

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th November, 1999

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 567

GOVERNMENT POSITION ON LANDMINES IN MOYALE

Dr. Ali asked the Minister of State, Office of the President:-

(a) whether he could give the Government's position on the land mines in Moyale;

(b) who planted the land mines; and,

(c) what action the Government has taken to make sure that this does not occur again.

Mr. Speaker: Anybody here from the Office of the President? Next Question, Mr. John Munyes!

Question No.658

PAYMENT OF COMPENSATION TO BENEFICIARIES OF MR. LOCHADA

Mr. Munyes asked the Minister of State, Office of the President:-

(a) whether he is aware that beneficiaries of the late Mr. Paul Lochada, a policeman who was killed by the Dongiro of Ethiopia at Kibish on 9th September, 1995, have not yet been paid benefits totalling to Kshs268,800 by the Kenya National Assurance Company, now under liquidation; and,

(b) whether he could inform the House when these beneficiaries will be paid the said benefits.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the benefits of Mr.

Lochada have not been paid by the Kenya National Assurance Company (KNAC) which is now under liquidation. However, the beneficiaries of this contribution should pursue the matter with the Official Receiver who was appointed to take over the affairs of the KNAC.

Mr. Munyes: Mr. Speaker, Sir, it was just yesterday when the Chair raised the issue of answers to Questions. An answer like this one, which comes when you have already asked the Question, does not allow a Member to prepare his supplementary questions. But, nevertheless, why has it taken so long for the Assistant Minister to take action on this tragic case, where six people were killed by foreigners inside this country when they had gone out on duty?

Mr. Speaker, Sir, two engineers were killed that day, but the Government did not take any action!

Mr. Speaker: Mr. Munyes, you have to be less wordy because of time.

Mr. Munyes: Yes, Mr. Speaker, Sir. My question is, what---

Mr. Speaker: Order! For the information of everybody---

Mr. Munyes: Why has it taken so long for the Ministry to pay these benefits?

Mr. Samoei: Mr. Speaker, Sir, our Ministry has nothing to do with payments that would have been made by the Kenya National Assurance Company. The Kenya National Assurance Company and the deceased entered into a private contract on insurance, and it is up to the beneficiaries of this contribution to follow-up this matter with the Official Receiver of the Kenya National Assurance Company. Unless they make a follow up, I think it will take a very long time before they get the benefits.

Mr. Sifuna: Mr. Speaker, Sir, arising from the Assistant Minister's reply, the policeman was a civil servant and Kenya National Assurance Company was a parastatal. Could the Assistant Minister assist the family of the deceased by

requesting the Government to pay the family members of the late Paul Lochada, so that the Government can sort out this matter with KNAC, since it is the same Government which owns the KNAC?

Mr. Samoei: Mr. Speaker, Sir, while that is true, though the KNAC was a parastatal, it had its own assets. As a result of contributions from the policies they held, they had assets which the Official Receiver is now liquidating for purposes of paying off the workers, including cases like this one. But I still want to inform the hon. Member concerned that the beneficiaries of the contributions made by the late Lochada will be paid, but that will be subject to the beneficiaries themselves following up this matter with the Official Receiver.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, on behalf of hon. Otieno Kajwang, I would like to inform the Chair that I have not received the written reply.

Question No.575

REGISTRATION OF ACCOUNTING FIRMS

Mr. Ochilo-Ayacko, on behalf of **Mr. Otieno Kajwang**, asked the Minister for Finance:-

- (a) how many non-Kenyans and firms by non-Kenyans are registered as practising accountants and accounting firms in Kenya;
- (b) whether he is aware that most of the corporate accounting work is done by firms owned by non-Kenyans, thereby depriving indigenous Kenyans of a chance to venture into lucrative corporate accounting work; and,
- (c) when he will bring a Bill to the House making accounting work an exclusive preserve of indigenous Kenya citizens.

Mr. Speaker: Mr. Marrirmoi, did you have any discussion with the Minister?

The Assistant Minister for Finance (Mr. Marrirmoi): Mr. Speaker, Sir, we did not have any discussion.

Mr. Speaker: I was asked that this Question be deferred to next week. What is your reaction, Mr. Ochilo-Ayacko?

Mr. Ochilo-Ayacko: That is all right, Mr. Speaker, Sir.

Mr. Speaker: Very well. The Question is deferred to Thursday next week.

(Question deferred)

Question No.632

REMOVAL OF DUTY ON WHEAT IMPORTS

Mr. Mwakiringo asked the Minister for Finance when he will consider removing duty on wheat imports to attract export market for the milled wheat products.

The Assistant Minister for Finance (Mr. Marrirmoi): Mr. Speaker, Sir, I beg to reply.

I am not contemplating removing duties on wheat because the bulk of wheat imports is targeted for the domestic market and not for export. For serious exporters, the Government has put in place various schemes which enable manufacturers to get their own materials free of duties without compromising the local producers.

Mr. Mwakiringo: Whether the wheat is for local consumption or for export, I asked about the milled products. Can the importers be assisted by reducing the duty to a minimal so that even the common mwananchi can be in a position to afford the local milled wheat flour?

Mr. Marrirmoi: Mr. Speaker, Sir, as I said initially, there are schemes which will always allow the millers if they intend to export. But for consumption purposes, I do not think there is any shortage of wheat as alleged by the Member.

Mr. Ngure: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister implying that the wheat for export is not for consumption, and only wheat for local market is for consumption?

Mr. Michuki: Mr. Speaker, Sir, could the Assistant Minister explain the philosophy behind imposition of duty, given that the wheat that is to be imported will be for consumption, because there is not sufficient wheat locally? Could he confirm that at a time like this, duty should be reduced in order to provide food for people who are going hungry in this country?

Mr. Marrirmoi: Mr. Speaker, Sir, I think there is plenty of wheat now because the harvesting is on.

Mr. Wamae: Mr. Speaker, Sir, the hon. Assistant Minister has said that there is plenty of wheat. Where is this plenty of wheat in this country?

Mr. Marrirmoi: Mr. Speaker, Sir, there is plenty of wheat in Western Kenya, particularly in Trans Nzoia, Uasin Gishu and also Narok.

Mr. Kapten: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell this House that there is a lot of wheat in Trans Nzoia when there is no single grain of wheat there? In fact, there was no wheat grown by farmers in Trans Nzoia this year.

Mr. Marrirmoi: Mr. Speaker, Sir, the hon. Member is aware. Does he remember farmers blocking the road? Where could he pass through Eldoret if that is the case?

(Laughter)

Mr. Mwakiringo: Mr. Speaker, Sir, it is common knowledge that there is not much wheat grown in Kenya. What is the Ministry doing to give farmers incentives so that they can grow wheat in plenty to satisfy the local consumption and, if possible, to attract the export of wheat from this country?

Mr. Marrirmoi: Mr. Speaker, Sir, part of the Question should be directed to the Ministry of Agriculture, but mine is to ensure that we impose duty. That is our concern as the Ministry of Finance.

Mr. Speaker: Mr. Marrirmoi, I do not think the Ministry of Agriculture ever imposes duty, it is you who does. So, you cannot escape that one; can you?

Mr. Marrirmoi: Thank you, Mr. Speaker, Sir. We are actually concerned about imposition of duty only, but not the total supply of wheat as such.

Mr. Speaker: Next Question, Mr. Khamasi!

Question No.590

COLLECTION OF LEVY BY KAKAMEGA
PROVINCIAL HOSPITAL

Mr. Khamasi asked the Minister for Health:-

(a) if he is aware that patients at Kakamega Provincial Hospital are being levied Kshs10 per child and Kshs20 per adult for services rendered; and,

(b) if he could inform the House how much money has been collected by the hospital since the levy was introduced and how it has been spent.

The Assistant Minister for Health (Mr. Mukangu): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Kakamega Provincial Hospital is levying Kshs10 per child. However, I am aware that the hospital is charging Kshs20 per adult as consultation fee.

(b) The Hospital has collected a total of Kshs146,644 since the levy was introduced in July, 1999. The money has been utilised in purchasing out-patient cards, nursing materials and general maintenance.

Mr. Khamasi: Mr. Speaker, Sir, it is unfortunate that the Assistant Minister does not know that this money is being charged. I would like to make him aware that the money is being charged. We would like him to know that while this money is charged, there are no receipts being issued. Now, that he is aware, is he going to do some investigations to find out why even minors are being charged Kshs10 for services being rendered by a provincial hospital?

Mr. Mukangu: Thank you, Mr. Speaker, Sir. I am aware that, previously, Kshs10 was being levied per child, but recently, the Ministry took up the issue and it was stopped forthwith. I am not aware if Kshs10 is still being collected. If that is going on, I promise to do some investigations.

Dr. Kulundu: Thank you, Mr. Speaker, Sir. What action is the Ministry taking to bring to book the former Hospital Superintendent who misappropriated nearly Kshs500,000 from this cost-sharing money?

Mr. Mukangu: Mr. Speaker, Sir, I am not aware that such a colossal sum of money was misappropriated.

Mr. Khamasi: Mr. Speaker, Sir, I think the Assistant Minister is not taking this Question very seriously because we are talking about a hospital where illegal levying of funds is continuing even as we are talking. It is only a couple of months ago when the Hospital Superintendent was caught red-handed collecting money for surgery fees and the Assistant Minister is denying this. What steps is he taking to make sure that this illegal levying of funds does not continue?

Mr. Mukangu: Mr. Speaker, Sir, as far as we are concerned, Kshs10 is no longer levied. However, if there are any illegal activities going on there, then we are going to take stern measures to rectify the situation.

Mr. Speaker: Very well. Next Question, Mr. Kibicho.

Question No.681

DEATH OF MS. NJERI WAMAI

Mr. Kibicho asked the Minister for Medical Services:-

- (a) if he could inform the House what caused the death of Mary Njeri Wamai on 28th April, 1999, at Nyeri Provincial Hospital; and,
- (b) what led to her transfer from Kerugoya District Hospital to Nyeri Provincial Hospital on the said date.

The Assistant Minister for Medical Services (Dr. Wako): Mr. Speaker, Sir, I beg to reply.

- (a) Mary Njeri Wamai died from excessive

[The Assistant Minister for Medical Services]

bleeding following a tooth extraction. .

(b) She was transferred from Kerugoya District Hospital to Nyeri Provincial General Hospital for further management of her condition.

Mr. Kibicho: What tests did the doctor carry out on her before the operation was carried out? What were the results of those tests?

Dr. Wako: Mr. Speaker, Sir, no test was done because Mary Njeri Wamai, aged 45, came to Kerugoya District Hospital on 26th April, 1999, accompanied by her mother. She complained of pain in the lower left quadrum(?). She was examined and had a three day accompanying bleeding. Therefore, a tooth extraction was recommended and a dental technologist extracted the tooth.

Dr. Kulundu: Mr. Speaker, Sir, the Assistant Minister, being a paramedical doctor, knows very well that there are certain basic tests that are carried out before an operation is undertaken. For example, was a bleeding test done on this lady before an operation was undertaken, to rule out the possibility of, maybe, leukaemia?

Dr. Wako: Mr. Speaker, Sir, I think the hon. Member is not getting it right. It was only a tooth extraction which was done. There was no operation which took place, so there was no need for blood examination. After the tooth extraction, the lady kept on bleeding. She went home and came back after two days, and the dentist examined her and he did the parking and switching. He had her admitted for observation.

Mr. Kibicho: Mr. Speaker, Sir, is it not true that the particular lady was treated by a person who was not a dentist? If she was treated by a dentist, could the Assistant Minister tell us the name of that dentist?

Dr. Wako: Mr. Speaker, Sir, the patient was treated by Mr. Augustine Wambugu, who is a dental technologist, because Dr. Hehama, who was the dentist, was on leave at that particular time.

Mr. Kibicho: So, what was the cause of the bleeding, Mr. Speaker, Sir?

Dr. Wako: Mr. Speaker, Sir, unfortunately, we do not know the real cause of the bleeding because no postmortem was done on the body of the deceased.

Mr. Speaker: Very well; let us go to Mr. Ndwiga's Question.

Question No.340

TARMACKING OF MUTUNDURI-
MANYATTA-KIANJOKOMA ROAD

Mr. Ndwiga is not here; we will come back to it. Next Question, Mr. Murungi.

Question No.159

MURDER OF MR. JOSPHAT NJERU

Mr. Murungi is also not here; we will come back to it. Next Question, Mr. Kihoro.

*Question No.630*ESTABLISHMENT OF CRIMINAL
INJURIES COMPENSATION SCHEME

Mr. Kihoro asked the Attorney-General when he is planning to set up a criminal injuries compensation scheme to compensate the increased number of Kenyans who have become victims of criminal violence.

Mr. Speaker: Is the Attorney-General here? He is not here; we will come back to it. Let us go to Dr. Ali's Question, for the second time.

*Question No.567*GOVERNMENT POSITION ON
LANDMINES IN MOYALE

Dr. Ali asked the Minister of State, Office of the President:-

(a) whether he could give the Government's position on the land mines in Moyale;

(b) who planted the land mines; and,

(c) what action the Government has taken to make sure that this does not occur again.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, first of all, I would like to apologise for not having been here to answer the Question when it was first asked.

Mr. Speaker, Sir, I beg to reply.

(a) The position of the Government is that there are no land mines in Moyale.

(b) Since there are no land mines in Moyale, parts (b) and (c) of this Question do not arise.

Dr. Ali: Mr. Speaker, Sir, I am surprised that the Minister, who is a lawyer, can give such a reply to this Question. I once said on record in this House that I had nowhere to go. He cannot say that there are no land mines in Moyale. A vehicle from Moyale, which was ferrying people to Korondile to drill boreholes, exploded in my constituency, and several people were injured.

Mr. Speaker: Could you put your question, Dr. Ali?

Dr. Ali: Mr. Speaker, Sir, I have to say this.

Mr. Speaker: Order, Dr. Ali! I am not opposed to your saying whatever you want to say, but you are supposed to ask him whether he is aware of the vehicle that was blown up by the land mines.

Dr. Ali: Mr. Speaker, Sir, is the Minister aware that a vehicle that was travelling from Moyale to Korondile exploded on the way, causing injuries to several people? Is he further aware that another vehicle belonging to the Ministry of Roads and Public Works, which was travelling from Moyale to Bute, was also blown up by land mines, causing the death of one of the Government officers?

Mr. Sunkuli: Mr. Speaker, Sir, I am aware that two vehicles were reported to have been hit by land mines between Oda and Bute, and between Nana and Gurar. I am further aware that on 8th May, 1999, a Government vehicle was hit at Godoma, between Nana and Gurar, and three civilians were injured. Also, on 12th May, 1999, a civilian lorry of TATA make, registration No. KAH 108C, was hit between Oda and Bute, during which four men and two women were injured. Following those incidents, the Kenya Armed Forces mounted an operation dubbed "Operation Fagia Barabara", covering all the entries into Moyale from Marsabit, Wajir and Mandera, to detect and demobilise the land mines in Moyale. The roads were found to have had no land mines. Therefore, they were declared mine-free, thus precipitating the end of the operation on 23rd June, 1999.

Mr. Shill: Mr. Speaker, it is now clear that the Minister is aware that there are land mines. Could he now tell us those who planted those land mines which exploded?

Mr. Sunkuli: Mr. Speaker, Sir, hon. Shill is twisting my answer. I said that, as we stand now, there are no land mines; that we investigated the incidents that occurred and found that they may have had something to do with some overflow from Ethiopia, which we rectified.

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. In his reply, the Minister said that two vehicles were hit by land mines. Is he in order to now deny having said that? Could he be clear on this?

Mr. Speaker: Mr. Kamolleh, I think the best approach is to ask him what hit the vehicles.

Mr. Kamolleh: Mr. Speaker, Sir, my English may not be correct; I am a Digo. However, we would like to know whether the Minister is in order to mislead this House.

Mr. Sunkuli: Mr. Speaker, Sir, we are talking about the situation as it is now, and not as it was then. After the military operation was conducted, no land mines were discovered.

Dr. Ali: On a point of order, Mr. Speaker, Sir. This Question was filed more than six months ago, and the Minister is talking of "this particular time". Is he in order to mislead us here when he knows that at the time I asked this Question, there were land mines in that area?

Mr. Speaker: What is there, Mr. Minister?

Mr. Sunkuli: Mr. Speaker, Sir, from my answer, it is very clear that there must have been some land mines that hit those vehicles. However, those land mines seem to have been the only ones in the area. We have since combed the area and found that there are no other land mines.

Mr. M.M. Galgalo: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that there was an overflow of land mines, when we know that land mines are placed on the ground by enemies? We know that the Chairman of the Inter-State Security Committee of Kenya and Ethiopia, the Provincial Commissioner, North Eastern Province, said that it was the Government of Ethiopia that had placed the land mines on our roads.

Mr. Sunkuli: Mr. Speaker, Sir, I did not say that it was an over-flow of mines; I meant that it was an overflow of the events that were taking place in Ethiopia. It is not the Government of Ethiopia that was probably to blame, but some events that were touching on the internal affairs of Ethiopia.

Mr. Speaker: The very last one, Dr. Ali.

Dr. Ali: Mr. Speaker, Sir, could the Minister tell us what he means by "overflow of events from Ethiopia"? He is the Minister in charge of internal security. So, whether those problems originated from Kenya or Ethiopia, he should tell us their causes. Could he tell us who planted the landmines?

Mr. Sunkuli: Mr. Speaker, Sir, I cannot give a conclusive answer, but I said that we place our blame on events that must have been taking place within our border with Ethiopia but which, mainly, touched on Ethiopia itself.

Mr. Speaker: Very well; Mr. Ndwiga's Question, for the second time.

Question No.340

TARMACKING OF MUTUNDURI-
MANYATTA-KIANJOKOMA ROAD

Mr. Ndwiga is not here. The Question is dropped.

(Question dropped)

Let us go to Mr. Murungi's Question, for the second time.

Mr. Murungi: Mr. Speaker, Sir, before I ask my Question, I would like to apologise for coming late.

Question No.159

MURDER OF MR. JOSPHAT NJERU

Mr. Murungi asked the Attorney-General:-

- (a) what circumstances led to the murder of Josphat Njeru at Igandene Market, Abogeta Location, South Imenti; and,
- (b) why his killers have not been arrested to date.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I would also like to apologise for coming late. I thought that the Questions that are to be answered by the Attorney-General always come last. So, I always think that I have enough time to come here.

(Laughter)

Mr. Speaker: Order! Order! Mr. Attorney-General, that is not a good enough excuse. Parliament starts at 2.30 p.m., and as an hon. Member of Parliament, you should be here in time and not just wait to come and answer Questions. So, you are obligated to come here early. In any case, what would happen if everybody else thought like you?

(Laughter)

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I take your point. It is only that I always assume that the prior Questions will be asked first; that hon. Members and everybody will turn up on time and, therefore, my time will come at around 3.00 p.m. That is obviously not the case.

Mr. Speaker, Sir, I beg to reply.

(a) On 21st September, 1998, at around 11.30 p.m; the deceased, Mr. Josphat Njeru Njagi, left his place of residence and proceeded to Igandene Market, Abogeta Location, South Imenti Constituency. On the way to the shop, he was attacked by unknown persons and the next day, on 22nd September, 1998, his body was found at a coffee plantation with a deep cut on the head.

(b) The matter was reported to the police who visited the scene and removed the body to the mortuary. Investigations commenced and up to this time, no arrest has been made. The case is still pending, under investigations.

Mr. Murungi: Thank you, Mr. Speaker, Sir. We are shocked at the inefficiency of the police and the office of the Attorney-General in investigating this matter. It is one year since these investigations began. Could the Attorney-General tell this House the steps which have been taken so far? He should tell us whether any suspect has been arrested and questioned, and the progress whoever is conducting the investigations has made to date.

Mr. Wako: Mr. Speaker, Sir, as the shadow Attorney-General well knows, the Attorney-General is not charged with the responsibility of carrying out investigations. The responsibility of investigations under our Constitution and the Police Act, lies with the police. Mine is to direct investigations, which is always done. Apart from a few statements that I have here, not very much has been achieved by way of getting the culprits. I have got the file here, and if the hon. Member of Parliament wants to have a look at it and, maybe, give us some more information which can lead to the culprits being arrested, I will only be too pleased.

Mr. Murungi: Mr. Speaker, Sir, the killers of Josphat Njeru Njagi are well known by the villagers of Igandene Market. We have information that these culprits hide in a cave at the bank of Iraru River, which is not far from this market. They are seen at night, but hide in this cave during the day. Could the Attorney-General confirm to this House that he will direct the police to comb the caves around Iraru River, to make sure that these suspects are arrested?

Mr. Wako: Mr. Speaker, Sir, that shall be done, but the hon. Member should also be available to direct and lead the police to the caves in question, in the wee hours of the night.

Mr. Ndilinge: Mr. Speaker, Sir, if the Attorney-General is intending to do anything, it should be done between now and tomorrow morning. This is because if these thugs read tomorrow's newspapers, they will escape from those caves. So, that should be done between now and tomorrow.

Mr. Wako: Mr. Speaker, Sir, I do not know whether the hon. Member is ready to proceed tonight.

Mr. Speaker: On a serious note, Mr. Attorney-General, do you really need an hon. Member to guide the police to a known cave?

Mr. Wako: Mr. Speaker, Sir, I come from an area where we have no caves, but there might be so many caves in that area that it might require the one who has the knowledge to direct the police to a particular cave. When the hon. Member was asking this Question, he appeared to have that knowledge.

Mr. Murungi: Mr. Speaker, Sir, we are dealing with a very serious issue; the chairman of a market was killed by known people. Surely, the Attorney-General, who is paid to ensure that proper investigations are done, should not ask an hon. Member of Parliament to go and do the investigations. If the Attorney-General is unable to do this job, I am ready to take over and direct the police to do it.

An. hon. Member: Take the job!

Mr. Murungi: Mr. Speaker, Sir, could the Attorney-General direct the police to go and comb those caves tonight because they are about three in number, and the river is not very far?

Mr. Wako: Mr. Speaker, Sir, the hon. Member will wait for a very long time, indeed, before he can take over my job. When that time comes, he can do the work in the best way he deems fit. Directions will be given if the hon. Member Parliament, as a loyal and good citizen of this country, can give assistance to the police.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. You heard the hon. Attorney-General saying that this hon. Member has got a very long time to wait before he can take over from him, while he knows very well that the President could wake up tomorrow and decide to appoint him! Is he in order to say that?

Mr. Speaker: Order! Dr. Ochuodho, please, be serious! You are distracting us from a very serious issue by bringing a very petty comment.

What were you saying, Mr. Wako? Have you finished?

Mr. Wako: Mr. Speaker, Sir, that was only a comment. I always assume that hon. Members of Parliament know the provisions of the Constitution of the Republic of Kenya.

Mr. Murungi: On a point of order, Mr. Speaker, Sir. The Attorney-General has answered Dr. Ochuodho's intervention, but he did not answer my question. The question was: Will he now order the police to visit the caves along River Iraru and ensure that there are no suspects there?

Mr. Wako: Mr. Speaker, Sir, I think the HANSARD Report will testify that I have already answered that question.

Mr. Speaker: Very well. Hon. Kihoro's Question, for the second time!

Question No.630

ESTABLISHMENT OF CRIMINAL
INJURIES COMPENSATION SCHEME

Mr. Kihoro asked the Attorney-General whether he is planning to set up a criminal injuries compensation scheme to compensate the increasing number of Kenyans who have become victims of criminal violence.

The Attorney-General: Mr. Speaker, Sir, again, I apologise for coming late. I beg to reply.

There are currently no plans to set up a criminal injuries compensation scheme to compensate Kenyans who are victims of criminal violence. However, under the Criminal Law Reform Programme, consideration is being given to making it easier under our criminal justice system for victims to get compensation from those convicted of crime, or from the State where there has been a miscarriage of justice.

Mr. Kihoro: Mr. Speaker, Sir, I did not quite hear the answer. This is because the Attorney-General coughed many times and that distracted my attention to that Question, which is very important. However, I will attempt to "answer" him, that the first duty of a Government---

Mr. Speaker: Order! Mr. Kihoro, you do not "answer" him. Ask him a question.

Mr. Kihoro: Mr. Speaker, Sir, I do not want to ask the Question again, but I want to respond to what I could have heard.

Mr. Speaker: No! No! You cannot respond! Ask him the question!

Mr. Kihoro: Mr. Speaker, Sir, I did not get that answer. I thought he gave the answer. I am just responding to what he said.

Mr. Speaker: Order, Mr. Kihoro! Maybe, you did not understand what he said and you would have been perfectly in order to ask that he repeats his answer so that you can question him. If you did not follow what he said, maybe, another Member will have followed and after one question, you may rise to ask a question. However, if you want him to repeat his answer, I am prepared to give you that chance so that you can ask him a question.

Mr. Kihoro: Mr. Speaker, Sir, I think he should repeat the answer he has given.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I will obligingly repeat the answer that I gave because sometimes he writes very good articles in the *People* newspaper.

Mr. Speaker, Sir, I beg to reply.

There are currently no plans to set up a criminal injuries compensation scheme to compensate Kenyans who are victims of criminal violence. However, under the Criminal Law Reform programme, consideration is being given to making it easier under the criminal justice system for victims to get compensation from those convicted of crime, or from the State where there has been a miscarriage of justice.

Mr. Kihoro: Mr. Speaker, Sir, I would like to know if the Government is renegeing on its first duty to Kenyans in this country. The first duty of the Government is to keep law and order. The question refers to those people who become victims because of failure by the Government to keep law and order. Many people have been murdered and many have suffered injuries---

Mr. Speaker: Order, Mr. Kihoro! I warned yesterday, and today again, that Question Time will end at 3.30 p.m. May I refer you to the Standing Orders: "Questions shall not be the pretext of a debate." So, ask your question precisely so that we can get into other things.

Mr. Kihoro: Mr. Speaker, Sir, I want to find out from the Attorney-General if the Government is renegeing on its first duty to Kenyans by failing to set up this compensation scheme.

Mr. Speaker, Sir, the answer that he has given leaves out the victims, some of whom have been maimed for

life. They should be given a chance to seek redress.

Mr. Wako: Mr. Speaker, Sir, I think the answer I have given is consistent with the Government's obligation to maintain law and order. It is also consistent with the international obligations to which Kenya has freely entered into.

Mrs. Seii: Mr. Speaker, Sir, can the Attorney-General tell us what happens to victims who cannot be compensated by those who have been convicted of the crime? The perpetrators of these crimes may happen to be very poor people and all that will happen to them is to be imprisoned, whereas the victims have been maimed for the rest of their lives. There should be some compensation from the Government.

Mr. Wako: Mr. Speaker, Sir, the Government cannot take the responsibility for the criminal activities of its citizens. It is unfortunate that in the situation which the hon. Member has said, it is a question of hard luck. For example, the Government cannot be held responsible if a person maims another one and thereby committing the offence of assault, causing grievous harm.

Raila: Mr. Speaker, Sir, this is a very serious matter. I have in mind that lady in Kibera who lost all her limbs at the hands of a criminal who was killed by the mob thereafter. Who will compensate her? If the Government is not willing to set up a scheme to compensate these people, whom does the Government throw this responsibility to because there are so many of such cases right now?

Mr. Wako: As I said in my reply, currently, there are no plans. All these matters are being considered. In the meantime, the Member of Parliament for the area can come to the assistance of that lady.

QUESTIONS BY PRIVATE NOTICE

MISUSE OF FIREARMS BY POLICE OFFICERS

Mr. Shitanda: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that a police constable attached to Kabras Police Station threatened to shoot patrons at a bar in Malava Town on 28th October, 1999, and 6th November, 1999?

(b) Is he further aware that two other police officers from the same station disappeared with their official firearms and were discovered after three days in a *chang'aa* den?

(c) What urgent steps is the Minister taking to arrest this dangerous trend?

Mr. Speaker, Sir, I wish to point out that I have not been supplied with a written reply to this Question.

Mr. Speaker: Mr. Minister, where is the answer?

The Assistant Minister, Office of the President (Mr. Samoei): I want to apologise if the answer to this Question has not reached the hon. Member.

However, I wish to reply.

(a) I am aware that a drunk police constable accidentally dropped a pistol in a bar as his colleagues were removing him from the premises after he engaged in unbecoming behaviour. There is no evidence to show that he threatened to shoot anybody.

(b) I am also aware that on 31st October, 1999, a police constable from the same station who had gone missing the previous day was found drunk in a *chang'aa* den. Disciplinary action has already been taken against both police constables.

Mr. Shitanda: Mr. Speaker, Sir, there is a tendency by policemen from this particular police station to go out with firearms, harassing innocent people. Some of them have even been suspected of being involved in criminal activities. Could the Assistant Minister tell this House under what circumstances a policeman who is off-duty could go out with a firearm to a social place and threaten to shoot innocent wananchi?

Mr. Samoei: Mr. Speaker, Sir, while I do not agree with the hon. Member that in this particular incident, any police officer threatened to shoot anybody, I do agree with him on the other matters. We are taking disciplinary action against

officers who engage in unbecoming behaviour. However, there are rules governing the use of firearms. While not on duty, policemen are not supposed to carry firearms, but in this incident, these particular policemen were on duty.

Dr. Kituyi: Mr. Speaker, Sir, over the past half-year, police officers involved in outrageous criminal behaviour in Western Province have only received a punishment of being transferred to some other place. We have the case of Bungoma District where, for example, police officers who killed youths arrested during the matatu strikes were transferred to Kimilili Town. There was the case where a police officer who was found drinking while carrying a gun in Vihiga was transferred to Bungoma District. Can we get an assurance from the Assistant Minister that punitive

action by the Government against police officers who breach their code of conduct should not be a transfer to another place, but they should either be sacked from the post or face suspension?

Mr. Samoei: Mr. Speaker, Sir, I could not agree more with the hon. Member.

DELAYED COMPENSATION PAYMENT
TO BOMB BLAST VICTIM

Mr. Anyona: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that Ezra Nyamweya (ID.No.7290009) of P.O Box 577, Kisii, was a victim of the Nairobi Bomb Blast of 7th August, 1998, and was treated at the Nairobi South "B" Nursing Home?

(b) Is he further aware that the victim completed compensation forms (Registration No.4148) but was not paid any money by the Disaster Fund Committee?

(c) What action is the Minister taking to ensure that the victim is paid without further delay?

The Assistant Minister, Office of the President (Mr. Kochalle): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Ezra Nyamweya (ID.No.7290009) of P.O Box 577, Kisii, was a victim of the Nairobi Bomb Blast of 7th August, 1998.

(b) I am aware that he completed application form No.4159 and not No.4184.

(c) The forms of the applicant could not be considered by the committee because he did not attach the specific medical certificates which are required to be completed by a registered medical practitioner to support the application. Since the committee has wound up and handed over its report, this case should be treated as a closed chapter.

Mr. Anyona: Mr. Speaker, Sir, I have a letter from this particular Kenyan. There may be a mix up in the number on the application form. I can check that in the letter. But the Assistant Minister, in his answer to part (a), says he is not aware that this man was a victim of bomb blast. He also acknowledges that he filled the compensation forms but the problem is the number. What efforts did the Assistant Minister make to get in touch with this person in order for him to fill the correct forms? Was there any effort which was made, or this was a cover-up so that some people could steal this money?

Mr. Kochalle: Mr. Speaker, Sir, the only thing which I am aware of is that this man completed an application form, No.4159 and not No.4148. But we are not aware of him being a bomb blast victim. We are only aware that he went to hospital.

Mr. Anyona: Mr. Speaker, Sir, a Kenyan, right from a remote village in Kitutu Masaba, cannot come and claim false money in Nairobi. I thought the country was very sympathetic to people who suffered under this tragedy. Would the Ministry get this particular person to complete whatever medical records are required, since the forms are there, and get him paid some *ex gratia* money to express that sympathy?

Mr. Kochalle: Mr. Speaker, Sir, we really wanted to help this victim, but as the secretariat which handled this matter, we have seen that so many people have forged application forms and we do not know whether this man was a bomb blast victim. We have a figure of Kshs300,000---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I do not know why the Assistant Minister is talking about forgery. I have asked him a very simple question. This person is a bomb blast victim and he has completed the necessary forms. The only form you claim was not there was the certificate. If we can get that certificate completed, because the record is there, will this Government consider---

Mr. Speaker: Order, Mr. Anyona! I think you should have heard him because he also has a valid point, that there are people who may not have been victims of the bomb blast and could easily do that. You know, we do not live in a land of angels. Mr. Kochalle, would you like to say anything about that?

Mr. Kochalle: Mr. Speaker, Sir, as I have said, the secretariat received a large number of late forms, especially for minor injuries, some of which were fake. For instance, a person submitted a forged application form and was paid Kshs300,000 during the first instalment. However, this was discovered and appropriate action was taken. That is why I am saying that we are not aware of this victim.

PRESIDENT'S STATE VISIT TO
BRITAIN/GERMANY

(Mr. Gatabaki) to ask the Minister for Foreign Affairs and International Co-operation:-

(a) Why was the Kenyan Head of State not received by the German Chancellor and the British Prime

Minister during his recent state visit to Germany and Britain?

(b) Were prior arrangements made between the Kenyan Authorities on one hand, and the German and British Authorities on the other regarding the visit?

(c) Was the delegation received by the Heads of State in the other countries visited?

Mr. Speaker: Mr. Gatabaki is not here? That Question is dropped.

(Question dropped)

PURCHASE OF AIR BUS BY KENYA AIRWAYS

Mr. Kariuki: Mr. Speaker, Sir, I beg to ask the Minister for Information, Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that Kenya Airways recently purchased an Air Bus 737-300?

(b) Why did the company purchase a plane whose model is ten years old?

The Assistant Minister for Information, Transport and Communications (Mr. Lengees): Mr. Speaker, Sir, I beg to reply.

(a) The recently purchased aircraft, Boeing B737-300, is manufactured by an American Boeing Company and not by Air Bus which is a European consortium.

(b) The Boeing B737-300 aircraft was a brand new aircraft, delivered directly from the Boeing Company in Seattle, USA. The aircraft model has nothing to do with age. Over the last two-and-half years, Kenya Airways has taken deliveries of four Boeing B737 aircraft. They are some of the most modern fleets in the continent.

Mr. Kariuki: Mr. Speaker, Sir, the answer that I got from the Assistant Minister is most unsatisfactory. There are six other models that had come to the market prior to models B737-300. The current Boeing is B737-800. So, they have skipped models 400, 500, 600 and 700. They are dumping the old models in Africa. I would like to know from the Assistant Minister what he means by purchase because Kenya Airways has got only three aircraft. The other seven are leased. So, they have not "purchased" but "leased" them.

Mr. Speaker: Very well, Mr. Kariuki. You are taking a lot of time and yet I still have Mr. Wambua's Question.

Mr. Kariuki: Mr. Speaker, Sir, this is a very important Question---

Mr. Speaker: Order, Mr. Kariuki! All Questions are important and the business of the House is also important. You can see the list of the business which we have to go through. Mr. Lengees, you are being asked by the hon. Member, why the old model and not the new one.

Mr. Lengees: Mr. Speaker, Sir, I am not aware that there is an old model that is being purchased by the Kenya Airways. At the moment, Kenya Airways has new planes.

Dr. Kituyi: Mr. Speaker, Sir, if the Assistant Minister is not aware of the critical matter at the heart of the Question, which is the fact that Boeing 737-300 series is ten years old, then he cannot answer questions about these other models!

Mr. Speaker: Dr. Kituyi, why do you not ask him who ought to know? Mr. Lengees, who should know if you do not know?

Mr. Lengees: Mr. Speaker, Sir, perhaps, Boeing 737-300 is the most successful commercial airline---

Dr. Kituyi: Mr. Speaker, Sir, the issue is not what is the most successful airline. The issue here is that for the past ten years, the Boeing Corporation has not manufactured Boeing 737-300 series. They have gone through the 400, 500, 600 and 700 series, and now they are in the 800 series. But the Assistant Minister does not seem to know. Could he tell us who is supposed to know?

Mr. Lengees: Mr. Speaker, Sir, I do not have that information at the moment.

Mr. Speaker: Mr. Lengees, would you like me to give you more time to go and find out?

Mr. Lengees: Mr. Speaker, Sir, I need more time so that I can report back to the House by next week.

Mr. Speaker: I will then defer that Question.

(Question deferred)

Next Question, Mr. Wambua!

Mr. Wambua: Mr. Speaker, Sir, before I ask the Question, I would like to inform the Assistant Minister that I have not received a written reply.

ILLEGAL ERECTION OF BARRIER
BY MATUU TOWN COUNCIL

Mr. Wambua: Mr. Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that Matuu Town Council has erected an illegal road barrier along the Thika-Garissa Road without the authority of the Machakos DDC and the Ministry's approval?

(b) Is he further aware that all vehicles using the road have to pay toll charges and that the local populace is opposed to the charges as it is tantamount to taxing the already over burdened taxpayers?

(c) Could the Minister order the removal of the said barrier?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Speaker, Sir, I am sorry that the hon. Member has not received the answer, but it was sent this morning to Parliament by the Ministry. However, I beg to reply.

(a) I am aware of the existence of the road barrier along the Thika-Garissa Road, which was erected without authority.

(b) The collection of charges is the sole responsibility of the Matuu Town Council and not the Ministry of Roads and Public works.

(c) I have instructed the Chief Engineer of Roads to ensure that all illegal barriers, and in particular the one referred to above, are removed immediately.

Mr. Wambua: Mr. Speaker, Sir, although I have not received the answer, I would like to thank the Assistant Minister for giving those instructions. Could he assure this House that when I pass there this evening, or tomorrow morning, I will not find this barrier?

Eng. Rotich: Mr. Speaker, Sir, I can assure the House that if hon. Wambua finds it this evening, we shall take action, if he lets us know.

Mr. Katuku: Mr. Speaker, Sir, the issue of illegal barriers is very common in Machakos, and as I am told even in other provinces. For example, between Machakos Town and my constituency, I pass through a barrier, and recently there was a very bad argument there. Could the Assistant Minister undertake to ensure that they are all removed throughout the country because they are causing danger to motorists? This is because according to the Act, there are only a few which are gazetted.

Mr. Wambua: They are charging an illegal taxation!

Eng. Rotich: Mr. Speaker, Sir, part (c) of my answer says that the Chief Engineer of Roads has been instructed to ensure that all illegal barriers are removed, unless they are authorised by the Government.

Mr. Speaker: Very well, time is up for Question Time! Next Order!

(Mr. Kiunjuri stood up in his place)

Mr. Kiunjuri, I do not remember you consulting the Chair to be given time to raise a point of order. What is it?

Mr. Kiunjuri: Mr. Speaker, Sir, Mr. Gatabaki called me, five minutes ago, and requested you to defer his Question by Private Notice. He is tied up somewhere.

Mr. Speaker: Which Question?

Mr. Kiunjuri: Mr. Speaker, Sir, it is Question No.3 by Private Notice.

Mr. Speaker: Order! Hon. Kiunjuri, that Question is dropped, and you know it.

POINTS OF ORDER

NON-PAYMENT OF MONEY TO
THIKA CLOTH MILLS WORKERS

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I wish to request the Minister for Labour to do some investigations on Thika Cloth Mills---

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Kiunjuri! We have already passed Question Time. So, do not drag us back to Question Time; we are totally on a different order.

Yes, Mr. Ndicho!

Mr. Ndicho: Mr. Speaker, Sir, I am seeking a Ministerial Statement from the Minister for Labour concerning the management of Thika Cloth Mills where the workers contributed money to their co-operative society for the last ten years, but when they apply for loans, the General Manager refuses to authorise its payment. And when he was threatened, he told the officials of the co-operative society to go wherever they thought they could go, but no money would be paid out to them. This money does not belong to the company; it is workers' money. So, I would like the Minister for Labour to carry out an investigation on this matter and report to this House why the money for the workers of Thika Cloth Mills is not being paid to them.

Mr. Speaker: Very well, is there anyone from the Ministry of Labour and Human Resource Development to respond to that? Yes, Dr. Ali.

THE STATUS OF KENYAN
REFUGEES IN ETHIOPIA

Dr. Ali: Mr. Speaker, Sir, some three weeks ago, I asked for a Ministerial Statement from the Office of the President concerning the issue of Kenyan refugees in Ethiopia. Later on, I was informed that, that was not their docket and the issue was supposed to be under the Ministry of Home Affairs, Heritage and Sports. Up-to-now, I have not got any answer, and my people are suffering there. Could the Minister concerned give us an answer? This is because I have even contacted both the Minister and his Assistant Minister.

Mr. Speaker: Very well, next order!

(Mr. Kiangoi stood up in his place)

Mr. Kiangoi, where were you? What is it?

MINISTERIAL STATEMENT

BUSINESS LICENSING REFORM PROGRAMME

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I wish to make a Ministerial Statement on a matter raised by hon. Gikonyo Muya. It was about business permits, which were originally part of the Question he asked in the House and it also came up when he requested for a Ministerial Statement. In 1997 Budget Speech, the Government announced new measures aimed at Business Licensing Reform Programme under which the Central Government would no longer collect revenue from its licensing activities under its Trade Licensing Act. The Business Licensing Reform Programme is aimed at achieving among other things, to deregulate the business sector so as to encourage greater economic growth and employment.

The Finance Bill of 1998/1999 introduced important amendments to the Local Government Act, Cap 265 to allow local authorities to reform their business licensing systems. Under these legal changes, all local authorities shall issue a single business permit upon payment of one fee as opposed to previous multiple licences. Multiple business licences are no longer permitted under the Local Government Act. Therefore, in December, 1998, the Minister for Local Government announced new policy guidelines to operationalise the Business Licensing Reform Programme as approved by Parliament through the 1998/1999 Finance Bill. Under these guidelines, the single business permit fee structure was rationalised and simplified to make it easier for the local authorities and business community to understand and comply. The fee structure was also restructured to increase the equity of the system. Thus, large and more profitable businesses will generally pay more than smaller and, therefore, less profitable businesses. To-date, 34 local authorities have successfully adopted the new single business permit system and all the remaining local authorities shall adopt the new permit system in January, 2000.

Mr. Speaker, Sir, contrary, therefore, to the common belief that it is the Minister for Local Government who approves the single business permit fees, the Minister does not approve specific charges for each local authority. What the Minister approved was a set of 16 yet consistent fees schedules. Under the new licensing system, every council will be responsible for choosing any one of these schedules as its single business permit fees structure based on such factors as the current fee structure, the level of local services, the revenue needs and the ability of the business communities to pay. Ultimately, therefore, it is the local councillors who would be responsible for the fee level structure chosen by their respective councils and not the Minister. Having explained the rationale of the policy behind the new business licensing reform, it is, therefore, clear that there is no way the Minister will have approved the licence fees for the Nairobi City Council for the year 2000. Just like other local authorities countrywide, it will be the sole responsibility of

the councils to choose which fee schedule to adopt. If the Council has already chosen a fee schedule for its single business permit for the year 2000, as required by law, then it may be assumed that whatever schedule it has adopted took into account the interest of the business community as is ultimately accountable to its residents.

*(A number of hon. Members
stood up in their places)*

Mr. Speaker: Who raised the issue?

Hon. Members: Mr. Gikonyo Muya!

Mr. Speaker: And Mr. Muya Muya is not there. Dr. Murungaru, I have to make a little clarification; this is not Question Time.

Dr. Murungaru: Yes, Mr. Speaker, Sir. Just a small clarification. The Assistant Minister has indicated that it is the local authorities have got the full liberty choose which tariff or schedule to use. In the event that members of the business community in those local authorities areas are dissatisfied with the tariff that has been chosen by a certain local authority, what recourse do they have?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, the local authorities indeed, are supposed to take the interests and the views of their residents when choosing the fees schedule.

Mr. Murathe: Mr. Speaker, Sir, it is the practice in the Local Authorities, that Coffee farmers pay cess, yet local authorities also levy business licences for people who own coffee factories. Under what law are the local authorities asking coffee farmers who are paying coffee cess under the Coffee Act, to pay business licences for the pulping factories that they are running?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, the councillors in the local authorities are elected by residents. They are supposed to be sensitive to residents' views. In the schedules that have been given, there is no provision to license coffee factories.

Mr. Speaker: Next Order!

MOTION

ADOPTION OF REPORT ON DRAFT TREATY FOR ESTABLISHMENT OF EAST AFRICAN CO-OPERATION

Mr. Musila: Mr. Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Draft Treaty for the establishment of the East African Community, laid on the Table of the House on 22nd July, 1999.

Mr. Speaker, Sir, the people of East Africa, mainly, Kenya, Uganda and Tanzania have enjoyed very close historical, commercial, industrial, cultural and other ties for many years. Through a series of co-operative organizations forged during colonial times and immediately after Uhuru, the Treaty for the East African Co-operation establishing the former East African Community was entered into by the three States in 1967. Sadly, this Treaty was officially dissolved, ten years later, in 1977. The main reasons which contributed to the collapse and eventual dissolution of the former East African Community were: Lack of strong political will, strong participation of the private sector and civil society in co-operation activities, disproportionate sharing of benefits of the Community among partner States, due to their differences in their level of development and lack of adequate policies to address this situation.

Mr. Speaker, Sir, after the collapse of the East African Community, our leaders continued searching for ways of re-establishing the Community. On 30th November, 1993, a provision was made for the establishment of a Permanent Tripartite Commission, which was followed by the establishment of a Secretariat, a year, later. Since this period, the three Heads of State have made various moves to achieve co-operation, as set out in the East African Co-operation Development Strategy for the period 1997 to 2000.

On behalf of my Committee, I wish to pay tribute to the three Heads of State; their Excellencies, Museveni of Uganda, Mkapa of Tanzania and Moi of Kenya, for their bold action in resolving to re-establish the East African Community. As the longest serving President in this region, no doubt, President Moi has done the most, in spearheading these efforts.

Mr. Speaker, Sir, the world has become a global village, and all over the world, nations are coming together, to form, not only political, but economic blocks. Our three sister States cannot afford to continue living in isolation. My Committee, therefore, supports the re-establishment of the East African Community, because the people of the

three States stand to gain immensely, through, increased trade, tourism, free movement of people, infrastructure development and environmental protection, to name only a few.

Mr. Speaker, Sir, the Committee on Defence and Foreign Relations, started its deliberations on 23rd July, 1998, and immediately embarked on the task of examining the Draft Treaty. Since that time, the Committee has held a total of 45 sittings, during which time, hon. Members went through the Draft Treaty, article by article, at considerable detail, covering some 29 chapters, and 153 articles. The hon. Members of the Committee, of which I am privileged to be Chairman, are: Hon. Poghiso, hon. Leshore, hon. Kihara, hon. Mwenje, hon. Ngure, hon. Dr. Kituyi, hon. Muiruri, hon. Angwenyi, hon. Mrs. Kittony and hon. Mark Too. These hon. Members worked with a lot of dedication throughout the Committee's deliberations. I also wish to recognize the work of hon. Haji who chaired this Committee, initially, before he was appointed an Assistant Minister, Office of the President and hon. Hashim who was a Member of the Committee, until he was appointed an Assistant Minister.

Mr. Speaker, Sir, hon. Members will appreciate that Treaty making is a very tedious task. I, therefore, wish to inform the House, that since the Draft Treaty was laid on the Table of this House, and followed thereafter by my Committee's report and recommendations which were laid on the Table on 22nd July, 1999, negotiations have continued within the three partner States. Consequently, the Draft Treaty which was laid before the House has been revised severally, to the extent, that, the current Draft Treaty, which is presumed to be final, is the seventh. I am pleased to inform the House, that, approximately 90 per cent of the Committee's recommendations as contained in our report to this House, have already been taken on board the final Draft Treaty.

Mr. Speaker, Sir, I wish, therefore, at this juncture, to recognize the contribution of the following groups, whose reports assisted my Committee in its deliberations. First, the East African Co-operation meeting of Speakers of Kenya, Uganda and Tanzania, which was held at Arusha on 4th and 5th June, 1998.

(Loud consultations)

Mr. Speaker: Order! Order! I thought this is a very important document, and hon. Members must concentrate. We are getting into a new thing, called, the East African Co-operation. Could we listen? Proceed!

Mr. Musila: Mr. Speaker, Sir, I am sure hon. Members may wish to join me in congratulating our own Speaker, hon. Kaparo, who led the Kenyan delegation to these talks, and worked tirelessly to ensure that there is promotion and strengthening of Parliamentary democracy, here at home, in the African region and in other fora, like the Inter-Parliamentary units.

Mr. Speaker, Sir, we also benefitted from the proceedings of our workshop at the Kenya School of Monetary Studies, which was organised by the former Ministry of East African and Regional Co-operation, and which discussed the Treaty in detail and drew its participants from the private sector and the civil society

Mr. Speaker, Sir, there was a further meeting of Speakers, which was also held in Tanzania on 18th and 19th May, this year. The Committee received maximum co-operation from various Ministries, including the former Ministries of East African and Regional Co-operation and Trade and Office of the President in as far as matters relating to defence co-operation are concerned. The Committee is particularly grateful for the co-operation granted to it by the hon. N.K. Biwott, who appeared before the Committee, as many times as it was required, and even invited hon. Members of the Committee to accompany the Kenya delegation to Arusha last week on 19th November, 1999 to what may, or perhaps may not be, the final negotiations of the Treaty. On behalf of my Committee, I wish also to thank the hon. J.J Kamotho, the then Minister for Trade and the hon. Sunkuli, the Minister of State, Office of the President, who is in charge of defence, for their valuable contributions.

Before I touch on some specific chapters of the draft Treaty, I wish to urge the three states to reflect more on the past, and establish the weakness and the problems which faced the defunct East African Community, and ensure that these are adequately addressed. It is the view of the Committee that the three member states should pay particular attention to the universally accepted democratic ideals, and in particular, the need for democracy, good governance, observation of the rule of law, human rights, gender equality and social justice, if the community is to be a model for other regional groups. Similarly, there would be need to put in place adequate means of dealing with partner states which will unilaterally engage in actions which harm other members like engaging in unnecessary conflicts in the region, thereby jeopardising the security and economic well-being of member states.

Mr. Speaker, Sir, in brief, the people of East Africa must reason together, co-exist and combine their trade and economic wealth in the face of the current globalisation. This should not only be in trade, but also in politics. If we do not do this, I am afraid we may find ourselves establishing a mediation treaty to share the community assets and liabilities as soon as the Treaty is signed.

In this respect, I need to mention here that the Committee has continued to be apprehensive of Tanzania's due

participation in another economic block, namely Southern Africa Development Co-ordination Conference (SADCC), and the recent announcement of her intention to pull out of COMESA. While recognising the right of Tanzania to take such a decision, as a sovereign state, it is necessary to note that this action is likely to cause far reaching negative effects on Kenya's regional trade, particularly, with our COMESA member partners who are to the south of Tanzania, and may ultimately cause unnecessary mistrust among the partner states of the community.

Mr. Speaker, Sir, I have already stated that the draft Treaty, which was tabled in this House, has since been amended to incorporate proposals and suggestions from the three states, including those of this Committee. However, my Committee wishes to express its serious concern at Chapter 11 of the draft Treaty. This is on co-operation in trade liberalisation and development. While the original draft had advocated for the establishment of the common market and a customs union, and even went to the extent of providing provisions for reducing, and ultimately eliminating, internal tariff rates by the year 2000, the final draft of the Treaty has changed all this. It has now been re-written to provide for co-operation in trade liberalisation and development through protocol, which shall be concluded by the three states within four years of the signing of the Treaty. The Committee considered this period to be too long, considering that most of the details on the protocol for customs union have already been addressed by the Commission in past decisions.

Of even more concern to the Committee is lack of adequate saving clause to facilitate incorporating past decisions by the various organs of the members states. This concern is real as without an adequate saving clause, there will be a vacuum between the time the Treaty is signed and the period the various protocols are concluded. These are two areas which, in our view, must be addressed adequately prior to the signing of the Treaty. I wish to inform the House that my Committee has fully discussed these matters with the Minister for Tourism, Trade and Industry, the hon. Biwott.

Mr. Speaker, Sir, as you would recall, you led a delegation to Arusha on 4th June, 1998, where a meeting of Speakers and Parliamentarians from the three states fully discussed the draft Treaty on the establishment of the East African Legislative Assembly. The draft Treaty provides that Members of the Assembly shall be 27 in number, plus five ex-officio Members consisting of the Minister responsible for Regional Co-operation for each partner state, the Secretary-General and the Counsel of the community. The draft Treaty also provides for the election of the 27 Members of the assembly by each National Assembly. The Members elected shall represent, as much as it is feasible, the various political parties represented in the National Assembly. My Committee thinks that this is healthy. The number 27 may appear to be small, but bearing in mind the economic situation our sister states are facing, we think that this number could be increased gradually.

Mr. Speaker, Sir, of importance also is the establishment of the East African Court of Justice. The East African Court of Justice shall be a judicial body with a maximum of six judges which shall ensure the adherence to law. This court will initially have jurisdiction over the interpretation and application of the Treaty. Other jurisdictions will be determined by the council on a subsequent date after a protocol is concluded by the partner states on extended jurisdiction.

Other areas of co-operation covered by the Treaty include the following:-

- (i) co-operation in investment and industrial development;
- (ii) co-operation in standardisation, quality assurance, metrology and testing;
- (iii) co-operation in infrastructure and services;
- (iv) co-operation in the development of human resources, science and technology;
- (v) free movements of persons, labour, services, right of establishment and residence;
- (vi) co-operation in agriculture and food security;
- (vii) co-operation in employment and natural resources management;
- (viii) co-operation in tourism and wildlife management;
- (ix) co-operation in health, social and cultural activities;
- (x) enhancing the role of women in social-economic development;
- (xi) co-operation in political matters; and,
- (xii) co-operation by the private sector and the civil society.

Finally, I wish to draw the attention of the House to Article 152 of the draft Treaty. This Article provides for the ratification of the Treaty by Parliament within six months after it is signed. I also wish to draw the attention of hon. Members to Article 8(2), which provides for enactment and effective implementation of such legislation as it is necessary to give effect to the Treaty. This, therefore, means that this House will be given ample opportunity to debate the Treaty in details and enact various pieces of legislation as per Article 8(2).

I wish to state that subject to the concerns that I have expressed on behalf of my Committee on Chapter 11 on trade liberalisation and development, and particularly articles 75 and 142 of the draft Treaty, my Committee feels that the Treaty will be of immense benefit to the people of East Africa. It recommends that this House should support our President in his endeavour to put Kenya in partnership with other East African states to form an East African

Community. By doing so, this House will be sending a very clear signal to the international community that Kenya, along with other sister states, Uganda and Tanzania, are conscious of the economic realities prevailing in the world, and are ready to join forces as a community for the well-being and prosperity of their people.

Mr. Speaker, Sir, with your permission, may I ask Dr. Kituyi, who was a Member of the Committee, to second the Motion.

With those few remarks, I beg to move.

Dr. Kituyi: Thank you, Mr. Speaker, Sir, for according me the opportunity, to say a few things that I consider important, on this very important phenomenon to our national life.

I say it is an important phenomenon because, if the anticipated signing of the Treaty goes ahead as planned sometime next week, this Parliament will be asked to ratify a Treaty, which will surrender some of the sovereignty of this country. One of the provisions of this Treaty is that, legislation enacted in Arusha shall have overriding power over any contradictory legislation made in Nairobi. To that extent, it is extremely important that the representatives of the people, who are the persons feeling some of the authority as legislators for Kenya, pay due attention to this Treaty.

Mr. Speaker, Sir, I find a very interesting paradox in the two drafts. I find a couple of contradictions in the first draft that was presented before this House, on the basis of which our Committee prepared and tabled a Report to the House, and the latest draft of the East African Treaty. On one level, the first draft was much more driven by the desire of East African integration. It set out treaty-making as the process of removing the boundaries of commerce, and human, cultural, social, scientific and other interactions in East Africa. The latest draft represents a retreat from that earlier commitment.

On the other side, the earlier draft was much more limited in the vision of inclusiveness, particularly about civil societies, private sector and gender issues, than the latest draft. I think that represents the contradictory history of treaty-making of East African integration over the past one year. I will explain that as part of my main argument. When we started looking at this Treaty, we had a very rare privilege. The Kenya Government negotiating team looked at the draft report of our Committee. I am glad as a Member of that Committee to report that, close to three quarters of the recommendations contained in the report that was presented before the House, are already adopted in the version of the draft Treaty that has been signed by the Attorney-Generals of the three countries. To a large extent, what we will propose to the House as amendments to the Treaty is already adopted, and it is part of the current draft of the Treaty. This is important in three ways.

I think this is one of the more positive areas of co-operation, between agents of the Government, and the Committee of this Parliament. What was being prepared by Members of a Committee was taken seriously by the relevant arms of the Government, in its process of negotiating the treaty-making with the other partner countries. But like the Mover of this Motion mentioned, there are a number of very fundamental problems.

In the process of globalisation, one of the most important driving forces for the creation of regional entities, is the desire to reduce tariff and non-tariff barriers to trade. The creation of substantial regional common markets as a foundation to having a more relevant role in the global economy. Therefore, for Kenya, one of the most important reasons why we should be interested in the revival of the East African Community should be the opportunity for a market integration, free movement of goods and services between the three countries.

Unfortunately, while all the other areas of treaty-making were moving forward from the first draft which was circulated to Members of Parliament, the areas of trade moved backwards, to the extent that now, one finds a draft Treaty which is contradictory. I will give some examples.

In setting out the principles of the Treaty, Article 2 of the Treaty sets out the desire to have a common market, a custom union and then, a common market as critical transitory stages towards an East African political federation. This is one of the reasons why we are trying to create a treaty. Then, you go on, on how you will create structures for us to have an East African Community. Later on, you come to Articles 75 and 76. In the earlier draft which we had been dealing with, the main body of the Treaty is setting out agreements on how we will remove tariff barriers between us; how to enhance regional trade; how we will standardise instruments of commerce; how we will deal with specific measures on dumping and all that. Now, the latest version of the Treaty takes all these critical matters of common markets and customs union, out of the Treaty. For those regarding the customs union, there will be a protocol to be entered into by the Council, meaning by hon. Biwott and the other Ministers dealing with this matter, in a period of four years. During this period, they will agree on different components of customs union. On the matters of a common market, they just say there will be negotiations through protocol, through which there will be established a customs union. There is no time frame for the implementation of a customs union in the East African Community. What are we left with?

It may be very good for this country to enter into the East African Community. But we are getting a situation, like when the State of California negotiated with Japan, and agreed that all citrus fruits can be imported into California, so long as they do not include grapes, oranges, lemons and limes.

If you say the driving force in the preamble is in the operational principles of the East African Community, integration of trade and the creation of a common labour market, and then say: "Yes, we are building this except that we do not want to have trade integration and a common labour market", what have we created? There are a number of fundamental issues that Kenyan leaders have to start addressing. I think they are partly, one of the ways we can explain the back-tracking, particularly of Tanzania, on trade liberalisation between the three countries. Somewhere along the road, from the time of the establishment of the Tripartite Commission, the establishment of the East African Co-operation Headquarters, to the middle of 1999, a number of phenomena has watered down the spirit of integration, that had started firing us towards treaty-making. What are the fundamentals that have gone wrong? Can we successfully have an East African Community without addressing those fundamentals that have gone wrong? In the ultimate, I do not think that beyond the rhetoric and statements of goodwill, we can create an East African Community, unless we can win the goodwill of the leadership of other partner countries. This can be done by our good intentions and willingness to bend over backwards, and share the cost of removal of customs barriers between our countries. I think, we as politicians in this country, have not done half as well as we should, in creating an enabling environment to win back the trust of our partners in the East Africa Community, particularly, that of Tanzania, but also Uganda. Some of the examples I have mentioned before this House; Kenya has an industrial production capacity which is larger and more efficient than the capacity of Tanzania and Uganda put together.

Mr. Speaker, Sir, what this means is that, there is a genuineness in the anxieties of Uganda and Tanzania, that unless you have certain safeguard measures, if you just remove the tariff barriers between us, there will be a substantial loss of revenue which comes in the form of taxation of Kenyan manufactured exports to them. There is a substantial possibility of loss of employment by persons working in less efficient competitors with Kenyan manufacturers. How does the Government come in? There is a number of things; one of the first is: Why is it that the Kenya Government has never found it in the national interest, to pay primary attention to imports from Uganda and Tanzania, whenever we are importing a commodity that is available in those countries? The Kenya Government has a capacity to influence commerce in such a way, as to buy us goodwill. I will give some examples: Currently, there is substantial importation of maize and other cereals from outside this country. There will be very substantial importation, particularly when the national deficit is more clearly comprehended. Under normal circumstances, for a country which is driving up a multi-trade surplus with Uganda, one of the first things that, the Kenya Government would do is to import as much maize as Uganda is ready to sell us, through the Government of Uganda. What are we doing? We are looking the other way, while allowing traders to go to Malava, Busia and Chepkube to smuggle in cheap maize from Uganda and charge a very substantial price for it in Kenya. We have the National Cereals Produce Board (NCPB), why does the Government not channel its money through NCPB and officially approach the Government of Uganda, to purchase surplus maize and beans from them? It will not just be for the satisfaction of maize requirement in Kenya, but it will be such a fundamental statement, about the willingness of Kenya Government to partly reduce the trade deficit that is in its favour with Uganda. It will also be a positive statement with the politicians in Uganda; that, in the spirit of trying to get closer together as the East African Community, the leaders in Kenya have a vision that, what is good for Uganda, if it does not hurt Kenyans, may be good for them all.

Secondly, Mr. Speaker, Sir, we have a problem. Even if we have promised ourselves that there will be a signing of the protocol for the creation of a customs union and a common market between Kenya, Uganda and Tanzania, and so long as the United Peoples Republic of Tanzania goes ahead with it notified threats to withdraw from COMESA, it is not practical for Kenya to be in COMESA, with the tariff reductions when Tanzania will not be in it. If Tanzania will be in Southern Africa Development Co-ordination Conference (SADCC) with tariff reduction among community members, then Kenya and Tanzania cannot have a customs union. Basically, what this means is that, Tanzania will be the beach front for the landing of South African manufactured produce, to be dumped into the Kenyan market. South Africa investors manufacturing in Tanzania, because of SADCC regulations and tariff reductions, will have an easy foothold to destroy Kenyan industries. So, one of the critical issues that we have to deal with in the process of creating the East African Community, is how we can get Tanzania to retreat from its continued emotional obsession with Southern Africa and bring back its heart to where its body is; in Eastern Africa? If that cannot be dealt with, those protocols that have been promised can never be signed. If they are signed, then they can never be implemented.

Mr. Speaker, Sir, Article 151 of the first draft of the East African Community Treaty provided expressly that the Community will survive into perpetuity. That is, the East African Community established under this Treaty, will always be there. But now, the chilling wind comes and that provision disappears. Article 151 of the old Draft Treaty says:- "This Treaty shall have indefinite duration." Instead of a reinforcement of the perpetual continuity of the East African Community, the current draft which is about to be signed, provides for how individual countries can withdraw from the Community. In fact, this is a very strange Treaty that we are about to sign. They provide something they are calling "safeguard measures". But not just safeguard measures for the good of the individual countries. The safeguard

measures as provided in the current draft No.7 of the Treaty, virtually allow a country to renege on its obligations to the Community. I will just read an example here. This is article 78, page 62 of Draft No.7. It says:-

"In the event of serious injury occurring to the economy of a partner state, following the applications of the provisions of this chapter, the partner state concerned shall, after informing the council through the Secretary-General and other partner states, take necessarily safeguard measures."

Mr. Speaker, Sir, that means, if you have a case like Tanzania and Kenya, where they will agree to remove tariff barriers between them for free movement of goods between the two countries and they do so at the time when there has been a stock piling of industrial produce in Tanzania, you will massively export those goods back to Kenya. The main Kenyan industrial exports to Tanzania occur only in certain seasons; maybe, of shortfall in the domestic production in Tanzania. Tanzania can wait until it has accumulated its supplies through exports to Kenya and appeal to safeguard measures, to block the non-tariff exports of Kenyan manufacturers into its territory. So, the arbitrariness and the absence of condition to qualify what are minimum requirements before you take safeguard measures, gives a unilateral freedom to any country, to retreat from any of the critical provision of the Community. If you will not cause any systematic integration in the direction of East African Federation and you start erecting provisions that will allow member states to renege--- I will support that, this House eventually ratify the treaty for East African Community. But I will also support the following position; that, the process of treaty-making be retained as a dynamic to be continued even after the initial treaty. Some of the fundamentals that are to be addressed in that regard are: How do we cultivate goodwill between the people of these three countries? I have mentioned one; that is, the possibility of this country being better than it has been doing in regional trade.

Secondly, Mr. Speaker, Sir, we have to look into the cultural and social fields for some engine of integration of East Africa. I am thinking here, for example, why we do not consider the possibility of starting the East African Premium Soccer League. The three countries are too small to have any competitive leagues at home. Our economies are also too small to attract good soccer players to be retained as competitive engine for the development of soccer in East Africa. One of the possibilities to start gluing the people of East African together, is to actively work towards the establishment of the East African Premium League, with equal number of teams from the three countries to boost an area which today has the lowest standards of soccer in the whole of Africa.

Similarly, Mr. Speaker, Sir, Kenya is in the process of overhauling its education system. We have been sending teams to district levels to listen to Kenyans about what change they want in our educational curriculum. If we believe in the creation of the East African Community with a common market and we believe in the articles already provided for in this Treaty that we are looking forward to, then we must have integration and exchange programmes at different tertiary and university institutions among our countries. One of the most critical areas that Kenya should look into is that, before we publish any changes in our educational curriculum, we should try to harmonise that curriculum with Uganda and Tanzania. This country stands to be the potentially greatest beneficiary of harmonisation of education standards between Kenya, Uganda and Tanzania.

This is because, today we have more than a half of all the pre-university training institutions in East Africa. There are so many Kenyans who qualify very, very highly but cannot enter in public or private universities in this country because of the massive production at pre-university level. It is in our national interest to look for how to unbottle the opportunities that exist in the neighbourhood and, therefore, it would be in the interest of Kenya, more than any other country, to tie this national interest of finding educational opportunities at affordable prices together with the desire of harmonisation as part of integration of East Africa and to be in the driving seat for the return to common standards and examinations in East Africa. This will be of very immediate phenomenal advantage to Kenyans. Today, a Kenyan finishing form four must go to one of our universities for one-and-a-half years, pass examinations in the first year before being considered for admission to Makerere and Dar-es-Salaam universities or else they have to go to those countries and do "A" levels after finishing pre-university education here. That is an unnecessary cost and a complication particularly for many of the 8-4-4 kids who are leaving form four when they are still very young. Therefore, I think it will be in the interests of our country that one of the most important considerations in the changing of our education curriculum should be to oblige Tanzania and Uganda also to adopt some of the more positive things we have gained in our experience, but certainly harmonise and go back towards having common examinations in those countries.

Mr. Speaker, Sir, towards the end, there are a few things I had wanted to mention. One of the things promised in this Treaty is that there is going to be greater attention paid by the partner states to the private sector and civil society. Now, I just have a little problem with this point. In the definitions of civil society in Draft No. 7 on page 4, one of the considerations is that civil society is self-supporting and you know that in this society, at least the main groups which call themselves "civil society" are not self-supporting. They are almost as dependent on donor aid as the Kenya Government. However, that is not the main one. The more fundamental one is that, if we are committing ourselves to a principle that we envisage an East Africa with increasing prominent role in the de-evolution of democracy and social

equity being played by civil society, the actions of our Government must be seen to be in resonance with such a principle.

Today, when you mention civil society, it conjures certain "wolves" in the minds of some people in Government. They start seeing a huge Gibson Kamau Kuria and a huge Kivutha Kibwana and they see them as intimidating to the Government and there, their vision of civil society ends. The Government should be ready to embrace and listen to civil society. Some of the things they say are very silly, but quite a few of the things they say are very positive and this Government should be ready for a give-and-take situation in its own domestic jurisdiction. It should show that it is ready to cultivate a *new rapprochement* with the private sector, the civil society or the critical constituencies of the country. Otherwise, we cannot pretend that we are going to implement what we have committed ourselves to - in principle, a greater attention and transfer of responsibility to civil society and other members of the independent sectors in the emerging social and economic governance as part of the East African Community.

Mr. Speaker, Sir, there is a little matter that I am bit uncomfortable about. You see, the main driving force in this negotiations have been the Ministers, hereby called the council - the Ministers responsible for regional co-operation. The commission has been a domicile for negotiations, but the most critical work has been the docket of the Ministers, who constitute the council. Now, there are two problems I have here. If you look through all the drafts of the Treaty, there is overwhelming power that is vested in the council. Indeed, if you look at sectoral committees and other organs that are responsive to the wishes of the council, you can see that the council can be able to manage the affairs of the East African Community over the heads of the secretariat. If you look at other models of regional integration anywhere, in the initial phase, the goodwill that is required politically requires that political representatives from the member states are in the driving seat. However, normally you have a transition where the establishment of central institutions of those communities seize greater transfer of decision-making powers from politicians in the partner states to the organs of the Community.

I think we have to start looking at a stage where after cultivating relevant goodwill, the process of East African Community integration should entail very substantial creation of an efficient, competent and executive secretariat at the centre. This will be important in a number of ways. Already we are having problems of donors who are interested in assisting the Community, but they are not interested in assisting the individual countries like on the cross-border roads. Now, the process of creating a strong executive secretariat will entail the authority to enter contracts for financing of infrastructure that is cross-border. That way, you compensate for any deficit of goodwill between the Governments of the individual partner states and the potential donors for such investments.

Mr. Speaker, Sir, similarly, the establishment in perpetuity of a strong secretariat for the East African Community is one of the ways to shield us from the short-term political whims of politicians in the individual states. Today, the politicians may be talking together; tomorrow, they may be saying nasty things about each other. We have known that one of the principal players in the East African Community has a rather above average knack for military adventure. It is a matter that will complicate our relationship particularly if we have a common market and one of the countries unilaterally goes to war with a third party in a quarrel that we think did not deserve going to war. In a way, the taxpayers in our countries will be subsidising this military adventure. However, you see that is not the main point I want to say. I want to say that we know the frailty of individual politicians. When Nyerere could not see eye to eye with Idi Amin nor Kenyatta with Nyerere, the East African Community - the best structured regional integration anywhere in Africa - died.

If we are learning from the experience of the earlier community, we must be ready now to say: "We have to shield the "baby" that we are creating from the individual whims of the leaders in power at any one time". The only way to do that is to systematically move towards transferring the powers of deciding for the Community away from Ministers and Presidents of the individual countries to organs that belong truly to the Community.

(Applause)

Mr. Speaker, Sir, the other thing that I wanted to say about that is a very, very brief thing and then I can take my seat. There is a little ambiguity that I find in the provisions of this Treaty. This is what it states. On page 7, this Treaty defines who a Minister is for the purpose of this Treaty. Then on page 19, it defines the summit which is constituted by the Heads of State. Now, in the latest Draft, not in the first one, in the definition of a summit, there is a provision which states:

"If the Head of State of a partner state is not available to attend a summit meeting, he can appoint a Minister to attend that summit and for the purposes of that meeting, he shall have the power of a Head of State".

However, you see it excludes a Vice-President and this is what I find tricky. This is what the new provision in Draft No.7 has which is not in the original Treaty. It states: If a member of the summit - which means if one of the Presidents

of East Africa is unable to attend a meeting of the summit and it is not convenient to postpone the meeting, that member may, after consultation with other members of the summit, appoint a Minister of Government to attend the meeting. A Minister so appointed shall, for purposes of that meeting, have all the powers, duties and responsibilities of the member of the summit for whom that person is acting. He shall act President.

Mr. Speaker, Sir, I have a problem with this one, but thank God, the last draft removed it. But Sections five and six expressly say: "For the purposes of this Treaty, a Deputy Prime Minister and a Vice-President, are not Ministers". But even in the current definition of the term "Minister", if you are a Vice-President without portfolio or without the Ministry, you cannot qualify to be a Minister. For that purpose, you cannot represent the President in the Summit, if he is indisposed. You have a situation where a Minister sits in the Parliament of the East African Community because the Members of the Council, or the Ministers responsible for East African affairs, are ex-officio Members of the Parliament. That same Minister sits in the Council which approves business that is proposed to approve the Budget, which is actually the main daily running organ of the Community and then he comes back to represent his President as a Member of the Summit.

It is a bit anomalous! I thought that, when a Head of State, as a Member of the Summit is unable to attend the Summit the most natural person to represent him should be his principal deputy. The principal deputy of the President is the Vice-President. The Vice-President of Kenya is not a Minister!

An hon. Member: He is a Minister!

Dr. Kituyi: He is the Minister for what?

An hon. Member: Without portfolio!

Dr. Kituyi: He is not even called "Minister" of State or "Minister without portfolio".

The reality here is that, as this Treaty stands, the only way you can interpret is that, if President Moi cannot go to the Summit, hon. Biwott will represent him and have all the powers of the President.

An hon. Member: That is a coup; that is the intention?

Dr. Kituyi: So, this is one of those areas that I thought would have been dealt with slightly better than to provide for the Minister.

Finally, I wish to say that, as Parliamentarians, we are critical stakeholders in an orderly integration of East Africa. But, as Parliamentarians, we should also find avenues of cultivating a *rapprochement* that is reflecting between the political intelligentsia of Uganda and Tanzania, on the one hand and that of Kenya on the other hand. Particularly in Tanzania, the notion of Kenya, as the man-eat-man society still lingers. Many people buy the argument that, you will be eaten by the man-eat-man society or you embrace them without care. I think it is in the national interest of Kenya that we do what we can do to strengthen solidarity and reverse that order.

With those remarks, I beg to second.

(Question proposed)

Mr. Speaker: The debate is now open. Mr. Biwott, I do not know whether you want to contribute at this stage or at a later stage. Maybe, at a later stage when you have heard other Members' contributions.

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Thank you, Mr. Speaker, Sir. I stand to make some very brief contribution to support the Motion before the House. I naturally stand to support the Motion before the House.

At long last, it looks like we are set to conclude the process of negotiating issues on the road towards regional integration by the establishment of the East African Community. We look forward to the date of signing it within a few days' time. It is my hope and prayer that, there will be no hiccups which will develop in the remaining few days. The road this far between the partner States negotiating the Treaty to its current draft form, has not been an easy one and that should not be surprising. The world over, the European Union, in my view, is the best illustrator of this experience.

When countries are especially at different levels of development have fears, suspicions and cautions which are sometimes difficult to overcome--- I think this is why it has taken us this long. Secondly, some of the commitments made maybe far below the expectations, particularly, of businessmen and people in this country who feel that, perhaps, with the start of the East African Community, we should have a completely free market immediately. That, surely, will be the ideal thing. But it has to be understood that, all the partner States are not at the same level, each government at any one time wants to work out a regime which, in the perceived opinion of those in authority, will best protect its domestic interests. Those domestic interests include domestic political demands. This is why I think, it is better that we commit ourselves to the Treaty as it is now, with the minimal commitments, as some of the hon. Members have put it, and which are contained therein, in the hope that, once the Community is established, we can then be able to work on it towards perfection.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Poghiso) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, the peoples of the three East African States have much more in common than just common borders. Unlike most parts of this continent, on account of the old common administration by one colonial power, on account of the rudiments of regional integration, established in the form of the common service organisation during the colonial period itself. Also on account of what was once a very rich experience of regional integration in this continent; the old East African Community, we have a common psychological conditioning. Many of the elites in this country, Uganda and Tanzania, are people who went through, not only similar, but the same educational system, sat for the same exams, went through the same university and belonged to common East African professional society. It is really a pity that we lost the last two decades on account of ideological divergence between partner States, which accounted for the collapse of the Community, in 1977.

Mr. Temporary Deputy Speaker, Sir, a Treaty of this nature cannot be perfect at the outset. It can only be as good as those who have committed themselves to it, and believe it to be. Without doubt, as we go on, there will be from time, provisions which in actual practice, will be tested; perhaps, in practice within the organs of the Community, or for that matter, even in courts, and which will be refined to respond to the demands of the times.

I noted the comments which hon. Dr. Kituyi made about the definition of a "Minister". I would not be worried about that because I think the definition of a "Minister" in the Treaty itself, is quite clear. It is a Minister of the Government of that partner State, and any other person, entitled, however, who, in accordance with any law of that partner State acts or performs the functions of a Minister in that State. I do not think that it would be an issue between the three partner States; as to whether somebody who has been designated by the Head of State for a particular purpose of representing him at the Summit is a Minister or not. For this purpose of the definition, I think even an Assistant Minister, if the Government opts to do it that way, can attend the Summit. This, in any case, should be left to interpretation by those who will be faced with the situations as they arise.

Mr. Temporary Deputy Speaker, Sir, we have no option on the question of regional integration. We have no option in the sense that, time is not on our side. As a country and, indeed, as a region; in a continent which is being bedeviled on almost a weekly basis by new conflicts within societies and between countries; the best way forward, perhaps, is for us to pool resources and to get together in order to eliminate those borders which separate us where it is easy to do so and to build one economic union, with a view to greater political integration in future. I think this is the only way forward and, indeed, this is the idea behind the acceptance by the three Heads of States that, in principle, the States of Rwanda and Burundi who want to join the Community are welcome in principle.

I recall a comment by the late President Mwalimu Nyerere, in one of these sessions where he said: Perhaps, a larger community in which the Tutsis and the Hutus of Burundi and Rwanda will find themselves as just two of, perhaps, some of the large groups, but not the largest groups which will make it or help them to forget looking at each other, as if they were the only internal competitors, because they would be looking at themselves as just one among many. We know that there are other countries within this region who are already looking to the Community, not just Burundi and Rwanda. We know from further afield even the Horn of Africa, inquiries have been made very seriously as to what are the prospects of countries joining the community.

Mr. Temporary Deputy Speaker, Sir, before that coup¹ of 1971, which got Iddi Amin to power and made it impossible for the Heads of States to meet at a Summit; we do know that, at the next Summit of the authority, it was very likely that Zambia was to be admitted into the Community. If the people of East Africa can make a start and start seriously, we have no doubt, it will have a gigantic pull on some of those other countries within the region which for a variety of reasons have to look to East African countries as the natural core of an expanding and developing African region.

With those few remarks, I want to appeal to Members to support the signing of this Treaty.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, I rise to support this Report. However, But since the Report was laid on the Table in July this year, I have been looking at the Draft No.7 which was agreed in Arusha. It is a little bit disturbing because the Mover of this Motion told us about the hopes they had and why they felt very excited when they were writing that Report. But I do not know whether he has had time to look at Chapter 11 on Co-operation in Trade Liberalisation and Development, and Articles 74 to 80. What he was talking about has been removed from the Draft that is to be signed. Which means in effect that what we are talking about in the freedom of trade, the promotion or exchange goods and persons, is something that will happen in the future. It is not specifically provided for now in this Treaty.

I think it is only fair for us as Members of Parliament not to raise the hopes of Kenyans far beyond what the reality now is. That will be a mistake. Then they will feel frustrated for nothing. The reality of the matter is that the draft Treaty that is about to be signed next week or so, does not provide for free trade, neither does it provide for a common market soon. In fact, it only says that "we shall negotiate" because those original articles which were there have been removed and what has been put in is that "the States agree to negotiate through protocol over the next four years so as to find some common programme under which they could remove tariffs and create a common market." So, we shall not start with a common market. In other words, we shall start exactly where we are. After signing this Treaty, there is not a step taken. It is going to be a beginning to be taken in the future. I am sure that is an important message certainly for business people in this nation that they know clearly what is being signed is not the original draft Treaty. It is not the one that had meat, it has no meat. It has only a framework in which something may be put there in future, but it will be negotiated over a period of four years.

Indeed, Mr. Temporary Deputy Speaker, Sir, as regards the common market, it is said that "for the purposes of this Article, partner States shall conclude a protocol on a common market." There is no time stated, not even four years. There is no guide as to how soon this might happen. The hopes which had been raised, unfortunately, are not a reality now. That is actually very worrying. In effect, it means that during the negotiations, we have failed to agree on how we shall create the common market or the free trade and that we are leaving it to the future. I am not saying we should not go that way because we must be practical. What is achievable can be accepted and signed. But equally, it should be made very precise and very clear that what we had hoped for is not here and what we shall be signing is the good intentions. Good intentions are important particularly if all of us are moving in one direction. I am sure that is what we will wish to happen in East Africa. But then, how soon shall we begin these negotiations because already there has been talk and there has been established what the problem is with each one the partners.

If indeed, we are going to move with speed towards the creation of the common market, then these negotiations for that protocol should continue now. We should not have a break. We should go on straightaway. Immediately after signing the Treaty, let us begin the negotiations about how to create the common market. That is the only way to keep the hope. Otherwise, if this document is signed and there is no negotiations going on and we have a vacuum--In fact there is nothing to implement because the Secretariat is there. Possibly, the only thing which should be new will be an Assembly which should meet in Arusha, but the material part for any of these nations is common market and free trade and yet, it is not going to be there immediately. So, we are not getting any benefit.

Mr. Temporary Deputy Speaker, Sir, I hope that we can persuade our other two partners so that negotiations for this protocol begin immediately so that we know whether the prospects or not. That is going to be important. Otherwise, it is much better that we to come reality earlier enough as a nation rather than live hoping that something will happen when it might not. It was known we were going to meet, but there is no commitment there. We want reality or something which can be meaningful.

Mr. Temporary Deputy Speaker, Sir, having said these, I know that our partners have raised a very major issue regarding the industrial development and the question of balances of trade. Indeed, in whatever protocol that are going to be worked out, that is the area where there should be some agreement on how one will promote the development of joint ventures between the three States plus any other partner from outside. If there are no institutions and so far we do not have any in this draft, which will supervise that particular area, then imbalances are bound to develop. The nature of economic development is at that those who have started will always run slightly faster than those who have not started. That is natural. If it is natural, then there will always be some complaints that somebody has been left behind. In order to avoid this, it is better from the beginning to involve institutions which will assist the development of industries in various regions.

Indeed, we could begin straightaway. For instance, we have a crisis now with power in Kenya, and Uganda has power. We could import some power from Uganda without any hesitation. But I do not know what we are waiting for in Kenya. It is we, Kenyans, who need to show goodwill to our neighbours. Why do we not ask Uganda to sell to us the excess power from Owen Falls Dam and other places because we have a shortage? Let us negotiate a price instead of holding on to a price which was negotiated long time ago during the colonial times. Nobody can accept what was negotiated in those times. In any case, since we need power and we are being threatened that very soon we shall have electricity only for three days of the week, we should ask Uganda to supply us with power. Can you imagine what will happen to the industries, if we have power only for three days of the week and the other four days, we live in darkness? It is a crisis of a major proportion, but it is not a matter for the Government to keep quiet. They should be talking about it openly. We want the Minister for Energy to speak to this Parliament before we go for Recess. What does that rationing of power mean when we can go for four days in darkness and only three days with light? The Minister should not leave this matter to be spoken by some officials of the power company. It is a major policy decision for the economy. Many industries in this nation are already losing their production because they cannot get power during certain times of the day. Others which used to have two shifts, have only one. They are

losing money and the nation as a whole, is also losing money and not just that factory. On employment, people are being sacked and this is causing a lot of suffering to them.

So, there is need for the Minister for Energy to make a statement on that matter; he has to explain why he is not negotiating with Uganda, so that we can import electric power from that country. At one time, hon. Kituyi suggested in this House that we could also import grains from Uganda and create a lot of goodwill between the two countries.

Mr. Temporary Deputy Speaker, Sir, survey in Tanzania has indicated that, that country can possibly develop electric energy from its rivers much more cheaply than we currently do in Kenya. We are already seven years behind in electric power development. We should also talk with Tanzania; we could go jointly into development of that kind. These joint developments are what will create the friendship we are looking for; it will help to integrate the economies of these countries. People have stopped quarrelling in Europe because capital from Germany and other places has been re-invested in Spain, Italy and many other countries. People have now forgotten about boundaries, because employment is being created.

Once employment is created, everything becomes good in the country. Once people can move freely and get employed wherever they can find job, all these frictions about balances of one thing and the other will become less. The future well-being of our people rests in our ability to integrate the actual development process of the East African countries, and not keeping the three States separate and which then only quarrel about the marketing of finished products. We should let the three countries co-operate in production, starting with the production of electric power.

Of equal importance in our efforts to achieve economic integration among the three East African States is the proposal on the free movement of people and transport among these States. Whatever we do, we shall have railway systems as one means of transport and communications. We should co-operate with Tanzania and Uganda by investing in the railways system with a view to having new rail coaches, railway lines and everything else, so that goods and people can move freely across these nations. This way, we can extend the railway line to Rwanda and begin to administer those things together. In those good old days East Africa was one. It was, in fact, more integrated than Europe. The common services that the three States had in place bound them together.

While people have been quarrelling over who would share what commission with who, and who would be bribed with what amount of money to facilitate a deal, thereby delaying the process of privatising the telecommunication sector for two and a half years, everybody in Uganda and Tanzania can afford a mobile telephone today. Now, why do we not incorporate the three telecommunications systems among the three States, so that we can communicate with each other freely? This way, we will begin to feel that we are one people and ease the suspicion that is there. More importantly, in the process of co-operating in that sector, the cost of the services will drop. After all, that is what we want to do - we want to help our citizens. Whether they are residents in Uganda, Kenya or Tanzania, they should have a cheaper telecommunication service. Incorporating the telecommunications services of the three East African States will make telephone services cheaper.

Mr. Temporary Deputy Speaker, Sir, the multinational corporations we are seeking to merge with from abroad are used to operating in much bigger areas. It does not matter which ones they are; wherever they are in the world, they want a much bigger market. The East African market is much bigger, and could be cheaper. So, it could make provision for that growth; that is something we can do. My plea is that we should look for ways and means for the three East African States to co-operate in the production of goods and services. That way, the three countries will be accepting themselves as they are. They are all under-developed, and are now developing. So, there is no point in quarrelling about which one can produce a few matches, or which one can produce more razor blades than the other. We should look for the new industries that are coming into the market and co-operate in developing them. In that process, we will forget these quarrels about boundaries, balances of trade and whatever else we are talking about.

The section on the rulings of the national courts and all that which fall under it contained in the East African Co-operation Draft Treaty shows that somehow along the process, we shall have to have a common court for East Africa. We used to have such a court, and I think we need to have one somewhere in the three States. Although it is not specifically stated in which country that court will sit, there will be need for the establishment of such a court. This is because, once we integrate our services and start doing whatever we are thinking of doing together, there will come up legal cases which will need to be resolved; those cases will have to be resolved at the headquarters of that court in accordance with the laws of that particular country. Alternatively, there will be an East African Court with definite legal provisions. The legal aspect of the East African Co-operation cannot just be left like that; there must be something specific in this particular regard.

Mr. Temporary Deputy Speaker, Sir, at one time, the people of East Africa were promised some kind of a document that was to enable them move freely within the three States. We waited for that document in vain. The Government kept telling us that, that passport would be out in a week's time, a month's time, in the next few days, but nothing happened. When the relevant Minister contributes to this Motion later on - I do not think the Mover would be

in a position to say anything about this - he should tell us when we are going to have the common East African passport, so that we can move freely to Uganda and Tanzania. I would like to travel freely into Uganda and Tanzania, just as we used to do in those good old days, including the colonial times. Free movement within the three States is one of the best ways of promoting the common East African market.

For instance, if Tanzanians and Kenyans form joint ventures in trade, they will have formed proper foundation of the common market since those people will be having vested interests in working together. These are the people who will influence their respective governments not to follow some narrow visions, but look for wider visions, where people can be integrated. Once the people of the three East African States start moving freely, they will start forming joint companies; they will come to know each other, and life will become much easier. The sooner we facilitate that, the better for these countries. At one time, the President of Uganda said: "The movement of people is one of the best foundations". Then, the best foundation is to allow that free movement.

Mr. Temporary Deputy Speaker, Sir, it has been said that there is a provision for new member States to join the East African Co-operation. If we do not lay down the foundation for common trade among the three States, how can we begin negotiation with new member States? It will be very difficult to do so. In the current arrangement, there is nothing for new member states to join, because there is no free trade, common market or anything else; these are yet to be negotiated. So, the best thing is to speed up this thing. Instead of setting ourselves to do it in four years' time, we should do it sooner. Thereafter, we can talk to the other partners who want to join the Co-operation, be it Rwanda or Burundi. Those States should be encouraged to join, of course, but they should join something that is in existence. At the moment, there is nothing for them to join. We only have a document of intention to establish the Co-operation. Maybe, those countries can join and proclaim to have the same intentions of the three pioneer States of the Co-operation, but there is no free market for them to move into at the moment.

We have the other arrangement with COMESA, which covers a wider region; under this arrangement, member States are to reduce tariffs for each other. If we do not move faster in integrating the East African Co-operation under Phase III, we will be caught up in the integration process of the bigger COMESA arrangement; this way, we will find ourselves in a very difficult situation. This is equally the reason why we must not settle for the proposed four year-period of facilitating the East African Co-operation arrangement; we must do it much sooner.

Free movement of capital is being encouraged in South Africa and other places. This is also being set up in the whole of Africa. That is a reality. I think Kenyans who have been complaining about competition from South Africa should be encouraged to accept this country as an African country, slightly more developed than the rest of us, but all the same welcome it to join us in development. It will be quite ridiculous for Kenyans to complain that fertilizer and wine are being imported from South Africa. Which country is South Africa competing with? You know we look so foolish and some people make us sound very foolish.

Actually, if we were importing wine from Europe and paid in foreign exchange, what in Heaven's sake is wrong with importing wine from South Africa? That is an African country! We talk about Pan Africanism on one hand, while on the other hand we complain that somebody is able to compete with France in marketing wine; or somebody is able to compete with Scandinavian countries in selling fertilizer to Kenya, or selling motorcars, which we import from Japan. What kind of complaint is that? It shows that we do not have time to think. So, the Minister for Tourism, Trade and Industry should advise our industrialists to stop mourning, but seek for ways to co-operate with South Africa.

(Applause)

This is because we cannot isolate this country because it is, at least, a mile ahead of us. The best thing we should do as Kenyans, because we have the manpower and we are in a position to co-operate with them in order to benefit, is to co-operate with them in every way. We should receive them with an open heart.

Above all, we should not complain when it is mentioned that they have one of the most beautiful Constitutions which we should adopt. This is because that is a fact, for your information. If the Chair would like to have a copy, I will give him one to read. This is because in their Constitution they have actually addressed the issues nagging us in this nation; whether you talk about human, children's and women's rights, land, powers of presidency, regions and local authorities. All these things are well spelt out in minute details in the South African Constitution, which was drawn with the assistance of the most learned constitutional lawyers of today.

Therefore, we as Kenyans should start off by learning from it and not to mourn because somebody said that it is good. He was saying the truth! The truth will always remain the truth, whether you like it or not. It cannot change! So, we should learn by reading their Constitution and see how we can apply some of its aspects when it comes to drafting ours.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to propose that in the region of East Africa,

although our language, as it has been stated in this draft is English, we should also adopt Kiswahili. You know these things are for the future generations, and we are laying the foundation. We want to be a region which will eventually evolve into one. If indeed we will evolve into one nation after one or two generations, we should start promoting Kiswahili straightaway. You can see how much good it has done in a country like Tanzania, where Kiswahili is commonly used. Every little child or old person speaks Kiswahili in every village. This is one way of tackling tribalism and other divisive forces. It is also one way of integrating people. Since we are adopting long-term goals, here is one which is not long-term and we should start promoting it straightaway as part of the work of this common institution of East Africa. If we could get Kiswahili being utilised to the extent it is being utilised in one of the partner States, namely, Tanzania, already, we could be very integrated as a people. That is the best thing to do, because laws and rules are good, but eventually, it is the human beings who will feel at ease and communicate with each other easily.

I will not speak about education, although it is mentioned here, because Dr. Kituyi has spoken about it. That should really be promoted. After all, that is one thing we had when we had a common market. Education should be promoted, more so, in the field of research. In the field of research, these countries have made progress in certain directions. For instance, in Kenya, the research we have done in the field of agriculture and forestry can benefit our two neighbouring countries, if, in fact, they were to apply what has been learnt here. It is only in this way that people will see that this institution is meaningful to them, because they are getting something out of it.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Minister for Tourism, Trade and Industry (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir---

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it not be in order for the hon. Minister to wait for the hon. Members to contribute so that he can reply at the end the contribution? Must he reply the middle of the contribution? How will the others be advantaged?

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Mwenje! It is not the Minister who is replying. This thing does not need an answer.

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, the hon. Member is a Member of the Committee and he participated in the last meeting which was held in Arusha. The Chair, Mr. Musila, has already spoken and no doubt, he must have also spoken on his behalf.

I rise more or less to focus or to put into focus what the Treaty and the community is all about. At the outset, I would like to say that the last speaker has grasped the essence of what the East African Co-operation Treaty is all about and what we will sign at the end of the month.

If I was in a church today, I would make the last announcement of a marriage between the three countries of East Africa. In that announcement, it is usual for the announcer to ask everybody in the gathering to say something before the marriage is finally consummated. I would like the House to speak loud and clear on this Treaty, because it represents the entire nation. Your views will be the views of the nation. I would like to inform this House that it is the nation that will commit itself to a joint effort within the East African region. Therefore, every article in this document matters.

I have to be honest from the word go. This Treaty represents everything except Chapter 11 on trade which has been adopted to suit the dynamic situation in that sector alone. Therefore, we will be signing a framework as the hon. Member who spoke ahead of me quite correctly pointed out. It is a framework within which negotiations will take place to finalise that Chapter. That Chapter deals with everything that relates to trade up to the common market.

If you look at the original draft No.3, which was the point of departure, there were two sections. These were sections 68 and 69. Section 68 talked about the customs union. In that draft Article 68(2) talked about the creation of a common market or customs union within a period of five years. Article 69 dealt with internal tariffs. Therefore, the original intention was to create a free trade area by the year 2000 and a full custom union in four years. The actual detailed negotiations were being done by a high level committee of experts comprising of all sectors that relate to trade activity.

When they were in the middle of the negotiations, it was decided to marry the customs union and the free trade area (internal tariffs). That is the point of departure. Since it was going to take a little longer to achieve a common external tariff and also to reduce all the tariffs to zero, it became necessary to create a protocol. A protocol did not come for the first time in draft No.7. It was also there in the beginning. Article 68(4) says: "For the purposes of this article, the partner states agreed to conclude a protocol on the sharing and remitting of pooled customs revenue." The concept of a protocol was there in the beginning, but it was only limited to the creation of the full customs union, that is when we have common external tariff. The creation of a protocol in the present text at the moment was meant to facilitate a comprehensive agreement on everything which will make our countries more or less a federal state.

We are left with whatever we have already agreed to in the past; that is contained in Article 142 where we have agreed on a set of arrangements. We have agreed on the establishment of the Permanent Tripartite Commission

which will now become the Council of Ministers. We have also agreed on the establishment of the Secretariat which is going to serve the community. We also agreed on where the headquarters will be located. We have also agreed on the avoidance of double taxation. We have also agreed on the Memorandum of Co-operation on Defence; in other words, to reduce tension and to promote peace so that development can take place here. We have also agreed on road transportation. We have now got the East African Road Network with all the axle and everything that involves transportation.

We have also agreed on inland waterways; how to use the water of Lake Victoria. We have also agreed that our foreign mission will work together in promoting the interests of the East African Co-operation. All those have been signed. We have also agreed on co-operation on matters of environment. We have gone a long way in sectoral harmonisation. In other words, this refers to all the practices, laws and rules that are being employed by every sector, including the education sector which was talked about. Already we are doing the same thing, but we are waiting to become one so that we can operate as if we were not separate countries. To that extent, we have agreed on a lot of things.

Since these have already been agreed on, signed and delivered, it is, therefore, necessary to safeguard them so that we cannot go back on, or revisit whatever development takes place. We are saving that one under article 142(2). It so happens that our committee of experts had reached a lot of agreements on the internal tariffs. Since the Tripartite Commission which is a Council of Ministers had not agreed and signed, we are now subjecting them to a protocol so as to process them further. Hon. Kibaki argued quite correctly that if we are going to sign the framework, how are we going to ensure that, that framework is rendered useful? We have tackled that matter and have created a timetable. We will ensure that the protocol will be implemented within the four-year period.

In that four-year period, it has been agreed that whenever we reach an agreement in the process, we implement it immediately. We do not have to wait for four years in order to implement what we agree on within the four-year period. Therefore, it will not be a wonder for quite a substantial number of internal tariffs to be resolved, even in a year's time or less than a year's time because progress has already been achieved. As a matter of fact, we did agree last Friday to immediately authorise the committee of experts to deliberate in detail what they have already deliberated on and to submit progress reports with a view to approving whatever they have agreed on by June.

It is even quite possible that by June, we will have covered a large measure of what is required for a common market. Hence, in order to give effect to the programme, we have produced an action programme which we call "Action Matrix". I will read it out for the purposes of making it as clear as possible to the Members so that when you contribute, you know exactly what is happening because this will form the road map. The activities which we have listed are:

1. Ratification of the Treaty - which means coming back here to Parliament for you to ratify the treaty. That should be done within six months.
2. Depository and registration of the instruments of ratification. This is under Article 153 of the Treaty. The action will be taken by the Secretary-General and it will be registered and deposited upon ratification.
3. Enactment and effective implementation of such legislation as is necessary to give effect to the Treaty; that is Article 282.
4. Procedures for admission of new members and observers. This one will take effect by November, 2000.

We have said that new members will be admitted upon the decision of the Summit. This could be done within six months after the signing of the Treaty. The present Treaty belongs to three States alone and it does not cater for a fourth State. It is incumbent upon the three States to admit any new members. That decision can be made within six months. As for the observers, the Council of Ministers can decide who will be an observer because we believe in transparency and accountability.

On the constitution of the new bodies and their rules of procedure, under Article 12(5), this will be done by the Summit within six months.

The determination of rules of procedure for the Council under 15(2) will be done by the Council within six months. Decision making by the Council should be done 31st May, 2000.

On the Co-ordination Committee, that is the Committee of the Permanent Secretaries, the determination of rules and procedures of that Co-ordinating Committee will be done by the Co-ordinating Committee itself within six months.

On the Sectoral Committees, under Article 22, the Sectoral Committees themselves will decide because that affects them. This should also be done within six months. So, you can see that within six months after the signing of the Treaty, all these issues will have been acted upon.

On operationalization of the courts, we are saying that the appointment of judges, under Article 24(1) will be done by the Summit and the Summit will determine when that will take place. On the terms and conditions of service

of the judges, under Article 25(5), we are saying this will be a matter for the Council and this will be done within twelve months. On the determination of rules of courts, we are saying that the court itself will determine its own rules and we are giving that twelve months. The appointment of the Registrar of the Courts will be determined by the Council. On the hiring of the staff of the court, under Article 45(1), we are saying that the court is competent to do that by itself. The other issue is that the court will determine its terms and conditions of service within a period of six months. The Summit will also determine when they should begin sitting. On protocol and extension of the jurisdiction of courts, we have said that it is the Council or the Summit who will determine the date.

On the Assembly, under Article 48(3), on the election of Members, the Summit will determine. Appointment of the Clerk under Article 48(4) will be done by the Council. The terms and conditions of service for the Members of the Assembly will either be decided by the Council or the Summit and that should be within twelve months. Rules of procedure of the Assembly under Article(60) will be done by the Assembly within twelve months.

The terms and conditions of service for the Secretariat will either be determined by the Council or the Summit within twelve months. Staff rules and regulations will be done within twelve months.

The determination of financial rules and regulations of the Community will be done by the Council within a period of twelve months.

The determination of privileges and immunities for experts will be determined by the Council within a period of twelve months.

Trade liberalisation is the most difficult part of it and it is the actual "meat" of the Co-operation. Therefore, we are saying that the protocol and establishment of Customs Union under Article 75(7) will be determined by the Council or the Summit within a period of four years. The four-year period is the limit and whatever is decided in the meantime will be progressively implemented so that by the time we get to the four years, if ever we will get there, we will only be implementing what we will be agreeing on at that particular moment. But as you can see, a lot of work will have been done within a period of twelve months. It is either six or twelve months for all the other non-critical sections.

On the protocol on the Common Market, we are saying this will again be determined by the Council as stipulated under Article 76(4). On the protocol on the free movement of persons, labour, services, right of establishment and residence, under Article 104 will be determined by the Council or the Committee. This will be done within the four-year period or earlier by the Council. But this will move with capital. The East African Passports are available and that should not hold hon. Members any more.

On the formulation of strategy for development which is very important and it was commented on by hon. Kibaki, this is the aspect which broke the last East African Community. We have agreed in COMESA and in the East African Co-operation that we shall operate in the manner which was elaborated by hon. Kibaki because it is obvious that we must globalise and look at the larger market and the resources on the basis of comparative advantage, and there are those comparative advantages in each country. For example, Uganda is well endowed with water, because of the dam which was "built" by God and given to Uganda to generate electricity. So, that is already an easier way for us to develop either on a joint venture or individually. The same will also apply to Tanzania. So, that is the part which we will be involved in. That is provided for under Article 86.

On the establishment modalities for the effective participation of business organisations or associations, professional bodies, civil society in community matters like under Article 129(2) will be determined by the Council, and that can take place at any time because it has no alternative.

The formulation of business and business-related disputes settlement mechanisms under Article 129(3), will be determined by the Council and that can be done as soon as possible because it does not create any problems.

On the investment and industrial development strategy which is again repeated as Item No.23, will be determined by the Council and we will do that as soon the report which is being studied at the moment comes out. As soon as that report comes out, we will engage ourselves in determining the best way and mechanism of promoting industrial development on an East African basis.

Mr. Temporary Deputy Speaker, Sir, regarding standardization, we believe that it is an important aspect. We have quality assurance, meteorology and testing under Article 81(iv), which the Council will be responsible. We are hoping that the assent will be given and completed within a period of six months.

On financial matters and the determination of a timetable for free movement of capital under Article 86, we are saying that the Council will determine that. And that should take place as soon as possible. On our regional peace and security, which is key to stability of the three countries, we are saying that the Council is to take full responsibility of it and action will be taken within six months after the signing of the Treaty. Therefore, you will appreciate that substantive work has been done and the framework itself is not as void as it appears. It is only void to the extent that we have not agreed as to what tariffs will be charged. Already, each country is operating under COMESA rules because the East African Co-operation has no regimes of its own. It is using COMESA regimes, and under this we

have Kenya and Uganda which are 90 per cent and Tanzania is 80 per cent. Therefore, effectively, it means that our goods and services going to Tanzania at the moment are attracting a four per cent tariff and those which are coming to our market are two per cent.

That is what we are trying to preserve in this Treaty. We want to preserve the status the way it is and we are hoping that Tanzania will not pull out of COMESA. But in the last meeting, we agreed that COMESA rules shall apply until a new mechanism has been put in place. We are currently asking our Attorney-General and other Attorney-Generals in Tanzania and Uganda to confirm to the East Africans that the saving clause will include those aspects so that Kenyans and East Africans wherever they are will know what they are getting involved in, because it is important, as it has already been mentioned earlier, so that they will not be disappointed.

Mr. Temporary Deputy Speaker, Sir, you will also notice that the Seventh Draft which has now been initialled by the Attorney-General represents all the views and contributions made by the entire nation, be they the civil society, business people and Members of Parliament. They all deliberated on it and whatever came out from the discussion was incorporated in it. Therefore, it is a well-researched document except only for the fact that tariffs, revenues and employment are tied up together. Our countries have got political governments, and any political Government is sensitive to revenue sources and employment opportunities because that can affect their stability.

Earlier on, hon. Dr. Kituyi talked about the current Treaty not being pro-social. I think it is pro-social because it is dynamic in nature and it says that it will incorporate what they call "geometrical variables." It means that it is dynamic and it keeps on developing. It also incorporates the concept of sectors and also the people-driven aspect, which means that the people at any given time can keep on improving their Treaty as it comes up.

Mr. Temporary Deputy Speaker, Sir, there was also the question of COMESA and Southern Africa Development Co-ordination Conference (SADCC.) We are asking SADCC which is in South Africa--- Everybody else is COMESA and those in COMESA-SADCC are more COMESA than SADCC, because they implement COMESA regimes. SADCC has no regimes; it has got a protocol and that protocol is not as detailed as ours. It has no framework within which they can work, or a timetable as we have already enumerated, and it has got few people. COMESA has got about 400 million people and therefore it is a formidable community and it offers a greater potential for market if developed. The two regional groupings are co-operating at the moment and invite one another to attend their meetings. Therefore, we should not shy away from any investment. Any investment from anywhere is welcome in East Africa, whether it comes from South Africa, or somewhere else, because that is the whole object of getting a bigger market.

In East Africa, we have 80 million people, and that is what we are trying to achieve at the moment. On the question of the language, we deliberated at length, because Swahili is our *lingua-franca* and actually it is the only language which we feel should be developed. But we realised that if we declare Swahili as an official language and, then, it is spoken in the forthcoming Parliament, we will not be doing justice to people from one of the EAC states, because they are not as conversant with it as Kenyans and Tanzanians. So, we settled on English as the official language because all the three countries can speak it well. But we have said that Swahili be developed. So, we have recognised Swahili as a language that is coming up slowly and soon or later it will fully develop as a language. It can also be spoken in the respective Parliaments, just like in this Parliament both English and Swahili are the official languages.

Mr. Temporary Deputy Speaker, Sir, the business community was fully involved in the EAC Draft Treaty as we consulted them. I had a meeting with the representatives of the whole business groupings yesterday and they supported us like the way now hon. Members are supporting us. It is true that this Treaty is not complete and it cannot be complete; nothing can be perfect. Maybe, God alone can make something perfect. Even in God's creation, we still see some inadequacies, which means nothing is 100 per cent as it should be. We, as human beings, can only make a start from somewhere and develop and improve as we go along. Therefore, I would like to urge the House to accept the fact that this is a Treaty with all the Articles intact except the Article on Trade; that is Chapter 11 which has been subjected to a protocol or framework within which to complete all the procedures for moving to zero-tariff and to a common external tariffs so that we can have one united community which can then proceed from there to form the ultimate EAC political federation, or union.

Mr. Temporary Deputy Speaker, Sir, with that clear understanding, I commend this Draft Treaty as it awaits for signature. But that is up-to the entire House, because after today, all Members will be credited as the people who sponsored and sanctioned it for signature. Then, we will come back to deliberate on the next stage of ratifying the Treaty.

With those few remarks, I beg to support the Motion.

Mr. Ngure: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the chance to contribute to this Motion, being a Member of the Committee that looked at the First, Second and lastly, the Seventh Draft Treaty, which I cannot claim to have gone through thoroughly, the way I had gone through the other Draft Treaties.

Mr. Temporary Deputy Speaker, Sir, I would like to state that, we were pleased with the support we got from the Ministry and the meetings they organised for us, particularly the meeting at the Kenya School of Monetary Studies. It is a pity that the Article on Chapter 11 which has been down-graded was of most interest to the civil society who participated in the discussions at the School of Monetary Studies. I do not know what we are going to tell them, since we have not achieved what they expected of us to, in terms of trade. This particular union we are getting into, was meant to be people-driven; people were to interact in trade, get into a monetary union and eventually get into a political federation, unlike the other one where we aimed at the political federation and expected all the others to follow suit. In the Draft Treaty, we have for some reason down-graded the aspirations of the people of this country and the other partner States.

*[The Temporary Deputy Speaker
(Mr. Poghio) left the Chair]*

[Mr. Speaker resumed the Chair]

From the meetings we have had with the people of the partner States, we noticed that their interest was particularly on trade. We foresaw a situation where people across the borders do not understand why they should be subjected to many tariffs when, for example, we can get maize from Tanzania or Uganda and feed Kenyans who are starving across the border. This is a matter that will be looked into within a period of four years, and it is a matter of protocol.

Mr. Speaker, Sir, we looked into that and suggested that it should be looked into thoroughly, so that as politicians, we can go back and tell our people that we are still aiming to achieve a federation that is bottom-up. For the purposes of political aspirations and multiparty democracy, we persuaded the other members in Arusha that, the membership of the Assembly be increased to 45 persons. I am seeing a situation where we have gone back to 27 members. This means that every State has to appoint nine members to the Assembly. We now have a situation where we might end up with a deadlock in getting the members of the Assembly. That is one of the areas that should be reviewed.

Mr. Speaker, Sir, as concerns Article 97, we talked at length about the registration of professionals. On page 83, I can see, for some reason which I do not understand, we have mentioned of the freight forwarders, custom clearing agents and shipping agents. We have said that partner States shall harmonise the requirement for the registration and licensing of freight forwarders, custom clearing and shipping agents. We must look at this Article in relation to other professions. We have different registration regulations for architects or lawyers in Kenya, Uganda and Tanzania. This Draft Treaty has not mentioned other professions. I am seeing a situation where we should discuss about other professions, and I think we mentioned, that, that be considered. We should not just pinpoint freight forwarders, custom clearers and shipping agents. We deliberated on that issue, and as the Minister has stated that there are a series of things to happen within six months, I hope he will take that into consideration.

Mr. Speaker, Sir, when it comes to the language, we had agreed that, for the sake of the interests of the Tanzanians, the official languages should be English and Kiswahili. It seems the Seventh Draft Treaty has given the responsibility to the unknown, who will be charged with the responsibility of developing Kiswahili. I do not know whether it is an agreement with the Tanzanians, because we had agreed and this had been mentioned as an issue which should be taken as an amendment. I have no quarrel with English being the official language of the courts.

Mr. Speaker, Sir, we had also recommended that the Treaty should, in some article, talk about free labour movement. That one should be considered, because at the moment, whether we are talking about South Africa, Kenyans have proved to have abundance manpower which is getting its way into the Southern States. There are many Kenyans in Botswana, Lesotho and South Africa. This Treaty should therefore, recognise the fact that, before we talk about our manufactured goods, Kenya is endowed with skilled labour and qualified personnel.

Mr. Leshore: On a point of order, Mr. Speaker, Sir. It is not my wish to cut the hon. Member short, but I think we have deliberated enough on this issue, and we are all in agreement. Since the signing of this Treaty is going to take part on Tuesday, I would like to call upon the Mover to respond.

Mr. Speaker: Very well! I take cognisance of two issues; first, that the Treaty will have to be signed on Tuesday, and secondly, at 6.00 p.m., there will be a Motion to adjourn the House to Tuesday. Therefore, I am constrained to concede to the request.

*(Question, that the Mover be called
upon to reply, put and agreed to)*

Mr. Musila: Mr. Speaker, Sir, thank you very much. I would like to thank hon. Members for their very useful contributions to this very important Motion. I am particularly gratified that this House has appreciated the work that has been done by the Committee on Defence and Foreign Relations on this very important and historical document. It is now very clear that Departmental Committees of this House are very useful organs. By this House supporting the President in putting his signature to this document, we will be sending a very clear signal, not only to the member States of the community who are Uganda and Tanzania, but also to the international community, including the donor community, that we are ready to work with our neighbours.

I suppose that our neighbours will be more trusting and will trust Kenya contrary to what has been in the past. This nation is ready to work with Uganda and Tanzania and even other nations of the region for the well-being of our people. The hon. Mwai Kibaki mentioned one point in as far as Chapters 75 and 76 are concerned. I expressed my Committee's apprehension over this matter because we felt that Clause 142, which is a saving clause, would be necessary so that there would be no vacuum between the time when the Treaty is signed and the time when the protocols are concluded. We have been assured by the Minister for Tourism, Trade and Industry that the Kenya Government will ensure that this area is looked into and that Kenya will not be at a disadvantage.

Mr. Speaker, Sir, the point of official language of the community has been raised by the hon. Mwai Kibaki and even the Minister for Tourism, Trade and Industry has also alluded to it. It was, indeed, the desire of my Committee to see Kiswahili being the official language of the community. But as has been explained, we would have been putting one of our partners at a disadvantage. Clause 2 of that particular Article states very clearly that Kiswahili shall be developed as a *lingua franca* of the community. So, while appreciating that official language of the community will not be Kiswahili, Kiswahili will be developed. It is my hope that the language will be developed and in the near future, we will have Kiswahili as the official language of the community. This is important because it will enhance unity of the people of East Africa.

We have now started a very long journey. We are moving towards integrating our peoples of this region. Ultimately, it is the intention of our founding fathers of this particular document that this region will move towards political federation. It is indeed, our hope that before our time on this planet is over, we will see the people of East Africa, not only having an economic block, but also becoming a very powerful political federation for the benefit of our countries.

My appeal is that the co-operation that has been shown by the Minister for Tourism, Trade and Industry in working together with this Committee on Defence and Foreign Relations, which by extension has the authority of this House, should be maintained, and that the Ministry will continue to involve this Committee in matters relating to this. I would like to appeal to other Ministries to emulate the example of this particular Ministry in ensuring that consultations are made throughout whenever matters of this nature are being taken care of. I appeal to the Ministry to continue with that spirit and continue consulting with this Committee so that in the end, we may have instruments of the community that will be of benefit to this country.

Mr. Speaker, Sir, with those few remarks, I beg to move.

(Question put and agreed to)

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO A DAY OTHER
THAN THE NEXT NORMAL SITTING DAY

Mr. Speaker: Hon. Members, I will now call the Deputy Leader of the Government Business to move a Motion for the Adjournment of the House. Because we have only 30 minutes for it, we will have every Member speaking for five minutes and only on the issue of whether or not we should adjourn.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. I beg to move that the House do now adjourn until Tuesday, 30th November, 1999. The purpose of seeking the approval of the House for this adjournment is very simple. Our Departmental Committee on Health, Housing, Labour and Social Welfare, in partnership with the National AIDS and STDs Control Programme (NASCO) of the Ministry of Health, have organised a two-days workshop for Members of Parliament in Mombasa.

Mr. Speaker, Sir, I think it is clear to everybody that AIDS is a big scourge to this country and to the world at large. The focus that the campaign against this disease will receive, if all Parliamentarians participate in this workshop, will be extremely important. It will assist in sending a very strong signal to Kenyans at large, and to all other institutions that are collaborating with the Ministry of Health in campaigning against the AIDS problem, that this is an issue that deserves a lot of concerted efforts. Also at the workshop, Members of Parliament can formulate and put

together ideas that can be utilised or adopted by the Ministry of Health to seek additional resources from various international agencies that will go towards assisting in the control of the AIDS scourge and, indeed, increasing the awareness of Kenyans.

This is a very straightforward and noble aspect that we should all participate in. I would also like to take this opportunity to commend the relevant Departmental Committee because I believe that this is a very good effort in ensuring that we, as Members of Parliament, are brought to the centre stage in campaigning against the AIDS scourge.

With those few remarks, I beg to move that we now do adjourn until Tuesday. Thank you.

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I rise to second this Motion of Adjournment. It is very important that we adjourn, so that we can deliberate on a matter that is threatening our very existence. It is threatening our ability to produce men and women of high integrity. It is threatening the people who are active and productive in our society. It is, therefore, very important that we participate as Members of Parliament. That will give a signal to our entire nation, and also to the external friends who assist us in the fight against AIDS, and other diseases that destroy our people.

Mr. Speaker, Sir, I would also like to use this opportunity, to invite the hon. Members who are able to come to Arusha on 30th of this month, for the signing ceremony of the East African Treaty. I think it will be a very important occasion. I think it is also good for Kenyans to show that they are part and parcel of the East African Community.

The Assistant Minister for Education (Mr. Karauri): Tutapata viti?

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, an hon. Member has asked whether there will be a seat. Of course, there will be a seat for a Member of Parliament. A Member of Parliament is a very important person, if the hon. Member has not realised. He should have realised that in this House there is a special seat for Tigania, which nobody else can sit on, except himself, until the day he gets to leave.

With those few remarks, I beg to second.

(Several hon. Members stood up in their place)

Mr. Speaker: To those Members who have risen on their feet, to what are they going to speak? There is no question before the House!

(Question proposed)

Mr. N. Nyagah: Mr. Speaker, Sir, I rise to support this Motion, because of the importance attached to it. First of all, I would like to say that for the first time in the history of African Parliaments, Kenyan Parliament is going to be the first one that has adjourned, to go and talk about a pandemic that is killing people in millions. About 11.5 million Africans from the Sub-Saharan areas of Africa have died as a result of this pandemic. Let me also go on record in informing Kenyans that, the Kenyan Parliament is the only Parliament in Africa, that is going to discuss the issue of HIV/AIDS related diseases. Therefore, because of the number of people who have already died in Kenya, I think the best decision that this Parliament could make is to go down to Mombasa and discuss the issues, so that when we come back from the trip, which is going to have panellists who are experts in this disease, we will be able to come up with our own programmes.

Mr. Speaker, Sir, we all know that in 1984, Kenya reported only 180 HIV patients. We know that, that was not the case. This has been the case with a lot of African countries, where we tend to hide the fact that AIDS is with us, and it is like flu. It is there; and it is killing people in millions. I would like to give an example of where 234 people died of a bomb blast in Nairobi. This was covered all over the world. It was reported that many people had died. But those people were very few because in Kenya alone, 500 people are dying every day. There is need for people, who are respected by the people that they represent, along with the Provincial Administration and local communities, to come up with programmes that can be able to help.

Mr. Speaker, Sir, AIDS in Africa has been referred to by UNICEF as a "conspiracy of silence". It is a conspiracy of silence because when people die of AIDS, nobody says that they have died of AIDS. I have been challenging the Government to come up with some form of enactment so that when people die of AIDS, it is not hidden. As it were today, AIDS is like malaria because we have refused to observe the very common and basic elements of confinement to one partner.

Mr. Speaker, Sir, before I wind up so that other Members can contribute, I would like to say the following. I would like to thank the National AIDS/STD Control Programme, for having been able to sponsor the Seminar, where Members of Parliament will participate in the discussion for three days. After the Seminar, I hope we will be able to support the various programmes that are going to be undertaken by various Members of Parliament.

With those very few words, I beg to support.

The Minister for Roads and Public Works (Eng. Kiptoon): Mr. Speaker, Sir, I stand to support the Motion. In doing so, I would like to take this opportunity to ask each one of us to think seriously, about the issue of this scourge that is affecting our people.

Mr. Speaker, Sir, there is talk or allegations that this particular disease was created by man. Our people are being told to be aware of the disease and yet, it is not clear to us as to whether this was a deliberate disease introduced amongst our people, or it was a natural incident as in other cases. I hope that when Members go to Mombasa, they shall be able to come up with a clear indication as to how this particular disease came about. In doing so, it would be necessary for us as a country to weigh up the issue. If it is true that it was man-made, then it is time we took action and demanded some form of recompense from whoever introduced this particular disease. If it is true that it is natural, then it behooves us as a nation to look for every kind of treatment. We do have the conventional medicines that have come from the West. But we know that our ancestors also had other ways of approaching such issues; such as the use of herbs and other methods of treatment. Maybe, this time, we as a people do not just rely on what the Westerners are prescribing for us. We need to look into our history and see whether we shall be able to identify, whether there have been such diseases in the past. If possible, we should learn how our ancestors addressed the same.

Mr. Speaker, Sir, it is only the other year when I was in the Ministry of Research. I did advocate the fact that when we have such a disease facing us, it is not necessary to shut our doors. It is not necessary to say that our ethics do not allow us to try this or that. This is a disease that has no known cure. It is for us to grapple in the dark and see whether we can get anything that can save our people.

Mr. Speaker, Sir, it is only when we, as hon. Members, have learned about this disease that we shall be able to address the whole issue, educate our people and tell them about the modalities through which they can get this particular disease. It is not enough to say that you can only get it through immoral behaviours, because there are cases when you can get it unintentionally. For example, if you are involved in an accident, taken to a hospital and given contaminated blood, surely, this will not be intentional because you have no way of preventing yourself from getting the disease. We need to teach our people that they can get this disease through very many ways. So, it is necessary for us to be open-minded. As some hon. Members said, we have to be honest and if somebody dies from the disease, we have to be frank enough and say so. After all, death is death. It does not matter how it came about. So, there is no need of hiding the fact that, somebody died of it. It is important for us to be honest and face the issues as they are.

Mr. Speaker, Sir, more important is that, we need our people to come out clearly and face the challenge. To me, this disease has been a challenge of this Century and the next Millennium. Unless we move very fast, as a country, we may lose our population.

Mr. Speaker, Sir, with those few remarks, I beg to support.

Mr. Orenge: Mr. Speaker, Sir, thank you very much for giving me this opportunity to support this Motion of adjournment. Ordinarily, when Parliament is in Session, we must have a good reason for adjourning any Session or Sitting of Parliament. As it has been expressed by the previous speakers, the scourge of the HIV/AIDS is devastating in Africa as a continent, and in particular to Kenya, as a nation, to the extent that the people we are losing because of this disease, is comparable to loss of lives in war or calamities like earthquakes.

Mr. Speaker, Sir, I fully support this Motion because it does not belong to the type of the Motions we used to have, when we used to adjourn merely because a small event was taking place and Parliament had to stop its Sessions, so that we could meet foreign dignitaries.

Mr. Speaker, Sir, the other important thing is that, we are coming to terms with this disease. There was a time when we were trying to look for easy solutions and even as a nation, we made a false start by saying that we had discovered a cure for AIDS. That gave encouragement to many people to think that this disease, in those five or ten years ago, was curable. So, I think, it is going to be a good session for Parliament to sit together and get views of the experts as regards this scourge. I hope that from that Seminar, we will be in a better position to articulate matters to do with the disease and also to inform and educate our people.

Mr. Speaker, Sir, with those few remarks, I beg to support and congratulate you as the in-coming Chairman of the Parliamentary Service Commission.

(Applause)

Mr. Poghiso: Mr. Speaker, Sir, thank you for giving me the chance to contribute and I support the Motion. A few weeks ago, a school girl put it very rightly and very well in a poem when she said that the only human who could possibly cure AIDS has died. The message is that, we are dealing with a scourge for which the whole world must be concerned to work hard.

My appeal as we meet as Parliament should not just dwell on issues surrounding the pandemic within Kenya

but that, the community of the world must be able to share information pertaining to this disease, so that we have a free highway of information for us to know what is happening in every part of the world and what progress has been made. I know, in other parts of the world, some people have access to some highly-advanced information on how to deal with this particular disease.

Mr. Speaker, Sir, we can also learn from our neighbours. I think, Uganda has moved ahead in this respect. I am told that the reverse process has taken place in Uganda and the number of AIDS victims is reducing while in Kenya, the number is growing. So, we can learn and I hope this Seminar will help us.

Mr. Speaker, Sir, AIDS have an equal in this country; its equal is the cattle rustling. In fact, this is not an understatement. While many people have died of AIDS in many parts of the country, there are many in North Rift who have died because of cattle rustling. Just yesterday, the reports reaching us were that, the Marakwet attacked the Pokots and killed children. This has become a situation of revenge and counter-revenge. The number of deaths from cattle rustling is growing day in, day out. This country may need to address the issue of AIDS now, but I think as a country, we must begin to address the issues of cattle rustling very seriously. We know that all along, the information given to this nation was that the Pokots are the aggressors and that the Marakwets are the victims, but today, we know that the reverse is true. The number of deaths from cattle rustling is growing. We hope that the Government will intervene and really put the cattle rustling to a stop.

Mr. Speaker, Sir, there are many rural people. It is my prayer that medical facilities, including blood transfusion, testing and screening be improved in the rural areas in this country, so that the dispensaries far away from hospitals can have access to the screening of blood and know what their conditions are like.

Mr. Speaker, Sir, with those few remarks, I beg support.

Mr. Obwocha: Thank you, Mr. Speaker, Sir. At least, the Chair is now "seeing" Mr. Obwocha!

Mr. Speaker: Order, Mr. Obwocha!

Mr. Obwocha: Mr. Speaker, Sir, that is a compliment!

I rise to support this Motion for adjournment Motion. I would like to say one or two things; I want to agree with hon. Members who said that in future, this House, now that it will be completely in charge of its affairs, we should not be adjourning haphazardly, like we used to do to go and meet some foreign dignitaries or to attend some functions somewhere. In future, this House should adjourn for important matters like it is doing now. Everybody appreciates that HIV/AIDS is a menace and a danger to the people of this country and that, concerted efforts should be made to face this issue.

Mr. Speaker, Sir, Kenyans must agree and Government must be firm to tell the young people of this country that, these bogus drugs such as KEMRON and Pearl Omega, are no cure to this disease. This must come out clearly because the way we normally see it in the Press and elsewhere, people are not being categorical about this cure. Let everybody know that yet, there is no cure for AIDS anywhere in the world. Not so much as hon. Biwott was saying; that this disease is stopping men and women from bringing forth people of integrity. I do not think that is the issue. The issue is that, this disease is affecting our people and the babies are born with this disease. What are we going to do? Parents are dying everyday and we are having more orphans day in, day out.

Mr. Speaker, Sir, if you happen to read newspapers, the first two pages I normally read, are the ones regarding the funeral announcements. If you read that section between the lines from the photographs, half of the people who have died, are dying because of AIDS. So, really, we should do something about this disease.

Mr. Speaker, Sir, finally, I would like to request the Ministry of Health that the blood screening which is being done in the provincial and district hospitals be extended to the rural health centres, if it is possible with the assistance of donors. We would like to see blood screening done in those dispensaries. This is because in the rural areas is where the people have the mistaken belief that AIDS is not there. They do not know that is the place where that disease lives. In town here, people are aware and men and women, at least, carry their "boots" around. So, it is that place where the greatest danger is.

Mr. Speaker, Sir, with those few remarks, I wish to support.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, thank you very much for giving me an opportunity to support this Motion. I wish to make very few remarks.

First, what is as dangerous as AIDS is ignorance, and when leaders get properly educated on a matter, they cannot talk for hours on end trying to convince people on a different matter. So, when Members of Parliament get educated on these issues, they will articulate the same to their constituents and, therefore, Kenyans will be educated on matters relating to AIDS.

Secondly, those who are sponsoring these seminars and even our own Government should provide more money for research into this matter. I personally wish that the doctors could carry out research because from where I come from, people used to believe that AIDS makes somebody slim, isolated and he finally dies. I grew up in a place where if a young man had sex with a woman who had aborted, they would start coughing, grow slim, get isolated and

however much you feed them, they would finally die. These are areas that need to be properly researched on so that we can find the causes of AIDS because if that were the reason, then there are so many women who are aborting everyday and then going to bars to drink and they are getting partners to bed. There are also many who get partial abortion through the coils they use. I think we should set aside more funds from this Government and the donors so that our doctors can do more research and maybe find a cure.

Mr. Speaker, Sir, I support the Motion.

Mr. Speaker: I think Mr. Mwakiringo has been very persistent. Proceed!

Mr. Mwakiringo: Thank you, Mr. Speaker, Sir. I just have a few minutes to contribute to this issue. It is good that we Members of Parliament are going to be educated on AIDS because first and foremost, the reason why each one of us would want to attend this seminar is because we need a majority of voters in the year 2002. That is why we need to educate our people also so that they can be devoid of this scourge.

Secondly, what I would want the Ministry of Health to do is to again pump more money by providing the vehicles and films through the Kenya Film Corporation. They should reach *wananchi* in the rural areas and show them films on the dangers this disease is causing to this country.

Thirdly, it is as if Kenyans do not die of AIDS. When we look at the pictures on the obituary pages, it is revealed that one died of a long illness bravely borne. I think it is high time now people said so and so died of AIDS so that we know it is there, it is real and we should be devoid of immoral activities. We should not assume to be like a "Mr. Know All" who used to sit under the tree and whatever his people used to come to tell him, he says: "Oh, I know that one". Even before you had finished telling him about something, he would say "Oh, I know that one". He went on like that until finally one man had the guts to ask him: "Do you know?" He replied by saying: "I know everything". Then that person told him: "No, I think you do not know". Then he asked that man: "What is it?" That man asked him: "Do you know that your daughter is pregnant?" He then eventually said: "No, I think I know everything but I do not know that my daughter is pregnant". We as Members of Parliament should not wait for it to happen to one of us so that we know that AIDS is there. It is high time we went and got educated on this pandemic.

With those few remarks, I beg to support.

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): Mr. Speaker, Sir, I also rise to support this Motion. I represent a constituency which borders Uganda and as you know, there is a story that AIDS started from the Democratic Republic of Congo (DRC) and then it came to Uganda and finally to Kenya.

Mr. Speaker, Sir, my people at the border have been victims of this terrible disease and I am very grateful personally to see that Members of Parliament are going to deliberate on this very serious matter and hopefully come up with some agreed formula on how to deal with this particular problem.

Mr. Speaker, Sir, I would like to appeal to the sponsors of this conference that the next people we should educate on the AIDS problem are the councillors because those are grassroot leaders. They are the ones that are in contact with our people everyday when we are in Parliament, and it will be a very useful thing to do if we are able to educate them so that together, we are able to talk to our people about the dangers of AIDS.

Mr. Speaker, Sir, a lot of people have talked about research. I would like to think that in Europe where this AIDS problem started, specifically in America, the incidence of AIDS in those countries is now very much reduced. One wonders why? Is it that they have found some treatment or drugs for it? If so, why is it not possible for us to talk to these people so that instead of us spending money to do research, in other words to try and re-invent the wheel that has already been invented, could those people assist our continent Africa with the information about the research results they have already found? This is because they must be applying something to enable them to reduce the number of AIDS-related deaths that used to afflict their people.

Mr. Speaker, Sir, in Uganda where AIDS came from before it came to our country, the Government there has a programme of putting all AIDS victims in a home and people, schoolchildren and everybody else can go and visit those homes to see the suffering of these people. The experience of seeing these people suffering, and hundreds of them together in a home is so frightening that a number of Ugandans are very, very careful now about how they behave. The incidence of AIDS in Uganda has now reduced. The figures are going down.

Mr. Speaker, Sir, I hope that when we come back from Mombasa, we will have come up with programmes of actual application in practice on how we are going to educate our people to keep away from the problems of this trouble. Otherwise, we now have 30 per cent of the population in certain areas infected with HIV-AIDS and if you have a multiplying factor of four per cent, that is common sense on how long it will take this nation to die.

Mr. Speaker, Sir, with those few remarks, I would like to support.

Mr. Speaker: I will close with Mr. Keynan for one second!

(Laughter)

Mr. Keynan: Mr. Speaker, Sir, thank you for giving me the opportunity to contribute to this Motion. There are two crisis. People have talked of the constitutional review process and the Moi succession, but I think what we need to address is the famine and the cultural crisis. Under the cultural crisis, we have the AIDS pandemic. People have been shy; leaders have not been talking about it. It is a high time that we boldly said: "There is AIDS, AIDS and AIDS", so that Kenyans can also hear. Ministers, the President, Members of Parliament and everybody should talk about it. That is the only way we can send the message to youngsters. For now, we have been shy. Let us use this idle station called KBC to educate Kenyans about the dangers of this disease. Let us make it a national programme the way other countries have done. That is the only way we can avert a national crisis. For now, this is the only killer. This is the crisis of the Century and if we carry it over to the next Millennium, it is going to be a disaster for Kenyans. We have been good in aping and not in emulating and I think that is why AIDS is really costing us a lot right now. So, let us address it as a serious issue. It is there and it is not for a particular individual. It is not unique to a particular tribe or region. It is something that exists. Even amongst us here, there might be very healthy carriers. So, the best thing is to talk about it.

An Hon. Member: No, there are no healthy carriers here!

Mr. Keynan: The first step in solving a problem is talking about it. Let us talk about this killer. That is the only way we will save Kenyans.

Thank you, Mr. Speaker, Sir.

(Question put and agreed to)

ADJOURNMENT

Mr. Speaker: Hon. Members, in accordance with your resolution, the House is now adjourned until Tuesday, 30th November, 1999 at 2.30 p.m. May I advise hon. Members that those who have not collected their tickets to do so in Room No.164 and if nobody is in there, get Mr. Gichohi here to give them to you. Your flights will be from 9.00 p.m. Please, take the earliest flight because if everybody waited for the 11.00 p.m. flight, then we will not be able to travel there. So, take the earliest flight. I wish you a very pleasant flight to Mombasa. Thank you.

The House rose at 6.30 p.m.