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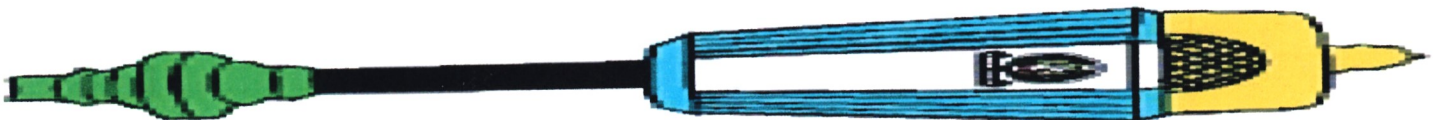
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(HANSARD)

OFFICIAL REPORT

FIRST ASSEMBLY – THIRD MEETING – THIRD SESSION

SEPTEMBER 28-30, 2004



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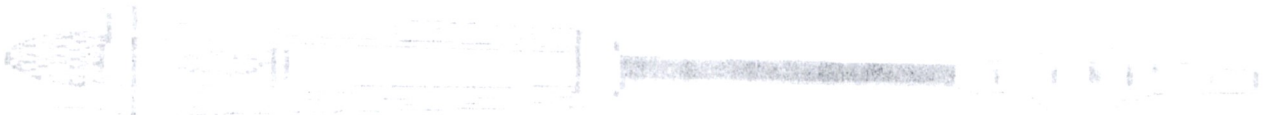
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EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY
THIRD MEETING – THIRD SESSION – FIRST ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

Tuesday, 28 September 2004

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

PRAYERS

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

The Assembly was called to Order.

COMMUNICATION FROM THE CHAIR

PROCEDURAL MATTERS

Hon. Members, I would like to make the following communication regarding our Sitting today Tuesday, September 28, 2004.

WHEREAS, Clause (1) of Article 55 of the Treaty provides that the meetings of the Assembly shall be held at such times and places as the Assembly may appoint;

AND WHEREAS Sub-rule (1) of Rule 12 states that:-

“Sittings shall unless the Speaker otherwise directs, ordinarily commence at 9:00 o’clock in the morning up to 1:00 o’clock in the afternoon and resume at 4:00 o’clock in the evening and conclude at 6:00 o’clock in the

evening on Tuesday, Wednesday and Thursday.

NOW THEREFORE, the Speaker, having taken cognisance of the foregoing, and yet having regard to the nature of the business to be transacted by the Assembly, has in the exercise of the mandate vested in the Speaker pursuant to the provisions of sub-rule (8) of Rule 11 directed as follows:-

That the Assembly shall hold a sitting today Tuesday, September 28, 2004 and on the subsequent days I have appointed commencing at 2:30 p.m. in the afternoon and conclude when all the business laid down on the Order Paper has been disposed of.

DECISIONS OF HOUSE BUSINESS COMMITTEE

The House Business Committee held its sitting yesterday, Monday, September 27, 2004 and below are some of its major decisions:-

(1) Extension of Assembly Activities

Hon. Members, You may wish to recall that the team of Eminent Persons appointed by the Heads of State of EAC to fast track the integration process are yet to receive a formal memorandum from the Assembly on our proposals. It has therefore been decided that the Assembly should extend for one week that is up to October 8, 2004 in this regard.

A new programme will be drawn for next week to enable each Committee to meet and raise proposals, which will be forwarded to the General Purpose Committee for synchronization and preparation

of a final report for presentation to the Eminent Persons.

(2) Informal Sitting

The House Business Committee has also decided that at the rise of the House tomorrow Wednesday, September 29, 2004, an informal sitting of the House will be convened. The issues to be discussed will include; to agree on the best approach as to how the Assembly's Memorandum to the Eminent Persons will be presented; the necessity to elect a Permanent Acting Speaker to preside over the business of the Assembly should the Speaker happen to be absent; and any other issues related to our internal workings.

(3) Annual Programme

An Annual Programme for activities of EALA for the period September 2004 – June 2005 has also been adopted. Members should check their pigeonholes for their copies.

Thank you.

LAYING OF PAPERS

The following Papers were laid on the Table:-

The Report of the Inter-Parliamentary Committees' Seminar on Inter-Parliamentary relations held in Nanyuki 25 – 27 June, 2004.

The Report of the Inter-Parliamentary Committee of

East Africa held in Nairobi,
27 – 28 August, 2004.

*(By The Chairperson,
Standing Committee on
Regional Affairs and Conflict
Resolution)*

MOTION

COMME NDING EAC
SUMMIT FOR APPOINTING
COMMITTEE TO FAST
TRAC EAC FEDERATION

Mr. Calist Mwatela: Mr.
Speaker, Sir, I beg to move:-

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

Mr. Speaker, Sir, the Treaty for
the establishment of the East
African Community was signed
five years ago. The Heads of
State of the three Partner States
found it fit to meet from August
27-29, 2004 and voice their
concern at the slow pace of
integration that the East African
Community was taking. I would
like to quote what the Heads of
State said. In the joint
communiqué, we are told that
the Summit undertook a broad
review of the status of the East
African Community integration
process and examined further
ways and means of deepening
and accelerating the process.
The Summit specifically
focussed critically on

provisions of Article 5 (2) of the
EAC Treaty which state *inter
alia*:-

“The objectives of the
Community shall be to
develop policies and
programmes aimed at
widening and deepening
co-operation amongst
the Partner States in
political, economic,
social and cultural fields,
research and technology,
defence, security and
legal and judicial affairs
for their mutual benefit.

In pursuance of the
provisions of this
Article, the Partner
States undertake to
establish among
themselves and in
accordance with the
provisions of this Treaty
a Customs Union, a
Common Market,
subsequently a Monetary
Union and ultimately a
Political Federation in
order to strengthen and
regulate the industrial,
Commercial,
infrastructural, cultural,
social, political and
other relations of the
Partner States. To the
end, there shall be
accelerated harmonious
and balanced
development and
sustained expansion of
economic activities, the
benefits of which shall
be equitably shared.”

We are told that, that was the
zero point of the discussions of

the Summit. The communiqué continues to state:-

“ After a thorough review of the above Article and concerned about the tardiness therein, the Summit resolved to expedite and compress the process of integration so that the ultimate goal of a political federation is achieved through a fast track mechanism.”

The key words used in that communiqué are “expedite” and “compress,” “tardiness” from the word tardus, which means slow. I am privileged to have been a seminarian one day. I almost became a priest!

(Laughter)

Mr. Speaker, Sir, five years down the line, the Heads of State of the three Partner States feel very concerned about the state of affairs at the EAC. In your Communication from the Chair, you have indicated that we will be making our submissions to the Committee of Eminent Persons on Fast Tracking the EAC Federation as to how best we feel that the achievement of the Summit’s requirements will be attained. But let me say a few things regarding what I think should be contained in our submissions to the Committee of Eminent Persons.

Mr. Speaker, Sir, there are gross shortcomings in the Treaty. If we look at the Treaty, under Article 14 it clearly states that the Council of Ministers is

supposed to be the driving force of the Community. This has been mentioned here a number of times, but today, we are looking at it from a different angle. Article 15 of the Treaty gives an outline of how the Council is supposed to conduct itself during meetings and so on. If the Council is supposed to be the driving force of the Community and the Treaty says “ it shall meet twice a year”--- I know that is supposed to be the minimum but we all know how often we always operate within the minimum. That is one of our major shortcomings in this Community! We have given the Council of Ministers such an important task to spearhead the process of regional integration but we only allow them to meet twice in a year. How will they manage to drive the Community forward?

Mr. Speaker, Sir, the composition of the Council which is outlined under Article 13 of the Treaty states as follows:-

“The Council shall consist of Ministers responsible for Regional Co-operation of each Partner State and such other Ministries of the Partner States as each Partner State may determine.”

In most cases, our Ministers have been the Ministers for Foreign Affairs. They have the docket of Foreign Affairs Ministries to handle and yet they plus the big task of moving forward the process of regional integration and above all, most

of them have their own personal constituencies to handle. That is one area that has to be looked at critically when we propose to the Committee of Eminent Persons about the revision of the Treaty. We should propose that Ministers responsible for Community affairs should not have other responsibilities in the Partner States. They should be people who are not necessarily elected at the constituency levels in their Partner States. They should be people who will be able to spend time in Arusha.

Mr. Speaker, Sir, if you read Articles 14 and 71 of the Treaty which give the functions of the Secretariat, you will realise that the Secretariat is supposed to be the workshop where ideas generated from the Council of Ministers are synthesised. But we have a Secretariat where our officers are 10 per cent present at the Community while the rest of the time they are busy travelling all over the world. I remember the other day, a Member of the Assembly was trying to get a signature and he was unable to, because the Secretary General and his Deputies were all outside the country.

Mr. Speaker, Sir, Article 71 needs to be revisited so that the functions and demands put on the Secretary General are clearly spelt out so that we have an officer who handles issues of the Secretariat all the time. Further, I would like comment on the limitations put on the Assembly, which is the only organ of the Community which has been in agreement with the

Heads of State, considering that almost in every debate, it has expressed concern at the slow pace of integration. The limitations put on the Assembly especially by Article 59 (2) which states that:-

“That the Assembly shall not proceed on any Bill, including and amendment to any Bill that in the opinion of the person presiding makes provision for any of the following purposes:

- (i) imposition of a charge upon any Fund of the Community.
- (ii) for the payment, issue or withdrawal from any Fund of the Community of any monies not charged thereon or the increase in the amount of any such payments, issue or withdrawal.
- (iii) for the remission of any debts due to the Community or proceed upon any Motion including any amendment to a Motion, the effect of which in the opinion of the person presiding would be to make provisions for any of the said purposes.”

That Article limits our work as an Assembly to issues that do not place a charge on our exchequer. If that is read together with Article 63 which

talks about the assent to Bills by the Heads of State, you will see that in actual fact, it is an extra constraint because it should be the Heads of State who should reject our Bills on the grounds that they cannot shoulder the cost, but not the Council of Ministers. We should be allowed to go ahead and present Bills that can place a charge on the exchequer. If the Heads of State feel that they cannot shoulder that, then they should refuse to assent to them. That way, we shall open up the route towards integration because very many integration issues require money. If you are going to have laws made by this Assembly that do not have any financial considerations, then it means that such laws are really limited in scope.

Mr. Speaker, Sir, in order to build this Community, we need very committed officers, particularly at the Secretariat. I am sorry to say that to date, there has been very low level of commitment at the Secretariat. Otherwise the Heads of State would not have come up with this communiqué. They have noticed that something is wrong at the Secretariat. If the Secretariat could be working properly, by now, we would have achieved much more than what we have seen.

Mr. Speaker, Sir, I commend the Heads of State for their bold action and I hope my colleagues will support this Motion.

Thank you.

**Mr. Jared Kangwana
(Kenya):** Seconded

Mr. Med Kagwa (Uganda):
Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to the Motion on the Floor.

Mr. Speaker, Sir, from the documents availed to us, I notice that this was the longest meeting in terms of time that the Heads of State have ever held.. I stand to be corrected if I am wrong. But at least those I have seen are called 'camera meetings'. But the meeting held in Nairobi gave me the hope that this time, the Summit had finally heard what we have been talking about in this Assembly ever since we started working.

Mr. Speaker, Sir, if we are to fast track the federation of the East African countries, then there are other aspects that we must look at, and rectify the anomalies therein. It is my humble view that if we are to fast track, then the Treaty should be looked at afresh. Under Article 5 of the Treaty we are given a sequence of events and the normal interpretation is that they will have to go in that sequence but now, things have changed. I think it is only fair and fitting that the Treaty should be looked at in its entirety. I am happy to note that the Legal, Rules and Privileges Committee which I also belong has been at the forefront in raising this issue and has actually taken measures towards that end. I recall that when it was mentioned here, many people were sceptical. But

I am happy that time has finally vindicated the Committee on Legal, Rules and Privileges. The Summit has appointed a Committee of Eminent Persons, headed by the learned Attorney-General of the Republic of Kenya. I think this Committee will be of immense contribution towards that request to have the Treaty looked at again.

Mr. Speaker, Sir, the Member who was holding the Floor before me alluded to the work of the Council of Ministers. When the drafters of the Treaty drafted Article 13, may be they did not anticipate the enthusiasm, desire and the need to have the people of East Africa come together at a faster rate. As correctly mentioned by Hon. Mwatela these are people who have a lot to handle in their own dockets in their own countries. About a month ago, I was happy when I heard over the radio that His Excellency, President Mwai Kibaki had made a reshuffle and among the appointments he made was a specific Minister for the East African Community and regional matters. I was in my hotel room and I said: Yes! This guy is now going to give the lead to his colleagues in the Summit. I however regret to note---

Mr. Ochieng-Mbeo (Kenya):
On a point of order, Mr. Speaker, Sir. Is the Hon. Member in order to refer to the President of the Republic of Kenya, His Excellency Mwai Kibaki as a guy?

Mr. Med Kagwa: Mr. Speaker, Sir, I sincerely withdraw and apologise for that remark.

Mr. Speaker, Sir, I was really thrilled by the appointment of a Minister in charge of East African Community matters by President Mwai Kibaki. Unfortunately, I regret to note that even the Minister who was appointed for East African matters is not here to be sworn in! Are we making progress? There is talk on the corridor that he is in a mission to New York. Surely, if you are going to fast track the federation, I think we need Ministers who will be here to handle matters of East Africa.

Mr. Speaker, Sir, I am happy that the Summit sat and came up with this communiqué and as result, they appointed a Committee of Eminent Persons. I would have liked them to go further in formulating the terms of reference for the Committee of Eminent Persons to include evaluation of those other matters mentioned in Article 5 like the Customs Union, Common Market and the Monetary Union so that they also give it an evaluation and bring to the notice of the Summit areas that have hindered faster progress in that area.

Mr. Speaker, Sir, the appointment of the Eminent Persons is indeed welcome but I must also caution that speed kills. They have given the Eminent Persons a period of two months. I know as a Member of this House that it

has taken us many months to come up with the data we have on this matter. Surely, I am not convinced that in two months, they will have done a thorough job. I pray that when they submit their report it will be an interim one which will give them the opportunity to look deeper into this matter and come up with a report which will be the basis for us to move ahead with the process of integration in East Africa.

Mr. Speaker, Sir, when I read this communiqué, I asked myself several questions. According to the Treaty, the Customs Union is the entry point to the process of regional integration. It is true that the Customs Union Protocol was signed but one regrets to note that it cannot come into operation until after five years. Surely, this cannot be fast tracking! If we cannot agree on the operationalisation of a mere Protocol immediately, then one wonders whether we are sincere when we talk about fast tracking the federation of EAC. In that Protocol, a Directorate is being established, possibly in Arusha. What is the Director General going to do if we are going to continue collecting revenues in our respective states? I would have been more convinced if at that level, the Customs collection was centralised. We should have implemented the Customs Union pretty quickly and that would have set a precedent in fast tracking the Community.

Mr. Speaker, Sir, on the question of funding for this

Community, the Treaty states that Partner States will make contributions. But they are in arrears up to now when we are almost entering another Financial Year. It is my humble submission that the Committee of Eminent Persons should look very closely at the issue of funding this Community. As suggested by this House in many fora, we should have a centralised collection of revenue and have a percentage of those revenues retained to run matters of the Community.

Mr. Speaker, Sir, we have been told repeatedly in this House that the Tanzanian Government was good enough to give the Community a ten-acre piece of land or thereabouts, and since we have been given a grant, we are going to construct a headquarter there. Surely, if you are thinking of fast tracking the federation, you must start thinking of a federal capital for the federation! If it were within the mandate of this House we would strongly recommend that since the Summit has directed that we should fast track the federation of East Africa, we should immediately stop the construction of the headquarters here and think about something bigger that will accommodate our needs.

Mr. Speaker, Sir, I remember making a contribution in this House to the effect that if we are not going to fund the Community, then we run the risk of turning it into an NGO. I am sure an NGO which sees a serious Government of a Partner State will support it. If the

government of the Federal Republic of Germany that gave us this money is told that we want to build a bigger headquarters in a more spacious place, surely, they can adjust their plan.

Mr. Speaker, Sir, we are talking about fast tracking the federation as directed by the Heads of State in their communiqué. I am not a political scientist, I have not studied government but I know that federation involves ceding powers. It is my humble submission that if we cannot cede power on a smaller issue like the Customs Union, how are we going to cede power in a federation? I think we may be overshooting the runway. But there is hope that all these matters can be discussed and a way forward will be reached.

Mr. Speaker, Sir, I get disappointed when I read some provisions of the Treaty. It appears that the drafters wrote fear in the Treaty rather than the aspirations of the people of East Africa. When I look at Article 7 of the Treaty, it is a shame that we legislated Permanent Secretaries into the Treaty for them to be here permanently and become an obstacle! Surely we cannot fast track like this! The best thing would have been to come up with an Act of the Assembly and then touch down administratively. But they are here all the time, and we do not have any control over them because they will fly the Treaty on your face. If we are to fast track, I think some of the

provisions of the Treaty must be reviewed.

Mr. Speaker, Sir, that brings me to the issue of the Protocols we have signed in this Community. We are told that Protocols form part and parcel of the Treaty. Once they become part of the Treaty, amending the Treaty then becomes another subject altogether. It is my view that we should stop operating by Protocols since the Assembly is here. We sign a Protocol and we have to take it to the National Assemblies of the Partner States for ratification and then it comes into force five years later. But that is not even enough! We will still have to come back to this House to make a law to operationalise that Protocol. That is double work and the resources are not there to do all this work. That is why I call upon the Eminent Persons to look at the Treaty and recommend that the Assembly should do most of these things and I am sure we shall move fast.

Mr. Speaker, Sir, I would like to know the number of Bills which have been brought to this House by the Council of Ministers which is the policy organ of the Community. Even the Appropriations Bill was only brought here by the Council of Ministers after the Assembly had threatened to bring it. What a shame! I fully agree that in a changing world, we should not shy away from taking responsibility by bringing here legislation that will move this Community forward, to meet not only the aspirations of the

Heads of State but also those of the people we represent in this House.

Mr. Speaker, Sir, I note that there was a consultant commissioned to look at the structure of the Secretariat and I gather that their recommendations were that there were enough staff. Surely, I do not think there is enough staff in the Secretariat. I think the Secretariat should be beefed up. There is need for more staff in the Secretariat if we are to move forward. I would like to see a situation where the position of the Secretary General is filled in a competitive manner where people compete for that post in the open market. That will assist in a great way in moving faster towards this desired objective.

Once again, I want to express my gratitude to the Summit and call upon them to have many more meetings of this nature with even tougher directives in all aspects of the Community.

Thank you

Mr. Jared Kangwana

(Kenya): Mr. Speaker, Sir, I would like to commend the Summit for not only having got together but also for having examined the problems that have been impeding the fast tracking of the integration process of the East African countries. I would like to place on record my appreciation for their communiqué. I support them entirely in their commitment to bring about the

fast tracking of the federation of the East African countries.

Mr. Speaker, Sir, this is one thing that has eluded this region for sometime. But I would like to say how lucky we are to live in this region of East Africa. God our benefactor has given this region everything that is good. He has given us plenty of fresh water more than it is available anywhere in the world, some of which is flowing freely to Egypt and sold to Israel. God also has given us the longest rivers in the whole world. In this region we also have the greatest variety and vast numbers of flora and fauna than can be found anywhere else in the World. There is no other region in the world that has the kind of resources we have in the areas of wild life.

Mr. Speaker, Sir, I know that you have just come back from the top of Mt. Kilimanjaro and I know that when you were up there, you must have reflected on two things; that above you, there was God and beneath you there was all humanity. But what I wanted to say is that God has given us the highest and most wonderful mountains that you can find anywhere in the world. We have more mountains than you can find in Asia, which boasts of the highest mountain in the world. God has also given us the greatest rainforest, which holds some of the greatest bio-diversity, which we are keeping for posterity.

Mr. Speaker, Sir, God also has given us the grandest of the

grand canyons ever found anywhere in the world. You look at our Rift Valley. You cannot compare it with any grand canyon that is found anywhere in the world. We have the grandest! We also have the longest and widest sand beaches in the world with warm water - and free of sharks! Above all, God has given us the richest soils on earth, so rich that even mankind sprung from it! East Africa is the cradle of mankind!

Mr. Speaker, Sir, God has also given us friendly people who are bound together by common destiny, history, language and religious tolerance and amongst our people, are to be found some of the greatest leaders that Africa has ever produced. The first pan Africanists came from East Africa. We do not want to belittle our founding fathers like Mwalimu Nyerere and Mzee Jomo Kenyatta, to mention but a few.

Mr. Speaker, Sir, I do not want us to pour cold water on what our three leaders did when they met in Nairobi. They have given us a second chance to federate. It is incumbent upon us to seize the opportunity to bring our people together because we do not want to fail a second time. I do agree with my colleagues who have spoken before me that there are many impediments in the Treaty and perhaps in the conduct of our people that have militated against federation of the three states. We now have a chance to address those impediments. We must amend the Treaty and get rid of those provisions that militate against

federation of the East African states. I did indicate that it is my desire and I hope that this House does not let our people down a second time.

Mr. Speaker, Sir, this morning I landed on a voluminous report which was prepared and presented by Members of the previous Assembly through a Select Committee chaired by Hon. Bhoke Munanka. One of the issues they noted was the main such goal being the declaration of a political federation by the three Governments of the three East African states made on June 05, 1963 in the following terms:-

“ We the leaders of the people and governments of East Africa Assembled in Nairobi on June 05, 1963 pledge ourselves to the political federation of East Africa. Our meeting today is motivated by the spirit of Pan-Africanism and not by mere selfish regional interests. We are nationalists and reject tribalism, racialism or inward looking politics. We believe that the decision has come and to all our people we say there is no more room for slogans and words. This is our day of action in the course of these ideals that we believe in and the unity and freedom for which we have suffered and sacrificed so much.”

Mr. Speaker, Sir, the Heads of State then, were calling for a federation. In short, we missed an opportunity at the time of Independence to federate. Contrary to the declaration made in

1963, majority of our leaders were driven by selfish and individual needs. I would like to urge the Summit to rise above sloganism and sloganeering about the East African federation. We urge our Heads of State to commit themselves to the course of our people in East Africa.

Mr. Speaker, Sir, I take it that the appointment of the Eminent Persons is an affirmation of the work that this House has been doing. It is an acknowledgement by the Summit that the East African Legislative Assembly has been in the forefront of attempting to federate our countries. I refuse to believe that the appointment of the Eminent Persons is a slap on the face of this Assembly because this Assembly has gone out of its way and travelled to every corner of this region preaching what they believe in, that is the federation of the three countries.

Mr. Speaker, Sir, when we met the Committee of Eminent Persons here last week, I was privileged to be requested to give a vote of thanks. I remarked in that meeting that we should first federate and other things shall be added unto us. I would like to give illustrations as to why I believe that we must federate before we start re-aligning our economies and our pockets so that each individual's pocket is the same size, length and depth.

Mrs. Rose Waruhiu (Kenya): On a point of order, Mr. Speaker, Sir. Is the Hon. Member in order to mislead this House that we can equalise our pockets when he knows the differences in our pockets and levels of poverty in East Africa?

Mr. Jared Kangwana: Mr. Speaker, Sir, what the Hon. Member has done is to confirm what I was saying, that we need not bother ourselves with

equalising our pockets either in size or depth.

Mr. Speaker, Sir, one of our great sons, Mwalimu Julius Nyerere remarked sometime back in 1964 that:-

“However carefully inauguration documents are drawn up and however carefully the institutions of unity are prepared, strains and stresses are inevitable at the beginning of any federation or union. Neither will there be any shortage of people who will try to make capital out of early difficulties of any form of unity in East Africa. It will be our children who will really see the great benefits of federation. We ourselves are likely to see as many of its difficulties as its advantages.”

Mr. Speaker, Sir, we have spent about 30 years trying to prepare a fine document and structures on the basis of which a federation would become a reality. As we all know that never worked and the Community collapsed. Some of the greatest federations in this world did not have a prepared, sequenced and systematic approaches to federation. Why do we not start from home? There were no such documents prepared when Tanganyika and Zanzibar united. There were no such documents prepared when the United States of America united and became a federation! Even when Australia became a federation, there were no such documents prepared! Nigeria also became a federation without such documents being prepared! Why should East Africans who have been given everything by God fail to federate?

Mr. Speaker, Sir, there are only two things uniting East Africans now; poverty and fear. It is a tragedy that

poverty unites us when we have been given everything by God. We have minerals, fresh water, rivers, beaches and so on. We even have some of the most poisonous snakes in the world, including *Omieri*. Let us move forward together as a united people. I know that fear is a repose in every person's heart. It is not just fear of the federation. We fear each other as we sit here together. We fear the Speaker, I fear my neighbour here and so on. It is good thing that we should fear because then, it helps us to be cautious and not to throw caution to the wind.

Mr. Speaker, Sir, I would like to reiterate that we now have a second chance to bring about a federation of the three East African countries. We must hold our leaders to account on this because we believe that they do not want to lead us to the same destination that the previous leadership led us to. We believe that they want us to federate. They can count on us in this move.

With those remarks, I support the Motion.

Dr. Harrison Mwakyembe

(Tanzania): Thank you Mr. Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Mr. Speaker, Sir, let me congratulate you on your decision which was very bold and foresighted to address the Pan-African Parliament in South Africa a fortnight ago in the Kiswahili Language. Your decision elevated not only Kiswahili as a language but also this House in continental politics. To me this was no mean feat, taking into account our long history of uninterrupted acculturation especially Europe's relentless imposition of its culture on Africa. It has been proven that languages carry with them their

own culture. The imperial languages that have been dominant in Africa for the past 100 years, English, French and the Portuguese have instilled in the Continent respective imperial cultures. The general impact has been to perpetuate our subordination and subservience to the white world. I believe that Africa's renaissance will never come true if we cannot break away from the present cultural vulnerability, which we find ourselves in.

Mr. Speaker, Sir, may I also use this opportunity to pay special tribute to former Chairman of the African Union, President Joachim Chissano of Mozambique as well as President Benjamin Mkapa for spearheading the use of Kiswahili in the African Union.

Mr. Speaker, Sir, charity always begins at home. As we pat ourselves on the back for trying hard to put Kiswahili on the continental map, we should not lose sight of the fact that we have not been charitable and fair enough to Kiswahili in its own home. Our Treaty declares openly and without shame that English is the official language of the Community, when you have 75 per cent of the people in East Africa who cannot speak English but Kiswahili. Our Treaty says the official language of the EAJ is English. Even our Rules of Procedure do not allow the use of Kiswahili in this House! If I use Kiswahili, in my contributions in this House, there will be 100 points of order. In fact we have added a carefully worded apology for Kiswahili that it shall be developed in the long run as a *lingua franca* but nobody tells us even about the timeframe. This is the best way to shelf an issue forever. I would not want to dwell on this matter for long. I will take it up with the Standing Committee on Legal, Rules and Privileges so as to move and

amendment under Rule 83 of our Rules of Procedure to provide for Kiswahili. I am afraid that if we wait for long, we may be fast tracked into accommodating Kiswahili by the Summit or Council of Ministers and that will really be ashaming on our side.

Mr. Speaker, Sir, the Motion before us reminds me of the Nanyuki Seminar which we had last June. It was opened by the Vice President of the Republic of Kenya, Hon. Moody Awori and I remember that in his opening Speech, he complained about the slow pace of the integration process. The then Minister for Foreign Affairs and International Co-operation for Kenya did the same. I remember remarking that if our leaders at the helm of power are also complaining, what does that exactly mean? What message are we sending to the public? Are we saying that we are not in charge of the integration process? I remember that this is what really transpired there. Today, I feel much more encouraged by the Summit's very clear expression of concern and desire to make things happen and also by the Summit's clear determination to do away with the inertia holding us back.

As my colleagues have already said, we have consistently called for the appointment of Ministers exclusively for this regional body to no avail. We continue having Ministers who are in charge of highly demanding portfolios and are assigned part time to look after the affairs of the Community. They do not attend Assembly meetings and the situation here speaks for itself. They do not answer questions, do not respond to the Assembly's resolutions, do not initiate Bills and I can understand why we are talking about fast tracking today. With such kind of arrangement in the Community we will try to

federate in the next hundred years but will never achieve anything.

Mr. Speaker, Sir, there has been a delusive believe out there that there is no much work in the Community at the moment to warrant the appointment of Ministers. Unfortunately this believe is also shared by the Summit and Council of Ministers and I think this is shear conjecture. We have a lot on the ground because what we are doing right now is to lay firm foundations for this Community. But somebody out there simply believes that there is no much work to do here. If there is no enough work to do, why have we miserably failed to implement the matrix of 2001-2005? I think it is because of the volume of work which requires prompt action and close and effective supervision at the Ministerial level which we are lacking. Short of that, the tardiness which our Heads of State have referred to sets in! With tardiness, we will never deliver a federal arrangement in East Africa even for the next 100 years.

Mr. Speaker, Sir, let me point out one minor issue as we brace ourselves to move faster with the regional integration exercise. We have to remind ourselves of one legal problem that shook the foundations of the Community in the 1970s. It was a time when Kenyan courts, Ugandan courts and Tanzanian courts declared that in the event of a conflict between the Community laws and the Kenyan Constitution, in that event, the Kenyan Constitution prevails. But that scenario cannot happen now because of Article 8(4) of the Treaty which says that the institutions and laws of this Community shall take precedents over similar national ones on matters pertaining to the implementation of this Treaty. This is not categorical enough to prevent any High Court Judge from the three

Partner States from saying that the Treaty cannot override any fundamental law. As Hon. Med Kaggwa said, this Treaty must be looked at a fresh as it needs heavy amendments.

Mr. Speaker, Sir, lastly, I want to talk about the construction issue of the headquarters of the Community. I remember that in previous sitting of this House, I promised to call on the Ambassador of the Federal Republic of Germany to ask whether the grant, which has been given to us here is pegged to the 9.8 acres plot behind the Arusha International Conference Centre. I want to report back to this House that I did so and to show that this was a serious exercise, I wrote a letter to him. With the permission of the Chair, I can read it to the House. It states as follows:-

“ Your Excellency’s gratitude to the FRG. Allow me on behalf of the Hon. Members of the EALA and my own behalf to extend to you our deep gratitude to the government of the Federal Republic of Germany for its generous grant of Euros 8 million towards the construction of the EAC Headquarters in the northern Tanzanian Town of Arusha.

Our gratitude to government and people of Germany has been well recorded in the Assembly’s Hansard of June, 2004. Your Excellency, as we set out to construct this momentous structure in our regional co-operation, we cannot avoid thinking beyond 50 years or more from now when our co-operation will have attracted more members and even achieved even greater heights economically and politically. It is for this very reason that we have, as an

Assembly not supported the construction of the EAC headquarters on a small 9.8 acre plot of land in a congested area behind the Arusha International Conference Centre.

The Tanzanian Government which has always been supportive of regional initiatives is more than willing to give us a bigger plot of land for the headquarters upon request by the EAC Secretariat. The Secretariat however, would not make the move on grounds that the grant by your government is conditional on the AICC backyard plot of 9.8 acres.

Your Excellency, we ask for your clarification on this matter to enable us arrive at the bottom of it in an informed way.”

Mr. Speaker, Sir, I called on Dr. Enoberger(?), the Ambassador of Germany to Tanzania on June 8, 2004 at 10.a.m. His response was that there were no conditions attached to that grant and that his government could even be more willing to have a bigger plot because planning was difficult in this small congested area. He was even questioning our judgement as well. He said before starting to construct the headquarters on this area behind the AICC, the EAC Secretariat had asked the German government officially to allow them acquire the Mt. Meru Hotel as the headquarters of the EAC. This is on record and the German Ambassador can testify to that effect. Even people who are giving us grants think that we are not serious.

Mr. Speaker, Sir, I would like to quote the Counsel to the Community in one of his numerous writings, he wrote that “the achievement of the objectives of the Community will heavily depend on

how cohesive and co-ordinated these organs and institutions are in the discharge of their respective obligations.' I think the substance in the Counsel to the Community's remarks cannot be questioned by anybody and this is really what makes me worried because I do not see this cohesion and co-ordination.

Let me give you a very short example. We all received a certain document in 2002 which gave us a lot of problems with the powers that be. It was a document which showed the decision by the Council of Ministers to include for Budgeting an exercise to do standardisation and classification of hotels and also to organise a conference on potential investment opportunities in East Africa. The Council of Ministers approved it and later the decision of the Council of Ministers was cancelled by the Administration and Finance Committee.

Mr. Speaker, Sir, we have been working since the year 2003 very hard as an Assembly to make sure that the East African states negotiate as a bloc. The Secretariat knows about it and it is even informed that we have prepared a Bill to that effect and just two weeks ago, there was a Sectoral Council of Ministers here sitting in Arusha to discuss the possibilities of negotiating as a bloc. The Secretariat kept quiet and it never even informed the Council that this matter has been taken up by the Assembly very seriously. There is a very serious issue of co-ordination between the Community organs. I am sure that if this Committee of Eminent Persons does not come up with a solution to that problem, we shall always be constituting---

Mr. Ochieng-Mbeo: On a point of information, Mr. Speaker, Sir. I would like to inform the Hon. Member that in

the calendar of activities of the East African Community for the period July-December 2004, on October 11-14, the Council of Ministers is expected to meet here and discuss among other things, how EAC is going to negotiate as bloc with the WTO and the rest of the world. Would you believe that this is still happening?

Dr. Harrison Mwakyembe: I would like to thank Hon. Mbeo for that information. It shows how mixed up we are.

Let me end up by saying that we are encouraged by the recent move by the Heads of State as I said earlier. Their move is a very clear expression of concern on their part and also a very clear desire to make things happen. We wish the Eminent Persons all the best and we hope that December this year, we should not be feeling any kind of inertia which is holding us back. If we see such inertia continuing, we may be thinking about a fast track initiative from the Assembly.

Thank you.

Mr. Daniel Ogalo (Uganda): Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Motion, which I support.

Mr. Speaker, Sir, I also thank the Summit for the precise and clear manner in which they moved a vote of no confidence on the Council of Ministers. I say so because they took time to repeat the provisions of Article 5 (2) of the Treaty in their communiqué. We have had this Treaty and this provision for five years now. If teacher Kate Kamba goes to a class and keeps on repeating the same lessons to the students and emphasising and even bolding it in black to the students, it means that teacher Kate Kamba has

some doubts about the capacity of the students to assimilate her lesson. It is not said in bad faith but that the Summit can repeat these words in bold means that they have reached a time when they are bit disturbed about the pace of our integration.

But when I looked at the terms of reference I found that one of the things they required from the Committee was to evaluate the implementation of decisions already made by the Summit, the Council of Ministers, the various organs of the Community and identify hurdles and obstacles that hindered their efficient implementation.

Mr. Speaker, Sir, I want to illustrate that the hurdles and obstacles to the integration process can be found in various organs. That example which I am going to use is the directive of the Summit in April 2002 that the East African Countries should negotiate as a bloc. Two years down the road, we have not done so and this is a directive of the Summit which is the highest policy organ of the Community. What are the hurdles and obstacles which can fail the implementation of a directive of the Summit? These are the obstacles which are making it impossible for us to integrate. The first one is that we do not have an executive here in Arusha. The Executive is part time, the Ministers are very busy. Where are they now as we deliberate on the issue of federation. They are in New York talking about stabilising Iraq and oil prices and how they should be controlled and we are here talking about federation of East Africa. I do not mean to say that Iraq is not important. It is only that their priorities are not with East Africa. I am told that they will be there for one month, while they should be here helping the Eminent Persons.

Mr. Speaker, Sir, the question of an executive in Arusha is imperative. Without an executive, we will continue to have a slow pace of integration and this problem is not new and it was recognised by the Council of Ministers themselves long ago and I want to quote the Hansard of January 25, 2002 where the late Hon. Wapakhabulo stated as follows:-

“I am sorry I could not be with you all the time because I had other engagements. My planning was based on the assumption that we shall be three and therefore share out the work of the Assembly. But due to other engagements my colleagues could not be present all the time. The Chairman of the Council came yesterday but briefly because he had to attend to other State matters. I would like to promise the House that one of the items we are going to have in the Council will be how we are going to attend to the work of the Legislative Assembly. Should our national duties take precedents over the East African Community duties or should it be the other way round? A suggested was made and it has to be looked into in due course. We may have to have an institution of East African Community Ministers like we used to have. People who would be there all the time superintending together with the Secretary General our integration process but also attend to the work of the Assembly. This is because if we begin to be diverted by national matters, then the importance of our process of integration may lose sight. So, I propose to raise this matter when we have the next Council so that

my colleagues will give it due consideration.”

Mr. Speaker, Sir, over two and half years ago, the Council of Ministers knew the problem to the integration process. They knew that they would be diverted by other state duties and they recognised that the only way out was to have an executive attending to the matters of the Community. If we do not have this fulfilled, I beg to say that we may still falter despite the communiqué.

Mr. Speaker, Sir, the decision to have Ministers responsible for Community affairs has been taken up time and time again. The Speaker has written to the Summit that we should have an executive here in Arusha. I am sure that the Speaker has not received any response from the Summit itself. This is what Hon. Kangwana talked about. We should rise above sloganeering because the Summit is also responsible for this problem. It has been aware of the necessity of the executive in Arusha and has decided to turn a blind eye even if the Speaker of the Assembly writes to them. In as much as the terms of reference say that the Committee of three should find out the hurdles and obstacles which have hindered efficient and effective implementation of decisions, I beg to submit that one of the obstacles is the Summit itself. I say that in good faith and for the good of the people of East Africa.

Mr. Speaker, Sir, if you look at the procedures which one will have to go through in implementing a decision of the Summit like that directive are very elaborate. That directive from the Summit went to the Council of Ministers, the Council of Ministers passed it on to the Secretary General for implementation, then the Secretary General will have to go back to the

Partner States to the Co-ordinating Committees composed of the Permanent Secretaries, Sectoral Committees and High Level Task Force--- all these people with loyalties to their own countries are expected to answer to the orders of the Secretary General. How will that procedure work? How will a Permanent Secretary in Nairobi take it that he can be ordered around by the Secretary General. What the Secretary General will do is to beg those people who wrote themselves into the Treaty to implement such directives. Until some Co-ordination Committee agrees to give effect to certain directives, it will remain on the shelves in Dar es Salaam, Kampala and Nairobi. Who makes the decision here? It is the Co-ordinating Committees who are in charge because we are expecting them now to evolve policy out of this directive. Civil Servants do not evolve policy. That is the business of politicians! So, the mechanisms we have in the Treaty are also obstacles. You can imagine this directive landing on the desk of an officer in any of our Capitals who is in charge of WTO negotiations and the directive is telling him to find means of pushing this responsibility to Arusha. In other words, you are telling him to write himself out of the job. That is what we are eventually asking in this process. These are the impediments, which are making it impossible for the implementation of these decisions.

Mr. Speaker, Sir, I want to concur with the Hon. Members who have stated that there should be a revisiting of the Treaty in order to have the integration process move forward faster. I suggest that the Summit should now create another organ which can even order these Co-ordination Committees as long as they are there. To whom are these Co-ordination Committees accountable? It has been said that the

Committee of Eminent Persons should hand in its report on November 30, 2004. If it was within my means, I would appoint, with effect from December 01, 2004, Hon. Amos Wako, Prof. H.K. Amani and Dr. Ezra Ssuruma Ministers of the Community and move them here. With due respect to the Council of Ministers, they have realised that they are not able to attend to the work here. So, it is only fair that these Eminent Persons who have started this process should form the first executive of the Community.

Mr. Speaker, Sir, another matter which is still essential as we still have this Council of Ministers is the necessity to at least have an office in Arusha of the Chairman of the Council of Ministers, where his documents can go and where he can find the Hansard once in a while to be able to read and know what is happening. But there is no office for the man here, he stays in Impala or somewhere else and then he flies out! I am aware that the Assembly has been so good to the extent that it has provided pigeonholes for the Chairman of the Council of Ministers but if he had an office here with a Secretary, he would be able to receive all the documents that are intended for him and so he would be able to follow up what is happening here. I would propose that while this vote of no confidence is still pending in the meantime – by the way it is not only a vote of no confidence on the Council but also the Secretariat. – at the end of the day the Council of Ministers will say they depend on the Secretariat. So, it seems that many people are affected by this communique.

Mr. Speaker, Sir, let us now examine this directive. After it had been in place for two years and nothing has been done about it, this Assembly in its wisdom, felt that the state of affairs was

not good. There is no way the Heads of State can issue a directive and directive stays unimplemented for two years. Therefore in its wisdom, this House gave me leave to introduce a Private Member's Bill in this House to implement that decision. Having seen that the Council failed, this House took it upon itself to do the work of the Council Ministers. But what are the obstacles as we see them here even in the Assembly?

After the leave was given, the Speaker did refer this Bill to the Standing Committee on Communication, Trade and Investment which started to analyse this Bill while we were in session here. But because of shortage of time, they went home and could not complete it. So, there was a requirement for funding for the Trade Committee to be able to complete and make sure that this directive is implemented.

Mr. Speaker, Sir, the Trade Committee had a work plan which was presented for purposes of funding. But we were told that we only had 60 days within which we were to work as an Assembly. This is one of the obstacles as I see in the Assembly. That we must compress all the work we have about the integration process within 60. The 60 days elapse, then we have to go home and wait for another year. All the Committees of this House have produced work plans to the House Business Committee where they have shown that there is a backlog of work which is supposed to be done away with. But as usual, we are told we cannot work because there is no money for it. So, through the good offices of Hon. Abdi the Communication, Trade and Investment Committee was able to get funding sourced from outside the three governments of East Africa. The three governments could not afford to get air tickets and accommodation for

this Committee. We had to approach a donor to do so, through the office of Hon. Abdi. These are outsiders who are more concerned about the integration process than ourselves. The problem here is that the Council of Ministers has refused to take charge of the budgetary process. Instead, they elected bureaucrats in the Capitals of Kampala, Dar es Salaam and Nairobi, to dictate what is going to be the resources at Arusha. In this way, the Council of Ministers has abdicated its responsibility and left it to desk officers to determine which work for East Africa will be done and which will not be done. In other words, if Freidrich Ebert Stiftung (FES) was not in a position to sponsor the Communication, Trade and Investment Committee to do their work, the Summit's directive would still be in the archives. But now, it has come out of the archives. If it was not for FES that directive would still be in the archives. How does the Summit itself feel about this; that an NGO somewhere is the one assisting it to do its work? Is it true that the three governments cannot afford air tickets for nine people? Hon. Marando will leave his Chambers in Dar es Salaam, leave his clients there, go to sit somewhere for one week to do work for the East Africans and the Community will say, that was supposed to be done for free. These are the obstacles standing on the way of regional integration! We are grateful to FES that it was able to take a directive of the Summit out of the archives and bring it into the Assembly so that it can be turned into policy.

Mr. Speaker, Sir, not all the people who help us are like FES or AWEPA. These are well-meaning people who only have the interests of the Community at heart. They want to see a faster integration. But in as much as we have fewer days and therefore have to look outside for

funding, we may land on people who will sponsor us but who have their own agenda. In that case the destiny of the people of East Africa will not be with East Africans themselves but the people who will be sponsoring us in reaching decisions. So, the danger in the Council of Ministers abdicating its responsibility to provide enough funds for the Committees of this House to do its work is a danger to the people of East Africa. It is only when the Committees sit that they generate work for the Assembly. The notion that there is no work for the Assembly is based on the fact that people check on what is on the plenary. But plenary is always dependant on what comes from the Committees.

Mr. Speaker, Sir, the other obstacle was mentioned by Hon. Dr. Mwakyembe. We are here as an Assembly and we have the three Ministers responsible for Community affairs, we even have the Counsel to the Community and the Secretary General. Since October last year, we have been working on a Bill on how EAC can negotiate as a bloc. It is a matter which I would have thought is well known to the Secretariat. But apparently from what we have heard that the Council of Ministers is working on the same thing, either there is...

Mr. Yonasani Kanyomozi: On a point of information, Mr. Speaker, Sir. I would like to inform the Hon. Member that the Secretariat was actually aware because when we met in Naivasha, they sent two representatives. Mr. Kiguta was there to give us the economic input and Njeri Mwangi to give us the legal requirements. So, they were fully aware and fully involved in what we were doing!

Mr. Daniel Ogalo: I thank Hon. Kanyomozi for the information. But that now raises very disturbing

questions. If the Secretariat was aware and sent those officers to assist the Committee and they see the Council of Ministers making the same decisions, then they are making the Council of Ministers look foolish! No wonder this vote of no confidence from the Summit on the Council had to come. It is because of this kind of thing! For something to have been here and they were aware and never warned the Council that that this thing is in the Assembly, it is really a great de-service. We are not competing with the Council of Ministers. This Bill is good for the people of East Africa. If the Council of Ministers came and said they wanted to take over this Bill and have it enacted into law, this Assembly will have no problem with that.

But the way it is done, it appears as if we are in competition. We are not in competition, but at the same time it creates bad working relationship as stated by Hon. Dr. Mwakyembe. We will take it as if the Council of Ministers is slighting the House. The House is working and the Council of Ministers is saying forget that Assembly. For us we shall do our things whereas it is the Secretariat which is sitting on vital information which is supposed to be passed on to the Council of Ministers.

So the Secretariat is an obstacle. These are the issues we must address. This House did sit last year when it realized that there was a necessity for harmonious working relationship between the organs of the Community passed a Resolution asking the Council of Ministers to set up a committee to come up with a mechanism to coordinate our activities so that we can be able to work. I am sure that Resolution found itself somewhere in a dustbin. If it had not found itself in a dustbin, we would have at least a

mechanism on how to relate to each other, so that we would stop this kind of things where we make Ministers look ridiculous. This is what was intended to be addressed by that Resolution, I hope somebody somewhere would think about it and rejuvenate it and see it is necessary for the working of the Community.

Mr. Speaker Sir, this House has in its representation function visited many parts of East Africa; its has been to Gulu, Mbeya, Isiolo and many other parts of East Africa. We have collected views of the people of East Africa. We know what they think about federation. They want the federation but it is just a question of how we make it move faster. I believe that one of the fastest ways of doing this is that there should be arrangement for a referendum in the three countries. The summit should create this as the three people finish their work, because two months is definitely too short a time for them to have gone to all places. But in order to give it effect I think the matter of referendum should be addressed.

The last matter which I want to address, is the question of why some of the organs of the Community have not been functioning properly and this is a question of oversight. Oversight by this Assembly is crucial to ensure that other organs of the Community and the programmes put in place are implemented as planned. It is because of that the Treaty requires that every year there should be an annual report submitted to this Assembly by the Council of Ministers, so that this Assembly can evaluate and review all the programmes going on in the Community. By so doing, we shall be able to know whether we are really on track for the federation. It was not until Hon. Cpt. Ddudu asked a Question of a Minister in 2002 that we saw the first

Annual Report on the activities of the Community. After that we have not seen any other report submitted to the Assembly so we are not able to evaluate whether these programmes are good for the people of East Africa. If those programmes are being implemented properly, then we will be able to move faster in the process of integration.

Mr. Speaker Sir, although the terms of reference of service say, to find out the impediments on the implementation of decisions, there is one organ of the Community, which all this is not applicable to, that is the East African Court of Justice. All that we are saying is not applicable to it because there has been nothing implemented, no case, no sitting and everything is at standstill. The obstacle here is that the Council of Ministers have not implemented the requirements of the Treaty that they expand the jurisdiction of the Court. Really everything goes back to the Council of Ministers. There is no doubt in my mind that this communiqué is a vote of no confidence on the Council of Ministers. In ordinary situations I would have expected possibly the Council of Ministers to realize that because of their other duties it is difficult for them to continue serving East Africa. It would only be fair them to resign their portfolios. They should let the Summit find other people in fairness to the people of East Africa who can perform that duty diligently. It is not that they are not hard working men but it is because they have a lot of work. They should be fair to the Summit and relinquish their duties and let Mr. Ibrahim Ssuruma, and Mr. Amos Wako take this work.

Mr. Speaker Sir, I support this Motion and I hope that all the questions which have been raised by this Assembly since January 2002, will now be

answered by this Committee of Eminent Persons.

I thank you.

Mr. Mabere Marando (Tanzania):
Mr. Speaker Sir, I only stand to record my position that I support the Motion and will not have much to say except a few things.

First I would like to commend the Summit for taking this very important step and mentioning three very important words in the communiqué, that is, tardiness, expedition of the process and compressing the process. I am sure those who have heard will have heard and, I am further sure that the Summit will take steps to enforce the decision they did make. They have reiterated the aspirations of East Africa, which had been manifested since the early 1960s as seen from the Munanka Report. We hope that this time they will ensure its realization.

Having said that may I also congratulate you for conquering the Kilimanjaro and also for addressing the Pan-African Parliament in Kiswahili.

Lastly, since my good friends who preceded me on the Floor addressed the question of the headquarters of the Community, I would wish to only make one very practical suggestion, whenever any development is envisaged in a planned City, town or municipality, when the designs are ready they are sent to the relevant committee of the municipal Council and the Municipal Councillors make a resolution granting a building permit. I hope my colleagues in this House will support me in making a very strong recommendation to the Arusha Municipal Council to refuse to grant a building permit, for this small cottage

instead of a proper headquarters for the future federal Capital of East Africa

. Thank you so much.

Mrs. Sarah Bagalaaliwo: Thank you Mr. Speaker Sir. Let me join my colleagues who have congratulated you on conquering Kilimanjaro and also your presentation on behalf of this Assembly to the African Union Parliament.

Mr. Speaker Sir, the passion with which the Members of this House are debating this communiqué emanates from our three years of existence in this Assembly, and it would be recorded that the various reports of this House have reflected our concerns which are particularly directed to the structural design of the East African Community and its institutions, the mode of operation, the speed of implementation, the dismal achievements and direction. I find that the appointment of this committee of Eminent Persons comes at a time when Members of this Assembly should deem opportune and also appropriate. Opportune and appropriate in my view because this is the first visible representation and active involvement of the Summit from which we can henceforth forge a practical chain to relate to them. The agenda they have put forward is substantively the purpose why the institutions of the EAC were put in place. The mission that is stated is to evaluate our work and make practical submissions to the Heads of State in a form of result-oriented proposals that would remove the bottlenecks and enhance the achievements of a successful and practical regional integration process.

Mr. Speaker Sir, the salient words but active ones of the communiqué depicted the serious concern of our

Heads of State about the delay, the derailment, the disposition, the disentanglement or disorientation of this integration process. And it seems as though that the Heads of State, much as they have not been in touch with us have at least been reading the Hansard or have also laid their eyes on the Nanyuki Report before it was tabled here in this Assembly.

Mr. Speaker Sir, you will note from the observation of the members who have made their presentations that fundamental to this process of integration is the basic and enabling law which is the Treaty of the East African Community. I do recall in my maiden speech, I alluded to the problems that were eminent in the Treaty itself but at that time everyone was cautious about tampering with a document that had brought the three States together after a very long period of time. It's my hope that the committee of Eminent Persons will be able to pursue the following:-

- (iv) To address the inconsistencies, deficiencies and any problems that affect the operationalisation of the Treaty as has been reflected by the various speakers on the floor.
- (v) To reflect on the type of Council of Ministers, not as envisaged by the Treaty but one which is meaningful and responsible to the East African Community.
- (vi) To establish a structural working organ that will effectively accommodate the

- relevant institutions today and tomorrow.
- (vii) To examine the cost effect and implication of the studies in progress that have been a continuous method of work at the Secretariat on crucial matters and particularly Financial Rules and Regulations.
 - (viii) To address the issue of separation of powers.
 - (ix) To analyze the required competencies and skills for the top management jobs.

Mr. Speaker, Sir, you will appreciate that one Member after another has lamented the existence of many organs for which we cannot draw any organizational structure to show the division of powers, the responsibilities or how they relate to each other.

Mr. Speaker Sir, having done that I believe that this committee of Eminent Persons will vindicate the outcry of this Assembly and enable us render a meaningful service to the people of East Africa in our remaining period here.

I thank you Mr. Speaker.

Mrs Lydia Wanyoto: Thank you very much Mr. Speaker, Sir, for giving me the opportunity to contribute to this Motion which I support. Having listened to many colleagues contributing to this Motion, I just felt that there is actually nothing new about this federation that we have not done as an Assembly. This Assembly has gone

out of its way to have many outreach programmes at which we talked about and publicized the agenda of the political federation for our region.

Mr. Speaker, Sir, recently when we were in Kenya, June –July, 2004, we were even able to excite wananchi about new name for East African Region *KEUTA* (Kenya Uganda and Tanzania.). We were also able to tell them the benefits of integration for example, Isiolo in Kenya where its known for cattle keeping, we told them that they can be able to sell their sausage across to Mbale in Uganda where I come from. The only thing that this Assembly has not done is maybe not to call itself Eminent Persons so that we can receive the attention that these Eminent people received, so that we could receive the needed resources that these Eminent Persons have suddenly received.

Mr. Speaker, Sir, when we joined this Assembly we quickly put in place a committee that was going to look into our terms of reference as a Parliament. We were quickly told that there were eminent people who were going to do this. I am giving you this as an example to demonstrate the fact that I am not excited about eminency of people because they do their reports and we never get them and we do not see the agenda thereafter. We have not seen the outcome of the first eminent people. People here are so excited and the Eminent Persons have received the total attention of the Secretariat and all the resources needed. As my colleagues stood here to contribute, I listened and wished that this excitement measured up to our expectations when the report comes up in November.

Mr. Speaker, Sir, the Eminent Persons have received money to do their assignment; The Committee on

Regional Affairs and Conflict Resolution had drawn what we call in Uganda a Road Map but there are new words in Arusha like fast tracking, eminent people and so on. But in Uganda we have such words as Road map, a kind of matrix to the political federation and we even attached a budget to it. So I would like to inform Hon. Ogalo that these eminent people are very lucky people because a lot of work has already been done for them. What they need to do is to get the committee on Regional Affairs to give them the matrix. It is already there and budgeted for actually it has a less budget than what they have got and work would be done. Then they can come and read the Hansard Reports of this Assembly and get all the information and aspirations of the people of East Africa. Whenever we undertake outreach programmes we come back and table our reports and even debate what we have been able to do in the outreach programmes.

Mr. Speaker, Sir, as I listened to what my colleagues were saying I wished November was yesterday so that we can see the progress of the implementation of this report because we are all into it. We would like to see it happen we are happy because we lacked funds but some other East Africans have been able to get the funds, to do the type of thing we have been able to fight for. It is my prayer that the Summit can also help us to appoint eminent persons to fast track the opening of borders, publicity of teaching Kswahili in schools, reviewing of the Treaty and to fast track the issues of Lake Victoria. This Assembly has been crying and debating these things and we never hear them out. They should also get eminent people so that they can get due attention from the Secretariat!

Mr. Speaker, Sir, since the eminent people came to Arusha I think one week ago, I have read in the papers like *the East African* of this week, the *Daily Nation* from Kenya and other Kiswahili newspapers that I read, that they have received full attention from the Secretary General, which this Assembly has never got from the Secretary General. So I think---

Mr. Ochieng-Mbeo (Kenya): On a point of information, Mr. Speaker, Sir. For whatever it is worth to the Hon. Member who is contributing the Secretary General has given them his full attention and is now with them permanently until they finish their work.

Mrs. Lydia Wanyoto: I thank you very much for that information. The only new thing in this whole matrix is the titles otherwise this Assembly has the aspirations of the people of East Africa. We have done a lot of work and it was just to get everybody on board like the coordination we have been talking about so that we give it the publicity it deserves. There is a whole page in the *East African* this week talking about the process of integration for the EAC. There was nothing new that we have not done but you can see that the Secretary General took time to have his picture and a whole page talking about this new agenda of the eminent persons towards federation. Something we have been doing for the last two and half years as politicians.

Mr. Speaker, Sir, I really hope that the same importance and power will be given into publicity for the East African passport, free movement of people and review of the Treaty so that we move forward. This is our pride we are all here to see this happen but we wonder

why some things happen suddenly and in a magical way. It is like a dream come true. What is the excitement suddenly when we have been crying all along about this issue of the federation but they have continually told us that there is no money, but now money is there. The Secretary General is too busy, but now he is so much available and there is money for publicity?

As an Assembly we are happy because what we have been fighting for has come to get the prominence it deserves. Finally to support what Hon. Med Kaggwa talked about, I agree that we should have lesser political appointments so that some of these posts are publicly competed for. But to have only three men as Eminent Persons is unfair. East Africa is for all of us and there are more women than men. For the Summit to think that for political federation of this nature to take place, it should only be men to fast track is very unfortunate. First of all it sends wrong signal and secondly it would not receive the full support of the bigger part of the population and thirdly it will send a wrong signal that women are not able to fast track the federation.

Mr. Daniel Ogalo: Mr. Speaker, Sir, I am seeking clarification from the Member on the Floor. I see associate members of the committee and one of them is Ms. Margaret Chemengich. Is that a man or a woman?

Mrs. Lydia Wanyoto: Mr. Speaker, Sir, that is exactly what I am saying. We should always consider the issue of women seriously at least in the integration process. This issue of associating is not eminent and I think we want to take this matter seriously. The reason why we have problems with some of the top executives of the Community is because women are

missing. There is a difference in management that women bring, but men cannot. East African Community and the Partner States have suffered because at the helm of its leadership and governance women have missed out.

I thank you Mr. Speaker, Sir.

Cpt. Richard Ddudu: Thank you very much Mr Speaker, Sir, for giving me this opportunity to air out my views in support of this important Motion .

Mr. Speaker Sir, whereas my colleagues have ably and elaborately discussed and debated the issues pertaining to this Community, I would also want to add on mostly the historical perspective so that we can clearly see into the future.

Before I go into that I would first of all congratulate you for having conquered Mt. Kilimanjaro. It shows that we have a brave and sporting Speaker at the helm of our business in Parliament. On the same note I would also want through you to pass my sincere thanks to the Heads of State who ultimately came out with that communiqué because it was long overdue, due to reasons that have already been elaborated by the Hon. Members who spoke before me. But what is the present situation pertaining in the whole of Africa, economic, political and otherwise? More or so, with the emphasis on the economic situation. And what do these situations breed? And what are the solutions to these situations.

Mr. Speaker Sir, at present if we compare Africa and EU, you will find that the average infant mortality rate per 1000 people in Africa is 120, while

for the EU it is only 10. The adult literacy in Africa is only 45 % while in the EU it is approximately 100%. Life expectancy in Africa is 40 years this is a figure that one could easily dispute, because there are now more disease added to those which are in Bible to finish the Africans off. So it should actually be around 28-30. The GDP per person in US Dollars in Africa is 200 in EU its 12,500. Incidentally Africa is the least developed continent in this world. But there must be reasons to that, the situation before this in both Europe and Africa was different.

Around the 14th century and 16th Centuries in Europe there were a lot of problems. These people were suffering from famine like we are doing. They had their fair share of deaths from famine and disease like it is happening now here. You can imagine these people were dying of lack of potatoes! They had potato famine around 14th - 15th Centuries, it killed so many of them just like here in Africa. They had their fair share of diseases and famine which was pegged to periods of pluviation and desiccation. During pluviation, there would be plenty and during desiccation, there would be less. They also had their fair share of wizards and witchcraft in Europe just like we have in Africa. In other words backwardness was universal then before the 14th century both in Africa and Europe.

Mr. Speaker Sir, if Africa was at the same stage with Europe in the 14-16th Centuries what then happened? Why has Africa remained the same and Europe developed? As per the statistics and experience we have also decided to go and look into their Parliaments and see how they work as if we are at the same level. That is why historical perspective very important to understanding these issues. We live in

different worlds, it is the same world but we are relegated. It is like a situation between somebody living in the main house and in the Boys quarters. We are permanently in the Boys quarters, and this includes the East African States of Uganda, Kenya and Tanzania.

What is wrong with Africa including Uganda, Kenya and Tanzania, advancing in economic development? Why is it that we did not advance in economic development just like Europe? At independence we were even better than some countries in the East, some small states in the East that apparently developed so much. What is the problem is that problem still there today? And what are the solutions?

Mr. Speaker Sir, Europe only left us because of dynamics of society. Their society advanced from primitive society to feudalism and to capitalism in good measure because it was not interfered with. When they came they found at least small satellite, tribal states still in the process of development, they had acquired some wealth here and there, there were traders in long distances and short distances, there was exchange of goods, therefore there was internally integrated trade. There was a small semblance of federation in terms of economics here and there. Goods would travel from the coast up to Arua and of course ideas flow also forward and backwards.

Therefore we had an integrated economy, we had a semblance of political entity evolving, but why was it so small? It was simply because we had plenty and the population then was small, a small population with plenty of resources does not go around conquering and amassing wealth, it is contented in itself.

Mr. Speaker, Sir, Europe around 16th century sent out its emissaries, the crooks like Vasco Da Gama and the rest to come and loot because there was transformation where they had gone from federal states to capitalism. They came and looted and up to now they are still looting, that is why we are still suffering from jiggers! What did it create politically here? We have a small semblance of class that takes itself to be affluent with all issues, they have gone to school, they have some small money it is like a comparison between Madivani in Uganda and Bill Gates. These are small rich men here, but when you cannot compare them with Bill Gates they would be living in Bill Gates' servants quarters, they cannot call themselves rich in front of Bill Gates. So we have a dwarf business or we have a dwarf economy with its attendant personalities who then make decisions a driving force into our integration.

We have everything in terms of micro--. If we have produced educated people, politicians and business people who are afloat they are not a class *per se* they are just afloat, how will we determine their interests or coalesce them for national interests? How do we get consensus from such a not well defined class about the issue of integration? It takes people employed in the Partner States to come and sit and deliberate about the issues of the Community, what is their mind frame? What is their education? If you reflected them in a mirror and rated them as per their imperialist thinking, what would be the outcome? Into whose hands are we placing this very important agenda of integration? Why are we integrating, is it because we love each other too much? Is it because of the same languages we talk? No, integration is not about that. Integration is about politics, the economic and other issues

pertaining to the whole world. We were even better at independence, but we are worse now because the exploitation has worsened. We have only one recourse, to integrate. If we do not integrate we shall as has happened before worsen the situation. So it is not because of President Mkapa, Museveni or Kibaki. It is because of the situation pertaining on the ground. If you look at all the States, the governments are dwindling, they have very little influence. You can see this in our budgets where 50% are coming from abroad. So the governments have dwindled in influence. They cannot afford safe water, medicine and the population have increased the amount of trade we do is less. So exploitation *per se* is becoming total with time. There is one way we can get out of it, by integrating our economies so that we create markets and industrialize. The catch word now should be industrialization at a larger scale of East Africa and industrialization will not carry on without markets. You have to have a bigger population in order to have the market.

So right now the issue of when to federate is not important. We have actually delayed to federate and federation is a must and does not take anybody running these states or living in the villages to say no to it. In fact if you look at the Eastern States that have become economic powers you find that there is one bottom line about it, they all developed because they had dictators in the helm, like Suharto and other dictators in the East. So, we need only to tell our people after correct analysis where to go and where to pass and if you do not comply we push you aside and go ahead.

Some people among us plead ignorance, so you do not know where we are going. It is like you are in a

lorry that is being driven at night without lights on, at a speed of 120 Kilometre per hour. Your instinct will be to survive. So, if you do not understand the historical perspective you are going to jump off the vehicle or your feet will be permanently on the brakes. If we had three drivers of this description in East Africa we would not integrate and would become worse. So any debate whether we have integration now, or not, is irrelevant. We should have had it long ago. We are where we are because we did not integrate and even if you continue ruling the countries separately it is a matter of time before we come together. Maybe 100 years down the road you will not have a choice because your ability to govern would have been taken away because without economic might, you will never govern effectively.

In other words since we failed to integrate earlier on, we are actually becoming less effective in governance. What are you going to do about governance? Governance is expensive you need money to govern effectively or else you will resort to dictatorship, you cannot discuss democracy in a situation of poverty. You cannot discuss elements of good governance, prudence, savings and all those things in a situation where there is nothing to save you need money to do that.

Mr. Speaker Sir, I submit that the solutions are to industrialize, create markets and we have only one way of doing that- by federating. We should have federated at the time of independence or earlier on but we are still carrying on with the same situation big fish wanting to swim in a small pond but the economic situation is leaving us behind. In another 50 years we will not be able to go to Cancun or anywhere else to go and negotiate with WTO. I happened to have gone there

and I also noticed that our Ministers were paid by WTO to go and attend the meeting. It's like calling monkeys to come and decide the fate of the forest. When they told them that the WTO was closing on Tuesday, by Wednesday they had to leave because they had not bought the tickets themselves, the aircraft they flew in were not theirs, the few dollars they were carrying in their pockets were given by EU. We cannot continue with such a situation. Three countries separately cannot afford to buy tickets for their Ministers to go and negotiate? We eventually ended up running in the corridors, up and down and we started doing advocacy work just like NGOs.

Mr Speaker Sir, I suggest one thing therefore, in order to bring leadership into the East African Community issues, we must have a criterion as to who is going to handle which issue and why should that person be there? There must be a bottom line and there must be a criteria on judgment because the issues are so demanding, It demands understanding the gist of the matter as it determines another school of thought. I therefore suggest that the earlier we come with an institution that will put to light these issues and produce people in masses who will toe the line and make it a reality.

Mr. Speaker, Sir, I hear that those days people from Uganda going to Britain had to be taught how to use spoons and forks. I understand that some of our Members recently went to Britain, I hope they were not shown how to use spoons and forks there. But we have Nsamizi where people who wanted to travel to Britain for anything had to be taught how to behave, how to bow very nicely when they see a British cook, and so on. Now here we are looking forward to building an integrated economy but we do not even have

Vanguards and trained people to do it. Even in choosing of Chief Executives we need it to be competitive, not simply on political consideration. But then we might have a clever man who does not know where we were going even if he is driving this same lorry he will crush it. So we need to put the ingredients of patriotism and patriotism comes out of understanding. We should know why we still have jiggers now, why our economies are doing like this and then we will come to a point where we appreciate the integration.

Mr. Speaker, Sir, having said all these in a few words, I beg to support the Motion.

I thank you very much.

Mr. Speaker: I had two more speakers on my list, but now, I see many more. I can see the hands of Hon Kanyomozi, Shamala, Lt.Gen. Adan, Namgale, and Hon Kaahwa. So I think we will have to continue tomorrow.

ADJOURNMENT

Mr. Speaker: Hon. Members, that brings us to the end of our business today. The House is therefore, adjourned until, tomorrow, September 29 at 2.30 p.m.

The House rose at 5.40 p.m.



EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY
THIRD MEETING – THIRD SESSION – FIRST ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

Wednesday, 29 September 2004

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

PRAYERS

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

The Assembly was called to Order.

MOTION

FOR THE INTRODUCTION OF
PRIVATE MEMBERS' BILLS

Mrs. Hon Rose Waruhiu: Mr. Speaker, Sir, I beg to move:-

THAT, that this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House do now resolve to grant leave to

enable me to introduce a Private Members' Bill entitled:-

The East African Community Budget Bill, 2004

The proposed draft of the Bill has been circulated.

With those remarks, I beg to move.

Mr. Isaac Sepetu: Seconded

(Question put and agreed to)

Mr. Med Kaggwa: Mr. Speaker, Sir, I beg to move:-

THAT, that this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House do now resolve to grant leave to enable me to introduce a Private Members' Bill entitled:-

The East African Community Immunities and Privileges Bill, 2004

The proposed draft of the Bill has been circulated.

With those remarks, I beg to move.

Mr. Jared Kangwana: Seconded.

(Question put and agreed to)

Mr. Daniel Ogalo: Mr. Speaker, Sir, I beg to move:-

THAT, that this Assembly, taking cognisance of the provisions of Article 59(1) of the Treaty, pursuant to the provisions of Rule 64(5) and (9) of the Rules of the House do now resolve to grant leave to enable me and Hon. Ochieng-Mbeo to introduce a Private Members' Bill entitled:-

The Inter-University Council for East Africa Bill, 2004

The proposed draft of the Bill has been circulated.

With those remarks, I beg to move.

Mr. Ochieng-Mbeo: Seconded.

(Question put and agreed to)

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

Thank you.

MOTION

Mr. Calist Mwatela: Mr. Speaker, Sir, I beg to move:-

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

(Mr. Mwatela on 28.9.2004)

(Resumption of Debate interrupted on 28.9.2004)

Lt. Gen. Adan Abdullahi (Kenya): Mr. Speaker, Sir, let me join my colleagues in commenting and congratulating the Summit for this very important step in initiating the fast tracking of the East African federation. I recall way back in 2002 when a Motion was moved in this House questioning the rationale for the East African Community Treaty to place specific stages starting with the Customs Union, Common Market, Common Currency and finally a Political Federation. We

debated this issue for a long time and we did not find an answer as to why it was provided that way. Our feeling is that may be certain aspects of the four stages could proceed concurrently without delay. However, we were not able to conclude that.

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

Mr. Speaker, Sir, that was the only issue I wanted to raise in this debate.

Thank you.

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

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

destroy this Community the way we did in 1977. There is the process of a Customs Union, Common Market, Monetary Union and finally a Political Federation. These people sat for over six years to come up with that. They said the entry point will be the Customs Union and they took a further four years to negotiate and come up with a Customs Union Protocol which was signed recently. They said it would take five years to have a complete Customs Union. I think we should let things take their course. The European Union said it would take five years for them to have a Customs Union but within two years they scrapped their five year plan and integrated within two years. Let us take time, built the confidence and we will get there.

Capt. Richard Ddudu: On a point of information, Mr. Speaker, Sir. May I take this opportunity to inform the Hon. Member that the method we are using for integration is the most medieval method. There are other modern examples where for example, the most powerful country in this world, the USA, started with a federation and then the other issues he is alluding to for negotiations came later. Even Europe which is taking the longer route was actually the cause of the shortcut the USA took. They had to run away from Europe in order to go and have Independence.

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

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

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

(Laughter)

Mr. Speaker, Sir, in my local language as the Secretary General would have said, we have a saying which goes like this: *Tag malakudehe wahakutagta lukutusa* which means: Someone will not tell you to go but will give you all the indications that he does not want you, and he wants you to go. If you look at Article 67(3) (c) of the Treaty, it states that Secretary General shall be the Secretary to the Summit. The Summit had the longest meeting the other day but they did not invite him. I think the message is loud and clear. The writing is on the wall.

With those remarks, I beg to support the Motion.

Thank you.

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

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

Mr. Speaker, Sir, while the Eminent Persons are doing their work, I want to remind them, that the individual East African countries still belong to different economic groupings. For example, Kenya and Uganda belong to COMESA while Tanzania belongs to SADC. This scenario is bringing a lot of complications in practical sense. In my opinion, I do not think this scenario will take us anywhere. In the light of the Cancun debacle, how can we strike a balance between multi-lateral negotiations in the WTO and the bi-lateral agreements. There is evidence that after Cancun, bi-lateral negotiations are accelerating. For developing countries like ours, this means a full exposure of uneven power relations. In my view, our countries should immediately consider their membership in these regional groupings and decide as a matter of urgency where they should belong. But they should belong to the same bloc.

Mr. Speaker, Sir, as we move towards federation, it is important that we revise the EAC Treaty. I believe that after this

exercise, there will be a revised Treaty. The Treaty should feature in all subsequent national constitutional amendments such the forum at Bomas in Nairobi, the Third Term in Kampala and Marekebisho ya Katiba in Dodoma. This will legitimise its status and legitimise ownership of the Treaty to the people of East Africa.

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

Thank you.

Mr. Speaker: Hon. Nangale, I am sure the House was waiting to hear from you how the theory an E-federation could fast track this process!

(Laughter)

Mr. Maxwell Shamala (Kenya):

Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Mr. Speaker, Sir, when you read that communiqué carefully, you will find that the Summit is disillusioned and frustrated with the progress of integration in East Africa. It is frustrated because the integration process started in earnest in the year 2000 and on January 13, 2000, the Summit ordered

the Council of Ministers to have the Protocol on the Customs Union completed by December, 2001. So, by the time we were being inaugurated the Customs Union Protocol should have been in place. This Protocol was signed four years later on March 02, 2004. Those of you who were here will remember how difficult it was to get that Protocol signed because some people were still arguing at that late hour as to what should and what should not be included in the Protocol, after having had four years to negotiate the Protocol.

In my view, the Council of Ministers let down the Summit hence the frustration I am talking about. The Summit was frustrated because they had a vision to bring the people of East Africa together and create a market of approximately 100 million people. This in turn would create a big investment area and hopefully we would get economic growth of about 10 per cent. Other countries in Southern Asia have achieved this. If we got economic growth of 10 per cent, we would be doing a lot to ourselves by way of poverty reduction. The living standards of our people would go up. Unfortunately, this has not been the case. If we achieved this economic growth, we would have created job opportunities. In so doing, we would minimise insecurity because young men and women who are leaving schools have no jobs and therefore they revert to waylaying those they think they can get something from and that is causing insecurity throughout our territory and this is their time and they want to leave a mark. Our past Presidents tried and left us where they did. I am sure the current Presidents would like to leave a mark in East Africa. If the economic growth of the people of East Africa improves during their tenure, they will be a happy lot.

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

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

Mrs. Lydia Wanyoto (Uganda): What do the Luhyas say?

Mr. Maxwell Shamala: What the Luhyas say is what the Swahilis say. The Council of Ministers surrendered its role to the Co-ordination Committees composed of Permanent Secretaries who in turn surrendered it to their juniors who come to Arusha day in day out to negotiate. When those junior officers come here and disagree over small things, they pack up and return to their offices in the Capitals to go and consult their bosses. So, the Council of

Ministers should bear their own cross. Had they taken time to have a '*Kamukunji*' – an informal meeting with us, things would have been a little different. What we have in this Community is an integration of three governments instead of an integration of the people and economies East Africa.

Mr. Speaker, Sir, we have had many Protocols signed and it is up to the Council of Ministers to follow the Partner States to know whether they have signed this Protocol and so on because they have not followed it. It is the Ministers who should have followed the Ministers of the Partner States to ensure that those Protocols are signed. They sit in those Parliaments and they know about those Protocols. The Council of Ministers should be held responsible for the slow progress or no progress in the integration process that we envisage. Integration programmes all over the world succeed when decisions are taken. Lack of decision making causes problems. You cannot move. Lack of implementation monitoring mechanism, delayed implementation of what has been agreed on are the things that can bring our regional integration efforts down. This is where our Council of Ministers come in. They are the ones who should have spearheaded the progress in terms of implementation of agreed Protocols. The Council of Ministers went to sleep and the Secretariat went to sleep and none of those Protocols have been completed on time.

Mr. Speaker, Sir, I want to propose the way forward to resurrect the integration process through the Eminent Persons that are going round the countries of EAC to collect views. Like my colleagues said yesterday, we should have Council of Ministers for East African Affairs only. I talked to Hon. Koech about coming to Arusha to be

sworn in but he preferred to go to New York. He thought New York was more important than this Community. These Ministers should attend as a matter of policy all the sittings of this House. In that way, we shall be able to have an oversight role over them because we can ask them questions and they should give us answers in this Assembly.

Secondly, the line Ministries in the Partner States should have retreats with their Parliaments in the presence of Members of that Chapter together with Ministers so that they can address those Parliaments on issues of integration. In this way, the National Assemblies will be totally aware of the goings on in terms of integration within the Community. I am talking about things like the Customs Union. It took us a bit of time to understand what the Customs Union is all about. Let us not assume that all our Members of Parliament in our National Parliaments understand it as we do now. It is good that we bring them on board so that they can be our agents to communicate matters of integration to the bigger Community of East Africa. For instance, in the Lake Victoria Basin, we have more 100 Members of Parliament representing people who live around the Lake. We want the management of Lake Victoria to be put under one organisation. We should involve Members of Parliament from around the Lake in order for them to communicate with the Communities living around the Lake for them to co-operate with whoever will be managing the affairs of the Lake so that we can reduce conflicts within Lake Victoria. In the same vein, we must address issues of pastoral communities. We cannot look aside and hope to integrate successfully.

Mr. Speaker, Sir, the Council of Ministers should be present to support the line Ministries that will be

addressing those Parliaments and those Ministers should also have the line Ministries having forums within their states so that they can move together.

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

Mr. Speaker, Sir, the advantage of involving our National Assemblies in this matter is that they have access to all the peoples of East Africa and we, through them, have that access. We want them to be involved. The advantages are that they will be communicating with the stakeholders in this integration process. In that way, we shall be able to fast track the integration of East Africa.

Thank you.

Mrs. Kawamara Mishambi (Uganda):

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

Mr. Speaker, Sir, since yesterday, we have had a very passionate debate about the communiqué given by our Heads of State after their meeting in Nairobi last

August. When I listened to the various Members debating with a lot of passion. For the last two and half years, we have heard the same passionate speeches and the same criticisms and I have been asking myself whether it is really helpful. If we criticise, let us criticise with the spirit of being helpful. We have criticised the Secretary General, the Council of Ministers, and the Summit and now, we have got our new target, the Eminent Persons to criticise. What solutions are we offering as an Assembly? I see ourselves falling into a trap of always being critics of situations and yet offering few or no solutions at all. I feel that we can do more than that.

Mr. Speaker, Sir, I am very sceptical about the appointment of the Eminent Persons. Their appointment is somehow diversionary. For the last two and half years, we have done what they are trying to do. We had outreach missions to the three countries and we heard from the people of East Africa including their Heads of State what they think about the issue of federation. The political federation of East Africa should have been yesterday or the other day. What is delaying the process? It is simple! These are three sovereign states with three Heads of State elected by their people. They all still enjoy their powers. So, we are still jealousy of each other, whether we like it or not. We are still suspicious of each other. When I say that, it is at the level of the State.

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

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

Mr. Speaker, Sir, if we are really out to convince East Africans then we should get serious in this particular House. We should begin thinking like East Africans. Let us act as East Africans in all circumstances. It is not only in this general talk that we should be speaking like this. We need to begin from this House to think as East Africans if we want our Heads of State to think as East Africans and we want the Council of Ministers to think as East Africans. So, despite all the passion with which Members may discuss this issue, I muse and wonder. I think we are only being heroic comedians because East Africans are watching us.

Mr. Calist Mwatela: On a point of order, Mr. Speaker, Sir. Is the Member on the Floor in order to refer to the Hon. Members of this House as comedians?

Mr. Speaker: She is not in order and that is Un-Parliamentary and I request you to withdraw that statement.

Mrs. Kawamara Mishambi: Mr. Speaker, Sir, my concern is whether we should really contribute to the talk show that is going on in other areas? When do we really become East Africa? I know that two and half years from now, I will walk out of this August Assembly as a Ugandan. That is how I see myself

walking out! We have now gone almost three years. I am wondering whether things will change in the next two years?

Mr. Speaker, Sir, one Hon. Member said that the Ministers are not here to listen to what we are saying and also answer to queries by Hon. Members of this Assembly. But do they have answers to those questions?

With those remarks, I beg to support the communiqué.

Mr. Yonasani Kanyomozi (Uganda):
Thank you Mr. Speaker, Sir, for allowing me to add my contribute to the Motion before the House. I want to congratulate the Summit for the well-thought out communiqué and for having sat for three days thus making history in the integration process.

Mr. Speaker, Sir, the Heads of State had delegated this responsibility to the Council of Ministers. As you know in your military science, when you delegate, you are still accountable. They have realised that they are still accountable to the people of East Africa and they have taken a stop to take up the responsibility so as to be able to account to the people of East Africa hence the appointment of the Eminent Persons.

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

Mr. Speaker, Sir, in terms of the protocols that are being discussed, the Treaty provides for so many Protocols. Some of these Protocols have taken four years to complete. For instance, Articles 15(4), 27(2), 75(4), 76(4), 81(4), 104(2) and of course, Article 124(5) provide for Protocols in addition to Article 151 which states that there can be many more Protocols. If one Protocol takes four years to negotiate as the Customs Union has been, by the time we end these Protocols, Jesus will have come back. This is an issue which the Heads of State have realised and they want us to be in place as East Africans before Jesus comes back. The suggestion to expedite and compress the timetable is in the interest of East Africans because out there, the world is consolidating and people are coming together and we have seen in Europe and for the information of others who may not have realised, they are also nearly moving towards a federation. Otherwise why do they want a Constitution? They have already drafted a Constitution towards a federation while we are still at the preliminary stages of moving towards integration. The delays are due to the Council of Ministers not talking charge. Let me refer the House to Article 15(4) of the Treaty which states as follows:-

“Subject to a Protocol on decision-Making, the decisions of the council---”

I do not think even that Protocol has been done. There should have been a Protocol on decision making to speed up the decision making process.

Wilbert Kaahwa (Ex-officio): On a point of information, Mr. Speaker, Sir. May I inform the Hon. Member on the Floor as he continues in his zealous contribution that in accordance with the provisions of Article 15(4) a Protocol on decision-making by the Council of

Ministers was negotiated, concluded and signed on January 15, 2001.

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

Mr. Speaker, Sir, this House under your guidance has tried its level best to bring to the attention of East Africans what needs to be done. We have visited the region, we have interacted with whoever we have interacted with whoever we can interact with, but to no avail. It is good that our cries have reached the Heads of State and have come up to say enough is enough and we need to move. The people of East Africa need to move. While doing that, I would also like to remind of State there things that need to be done. First, the Secretariat of the East African Community needs to be looked at seriously. They only have three executives and at the moment, the third one is not yet appointed. As we speak, the Treasury benches on your right are empty and they have not even detailed an officer to come and take note of what we are saying. Those chairs you see behind there are their and they should be used! I must thank the Counsel to the Community for being always present whenever we are meeting. He is as zealous as he says. But the Secretariat is completely absent, the Secretary General is not here and his Deputy is not here. So, I can understand part of the

problem in the Secretariat. First, it is under funded, secondly it is undermanned. The Summit needs to look into that and provide a solution through the Eminent Persons. I would suggest that the source of funding with the introduction of the Customs Union can be identified and resources can be extracted from the Customs collection to be used to fund the Secretariat, the Assembly and the Court of Justice. A formula could be worked out and I hope the Eminent Persons will look at this and provide a solution. But to make it work easily, the collection of that money must be centralised and I hope the House will take a position on this when we will be debating the Customs Management Bill.

Mr. Speaker, Sir, the other problems I see are in chapters 6 and 7 of the Treaty. The Treaty has good things in it but the major problem with the Treaty is that there are too many layers of decision making. If you look at chapters 6 and 7 about the Co-ordinating and Sectoral Committees, you can see the problems which we have. The Civil Service has taken over the role of running this Community and to guide it up to the maximum, including deciding on our terms and conditions of service. This is not their role. I hope the Eminent Persons will also identify this, reduce the layers of decision making, recommend that the Co-ordination Committee can do their work at home and stop crowding people in this place which is already crowded. The E-system has made things easy. They can be exchanging information quickly on the internet so that decisions can be made quickly. These many layers of decision making have got to be removed from the Treaty.

Mr. Speaker, Sir, much as the Treaty is very good, the lacunae in it must be removed to make the document efficient

and manageable for the speed which the Heads of State wants to move in.

Mr. Speaker, Sir, a solution to the problem of the Council of Ministers can be solved by having resident Ministers here in Arusha with their Secretaries as we used to have in the old Community so that they can spend more time on issues that touch us. I would also like to suggest that every year, one of them should come and address this House on the State of the Union. That would give us a programme which this House can use to monitor the progress of integration. We would like to see the Chairman of the Summit presenting to this House every year a State of Union Address, reviewing matters which we have gone through and proposing the programme for us for the whole year to come. In that way we would be able to monitor and do our oversight role more efficiently and effectively because we would have a reference point. To recapitulate, I would like to propose the following as things which the Eminent Persons should look at.

- (i) Encourage the Summit to give us a programme in the State of the Union Address.
- (ii) Fund the Community through the Customs collection
- (iii) Review the Treaty to remove cumbersome organs and provisions
- (iv) Provide more human beings to man the Secretariat in order for it to serve the Community effectively.

Mr. Wilbert Kaahwa: On a point of order, Mr. Speaker, Sir. Is the Hon. Member holding the Floor in order to suggest that staff of the Secretariat are not human beings?

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

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

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

By so doing, we will help the country to get what it needs.

Thank you.

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

Mr. Speaker, Sir, we should not doubt the political will at the highest level for a political federation in East Africa. By appointing the three Eminent Persons, the Heads of State would like to know what our problems are, what has delayed the process until now and what measures can be taken or should be taken so that this process is speeded up towards federation. I think our role and that of the Secretariat is to sit down, look at the problems afresh, come up with solutions and advise the Eminent Persons and through them and other means, take our message to the Heads of State and the Council so that this

process goes faster than it has. Having said that, we must also understand that the process federating is not as easy as one would like it to be. In a federation, we are talking about ceding authority by Partner States and that is easier said than done.

Mr. Speaker, Sir, the old Community went as far as uniting the three states together and it was actually at the last stages towards a federation when it broke up. The break up of the old Community created a lot of suspicions and fear amongst the people of East Africa.

Capt. Richard Ddudu: On a point of information, Mr. Speaker. I would like to inform the Hon. Member holding the Floor that there been a federation by then, the Community would not have collapsed.

Mr. Mohammed Zubedi: I thank him for that information but I do not think I was doubting that. But I just said that we were very near a federation but it did not take place. We all wished that we were a federation.

But as I said, the collapse created suspicions and the fears that we see now. Those suspicions and fears as much as we have gone around the three countries and the citizens of the three countries have demonstrated that they wanted the federation yesterday. But when we sit down and start working out how to reach that federation, we will come across those fears and suspicions that have been there. That duty does not only belong to the Eminent Persons but it belongs to all of us to work hard and try to reduce as much as possible these fears and suspicions.

Mr. Speaker, Sir, the process of expediting and compressing these process of integration should be done as

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

Mr. Speaker, Sir, the Customs Union is the entry point. The people of East Africa want the federation but before realising it, they want to see some fruits of the integration process. We have problems because the people of East Africa cannot move freely within the three countries, the East African Passport is more on paper than reality. They need to trade with each other so that they realise the benefit of a Customs Union and the benefit of coming together. But they have not seen anything yet. I am sure the Heads of State know this better than us. We should open our borders and let our people integrate and move freely and trade together. Even now that we have famine within East Africa, but we cannot trade freely with food. It is ironical that we have got to import food from outside East Africa to contain the famine. So, we must remove these obstacles first and request the Heads of State that these bottlenecks that exist, be it from the Council, the Secretariat or the technocrats should be looked at in detail and they should be solved as soon as soon as possible and get these Protocols working. We should move fast and make the people of East Africa to realise the benefits of integration. It will be much easier even if we decided later on to go to a referendum . It will be difficult to go to the people of East Africa and ask them if they wanted a federation today. Some will say no

while others will say yes because of the high levels of poverty prevailing in the region.

So, the people of East Africa should be given a chance to enjoy some benefits and then we can go and convince the same people to federate. If that happens it will be easier for them to embrace the idea of federation because they will have tested its benefits.

With those remarks, I support the Motion.

Mrs. Beatrice Shullukindo

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

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

Mr. Speaker, Sir, I do recall our tour of Tanzania sometime this year when we visited Iringa. I think most of us were there. While paying a courtesy on the Regional Commissioner Iringa, he clearly indicated that it is the politicians who are dilly dallying with the process of federation but the rest of East Africans have already started to federate and I think he cited a number of areas where the people of East Africa had started working together in. Despite the fact that this House has tried as much as possible to initiate different programmes and activities for the people of East Africa, the Eminent Persons have come to discuss the same issues that we have

been discussing all these days. You recall that it was Hon. Maj. Gen. Mugisha Muntu who came up with the idea of political federation and it was taken up by the Standing Committee on Regional Affairs and Conflict Resolution, it came to the House and it was adopted by everybody. It is very significant that during our tours of the three countries, wherever we visited, we had time to time to talk to the public and we did address the same issues at no cost at all to the Community. We have a lot of information on these issues and I was surprised the other day to learn that a team of Eminent Persons had been appointed to do the same things that we have done. But the Summit has the right to nominate persons to do certain work for the Community.

Mr. Speaker, Sir, I am worried that this initiative of fast tracking might end up on paper just as many other issues have. I am saying so because there are so many other issues that are pending. I cannot even sight one thing that has been accomplished within the Community as of now. For us in this House, we only have five years to work. Within that five years, we have to account for what we have done. I would really appeal to my colleagues that we need to work seriously and embark on issues. As things stand now, all the organs of the Community are working in isolation. You will realise that officers of the Secretariat are not in this House to listen to what we say and so we are busy talking to ourselves. Sometimes it is tiresome to be talking the same things all the time to ourselves. Even if they are there, they do not even honour our views. When we discussed about the 9.8 acres plot in the presence of the Chairman of the Council of Ministers, Hon. Butime and Hon. Kikwete the other Council Member but the Secretariat has not even honoured

our views. That is why I am saying the fast track may not work.

Mr. Speaker, Sir, the Members of this Assembly represent the people of East Africa. But the people of East Africa do not even know what is going here. Even the people we could use to get them the information are not here. We have been appealing from day one that we need the Press. But the Press are never here. Even the information officer of the Community is not here. I call him information officer of the Community because I do not think he has any relations with this Assembly. How can we be talking of a fast track when these small matters are not being accomplished? Even the Summit is working in isolation. One President nominated a Minister for the East African Community Affairs but the other two have not! So, everybody does their own thing at their own time without any co-ordination. Let us embark on this issue of the federation seriously since we are the ones who started it all. I suggest that we really hold the ownership. I think the report of the Eminent Persons should start with: "This has been initiated by the East African Legislative Assembly." We are politicians we need to account. At the end of the day, East Africans do not care about our problems here within the Community.

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

With those remarks, I support the Motion.

Mr. Ochieng-Mbeo: Mr. Speaker, Sir, I would like to thank the Acting Secretary General for having quickly responded to Hon. Kanyomozi's request by trying to bring his people to the Civil Servant's Benches.

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

"That this Assembly, being appreciative of the immense efforts, work and resources so far utilised by the East Africans of all standing under the aspirations and forward-looking leadership of the Presidents of the Partner States which harnessed and guided their resilient spirit and desire to nurture an environment conducive to social, economic and political integration in the form of the EAC:

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

Mr. Speaker, Sir, this was the first Motion debated in this House. I

remember that newspaper headlines in all the three countries was: "The East African Legislative Assembly want Federation Now." I remember with nostalgia meeting the President of Uganda who at that time agreed with this House and said we needed federation yesterday. He even told us that we were like big fish in a small pond and if we continued like that, we were going to suffocate. All that is contained in this Hansard. I am saying that because in the middle of this debate, we also had Maj. Gen. Mugisha Muntu raise an issue on political federation which had to be fast tracked and the Speaker ruled under Rule 8(2)(g) and referred that issue to the Committee on Regional Affairs and Conflict Resolution which was duly debated in Nairobi and while debating in Nairobi, I also remember that we met the former President of the Republic of Kenya, His Excellency Daniel arap Moi of Kenya who said exactly the same thing which Hon. Museveni said when we were in Kampala.; that we needed the federation yesterday. In an informal meeting then, the President told us that they were in the process of appointing a team of three Eminent Persons to also carry this mantle and they were to report by November 30, 2001.

Mr. Speaker, Sir, we also toured Tanzania and while we were visiting, the President of Tanzania repeated the same things which his colleagues had told us. So, there is nothing new about what is happening. We all agree that we must fast track the federation. What must be included here and noted is that the East African Legislative assembly has played a very major role in this process of trying to fast track the federation and that is why through this resolution of the House, we tried to bent rules and bring the federation out of the sequence it was. The records are there

and will be given to the Eminent Persons.

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

Mrs. Kawamara Mishambi: On a point of order, Mr. Speaker, Sir. Is the Hon. Member in order to refer to government officials as guys?

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

angry because one of the things which was supposed to be discussed also was a proposal made by the EALA on the establishment of the East African political federation.

Mrs. Rose Waruhiu: On a point of order, Mr. Speaker. Is the Hon. Member in order to suggest that the Presidents of the three Partner States are capable of getting angry. Could he substantiate that?

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

Mr. Speaker, Sir, on the grid given to us, and I think these are some of the things that annoy Heads of States, on October 11-14, 2004, there will be an extra-ordinary meeting of the Council of Ministers in Arusha. While there is already a Bill tabled in this House for EAC to negotiate as bloc, the Council of Ministers will be discussing the same issue on that day and yet the Secretariat was fully represented when the draft Bill was being prepared in Naivasha. At that particular time, the Council of Ministers will also be discussing a report of another group of Eminent Persons who did the structure and terms and conditions of service for the EAC staff. To my amusement, those terms and conditions are also applicable to Members of this House. Would you believe that? They have also designed a document that will be presented to the Council for ratification.

Mr. Speaker, Sir, those Eminent Persons interviewed among other people the

Head of the Public Service and Secretary to the Cabinet of the Republic of Kenya, the three Permanent Secretaries of the Ministries of Foreign Affairs of the Partner States, five out of the six Judges of the East African Court of Justice, three former executives of the EAC and two former deputy Secretary Generals, some members of the Finance and Administration Committee from the three Partner States, the Director General of the East African Development Bank and its management team, the Inter-University Council Management and other personalities in the Ministries who are in charge of some sectors like trade and industry. On top of that they purport that they met some Members of the EALA, including the Speaker and that you decided and agreed that whatever the Members are getting is too much and it should be exactly that or even less. So, action has to be taken before the Council of Ministers approves this document. You can understand the situation we are in right now. To make it worse, this document was not signed by the Kenyan representatives in the group of Eminent Persons because it was doctored by you know who.

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

Mr. Ochieng-Mbeo: Mr. Speaker, Sir, this is a public document but if he wants to table it, I will do so.

Mrs. Kawamara Mishimba: On a point of order, Mr. Speaker, Sir. Since the Hon. Member has decided to refer to a document by Eminent Persons, is it in order for him to make claims that the document is doctored without

substantiating? Could he tell us who doctored this document?

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

Mr. Speaker, Sir, there is something that we seem not to be touching base with. This Assembly within the next few days will be called upon to pass a Supplementary Budget. We have the Eminent Persons whose report must be submitted by October 30, 2004 and they are not cheap people as you know. We will be called to approve that Supplementary for two months amounting to USD400,000 for the three Eminent Persons to take care of their normal welfare, the trips and all that. But I see that we have another fourth Eminent Person that was not budgeted for in the person of the Secretary General who has now joined the three Eminent Persons. I do not believe that this what the Heads of State meant when they appointed the three Eminent Persons. They should be made to know that the fourth Eminent Person is not part of the group appointed by the Summit. He should be withdrawn and I hope this budget will not cover.

Mr. Speaker, Sir, I recommend that since the Assembly is really in for fast tracking and activating a lot of other activities, we would include in this Supplementary Budget all the Committee budgets that were chopped off because of lack of funds. This is the

time to bring them back and ensure that they reach the Heads of State because this one is going straight to them. It is will not go between the Finance and Administration Committees and what not. This is the time to bring our Budget the way we wanted it and hand it over to the Summit just like we are going to hand over the USD400,000. This is the time to do that so that we can bring real change in fast tracking federation and the activities of the EALA.

With remarks, I beg to support.

Maj. Gen. Mugisha Muntu: Mr. Speaker, Sir, I rise in support of the Motion and I take this opportunity to thank the three Presidents for the position they have taken to fast track the integration process by appointing the three Eminent Persons to work on the Federation.

Mr. Speaker, Sir, I have got a friend who usually tells me that nobody can stop an idea whose time has come. If the question of the federation is ripe, it will happen. Let me first give a brief background to this issue of Eminent Persons. We seem to be treating it as if it is a new idea whereas it is not. Whereas the issue of the Eminent Persons was initiated in 2002, I remember we were in Nairobi and we met the former President of Kenya, His Excellency Daniel arap Moi and he told us that the governments were going to set up a Committee of three Eminent Persons to work on the issue of federation. I also recall that around that time, because there had been an initiative that had been started within this Assembly to work on the same, we were informed that we should slow down on that initiative. I was in that meeting and we had no problem with that. In fact I abandoned the initiative that had been going on within EALA and put all faith in the new process that

had been started by the three governments because we had hope and were looking forward to undertaking this process much faster. Unfortunately it did not happen because that was June, 2002 and we want to take this opportunity to thank the Presidents for actualising what had been promised then.

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

Mr. Speaker, Sir, the Summit indicated that they wanted to expedite and compress the federation process. I think it is good but it seems that they also indicate frustration as to why the process has been slow in the entire integration process. To me, that is not surprising that they are frustrated. What surprises me though is that tendency which I note in the African people, the way we keep doing the same things the same way over and over and expect different results. What surprises me is that we expected success, considering the arrangements that have been in place. You can just see a few examples. Some of our colleagues here had pointed it out here that the Council meets once a year and the Council meets twice a year. But look at what happens

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

Mr. Speaker, Sir, I do not understand what the difficulty is in appointing Ministers responsible for EAC affairs. That does not require amendment of the Treaty or amendment of the national constitutions. It requires administrative re-arrangements. Where exactly is the problem? Communication to that effect has been made to the three governments. One month ago, we got excited when the Kenyan President appointed a Minister for EAC affairs. But the Minister who was appointed is in charge of EAC and other regional Affairs. But we have been asking for Ministers whose portfolios are specifically EAC. It is not surprising that the Minister who was appointed is not around. If he has to handle IGAD affairs, Sudan, Burundi and the Congo problems, how do we expect them to concentrate on East African issues? So, what exactly is the problem? This has been communicated over and over again to the Presidents not only by us but also the Council Ministers who made a recommendation that the issue of EAC Ministers should be addressed. But when the Presidents met in Dar es Salaam, they declared that there was no much work in the Community to warrant the appointment of Ministers. So, how can we fast track the Community with all these pending

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

Mr. Speaker, Sir, on the issue of free movement of persons you will realise that Uganda and Tanzania do not have identity cards. But the Sectoral Councils and even this Assembly indicated that two countries should work together to have an EAC identity card to cut down on costs and secondly to expedite the process of having free movement of persons. As we speak now, I think Uganda is following up that issue separately and Tanzania is following is doing the same. So, what should we follow? Is it what they say or what they do? There is a conflict between theory and practice here and we need to keep our eyes open and look at the two. Otherwise we may be premature excited about these issues. How do you normally know the area of strategic importance or the areas of priority if you are looking at a government or an organisation? You look at where their concentrating their efforts and resources.

Mr. Speaker, Sir, when you look at the Budget of the EAC, that to me is an indicator as to where we are going. Let us hope that now that the three Presidents have said we fast track the process, one of the things that will be telling for me as to whether there is seriousness or not is in the 2004/2005

Budget. I am going to look at the area of staffing for the Community. I am going to see whether the mandate of the EACJ is going to be enhanced through the Council of Ministers. If we are willing to federate, then we should be willing to expand the mandate of the EACJ. If we cannot expand the mandate of the EACJ, then what would what would our fears be? Why can we not have court here which can have a jurisdiction over human rights affairs and many other areas which we cannot look at. That is what can give an indication as to where our hearts lie.

Mr. Speaker, Sir, I see three possibilities here. Either the chief executives have a peripheral interest in the East African Community as a strategic development initiative or they are interested but there is breakdown in communication among the organs of the East African Community and national governments which therefore, could have caused the chief executive to be out of touch with realities of the situation. That is the second possibility. The third possibility is that they are interested but they do not know yet how to cause a systematic and efficient advancement of the integration process. I do not know which of the three possibilities is correct. It will be quite helpful for us to ultimately manage and make a conclusion on where the chief executives are positioned in all these. Ultimately we will know them by what is done but not so much what is said in all these. If the conflict between theory and practice is not merged so that we see consistency in the two, then we will have to raise a lot of questions and legitimately so.

Nevertheless, a lot has been done since 1992 and we must really thank the Presidents who have been involved in t his process like President Moi and the current ones and also recommend them for what they have now done but we

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

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

With those remarks, I beg to support.

Mrs. Ovonji-Odida (Uganda): Mr. Speaker, Sir, I stand here to support the Motion moved by Hon. Mwatela and commend the Members of the Summit for appointing this Committee of

Eminent Persons. It has been said by a sage that the journey of 1000 miles begins with one step. I hope this is a step in the right direction.

This Assembly has raised the issue of political federation in East Africa since its inception. I remember having a discussion about this which some of the Members of the Assembly including Maj. Gen. Muntu in 2002 and the question that I had about the proposal to fast track the federation of EAC was, what do we mean by a federation. I think that question has been answered by many Members today. I think we need to move beyond rhetoric into reality. For me political federation is not simply about declaring that we now have the federation of East Africa. It has to be real. My understanding of political federation and I stand to be corrected is that we are talking about one country at the end of the day. We would be looking at one government, one central bank, one army, a common foreign policy and one foreign ministry and one state. When we talk about it that way, then I fail to see how we will have a political federation without the other steps that are envisaged in the Treaty. Whether they go at the same time or some other parts can be speeded up, I think that is the question facing the Eminent Persons.

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

Mr. Speaker, Sir, the issue which I hope the Eminent Persons will address and

since they have informed us that they will be reading the Hansard for today is for them to address their mind to the obstacles that exist. It is not that officials in EAC have worked out the strategies needed to integrate. If that was the case, then we will not be having the development strategy. We would not even have all the details in the Treaty. These things have thought through. The issue is why is it not happening? I agree with what has been said by some colleagues here and other East Africans that the problem is not with the common people of East Africa but those who stand to lose under the federation. These will be found in different places but primarily in places of leadership. If the Eminent Persons are to Fast Track this process in reality but in rhetoric. They have to address this squarely. It is those who come to Arusha and participate in meetings, receive per diems and would like that to continue, which will not, if we have one East African Government or those who will lose control of their portfolios in the Partner States if there was one Government. So, they have to look at those who have something to lose. That is where the obstacle is.

Mr. Speaker, Sir, there is the issue of sovereignty and that is something that has been pulling us back even as an Assembly – the lust of power- But where does that power lie? It is in leadership! So, I would suggest that the Eminent Persons concentrate a lot of their discussions whether that power is, for instance the State Houses. We also have issues of Protocol and unfortunately in many of our institutions in Africa, including in the African Union but even in our own bodies. We lend so much attention to protocol and forget about substances. So, if the Eminent Persons are to get something moving, they need to break through that Protocol and move into the hard issues. I think some of them were mentioned

today by Hon. Shamala and Hon. Zubedi. The third area is that of Finance which Hon. Muntu referred to. We need the Partner States to put their money where their will is. If the will is in the issue of federation, then money must be put there. To that extent, in my view, it is important to identify the institution that takes charge of this process. It does matter. So, the institutions of this Community, including this Assembly have to be built-up. Part of the popularising of those bodies will lie in them being involved in the process of building the federation. So, it is important that this Assembly takes charge of this process. This is not to say that we are not working with the Eminent Persons. But at the end of the day, much as they are appointed by the Summit, we need to take charge of the political role involved in building political federation as a political organ of the East African Community. Once they have prepared the report, we need to take back what is ours and play that political role to the hilt.

Finally, I would like to urge the Committee of Eminent Persons to capitalise on the positives that we have. There is the good will of the ordinary East Africans who believe that they have something in common. Ordinary East Africans do not hate each other. So, that is something positive. We are not in a situation which other countries have faced. If you recall the suspicions in Europe for example, when the wall came down or now between the Germans, the French and the British. We do not have that problem among the ordinary people and that is something that can be capitalised on. We also know from Nanyuki and other meetings that our National Assemblies do support EAC. They have been with us in every stop and there are many Members of Parliament at the National level whose hearts are in this process. Those are

institutions which are well-founded and they have resources beyond what we have here and they should be brought into this process as well. There is expressed will political will of the Summit which I do not want to talk about very much.

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

Thank you.

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

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

come up with those, which must work for fast tracking the Community.

Mr Speaker, Sir, we are limited so much by the Treaty and I think it may be necessary for the eminent persons to address the limitations that we have in the Treaty that may not help us in fast tracking so that we able to deal with them. When we talk about the institution of the Secretariat for example, I did mention once that we seem to have misused and used them to go around the world looking things. Sometimes the Secretary General and his Deputies crisscross at the airports and you ask yourself whether they are going for East African issues or what are they going for? I think if we are very serious about fast tracking these people must be full time, eight hours in the Community doing what must be done.

The issue of a conference on Agriculture for example, we have experts who must take care of that so that we have people who can concentrate. If we seriously want to fast track we must look at the institutions, the organs and their duties as stipulated in the Article 71 of Treaty. The duties of the Secretariat are well articulated but most of what we hear they are doing have nothing to do with what is there. I am saying this because if it is possible that our documents are correct, then the way we are implementing them is not correct.

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

Thank you.

Counsel to the Community, Wilbert Kaahwa (ex-officio): Thank you very much Mr. Speaker, Sir.

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

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

(Applause)

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

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

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

Mr. Speaker Sir, I intend to support the motion from three view-points. First of all I will have a legal angle to it, then a general perspective and a proposed way forward. From the Legal angle, I can observe and laud the Their Excellencies the Heads of State for fulfilling the role expected of them among their functions. Under Article 11 of the Treaty, and for avoidance of doubt according to paragraph 1 of that provision, the Summit is expected to give general directions and impetus to the development and achievements of the objectives of the Community; and under paragraph 3 the Summit is expected to review progress achieved towards the eventual objective of a political federation of the Partner States. In this regard I would like to join the rest of the House in lauding the three Heads of State in continuing not only to forge and sustain political goodwill but also to guide the integration process with the eventual aim of realizing the political federation.

Mr. Speaker Sir, the intervention of the Heads of State is quite timely given the global challenges and the need to ensure that the Community is receptive to the expectations of the people of East Africa because it has to be people-centred. In this regard, let me indicate to the House that recently at the Third

Ordinary Session of the Assembly of the Heads of State of the African Union (AU), the AU Commission presented a strategic plan and vision for involving the Regional Economic Communities. The AU intends to deal with what it calls in the strategic plan the plethora and cacophony of Regional Economic Communities in a rational manner. Those are not my words. They are the words which were used by the African Union Commission and adopted eventually by the Assembly of Heads of State. Now when you read through this strategic plan, you realize how much we need to do as East African Community in order to fit within the Continental plan. Otherwise we will be left by the wayside as far as NEPAD programs and far as programs evolving human rights and development are concerned. So, I join the Hon. Members who have already spoken before me in lauding the Heads of State for coming out with the directive to fast track the integration process.

Mr. Speaker sir, on the general perspective, how do I perceive what has happened now? A lot of blame has been poured on the Council of Ministers and other pillars of the executive arm of the East Africa Community. I have taken all this in my stride as I normally do and as I should do. But then let me remind the august House that what has been happening between the time the Treaty came into force and now is that we have been religiously following what is contained in the guiding provisions of the Treaty. Members have already alluded to this and this is clearly reflected in the preambular paragraphs 15 and 16 of the Treaty and Articles 2(2) & (5) of the Treaty. In other words, as Hon. Members who are not strangers in the thickets of the law will know, the Partner States and all the organs of the Community have only been live to the maxim in international law governing

international contracts of this nature of *pacta sunt servanda*. That is not to say we would always as EAC act as straight jacket. Time has now come to reflect on this approach following five years of implementation of the Treaty. We take into account what has been guiding the Partner States and organs and institutions of the Community. We have to ask ourselves with the guidance and directive of the Heads of State how much has their approach delivered? How effective has it been? How satisfactory is it? This is where I welcome the role of the Eminent Persons as far as guiding the EAC is concerned.

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

Mr. Speaker sir, on the way forward, the proposed way forward, firstly let me laud this Assembly for embracing the review process which Hon. Members are doing through contributions to this

Motion, and also for contributing ideas to the Eminent Persons. The way I look at it is this I cannot anticipate the outcome of the consultations on the fast track process. I cannot also anticipate the outcome of the Fast Track Committee. But I can foresee change management in the EAC affairs. I would like to invite the Hon. Members to mark my words carefully. I have not said change of management; I have said change management which is a process within strategic management. Whatever the Committee comes up with, inevitably there will, in accordance with the directive of Heads of State, need for change in the way we handling the integration process.

Mr. Speaker Sir, unlike Hon Calist Mwatela, I have not had the benefit in my life of going through a seminary. I have not even been an altar boy. And at my age and in view of the escapades in life, I may not even qualify to be an altar man now. But there is a saying in Latin which goes like this: "*tempora mutantur, et nos mutamur in illis*". Translated into English, this expression means "*Times change, and we have to change with them*". Confucius, the Chinese scholar extrapolated this maxim to say "*They must often change who need and have to be constant in happiness and wisdom*"

To me that means time has come for us to reflect on how we do things and that inevitably entails change. In my own area both as a lawyer and as Counsel to the Community, I can foresee a need to look at our supreme law of the Community, which is the Treaty for the Establishment of the East African Community. Through my participation in the Committee on Legal, Rules and Privileges, I have already indicated that there is a need to re-look at some of the provisions. The role of the Fast Track

Committee comes in at a very appropriate moment to facilitate and to push ahead the work of the Community. There are four general aspects of the Treaty which I have, through working with different organs and Committees seen as requiring review.

The first area is the nature of the Treaty itself as a document in International Law. In that regard there are certain aspects to look at; the strategy and objectives, the question of sovereignty of the Partner States, whether Partner States can cede sovereignty or at least practise their sovereignty at EAC level appropriately.

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

Mr. Speaker sir, Like Martin Luther King in 1963, had a dream, I have also had a dream since 2001. I have had a dream that time should come when the organs of the Community work together without misunderstanding each other, without working from parallel angles. I have had that dream. And for this matter, I had much in Sopa One; I hope there will be a Sopa Two.

The second general aspect when we look at the Treaty is with regard to the administrative and legal arrangements. Matters pertaining to decision making, hierarchy of institutions, prioritisation of milestones of integration and inevitably the time frameworks. We need time frameworks. When you look

at the Treaty except for the Customs Union most of the other cardinal milestones do not have time frames tagged to them which can guide us and on which we can gauge our progress.

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

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

With those remarks, I support the Motion.

Mr. Speaker: Hon. Members, it is now my pleasure to call upon the Mover to reply.

Mr. Mwatela!

Mr. Calist Mwatela: Thank you Mr. Speaker, Sir. I intend to be very brief because you specifically requested that

we complete this business by 5.30 p.m. and I guarantee you that I will finish before that time. Before I go into the detail of thanking the Members for their contributions, may I just make two observations, one general and one specific.

Mr. Speaker, Sir, I think we should not lose sight of history when we debate the issues of integration. In the early 1960s and late 1950s when the African countries were getting or struggling for their Independence, they were at the same time talking of integration and we know that there was a very strong move towards federation, we even know there was at one stage a constitution that was drawn for the federation. But during that time it was the time of the cold war, the powers of the world were also struggling for spheres of influence, and this lasted until the 1980s. Then we saw a new resurgence of regrouping but of a different type based on economics and trade and this time as we are talking the main thrust of battles of wars is not on the military as Lt. Gen. Adan and Maj. Gen. Muntu would prefer but on trade and economics. And those who would be found weak would be swept not by the military but by the stronger ones. It's going to happen and that is why you can see people all over the world are regrouping and try to become as strong as possible economically. East Africa is not an exception; we therefore should look at this issue of integration as a matter of survival and not cosmetic ventures.

I would like us to distinguish between mere economic integration and political federation. We can see that currently, our donors are very supportive, when we talk of economic integration because they see direct benefits, bigger markets for their goods and they see themselves benefiting from you people having one economic bloc. But I want us to see the

benefit as East Africans of a political arrangement, because it will enhance our ability to negotiate as a bloc with the rest of the world.

Mr. Speaker as much as our main target is economics, we should look at the political angle to enhance that economic power. That was the general element I wanted to put into the debate.

Mr. Speaker, Sir, we are representatives of the people of East Africa, on economic and political matters. The Treaty this Community is people centred and private sector driven, and you the Assembly are the law makers, it means you have to keep in constant communication with the people and with the private sector. How do you keep that constant touch? You have to use your time. The current situation does not allow these Members here to keep in touch with the people and to keep constant communication with the private sector. Immediately I leave this place I have to think of my stomach. I have to go out there to fend for myself.

The remuneration Members is a key thing in ensuring that we succeed in the integration process. If we have Members who are well remunerated they will be able to spend their time on issues of East African Community. Right now I can see Hon. Ogalo holding his mouth very critically and thinking of what to do immediately he gets back to Kampala because he has to go to his Chambers so that he can make sure that ends met. The same applies to Hon Marando! Hon. Abdi with his transport business is getting quite a bit of headache, Hon. Zubedi is also in the same footing. I know all these people. Our members are very involved in other issues because they are poorly remunerated. We are only paid USD2000 while some Hon. Members here pay up to Kshs90,000 for monthly

rent! How much does that leave the Hon. Member to use with his family!

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

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

Mr. Speaker, Sir, 1962 Mwalimu Nyerere commented in one of the meetings thus: "What is Tanganyika after all, East Africa is more important." we know we have our countries and we love them. I love Kenya, you love your Tanzania and the Ugandans love their Uganda. But East Africa is more relevant.

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

With those remarks, I beg to move.

(Question put and agreed to)

ADJOURNMENT

Mr. Speaker: We have come to the end of this afternoon's Session.

Hon. Members considering the importance of this debate I intend to write a letter to the Chairman of the Summit and copy to the Heads of the other Heads of State to express our appreciation and also commend their commitment, and to renew our commitment and reiterate our desire to have speedy integration of the East African Community.

I also intend to send them copies of the Hansard of this Motion for them to

read as a testimony of our renewed commitment to the integration process. I am sure this Hansard will also be made available to the Eminent Persons.

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

That brings us to the end of our business today. The House, therefore, is adjourned until tomorrow, September 30, 2004 at 2.30 p.m.

The House rose at 5.30 p.m.



EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY
THIRD MEETING – THIRD SESSION – FIRST ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

Thursday, 30 September 2004

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

PRAYERS

[The Acting Speaker, Hon. Mabere Marando in the Chair]

The Assembly was called to Order.

COMMUNICATION FROM THE CHAIR

The Acting Speaker (Mr. Mabere Marando): Hon. Members, a programme for our sittings during the next week has already been distributed and it is in your pigeonholes. The programme begins on Monday, October 04-08, 2004. I am sure each one of your has received it.

BILL

Second Reading

EAST AFRICAN TRADE
NEGOTIATIONS BILL

Mr. Daniel Ogalo (Uganda): Mr. Acting Speaker, Sir, I beg to move that the East African Trade Negotiations Bill be read a second time.

Mr. Acting Speaker, Sir, Article 74 of the Treaty for the establishment of the East African Community reads as follows:-

“In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty and in furtherance of Article 2 of this Treaty, the Partner States shall develop and adopt an East African Trade Regime and co-operate in trade liberalisation and development in accordance therewith.”

Mr. Acting Speaker, Sir, in furtherance of that Article and in furtherance of the objective of achieving an East African Trade Regime, the Summit at its extraordinary meeting in Kampala held on April 04, 2002 did direct that in matters of trade, the Partner States should negotiate as a bloc.

Mr. Acting Speaker, Sir, the purpose of the Bill before you and the Hon. Members is to create a legal framework through which this directive can be implemented as well as removing the impediments which have stood in the way for the effective and fruitful negotiations of the three countries in the deliberations of trade matters.

Mr. Speaker, Sir, the Bill proposes to create one negotiating East African body to be headed by the Chairman of the Council of Ministers and by doing so, it addresses the current weaknesses in the present negotiating machinery by the three East African Countries. I

will only mention four of these impediments which will be addressed by enactment of this Bill into an Act of Parliament. There is absence of a law in any of the three Partner States in respect of trade negotiations. None of the three East African countries has a law which addresses international trade negotiations. What happens in those countries is that there are various committees which carry negotiations on behalf of the governments. Those committees do not have specific legal mandates to discharge their functions and therefore at the end of the day when this law is enacted, it will address those impediments.

The second impediment is that there is lack of co-ordination in the Partner States within the Committees. What happens in the Partner States is that the three countries with the different line Ministries have different mandates. For example, in Uganda, you will find the Ministry of Tourism and Trade dealing with WTO and COMESA and the Ministry of Foreign Affairs is dealing with regional co-operation hence matters of the EAC. So, you have two different Ministries dealing with two different areas. The problem is that such Ministries will only focus on one issue. But when this is enacted into law, we will be able to avoid that narrow focus so that we have a complete picture. If we continue like we are doing currently, it is possible to have the three countries arriving at conflicting positions in international for a.

Mr. Speaker, Sir, there is also the question of financial constraints. There are many trade groupings to which all the three countries belong and yet each Partner State does not have the financial and human resources to cover them effectively. By pulling resources together, there will be capacity and

ability to follow up these issues. So, if this law is enacted we will be able to negotiate with the rest of the world in trade matters as a bloc.

So, I commend this Bill to the House and I beseech my colleagues to embrace it in total.

With those remarks, I beg to move.

Mr. Calist Mwatela (Kenya):
Seconded.

(Question proposed)

REPORT OF THE STANDING COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENT

Background

Mr. George Nangale (Tanzania): Mr. Speaker, Sir, on December 2, 2003, a Private Members Bill entitled the "East African Trade Negotiations Bill, 2003" sponsored by Hon. Dan Wandera Ogalo and Hon. Andrew Calist Mwatela was introduced in the House.

Under the Rules of Procedure of the House regulating the manner and process of consideration of Bills, the Bill was referred to the Standing Committee on Communications, Trade and Investment for scrutiny and later to report to the House.

The basis on which this Bill was introduced is found in the decision of the Summit of the Heads of State of EAC held in Kampala on April 11, 2002. The Summit directed that in matters pertaining to participation in WTO and the ACP – EU Cooperation arrangements (under the Cotonou Partnership Agreement), the EAC

Partner States should negotiate as a bloc.

As it were, the Council of Ministers is the organ responsible for implementation of the decisions of the Summit. However, by the time of introduction of the Bill in the House, the Assembly had never been informed of any concrete steps taken by the Council in this regard, despite a Resolution of this House in May 2003 calling upon them to take action.

A Case For a Single Negotiating Body

Upon reflections on the existing weaknesses afflicting the individual country's negotiating structures, a clean case exists to support and implement the directives of the Summit for a single negotiating body.

The East African Community as a Customs Union must now have a framework for co-operation with other trading blocs. To do this, EAC should speak with one voice on trade issues. This will in no doubt increase EAC's bargaining power if it exhibits cohesiveness and adopts common positions at the international stage.

There is also need to pool scarce financial and human resources available and scattered within the Partner States. The scarce analytical and negotiating capacities in the Ministries of Trade of Partner States are overstretched due to ongoing parallel negotiations at regional, bilateral and multilateral levels.

Joint negotiations will undoubtedly enable the Partner States to pool their financial and human resources efficiently and cost effectively and help build a strong pool of analytical and negotiation capacity in the region.

Finally, paragraph 37 (3.b) of the Protocol establishing the Customs Union permits the formulation of a mechanism to guide the relationships between the Customs Union and other integration blocs, multilateral and international organizations. Formation of a joint negotiation body is a step towards the implementation of this provision.

Consideration of the Bill by the Committee

The Committee having received and initially considered the Bill realized that there was need to seek expert advice for purposes of enriching the law. Accordingly, the Committee, with the assistance and facilitation of Friedrich Ebert Stiftung, Nairobi, commissioned a team of three experts; one from each Partner State, to study the practice elsewhere and recommend the best way forward these joint negotiations could be done in the context of EAC. Two workshops were then held in Naivasha and Arusha at which the final text was agreed upon by the Committee. This final text is fundamentally more detailed compared to the original Bill, and I wish to highlight the new and major recommendations by the Committee.

Establishment of a Commission:

Mr. Speaker, Sir, the Committee proposes that a Commission known as the East African Joint Trade Negotiations Commission should be established and given the mandate to negotiate on behalf of EAC. It is proposed that this Commission should consist of the Ministers responsible for East African Community Affairs as well as those responsible for Trade; and nine other Members, three from each Partner State who are persons

qualified in International Economics, Law, Trade or Policy.

The Committee further proposes that his Commission should be serviced by a Directorate of Trade Negotiations which shall be responsible for the day to day operations of the Commission. The Director General and other staff of this Directorate shall be employees of EAC with its head office in Arusha. However, it is recommended that the Commission should establish Liaison Offices at the seats of regional and multilateral trade organizations.

The major functions of the Commission shall be to conduct external trade related negotiations on regional and multilateral levels on behalf of the Partner States and to harmonize national trade positions into common negotiating positions.

It is further proposed the Council should report at every meeting of the Assembly on the progress of negotiations, while the Commission should submit annual reports to the Assembly on their activities.

Negotiating Mandate of the Commission:

Mr. Speaker, Sir, the Committee proposes that the East African position on any issue for negotiation should be developed by the Commission from the national positions. Further, in order to maintain the independence of the Commission, the Committee proposes that the negotiating mandate of the Commission shall be derived from time to time from none other than the Summit and in writing.

Establishment of National Trade Negotiations Committees:

It was established that in the three Partner States, trade negotiations are carried out without any legal foundation. In Uganda, the negotiation frame work is currently done under the Inter Institutional Trade Committee (IITC), an administrative structure.

In Kenya, multilateral trade negotiations are conducted under the auspices of the Ministry of Trade and Planning; in Tanzania, the trade negotiations also follow an administrative pattern similar to that of Kenya and Uganda.

This current set up in Partner States is not only adhoc, but neither is the mandate of the Committees clear nor is the relationship between the various Ministries and other Stakeholders defined.

On the basis of the current weaknesses in the national structures, the Committee proposes a formal establishment of National Trade Negotiations Committees, whose mandate will be to prepare national positions on each issue for negotiation and submit them to the Commission for discussion, harmonization and formulation of a common position.

Budget of the Commission:

The Committee proposes that the Commission should be designated an institution of the Community whose budget shall be prepared and financed in accordance with the provisions of the Treaty relating to the budget and finances of the Community.

Appointment of First Commission:

For avoidance of doubt, the Committee recommends that on coming into force of the Act, the Summit should within ninety days appoint the first Members of the Commission.

Conclusion

The Committee wishes to record its appreciation to FES Nairobi for its acceptance to facilitate the work of the Committee up to this level. The Committee also sends its regard to all the Consultants who spared their time and found it worthwhile to respond to the call of the Assembly.

Finally, as you might have realized, the Committee has proposed a number of detailed amendments to this Bill. The original Bill had only four clauses, while the proposals from the Committee would lead to fifteen clauses.

We do not wish to legislate in a vacuum. It is important that other stakeholders are at all times on board with us. Since the original Bill was duly published in the Community gazette, the Committee recommends that before the Assembly concludes the process of enactment of this Bill into law, a reprinted version of the Bill incorporating these proposed amendments be gazetted for the sake of those who may wish to make their inputs. We also further propose that debate on the second reading of the Bill be deferred until then.

Mr. Speaker, Sir, reprinting of Bills is a standard practice in almost all legislatures whenever it is deemed administratively prudent and politically expedient.

Mr. Speaker, Sir, I beg to move.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Acting Speaker, Mr. Mabere Marando: Hon. Members, that marks the end of our business today. The House, is therefore, adjourned *sine die*.

House rose at 3.00 p.m.