestock identification, registration and traceability; pastoralism, livestock movement and conflicts; water for livestock, environmental changes, emerging livestock diseases, livestock trade, value addition, livestock research and extension, as well as livestock/wildlife interface, among others. Basically, nothing has been done in this front.

There was a meeting of experts on livestock trade and marketing. You

know very well that this is the area we need to address. A similar decision was made, and the Sectoral Council directed the Secretariat to initiate formulation of a regional livestock trade and marketing forum that will promote sustainable livestock trade within and outside EAC.

Just to mention what has happened, I want to say that in this budget, we seem not to have captured our priorities. I think it is very important that when we are trying to prioritise what is happening in the EAC, we need to get issues right.

When you go to the Budget Speech of the Minister and you see the 24 areas to focus on between now and next year, there is nothing on livestock. This brings me to the conclusion that we only react when disasters happen, but we don't seem to have firm plans, especially on issues that even the President himself, the Chairperson of Summit, has touched on.

In this issue of livestock, we have centres of excellence. In Tanzania, there is one called Mpwapwa; there is one in Uganda in Entebbe, and there is one in Naivasha, in Kenya. They all deal with animal breeding, but these centres are actually not running to expectation, despite the fact that we have over 36 million cows in East Africa. You will find that the demonstration centres for animal breeding are not located in the right areas. For example, in Kenya you will find that all these centres are not in Northern Kenya or Eastern Province where the livestock are. In these centres, there is breeding of animals. For example, there are Borana cows, Sahiwal, Ankole cows and Iringa red horn. We really need to keep these animals and improve them for the benefit of our people.

If you go to Somalia and Djibouti, the European Union has facilitated those countries and put up very big centres, which are selling animals for export. There is a big one in a place called Barsosio in Somalia, and another one in Djibouti. I feel that such facilities should also be created in East Africa for the welfare of the people of the Community.

Last but not least, we need to focus on livestock improvement in East Africa. Uganda has led by example. Its ministry dealing with livestock is called the Ministry of Animal Resource. If you go to SADC and ECOWAS countries, these ministries are called by the same name. The African Union has adopted the same policy. I don't know why we seem not to be working in harmony with what is happening around us. I want to propose that we focus on the areas of livestock and the pastoral peoples. In Israel and Libya, they have reclaimed dry lands and made them agriculture friendly. But since our priorities in the EAC are not right, we seem not even to care or budget for our livestock.

For this reason, I want to say that on behalf of so many East Africans who have been ignored, I oppose the budget. I thank you.

Ms Dora Byamukama (Uganda): Thank you, Mr Speaker, for giving me this opportunity. I would like to thank the Government of Kenya, and also our colleagues of the Kenya Chapter. I am very delighted to be in Mombasa, otherwise referred to as "*Mlango wa Africa Masharik*". *Asanteni sana.*

I have a few points to make on the budget, but from the onset I would like to say that I support the motion. I would like to highlight the fact that the

Committee did an excellent piece of work, considering that this committee had only five days in which to work.

When you look at page five, the pre-budget exercise took place from the 16th of May to the 22nd of May. When you look at the methodology, this committee had to meet over 15 people, as well as peruse over 10 documents. I just do not understand how they did this, but I know from experience that the committee members must have been working beyond the ordinary hours of work. *(Applause)*

In so saying, I would like to implore and urge the Chairperson, Council of Ministers, to give consideration to the plea of the Assembly for more time, for more EAC funded activities because, if you consider the kind of work that was done, and the time available, this is strenuous and not good for the health of our Members. *(Applause)*

My second point is on our strategy and planning in respect to the budget. When you look at page one, personnel emoluments takes 29 percent of the budget. The recurrent budget is 33 percent, and the development budget is 38 percent. When you add 29 percent with 33 percent, you get 62 percent, which, in my consideration, is recurrent budget, because personnel emoluments are part of recurrent budget. Is it rational? Is it realistic for us to be apportioning this 62 percent to recurrent expenditure? Are we serious? Even more so, when you look at the development budget, you will find that the biggest component of this budget is funded by donors. What does this say about us? Are we serious about the EAC integration, or are we just paying lip service? I believe that the development budget should ideally be bigger than the recurrent budget for us

to be able to fortify and deepen the integration. So, I would like to propose that we look at the structure of the budget more critically.

Mr Speaker, permit me to move on to page eight of the report. There is an item, which is headed “extra budgetary spending/expenditure outside the budgetary system.” The second part states that the Secretariat flouted basic accounting procedures governing supplementary budgeting, but since it was the first time, the committee recommends that the House should pass the supplementary budget, and urges the Secretariat to always submit any funds obtained after approval of the budget to the Assembly.

This contravenes, to some extent, what has been stated in the first paragraph. It says that the very act of spending an un-approved budget constituted breach of Article 132 of the Treaty, and, therefore, is an illegality. I would like to state clearly that expending money outside our approval is an illegality. We need to pronounce ourselves on this. And because of this, I will not support the fact that it was a first time and so we should let it go. I would like to propose as follows: We should institute an investigation into how and why this was done. Based on the findings of the investigation, we should be able to make an informed decision on what to do on this subject matter. I have a problem with this particular way of dealing with this issue. If we let it pass, we shall be accomplices to that act, and we can also be painted as principle offenders, and, therefore, we shall also be as guilty as the person who breached the Treaty. So, this is a very serious problem, and we need to give it the seriousness that it deserves.

Having served in a national parliament, I know that our different Partner States

have a restriction to a percentage for this kind of expenditure. Here, basic accounting principles, I am informed, only allow you to spend up to 10 percent on this kind of expenditure. But here we are talking about 16 percent. This is a serious omission, and it goes back to what we have been saying in the Committee on Accounts that we need proper rules, and we need to adhere to these rules so that we do not have this kind of thing happening. It may be the first time it has happened, but we should not let it pass because by doing so, it will keep on happening. Next time it will be 50 percent or they will not need us at all. So, we have to be careful.

My next point is on the issue of the centres of excellence. I would like to commend the Committee for recommending that Soroti Flying School be developed as a centre of excellence. But what comes to my mind is what criteria do we have for setting up these centres of excellence? Are we going to set up centres of excellence in each area under the Treaty? How are we going to share out these centres of excellence? Most of the centres of excellence were part of the defunct EAC. So, this is an area on which I would propose that we take some time to come up with clearly informed criteria, which we will use to establish the centres of excellence in all the Partner States.

I will not make reference to the issue of gender, community development and civil society because it is a shame. It is a shame to note that women who produce over 70 percent of the income of all the Partner States are not taken into account when it comes to activities of the EAC. I was thinking that some of us need to go to court; we need to take whoever is making this budget to court because this is injustice

of the highest order! I am offering my legal services, and I know hon. Ogalo will come along. *(Laughter)*

I will not go on and on, but permit me to make some two concluding remarks. The first one is in respect to recurring issues. Ever since I joined this Assembly in 2007, and in every budget that we have handled, there have been some issues which have been recurring, for instance, the fact that we do not have a procurement manual.

If, for instance, you look at the Lake Victoria Basin Commission, you will find that there is this lumping together of annual estimates. In the Committee on Accounts, we call it the “co-mingling of funds.” When funds are “co-mingled” you cannot do your oversight function, nor can you do the budgeting function adequately. I would like to propose that because we have these recurring issues, next time the Committee sits, it should make it clear to the Secretariat that we shall not handle the budget unless these issues, which are raised over and over are addressed. When we mention these issues, they say, next time. There is never a next time. So, I would like to make that proposal to the Committee.

Finally, I would like to refer to the East African Legislative Assembly. When you look at the average performance for the last financial year, it registered 81.8 percent utilisation rate by March 2010. If you look at others, they also have their different rates. As far as I am concerned, I believe that this is clearly a good indicator. It portrays a vibrant entity, and it also calls for added resources, bearing in mind that this was as at March 2010, and we had several months to go. In view of this, and considering that other entities do not seem to have the capacity to utilise their funds, I would support a re-

allocation as proposed, because it clearly shows that they do not have the capacity to utilise the funds allocated to them.

Having said this, I would like to make note of an issue which may actually be taking up most of our funds, but rightly so because we have a right to do as we are doing right now, as per Article 55 of the Treaty. This Article of the Treaty states that “*The meetings of the Assembly shall be held at such times and places as the Assembly may appoint.*”

I would like to tie this with the Preamble to the Treaty, which makes mention of some of the reasons why the first EAC collapsed. It says that “*the main reasons contributing to the collapse of the EAC were lack of strong political will, lack of strong participation of the private sector and civil society in the cooperation activities, the continued disproportionate sharing of benefits of the Community among Partner States due to their differences in their levels of development and lack of adequate policies to address this situation.*”

My reference is “*disproportionate sharing of benefits of the Community.*” I would like to say that when we have the EALA, for example, sitting in Kampala, there is utter joy. The people are happy. The people who are selling their goods are very happy, the hotel owners are happy. Democracy or integration is not cheap. I would like to say that I feel we have the moral authority because in this report, I did not see the budget committee point to any discrepancy. If there is, then the budget committee should say so. Otherwise, speculating that we are amoral is not factual, and we are not being fair to ourselves. *(Applause)*

Therefore, for the record I would like to say that we have budgeted for the sittings. It has multiple benefits to the people of East Africa apart from creating awareness. Even on the way as we were coming down to Mombasa – I have never travelled here by road personally, and I was very delighted. I saw no weighbridges, I went to a first class restaurant for lunch; I could not have it any better. I did not even intend to address anybody. I was just happy to sit in the bus and look at the vegetation and seeing whether there is food, and chatting with my friends and having some food on the way. So, basically, I think we need to look at it broadly. So, I would like to say categorically that we have the moral authority to look at the budget. I thank you. *(Applause)*

Ms Jacqueline Muhongayire (Rwanda): Thank you, Mr Speaker, for giving me the opportunity to contribute to this debate. I would like to join my colleagues to thank the Government of Kenya, and particularly the leadership of Mombasa, as well as the Kenya Chapter of EALA, for the warm hospitality they have provided us since our arrival in this beautiful country. *(Applause)*

Observing that the budget for the Financial Year 2009/2010 was passed in May 2009 to the tune of US \$54.5 million, and considering that provisions of Article 132 of the Treaty, read together with Article 49(2) (b) of the Treaty, in essence stipulates that the budget of the Community as approved by the Assembly shall be used for the activities approved by the Assembly. However, noting with concern that the Secretariat utilised a total of US \$80.5 million, representing a percentage increase of almost 16 percent, as hon. Byamukama has highlighted, without the Assembly's approval; and further noting that this

breach of the Treaty sets a bad precedent for the Secretary-General to utilise funds without the approval of the Assembly with the hope that it would be regularised later through a supplementary budget; and considering the need to present these funds for careful scrutiny through the audit commission process, or through the Accounts Committee investigation, I think we need an investigation before we approve this supplementary budget. If it is allowed by the Assembly's rules of procedure, I would oppose this supplementary budget, but I support the current budget for the Financial Year 2010/2011.

I take this opportunity to ask the Chairperson, Council of Ministers, when the audit report of the Financial Year 2009/2010 will be tabled before the House. I find it inadequate to approve this budget without knowing the status of execution of the last budget.

Regarding the Medium Term Expenditure Framework for 2010/2011, I would also like to have more clarification on the criteria used to allocate the different amounts on different budget lines of this budget. On page 80 of the MTEF document regarding the Memorandum of Understanding on the Railways Concession Agreement to be prepared by June 2012, there is an allocation of US \$300,000 to be spent on the Memorandum of Understanding. I think we already have common standards for this type of memorandum, and I think this is a big amount just for an MOU. I think a certain percentage of this amount should be allocated to other sectors.

I would like to end by thanking the Committee on General Purpose, the Chairperson and the Secretariat for the

excellent work done in analysing and scrutinising this budget. I must acknowledge the efforts put in by this committee. I thank you. *(Applause)*

Ms Catherine Kimura (Kenya): Thank you, Mr Speaker, for giving me the Floor. I assume that I have now been unfrozen, because this is the first time that I am speaking in this Assembly since I was frozen. So, thank you, Mr Speaker, for doing that for me – *(Interruption)*.

The Speaker: Hon. Kimura, if you don't want to debate, you can sit down; we can freeze you again.

Ms Kimura: I am assuming I am unfrozen.

The Speaker: We can freeze you again; that is what I am trying to say. If you want to conduct business in this House, you should do it in a proper manner.

Ms Kimura: Mr Speaker, I stand corrected.

I did not get the chance to comment on the speech that was given by His Excellency President Kikwete, and I want to make two comments on what he said, which are relevant to the discussion we are having on the budget. This is in relation to what he said about getting local resources where possible, donor support when necessary and feasible - very heavy words. It is, therefore, incumbent upon the Council of Ministers and this House to find ways and means of financing the activities of the Community with local resources where possible.

When I look at the list of the donors who have supported our budget in the last few years as read by the Minister,

it is a very long list. While we appreciate donor support, sometimes they derail us from our agenda. And I believe that is why the Chairperson of the Summit was very specific in asking that where possible, local resources should be used for the implementation of the Community's development programmes.

He also spoke about democratic principles, which should guide our elections. As our region goes through elections, it is my hope that the Community will be in the forefront in championing democratic principles in all our Partner States. *(Applause)*

Mr Speaker, before I go to specific issues on the budget, I want to touch on the speech by the Minister, and in particular, paragraph 58 where he talks about the priority areas that this budget will focus on. One of those areas is the launching and implementation of the East Africa Food Security and Climate Change Policy. It is important that this region is secure as far as feeding its people is concerned. One would, therefore, wish to see a lot of emphasis and accountability as the Secretariat implements this budget; that such an area will take priority and we will not keep on, every year, talking about food security in our region.

The Minister noted that the other issue that we will be talking about is completion of the industrialisation policy and strategy, and investment strategy. And alongside that, there will be the conclusion of EPAs negotiations. I tie these three issues together because as we conclude and sign these EPAs, we must take cognisance of our development strategy. Are we sure that we are not compromising our industrial agenda as we sign EPAs? Are we sure we have looked at all the angles and that

indeed, as we conclude these EPAs and liberalise our trade policies they were pegged to the specific development benchmarks of our region?

This is an issue that should concern all of us. We should not compromise our agenda as we liberalise. As we open up to competition, we should know that this will mean that we cannot provide any preferential treatment to our local traders. Our development stage is very far from the EU. I would, therefore, urge the Council of Ministers and the Secretariat, as they move towards this very important stage, to take into consideration three issues: Food security, which is tied to agriculture, aware that the bedrock of our region is agriculture; we must therefore not compromise our farmers. We must also make sure that our nascent industries are indeed protected; that our goods within the region are not going to be rendered redundant by the influx of goods from Europe and elsewhere. We should empower our farmers and our upcoming industrialists. This is my plea to the Council of Ministers, and to all those people who are involved in the discussion on EPAs.

Let me turn to something specific in the budget, and that is in regard to what is in the explanatory notes to the budget. I want to join my colleagues in appreciating that indeed it has been recognised that EALA has a very important role to play with the coming into place of the Common Market. However, we have always complained as EALA that we have not been empowered to do our committee work properly. We have relied, time and again, on donor support to perform a core function and mandate of the Assembly.

It is noted on page 17 that in the previous year there was a specific

amount voted for legislative procedures and committees. I don't know what rationale has been used in shifting whatever funds that was there to the Office of the Speaker. Maybe there is some rationale, but on the other hand, it would be good to see what is being budgeted specifically for committee work, because committees have suffered for lack of funding.

We would, therefore, have liked to see whether we are increasing or decreasing in as far as that particular budget line is concerned. When I look at this, it is not very clear, and hopefully the committee that interrogated this budget was satisfied that the increase in budgeting is consistent with the explanation that is given here, that indeed, there should be an increase for EALA to be able to exercise its legislative, oversight and representation function.

With those remarks, I want to commend the Chairperson, Council of Ministers for a very well presented budget and good explanations. A year or two ago, we were almost not passing the budget because of the way it was presented, with a lot of very basic mistakes and also very serious issues. As I stand here today, I have not seen such serious issues as I have seen before, and, therefore, I want to commend the Council of Ministers, the Secretariat, the Deputy Secretary-General in charge of Finance and Administration because he said in our Committee on Accounts that he would ensure that this year we would have a better budget and indeed, this is what we have.

I commend our Chairperson of the Committee on General Purpose for a very good report, and for the work that her committee has done in

interrogating this budget. I beg to support the motion. *(Applause)*

Mr Dan Ogalo (Uganda): Thank you, Mr Speaker, for the opportunity to contribute to the motion before the House. On the onset, I want to say that the Community has come from very far. The budget of the year 2000 was US \$9 million, and now we are talking of US \$59 million. I say this because we have faced many challenges as we have come along. It is important that we remain steadfast in facing these challenges and solving problems. Sometimes some things may look not to be clear, or they may look wrong, but with time, you begin to appreciate that we are moving, and that we are on the right course.

I want to begin with the East African Legislative Assembly, and in particular, with the promise of the Deputy Secretary General on page 15 to raise some money for committee work. I am hoping that will happen. We work by precedence, and I think we could use the precedence of the last budget when we were faced with exactly a similar situation. The Secretary-General, Ambassador Mwapachu, made a promise to the then Chairperson of the Committee on General Purposes, hon. Wanyoto, and by the time we came to the Committee of Supply, that matter had been resolved. So, rather than saying that we depend on probabilities in the future when we will have already passed the budget, which probabilities may be in the positive or negative, I propose that we follow the precedent of the last budget, so that between now and the time of the Committee of the Whole House, we work this out and make provision for committee work.

I think hon. Kimura emphasised this point, and I need not over-emphasise

it. Committee work, really, is the backbone of our work. To think that a committee can sit once in a year is to undermine the work of the Assembly. *(Applause)*

Mr Speaker, still on the Assembly, I want to raise some pertinent matters. Hon. Mmari raised some important issues, which should be for general discussion so that we all go away satisfied with what we are doing. The Treaty took five years to negotiate. It took that long to negotiate because we had come from a Community, which had collapsed. So, people wanted to be very careful that what they provided in the Treaty would not lead us on the same path of the collapse of this Community. They, therefore, provided that the Assembly may sit in such places as it shall determine, although the seat was specifically said to be in Arusha. They must have had good reason for that.

As an Assembly, we have built on that to say, let us go out to the people. I think this is important. We should do a cost benefit analysis as suggested by hon. Sebalu. At the end of the day, why did the people who took five years to make the Treaty want the Assembly to sit in different places? Why did they say the seat is Arusha but that the Assembly could also sit in other places? My submission is this that if we are going to depart from that, we will have to amend the Treaty. But secondly, and most importantly, we must have very good reasons to recommend to the Council of Ministers the necessity to amend the Treaty to remove the requirement for us to move outside in the Partner States. So, the challenge to us here is to think this out and see the reasons why it is not right for us to keep moving, so that when we advise the Council to amend the

Treaty, we have proper reasons – *(Interjection)*.

Ms Mmari: Mr Speaker, I just want to correct that. I did not say we should not be visiting other Partner States or that we should limit ourselves to sitting in Arusha. I was questioning the way we do it and the costs. For example, when I talked of rented places, I talked also of the Assembly, and I believe we can do without an Assembly for the time being in Arusha, and ask, for example, the Mayor of Arusha to accommodate us instead of renting and paying money for that. So, to say that I am saying we should not move is not correct. We should probably meet and strategise on a way that will make sure that whatever money we get we use every cent carefully, so that at the end of the day, we can have the moral authority to say don't use that or don't do that.

Mr Ogalo: Mr Speaker, I am only raising this issue for us to consider because if we keep moving, that is the reason why we may not be in Arusha all the time to use those offices. So, really, there is a connection, but I want to give this as an example, and this is why I started with the fact that the Community keeps growing.

The East African Court of Justice was put in place in 2001. It did not have a case before it until the year 2005. For five years, there was no case before the judges. If we speak to the question of rent, we can easily lose sight of the bigger picture. Should we have closed the EACJ because they had no cases? It would come to that. We could tell whoever owns the AICC that please, we are not going to pay you rent for this time, so we close it and we will pay rent when there is a case. My submission is that institutions don't work that way; they grow. It would be

like the Council of Ministers saying that there is no necessity, when they are constructing the EAC headquarters in Arusha, to provide for offices for Members of the Assembly. It would be awkward to say that because we will be moving, let us not have offices in the headquarters building! It would be awkward to say we should not even have a Chamber, because when you have offices you continue slowly to build on them.

Permit me to give this example. When the Assembly started, even the Speaker did not have an office. We used to share with the Speaker the lounge on the Fifth Floor. The Speaker would come, we would talk there, and when it was time for the Assembly, we would leave him behind so that he could follow us. Now, we have an office for the Speaker. If we had not pressed for that office and said, after all...I think I will leave that point. I will emphasise it by saying that all our five Presidents have praised us. They have said EALA is the body, which is taking the Community to the people.

We should be proud of that. *(Applause)* What you say in Kampala should be the same thing you say in Dar-es-Salaam or Bujumbura. You should not say in Dar-es-Salaam that it is very good for the Assembly to move around and then in Mombasa you say it is not, because we will be sending out mixed messages. Integration is expensive and we will have to deal with it. *(Applause)*

I see the Secretary-General is here and the Deputy Secretary-General, Finance and Administration is in the Gallery. I hope they are already working on this issue of the committees so that when we come back in the afternoon, we will finalise it. It is a simple matter, which should not take us long.

I want to turn to the East African Court of Justice. Again, we are making progress. This Assembly has been fighting for a long time for the establishment of regional registries. There are no cases right now in our Partner States, but the office will be there, where an East African can eventually go. There has to be a beginning; that is the point I am emphasising. There has to be an office where an East African in Nairobi, Kampala, Kigali, Bujumbura and Dar-es-Salaam can go and file their case. So, the establishment of those offices in those five Partner States, although at the beginning they may not have work, are important for institution building. Likewise, those offices in Arusha for Members are important for institution building – *(Interjection)*

Ms Byamukama: Mr Speaker, I would like to learn from what hon. Ogalo has just said. When we came into the Assembly, one of the things we advocated for was office space, and we carried this crusade with a lot of enthusiasm until we got offices. The other thing was residence for the Members. Whatever the case, we have to move out of Arusha. But considering that we have one activity, which is for five days, there is no way we could permanently, for example, have committee work in Arusha, which should make it meaningful for us to use the offices in the way that some people may anticipate for us to use them. So, I would like to hear more on this matter and where it fell by the way side.

Mr Ogalo: Mr Speaker, honourable Members know that one of the things that we pushed for when we came in 2007 was that we could not keep sitting in that lounge; that we needed a place where we could work. Members demanded for that. Secondly, there

also arose the question of residence, and all these matters were taken up and worked on. Some of them are being achieved slowly. Maybe there will be a time when there will be residence for all Members in Arusha, because Members did demand for it. So, the point I wish to clarify here is that we are trying to build this institution; there will be challenges but we should not think that we are doing anything wrong. I think that we should keep pushing forward.

Going back to the EACJ, I want to comment that we now have a protocol, which is saying that the Partner State courts shall interpret the Protocol on the Common Market. Therefore, it will be possible to can get five different interpretations on the same provision. That will cause confusion, and people will start thinking they are being discriminated against. We must have uniform jurisprudence. But it is already in the Protocol. What we have to do is to put in place mechanisms, which can lessen the impact of that, because we are already tied with it.

For me, the Council of Ministers should strengthen that committee that deals with legal education. They should make financial provisions for it so that at least there is education for the different Partner States on this so that we avoid having different interpretations of the same law.

I want to turn to the theme of this budget, which is implementation of the Common Market, and making progress on the Monetary Union. This is clearly captured in the speech by the Chairperson, Council of Ministers, and the report of the Committee on General Purposes. Actually, the Committee points out that one of the priorities is to operationalise the Common Market. But I am having a difficulty with it. If

this is the central issue for the next financial year, then when I look through the budget, I would expect to see the Common Market prominent there. I would be able to see the implementation of the Common Market being given prominence. My understanding of that would be to address free movement of persons, labour, capital, goods and right of establishment. So, as I go through the budget, I would like to see that theme of implementing this captured.

Unfortunately, and with great respect to the Chairperson of Council, I am not seeing that, and it worries me. The Committee, in its report on page 14, says that there are no adequate funds for labour and migration; industrial development was at 15 percent, the education sector is under-funded, the customs and trade committee had made no effort towards creating trading regimes, that is, movement of goods. So, rather than seeing the implementation of the Common Market, I am seeing it being reduced, and that worries me.

In fact, if you look at the Minister's speech, the Common Market is given one paragraph, and it is only about the signing of the Protocol. Now, if you look at annex three of the document, the harmonisation of immigration laws and policies is reflected as an on-going activity until June 2012, and it is given US \$30,000. Can you imagine \$30,000 for harmonising immigration laws and polices, moreover the period given is 2012, and yet we are saying it is beginning next month in July/ The free movement of persons is going to be pegged on immigration laws and you are giving it US \$30,000?

If you look in the same annex, training immigration officers who will facilitate the free movement of persons and

goods is given US \$45,000. The EAC database on manpower has direct relevance to movement of labour. It is given zero. Somebody has put it there and has put a dash. Going through all these, you will find that those areas, which should be emphasised in the Common Market, are not there. Therefore, the theme is not likely to get far. I was hoping that the Council of Ministers would be looking towards creating something similar to the Directorate of Customs. There has to be something in Arusha at directorate level to deal with the implementation of the Common Market. As it is, there is apparently nothing to deal with that.

I just want to state that this is the budget of the Minister, and where there is credit, we give credit to the Minister and where there is blame we give blame to the Minister so that we move away from the position of either blaming the Secretariat or praising it. At the end of the day, the buck stops with the Chairperson, Council of Ministers. I was worried, when I saw on page 8 that directives of the Council are not being implemented.

Lastly, on the question of donor funding, the Committee has expressed itself on aligning donor funding to what we want. I think it is my money; we should also look at it from that side. The whole basis of government is that people pay taxes and they hold government accountable because government is spending their money. If somebody is giving you money, it is going to be very difficult for you to start saying that you must put it here. I think this is why the Chairperson of the Summit emphasised that we must look at alternative funding. Therefore, I would appeal to the Council of Ministers to recall that directive to the Partner States about alternative funding and to deal with it. The Partner

States are not going to do anything about it. Please, get it back and let us have alternative funding coming as a policy from you. I thank you. *(Applause)*

Ms Patricia Hajabakiga (Rwanda):

Thank you, Mr Speaker, for giving me this opportunity to join my colleagues to thank the Government and people of Kenya for hosting us, and particularly the people of Mombasa, through their Mayor. I would also like to thank the two Presidents, His Excellency Mwai Kibaki, the President of the Republic of Kenya and His Excellency Jakaya Mrisho Kikwete, the President of the United Republic of Tanzania, for addressing us and giving us direction on the way forward in the integration process. I would equally like to thank the Chairperson, Council of Ministers and the Chairperson, Committee on General Purposes for their excellent work.

I want to comment on three areas in this debate. First, I want to quote from paragraph six of the speech of the Chairperson, Council of Ministers, in which he says: *“Mr Speaker, allow me as well to thank Members of the august House for the oversight role that they have been exercising for the betterment of the Community.”* This statement contradicts what is in paragraph 4.27 of the report of the Committee, where the Committee noted that there was funding for only one activity per committee for the entire financial year, and that the Deputy Secretary General had promised to source for more funds from the Partnership Fund.

This House has requested repeatedly for the Community to fund the activities of the Assembly instead of funding by the donors. The donors request for reports and make the Assembly do things it does not want to

do. How can you use donor funding to carry out an oversight activity? I would urge that before we vote on this budget, the funds from the Partnership Fund, which would have gone to the Assembly, should go to the work of the Secretariat or some other institutions, and the funds for those other institutions can then go for the oversight work of the committees of the Assembly.

The second issue that I want to bring up, which my colleague, hon. Byamukama, also raised, is the issue of the recurrent budget exceeding 60 percent of the total budget. How can we move into integration when we are running the Community on less than 40 percent for development budget? I would like to request the Council of Ministers, as the decision-making organ on matters of finance of the Community, to set up criteria for determining the annual percentage for the recurrent budget that we should not exceed. I wish to recommend this, and to ask the Committee on General Purpose to make sure that in the next year's budget, there is a percentage for the recurrent budget that we should not exceed.

Finally, I want to speak on the issue of extra budgetary items. The Treaty, in Articles 49, 132 and 133, is very clear on the utilisation of the Community resources. The Treaty also provides for the principle of separation of powers, by which each organ of the Community has a different role to play. In this case, the issue of the approval of the budget is an exclusive responsibility of the Assembly. Both the Council of Ministers and the Secretariat have some experienced people; some of them are lawyers and others are senior finance officers who have worked in various places, including in the Partner States, and I

am sure they really understand the implication of such malpractice.

Since the 2009/201 budget, the Assembly has met in August in Dar-es-Salaam, in November in Arusha, in February in Kampala, and in April in Kigali, where the Council of Ministers had an opportunity to bring forward a request for supplementary expenditure for the period. The amount we are discussing here is not some small amount; it is \$8.5 million, which is almost four times the budget of one of the organs, the Court. It is absurd that the Assembly just found out this anomaly. I am wondering whether we would have this supplementary budget today if the Assembly had not found out this anomaly. That also makes me wonder whether we have not had similar anomalies in the past that we did not find out, and it is only because the Assembly found this out that the Council is tabling it today.

I am reluctant for this House to give retrospective approval of a supplementary budget for the 2009/2010 budget for mainly two reasons: First, we should have a comprehensive investigation and audit of the practice in the past years. Secondly, we should establish either a Select Committee, or the Committee on Accounts to look into this. Thirdly, before this House passes this supplementary budget, we probably need a written apology from the concerned officers. I don't know whether it is the Secretariat or the Council, but if this was brought by the Council, then they were accomplices in this matter, and I don't want the Assembly to be an accomplice, unless we have a written apology.

In the speech of the Chairperson, Council of Ministers, he does not apologise for being late to submit this

particular supplementary budget. Therefore, I don't think this House should rubber stamp what people have decided to first use and then later give a list of them, outside the proper budgeting system of the EAC. I thank you. *(Applause)*

Mr Bernard Mulengani (Uganda): Thank you very much, Mr Speaker. I wish to join my colleagues in thanking the authorities of this country, and those of the Mombasa region, for having provided such an environment for us.

I have a couple of issues, but before I start debating the motion, I want to emphasise the requirement of Article 134 for the audit of accounts. Today as we debate the budget, the Council has not laid on the Table the audited accounts for the financial year 2008/2009. What this means is that we are budgeting but we are not taking proper stock of the performance of the previous budget, and this takes us to a risk as the body charged with the oversight function over the Community. *(Applause)* We have raised a lot of issues and questions in this direction, and the Council of Ministers has many promises in response. So, may we ask, as we debate this budget, when the Council will bring the audited accounts? *(Applause)*

Turning to the report of the Committee, from the onset, I want to say that the budget as it stands, and the categorisation of the development budget in it is not a true picture of the development in the region. I am saying this because if you peruse through the development budget, you will realise that most of the activities captured under development are operational activities. Activities like consultancies,

and travel to meetings are categorised under the development budget.

From the Minister's speech, it seems we are budgeting where money is available; we are not budgeting as per the priorities of the Community. No wonder the list of priorities given in the table is too lengthy. This just shows that it is intentional, so that when we question anything they can say, "It is on the list"! We need to focus in that direction if we are to attain what the people expect of us.

On page one under the development budget, when you look further into what I have just explained, the actual activities that are addressing tangible development issues would go for 10 percent and not 38 percent as indicated in the budget. The rest, which is 28 percent, is operational. I will give an example later on in the MTEF.

The other issue is that the Council of Ministers has envisaged a reduction in the budget in the coming three years of almost US\$9 million. Where do they see the reduction coming from? The Community is supposed to be growing and, therefore, the budget should be growing. Could the Council of Ministers explain to the House why the Council is envisaging a reduction, and where the reduction will be coming from, or which activity they will drop?

On page four of the report of the Committee, the Committee observes that the Secretariat and the LVBC have low capacity to utilise funds. The point I want to emphasise here is that when you look through all the documents, one of the reasons advanced for this is that donor funds are uncertain, and yet when you look through the explanations, the Council is saying that the donors pay most of the funds directly to the consultants. To me this

implies that the donors are using the Community as a clearinghouse! Of the all the monies that we receive through donors, the amount that the EAC effectively handles could be something close to 10 to 15 percent, the donors clear the rest directly to the consultants, and this brings us a problem as a Community. As you saw the list of donors, vis-à-vis the amount of money that is coming, it raises a question as to whether we should continue with that state of affairs.

On page five, I notice that from the revenues, one interesting thing that has grown, which has amused me, is the disposal of office equipment. It has also grown by 10 percent from US \$5,000 to US \$555,000 as a source of revenue. We are predicting an increment of disposal of assets by 10 percent! This is a challenge, and I want to ask whether that is the way, we should be going.

On page seven, the budget spending, according to the Committee, is increasing by US \$2.9 million. The question is where is the increment mainly going? What activity is it going to do? For the other organs, it seems to address pertinent issues. The other development budget that has grown is under the Lake Victoria Basin Commission. The committee does not seem to explain how LVBC is going to handle the increased budget when it notes in the report that the Commission does not have the absorption capacity.

On the extra budgetary spending, which brings us to the supplementary budget on page eight, I want to concur with my colleagues who have spoken, especially hon. Hajabakiga. If we have to approve this supplementary budget, it must take the format of the Medium Term Expenditure Framework. This clearly shows that indeed it is because

the Committee saw the anomaly that the Council hurriedly wrote down a supplementary budget for retrospective approval by this Assembly. I would request this House to take a stand to defer the approval of the supplementary budget, subject to either a Select Committee or the Committee on Accounts investigation, with your guidance, Mr Speaker, so that the committee comes to the House with a proper report. *(Applause)* We are coming from approval of block figures, and I would not like us to go back to similar approvals. When this Assembly had just begun, we had many arguments against block figures. I would not wish to see similar practices recurring. *(Applause)*

The supplementary budget, in terms of the percentage of the approved budget of the year 2009/2010, is 15 percent. This is not a small percentage. It is almost a vote on account. Also, in principle, as other Members have said, what precedent shall we be setting if we go ahead to approve such a big amount of supplementary budget, which is close to the full budget of this Community? As hon. Ogalo has said, we have moved from US\$9 million to US\$59 million today. The figure we are talking about here is \$8 million, almost what we had as the total budget for the Community when it started. Therefore approving this supplementary expenditure would be like allowing expenditure in the Community without the approval of the Assembly at that time.

On page 10 there is mention of the issue of the audited accounts, which we have not yet received one year later. I would not like to dwell on that again. On the budget for the Defence Liaison Office, which is on page 11, when you look at the detailed MTEF, you will find that the Defence Liaison

Office is mismatched. Therefore, I would like the office to be unpacked out of the Secretary-General's office so that we can see exactly what the office is.

Mr Speaker, in reference to the report on infrastructure on page 12, I would like us to take stock of what has happened since 1999. The reason I am saying this is that since the revival of the Community, I have been hearing of mainly two roads that the Community is working on; the Athi River – Namanga – Arusha Road and the Holili – Voi Road. Now, when you look at Articles 5 and 6 of the Treaty, which talk about distribution of resources and development in the region, you will find that these roads two roads are in Kenya and Tanzania. When you look at the energy infrastructure, it is again talking about Namanga. Where are the other developments in the region? *(Applause)* The Council mentions other developments but we need to see them up and running. In his speech, the Minister mentioned that he needs electricity on the other side of Mtukula, where is that at the regional level?

The Committee reports on page 14 that the Health unit has received a lot of money to the tune of US \$4.8 million, but that the figure is a lump sum, and no total explanation of the specific activities that are to be undertaken. I am seeking the indulgence of this House to request this figure to be broken down, even at a later stage.

On the Partnership Fund, which is on page 15, it seems to me that it is taboo for the East African Court of Justice and the East African Legislative Assembly to receive funds from the Partnership Fund. Even the reason that the Minister gave to the committee, if I

can read it verbatim, is “*The DSG (F and A) informed the committee that funds would be sourced from the Partnership Fund for one more committee activity.*”

We are in the budgeting process, and when we look at page three of the detailed MTEF, they have allocated money from the Partnership Fund, but nothing has gone to the Assembly; it is blank! Now, the Council of Ministers has given the Assembly such promises several times in the past, so my appeal is that we should make a re-allocation of that money. Let the Chairperson, Council of Ministers join the Committee on General to reallocate the resources. What is happening? We are not allergic to these funds. We can also use these funds. *(Applause)*

Lastly, I want to speak on the issue of the Lake Victoria Basin Commission. My colleagues have spoken on it. This House will remember that the Lake Victoria Basin Commission has taken over the supervision of the MERCEP projects. One of the reasons this House ordered for a forensic audit of the MERCEP projects was the “co-mingling” of funds; bulking funds together.

Now, MERCEP is under the LVBC, a very professional institution of the Community, and LVBC is now doing things the way MERCEP has been doing. I don’t know whether MERCEP has taken the disease to LVBC or otherwise, but under the LVBC budget, you cannot tell what is the development budget, the recurrent budget or the capital expenditure budget. Now, when you go to detailed cost centres attached to their budget, you will see that the source of funding is LVBC. I wonder, because LVBC is not an income generating institution. We would wish to see the source of

funding. If it is from the Partner States, let it show as such, if it is from the Secretariat, it should show that it is from the EAC Secretariat, instead of putting LVBC, because that misguides us.

I want to applaud the position of the committee, and to request for a detailed MTEF on LVBC presented to the Committee so that the Committee can report to this House before we approve that budget. I also have reservations on approving the supplementary budget, and I would request this House to consider the proposal by hon. Hajabakiga. I thank you. *(Applause)*

Mr Abdul Karim Harelimana (Rwanda): Mr Speaker, I thank the President of Kenya, His Excellency Mwai Kibaki, the President of Tanzania and the Chairperson of the Summit of the EAC Heads of State, His Excellency Jakaya Mrisho Kikwete, and the Speaker of the Kenya National Assembly, hon. Kenneth Marende, and the people of Mombasa. I take this opportunity also to thank the Chairperson, Council of Ministers, the Budget Committee, especially the Chairperson, and the EALA Kenya Chapter for a warm welcome accorded to us.

I support the budget generally, but I have a few comments that I want to make. As I read the report from the Committee on General Purpose, I found out that most organs and institutions did not use the funds allocated to them a hundred percent. Some of them utilised only 51 percent, others 53 percent. The best one was EALA, which went up to 81 percent. Sometimes I wonder why we want to increase the budget when even that which we have we are not able to utilise to the maximum. Does this

mean that there are some funds in our coffers now, because we did not use them, or is it the US\$8 million that the Council is requesting to use as a supplementary budget?

I have a concern about the department responsible for agriculture. We say that agriculture is the backbone of our economies, and that the biggest percentage of our populations depend on it -up to 90 percent in some partner states- and the EAC does not have a single programme or project or money allocated to that sector, do we really believe that agriculture is the backbone of our economy? Someone in the Secretariat is earning a monthly salary for being in the department for agriculture yet we have not allocated any money to the department! It is of great concern to me.

On the East African Court of Justice, the Committee proposes that we have a residence for the Judge President in Arusha. Much as that is good, I think it is not enough. The Community is expanding in its integration process. We are coming from Customs Union, and in a few days, we shall be ushering in the Common Market. We know that many cases will arise from this Common Market process, and so having the Judge President in Arusha alone is not enough. We should at least now move to have all the judges resident in Arusha for that purpose.

The Committee is proposing not to reduce the money allocated to the EACJ, but I can see from the explanatory notes and assumption on the EAC budget for financial year 2010/2011 on page 12 that amount allocated to the EACJ in the budget of the last financial year is being reduced in this budget. I urge, as the Committee also did, that we do not reduce this

amount but instead try to add some money. *(Applause)*

Let me now come to what many of my colleagues have supported; that is, the moving around of the sittings of the Assembly in the Partner States to bring the Assembly closer to the people, which I support very much. Just to give an example of what happened to some of us here in Mombasa as we were coming from Nairobi. We met the people of Machakos and spoke to them. *(Applause)* I think that was a step ahead in the road to integration. Here in Mombasa, I think it was on Wednesday last week, some of us spoke to the people of Mombasa on EAC issues through a local FM radio known as *Radio Baraka*. Many people in Mombasa listen to that radio, and we were able to get feedback from the population. The people want to know more about the EAC – *(Interjection)*.

Mr Mike Sebalu: On a point of information, Mr Speaker, and in the same light, when the Municipal Council of Mombasa was celebrating *Madaraka Day*, a delegation of us did attend the official function, including, among others, the hon. Minister Hafsa Mossi, reflecting the character of the EAC. We went to the stadium, and the reception that we got from the people was very positive. One of us, hon. Lydia Wanyoto spoke on our behalf as EALA, and when hon. Akhaabi introduced us, you could see that the people really wanted to see who their leaders were. We were treated to celebrity status; people wanted to shake hands with us, and you could really see integration at work. *(Laughter)* Therefore, it was a very useful interaction. *(Applause)*

Mr Harelimana: I thank hon. Sebalu for that information. I remember I was in that group that went to the stadium,

and all that he has said is true, and it shows that this moving of the Assembly is very important, not only to us as the EALA. I also think that for the Chairperson of the Summit to fly all the way from Dar-es-Salaam, leaving behind a lot to do down there, to address the Assembly in Nairobi, was not a joke. *(Applause)* I think it was a conscious decision on his part to support our work in Nairobi, although he knew very well that our headquarters are in Arusha. *(Applause)* His Excellency, President Kibaki also came to address the Assembly in Nairobi. Therefore, if our principals are taking this matter as seriously as that, it shows that they appreciate what we are doing, and, therefore, we should encourage ourselves. *(Applause)*

When we walk around in the streets here, the people of Mombasa appreciate it. I think the economy of Mombasa has also been boosted by our presence here. I have personally spent some US\$2,000 here, and I am sure the people of Mombasa are not hungry. *(Laughter)* I know that we are working within the provisions of the Treaty, and we do not need to amend that Article, especially at this point in the integration process. We should just continue like this until we are sure that the people of East Africa appreciate the EAC as their own. I thank you. *(Applause)*

The Speaker: Honourable Members, I now suspend the House until 2.30 p.m.

(The House was suspended until 12.30 p.m.)

(On resumption, at 2.30 p.m. the Speaker presiding_)

The Speaker: Honourable Members, I know you are expecting a prayer. We suspended the House; we did not adjourn. *(Laughter)*

Before we continue, I would like to recognise the presence of the Coast Provincial Commissioner, Mr Ernest Munyi in the Gallery. He is the one making our stay here in the Coast Province as pleasurable as it is. *“Tunashukuru sana.” (Applause)*

Very well; now debate continues.

Mr Mike Sebalu (Uganda): Thank you very much, Mr Speaker. I join the rest of the Parliament in thanking our host, and particularly the ones in our midst, for the hospitality, the courtesies and all the arrangements that have made our stay memorable. More so, the Mombasa Municipal Council and the Mayor for the excellent facilities put at our disposal. *(Applause)* I rise to support the motion. I have just a few areas to comment on, given that extensive debate has taken place so far on a wide range of issues in the report.

I would like to thank the Minister for his statement. It was quite encouraging and focused. He raised a number of issues, with which I associate myself. One of them is the area of infrastructure development, where he indicated that there are arrangements to connect electricity to his constituency, and he called upon those concerned to expedite the process, most preferably before elections. *(Laughter)* I associate myself with that, and I will use my good offices in Kampala to contribute to that process because he has been such a wonderful Chairperson of the Council and he has done quite a lot to enhance the work of this Assembly – *(Applause)*.

Hon. Ogalo has raised quite a number of important issues, especially regarding emphasis on the Common Market, with which I associate myself. I do not want to over-emphasise the issue, but I want to highlight one area,

especially with regard to training of immigration officers.

There is a long-standing issue regarding the Yellow Fever Certificate. Over the weekend, I was in Arusha and I went through Kilimanjaro Airport. It was a bad scene. The Officials at the airport were demanding for the certificates from very many East Africans, who were literally quarrelling with the officers. The answer that the officials gave was that there is East Africa, but there is also Tanzania as well! So, Mr Speaker, as we move to the Common Market, we should seriously consider the issue of training immigration officers in all our Partner States to appreciate what the East African Community is all about, and not to create unnecessary encumbrances for East Africans as they enjoy the rights given by the Common Market.

Hon. Ogalo raised the issue of making money available for training these officers to get them up to date. If the Common Market is operational and our officers in the Partner States are not up to date with what is going on, we will have an environment that may not allow East Africans to enjoy fully what they are supposed to enjoy under the Common Market.

Honourable Members have articulated the issue of the principle of rotation very well. It is a principle we need to uphold. If there are a few details that we need to perfect, those can be worked on administratively, but I think the principle is important, both at the level of institutional development and at the individual level of particular honourable Members of the Assembly.

I was greatly encouraged by what our beloved Chairperson of Council said. Using this session in Mombasa, he

informed us the other day that he was able to know after all these years that Mombasa is an island. He was able to know this through a close friend. There is no other way he would have got such a friend to get him out of the imagination that Mombasa is a mainland. *(Laughter)* So, these are the benefits of this rotation. *(Interjection)* Hon. Tiperu is trying to get me into a discussion of whether he brought this to the attention of the Chair, but these are benefits of rotation. *(Laughter)*

Finally, I just want to look at the issue of the utilisation rate of resources. The Assembly stands at 81 percent, which is the highest, and I think we need to pat ourselves on the back. If we can utilise at that rate, then we are the best performing organ in terms of utilisation – *(Applause)*. That is something to write home about! Then, we have the Secretariat at 79 percent. That is also something to write home about; I think we can give a round of applause to Ambassador Mwapachu and his team. *(Applause)* Then there are other organs and institutions whose utilisation is as low as 51 percent. Don't we need to pronounce ourselves on the utilisation rate? Don't we need to set a minimum utilisation rate below which no organ or institution should not go? I think we need to say something about this.

I would like to thank the Committee and its Chairperson, and I want to associate myself with this report.

With those restricted observations, I beg to support the motion that we pass this budget and go into the business for our election. I thank you. *(Applause)*

Ms Safina Kwekwe (Kenya): Mr Speaker, I want to thank you for choosing Mombasa as the venue for

this meeting. I will go straight to the point.

I associate myself wholly with the Committee report because I am a member of the committee. I just want to stress three items. The proposed budget enumerates five Bills for the legal department to bring to this House for debate in the financial year 2010/2011. Without any fear of contradiction, I can say that three of those Bills are already given.

It is obvious that the EAC Appropriations Bill 2011 will come because it must come; the EAC Supplementary Appropriations Bill 2011 will come because it must come, and the third one will be the EAC Customs Management Act (Amendment) Bill, because two years ago we amended this Act for two years. I am sure that an amendment of the Act will come in the next financial year. Therefore, with three Bills as given, that leaves at least two Bills out of the five that the Chairperson, Council of Ministers has put in his budget.

However, if you look at the theme of the budget, and the number of Bills that the Council of Ministers envisages to bring to this House, shall that really be adequate, one, for the Assembly to perform the task that it is mandated to perform by the Treaty, that is, to legislate, and, secondly, to implement the Common Market? I doubt it. I am happy that two of our colleagues have private Members' Bills. We need, therefore, to create work for this Assembly because only two Bills will come from the Council of Ministers, if we are to go by the budget proposals.

I want to speak on the East African Court of Justice. Article 27(2) of the Treaty reads, "*The Court shall have*

such other original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date. To this end, the Partner States shall conclude a protocol to operationalise the extended jurisdiction."

We understand that a protocol to make that article operational has been under negotiation for four years now. I am raising this issue because as of now, the jurisdiction of the Court is to interpret the Treaty. The expansion of that mandate shall only be after the conclusion of that protocol, which has taken four years. We do not even know whether the end is near or far. However, if you look at the protocols on the Common Market and the Customs Union, you will find that if there is any conflict arising out of the operationalisation of any of those two protocols, those matters are will not be referred to the EACJ. The protocols have taken away the mandate of interpreting the Treaty from the EACJ and given it to the partner state courts. If we cannot conclude this protocol sooner than later, we will have a Court that will have no business. *(Applause)*

Therefore, I am urging the Council of Ministers, through their Chair, to expedite the conclusion of the protocol because it will create more jurisdictions and more business for the Court. Therefore, when we stand to ask for money for the Court, we shall be more justified to do so.

In conclusion, there is the issue of the productive and social sectors. It is, and it has always been the most under funded in the entire EAC budget every year. However, I want to look at the issues of the department of Gender and Community Development. Even when we argue that gender is a crosscutting agenda and, therefore, we should

mainstream it, there is no mainstreaming of the issue of gender in the budget, except for the HIV/AIDS projects funded by a consortium of donors. That leads me to the question: for who is this Community, if we do not take into account matters of the youth, the women, the people with disabilities, and gender in general. We have left out the entire social sector. Therefore, can we really say that EAC has a people-centred integration process? We must create a budget for us to be able to walk the talk of the Treaty. *(Applause)*

Finally, the Committee on Accounts needs to set up an investigation into what the Council spent the supplementary budget on. I think we can excuse ten percent, but not 16 percent. I beg to support the motion. *(Applause)*

The Chairperson, Committee on General Purpose (Mr Nassor Sebttuu): Mr Speaker, the House has considered the Report of the Committee on General Purpose. Most of the issues raised on the Floor here are in line with what the Committee members raised in the report. However, I would like to respond to three issues.

Mr Speaker, many Members expressed a lot of concern on the supplementary budget, and they have raised a number of issues in this regard. The Committee on General Purpose did have similar concerns, but in the end, the committee recommended for the House to consider the supplementary budget for approval.

The reasons are as follows: First, since this is the first time that the EAC has submitted a supplementary budget beyond the 10 percent of the recurrent budget, the committee thought it better

just to give a warning this time not to go beyond 10 percent next time.

The second reason is that in the table showing the budget, out of US \$7,736,075 transferred to the EAC during the year 2009/2010, US \$6 million was for the construction of the EAC headquarters. These funds came from KFW Germany, and the EAC could not utilise these funds for anything else except for the construction of the headquarters. Therefore, because the EAC had no control over these funds, I feel that there is no need for any further investigation. However, I leave it to the House to decide.

Another response regards hon. Lotodo's issue on livestock. I am sure the hon. Minister will also respond to this question, however, the committee raised the same question and recommended in the report that funds be set out during the budget review to fund the livestock sector.

The last one regards hon. Masha's comments. Although I appreciated his comments, I would like to respond to the contradiction that he referred to whereby in one place the committee expresses concern but at the end recommends an approval of the budget. What the committee has seen is that this year's budget has improved considerably compared to the previous years. The committee exhaustively gave areas where next year's budget should focus. However, I would like us to take note of hon. Masha's comments on publicity and information, and to consider them in the next budget.

I wish to thank all the members of the Committee on General Purpose and all the Members who have contributed during the debate, namely: Hon. Masha, hon. Mmari, hon. Lotodo, hon.

Muhongayire, hon. Kimura, hon. Ogalo, hon. Hajabakiga, hon. Mulengani, hon. Harelimana, hon. Sebalu and hon. Kwekwe. *(Applause)*

Mr Speaker, the report has been detailed for future reference. We have agreed that as a matter of principle and for the good of the Community and this august House, we do approve the annual budget for the financial year 2010/2011, and the supplementary budget.

The Minister for East African Cooperation, Tanzania and Chairperson, EAC Council of Ministers (Dr Diodorus Kamala): Mr Speaker, first allow me to extend my sincere thanks to hon. Members for the debate they have conducted. I recognise that the purpose of the debate is to make sure that at the end of the day the EAC comes up with a budget, which focuses on the priorities of the East African Community, which is a desire towards deeper integration.

Before I proceed, Mr Speaker, allow me to recognise the following Members who have debated on the budget. Hon. Sebtuu Nassor, the Chairperson of the Committee on General Purpose, hon. Masha, hon. Sebalu, hon. Mmari, hon. Lotodo, hon. Byamukama, hon. Muhongayire, hon. Kimura, hon. Ogalo, hon. Hajabakiga, hon. Mulengani, hon. Harelimana, hon. Sebalu and hon. Kwekwe. *(Applause)*

I would like to state from the beginning that the contributions from Members have been good, and it would be wrong to assume that I will be able to respond to everything before this House. That being the case, I have requested the Secretary-General, together with his team, to make sure that all contributions which have been made by Members are adequately

captured, and we shall prepare adequate responses, word by word, line by line, coma by coma and *nukuta kwa nukuta!* *(Laughter)* However, for the purpose of this process, allow me to talk very briefly on a few issues.

The first one raised by Members is on the issue of the supplementary budget. I do subscribe to the Committee's recommendations, and the Chairperson has explained it very well. Some of the Members have also explained it very well, but let me say that with regard to the supplementary budget now before this House, the Council regrets not having tabled it in time. This undesirable development was not by design or calculation. The Council will always table supplementary budgets in respect of donor funding. I wish to assure the august House that we will present the supplementary budget for 2009/2010 to the Audit Commission for a special audit, and we will table the Commission's report before this august House in time. *(Applause)* I had planned to explain that in detail but with the response from Members, and since they have stamped their feet, it is an indication that they have accepted to approve this supplementary budget and I thank you in advance. *(Laughter)*

The other issue was why we have not yet tabled the audited accounts for the Financial Year 2008/2009 in the Assembly. I would like to inform this august House that the draft financial statements of the Community were submitted to the Auditors-General of the Partner States on 15 November 2009, a delay of six weeks. The delayed submission was because of the exercise of incorporating new depreciation rates and the revaluation and capitalisation of assets as recommended by the Audit Commission and directed by this Assembly. The audit was programmed

for February 2010, and the audit commenced on 1 February 2010 and went on until 7 March 2010. The Audit Commission, however, could not complete the audit of the Lake Victoria Basin Commission, as the financial statements were not complete. This necessitated the auditors to go to Lake Victoria Basin Commission again on 3 May 2010 to complete the audit.

The Controller and Auditor-General of the United Republic of Tanzania, the Deputy Auditor-General of the Republic of Rwanda and the Deputy Inspector General of Audit of the Republic of Burundi met in Arusha on 11 May 2010, and after reviewing the draft audit report, signed the audited financial statements on 13 May 2010. The Extra-ordinary Council will consider the audited financial statements in June 2010, and they will subsequently refer it to the next sitting of the Assembly for consideration and approval.

On the role of the Legal and Judicial department of the EAC Secretariat, I wish to assure the House that following recent strengthening, the department will work closely with the Assembly in forward planning of the legislative programme and to ensure effective legislative support to the deepening of the EAC integration process. *(Applause)*

On the issue of agriculture and food security and the regional industrial strategy, which we should rightfully consider a key priority of the EAC regional development, I would like to inform the hon. Members that the EAC has already developed a schedule of activities for the operationalisation of the agriculture and food security strategy. Apart from the funds indicated in the estimates, the EAC will continue to mobilise resources

from development partners and the private sector to implement the EAC Food and Security Action Plan. *(Applause)*

The EAC is doing the same with regard to the regional industrial policy and strategy. Indeed, the EAC is placing great emphasis on industrial development. The positions of Principal Industrial Economist and Senior Industrial Engineer were filled in January 2010, and the process of developing the EAC Industrial Policy and Strategy is underway. *(Applause)*

There was a general issue raised here that the theme of the budget, which is about operationalising the Common Market and laying the foundation for the Monetary Union is not reflected in the budget statement; that, if you look at the budget, it is not reflected. I would like to state that the implementation of the Common Market and laying the foundation for the Common Market...the activities of the EAC are programme based in the sense that they fund the coordinating role of EAC's regional projects and programmes.

What I am trying to say here is that, since it the mandate of the EAC Secretariat is to coordinate and support the Partner States, if you pass the budget here for the salaries for our staff at the Secretariat, it means that the coordination of the operationalisation of the Common Market will continue. Therefore, even if it appears as salary, it is important, because without salary nothing can go on.

One of the problems we have been experiencing is that of having to engage very many consultancies. Mr Speaker, I want to say here that when we were establishing the new EAC, the

thinking was to re-establish a small and lean Secretariat to do small jobs. However, as we started to implement the integration agenda, we still have a small Secretariat, but it is no longer doing small jobs; jobs are increasing day by day, and as a result, we are engaging more and more consultancies. The challenge before us today is to have more money in order to recruit more experts to have a big Secretariat so that we reduce on the number of consultants. You cannot have both at the same time. You cannot have a small Secretariat and avoid consultancies. It is not possible. We shall have to decide on what to do; to either invest in the Secretariat or continue using consultants. There is no shortcut on that aspect. But, again, this issue of consultants is not a bad thing.

I will give you an example, Mr Speaker. In Tanzania, when we were planning to construct the road from Dar-es-Salaam to Singida, there arose a problem with the issue of feasibility studies before construction. Some people who are not engineers thought it a waste of money. Therefore, we decided not to have feasibility studies and opted to design and construct, because it appeared cheaper to do so. We opted for that.

Now, when the contractor started to build the road, he realised that there were very many rivers passing through the road in some areas, so the budget changed almost fifty times. Now when we asked the contractor why he had raised the budget, he said, "Look here, this was design and build"! We avoided a feasibility study because we thought it would be cheaper, but we ended up paying the contractor more because there was no feasibility study. You cannot avoid feasibility studies. What the Secretariat is doing to support the Partner States is to

undertake feasibility studies for the East African Road Network.

For example, we have been able to raise funds from the Africa Development Bank for undertaking feasibility studies of all roads within the East Africa Road Network. By doing that, we are helping the Partner States that have no resources to undertake feasibility studies. You might think it useless, but without feasibility studies, you cannot go to the World Bank or the Africa Development Bank because they will not give you money. If you opt to go the Tanzanian way, as we attempted to do it in Dar-es-Salaam and Dodoma, it will end up being very expensive. Therefore, that is the challenge we have, but there is no short cut on that.

To the extent that the EAC organs and institutions, including the Secretariat and the Assembly will be engaged in the activities of the Common Market, they are doing it within their obligations. Now, if you look at the budget, we have been doing a very good job on sensitisation. When we are moving across the region sensitising people on the Common Market, we are still doing the job of operationalising the Common Market.

Honourable Members will note that we have provided US \$324,000 specifically for activities of the Common Market. The Common Market is now at the implementation stage, which sectors across the board will carry out, and the Partner States will implement most of the issues.

For instance, we have US \$1.5 million allocated to trade in services. That money will support the Common Market. We also have US \$167,000 for labour and immigration. For infrastructure, we have US \$2 million.

When we improve infrastructure, we are implementing the Common Market.

As regards the Monetary Union, Members will note that we will expend US \$1.3 million mainly on facilitation of studies and negotiations, which are essential for the establishment of the Monetary Union. Therefore, we are laying the foundation. Apart from this, let me tell this House that there is another big budget...definitely, we will have to come back for another supplementary budget. Currently we are negotiating financing of US\$60 million with the World Bank for implementing the Common Market. The moment we are finished with the negotiations, we shall come here with the supplementary budget.

On sensitisation, previously we had allocated over US \$2 million, but now that donors and other people who are supporting us are ready to give us money, we have decided to allocate that money to other things. We shall continue to contact them, and the moment they give us money, we shall have more money for sensitisation, and we shall have millions of money for doing many other things. However, what I am not going to allow is to spend any of this money without the approval of this Assembly. *(Applause)*

I am requesting that if the Clerk informs the Assembly that we have US\$60 million and we need to pass the supplementary budget urgently, please come. *(Laughter)* And if we call you back two weeks later for another supplementary budget because we have received another US \$40 million, please come, because I don't want problems later. And don't say, look here, this Council of Ministers; they call us today, we pass and then they call us tomorrow! It is because donors

are interested in supporting us. Let us be ready to receive this support. *(Laughter)*

Let me now go very briefly to individual contributions. Hon. Masha raised a very good issue on communication. He is a professor of mass communication, and he has been in the United States of America doing the same job. However, he is now in Africa, and that is the problem. *(Laughter)* I would like to assure hon. Masha that the Council of Ministers has already decided to put in place an EAC communications strategy. *(Applause)* We are going to borrow a leaf from the Ministry of EAC Kenya, which has a good communications strategy.

In this budget alone, we have allocated US \$55,000 for that purpose, and there is more money coming for sensitisation. In fact, we are going to have an East African FM radio. It is only that we don't want to announce everything before we get the money, but let me assure the honourable members to stay tuned – *(Laughter)* – more and more is coming on sensitisation. We are going to sensitise you from everywhere. The fact that we are here in Mombasa means that we are also sensitising the people, and that is why the Council of Ministers will support this august House to go anywhere at any time to conduct its business – *(Applause)* – because by so doing, you are actually sensitising the people.

Mr Speaker, hon. Sebalu commented on the communications strategy. I agree with him. Hon. Janet Mmari wanted to be educated more on how to reach the people of the EAC. It is a challenge. As I have said, we have tried to come up with a sensitisation programme and a communication

strategy, but let me tell you one thing. Every time I hear people saying that they want to know more about the East African Community, I am always happy to hear that. For example, if you go somewhere, nobody can tell you he knows little about Kamala if he has never heard about Kamala. If you hear somebody saying he knows little about EAC, it means that the person has heard something about the East African Community, only that he would like to hear more about it. *(Laughter)* Therefore, that is a good thing.

Let me tell you, most of the newspapers do not write things for which the public have no interest. Given the fact that the public has interest in hearing about the East African Community, it is a message to the media owners that if they want to make business, they should keep on writing and airing East African issues. Therefore, if people say they want to know more about the East African Community, that is good, and it is because of the education and the job we have been doing.

On the issue of supporting the women entrepreneurs, it is a challenge. One of the Members of this House is collaborating with the Secretariat to prepare the first EAC Conference on women. The funds for that are going to be available. I have in fact assured the women that it is time we granted them observer status. I told them last week in Dodoma that if they want to realise their dreams, they must bring that application when I am still Chairperson, Council of Ministers. *(Laughter)*

Hon. Lotodo raised issues about livestock. I have two things to say on that. One, we are now establishing taskforces and committees, which will

be starting to work on animals and pastoralists. Recently, I joined my President in visiting His Excellency Museveni's home area. He has undertaken a very good project of transforming people who were used to moving across East Africa with their livestock to raise their cattle in a better way. I think we need to adopt that model for all the pastoral people of East Africa. Otherwise, if we continue promoting the movement of the pastoral people across the region with their animals, they will continue to affect the environment, they will continue to be poor, and not take their children to school, we shall not go very far. Therefore, I think we need to adopt President Museveni's model in East Africa. *(Applause)*

Hon. Byamukama asked for more time for the committees; I agree with her. Then there was an issue about donor dependence. Mr Speaker, my response to this would be that if these donors were not interested in us, nobody here would have talked about donor dependence, because we would be having too little money to fight over amongst ourselves on how to divide the little that we have.

Now, we are talking about donor dependence because there are donors ready to support us. If there were no donors ready to support us, nobody here would talk about donor dependence. So, when you look at this budget, you think of donor dependence. However, honourable Members should not forget that all of us here come from different countries, and our respective Partner States have so many things to undertake. If you go to our partner states, you will find that most of our budgets have deficits. We all have a problem, and we must all agree. Now, if there are donors somewhere who are ready to support

us, we do not call that donor dependence; we call it donor support. *(Laughter)* Look here, how does donor dependence come about?

Let me tell you, honourable members, if you are preparing the budget, you just list out how much money you are able to raise from your own resources. Perhaps you are able to raise US \$10 million from your own resources, but what are your needs; maybe US \$20 million! Now, if you do not want to be donor dependent, you can sit there and keep asking yourself how to increase your resources from US \$10 million to US \$20 million. Now, supposing you are not able to raise the funds, what can you do? There is nothing you can do, so if there is somebody around who is ready to supplement what you would like to do, do not take that as a problem.

If you think that the Partner States have the capacity to contribute more and they are not doing that, then that is another issue, but if you are working within poverty constraints, there is no need to blame anyone. *(Applause)* That is why we are saying that we should invest more in infrastructure, agriculture and industry so that one day we can be able to depend on ourselves. Otherwise, we shall continue lamenting about donor dependence. Therefore, if somebody is ready to support you, I think that you should accept the support without conditions.

Mr Speaker, we will address the concern of the hon. Members relating to funding a second activity of the EALA committees amounting to US \$468,650 by re-allocating funds from some activities of the Secretariat which are donor funded. *(Applause)* This is one of the assured money than any other. We are not doing this for the

first time. We did it last time, and we shall do it again. I understand the importance of the Committees, and I am assuring Members that the Committees will continue doing their job. We shall try this system; if it fails, we shall come with an alternative. Let us pray to God that we can make this Community continue moving. That is what I can say. *(Applause)*

On the US \$300,000 being too much for memorandum of understanding, I want to assure honourable members that that money is not for the memorandum of understanding; it is for preparing a model of a railway concessions agreement. We had agreed that all our railways in the East African Community must run by concession. We attempted this in Tanzania, it did not work, Kenya and Uganda also tried it but it did not work, now we are coming up with a tripartite arrangement between SADC, COMESA and EAC so that we can come up with a model which can help us to run these railways. Therefore, it is not about a memorandum of understanding, but about coming up with a concrete model, which can help, not only East African Community but also SADC and COMESA.

Hon. Catherine Kimura stressed that emphasis be given to the implementation of food security policy, and I agree with her. That is why the heads of state will be meeting in order to approve the Food Security and Climate Change Policy. We are also on the way to approving the EAC Industrial and Investment Policy. As we sign EPAs, are we not complying on industrial...we have been very careful on that one, and that is why it has taken long to sign.

Mr Speaker, I would like to mention three things here: We have told the

Europeans that we are not going to sign EPAs unless they take the issue of development on board as they promised under the Cotonou Agreement. *(Applause)* We are going to emphasise that one.

Secondly, our friends in Europe were telling us that we should not impose export taxes. What do we mean by export taxes? You impose that tax on a certain product for purposes of encouraging local industries. Therefore, you impose the tax to discourage export. Now, the Europeans were telling us not to put in place export taxes at any time. We are saying no because sometimes we can decide to develop a certain industry, and therefore put in place export tax for purposes of promoting that local industry. They do not want that one, but we want it. We have said that if they do not agree, then we do not sign EPAs. *(Applause)*

The other issue concerns the most favoured nations. The Europeans have told us that if we offer something to anybody, we should offer the same to them. For example, if we give someone in China or Brazil an offer, then we should give the same offer to a European. They want to choose friends for us, but we are telling them they cannot choose our friends for us.

Mr Speaker, these are the three key issues to our signing the EPAs. If they accept our position, we sign, if they do not accept, we do not sign. That is the message we are giving. If they are not here to hear me out, they should hear it from the media. *(Laughter)* The issue of development is very important; on the issue of export tax, we need policy space, and they do not have to choose our friends for us. We know who is a friend and who is not a friend. They agree on that, we sign EPAs; they do

not agree, we say good-bye to EPAs; we can always survive without EPAs. *(Applause)*

We must protect our farmers. That is why we are treating the agricultural sector as a sensitive sector in the EPAs negotiations. We are doing so in order to protect our farmers. That is why if you want to import sugar from outside East Africa, we will tax it 100 percent; if you want to bring in maize from outside East Africa, we will tax it 55 percent, and if you want to bring in rice from outside East Africa, we will tax it 75 percent. Why are we doing this? We are doing this in order to protect our farmers. They have done that in Europe through a common agricultural policy, and we are doing it here in East Africa. We shall continue doing it, and that is not negotiable. *(Applause)*

I want to thank hon. Ogalo for what he said on the extra days. We have handled that one.

On the point that we have not sufficiently addressed the areas that emphasise the Common Market in the budget, I totally agree. Today I read in the *Business Daily* newspaper that Kenya is lagging behind because it is not yet ready to look into laws related to the Common Market. I think those who wrote that story did not have the Treaty.

The Treaty says that if all the Partner States have agreed, signed and ratified the protocol on the Common Market, all the laws in the Partner States, which are contrary to the protocol, become null and void. So, come 1st July 2010, if in Kenya, Tanzania, Rwanda, Uganda or Burundi there are laws, which are contrary to the Protocol, those laws will become null and void. If they want to preserve those laws for history, for

their daughters and sons, those laws can stay there, but automatically, on the 1st of July, all those laws become null and void. That is in the Treaty, and signing the Treaty means that it is legally binding. Therefore, Kenya is not lagging behind, and neither is any other Partner State. However, for purposes of cleaning their books, I encourage the Partner States to look into their laws.

On the one activity per committee, well, we have made our proposal. Hon. Mulengani talked about the audited accounts, and I have responded to that one. I have also talked about travelling and consultancies; that we will try to reduce them where possible.

Mr Speaker, we are budgeting simply because we need to focus, but the challenge is that there are so many priorities. You see, we have the Third East Africa Development Strategy (2006-2010), and that is where we derive our priorities. However, let me assure hon. Mulengani that we have not written too many priorities. If you allow me, Mr Speaker, I can condense those into five lines right now. Nevertheless, if you say they are too many, we can always condense them into two words. In two words it would be that, we are implementing the Common Market towards the Monetary Union. *(Laughter)* That is the priority. The others are only a breakdown. Therefore, I ask hon. Mulengani to support this budget. *(Applause)*

Now, where is the US\$2 million that we have saved going? One of the areas where this money is going is the Counterpart Fund. You see, sometimes when donors want to assist, they want us to contribute at least a percentage of the total amount. That is why, for the first time in the EAC Budget, we have

the Counterpart Fund. This is so that whenever a donor decides to come in with whatever amount of money, the Counterpart Fund will be there for us to be able to get that money. The other area where we take these savings is to infrastructure. As I have said, feasibility studies are very good and without them, you cannot get resources from international donors.

I thank hon. Sebalu for his contribution. I agree with hon. Kwekwe's position.

The last issue that I would like to emphasise here, and which is a challenge for us, is that when we started to implement the EAC Customs Union, one of its key components was the Common External Tariff (CET). The CET tells people all over the world that if you want to invest in East Africa in a certain industry, these are the taxes. We put them in place and nobody can sit somewhere and change them. It is very difficult. Why are we doing so? We are doing so in order to assure investors in and outside East Africa that East Africa is a good investment destination, and that their investments will be protected.

Now, what I have realised, as the Chairperson of the Council of Ministers, is that there are some people who are working, not through the legal channels of the EAC, to try and change the CET for their own thinking. But I am telling whoever thinks they can sit anywhere and make unilateral decisions without the approval of the Council that while I am still the Chairperson, I am not going to allow that. *(Applause)* It does not matter if it is the Minister for Finance or whatever. We are in the East African Community, and there is a very well laid out procedure, which they should

follow. I will not allow anybody to sit anywhere to make unilateral decisions.

For example, the Ministers of Finance met in Uganda for what we call pre-budget consultations, but whatever they agreed there is not legal until it passes through the Sectoral Council on Investment and Trade, so that we can hear what the ministers for agriculture, for industry and the others have to say. If we allow this to continue, I am telling you, I will go down in history – (*Laughter*). If we allow this kind of thing to continue, we shall be doing a very bad thing to East Africa, to the Customs Union, to the Common Market and to the future generations. I stand to differ with everyone on this, and I will not allow that to happen. Let us follow the laid down procedure. You follow the procedure, we are together, but if you do not follow it, we are not together, and I stand punished by anybody anywhere. So, let us follow the procedure.

Mr Speaker, having said that, I now request this House to pass the supplementary budget and to approve the budget as I have tabled them before the House. We have listened very well to what Members have said, and I want to say that this is not a Secretariat budget; it is the Council of Ministers' budget.

On behalf of the Council of Ministers, I have listened very well to what the honourable Members have said. Hon. Mukaruliza has listened very well, hon. Hafsa Mossi has listened very well, hon. Kategaya and hon. Kingi are not here but they have been listening very well. I can assure you that we are together; we are speaking the same language. We would like every shilling coming to East Africa to be used for the purpose of East Africa. However, we must make sure we do not send

negative signals to the donors that we do not want the money they have given us. That will be very bad. There are problems in our house, which we must clean internally, but we should never use this Assembly to send negative signals to people who support us that we do not want their support. We may pay the price one day. I request you to pass this budget, give us the job and we shall do what we can to make sure we achieve deep integration. I beg to move. (*Applause*)

The Speaker: Hon. Members is there need to put the question, or should we just go straight – (*Laughter*) - anyway, I will proceed to put the question.

(Question put and agreed to.)

Resolution adopted.

MOTION

FOR THE CONSIDERATION AND APPROVAL OF THE EAC BUDGET FOR THE FINANCIAL YEAR 2010/2011

COMMITTEE OF WAYS AND MEANS

The Minister for East African Cooperation Tanzania, and Chairperson, EAC Council Of Ministers (Dr Diodorus Kamala) (Ex-Officio): Mr Chairperson, I beg to move that in accordance with the provisions of Article 132(5) of the Treaty, and Rule 74 of the Rules of Procedure of the Assembly, the Committee of Ways and Means do consider and approve the Financial Statement of the East African Community for the Financial Year 2010/2011.

Mr Kaahwa: Seconded.

(Question proposed.)

(Question put and agreed to.)

COMMITTEE OF SUPPLY

(The Chairperson, Hon. Abdirahin Abdi, in the Chair)

The Minister for East African Cooperation Tanzania, and Chairperson, EAC Council Of Ministers (Dr Diodorus Kamala) (Ex-Officio): Mr Chairperson, I beg to move that the Committee of Supply do approve the Revised Estimates of Expenditure for the Financial Year 2009/2010 and Budgetary Estimates for the Financial Year 2010/2011 totalling US \$8,483,615.

Mr Kaahwa: Seconded.

(Question put and agreed to)

Vote 001: The East African Community Secretariat including the Defence Liaison Office and the Directorate of Customs

Question proposed that the total sum of US \$31,443,306 under Vote 001 be provided for the expenses of the East African Community Secretariat, including the Defence Liaison Office and the Directorate of Customs.

Mr Mulengani: Mr Chairperson, I just need a small clarification. The Committee proposed reallocations, so from where are the figures the Committee recommended for reallocation going coming? Are they from this vote? If it is from this vote, then we may need to request the Minister to make the re-adjustments on the figure he read.

The Chairman: Hon. Mulengani, I was going to allow the Minister to adjust first before we continue with the

Committee of Supply. There is a document he tabled earlier on the issues that the committee raised. Maybe he could say something and then we continue from there.

Dr Kamala: Mr Chairman, for the purposes of the EAC Secretariat including the Defence Liaison Office and Directorate of Customs, on the US\$31,443,306, we add US\$468,650 on the one allocated there.

The Chairman: Hon. Members, I think the Minister means subtract, not add. What is the figure? Maybe someone can quickly help us calculate that. Where are the professors? Maybe the technical bench can help us if they have subtracted already. I think the total is \$30,974,656. Is that not correct?

Dr Kamala: Yes, that is correct.

The Chairman: Okay, we have finalised that one, but I think the committee also had something on that issue. Committee Chairperson, did you want to say something? If you look at your Report, you have an annexure there, which says that you want to re-allocate some money from certain votes to other votes, amounting to close to US \$457,200. Alternatively, are you satisfied with the explanation the Minister has given and therefore you want to withdraw this?

Ms Sebtuu: Mr Chairman, when we proposed funds for re-allocation, it was because we found out that they were redundant in the votes that they had been put in, either because in those areas we found that they were double allocations or there were missing links, and yet there were some other important areas that needed funding. Therefore, we are still proposing that these funds should be re-allocated.

The Chairman: Hon. Members, I am not speaking for the chairperson, Council of Ministers, but I think you have helped him out already, because you found out the areas for allocation for him. He was reallocating US \$468,000 and you have already found US \$457,000. Therefore, I think we can continue. Is that okay?

I now put the question that a total sum of US \$30,517,656 under Vote 001, be provided for the expenses of the EAC Secretariat, including the Defence Liaison Office and the Directorate of Customs for the Financial Year 2010/2011.

(Question that a total sum of US \$30,517,656 under Vote 001 be provided for the expenses of the EAC Secretariat, including the Defence Liaison Office and the Directorate of Customs for the Financial Year 2010/2011 put and agreed to.)

Vote 002: The East African Legislative Assembly

Question proposed that the sum of US\$11,009,011 under Vote 002 be provided for the expenditure of the East African Legislative Assembly for the Financial Year 2010/2011.

Mr Mulengani: Mr Chairperson, I want to thank the Chairperson, Council of Ministers, but I think there is a small arithmetic error, because after the addition the figure should be US \$10,989,011.

The Chairman: I think hon. Mulengani is right. That is the correct figure.

Mr Mulengani: Yes, it is US \$10,989,011 if you add US \$468,650.

The Chairman: You are right, hon. Mulengani. Hon. Byamukama, if you want to contribute, you can stand up, but we are just adding figures; it is one plus one.

(Question that the sum of US\$11,009,011 under Vote 002 be provided for the expenditure of the East African Legislative Assembly for the Financial Year 2010/2011 put and agreed to.)

Vote 003: The East African Court of Justice

Question proposed that the sum of US \$2,841,777 be approved for the expenditure of the East African Court of Justice for the Financial Year 2010/2011.

(Question that the sum of US \$2,841,777 be approved for the expenditure of the East African Court of Justice for the Financial Year 2010/2011 put and agreed to.)

Vote 004: Lake Victoria Basin Commission

Question proposed that the sum of US \$15,157,596 be approved for the expenditure of the Lake Victoria Basin Commission for the Financial Year 2010/2011.

Mr Mulengani: Mr Chairperson, I rise on the recommendation of the Committee. When the Minister was responding to the debate, he was not very clear on what the Committee said. The Committee recommended that the Minister should give details of all these areas under the LVBC before the release of the funds. Could the Minister pronounce himself on this recommendation?

The Chairman: Perhaps the Committee Chairperson could elaborate on this.

Ms Sebtuu: Mr Chairperson, in the report we noted that the funds for the LVBC are in a lump sum, and that budget lines have not been provided for the funds. Therefore, we would like to see a breakdown for the whole year. In fact, if I could quote the report, it says *“The Committee also notes that most of the Commission’s budget lines are lumped together without clear inputs.”* Therefore, we recommended that the details for these areas should be given before the release of the funds.

Dr Kamala: Mr Chairperson, we do subscribe to the proposal of the Committee to give the detailed budget lines before the release of the funds.

Mr Ogalo: Mr Chairperson, I have not understood the Minister. The recommendation of the Committee required a breakdown of this money so that when the Assembly is passing the budget, we know what money is going where. Now, if we pass it as a lump sum and then later on it is broken down...that is not clear to me. I would have expected the breakdown to come before we pass it.

Dr Kamala: Mr Chairperson, we have committed ourselves not to release any funds until the breakdown of the figure is available. It was an oversight not to come with the detailed breakdown, but we will make it available. My assurance to this House is that we will only release the funds according to the detailed breakdown of the budget of the Commission.

Mr Ogalo: Mr Chairperson, we are dealing with a budget and this is the appropriation stage. What we are

saying is that a lot is going on in this Commission. If the Minister now says that he is committing himself to do it at the level of the Council of Ministers, the Assembly has no way of ascertaining that he has done so, unless the Minister has a way in which he can relate back to the committee and the Assembly. Otherwise, to say that he will do so at the stage when we are releasing the money does not answer the fear of the Committee when it made the observation that it does not know what money is going to be used where. The purpose of appropriation is to know which item is going to get how much money. Therefore, I am still not satisfied with the response, unless the Minister finds a way through which the House will take cognisance of this commitment.

Dr Kamala: Mr Chairman, if you read Annex 3, which we submitted to the Committee on the MTEF, pages 33-35 gives you the details, adding up to the total sum of US\$15,157,596. If you allow me, I can read one or two items for clarification, but it is provided.

The Chairperson: Hon. Members of the Committee, is that what you are looking for? It is Annex 3, the MTEF. Hon. Ogalo, is that what you are looking for?

Mr. Ogalo: Mr Chairperson, looking at Annex 3, it shows the estimates and it is – *(Interruption)* -

Mr Mulengani: Mr Chairperson, this one is a resemblance of what the committee is looking for. First, these details do not give the development budget of the Lake Victoria Basin Commission. This particular table does not give the recurrent budget and it does not segregate the capital budget. In addition, the cost centres are not...they are highlighted, yes, but the

unit costs are missing and, therefore, the figures are still in a block.

The Chairperson: If you look at Annex 4, I think that is what you are looking for. Hon. Mulengani, is what you are looking for in Annex 4 starting from page 204?

Mr Mulengani: Mr Chairperson, the detailed report does answers our concerns to some extent, however in isolated areas the annual figures are still in block form. I want to give an example. On page 216, under the harmonisation of legal and regulatory standards and sustainable use of shared water resources, every unit measure is annual. Even on page 217, everything is on annual basis. On page 219 and 220, it is on annual basis. This aggregated data is very good for budgeting, but I wish they could go further and do as the committee recommends.

Mr Ogalo: Mr Chairperson, I think Annex 4 from page 204 answers what the Committee is looking for.

The Chairperson: That is what I was saying to hon. Mulengani. I think this annex answers the questions, but we are now fishing for something else. If the Committee was specific, it would have been easier, but now that the committee did not specify, and the document is actually there and it shows everything, I think it is only fair for us to say that what is not there should be done, since the Minister has already given the undertaking. I think we should proceed.

(Question that the sum of US \$15,157,596 be approved for the expenditure of the Lake Victoria Basin Commission for the Financial Year 2010/2011 put and agreed to.)

MOTION FOR THE HOUSE TO RESUME

The Chairperson, Council Of Ministers (Dr Diodorus Kamala) (Ex-Officio): Mr Chairperson, I beg to move that the House do resume, and the Committee of Ways and Means, and Committee of Supply report thereto.

Mr Kaahwa: Seconded.

*(Question put and agreed to.)
(The House resumed, the Speaker presiding.)*

REPORT OF THE COMMITTEE OF WAYS AND MEANS AND COMMITTEE OF SUPPLY

The Chairperson, Council Of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to report that the Committee of Ways and Means has considered and approved the Financial Statement For The Financial Year 2010/2011; and the Committee of Supply has considered and approved the Revised Estimates of Expenditure for the Financial Year 2009/2010 totalling to US \$8,483,615; and the Estimates of Expenditure for the East African Community totalling to US \$60,431,690 for the Financial Year 2010/2011.

MOTION FOR THE ADOPTION OF THE REPORT OF THE COMMITTEE OF WAYS AND MEANS, AND THE COMMITTEE OF SUPPLY

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the report of the Committee of Ways and Means, and the Committee of Supply be adopted.

Mr Kaahwa: Seconded.

(Question put and agreed to.)
Resolution Adopted.

The Speaker: Hon. Members, I thought you would applaud the Minister for passing his first budget, but you have all kept quiet. *(Applause)*

BILLS **Second Reading**

The East African Community
Supplementary Appropriations Bill,
2010

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the East African Community Supplementary Appropriation Bill, 2010 be read the Second Time.

Mr Kaahwa: Seconded.

(Question put and agreed to.)

THE ASSEMBLY IN COMMITTEE
*(The Chairperson, Hon. Abdi
Abdirahin, in the Chair)*

BILLS **Committee Stage**

The EAC Supplementary
Appropriation Bill, 2010

Clauses 1, agreed to.
Clause 2, agreed to.

The Schedule

Ms. Sebtuu: Mr Chairperson, I beg to move that the Schedule be amended by deleting figures 002, 003 and 004 in column 1, and merging the rows to leave 001. The justification I have is that all the expenditures were incurred under the Vote 001.

Dr Kamala: Mr Chairperson, I support the amendment.

(Question put and agreed to.)
The Schedule, as amended, agreed to.
The Title, agreed to.

MOTION FOR THE HOUSE TO RESUME

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

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

(Question put and agreed to.)
*(The House resumed, the Speaker
presiding.)*

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to report that the Committee of the Whole House has considered the Bill entitled *the EAC Supplementary Appropriation Bill, 2010* and passed it with amendments.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the report of the Committee of the whole House be adopted.

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

(Question put and agreed to.)

Resolution adopted.

BILLS
Third Reading

EAC Supplementary Appropriations
Bill, 2010

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the *EAC Supplementary Appropriation, Bill 2010* be read a Third Time and do pass.

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

(Question put and agreed to.)

Bill read a Third Time

BILLS
Second Reading

The EAC Appropriation Bill, 2010

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the *EAC Appropriations Bill, 2010* be read the Second Time.

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

(Question put and agreed to.)

THE ASSEMBLY IN COMMITTEE
(The Chairperson, Hon. Abdi Abdirahin, in the Chair)

BILLS
Committee Stage

The East African Community
Appropriations Bill, 2010

Clause 1, agreed to.
Clause 2, agreed to.
Clause 3, agreed to.
Clause 4, agreed to.

The Schedule

Dr Kamala: Mr Chairperson, I beg to move that the Schedule be amended as follows. The figure for the Secretariat in the last column should read as US \$30,974,656. For EALA it should read as US \$10,989,011. The rest remain the same, and the total remains the same.

Ms Byamukama: Mr Chairperson, I would like to get clarification from the Chairperson, Council of Ministers. I was listening very attentively and earlier he read out a figure of US \$11.09 million, or something like that. I am wondering where the US \$20,000 has gone.

The Chairperson: Hon. Byamukama, it was a mathematical error and that is why it was changed. That is what I told you; it was one plus one. The mistake was there. I know you want more money for the Assembly, but it is only \$10 million.

(Question put and agreed to.)
The Schedule, as amended, agreed to.
The Title, agreed to.

**MOTION FOR THE HOUSE TO
RESUME**

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

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

(Question put and agreed to.)
(The House resumed, the Speaker presiding.)

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to report that the Committee of the Whole House has considered the Bill entitled *the EAC Appropriation Bill, 2010* and passed it with amendments.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the report of the Committee of the whole House be adopted.

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

(Question put and agreed to.)

Resolution Adopted.

**BILLS
Third Reading**

The EAC Supplementary Appropriations Bill, 2010

The Chairperson, Council of Ministers (Dr Diodorus Kamala): Mr Speaker, I beg to move that the *EAC Supplementary Appropriation, Bill 2010* be read a Third Time and do pass.

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

(Question put and agreed to.)

Resolution Adopted.

MOTION FOR A RESOLUTION OF THE ASSEMBLY TO URGE THE EAC PARTNER STATES TO DELAY THE SIGNING OF THE EU/EAC EPAS UNTIL REVISIONS TO THE FRAMEWORK AGREEMENT

Ms Catherine Kimura (Kenya): Mr Speaker, I beg to move that this Assembly do resolve to urge the EAC Partner States to delay the signing of the EU/EAC EPAs until revisions to the framework agreement.

Dr James Ndahiro (Rwanda): Seconded.

Ms Kimura: Mr Speaker,

“WHEREAS the European Union (EU) is negotiating new trade deals with African, Caribbean and Pacific (ACP) countries under the framework of the Economic Partnership Agreements (EPAs);

AND WHEREAS a number of African countries, including the EAC Partner States signified their willingness to sign the EPAs framework by the act of initialling non-binding agreements to indicate their good faith to proceed with the arrangements to negotiate comprehensive EPAs;

AND WHEREAS the EU previously engaged the EAC Partner States at bilateral level before adopting the current regional approach which therefore necessitates a review of the text in accordance with the EAC approval process;

COGNISANT of the fact that the EAC Partner States and stakeholders, including parliaments, are aware of the regional approach and have raised some concerns in a bid to revise the EPAs framework prior to signing. The views which stakeholders feel should

be incorporated in the framework to form the basis for negotiating a comprehensive framework, which procedure the EU has not agreed to are as follows;

- That Articles 16, 32 and 36 have not been resolved between the negotiators and should therefore be resolved first;
- That the Singapore issues that include investment, government procurement amongst others are unresolved matters at the WTO;
- That the Doha Development Agenda and the Doha Ministerial Statement both emphasise the need to respect the special and differential treatment accorded to developing countries by the WTO instruments and concerned that the current EPA text does not take this into consideration;
- That EAC countries production capacities are not as competitive as EU's and in terms of trade, this may most likely displace EAC's products on the market thereby undermining or negatively impacting on the EAC's industrialisation policy framework including tariff regimes;
- That food security and agriculture which is the bedrock of the region's economy yet at the same time EU countries effectively subsidize farmers; which situation may expose EAC's farmers in the EAC region to unfair competition particularly in the dairy sector; and concerned that this may worsen the food security situation of the region;
- That the relationship if not well and fairly negotiated will expose EAC countries to unfair trading terms with the EU which has stringent protectionist policies, and this will not be commensurate to

our aspired development benchmarks;

NOTING the validity of the various arguments raised confirming that the framework as it exists is outdated as evidenced by Article 32 of the EPAs framework and as evidenced by the current developments in the EAC such as the regional approach;

AWARE that the EPAs is supposed to provide an excellent opportunity not only for free trade, but most importantly the opportunity for fair trade between the EU and EAC/or individual EAC partner states amongst others;

CONCERNED, HOWEVER, that the outstanding issues if not resolved and included in the EPAs framework will bind the EAC to poor trading terms on the presumption that these issues will not be discussed during the negotiation of the comprehensive EPAs;

NOW, THEREFORE, this Assembly do resolve as follows:

1. That the Council of Ministers delays the signing of the EPAs Framework with a view to urging the EU to work with EAC partner states to review and revise the framework to include interests of both parties.
2. That the draft framework be subjected to the parliamentary approval process both in the partner states and at regional level."

Mr Speaker, I beg to move.

Dr Ndahiro: Mr Speaker, the EPAs, as we hear it, is a process that they have divided into two parts. One is what they call the framework, and the

other one is what they call the comprehensive EPAs. Now, as far as the framework is concerned, the argument is that our Ministers have already initialled a framework, which was going to form the basis of the comprehensive EPAs. They hold that a framework once initialled amounts to an agreement. That is their argument. However, our argument is that, that was a show of good faith in the process, and to ensure that all the issues that are controversial or that are not clear are captured in the framework, to provide a basis for a comprehensive negotiation process to begin.

Article 16 of the EPAs framework talks about “most favoured nations” and the negotiators are yet to agree on the principle itself between them. Article 32 refers to the time frame, and the framework says that its life ended in July last year. Article 36 refers to development funds. They are categorical on that issue, saying they are not willing to open the debate on development funds until the partner states insisted and got together and made a matrix of areas that require huge investment; those areas that require funds before we can engage in this process or in the process of implementing EPAs.

The response was, “don’t talk about your development priorities; these ones cannot form the EPAs framework. They will be negotiated under the comprehensive EPAs. Keep them aside”. Now, if pertinent issues that affect our economies and our livelihoods are not part of the framework, what is in the framework? Is it legal for them to ask us to sign and backdate the document to meet the requirements of Article 32? Is that legal or it is illegal? If they are asking us to hold all the things we feel are not

stipulated clearly in the framework or the comprehensive negotiations, how can we ensure that during the comprehensive EPAs negotiations, those things will be tabled?

For example, the issue of development funds was a subject of the Cotonou Agreement. They have indicated in the past that they are not willing to open that, but they are now saying that they have been giving development funds to partner states anyway. Now we are suggesting that they should sit together and look at the framework in preparation for the comprehensive negotiations of the EPAs, and make sure that they capture all the issues under the framework because the framework is like a memorandum of understanding. It is an agreement that brings all the principles together, which brings all the understanding...do we understand up to this level? Then, therefore, let us move ahead and negotiate a comprehensive one.

Mr Speaker, if you look at the document, you will find that there is no exit clause anywhere, apart from saying that the EPAs framework will end in December. It does not provide a platform to negotiate an exit clause under the comprehensive EPAs, saying for example that once we decide this, it will run for 15 or 20 years, after which we can review and re-negotiate. When we finally sign the comprehensive framework, it will be a lifetime contract with no change. We are saying that those issues should also be included in the framework; that while discussing the comprehensive EPAs, we shall sit down and negotiate on the exit clause.

Mr Speaker, with those clarifications, I beg to second and urge Members to

support this motion. I thank you.
(*Applause*)

Ms Safina Kwekwe (Kenya): Thank you, Mr Speaker. I thank hon. Kimura and hon. Ndahiro for bringing this important motion to the House. I support the motion for three basic reasons.

The Articles for the framework cited by hon. Kimura in the motion, namely, Articles 16, 32 and 36, are the most contentious. Just a few minutes ago, we were debating the budget of the Community. We were saying that it is wrong to pass a supplementary budget for money spent without the approval of Parliament. In the same vein, it is wrong to backdate commitment of partner states to last year July before the conclusion of the agreement. Therefore, the issue of Article 32 about the commencement date of the commitment as entailed in the EPAs should come up after concluding the actual negotiations. If it is next year, it should be next year; they should never backdate it. That is wrong.

I also want to speak specifically on Article 36, on the matter of development. All the five Partner States of the EAC are members of the World Trade Organisation. Some of them are even founding members of WTO, having joined in 1995. The instrument that governs trade, the General Agreement on Tariffs and Trade (GATT), in Article 20, provides for an exception that trading partners can make use of. One of them is in the case of a regional integration, where the partner states have come into a preferential trade arrangement. The provision exempts them from giving the same treatment that they have in their preferential trade arrangement to other states. That is an exception to the MFN clause.

Therefore, if, for example, EAC gets into a preferential trade arrangement with COMESA, which is a bloc, and another preferential arrangement with SADC, which is another bloc, then EAC would be exempt from the MFN clause. This is because in the preferential trade arrangement if we say CET is one percent, ordinarily, in the absence of a preferential trade arrangement, that one percent CET would apply to all trading partners, but because we are in a preferential trade arrangement, then we are exempt from the MFN clause. That means we can discriminate others who are not party to the preferential trade arrangement that we are in. Therefore, to negate that is in essence going against the WTO instrument that should be governing the same trade. Even when it comes to services, there is the instrument of the General Agreement on Trade and Services. Under Article 5 of that instrument, we still have the exception.

Mr Speaker, four of the EAC Partner States are among the Least Developed Countries (LDCs). The two instruments of the WTO that I have just cited, GATT and GATS, provide for special and differential treatment for Developing and Least Developed Countries. Any trading partners who negotiate with any of the LDCs or Developing Countries (DCs) should be able take into consideration the provisions for their special and differential treatment. These provisions were made because of the fact that the world is made up of countries of different economic strengths, different trading volumes and, therefore, it was wise then and now for partner states like Burundi, Tanzania, Uganda and Rwanda, which are LDCs, to benefit from the special and differential treatment, which the GATT and GATS have provided.

Therefore, for the EU to take an issue with that is in bad taste. *(Applause)*

I, therefore, concur with hon. Kimura who has moved this motion and the hon. Dr Ndahiro who has seconded this motion that the signing of this framework on the comprehensive EPAs should be delayed, and that the draft framework should be subjected to the parliamentary approval process both in the EAC Partner States and at the regional level. I thank you. *(Applause)*

Mr Dan Wandera Ogalo (Uganda): Thank you, Mr Speaker, for the opportunity to contribute to this motion. I support the motion, and in addition to the able arguments of hon. Kwekwe, which are unassailable, I just want to add one point.

I have reliable information that the European Union consists of countries, which believe in the rule of law. They are very strict where issues of law are concerned, and that you can never find them transgressing any law, which is supposed to be binding upon them.

Three years ago, this House passed a law on negotiations with the EU. In that law, the House set down the procedures for carrying out negotiations with the EU in all trade matters. It specifically stated who would be negotiating on behalf of the EAC. After this House passed that law, the Presidents assented to it, and, therefore, that law should govern the trade negotiations with the EU.

A law passed by this Assembly representing five countries, assented to by five Presidents, I would not expect the EU to be the one to be encouraging us to contravene the law! I would be expecting them, as they are always telling us “the rule of law; the rule of

law; “you must never break laws” to be the ones to say you must comply with the law. Therefore, the persons who are negotiating for the EAC, the person who signs for the EAC must be authorised by that law. If anyone else purports to do anything outside that law, then whatever he or she enters into would be a nullity. It would be null and void.

It is as the Treaty here says that the Council of Ministers will present the budget to the Assembly to determine the budget of the Community, and then out of the blue the Sergeant-at-Arms comes here and says he is presenting the budget of the Community, and we debate and pass it! Obviously, whatever we pass would be a nullity.

Accordingly, in addition to the reasons given by the Chairperson, Council of Ministers this afternoon, I believe that there is an exit for our Council of Ministers. They should simply tell the EU, “Wait, we have a law. We want to negotiate according to that law. We are nations who believe in the rule of law, so hold on.” I beg to support the motion. *(Applause)*

(Question on the motion put and agreed to.)

Resolution adopted.

ADJOURNMENT

The Speaker: Hon. Members that concludes the business of the day. I now adjourn the House sine die.

(The House rose at 5.10 p.m. and adjourned sine die.)