



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly 119TH SITTING - SECOND ASSEMBLY: FIRST MEETING – FIFTH SESSION

Wednesday, 7 September 2011

*The East African Legislative Assembly met at 2.30 p.m. in the Chamber of Deputies,
Parliament of Rwanda, in Kigali.*

PRAYER

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

The Assembly was called to order.

COMMUNICATION FROM THE CHAIR

The Speaker: Honourable members, there is a slight alteration in the Order Paper. There will be Papers to be laid on the Table.

LAYING OF PAPERS

The following Papers were laid on the Table:

The Report of the Committee on Agriculture, Tourism, and Natural Resources on the Consideration of the Trans-boundary Ecosystems Management Bill 2010 held in the Partner States

(By the Chairperson of the Committee, Ms Safina Kwekwe)

BILLS

First Reading

The East African Parliament Institute Bill, 2011

Ms Dora Byamukama (Uganda): Mr Speaker, I beg to move that the East African Parliamentary Institute Bill, 2011 be read for the First Time.

(The Bill was read the First Time and it was referred to the Legal, Rules and Privileges Committee for scrutiny)

BILL'S
First Reading

The East African Community Human and Peoples Rights Bill, 2011

Mr Frederic Ngenzebuhoro (Burundi): Mr Speaker, I beg to move that the East African Community Human and Peoples Rights Bill, 2011 be read for the First Time.

(The Bill was read the First Time and it was referred to the Legal Rules and Privileges Committee for scrutiny)

BILL'S
First Reading

The East African Legislative Assembly Elections Bill, 2011

Mr Frederic Ngenzebuhoro (Burundi): Mr Speaker, I beg to move that the East African Legislative Assembly Elections Bill, 2011 be read for the First Time.

(The Bill was read the First Time and it was referred to the Legal Rules and Privileges Committee for scrutiny)

BILLS
First Reading

The East African Community Polythene Materials Control Bill, 2011

Ms Patricia Hajabakiga (Rwanda): Mr Speaker, I beg to move that the East African Community Polythene Materials Control Bill, 2011 be read for the First Time

(The Bill was read the First Time and it was referred to the Committee on Agriculture, Tourism and Natural Resources)

BILLS
Second Reading

The East African Community Trans-Boundary Ecosystems Management Bill, 2010

Dr George Nangale (Tanzania): Mr Speaker, I beg to move that the East African Community Trans-boundary Ecosystems Management Bill, 2010 be read for the Second Time.

Ms Patricia Hajabakiga (Rwanda): Seconded.

Dr Nangale: Mr Speaker, following the resolution of this Assembly to grant me leave to move a Private Members' Bill entitled "The East African Trans-boundary Ecosystems Management Bill, 2010" in accordance with EALA's Rules of Procedure in September 2008 during the Second Meeting of the Second Session of the Second Assembly held here in Kigali, you will notice that it is now three years since then that I am now moving for the Second Reading of the Bill.

Mr Speaker, during this period, we have taken time and effort to reach here. Let me thank you in person, Mr Speaker, and the entire leadership of EALA Secretariat for their assistance in coordinating the valuable facilitation extended by UNEP and the AU to support a thorough regional practical research study, which was led by Dr Rose Mwebeza and her team, on the conceptual aspirations of the proposed Bill. Today, we have a well-researched and widely consulted Bill for the Second Reading.

Mr Speaker, I want to thank the Chairperson of the Committee on Agriculture, Tourism and Natural Resources, hon. Safina Kwekwe; my colleagues, members of the sub-committee on Environment, hon. Patricia Hajabakiga and hon. Bernard Mulengani; all members of the Committee on Agriculture, Tourism and Natural Resources; the Committee's Senior Clerk Assistant, Ms Beatrice Ndayizeye; the EAC legal draftsman, Mr Kamugisha; the AU project staff; Ms Jallow Fatoumata; my colleagues at Climate Change, where hon. Dora Byamukama is our Vice-President; and many other stakeholders in the region and beyond for selflessly extending their knowledgeable input and support.

Mr Speaker, the object of this Bill is to provide for a legal framework to effectively streamline the management of trans-boundary ecosystems with a view to enhance the quality of the environment and also to ensure sustainable and equitable utilisation of shared natural resources in our region.

The Bill provides not only a defined institutional framework for the advisory, coordination and monitoring of the management of the region's trans-boundary ecosystem and public participation, but also stipulates the obligations and roles which the EAC Partner States are bound to play and direct. It also provides for the determination of designation of shared trans-boundary ecosystems in East Africa, procedural trans-boundary EIAs for projects, programmes and activities, dispute settlement and regulations.

This Bill addresses complex matters of a technical, economic, social and political nature which required extensive stakeholders' consultations. According to the consultants, stakeholders and some other interested parties who had an opportunity to share with me the contents of this Bill, if passed this law will go down in history as one of the landmark laws no region in the world has ever provided, for which such a range of trans-boundary ecosystems

from water bodies, forests, mountains, wildlife resources, marine resources, savannah plains, minerals and many more are in a single legislation.

Mr Speaker, I am aware of the sensitivity of this Bill, but let me call upon fellow Members and Partner States to positively consider the deliberation of this Bill in the spirit and for the benefit of the current generation and future generations to come. I am looking forward to the enrichment of this Bill in the form of amendments drawn from honourable members, the Committee, Partner States, Council of Ministers, stakeholders and the general public.

I beg to move.

(Question proposed)

REPORT OF THE COMMITTEE ON AGRICULTURE, TOURISM, AND NATURAL RESOURCES ON THE EAST AFRICAN COMMUNITY TRANS-BOUNDARY ECOSYSTEMS MANAGEMENT BILL, 2011

Ms Safina Kwekwe (Kenya): Thank you, Mr Speaker. May I take this opportunity first to extend my gratitude to the people and leadership of the Republic of Rwanda for the cordial reception, and of course, good neighbourhood that we have always enjoyed while in Rwanda? *(Applause)*

Mr Speaker, in the course of consideration of this Bill, the Committee was guided by Articles 5(3)(g), 7(1)(a) and (b), 111, 112 and 114 of the Treaty. The Committee notes, with appreciation, that consideration of this Bill was made possible as a result of concerted efforts of different actors and stakeholders and to this end, we wish to:

(a) Thank all the stakeholders met during the public hearings, for having responded positively to the invitation and for their inputs to the EAC Trans-boundary Ecosystems Bill.

(b) Commend, in a special way, the officials from the Ministries of the East African Community of the Republics of Burundi, Kenya, Rwanda, Uganda and the United Republic of Tanzania, for the mobilization of stakeholders, warm welcome and all courtesies accorded to Members of the Committee during their stay in the respective Partner States.

(c) Specifically commend you, Mr Speaker, for availing support to the Committee and for allowing Members to undertake their activities with respect to the approved legislative calendar.

(d) Appreciate the African Union Commission for having co-funded this very important activity and for the support accorded to it during the process of updating the East African Trans-boundary Ecosystem Management Bill, 2010. In that regard, the Committee recognises, with appreciation, the important role played by Ms Fatoumata Jallow Ndoeye in the whole process of implementation of the memorandum of understanding between EAC/EALA and the African Union Commission.

(e) Further appreciate the support of AWEPA, which facilitated the Committee's finalisation of the consideration of the Trans-boundary Ecosystems Bill, 2010.

(f) Thank all participants at the public hearings for their input to the Bill.

(g) Sincerely thank EALA staff and all those who made the whole process of updating the EAC Trans-boundary Ecosystems Bill a success, notably Dr Rose Mwebaza for the study she undertook in all EAC Partner States; Ms Beatrice Ndayizeye, our Committee Clerk; Ms Wivine Ntamubano; Mr Lawrence Kamugisha; Mr Charles Kadonya; and the road and water transporters and hoteliers for their support to Members while discharging their mandate.

Mr Speaker, the East African Community Trans-boundary Ecosystems Bill, 2010 was introduced to the East African Legislative Assembly as a Private Member's Bill in 2008 by Dr George Nangale. After seeking leave of the House, hon. Nangale shared the Bill with the Committee of Agriculture, Tourism and Natural Resources. The committee advised that the Bill needed further review to address issues beyond environmental impact assessment, which at the time constituted the object of the Bill. The Committee then sought for technical and financial assistance to enable enrichment of the Bill, and this was achieved when the Committee, on behalf of the East African Legislative Assembly, initiated a collaborative relationship with the African Union Commission in April 2010. Thereafter, a consultant was engaged to enrich the Bill.

That study undertook, amongst others: -

(i) A comprehensive review of existing legal instruments relevant to the subject matter, both national laws of the five EAC Partner States and international instruments;

(ii) A review of the experience of, and case studies on, the management of other shared ecosystems in the world;

(iii) A review of the existing draft Bill prepared by the Mover.

Mr Speaker, the report of the Consultant was presented and adopted by the Committee in December 2010 and the Bill was read for the First Time and referred to the Committee for consideration. Subsequent to this, the Committee undertook public hearings in all the five Partner States with stakeholders drawn from the public sector, private sector, environmental civil society organisations, the academia, the media and local communities living on/making a living from trans-boundary ecosystems. The Committee also toured two ecosystems, an aquatic, and a terrestrial ecosystem around the Moshi/Kilimanjaro region in Tanzania and Amboselli/Oloitokitok and Taita /Taveta regions in Kenya.

The committee invited more responses from stakeholders, and as a result, inputs from the Republics of Kenya, Uganda, and Rwanda were submitted after the public hearings. The United Republic of Tanzania submitted its input during the public hearings. The Committee held a two-day sitting in Kigali, Rwanda, on 2nd and 3rd September to finalise consideration of the Bill, review stakeholders' inputs and agree on the proposed amendments and the report for subsequent submission to the House.

From the enumerated process aforementioned, many emerging issues were brought in by participants and stakeholders as observations, comments, amendments, or recommendations, which were wholesomely considered. The Committee came up with a schedule of proposed amendments herein submitted for adoption by the whole House.

Mr Speaker, the objectives of the public hearings, tours of ecosystems and committee meetings were:

- (i) To interface with stakeholders in the trans-boundary ecosystems field to get their inputs in the Bill;
- (ii) To take stock of the wishes of the East African citizens whose interest the Bill if enacted will be operational;
- (iii) To undertake a study tour of two trans-boundary ecosystems and interact with communities living around them and making a living from those ecosystems;
- (iv) To suggest recommendations for improvements on the Bill for the good of all East Africans.

Subsequent to that, the meeting in Kigali had the following objectives:

- (i) To consider the emerging amendments from public hearings workshops;
- (ii) To consider more comments sent to the Clerk by stakeholders after the public hearings workshops;
- (iii) To review all proposals of amendments and come up with an appropriate schedule to be submitted to the House for debate and adoption.

Mr Speaker, the Committee formed two teams to meet stakeholders in their Partner States during the public hearings. Team 1 met stakeholders in the Republic of Burundi, the Republic of Kenya and the United Republic of Tanzania where it was joined by team 2. It also made a tour of an aquatic trans-boundary ecosystem namely Lake Jipe. Team 2 met stakeholders in the Republic of Rwanda, the Republic of Uganda, and the United Republic of Tanzania and visited a terrestrial trans-boundary ecosystem covering Amboselli- Kilimanjaro region. Both teams visited trans-boundary ecosystems shared by the Republic of Kenya and the United Republic of Tanzania.

In all Partner States, the Committee used various methodologies, which included the following:

- (i) Accorded time to stakeholders to acquaint themselves with the Bill as the majority were seeing it for the first time;
- (ii) Presentation of the background and memorandum of the Bill and clause by clause consideration of the Bill;
- (iii) Consideration of written submissions from various stakeholders;
- (iv) Consolidation of all inputs made to the Bill into an appropriate Committee report and schedule of amendments for submission to the House for debate and approval.

Mr Speaker, there were general observations that the Committee noted and these are:

1. In all Partner States, stakeholders were concerned about the composition of the Commission where responsibilities are given to agencies instead of bigger ministries in charge of environment, agriculture, and natural resources. There is fear of conflict of interest.

2. There was fear of duplication of efforts raised by the public sector regarding the functions of the Commission in the Bill, as these functions are similar to those of the environmental national authorities.
3. Another common concern noted within the public sector was the fact of including, in the composition of the Commission, the private sector and civil society organisations whereas the Community is an intergovernmental organisation.
4. Stakeholders proposed the formation of a secretariat or sub-committees to support the operations of the Commission.
5. There were fears that the Bill seems to discourage developers of projects at the expense of human development by focusing more on environment management as seen by the proposed controversial Serengeti Road.
6. There were calls for the Bill to incorporate and harmonise national laws on environmental management.
7. In all Partner States, there were concerns that this Bill is silent on bi-lateral and multilateral agreements between countries, both within EAC countries and with non-EAC countries.
8. The Bill should provide for mechanisms of conflict resolution of misunderstandings arising from unfair distribution of shared natural resources/ shared ecosystems conservation. The Migingo Island case between Kenya and Uganda was cited.
9. The civil society seemed to support environment and conservation while the public sector was more biased towards policy direction.

Mr Speaker, in conclusion, the Committee appreciates the enthusiasm with which all stakeholders interacted with Members during the public hearings on the Trans-boundary Ecosystems Management Bill and expresses its gratitude to all of them for their input. Although it was a very tasking exercise, the activity enriched Members' knowledge in the area of management of shared ecosystems.

The Committee recognises the challenges of balancing between human development and safeguard of environment and wildlife. The Committee proposes to make more detailed and interactive visits to current projects on trans-boundary ecosystems, especially the Lake Jipe and the proposed Serengeti Road projects including other trans-boundary ecosystems in the region, for shared lessons.

From the main concerns raised by stakeholders and the general observations they made, the Committee recommends the following:

1. Consultations on Bills requiring consultation with stakeholders should be done at a very early stage before the Bill moves to the First Reading.
2. East Community Partner States should endeavour to mainstream environmental awareness on trans-boundary ecosystems in their education curricula.

3. East African Partner States should urge all investors to specify the scope of environmental impact assessments as well as strategic impact assessments by identifying, predicting, evaluating and mitigating the environmental, social and economic aspects prior to any decision to begin any projects or programmes.
4. Partner States ought to elaborate a number of sanctions for any developer who may not comply with signed contracts.
5. The Committee should make a subsequent visit to Lake Jipe to comprehensively and exhaustively interact with the prevailing catastrophic activities, propose appropriate remedies and make proposals to deal with similar concerns.
6. In future Committee interactions with stakeholders, it is would be more fruitful to separate the public sector from civil society organisations and the private sector.
7. The Chairperson, Council of Ministers, ought to respond to prior questions on the main concerns raised by stakeholders especially those related to Lake Jipe, the Serengeti Road and similar projects.

Mr Speaker, the Committee begs that the House takes note of the Committee's consideration of the Trans-boundary Ecosystems Management Bill, 2010, and on behalf of the Committee, I beg to move that the report, together with the schedule of amendments, be adopted.
I thank you.

Ms Patricia Hajabakiga (Rwanda): Mr Speaker, before I say anything on the Bill, I would like to welcome all Members to Rwanda and to tell you that I am back in business. Last time when we met in Kigali, I was unable to be with you because I was ill.

I also wish to thank the mover of this very important Bill and the Members of the Committee, under the able leadership of hon. Kwekwe, who have carried us through to this important stage of reading this Bill for the Second Time.

Mr Speaker, all the Partner States are signatories to international environmental conventions and particularly, the Convention on Biological Diversity, which harbours most of our ecosystems with very rich species. I am raising this particular issue because the lack of legal instruments within our region to address the issues compels us to adopt international conventions and deal with their standards, which sometimes are too high. We cannot meet those standards if we do not domesticate the same as far as those international conventions are concerned.

A very important standard in this regard is an obligation to conduct environmental impact assessments in all ecosystems prior to a development activity. We know that while we have borders, which were drawn by the colonial, powers, the ecosystems do not have boundaries. You cannot stop water from flowing. You cannot stop gorillas from moving from one ecosystem to another. Therefore, it is very important that we regulate the movement and flow of the ecosystems, which we find within our Partner States.

Mr Speaker, I would like to commend our fore Heads of State of this region for concluding a protocol on the Lake Victoria Basin, which is a major trans-boundary ecosystem in our region. This Bill, therefore, addresses the other trans-boundary ecosystems outside the Lake Victoria Basin.

Chapter 19 of the Treaty, covered under Articles 111, 112 and 113, requires Partner States to undertake, cooperate, and adopt common policies for the control of trans-boundary movement of toxic and hazardous waste, including nuclear materials and any other undesirable materials. If you remember the story of Ivory Coast, where toxic waste was thrown on their land and in their waters and ended with catastrophic results to that region. We have equally seen oil spills, which move from one area to another. If not checked, this can have a negative impact on the communities living in the trans-boundary areas.

On the issue of notification, which is covered under Article 111(b), it says: *“shall provide prior and timely notification and relevant information to each other on natural and human activities that may or are likely to have significant trans-boundary environmental impacts and shall consult with each other at an early stage”*.

Mr Speaker, this Community has been in existence for the last 11 years now and we have been developing, and we have not been able to notify each other on this very important undertaking. There is no way we can undertake this matter unless we harmonise the environmental impact assessment because there is no way one can notify the next country when you have not established the fact. Therefore, this Bill is timely and probably a little bit late.

Mr Speaker, the same Chapter 19, Article 111, requires us to ensure sustainable utilisation of natural resources like lakes, wetlands, forests, and other aquatic and terrestrial ecosystems. We are unable to do it without a legal instrument which will allow us to harmonise and work together in order to ensure that we have that sustainable utilisation.

The Treaty, under Article 112, further requires the Partner States to develop capabilities and measures to undertake environmental impact assessments, which is very specific and relevant to this Bill, of all development projects, activities, and programmes. Under the same Article, (2) (h) requires us to adopt common environmental standards for the control of atmospheric, terrestrial and water pollution arising from urban and industrial development activities. Without a law of this nature where we can harmonise our common environmental standards and leave each of the NEMAs in our region to work independently, we will not be giving a service to the people of East Africa.

With those remarks, I beg to support the motion. *(Applause)*

The Minister for Chairperson, Council of Ministers (Ms Hafsa Mossi) (Burundi): Mr Speaker, I thank you very much for once again enabling this august House to meet in one of the Partner States thereby enhancing the visibility of the East African Community. I also thank you for giving me an opportunity to intervene in the debate on the Motion on the Floor.

While appreciating the fact that most of my honourable colleagues look happy and energised to discharge their important responsibilities at this Meeting, allow me to express my

condolences to hon. Reuben Oyondi who lost his dear wife, and hon. Kate Kamba who lost her sister during our recent recess.

Mr Speaker, the Council of Ministers in principle appreciates the introduction of the East African Community Trans-boundary Ecosystems Management Bill, 2010. This is in view of the fact that the Bill reflects the Partner States' aspirations and undertakings for co-operation in environment and natural resources management as provided under Chapter 19 of the Treaty for the Establishment of the East African Community. The development of a common environmental management policy that would sustain the Partner States' eco-systems and reverse the effects of environmental degradation is a fundamental area of our co-operation and management.

The Council also takes cognisance of the importance of ecosystems at this point in time when the whole world, especially the developing countries, is experiencing environmental destruction. This is notwithstanding the requirements of the several international conventions to which the Partner States are party.

Mr Speaker, following the introduction and committal of this Bill to the Committee on Agriculture, Tourism and Natural Resources, the Partner States considered this Bill. They considered in depth the following aspects of the Bill:

- (i) Management of trans-boundary ecosystems as reflected in clauses 5 to 11;
- (ii) Environmental Impact Assessment as reflected in clauses 12 to 18;
- (iii) Financial provisions as provided in clauses 19 to 21; and,
- (iv) General provisions

The Partner States raised several policy related issues regarding the contents of the Bill. While acknowledging the report we received earlier this afternoon that the Committee did receive the issues and tried to address them, the issues still remain unclear. In any case, we, as Council of Ministers, received this report only a short while ago. We have not had sufficient time to analyse the extent to which the Committee dealt with our concerns. Because of that lack of clarity, it is important that we, as Members of the Council, do engage in further consultations.

Mr Speaker, with your permission, I will list the critical issues as follows:

(a) Institutional Issues

The Bill establishes an East African Trans-Boundary Ecosystems Commission mainly to coordinate, monitor, and supervise EAC policies on management of trans-boundary ecosystems in the EAC region including Lake Victoria Basin. However, the latter basin and its catchments area as a trans-boundary ecosystem are already under the institutional mandate of Lake Victoria Basin Commission (LVBC). Besides, we also have Lake Victoria Fisheries Organisation (LVFO) whose mandate includes fisheries aspects of the same ecosystem. The LVBC also already handles ecosystem management in the Mt Elgon area.

The relationship between the proposed Commission, LVBC, and LVFO has not been established. This gives rise to issues of parallel ecosystem management and coordination. The

creation of several bodies and agencies to take charge of environmental issues and natural resources will not be in harmony with the letter and spirit of Chapter 19 of the Treaty.

Secondly, the proposed East African Trans-boundary Ecosystems Management Commission is designed to be a public domain institution that is accountable to the Council of Ministers and yet in its composition, this Commission will have private sector and civil society organisations. This mixed composition is likely to give rise to conflict of interest and lack of consensus in decision-making. Much as the Community is, by Articles 5 (3) (g) and 7 (a) of the Treaty, people-centred and private sector driven, it is important that we reflect this ideal on a clear and unequivocal manner.

Thirdly, the relationship between the proposed Commission and Partner State ministries responsible for environment, natural resources, and such bodies like National Environmental Management Agencies is not clear. Will the focal points take over the roles of Ministries and those agencies? This grey area can also give rise to conflict of interest and increased budgetary requirements.

Fourthly, the Bill does not establish modalities for the Commission. It does not have a secretariat, for example. How will the Commissioners discharge their responsibilities? One may argue that this would be done through existing structures such as the environment department at the Secretariat. However, this requires an analysis of the current role of that office and how its responsibilities could best be extended to the proposed Commission.

(b) Conceptual Scope

The Bill emphasises prevention of exploitation of natural resources and protection of environment without due regard for/balance with aspects of human development.

(c) Trans-National Issues

The Bill does not cater for such trans-national issues that may arise when one Partner State seeks to engage in a development project on a trans-boundary ecosystem but which development may be considered a threat to the environment by a neighbouring Partner State. This can be very critical in a situation where the level of development of the Partner States is not uniform.

(d) Conflict with the Common Market Protocol

By placing trans-boundary ecosystems under management of EAC, the Bill goes against the Common Market Protocol that has placed land, as a resource, under individual Partner States' control.

(e) Financial Obligations

By creating a Commission, this Bill will create a charge on the budget of the Community. The funding for the Commission will be in the same manner as the current funding for the Community as provided under the Treaty. By providing that costs for Environmental Impact Assessments (EIAs) will be borne by Partner States' governments, which already support ministries and relevant agencies, the Bill may create an extra burden on Partner States.

(f) Scope of Environmental Impact Assessment (EIA)

The Bill's scope on EIA is not clear. Whereas EIA should be a process of identifying, predicting, technically evaluating and mitigating the environmental aspects before any decision is taken for processes of development, the Bill is restricted to environmental protection. Environment Impact Assessment should go beyond this.

(g) Conflict Trans-boundary Areas

The Bill does not address or have provisions to deal with/co-ordinate conflict ecosystem situations such as Lake Chala-Jipe and Uмба River Ecosystem and Mt Elgon. The provision on settlement of disputes is restricted to matters covered in the Bill and which do not include existing disputes.

Mr Speaker, given this position, I would like to move a Motion under Rule 31(c) of the EALA Rules of Procedure to adjourn debate on this Motion. I would like to assure this House that the Motion is aimed at according the Council of Ministers a little more time to consult on these matters. I thank you.

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

(Question proposed)

Mr Kaahwa: Mr Speaker, I would like to thank you for giving me another opportunity to contribute to the business in the plenary session of this Sitting of this august House. Let me also thank you once again for enabling this august House to sit in this beautiful city of Kigali and thereby extending awareness about the EAC to the people of East Africa.

Mr Speaker, the importance of the Bill on the Floor cannot be gainsaid. I have carefully read this Bill several times. I have read the noble objects of this Bill, and I do not need to repeat them. They have been ably amplified by the Chairperson of the Committee.

However, let me stress that the object of the Bill is on all fours with the provisions of Chapter 19 of the Treaty. Under Chapter 19, we have three important Articles. One on environmental issues and natural resources, Article 111; Article 112, management of environment; Article 113, prevention of illegal international trade in toxic and hazardous waste; and Article 114 on management of natural resources. A careful reading of each of those provisions will indicate the undertakings the Partner States have made as far the situation is concerned. They indicate the recognition by the Partner States of the ideals, which should guide environmental protection. Therefore, this Bill finds domicile in the current concerns on and care for ecosystems management in general and trans-boundary ecosystems management in particular.

Mr Speaker, the Motion on the Floor to adjourn debate of this Motion takes into account the provisions of the Treaty, that initiation of Bills and enactment of laws in accordance with the traditions we have in this region is normally a two-way process involving the Executive and Parliament. Therefore, the Council's Motion to adjourn debate should be seen against that time-tried concept of a dual-pronged process in initiation of Bills and enactment of laws.

Mr Speaker, let me assure you that the Council's reasons for adjournment of debate are not to cause a delay in the enactment of legislation. As ably stated by the Chairperson of the

Council of Ministers, the reasons for adjournment of debate of this Motion are largely to enable to the honourable ministers to further consult with the Partner States, the Sectoral Council of Ministers responsible for EAC Affairs and Planning on the magnitude by which the Committee has addressed the concerns which arose during the public hearings and in which the Partner States participated. All that we want is to see how far or to what depths the concerns have been addressed. The Motion for adjournment of debate, I can assure you, is not to enable the Council to delay any further progress of this Bill, whose objects are very clear as stated by the Chairperson of the Council.

Mr Speaker, contrary to the views I have heard in some circles, that maybe the Council is worried that the Bill comes at a time when the Protocol on Environment and Natural Resources has not been ratified by one or two of the Partner States, the adjournment of debate is not based on that assumption. The reason is that the protocol which has not been ratified is not a protocol which this Bill seeks to legislate on. The protocol is much wider, and it is only one of the provisions of that protocol, Article 7, which relates to ecosystems management.

Mr Speaker, allow me to remind this august House that in EALA, this will not be the first time to move an adjournment of debate for very good reasons. In the past, the Assembly has graciously allowed the Council of Ministers to seek adjournment of debate in order to seek further clarification and consult further and then we have proceeded very effectively after debate has resumed. The examples I cite are with regard to the enactment of the Budget Bill and the recently enacted East African Community Service Commission Bill.

For those reasons and the reasons ably stated by the Chairperson, I beg to support the motion.

Ms Safina Kwekwe (Kenya): Thank you, Mr Speaker, for giving me the opportunity to make my contribution to the Motion that has been moved by the Chairperson, Council of Ministers. I want from the onset to say that I oppose that Motion for various reasons and I would like to enumerate them.

Mr Speaker, the basis that has been given by the Chairperson, Council of Ministers, for seeking further consultation is based on seven points. These seven points include:

1. Institutional concerns on the mandate of the Lake Victoria Basin vis-à-vis the mandate of the proposed Commission that this Bill seeks to establish;
2. The issues of Partner States' ministries and agencies and their roles and how these roles have been clarified by the Bill;
3. Issues of the challenges and the modalities of how this Commission will be able to operate without a secretariat.
4. The trans-national issues which have been cited include issues of where one country may want to do a development project and another thinks that project has a negative impact and this could actually be a source of conflict within the Partner States;
5. That the Bill includes issues of land which have been left out of the EAC jurisdiction as demonstrated by the Common Market Protocol;

6. That the Bill contravenes Article 59 of the Treaty and puts a charge on the EAC; and
7. That this Bill does not address dispute resolutions.

Mr Speaker, in all these seven concerns, when the Committee was deliberating on the Bill as directed by the House this was one of the concerns that we, as a Committee, were apprised of that came from both the private sector and public, including civil society organisations. These are the same issues that were raised and these constitute the submissions that the Committee received from the Partner States, notably, Kenya, Uganda, Rwanda and the United Republic of Tanzania.

Mr Speaker, as I had indicated earlier, the Committee undertook to consider this Bill in three stages namely, public hearings, tours of ecosystems, and meetings to consider all the concerns that were raised, together with the submissions that were made by Kenya, Uganda and Rwanda that came much later after the public hearings. The Committee, in its wisdom, came up with a schedule of amendments that if this Bill proceeds to the Second and Third Readings, it shall be evident that those concerns have been taken care of by the Committee.

I believe that this Bill, from the views of all the people we met, be they individuals or institutions, is long overdue. We have had instances where this House has conceded to adjournment Motions and yes, of course, there are times when the Council has come back and we have passed those pieces of legislation. However, it is also true that this House has at one time conceded to adjourn debate on a Bill that at the end of the day never saw the light of day. That was the very institution that the Chairperson, Council of Ministers, was talking about, the Lake Victoria Basin Commission. To date, it does not have any law; it is operating on a protocol. Is this the trend that we would like to take as an Assembly, to always pull back East Africans when they aspire to have legal instruments that guide the areas of co-operation, and they expect so as we witnessed during public hearings?

As an Assembly, we say that we need time to consult more; with whom? These are the people that we met and these are the submissions we received. These submissions came through the Ministries of EAC in all the Partner States. So, to say that they need to go and check whether we have ably taken on board those concerns, like a school teacher who is marking the script of a student, that I do not find to be in order.

Mr Speaker, I beg to oppose, and categorically so, that this Motion of adjournment should be adopted.

Ms Lydia Wanyoto (Uganda): Thank you, Mr Speaker. I stand to oppose the Motion by the Chairperson.

However, before I proceed, since this is my first time to speak in this Session, I would like to thank the Government and people of Rwanda for welcoming us whenever we are here for sessions and for providing us an enabling environment to transact business.

Secondly, I join the Chairperson Council of Ministers in paying tribute to Mama Oyondi and all our colleagues' relatives that have passed on since we last met. The issue of Mama Oyondi is very personal to many of us because as we all know, our spouses or anybody who

performs that function is an ex-officio of this Assembly and therefore, may her soul rest in eternal peace.

Mr Speaker, I came a bit late for this Session because I had travelled to my home area in Elgon sub-region to attend a mass burial of about 50 families that perished because of the mud slides that occurred in the last two weeks on the slopes of Mt Elgon. My comfort was that I was coming to join my colleagues here so that we could pass a legal framework and regulation that can support our people to not only live within the systems of the environment but also to share the management of these systems.

I want to be on record and say that this Bill should be debated and passed in this Session. It would be very insensitive for us to delay this work when hardly two weeks ago, part of this Community buried 50 families for reasons related to the environment and ecosystems. The same happened last year, and we had the comfort of this Bill. We actually had a Motion but when we were in Mombasa, because of the power cuts and the busy schedule of the budget session, we were not able to move a Motion on this matter. However, we were comforted that the Motion could hold because we had a Bill coming up to handle the same matters of management of natural resources, trans-boundary ecosystems and matters that relate to the depletion of our environment.

Therefore, I stand here, if anything, to plead with the Chairperson Council of Ministers, that this is a matter that is urgent. Of course, a law cannot be enacted under urgency but for the good of the people. There are many people on our borders and areas, which badly need governance on issues of environment. So, I really plead with you to reconsider your decision and Motion so that we may put in place institutions that would be held accountable when problems of this nature occur. I am also tired of going to my area to bury people and then there is post mortem all the time. Now, we are running with food and coffins because nobody is accountable to prevent and do environmental management education in that area of Mt. Elgon. In the documents here, they are talking about Lake Jipe and other places.

I, therefore, plead with the Chairperson, Council of Ministers, and those who think like her, to reconsider. We need a framework that is going to help the trans-boundary management of our resources to protect the lives of our people and to provide leadership. This law cannot be cast in stone. If you have a problem with the law or with the framework, bring an amendment, but let us have the law in place and let the work start within agreed management systems.

I want to give an example of why I really oppose this. In May this year, we sat in this very room in the Committee and we were discussing an amendment to the IUCEA Bill - matters of education that are very important to our Community. Prof. Hellen Sambili, the former Minister for EAC from Kenya, was opposed to the amendments we were making. Together with the current Chairperson of Council of Ministers, they requested for time to make a follow-up on issues arising. We had actually widely consulted on the matter. So, the Speaker and the House graciously gave them time.

Now, three weeks after I was part of an audience in Nairobi when the Aga Khan Foundation was launching a graduate school on media and communications and Prof. Sambili was representing the Ministry of Higher Education. In her remarks, she said the EAC supports the

education system and that we are in high gear of harmonising the education systems in East Africa and that we are supporting every effort. This same person had opposed those issues she was saying in Nairobi. So, after the meeting, I said, “Sasa Mheshimiwa, what is this? In Kigali you said a different thing”. She said, “Mama, hiyo ni siasa”. So, we cannot be here for siasa. I wish she was here; I was really taken aback. We cannot continue doing one thing in EALA here and another thing in our capitals. Now she is not here but the Assembly is here! We are being held accountable. You should have seen what I went through in my home area the other day attending the mass burial; what are you doing in East Africa? Really, we cannot continue like this.

Mr Speaker, for me it is an issue of insensitivity. We cannot continue fire fighting or doing post mortems when God has given us an opportunity to provide leadership in East Africa. I beg to support the position of the Committee that we move and have this law in place. If the Council of Ministers wants to consult while they are still Ministers with us, we shall amend. But, let us move and have a system that protects our people and the environment.

I beg to oppose.

Dr Lwanyantika Masha (Tanzania): Mr Speaker, I wish to thank you for giving me this opportunity to say something about the Motion presented by the Chairperson, Council of Ministers.

I have to say that it is a very difficult thing I am going to say because I may be going against the current and the feeling, which I get among the Members with respect to this Bill. However, let me say in passing, before I actually address the Motion, that I do not think anyone of us, at least not me, is opposed to the intentions of the Bill or opposed to the elements in the Treaty, which make reference to the matters, which are contained in the Bill. I supported the Bill on the Lake Victoria Basin Commission. I supported the Bill on Lake Victoria transport. I will support Bills in this area which when put to the test, will show that all of us in this House were really concerned about what we are saying and we were consistent in what we said and what we passed.

This afternoon as I took my seat, I saw 10 pages of amendments to the Bill from the Committee. I note the pages are not numbered but I had to number them myself; 10 pages of amendments, some of them very minor and some very substantial. Now, a request has been made by the Chairperson, Council of Ministers, to let us have time to digest the consequences of these amendments to this Bill. I would think this is a very reasonable request. Maybe some of my colleagues are fast readers and fast thinkers to the extent that they do not find it necessary to wait. Maybe they have already digested these 10 pages. I have not.

Mr Speaker, despite all the good intentions about this Bill and the wonderful statement made by hon. Kwekwe in presenting the report of the Committee, if this Bill was to pass as it is, it would be a very bad law for East Africa. It would be a bad law for the Community. It has too many gaps that need to be corrected.

I have tremendous regard for the Committee on Agriculture, Tourism, and Natural Resources. I was a member of that Committee before and I know it has wonderful people in there. I respect them and they have done wonderful work to produce something so big. However, as it is, it is unworkable; it would be a bad law for the Community. I think we need to get time

to look at the comments made by the Chairperson Council of Ministers, to digest these 10 pages of amendments being proposed and the consequences to the entire Bill before we proceed.

Mr Speaker, I support the Motion for adjournment. However, if, from what I sense, we should proceed, I will request time to speak more substantively on why I think it would be a bad law.

I beg to support the Motion.

The Assistant Minister for EAC Affairs, Kenya (Mr Peter Munya) (Ex-Officio): Thank you, Mr Speaker. As the Chairperson of Council said when she was moving this Motion, what we are seeking is basically an adjournment of debate. We are not saying that the Bill be withdrawn, because we share the same concerns with the Committee and Members that indeed, we need some mechanism of managing trans-boundary resources. Our experience has been that when we attempt to manage a section of a trans-boundary resource alone as a Partner State, it is never effective, and there are many examples we can cite to support the good intentions behind this Bill.

Mr Speaker, if I were to cite my own country, the danger facing River Mara because of the destruction of the Mau Ecosystem is not affecting Kenya only; it is affecting Tanzania also and yet the forest is not in Tanzania. The United Republic of Tanzania is feeling the pinch when people destroy the forest inside Kenya. So, any forward looking person, any progressive person in East Africa, would support a mechanism that would put a brake on some of the madness we see around us and make proper and equitable use of trans-boundary resources.

The management of Lake Victoria by the Lake Victoria Basin Commission is a success story of an institution that is managing a trans-boundary resource for the benefit of the people of East Africa. We would want that experience replicated on a wider scale with an institution that covers not just one district but an institution that would deal with the problems experienced in the Mara-Serengeti ecosystem, Lake Jipe-Umba River ecosystem and many other environmental resources that have a problem because of the administrative boundaries that are not sensible at all when it comes to managing trans-boundary resources.

Mr Speaker, in short, we are not saying that this Bill is not good. It is very good and it is timely, but there are concerns that need to be looked into by the Council, especially on how to synchronise between already existing institutions like Lake Victoria Basin Commission and the new institutions that are proposed under this Bill. Does the Commission become a unit within the bigger Commission or is this proposed Commission going to deal only with the other trans-boundary resources that are not yet addressed by Lake Victoria Basin Commission? So, there are issues that would better be handled if time was given so that the Council can also provide-*(Interruption)*

Mr Mike Sebalu (Uganda): I stand on a point of clarification, Mr Speaker. In the submission of the Chairperson Council of Ministers and hon. Munya, they are not indicating the timeframe that they are giving for this adjournment. That would definitely be a very important aspect to consider in the way forward. Without suggesting a timeframe, it can end

up being the same story that we have heard before. So, may I seek clarification as to what they have in mind in terms of the timeframe regarding the adjournment?

Mr Munya: Mr Speaker, the Council is only asking for an adjournment until the House sitting in November in Bujumbura. So, it is not a very long time; it is a one-month adjournment. I think such a short adjournment will only help in improving the quality of the Bill so that we can have a product that we can all be proud of.

I beg to support the Motion for adjournment.

Mr Mike Sebalu (Uganda): Mr Speaker, hon. Munya is talking of a very short period but they have always ended up extending it at times.

There are issues that were raised by the Minister in her communication that I just want some bit of further clarification about. She raised the issue of land management under the Common Market Protocol. When that issue keeps coming up, I wonder what we will ever do, because literally everything is done on land. Whenever something is raised, the land management under Partner States comes up. I think we need to resolve that at some point; otherwise, how do you explain Lake Victoria? Water is part of land, and if you have that being managed as a trans-boundary ecosystem then I think we need to look further into that too. Soon, it may become an excuse for anything that comes up, because you are always reminded that land was bracketed. So, I think we need to look around this and make progress.

Mr Kaahwa: Mr Speaker, may I inform the hon. Sebalu that the point he is raising is one of those areas in respect of which the Council of Ministers is seeking more time for clarification and consultation. I thank you.

Mr Sebalu: Mr Speaker, surely that information has not been very useful to me. As the recipient, I want to own up that I have not benefited but we can subject it to further debate.

There was also the issue of the private sector and civil society. That was also raised as a big issue. I also want to say that we have got a paradigm shift in this integration arrangement this time round and we have stated it categorically, and the Heads of State have done so too. This integration process is people-centred. How else do we get involved in the integration process without engaging or without providing for the participation of the private sector and the civil society in the pieces of legislation that we make? I need to be helped on that; maybe the Counsel to the Community will come up with another piece of information. That is something we have agreed; it is in the Treaty, but wherever we go, people are saying that we are insensitive, that they are not involved in anything.

The Committee was trying to get the civil society and the private sector who are largely affected by some of these trans-boundary ecosystems to participate, but in the reasons that the Minister is giving, that is one issue that is being raised, that the law is going to be under the Council of Ministers and you are bringing in the private sector and the civil society. How do we reconcile the fact that we want the integration to be people-centred? Who are the people, anyway? I think we need to think deeper around that subject if we are to move in a manner that conforms to the demands and the dictates of the Treaty. So, I need to be helped on that one as well.

When you look at the timing of this law – okay, they have indicated that they are just withdrawing for a short time of one month, but we need to be sensitive to the fact that we are experiencing drought in this region, something that has not been very common in this region. The effect of this drought on our populations is very devastating. Hon. Wanyoto has made a very good case about the Mt Elgon region and the loss of lives that we have suffered at the expense of this problem. So, the timing is reflective of what we are going through. They are indicating that one month is short, but a lot can happen in a month. If you got other landslides, within a month you could lose another big number of people. So, we need to be sensitive about this.

All in all, when I listened to the Chairperson of Council, the reasons she gave were more or less justification for not passing the Bill. I may be wrong in my own perception, but you could see a strong case for not passing the Bill as opposed to the case – (*Interjection*) - Hon. Tiperu, maybe you could put your reasons across, but I am talking about my justification.

The Speaker: Hon. Sebalu, could you address the Chair and not other people.

Mr Sebalu: Most obliged, Mr Speaker. The honourable member was distracting me.

Mr Speaker, given that some qualification has been given in terms of timeframe, maybe as a House we could give that consideration. However, I still want to get some comments regarding some of the reasons that the Minister advanced for the adjournment.

I beg to support the Motion for adjournment.

Ms Dora Kanabahita Byamukama (Uganda): Mr Speaker, I would like to also add my voice to that of hon. Sebalu. It is said that you choose your friends but you cannot choose your neighbours. For me, this particular issue of management of the trans-boundary ecosystem is simply that your neighbour has a cough or a very bad chest infection and you are saying together, “how can we manage your chest infection so that it does not come to me.” Basically, the Treaty has already given us a framework; it says very clearly that we shall together manage the trans-boundary ecosystems for mutual benefits.

Mr Speaker, we were part of that very first tour around Lake Victoria, which clearly showed that we needed to play an active part in ensuring that we manage and preserve our ecosystem. Now we have come full circle and we are about to wind up. This Bill has been on the Floor for three years. The calendar of the Assembly is well known. Now the Council of Ministers stops a debate on the merits and principles of the Bill, and the reasons they are giving actually seem to go against the principles of the Treaty; let us be frank.

One of the points that were raised was that of the financial implications. However, when you look at the Bill, it says that it shall come into effect on such a date as when the Council of Ministers desires. So, it is as if the Council is looking for every excuse in the book to fetter the onward movement of this Bill.

Mr Speaker, I need to be convinced otherwise, because for me, time will not wait. We are talking about the Mt. Elgon ecosystem, the Muhabura range, Lake Victoria, issues of food

security, intellectual property, agriculture and tourism and yet, we are saying let us wait! What magic will happen in this one month that will make the Council of Ministers see the light? The light is already shining. I am sorry I am not persuaded. I think let us be frank with each other.

Let us agree on the principle. As for the framework, we can always work on that together. If the Council of Ministers can promise that we agree in principle on the particular Bill, then we can always work on the framework. You will always have amendments. You cannot have a perfect law. Therefore, I would like to say very humbly that the Council of Ministers needs to be very sincere. It has taken 12 years for this Bill to come to the Floor of the House. This is a private member's initiative and the old tricks are still being played. It serves no purpose and I think we need to go back and be frank and put everything on table - either we are supporting it or we are not - without dilly dallying.

I beg to oppose the Motion for adjournment.

The Speaker: Honourable Members, before I put the question, this is a Private Members' Bill that has been moved by hon. Nangale; maybe he could tell us what he thinks as well.

Dr Nangale: Thank you, Mr Speaker. We have had an experience where the Council have sought adjournment on a number of Bills for consultation and some of the Bills, which actually were moved by the Council themselves, were eventually withdrawn. We know the story about Lake Victoria Basin Commission.

Mr Speaker, this is a technical Bill. The Committee has done a lot of consultation. We have met different stakeholders, from experts to ordinary *wananchi*, on issues relating to the provisions of this Bill. In the course of the last few days, the Committee has involved members of the Secretariat who deal with issues of environment. All ministries responsible for environment in the Partner States did participate in the public hearings and throughout the interactions. The message was, "we support the Bill". So, coming to Kigali and being told that the Partner States have not had time to delve into the provisions of the Bill and that some members have to look at the perceived gaps which are there in the Bill – I agree that you cannot have a perfect law and that is why there are provisions for amendment.

Mr Speaker, I want to be on record as opposing the Motion for adjournment.

The Speaker: Honourable minister, I think there were some questions or clarifications sought from you. Maybe you can respond to them before I put the question.

The Minister for EAC Affairs Burundi and Chairperson, EAC Council of Ministers (Ms Hafsa Mossi)(Ex-Officio): Mr Speaker, I would like to be clear on the fact that the Council of Ministers is not opposing the Bill as such. In principle, we have agreed - but for the reasons we have mentioned, we would like to seek one more month to be ready to move forward.

I would also like to say that the Council of Ministers is very sensitive to the problems that have been occurring in this region regarding the environmental destruction. However, there is a policy matter in this Bill, which needs to be addressed. So, yes, we have agreed in principle

but we need more time. We have reassured this House that we are going to debate this Bill in November when we sit in Bujumbura.

(Question on the adjournment of the Motion put and agreed to)

The Speaker: Honourable members, some of you are shouting for division, but you should actually read your rules if you want a physical count.

I would also like to say one thing; I think this Bill was brought to this House by hon. Nangale in 2008. The Council of Ministers is made up of Members of this House. They knew the Bill was there. The Counsel to the Community, who so eloquently wrote many things to the Chairperson Council of Ministers, is also a Member of this House. The Bill did not just appear yesterday; they knew it was there. So, I think the Council should also take a pro-active approach in terms of what is before this House so that we can work together and move forward.

As the Members said, the *Hansard* will bear witness to this Assembly that Council has before sought adjournment of debate of Bills to the next session and some of those Bills have not seen the light of day for about another year. But I must say that come November, we are going to have this Bill before the House and I hope the Council will be ready.

The Speaker: Honourable Members, with those remarks, I now adjourn the House until tomorrow at 2.30 p.m.

(The House rose at 4.05 p.m. and adjourned until Thursday, 8 September 2011 at 2.30 p.m.)