



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly 118TH SITTING - SECOND ASSEMBLY: FIFTH MEETING – FOURTH SESSION

Wednesday, 18 May 2011

The East African Legislative Assembly met at 2.30 p.m. in the Chambers of the Assembly, AICC Building, Arusha.

PRAYER

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. Members, I rise to inform you officially that I have received from the Parliament of Rwanda informing me of the appointment of Hon. Pierre Damien Habumeremyi as Minister for Education in the Government of the Republic of Rwanda. *(Applause)*

In accordance with the provisions of Article 51(3)(d) of the Treaty, Hon. Habumeremyi ceases to be a Member of this Assembly.

I want to thank to thank Hon. Habumeremyi for the dedicated service he rendered to this Assembly and wish him well in his new engagement. I thank you.

BILLS

Second Reading

THE EAST AFRICAN COMMUNITY ELECTIONS BILL, 2008

(Resumption of Debate interrupted on 4 April .2011)

The Speaker: Hon. Members, as you are aware when we last debated this Bill in Burundi, the House granted leave to Hon. Ogalo to go and discuss it further with the Committee on Legal, Rules and Privileges so that they can come back and report to us. I would now like to call on Hon. Ogalo to give us a brief of what transpired after he met the Committee.

Mr. Dan Ogalo (Uganda): Thank you, Mr. Speaker, Sir. Following the leave granted by this House for an adjournment to enable me to interact with the Committee, I wish to report that I did meet with the Committee. The Committee set up a sub-committee to go through the matters highlighted in the report vis-à-vis what I had raised. In the discussions with that sub-committee, which was mandated to report to the full Committee, I abandoned all those areas, which the Committee had objected to. There were two major areas. The first was creation of a Commission to conduct elections in the Partner States. I abandoned that and agreed with the Committee on the formation of an advisory board simply to advise the electoral commissions.

I also took into account the fact that the Committee was of the view that this Bill as it stood could not be sustained until we had a political federation. Therefore, in the circumstances, I abandoned all those areas such that there would be no conflict with what the Committee had made in its observations.

In sum total, I agreed to all the observations of the Committee.

Mr. Speaker, Sir, the sub-committee reported back to the full Committee this progress. The Committee directed me to draft the amendments, which would put into force what I had abandoned. I drafted amendments for every matter, which I had abandoned. It was a four-page document, which I handed over to the Committee. That is how far I can report what we did.

I thank you.

The Speaker: Very well, I will call on the Chairperson of the Committee.

The Chairperson, Committee on Legal, Rules and Privileges (Mr. Frederic Ngenzebuhoro) (Burundi): Mr. Speaker, Sir, in order to be sure that I report correctly the views of the Committee, allow me to read a summation of what we did.

Mr. Speaker sir, this Bill was introduced to this august House and read for the first time in accordance with the EALA rules of procedure. It stood committed to the Legal Rules and Privileges Committee in accordance with Rule 66.

In accordance with Rule 66 (5), the Committee presented its report to the House in September 2010. Mr. Speaker sir, copies of the same report has been circulated to all Hon. Members for reminder and reference.

Mr. Speaker sir, you remember very well and all Hon. Members bear witness that the Legal Rules and Privileges to which this Bill was committed, categorically and clearly rejected the Bill in question in both form and content. Hon. Members, refer to page 14 of the report and re-read the recommendations of the Committee.

Mr. Speaker sir, after debate ensued, Hon. Daniel Wandera Ogalo, sought adjournment before the report of the Committee was adopted. He again seized the Committee and requested reconsideration of his Bill claiming to have redrafted the Bill in accordance to the recommendations of the Committee. The Committee revisited the matter and recalled that a report rejecting the Bill had been tabled and read before the House in Bujumbura in September 2010. It was further noted that Hon. Ogalo had sought adjournment before the Committee report was adopted by the House.

Mr. Speaker sir, mindful that the Committee had however recommended that the Bill be redrafted to incorporate Committee recommendations if it is to be reconsidered, we appointed Hon. Gervase Akhaabi to sit with Hon. Ogalo and explain to him the rationale of the Committee recommendations to enable him redraft the Bill in light with recommendations of the Committee.

Mr. Speaker sir, the following day, I received a letter, which was also copied to all Committee members and the Clerk of the Assembly. The letter said; I quote: *“Further to directive of the Committee yesterday, 4th April 2011, I hereby submit amendments to Bill to reflect the views of the Committee. As you will appreciate, I have FULLY accepted the views of the Committee on the Bill and I hope that now the concerns of the Committee have been taken on board, the same can now go back to the floor for enactment.*

I am of the view that since the changes are as a result of the Committee’s views, you, Sir, should move the amendments on behalf of the Committee.” To this, he enclosed the amendments.

Mr. Speaker sir, the meeting was convened on 16 May 2011 in this very Chamber, it reviewed the letter by Hon. Ogalo, and scrutinized the manner in which he wishes the amended Bill to feature. The Committee mindful of procedure and the laws of the Community observes the following:

1. There is a problem of procedure and consistency on how Hon. Ogalo wants the Committee to handle the Bill after the Committee rejected it on the floor of the House. The record is in black and white and therefore reconsidering the same Bill is inconsistent and unprocedural.
2. If Hon. Ogalo is accepting recommendations of the Committee on the Bill, he should propose amendments at the Committee stage and he should do it himself. It is the mover of the Bill to address the recommendations and views by the Committee together with the views of the House during the debate.

Mr. Speaker sir, in regard of the above, the Committee does not intend to derogate from its recommendations to the House clearly stipulated on page 14 of the report. If a similar Bill is to be brought back to the House, it should be a new Bill not the rejected Bill.

Mr. Speaker sir, I beg to move.

The Speaker: Hon. Members, I have listened to the Chairperson of the Committee keenly. I think the Committee on Legal, Rules and Privileges is supposed to guide this House. There are many lawyers in that Committee. When I listened to the Chairperson carefully, he talked of procedure; he talked of the Bill being rejected; the Committee rejecting this or that.

Hon. Members, as you are aware, there is no report, which was adopted by this House. There is no Bill that was rejected. There is no procedure that we have deviated from. You are even recommending that Hon. Ogalo should move...Hon. Ngenzebuhoro, you only had a Bill here yesterday whereby the Committee was proposing amendments to a Bill which you had agreed to with the mover. So, where are you getting all these things? I would even understand if you told us here today that the Committee sat with Hon. Ogalo, you did not agree with him and you stuck to your original position. I do not see any problem with that. When you talk of procedure or someone moving – the Committee, the mover or any person on the Floor of this House, can move amendments. The mover should not necessarily move it. I do not think this Committee is doing a lot of service to this Assembly in terms of guiding us on this issue. If anything, they are the ones who are un-procedural – I could continue.

Therefore, Hon. Members, debate is open on this Bill and you are the ones who will decide on it. This same House gave leave to Hon. Ogalo to go and sit with the Committee so that they could agree or disagree on this issue. So, when you talk about procedure in that sentence, I don't understand what you are talking about.

Dr. Didas Massaburi (Tanzania): Mr. Speaker, Sir, I have a concern on the report which was presented by the Committee. The Chair of this Committee refers us to page 14. When I look at page 14, the last paragraph in the recommendation, numbered (e), it is recommending to the Assembly not to approve the Bill. So, if this House accepted this report, I would further seek your guidance on that.

The Speaker: Hon. Massaburi, I already said the House did not adopt this report. Debate is still open on this Bill. There was no report that was adopted by this House.

Dr. Aman Kabourou (Tanzania): Mr. Speaker, Sir, let me take this opportunity, first, to congratulate the new Secretary-General of the East African Community.

Secondly, I just want to make a minor comment. As you said, Hon. Speaker, Sir, there is probably no procedure on how to handle these things. This bothers me a little because I know from my experience from the national Parliament, once the Committee has rejected a Bill, it just does not even show up in Parliament. But then, the rules here may be different.

Another matter on procedure is what transpired between Bujumbura and here. Hon. Ogalo was supposed to meet and discuss these matters with the Committee and the Committee decided to form a sub-committee of one person. I am not sure if that is procedural either.

I am therefore seeking your guidance, Mr. Speaker, Sir, whether or not it is acceptable once the Committee has rejected a Bill – *(Interruption)* -

Mr. Gervase Akhaabi (Kenya): On a point of information, Mr. Speaker, I wish to inform Hon. Kabourou that in fact the sub-committee was not constituted by one person, but rather it was two people. The other Member who was to form part of that sub-committee declined to take up that appointment.

The Speaker: Hon. Akhaabi, I think you are misleading us. Your Chairperson says it was made up of one person and it is in black and white. *(Laughter)* Proceed; hon. Kabourou!

Dr. Kabourou: Mr. Speaker, Sir, I appreciate Hon. Akhaabi's information. I think it is very clear that this was a one-man sub-committee. Again, when you talk about rules and procedure, I wonder what the quorum in this sub-committee was. I am just seeking for guidance.

The Speaker: I think the Chairperson will give us that procedure. However, I think if the whole Committee agreed on a sub-committee of one, I think it can continue.

Ms. Lydia Wanyoto (Uganda): Thank you, Mr. Speaker. It is not the culture of this Assembly not to be honest. Many times, we have built a culture of being candid and honest on what we want. As an Assembly, we have stood tall in the Community. We have handled difficult issues but we have moved with our heads up as an Assembly. This Bill has been with us for a while. From what I am reading from the Committee's report, the Committee do not want the Bill. They should be honest to the House that the Bill is not good for us so that we don't waste time and resources and have the clarity of mind to know that this Bill should not be on the Order Paper. We have so much to cover! We cannot come to Arusha and begin talking the way we are talking now. I am disappointed and I have to be on record that I am disappointed. We deserve better as an Assembly to come listen to serious business. If you want the Bill, bring us a Bill, we debate and pass. If you feel the timing is wrong and that it has issues, let us get the Bill off the Floor of the House. I thank you.

Major General Mugisha Muntu (Uganda): Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute. Let me also, first, take this opportunity to congratulate the new Secretary-General and wish him well in carrying out his duties for the next five years.

Let me try and carry on from where Hon. Wanyoto has left off. I wish this was a Bill dealing with some other issues which at times where it passes or not, I would let it pass. Unfortunately, to me, this is a Bill where we will be put to a test. We are talking about lives. We are talking about lives of people. To whatever extent we try to see whether we can create the necessary conditions where we can have the principles of good governance advanced in this region, where we can build a foundation of trust, openness and accountability in terms of the electoral processes, to the extent that we can advance it and hopefully avoid losing even one human life, then we would have to congratulate ourselves on that.

We all know our history. Some of us in this very Parliament have been part of committees set up by this House to go and visit countries where we have had thousands of people die because of mismanaged electoral processes. I was part of such a committee and I believe there are a number of Members in this House who were in that committee. I think we were about six or so Members. But we have short memories, it seems, at times. We, African people never seem to learn. I think we are a rare breed of human beings.

I would really like to take this opportunity to thank Hon. Ogalo, first for not giving up in spite of the odds against him in trying to move this Bill; seeking to put right at times what we think is not right in our region. I urge him not to give up, whatever the odds he meets, because we do not know the end process to what we see so far in front of us. I had an opportunity to attend one or two meetings of the Committee on Legal, Rules and Privileges. I would like to thank them for also being persistent and putting their thoughts in dealing with this Bill.

Again, I would like to thank Hon. Ogalo because there was a radical shift. Initially there was supposed to be the formation of an East African electoral commission. Hon. Ogalo graciously shifted from that and he ended up accepting the recommendations of the Committee to have an electoral advisory board. Why? The interest being that don't give up, try the best to see that there can be further advance in terms of good governance, in terms of the transparency within which electoral processes can be conducted within this region.

Every step, however short it is that can be taken should be taken. We do not live on Mars; we live in this very region. I don't want to mention names, but my belief is that within the five Partner States, about three Partner States; if we don't do something about these electoral processes, we can end up having implosions and loses of lives. I would really like to see the faces of the Members here – I do not know whether that would happen. Possibly, it may not happen within this one year when we are still Members of this Assembly. Those of you who are lucky to make it to the next Assembly, I would like to look at your faces if you reject this attempt; when you are debating issues of loses of lives. Are you going to stand on the Floor of this Assembly and start lamenting, wringing your hands, becoming part of committees to go and look at what could have happened, when you would have rejected something which if we keep on nursing and building – we keep advancing this process; we re not there yet. We are human beings. There are weaknesses; there is no doubt about that, even in the processes back in our countries. This is simply an attempt to say, yes, we still have weaknesses, but let us move on rather than being paralysed in place.

Some of the countries – I don't want to mention names; right now as I stand on the Floor of this House, in some of these countries, there are problems. Are you waiting to see deaths? Is that what you are waiting for, Hon. Members? At times, you hear rumours doing the rounds in the Assembly saying Partner States don't want---- There are many things we can support Partner States on without doubt; we have to work together. That is the reality of the matter. But we also need to know that outside those who are in regimes, there are ordinary human beings who are not part of governments. It is our responsibility to ensure that every human being who works in any of these five Partner States is safe. That is our responsibility as this House. If we don't understand that, then we are doing nothing here. May be we are here simply to pick a salary! We are living in difficult times, not only in the Partner States; it is a continent-wide problem. We cry to United Nations and the African Union to come and resolve issues of our own making. Look at what has happened in some of the countries all over the Continent. They are trying to pick up messes of what has happened because things have been mishandled. But why not prevent that? Whatever little input we can have in there, whatever little effort – this is an advisory board; it doesn't even have powers that we had initially put in the Bill for an electoral commission, although some of us believed that would have been the best way out. Some of the countries would not go through what they go through; people would not die if we had a neutral arbiter in the electoral processes. It is very critical.

I was part of a struggle for five years. We held guns and fought because an electoral commission mishandled an election in Uganda. Hundreds of thousands of people died. Some of us cannot even forget the images of the people we saw; soldiers and civilians. We are still trying to ensure that there can be a smooth electoral process even back where I come from. Caught up in between forces, some of them who want to see even unconventional methods used, but we know the cost and trying the best we can humanly possible to ensure that we can have a smooth electoral process. We are simply asking as an Assembly that let us make whatever little advance we can make in that direction so that even if there is fallout in the future, we will have done our part.

We are living in difficult situations. Keep watching. In the next five years, we can simply have an implosion in one or two or three of the five Partner States in this region if the electoral processes are not streamlined. If that is what you are waiting for, let's sit in our chairs and fear what comes from the Partner States or wherever and ignore these small attempts that are being made to ensure that we have smooth electoral processes.

Mr. Speaker, Sir, I would like to appeal to Hon. Members to support this Bill in its amended form. As Hon. Wanyoto has said, if there are certain fundamental issues that we want to bring up, bring them up so that that Bill is defeated on fundamental issues. If there are technicalities, let us resolve them and move on so that those who are physically involved in trying to put right what is wrong back in the Partner States get moral support. Let us show that at least there is something being done at the regional level. That is my request and appeal to the Hon. Members. I thank you.

Mr. Dan Kidega (Uganda): Thank you, Mr. Speaker, Sir. From the onset, it looks like I rise with a lot of bravery, but I want to make it plainly clear that I rise with a lot of purity of heart and honesty. I am a Member of the Committee on Legal, Rules and Privileges. For purposes of record and HANSARD, it should be clear that the membership of this Committee does not wish doom for this Community, the people of these Partner States and for humanity in Africa. We sat and discussed this Bill for all the time that has been mentioned. The mover of the Bill knows very well that I was a strong supporter of this Bill. While in Bujumbura, I even wrote a note to the mover requesting him to ask for adjournment of debate such that further thoughts could be rendered to this Bill and indeed, it happened. After that, informally even consulted him and asked him to accept whatever position the Committee took. So, the picture that is being painted that the Committee does not wish well is not true.

Mr. Speaker, Sir, technically, we found that the memorandum of the Bill had changed. Certain major aspects of the Bill like the objects had also directly or indirectly changed. There are issues, which we dealt with in the Bill that needed more clarity. At two meetings of the Committee, I personally asked the Chair of the Committee that can we have clarity, technically or otherwise from the mover of the Bill because he was not there in the meeting. I was personally at a loss as a supporter of the Bill and went along with the Committee's position that substantially the Bill had changed. Much as we agreed with the intention that there is need to do something in the electoral process in the Committee, an advisory board would be good, but it may require introducing to the House a new Bill.

Mr. Speaker, Sir, I want to affirm that position and deep-seated with me is purity of heart. I believe that the advisory body is necessary. But is it feasible within the way the Bill is now; and the memorandum of the Bill? God help us get clear on this. We are saying we need a new Bill to be introduced and if not a new Bill, let us reconcile and get a better Bill that reflects the new memorandum and the changes in the new Bill. I speak as a Member of the Committee and I know the Membership of the Committee wishes well.

We regret death. We regret political mishaps that have taken place in this region and we condemn them and do not wish them to happen again. May we have a better with a new Bill and if the technical bench in this House thinks that we can move with an advisory body with the memorandum of the Bill as it is, then so be it. But let us look at the Committee as a group that wishes this region well.

I thank you.

Mr. Ngenzebuhoro: Mr. Speaker, Sir, I think after the intervention by Hon. Kidega, I don't have a lot to say, especially if you go through the Bill even after considering all recommendations, I am wondering what is remaining of the Bill.

Mr. Speaker, Sir, this Bill initially was made up of 21 clauses. After the exercise, we did and the mover fully accepted our recommendations, it remained with only nine clauses. But, even those nine clauses were not clear. They are talking about forums for political parties; things that do not exist in our region.

Mr. Speaker, Sir, as Hon. Kidega has said, if we must set up an advisory board, it must come through a new Bill and then we can take into account what we have put forward in terms of recommendations.

I thank you.

The Speaker: Thank you, Hon. Ngenzebuhoro. I think Hon. Kidega should have written the report of the Committee; it would be clearer.

Mr. Ogallo: Mr. Speaker, Sir, I wish to thank all the Members who have contributed to the Motion. I wish to thank everybody who, although may not have contributed to the Motion on the Floor, has had an input in this Bill.

Mr. Speaker, Sir, I just want to make a small clarification because we seem to be tied up in the procedures. It seems the Committee is saying – if I am to understand Hon. Kidega correctly – that because there were many changes which the Committee required; and let us not lose sight of that, we should go and begin afresh. Now, my problem is; under what procedure would we do that? A Bill is referred by the Speaker to a Committee. The Committee reviews it and reports to the House. Under Rule 67 of the Rules of Procedure, allow me to quote as it is:

“A committee to which a Bill is committed shall not discuss the principles of the Bill but only the details.”

“The Committee may recommend any amendments in the Bill as it considers fit, if the amendments including the new clauses and new schedules are relevant to the subject matter of the Bill.”

If I brought a Bill requesting for creation of a Commission and the Committee was of the view that a Commission was not appropriate; that what is appropriate is a board, as indeed, the Committee did indicate here, then the Committee under Rule 67(2) would bring an amendment to ask the House not to agree with my proposal of the Commission but to agree with their proposal of an advisory board. In the situation of this Bill, that would not even be a point of contention because I had already accepted. Therefore, under Rule 67(2), the Committee would then bring those amendments to change the Bill from what I had proposed.

The procedure of a Committee telling me to go and redraft a Bill instead of proposing amendments is alien to me. I don't understand it. I don't know where it comes from. As Hon. Wanyoto said, there is need for honesty. If we feel that we don't want the Bill, let us say so. That is the essence of Debate. It is not an offence to say this Bill is not appropriate. The Council of Ministers just told us the other day. We didn't crucify them for that. But it is essential that the record, for purposes of pushing the process forward, that East Africans know where we have stopped so that they can build on it. That would be possible if we used our Rules of Procedure instead of adopting a system of saying – I am not aware of any rule in our Rules

of Procedure which says; go and re-draft. But the Committee can say, reject the Bill. That is within the Committee's mandate. This thing the Hon. Kidega is saying the memorandum is now different, how shall we handle it; it would be handled through amendments. Very simple!

Mr. Speaker, Sir, I believe that when I drafted this Bill, I was only putting down the views of this House. It is this House, which made recommendations, and it is on *HANSARD*, that we should have an East African election law; a Commission to conduct elections, after the 2007 problems in Kenya. Hon. Members adopted that report; it is on *HANSARD*! Some of the Members of the Committee on Legal, Rules and Privileges were even in the Committee of Good Will. You saw the suffering of people in IDP camps in Kenya, you came back very aggrieved, and you said the only way is an East African Community Elections Commission. You said it here! Now, the *HANSARD* is going to read that the same House has said this is a very bad idea. We make these laws because the people of East Africa sent us here to legislate for them. Time may have passed and we may have forgotten, but those who lost their children, fathers and mothers after the 2007 elections in Kenya have not forgotten. We may forget here. The empty chair at the dinner table in a town in Kenya remains empty because of elections, and every time the family members sit, they remember who was seated in that empty chair. We may forget here, but East Africans will not forget. Time heals wounds. It may have healed wounds for us, which we thought then may not heal. But, I can assure you that there are some wounds which cannot be healed.

Mr. Speaker, Sir, the reason I conceded to move away and accept everything was to save something; to have something, which future generations would build on. Just have an advisory board to say "You Kenya or Uganda electoral commission, do things this way"; just advise!

Mr. Speaker, Sir, let me assure Hon. Members that whichever it goes, I do not intend to give up this idea. Even if it is voted against today, it will be back in the next Session. So, there may be those who might think that if it is defeated now, it is the end of it; no. I will come in the next Session with everything you have said you want in there. (*Applause*) Then, I will see shifting of positions. Do not forget that I fully agreed with all the things the Committee wanted. Do not forget that. We have shifted. Even when I bring this one, do not be surprised there will be others who will want to shift. But, I want now to warn that, look out for them. Look out for the shifters! (*Interjection*)

Ms. Dora Byamukama: On a point of order, Mr. Speaker, I am also being brave like my brother Hon. Kidega. But I believe that we should be very clear on this. I do not think that we work by Hon. Ogalo's methods of threats and name-calling. The Committee was very clear. We did not disagree with the principle. We made a proposal on how we would like a new Bill to look like. We have put our points down clearly. But as the debate goes on, it looks we need to bring into account – (*Interruption*) -

The Speaker: Hon. Byamukama, what is your point?

Ms. Byamukama: I am getting there, sir. I know the mood of the House. Rule 43 is very clear on contents of speech. I think it is very important that we respect each other. Mr. Speaker, we bow to you, you bow to us, and we respect each other. Rule 43(3) says, "*It shall be out of order to use offensive, abusive, blasphemous or unbecoming words or to impute improper motives to any Member or to make personal allusions.*"

I think the Committee is clear. We are in support and we need to be understood that way. Is it in order for Hon. Ogalo, my dear learned brother, to continue and call colleagues 'shifters'?

The Speaker: Ms. Byamukama, the word ‘shifter’ means many things. *(Laughter)* Where I come from, it can mean “militia”. Hon. Ogalo, maybe you should tell us what ‘shifter’ means.

Mr. Ogalo: Mr. Speaker, Sir, I am sorry that it was taken to be abusive. The word ‘shift’ is an English word. So, I was just saying that if someone shifts from one position to another, you are a shifter. *(Laughter)*

Mr. Speaker, Sir, in conclusion, I urge Members to allow the Bill to go forward. I thank you.

(Question put and negatived)

The Speaker: Hon. Members, as you know, we cannot now proceed with this Bill. Next Order!

QUESTIONS FOR ORAL ANSWER

Question Reference: EALA/PQ/OA/021/2010

Mr. Augustine Lotodo (Kenya): On behalf of Mr. Nakuleu, asked the Chairperson, Council of Ministers—

In line with Article 124 of the Treaty for the Establishment of the East African Community, it is the mandate of the Partner States of EAC to uphold peace and security for proper realization of goals and objectives of the Community. With this in mind, on 30th March 2010, two Partner States; the Republic of Uganda and the Republic of Kenya decided to carry out joint disarmament of the pastoral communities of Eastern Uganda and Northern Kenya, as a way of reducing cross border conflicts resulting from cattle resulting and loss of lives as an attempt to spur development in the region. This exercise was carried out by the security forces of the two Partner States:-

- (a) confirm to this August House how many East Africans lost lives in the course of the disarmament exercise;*
- (b) explain to this August House the plans EAC Partner States have in place to reduce death of civilians resulting from future operations of this nature;*
- (c) inform the House what incentives are in place for the disarmed communities to encourage voluntary submission of the firearms as a way of reducing confrontation between the communities and state security forces;*
- (d) elaborate on the affirmation action the EAC Partner States have in place to spur economic development to pastoral communities in the region;*
- (e) inform the House on what transformation plans the EAC Partner States have to bring the pastoral communities at par with their agrarian and fishing communities around Lake Victoria in order to achieve governance equity in the region.*

The Assistant Minister for East African Cooperation, Tanzania (Dr. Abdalla Juma Saadalla) (Tanzania): Mr. Speaker, Sir, I am aware that a joint disarmament process has been ongoing between the Partner states of Kenya and Uganda under pre-existing bilateral arrangements. In view of the fact that the

disarmament was not under the auspices of the EAC, it is not possible to provide detailed information relating to the exercise, deaths and injuries if any included.

Mr. Speaker, Sir, regarding the second part of the question, the EAC, working in partnership with the Regional Centre on Small Arms (RECSA) and the International Conference on the Great Lakes Secretariat (ICGLR) has developed best practice guidelines to support people centered disarmament processes in Member and Partner States of these regional organizations. It is envisaged that upon adoption by the respective States, prospects of human rights abuses including unwarranted deaths and injuries will be avoided. However security still remains a sovereign matter and the laws of each Partner State provide parameters for application of force while undertaking disarmament exercises.

Mr. Speaker, Sir, while at regional level there are no incentive programs, I am aware that at Partner State level, various measures have been put in place to encourage voluntary community based disarmament. Through Ministries dedicated to addressing challenges facing pastoralists, peace dividends have been made available to communities engaged in voluntary disarmament. These include infrastructure, education, water and health along with community based security arrangements to address security concerns within the context of nomadic pastoralism.

Mr. Speaker, Sir, the establishment of Ministries dedicated to Pastoralists in Kenya and Uganda along with the development and implementation of integrated Arid and Semi Arid lands development programs are some of the affirmative initiatives that have been put in place to holistically address challenges of nomadic pastoralism.

Mr. Speaker, Sir, on the last part of the question the affirmative actions I have highlighted are indicative of the efforts which the Partner States are investing in transforming pastoralism and ensuring equity in development of all growth sectors.

The Speaker: Hon. Minister, before I call on Hon. Lotodo to ask his supplementary question, I have looked at your answer here. You go on to say that, the Ministry is dedicated to address these challenges and you have given issues of education, voluntary disarmament, water, health and so on. If you could find that out, why don't you find out the other issues in terms of the deaths? Why is your answer selective? If you remember, this Question was deferred while we were in Burundi. One of the reasons why it was not fully answered and you came here and said you were going to answer it, again, was to find that information.

Mr. Eriya Kategaya: Mr. Speaker, Sir, if I may help my brother here, the answer to the first question; the disarmament and bilateral arrangements were between Uganda and Kenya. I don't think the East African Community was involved or seized of the matter. But on the other programmes, these are stated out in policies of the individual governments of Uganda and Kenya. The questions of water, education; at least in Uganda's part, this is public knowledge. It is not something that is hidden. I am sure the Secretariat must have extracted that information from the documents of Uganda government, at least on our part.

The Speaker: So, are you saying that lost lives in the Partner States are hidden or are they public knowledge also?

Mr. Kategaya: It is not hidden, if they are there.

The Speaker: So, can the Minister find out how many lives were lost and report to this House?

Mr. Kategaya: If there were any lives lost, yes, he can.

The Speaker: So, why can't the Minister do that and report to this House in the next Session so that we can have a comprehensive answer? That was the order in Bujumbura so that we do not come back to this Question every time.

Next Question!

Question Reference: EALA/PQ/OA/034/2010

Mr. Augustine Lotodo (Kenya): On behalf of Mr. Nakuleu, asked the Chairperson, Council of Ministers_

There seems to be an emergence of informal border posts that are facilitating informal trade leading to loss of revenue to EAC Partner States.

Could the Chairperson of Council of Ministers inform the august House:-

- (a) What mechanism are in place to check this worrying trend;*
- (b) What measures are in place to cut tax evasion that leads to loss of revenue;*
- (c) How many border posts are there in EAC Partner States that are fully functional and gazette and where are they located?*
- (d) How many border posts are fully gazetted by the respective Partner States but are not functional? Why and what measures are there to make them functional?*

Dr. Saadalla: Mr. Speaker, Sir, I beg to reply.

Mr. Speaker, Sir, the establishment of Border Posts is guided by the EAC Customs Management Act 2004. The Act prescribes two levels of establishing the Customs Ports and Border post. Customs Ports and Airports are appointed by the Council while the Commissioners of Customs are mandated to establish other customs areas including border posts, boarding stations, sufferance wharf, places for examinations of goods, including baggage, roads or routes in a Partner State over which goods in transit, or goods transferred between the Partner States, shall be conveyed, transit sheds and internal container depots. The appointment of such places has to be gazetted in the EAC Gazette.

The Act also empowers the Commissioners to establish common boarder posts, carry out joint customs controls and take joint steps as may be deemed appropriate to ensure that goods exported or imported through common frontiers pass through the competent and recognized Customs offices and along approved routes.

Goods, persons or vehicles leaving or entering any Partner States through the informal boarder stations, popularly known as “panya” routes, contravenes the provisions of the EAC Customs Management Act and such goods will be subject to seizure, forfeiture, and imprisonment of the person committing the offence.

The illegal border entry points mainly exist in areas around Lake Victoria and other inland lakes, pastoral areas such as Karamoja, northern Kenya and Masailand, Coastal areas of the Indian Ocean, mountainous areas around Kilimanjaro, Rwenzori, Muhavura and Elgon and areas adjacent to major border stations

Movement of goods through these areas is known as smuggling and the menace still persist in the EAC mainly in relation to excisable goods such as cigarettes, spirits and alcoholic beverages, petroleum products and plastic bags. There is also smuggling of electronics, textile, mobile phones, sugar and rice. There is also some level of smuggling of food products across the borders, which move in small quantities but on frequent basis. The main reason for smuggling and use of *panya* routes include:

- () high tax rates that creates incentive to smuggle and make big margins particularly with excisable goods;
- (a) delays at the border because of multiple checks and requirements;
- (b) ignorance and lack of awareness on the Customs Union such as where people avoid customs when the goods are tax free such as food stuffs;
- (c) high unemployment levels;
- (d) cross border cohesion of some communities who consider such trade as normal trade; and
- (e) delays in the establishment of a single customs territory that allows free circulation of goods particularly those where taxes have already been paid in one Partner state.

Mr. Speaker Sir, in order to curb this menace the following measures are being instituted:

- (a) At EAC level Customs Enforcement and Compliance Regulations that are harmonised are being development to create a legal framework that will enable cross border enforcement measures that are uniform and comprehensive in scope;
- (b) Joint enforcement programmes are being undertaken at border stations between the Partner States;
- (c) There is improved information sharing between Partner States on customs related aspects;
- (d) Joint and corroborative patrols on Lake Victoria are being undertaken by Kenya, Uganda, and Tanzania;
- (e) Cargo trucking systems are being implemented across the region starting with Kenya and this enables to track transit cargo in the region;
- (f) Work on interconnectivity of customs systems to enhance exchange of information has started. A pilot programme of RADDEx which is mechanism of exchanging data electronically operational between Kenya, Uganda, Rwanda and Tanzania;
- (g) Sensitization of people around border areas is being undertaken by the Secretariat in collaboration with Partner States.

Mr. Speaker, Sir, most of the border posts in the Partner States were established prior to commencement of the EAC Customs Union and were gazetted in accordance with the respective national laws governing the appointment of border post. The border posts are located between the Partner States and between the

Partner States and non-EAC countries namely Mozambique, Malawi, Zambia, DRC, Somalia, Ethiopia and Sudan.

As of today, the numbers of gazetted border stations in the Partner States are as indicated in the table here below and which I have the honour to lay on the table:

All the functional border posts have been gazetted by the Partner States. Normally, the appointment of border posts is done after a through analysis to justify enough human activities that warrant establishment of the border post and after prior consultations between the Partner States involved. Other border posts are established for purely security considerations by the Partner States. Satellite Stations are not managed under the neighbouring big stations.

Mr. Lotodo: Mr. Speaker, Sir, I want to thank the Minister for the answer. There are some border posts which the communities would like opened. For example, Mulwanda-Majanje border post between Kenya and Uganda. On the Kenyan side, they wanted to open but there was no cooperation from the other Partner State. What do we do in such a situation?

Ms. Dora Byamukama (Uganda): Mr. Speaker, Sir, I would like to ask another supplementary question. I am aware that there is a one-border post bill which is pending. Could the Minister inform this House when this Bill will be presented to this House?

Dr. Lwanyantika Masha (Tanzania): Mr. Speaker, Sir, a small supplementary question. In light of the apparent many problems in the management of these border posts and related matters, would the Minister tell us whether there is, indeed, a serious effort to establish an East African Customs Authority which is envisaged in the strategy and has been recommended by several other bodies to avoid leaving these matters to the operations of Partner States?

Dr. Saadalla: Mr. Speaker, Sir, for the first question, there are some border posts between Kenya and Uganda that have not been opened yet. I am informed that there are on-going negotiations to open that Mulwanda-Majanje border post.

For the second question, the one-border post bill is still on the pipeline. Currently, the relevant sectoral council has finished discussing it and it is going to be tabled in the Council. From there, it will come to the House.

For the third question, it is true that there is a serious issue concerning the customs and there are measures being put in place to establish one customs authority. Currently, there are negotiations between the Partner States, regarding the technical aspects of it and we anticipate that this issue will be discussed in the Council after finishing the technical aspects.

Dr. James Ndahiro (Rwanda): Mr. Speaker, Sir, my supplementary question to the Minister is on non-tariff barriers. Actually, it is very good to note that customs officials in the region collaborate well when it comes to issues of fighting smuggling. They have cross-border actions which are visible. But what are they doing about non-tariff barriers? They are able to track cargo from the sea to the hinterland, but they are not able to track the same cargo when it is standing for two hours at a road block or a weighbridge somewhere. Is that not double standards? People are being chased in forests in the name of smuggling –
(Interruption -

The Speaker: Dr. Ndahiro, we are not debating. Can you ask your question?

Dr. Ndahiro: That is my question, Mr. Speaker, Sir.

The Speaker: Very well. Yes, Hon. Ndarubagiye?

Mr. Leonce Ndarubagiye (Burundi): Mr. Speaker, Sir, I have one question. We cannot talk about borders when we have different times on the same borders. In Gatuna, it is 7.00 p.m. in Uganda and 6.00 p.m. in Rwanda. I think it is time the Hon. Minister told us when Rwanda and Burundi adjusts to the hours in our region.

Ms. Valerie Nyirahabineza (Rwanda): Mr. Speaker, Sir, in light of the response given by the Hon. Minister, I recall that a report was presented here suggesting that in order for people not to pass through ‘panya’ routes, a specific programme should be developed so that people get sensitized. Could the Minister tell us what has been done so far in terms of sensitizing people?

Dr. Saadalla: Mr. Speaker, Sir, it is true that the issue of non-tariff barriers is big problem facing the customs departments. It is currently known that non-tariff barriers are mostly encouraged by Partner States. The issue of non-tariff barriers was even raised to the task force that was moving around to look for fears, concerns and challenges of integration. I have said in my answer that currently, there are measures at the border posts that are being put to address this matter. For example, having one-stop border posts is one way of limiting these unwanted barriers.

The second issue is tracking and decreasing the number of stops; either police stops along the road or other technical barriers, which are now being addressed, by harmonisation and standardisation of our goods and commodities, which are being transferred from one country to another. So, there are measures being taken. We are harmonising the laws and goods produced within the countries.

On the second question about the time differences, I will ask my colleague Hon. Kategaya to address it. *(Laughter)*

On the third question, specific programmes are currently being taken. There are on-going programmes with the customs authorities in the respective countries, including training people living along the borders on the advantages of doing business through the official borders; letting them know that movement of goods across the borders under the Common Market is of advantage to them. So, there are on-going activities along the border through the customs authorities of respective Partner States.

The Speaker: Hon. Minister, you did not answer Hon. Ndarubagiye’s question. Oh, you appointed Hon. Hon. Kategaya?

Mr. Eriya Kategaya (Uganda): Mr. Speaker, Sir, he cannot appoint me! *(Laughter)*

When I heard Hon. Ndarubagiye, I thought he was suggesting that we should rationalise the times in the region so that we have one common time zone because Burundi and Rwanda are one hour behind the other three Partner States. I think this is an idea that should be pursued so that we have one common time zone. I remember one time His Excellency President Kagame was coming from Uganda and he was told that in Rwanda border, they were still sleeping and they could not open the border for him. So, he said,

why not have one-time zone? So, I think this should be pursued to see if we can harmonise and have one-time zone in the region.

Question Reference: EALA/PQ/OA/04/2011

Mr. Gervase Akhaabi (Kenya): Asked the Chairperson, Council of Ministers_

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

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

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

Could the Chairperson of the Council of Ministers:

- 1. inform the House if an impact assessment was carried out on what the effect of the coming into force of the Common Market Protocol would have on the Export procession Zones and Special Economic Zones.*
- 2. explain to the House what measures are being undertaken by the Community under the Common Market to preserve the investments and employment in the zones in the light of coming to force of the East African Community Common Market; and*
- 3. whether the Partner States could consider increasing the percentage of predicts exportable to the East African Community domestic market by the zones to a level that will help factories and investments survive the changed economic environment upon such reasonable conditions as may be determined and compete favourably with imports from other markets.*

The Assistant Minister for East African Cooperation (Dr. Abdalla Juma Saadalla): Mr. Speaker Sir, I beg to reply.

Regarding the first part of the question, an impact assessment on the effects of coming into force of the Common Market Protocol on the Export Processing Zone has not yet been carried out. However, the Sectoral Council on Trade, Industry, Finance and Investment has directed that a study be carried out to assess the impact of the Customs Union on the existing Economic Processing Zones (EPZs) firms taking into account related initiatives such as special economic zones and economic development zones. The draft Terms of Reference of the study have been developed and are awaiting Council approval. The Terms of Reference are expected to be approved during the Sectoral Council on Trade, Industry, Finance

and Investment Meeting scheduled for the second quarter of 2011, following which, the study should be carried out. The proposed study is expected to cover the following:

- (a) Evaluation of the impact of the Customs Union on Export Processing Zones firms and other related initiatives in relation to:
 - (i) intra-regional trade performance;
 - (ii) investments in-flows and retention
 - (iii) application of the Customs Union instrument;
- (b) Identification of the challenges in implementation of Export Processing Zones and other related initiatives;
- (c) Proposal of measures to address the gaps identified in (ii) above through readjustment of the regional policies and regulations based on international best practices;
- (d) Undertaking of comparative analysis of how Export Processing Zones Special Economic Zones (SEZs) and Economic Development Zones (EDZs) operate in other Customs Unions;
- (e) Evaluation of the impact of Customs Union on competitiveness of Export Promotion Zones programme and other related initiatives on attracting investments;
- (f) Evaluation of the policies and practices as followed by other trading blocs that are fully fledged Customs Union /Common Markets with regard to treatment of sales to other members and in specific context of Export Processing Zones and Special Economic Zones and suggest a suitable framework for the EAC.

Mr. Speaker Sir, regarding the second part of the question, I would like to inform this august House that in light of coming into force of the East African Community Common Market, the Community has conceptualized a strategy to accelerate investment, rationalize spatial EPZs/SEZs development in East Africa and harmonise EPZs/SEZs frameworks. In this regard, the Secretariat in collaboration with the Partner States developed the draft EAC Model Export Processing Zones Operational Manual that will guide the competent authorities in the development of national operational manuals; and the draft list of harmonized EPZ exemptions. The incentives to be offered to the EPZs enterprises are very attractive. They include fiscal 10 year corporate tax holiday, Corporate tax rate of 50% of the existing corporate tax rate after 10 years, 10 year withholding tax holiday, VAT exemption, stamp duty exemption, etc; non-fiscal for all business enterprises in Zones; liberal employment of foreign technicians or experts and other facilities as land, electricity, entry permits, etc.

The draft EAC Model Export Processing Zones Operational Manual and the draft list of harmonized EPZ exemptions shall be considered by the Council at the Council's 22nd Meeting scheduled for 11th – 15th April 2011.

The Community is also in the process of undertaking the review of the existing legal and regulatory regimes for their modernization and harmonization, to identify those key sectors where the EAC Partner States should be able to attract investment.

Mr. Speaker Sir, on the last part of the question, I would like to state that currently the regulations allow 20 per cent sale in the EAC domestic market. The study which I have referred to will explore the impact of the full fledged Customs Union and the Common Market on the existing EPZs firms. The outcome of the study will provide insights on whether to increase the percentage of products exportable to the East

African Community domestic market. The finalization of the study will provide a technical basis on which to determine the right percentage of products that need to be exportable to the EAC domestic market.

Mr. Akhaabi: Mr. Speaker, Sir, I have a couple of supplementary questions. With regard to part one of my question, I would wish to Hon. Minister to tell this House when was the directive he referred to given. In light of what he said about the study, is there consideration for the Council to give timelines within which the study should be completed? This is because even as this study is taking place, I don't know whether the Council is aware that there has been flights of investors in these Export Processing Zones----

The Speaker: Hon. Akhaabi, please ask your question.

Mr. Akhaabi: Since the coming into force of the Common Market, there have been flights out of the Export Processing Zones. Is he aware? Could we have timelines within which these studies could be completed?

On the second part of my question, I would wish the Council to tell this House at what stage the conceptionalised strategy is and how this conceptionalised strategy is being incorporated in the investment and industrialisation strategies and policies now under development in East Africa?

Thirdly, could the Minister tell this House whether the conclusion of this study could be expedited in order to alleviate the hardships and uncertainty being faced by the investors and the lose of jobs in EPZs?

The Speaker: Hon. Akhaabi, your supplementary questions are longer than the Minister's answer! *(Laughter)*

Mr. Akhaabi: Mr. Speaker, Sir, it is necessary to do that.

Dr. Saadalla: Mr. Speaker, Sir, the answers given to us from his original questions are the ones which I have read and explained a few minutes ago. Concerning to the supplementary questions, I have discussed with my colleagues here and I will give answers in writing in this Session.

Mr. Akhaabi: Mr. Speaker, Sir, I don't know whether the Minister means within this Meeting or Session! If it is Session, then we are coming to the end of the Session! Does he mean within this Meeting?

Dr. Saadalla: Yes, I mean within this Meeting.

The Speaker: I would only like to say that usually when we go to the Partner States, the Treasury Benches are usually full of technocrats to help Ministers when answering questions. It is surprising that in Arusha, none of them is here. Therefore, I wonder what they go and do in the Partner States.

The Speaker: Hon. Members, we have come to the end of business today. Before I adjourn the House, I would like to make the following announcement. There is a meeting between the Hon. Ministers and Members of the House Business Committee. Therefore, I would request that we stay behind so that we can finish quickly. May be you can grab a cup of tea and come quickly so that we can finish.

ADJOURNMENT

The Speaker: With those remarks, I adjourn the House until tomorrow at 2.30 p.m.

(The House rose at 5.40 p.m. and adjourned until Thursday, 19 May 201)