

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th March 2019

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

Hon. Speaker: We can commence business.

PETITIONS

DELAYED VAT REFUND TO EDIBLE OIL MANUFACTURERS

Hon. Speaker: Hon. Members, as you are aware, Standing Order No.225 (2) (b) requires the Speaker to report to the House any petition other than those presented through Members. I, therefore, wish to convey to the House that my office received a Petition submitted by one Mrs. Florence Njeri, on behalf of the Edible Oil Manufacturers in this country. The petitioner is requesting this House to amend relevant sections of the Tax Procedures Act, 2015 in order to compel the Kenya Revenue Authority (KRA) to refund overpaid taxes within 30 days and reduce withholding Value Added Tax (VAT) from 6 per cent to 2 per cent.

Hon. Members, the citizen has submitted the public Petition in exercise of her right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. The petitioner avers that Edible Oil Manufacturers have invested over Ksh1.6 trillion in the economy, but are facing serious cash flow challenges owing to the fact that KRA has a backlog of billions of shillings in unpaid VAT refunds, of which a substantial part is owed to the edible oil industry.

On account of these frustrations, which are deemed to be delaying much needed funds for business growth and expansion, the petitioner proposes that this House considers amending Section 47 (5) of the Tax Procedures Act, 2015 to have overpaid taxes refunded within 30 days, failure to which the amount due shall attract interest at a rate of 2 per cent per month.

In addition, the petitioner seeks for amendment of Section 42A (1) of the same Act, so as to reduce Withholding VAT from 6 per cent to 2 per cent due to the distortions it causes in the pricing of taxable supplies.

Pursuant to the provisions of Standing Order No.227, this Petition stands committed to the Departmental Committee on Finance and National Planning. The Committee is requested to consider the Petition and report its findings to the House and the petitioner, in accordance with Standing Order No.227 (2).

I thank you, Hon. Members.

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There is a public petition by the Member for Magarini. I have been informed by the Member for Ganze that they are involved in food distribution in Kilifi County. Therefore, that Petition by the same Member is stood down to the time he will be present in the Chamber. Let us go to the next Order.

(Petition deferred)

PAPERS LAID

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ending 30th June 2018 and the certificates therein:

- (i) Higher Education Loans Board.
- (ii) State Department of Vocational and Technical Training.
- (iii) National Commission for Science, Technology and Innovation.
- (iv) State Department for University Education.
- (v) Jomo Kenyatta University of Agriculture and Technology Enterprises Limited.
- (vi) Witness Protection Agency.
- (vii) Agri and Cooperative Training and Consultancy Services Limited.
- (viii) Judicial Performance Improvement Project.
- (ix) Small-Scale Horticulture Development Project by the Ministry of Agriculture, Livestock, Fisheries and Irrigation, and
- (x) Subscription by Kenya Government to International Organisations.

Thank you, Hon. Speaker.

Hon. Speaker: The next Papers will be laid by the Chairperson of the Departmental Committee on Lands.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Lands on its consideration of the Senate amendments to:

- (a) The Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018), and
- (b) The Physical Planning Bill (National Assembly Bill No.34 of 2017).

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for West Mugirango, Hon. Mogaka Kemosi.

Question No.129/2019

MEASURES TO ENHANCE SECURITY IN WEST MUGIRANGO CONSTITUENCY

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Hon. Vincent Kemosi (West Mugirango, FORD-K): Hon. Speaker, pursuant to the provisions of Standing Order No.42 (A) (5), I wish to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(i) Is the Cabinet Secretary aware of the increased cases of insecurity in West Mugirango, particularly Bogichora Ward where six people have been killed in the last three months?

(ii) What steps is the Ministry taking to enhance security in West Mugirango Constituency, and further arrest all involved in the killings?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security.

The next Question is by the Member for Central Imenti.

Question No. 133/2019

NON-PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS
WORKING IN KIAGU AND MAKANDANU LOCATIONS

Hon. Moses Kirima (Central Imenti, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(i) Is the Cabinet Secretary aware that teachers in Kiagu and Makandanu locations in Central Imenti Constituency are not paid hardship allowance despite working in an area classified as a hardship region?

(ii) Is the Cabinet Secretary further aware of the serious shortage of teachers in public primary schools in the said two locations?

(iii) What measures is the Ministry putting in place to ensure teachers working in the said locations are paid hardship allowances, and further that teachers are posted to public primary schools in Central Imenti Constituency?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Education and Research.

Next Question is by the Member for Tharaka Nithi, Hon. Nkatha.

Question No. 137/2019

HIGH STUDENT DROP OUT FROM VOCATIONAL
TRAINING INSTITUTES DUE TO HIGH FEES

Hon. (Ms.) Beatrice Nyaga (Tharaka Nithi CWR, JP): Hon. Speaker, I rise to ask a Question to the Cabinet Secretary of Education:

(i) Is the Cabinet Secretary aware of the high student drop out from Vocational Training Institutes as a result of the high fees charged by these institutions?

(ii) Could the Ministry consider subsidising the fees charged; and releasing certificates for students who have completed their studies but have fees arrears?

Thank you.

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Hon. Speaker: It is referred to the Departmental Committee on Education and Research.

Question No.138/2019

STATUS OF SETTING UP STRUCTURES FOR THE NEWLY ESTABLISHED
KAUMA SUB-COUNTY HEADQUARTERS

The next Question is by the Member for Ganze who has written requesting that the Question to be deferred. The request has been acceded to.

(Question deferred)

The next Question is by the Member for Nairobi.

Question No. 142/2019

I am informed that Hon. Esther Passaris wishes to state something.

(Hon. (Ms.) Esther Passaris approached the Dispatch Box)

Do not come here. I was informed that you said the Question as drafted by the Registry does not capture your intention and, therefore, you would want it taken out of the Order Paper so that it can be redrafted to capture exactly what you wanted captured. That cannot happen now. I have seen you handing over handwritten documents. Let it be done the way you want and let it be on the Order Paper so that everybody sees what you will be asking and referred to the Ministry concerned.

We stand down the Question. You can ask it tomorrow.

(Question deferred)

The next Question is by the Member for Kanduyi, The Hon. Indomitable Athanas Wafula Misiko Wamunyinyi.

Question No. 143/2019

NUMBER OF PERSONS HELD IN REMAND PRISONS IN KENYA

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Speaker, I beg to ask the Cabinet Secretary for Interior and Coordination of National Government:

(i) How many persons are currently held in remand prison in Kenya, and how much does the Government of Kenya spend on each remandee in prisons annually?

(ii) Is the Cabinet Secretary aware that there are some remandees who have been in custody for 10 years and more?

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(iii) What action has the Ministry taken to ensure that the prisons are decongested and what measures have been put in place in conjunction with the Judiciary to expedite cases within a reasonable timeframe?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security to prioritise the appearance of the Cabinet Secretary to respond as appropriate.

Hon. Members, before we proceed, allow me to recognise students from the following institutions in the Speaker's Gallery: Isiolo Girls High School, Isiolo North Constituency, Isiolo County, ELCK Kongoi Secondary School, Kuresoi North Constituency, Nakuru County and St. Peter's Sang'alo Central, Mosop Constituency, Nandi County. In the Public Gallery, we have the following schools:

Lusigetti High School, Kikuyu Constituency, Kiambu County, Kisii High School, Nyaribari Chache Constituency, Kisii County and Kasasule Primary School, Kibwezi East Constituency, Makueni County.

They are all welcome to observe proceedings in the National Assembly this afternoon.

Hon. Members, let us proceed to the next business.

Next Order.

CONSIDERATION OF REPORT AND THIRD READING

THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL, SENATE BILL NO.7 OF 2017

Hon. Speaker: Hon. Members, debate on this Motion was concluded. What remained was to put the Question which I hereby do.

(Question put and agreed to)

Hon Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the County Governments (Amendment) (No.2) Bill, Senate Bill No.7 of 2017 be now read a Third Time.

I request Hon. Kioni to second.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: Is it the view of the House that I put the Question?

Hon. Members: Yes.

Hon. Speaker: Having confirmed that the House has quorum, I, therefore, put the Question.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

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CONSIDERATION OF REPORT AND THIRD READING

THE DIVISION OF REVENUE BILL

Hon. Speaker: Hon. Members, the Committee of the whole House considered this Bill and what remained was for me to put the Question for agreement, which I hereby do.

(Question put and agreed to)

Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Division of Revenue Bill (National Assembly Bill No.11 of 2019) be now read the Third Time. I request Hon. Mbadi, who is a Member of the Budget and Appropriations Committee to second.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, I second.

(Hon. (Ms.) Beatrice Adagala stood in the gangway)

Hon. Speaker: Member for Vihiga, you appear to have a problem making your way into the Chamber. Are you not able to reach your destination? The Member for Emuhaya suggests that you are new. I disagree with that.

Hon. Members, sometimes people talk about experience, but if you are experienced in doing the wrong things, that is not the experience to have.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Next Order.

MOTIONSRATIFICATION OF THE REVISED CONSTITUTION
OF THE AFRICAN CIVIL AVIATION COMMISSION

THAT, this House adopts the Report of Departmental Committee on Transport, Public Works and Housing on its consideration of the Revised Constitution of the African Civil Aviation Commission (AFCAC) for Ratification, laid on the Table of House on Tuesday, 12th March 2019, and pursuant to section 8 of the Treaty Making and Ratification Act, 2012 approves the ratification of the Revised Constitution of the African Civil Aviation Commission.

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(Hon. David Pkosing on 21.3.2019)

(Debate concluded on 21.3.2019)

Hon. Speaker: Again, Members, debate on this Motion was concluded and what remained was for the Question to be put.

(Question put and agreed to)

ALTERATION OF 2019 CALENDAR OF THE ASSEMBLY (REGULAR SESSIONS)

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28(4), this House resolves to alter its Calendar for the Third Session of the Assembly (2019) as adopted on 13th February 2019 as follows:

(i) by proceeding for the short recess on Friday, 5th April 2019 and resuming its regular sittings on Tuesday, 23rd April 2019, and

(ii) by commencing the long recess on Friday, 10th May 2019 instead of Friday, 3rd May 2019.

The purpose of this Motion is to alter the Calendar of the Assembly in order to allow the House to sit the whole of next week. According to our calendar, which we are now altering, we were scheduled to go on a recess on Thursday this week, 28th March 2019, at the rise of the House. However, the House Business Committee (HBC) that you chair resolved to extend the sittings by one week to cater for the crucial business that ought to be concluded before the short recess, which is the address of the President in accordance with the Constitution.

The alternative to this Motion could have been that we proceed on our recess this Thursday as per the calendar and then come back for a special sitting for two days. We felt it was cumbersome because many Members want to go to their constituencies to deal with the matter of bursaries. Of course, our sisters and Members from the counties will also have an opportunity to deal with the matter of affirmative funds. So, instead of recalling the House for a special sitting, we have decided to extend the sitting to next week.

On Thursday 4th April, once we conclude the business of the Address by His Excellency the President and tabling of various documents as per the Constitution, we can go for the short recess up to 23rd April. At the end of April, the National Treasury is supposed to submit the Annual Estimates for the Budget 2018/2019.

The other crucial business which the House must know is that of the vetting of the Inspector General of the National Police Service. It has a set timeline of 14 days from the expiry of the notification to the public. The joint committees of the two Houses are expected to table a report on consideration of the nominee by 2nd April 2019. In this regard, the alteration of the calendar will allow the House to consider that nominee either for approval or rejection before we proceed on recess.

Finally, as is the practice and pursuant to Article 132(1) (b) and (c) of the Constitution, the President shall address a special sitting of Parliament once every year. As such, the HBC has scheduled that His Excellency the President will address the joint sitting of the Houses on 4th

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April 2019. The House will continue with any other important business for the whole of next week if we do not conclude those items this week. The alternative could have been that we proceed on recess this week as per our calendar and then come back for a special sitting, but the HBC felt otherwise. That necessitated this alteration because the House controls its calendar. Even altering it is not the preserve of the HBC, the Speaker or the leadership; it is the preserve of the plenary. That is why we want to alter the calendar and ask our colleagues to say that we sit next week then proceed to short recess once the Address is made in compliance with Article 132(1) (b) and (c).

It is a Procedural Motion. So, I ask Hon. Mbadi who is the Leader of the Minority Party and a Member of the HBC to second.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker.

I want to second this Procedural Motion and say the following: This Motion helps these Members to refresh their minds and appreciate that the House now has full control of its calendar. I have heard many of my colleagues say or make statements like the President should dissolve Parliament, do this and that. Through this Motion, Members are reminded that those who are still thinking like that are living in old days. This Parliament, both the National Assembly and the Senate, controls its calendar. No one can dissolve us. It is the Constitution that terminates our existence as a House or when, as provided under the Schedule to the Constitution, we do not manage requirements of that Schedule. It is rare. I do not think it will ever happen.

The reason we have decided to vary the calendar from 28th March to 4th April, which is basically one week, has been ably explained by the Leader of the Majority Party. One, the President is coming to address the House. Two, we have the vetting and approval of the nomination of the Inspector General of Police which we expect to be done next week. It has timelines and because of that, we will also extend our time of coming back by one week, from 5th to 23rd of April.

Again, I have a word on the long recess because this one is just a short one, we will come back on 23rd April. When we come back, before 30th April, we will be expecting the Cabinet Secretary in charge of the National Treasury to table the Budget Estimates and then we will take time off on 10th of May. This is to allow the various Committees of Parliament to desegregate the Budget, look at it and do a report to the Budget and Appropriations Committee (BAC), which will then do a report on the Budget Estimates. It will be a very busy period for us as a House. I am sure these Members have prepared for it.

I second the Motion.

(Question proposed)

Hon. Sammy Seroney (Nominated, WDM-K): Nay!

(Question put and agreed to)

Hon. Speaker: Hon. Seroney has been infected by some disease. That disease must be from the Member for Homa Bay Town Constituency.

Because it was explained by both the Leader of the Majority Party and the Leader of the Minority Party, it is good to observe that, essentially, these adjustments are also, I am told, quite comfortable to those Members who have school-going kids. Obviously, it may not affect Hon.

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Jimmy Angwenyi. It also takes into account those Members who have children going to school at that time. That is what the Member for Kikuyu had indicated, that he was happy with the adjustment.

Let us move to the next Order.

SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, the Senate amendments to the Physical Planning Bill (National Assembly Bill No. 34 of 2017) be now considered.

Just to give a background, the Physical Planning Bill 2017, seeks to make provisions for the planning, use, regulation and development of land in Kenya. This Bill was passed by the National Assembly on 3rd May 2019.

Hon. Speaker: Sorry, the Leader of the Majority Party. It should be the Senate amendments to the Land Value Index Laws (Amendment) Bill, Order No. 12.

Hon. Aden Duale (Garissa Township, JP): Oh! It should be the Senate amendments to the Land Value Index Laws (Amendment) Bill. Sorry, Hon. Speaker. It is because both the Land Value Index Laws (Amendment) Bill and the Physical Planning Bill 2017 follow each other.

I beg that move the following Motion:

THAT, the Senate amendments to the Land Value Index Laws (Amendment) Bill (National Assembly Bill No. 3 of 2018) be now considered.

Just to give a background, the Land Value Index Laws (Amendment) Bill 2018 seeks to amend the Land Act, the Land Registration Act, the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, and to provide for the assessment of value index in respect of the compulsory acquisition of land. The Bill was passed by the National Assembly on 8th August 2018. Thereafter, it was conveyed to the Senate in accordance with provisions of Article 110(4) of the Constitution.

*(Hon. Jimmy Angwenyi, Hon. John Mbadi
and Hon. Opiyo Wandayi consulted on the aisle)*

There is loud discussion.

Hon. Speaker: Hon. Members and Hon. Jimmy Angwenyi, I do not know what you may have had for lunch. You are in a very exuberant mood today.

Hon. Aden Duale (Garissa Township, JP): There is the lounge owned by the Deputy Speaker. It is empty now. They can go and discuss. There is a very good lounge, but you have to seek the permission of the Deputy Speaker, for some people. It is a Members' club, especially nominated ones.

This Bill went to the Senate. The Senate considered it and passed it with amendments on 14th February 2019. The amendments were, therefore, conveyed to the Departmental Committee on Lands which is chaired by Hon. Rachael Nyamai on 21st February 2019.

Moving on, I had a chance to look at the Departmental Committee on Lands' opinion on the Senate amendments to Bill. I also had the opportunity to get a written view of the Ministry on the amendments made by the Senate. I observed that the Committee agreed with most of the

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Senate's amendments, save for some few. I will highlight some of the amendments over which the Committee disagreed with the Senate.

First to note is the first amendment the Senate effected of changing the title of the Bill to read "Land Laws Amendment Bill." That in itself is wrong. How do you change the title of a Bill when the Bill is specifically dealing with land value, land rates and all the other rates like Stamp Duty? You cannot call it Land Laws (Amendments) Bill. We had a Land Laws (Amendments) Bill earlier in this House. I agree with the Committee on Lands for rejecting this amendment. The title should remain as it is. I also agree that even though the Bill is amending various land laws, the title of the Bill should be distinct to reflect the essence of the amendment.

As I said earlier, this Bill seeks to be governing laws on valuation of land and compulsory acquisition of land by the State in the interest of the people of Kenya. So, the title of the Bill should be simple and straightforward for the users of the law, who are the people we represent here, in order for them to easily identify and find this law. We will support the Committee in retaining the title as "Land Index Law." Why would anyone want to rename a Bill that deals with assessment of land value index, in relation to compulsory acquisition, when you are computing land rates, Stamp Duty and acquisition of land by the Government for internally displaced people, for industries and many other purposes? I have never seen such a thing before.

The Committee also rejected the Senate amendment to the reconstitution of the tribunal vested with the responsibility of hearing appeals against the decision of the National Land Commission (NLC) on compensation of land whenever disputes arise, for example, the amount that should be paid when compensating a person. If a person is not happy with the actions of NLC, he will appeal to this tribunal. I agree with the Committee that the Senate amendments limit the discretion of the Cabinet Secretary (CS) in the appointment of the membership of the tribunal. This is a serious function and, therefore, the Cabinet Secretary for Lands must have discretion in the appointment and formation of the tribunal.

However, the Senate has decided to remove that. This may affect the diversity and inclusivity in the composition of the tribunal and its membership. The Cabinet Secretary will look at regional and ethnic composition of that tribunal. So, the Cabinet Secretary should be allowed to make appointments based on gender, regional balance and ethnic diversity. In this regard, I support the rejection of that Senate amendment by the Committee.

The rejection of some of the Senate amendments means that, eventually, the provision of Article 113 of the Constitution on establishment of a mediation committee will be the next course of action. We will agree with the Senate where the Committee has agreed to an amendment because they represent this House and where it has rejected, we will support it in rejecting the amendment. It will be followed by the formation of a mediation committee of four Members from this House and four Members from the Senate.

I beg to move and request the Chairperson of the Committee on Lands, Hon. Rachael Nyamai, to second and give the House the specific amendments that the Committee has rejected.

Hon. Speaker, I want to make it clear that when we were dealing with the Roads Bill, there were certain amendments that we had no problem with and agreed with the Senate, but the House, during the Committee of the whole House, rejected all the amendments. So, I want to ask Members that today, as we reconstitute into the Committee of the whole House, we support the Committee's recommendations. Where they have agreed with the Senate, we support; and where they have rejected a Senate amendment, we also reject so that only amendments that are offensive are referred to the mediation committee.

The Senate amendments on the Roads Bill were rejected by this House, and that does not show goodwill from this House. Hon. Maoka Maore is saying that we have no goodwill. I am sure that Hon. T.J. Kajwang' and Hon. Jessica Mbalu, who went with me to Germany's *Bundesrat* - the equivalent of our Senate - will have a story to tell when we table our Report. That is how the Senate of the Republic of Kenya should be in future; the governors rotate to become the Speakers of the Senate. They do not have a substantive speaker. That is how they do it in German.

Hon. Speaker: Let us have the Chairperson of the Committee on Lands.

Hon (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Speaker. I beg to second this Motion on the Senate amendments to the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018).

From the outset, the Senate has proposed amendments to 12 clauses. The Committee recommends agreement with seven clauses. The two clauses were rejected. Further amendments have been suggested on three clauses. I would like the House to understand that it is not a total rejection. As it has been well explained by the able Leader of Majority Party, we would like to make this Bill better. We request the House to agree with this Motion.

I will not go through the basics because they have been well put by the Leader of Majority Party. I will move to matters that were raised by the Senate.

The Senate suggests that the Committee changes the title of the Bill. There is a reason why this Bill is referred to as the Land Value Index Laws. We do not agree with that proposal. We would like the title of the Bill to bring out the purpose of the amendments. We are proposing amendments to provide for the assessment of land value index in relation to compulsory acquisition. We would like the land value index to feature clearly, so that we do not lose the purpose of the Bill.

We agreed with the Senate on the amendments on clauses 3, 4, 13 and 13 (b). These clauses offend the provisions of the Constitution in Article 23(3) by restricting the powers of the courts to issue certain orders. We agreed with them that members of the community are free to go to court. Further, the clauses are unconstitutional as the Land Act requires the courts to be guided by the doctrine of equity. So, if a person feels that they were not equitably represented and they have an issue with any matter that has been raised concerning their property, they are free to go to court.

On definitions, the Committee agreed to the Senate amendments to clause 2. The amendments are proposed to seek clarity on the definitions of the words "prompt" and "full." This regards compensations. That compensation must be done promptly and in full. So, we are in agreement with them.

We also agree with the Senate on timelines. That the Committee agrees to the introduction of timelines within which the Commission should relay information to the acquiring body. The acquiring body here is the Kenya National Highways Authority (KeNHA), and any other body that acquires property on behalf of the Government. The Committee was, however, of the view that the seven days that the Senate provided is too short. For that reason, we requested that we make it 14 days.

The Committee also agreed on the introduction of timelines in the Senate amendment to Clause 7A. This amendment shall ensure that compulsory acquisition is completed within two years. And where an acquisition has taken longer than 24 months, then it is considered to have lapsed. This gives an opportunity to the members of the community that they are not promised

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compensation for a very long time, such that the Government is aware that if 24 months expire, then it will lapse and they will have to restart negotiations. So we agreed with the Senate on that.

The Committee also observed that the Senate amendment to Clause 5(b) only refers to uninterrupted occupation, meaning any person who has occupied land even for one year provided that it is uninterrupted, can be included in the register of the actual occupants for purposes of compensation. We felt that one year is too short and we did not agree with the Senate on this. In this regard, without putting the duration in paragraph (b), it will be open to abuse such that somebody can come to a private property, be there for one year and seek to be put in the list of compensation. Uninterrupted period should be 12 years as already contained in the Bill in accordance with the adverse possession common law and doctrine.

Further, the Committee noted that the Senate amendment to proposed new Clause 107A (8) (a) reduces the duration of what can be termed as uninterrupted occupation from 12 years to six years. The period should be tied to the advanced possession common law which refers to 12 years. In fact, we saw this as a contradiction.

The matter of the tribunal is a matter that we discussed widely and we had wide consultations. It is an important body. However, the Committee rejected the Senate amendments to Clause 17. The amendment limits the discretion of the CS in appointing membership to the tribunal. This may affect diversity and inclusivity, where they just forward one name to the CS as opposed to forwarding several names so that the CS has an opportunity to choose so that he or she can ensure that we have gender and geographical balancing. The CS should be allowed to make the appointment based on gender, regional balance and ethnic diversity.

In conclusion, the Committee put in a lot of time. We looked at the Senate amendments keenly and we tried as much as possible to agree. Where we have not agreed, we would like the House to agree with us so that we can be given an opportunity to go to mediation so that this can be a better law for the country.

With those remarks, I would like to thank the Committee for being able to work within the 14 days that you gave us on the Floor of the House. We look forward to the House agreeing with us. Thank you very much, Hon. Speaker.

With those many remarks, I second.

(Several Members walked into the Chamber)

Hon. Speaker: Those who are walking into the Chamber, take some seat anywhere, any seat. You can take some seat. Even sitting next to Hon. Wamalwa is quite healthy for you.

(Question proposed)

Hon. Members, while still at this point, before debate, I think it is important that everyone appreciates what it is that the debate will revolve around. From the Chair of the Committee, out of the 12 proposed amendments from the Senate, the Committee has agreed with seven. I am always very attentive. They have disagreed with two while for the other three they have proposed some further amendments to the ones proposed by the Senate, so that unlike what I saw last week when Members discussed the entire Bill which the House had already discussed before it was sent to the Senate, in this particular case it is only fair to use time optimally by restricting ourselves to either agreeing with the Committee on the decision they have taken on

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the seven amendments or disagreeing, in which case you will have to propose further amendments.

Look at the other five, the ones on which they have totally disagreed with the Senate, two of them, and the other three where they propose further amendments to the Senate amendments. This is not the opportunity to reopen the entire Bill unless you want to give some history which will explain something around those seven or five areas. I wanted to make that clarification so that even in the next Order, we will be accordingly guided so that we can clear the business as soon as practically possible.

Thank you. I am assuming that the Members who have put in their requests desire to contribute that way. The first one is the Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker. I think the critical amendments we should talk to are the two amendments that the Committee has differed with. We know very well we have a Parliament composed of the Senate and the National Assembly. The two of them are supposed to check each other for purposes of value addition. I want to start by saying that I do agree with the Report of the Committee. And I want to thank Hon. Rachael for the good work well done.

Changing the title is completely upside down. The title of the Bill should give a description of what are actually the objects of the Bill. In this case, this is supposed to do with valuation of land. When you bring in the aspect of index, it is supposed to take into consideration issues of appreciation. We know the Government normally conducts compulsory acquisition and many land owners have been taking advantage. We have even had those who conspire. So, this Land Value Index Bill will be able to eliminate issues of exaggeration of prices. That is why it is indeed important that the title of this Bill should remain the way it is. You cannot say that the title should change to Land Laws (Amendment) Bill. It is upside down. That is why we are asking the Senate, do they reject our Bills for the sake of value addition or is it just some sibling rivalry?

Last week when we were looking at the issue of KeRRA, they rejected many of the good things that we had proposed, which has been the practice, and they proposed some amendments which were upside down for the conflict of their interest. I think it is high time these two Houses came together for the benefit of the common *mwananchi*. Some of the amendments coming from the Senate leave a lot to be desired as if it is an issue of competition. When they amend a Bill, they should be able to improve it for value addition and the common public.

In terms of the rule of the thumb, when you talk of index, it can be food price index or anything. Ordinarily, there must be a base rate or a base year that we use and give a specific percentage maybe for purposes of appreciation. That is the understanding of any base rate all over the world. So, for them to come up... Unless they do not understand what we mean by the base rate, when you bring in the issue of index, there must be a base from which to appreciate. In other words, the Government may decide, as per this Bill, after every financial year, a specific percentage is put in place to increase because there is time value of money.

Accountants know that land is the only asset that does not depreciate; it always appreciates. I have always had problems with the National Government Constituencies Development Fund (NG-CDF) in my constituency. When you agree with a land owner on the selling price of land, but then there is delay in the disbursement of funds, one or two years down the line, the land owner who sold you the land for public utility will double the selling price. Where do you get the money? So, this law will help us utilise money from the NG-CDF well

especially when it comes to acquisition of land. Those selling land to us will not exaggerate the price. This is an important Bill and because of its motive, value and description, it should be known as “The Land Value Index Laws”.

I would like to speak to the second amendment. The second rejection talked about the composition of the tribunal. We saw the National Land Commission (NLC) going around in the country. We have had problems with the NLC in terms of valuation and payment. We have seen many people who own land coming to appeal to the tribunal. It is important that the Cabinet Secretary must have discretion in terms of appointing people who will be on that tribunal. We need regional balance. I have not seen Hon. Sankok today – I am sure he will demand that the marginalised groups like the disabled be represented in the tribunal. So, we must leave room for the CS to exercise discretion when nominating persons to the tribunal. The CS will take into account the issues of gender, regional balancing, and the marginalised groups.

I support the amendments that have been proposed by the Committee. I request Members to support them so that we do not waste so much time on this Bill. We need to focus only on the issues that were rejected.

Thank you and I support.

Hon. Speaker: Well, according to my system here, the next Member to contribute is Hon. ole Sankok David. As you can see, there he is.

Next is the Hon. Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula ODM): Thank you, Hon. Speaker.

First, I commend the Committee for being reasonable enough and taking its time to challenge some of the amendments proposed by the Senate that generally go against the principles and tenets envisaged in the Bill that we passed in this House.

For record purposes, and just to correct my good friend, Hon. (Dr.) Chris Wamalwa, there is no logical explanation that land values only appreciate and they do not depreciate. Land value is an interaction between supply and demand and so obviously there is no economic or theoretical underpinning with regard to the statement he made. I speak from a point of authority because I have three degrees in land and land-related issues.

Hon. Speaker, the question of the land index, in my view, has come from the fact that there have been continuous complaints that the value of land and time of compensation for compulsory acquisition has at times been much higher than the project cost. There has also been a complaint that the process involved in land acquisition takes unnecessarily too long to a point that it impoverishes the initial land owners who have been dispossessed of their land for purposes of public utility projects. So, the reasoning behind the land value index is to try and resolve those pertinent issues, that is, the cost of land; the timeframe involved in the process of acquisition; and, payment of full, fair and just compensation. Many a times, within the Government circles, information is leaked about land that is to be acquired in a particular area. So, an artificial market is created that unnecessarily inflates the value of land to an extent that it is a mismatch compared to the neighbourhood.

Consequently, the importance of land value index is to prepare a system where we have a reference point or a base point to enable determination of land value right from when there is intention to acquire land until the end of the process. It should be predictable for budgeting purposes by the acquiring authority. There is nothing so disorganising for any project-implementing body like the value of land to keep on changing or the owners of land to keep on shifting the asking prices during the implementation of the project. The title of the Bill

cannot be purported to change unless the Senate did not understand what it was debating. Could be the Senate did not have Senators present who have an understanding of land matters and land values, however little.

Probably, this brings to question the issue of staff complement of the entire House. The legal officer in charge of the subcommittee of the Senate should have pointed out to them the difference between a land value index and amendments to the land laws. This is very simple and straightforward. I am surprised and even ashamed to make a comment on such a simple and straightforward matter. This is a great indictment of our team in the Senate.

Hon. Speaker, the issue of the tribunal is critical to the process of land acquisition. We know the court process can take inordinately long. For that reason, the member of public who is deprived of his land is bound to suffer for all that time. We need to have a robust tribunal that can discuss and resolve issues within the shortest time possible.

As I conclude, may I take this opportunity to ask the National Irrigation Board, the NLC and all agencies involved in land acquisition to be reasonable and sympathetic to those people they are acquiring land from. Before I came here, I was involved in land take; there are so many projects we did since 2013 and up to now the process of acquisition has not been completed. Literally the life of the land owners has been put to a standstill; it is in limbo. How can we help as a House? We now have an opportunity to re-open areas that are being considered for moderation or arbitration. What happens after one year? What happens to somebody's life, say in two years? Does it mean the person cannot use the land for purposes of a financial facility, for example, meet school fees needs and medical bills? Does it mean the person cannot develop land for those two years when the process is underway? We must rethink this matter clearly so that before an organ that intends to acquire land does so, it must have a budget line and all the plans in place. It must also do initial surveys so that the process takes the shortest time possible without further delay.

With those very few remarks, I support the Committee's amendments and thank you for the opportunity.

Hon. Speaker: Well spoken. Let us have Hon. (Dr.) Pukose, Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I support the amendments by the Committee. I totally agree with the Committee. I would also like to thank the Chairlady, Hon. Rachael Nyamai, who I deputised in the Departmental Committee on Health in 11th Parliament. I know her for her keenness and hard work. This is very commendable.

Looking at the Senate amendments to the title, surely, this beats logic of the Bill. This is the Land Value Index Laws Bill which will revolutionise the issue of compulsory acquisition of land in this country. The Senate amendments are delaying this very important Bill which the country has been waiting for with bated breath.

As you are aware, in this country there are many challenges in terms of compulsory acquisition of land. We have seen exaggerations of prices in the land acquired to build the Standard Gauge Railway (SGR) in the country. Also in the energy sector, the transmission lines wayleave figures were exaggerated, making it very difficult for power transmission lines to be erected. This has been a very big challenge in this country. More often, you find in a certain area the land value was initially low. However, once a major government project comes into place, people skyrocket the prices to exaggerated figures. We have seen this in the power transmission lines, the SGR and road construction where land of low value rises to high value.

I want to agree with the Committee on the Senate amendment of the definition of the words ‘prompt,’ and ‘full’. ‘Prompt’ means you are able to pay a person within a year. In my constituency, there is the Kitale-Suam Road and it has taken a long time for people to be compensated. Once we put this in law, that payment has to be prompt, within a year. People will be compensated in full and this will enable them to do other things using this money. Maybe, one can plan to buy another land or deal with certain issues.

This is a very important Bill. I hope we will move with speed and agree with the Committee on these very important amendments. In the areas where the Committee has disagreed with the Senate amendments as a House, we should support them.

With those few remarks, I support the Committee’s position.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kitui Central

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker for giving me this opportunity. I also want to join my colleagues in agreeing with the comments by the Committee. I also want to congratulate them for the short time they have taken working on these amendments.

At the same time, we must also appreciate that the Senate has added value, because the Committee was in agreement with most of their amendments. However, there are areas where they disagreed, and this will create room for the mediation process.

I want to make some observations about the issue of changing the title. I agree with Hon. Members, that maybe they were confused when defining the word ‘index’. If you ask many Members here to tell you what an index is, I am sure they will have challenges. I want to agree that maybe the Senate faced challenges interpreting the word ‘index’.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker. I do not want to interrupt Hon. Makali Mulu, but he has made a very serious statement. He has said that if Members are asked the meaning of “index”, many of them will have challenges, even the Senate. He is a very decent MP and I want him to withdraw that statement or paraphrase it.

Hon. Speaker: He said that some Members would have challenges.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Speaker, I do not know what to withdraw because I said, if you asked Members...

Hon. Speaker: Unfortunately, that is not un-parliamentary...

Hon. Makali Mulu (Kitui Central, WDM-K): Yes, Members will have challenges defining the word ‘index’. I meant, it will not be easy for everybody. I think the Senate faced the same challenge. However, if anybody has been affected, I withdraw.

I want to make some observations. Looking at these amendments even as we agree or disagree, I think the Committee needs to take time and think about them. For example, Clause 2 defines the word ‘prompt’ to mean not more than one year. I do not know whether they lacked the correct terminology or what is happening because promptly cannot mean a whole year.

The other issue which the Committee has raised and needs to be discussed concerns occupation of land for one year and being eligible for compensation. I think that is a very short time. I want to agree with the Committee that we cannot accept such an amendment, that by having one year occupation, you can be included in the list of those to be compensated.

Another important amendment is Clause 6 and I agree with the Committee. The Senate is proposing that if you occupy a piece of land for an uninterrupted period of six years, you can claim ownership. I think the law is clear that it has to be a minimum occupation of 12 years. To

me this is a contradiction and so I agree with the Committee that the Senate needs to accept that cannot be true.

Lastly, on the issue of the two year compensation, it is important for land owners to be compensated within the shortest time possible, especially for land acquired to build roads. For example, in my county we are building the Kitui-Kibwezi-Mwingi Road, and I know people will be compensated. Normally, it takes five to six years to be compensated. So, the proposal of two years is good for the land owners in the country.

As I conclude, concerning the tribunal, I agree. The CS must have some free hand to choose people so as to balance gender, regions and disability.

With those remarks, I support the Committee's comments.

Hon. Speaker: Member for Central Imenti.

Hon. Moses Kirima (Central Imenti, JP): Thank you, Hon. Speaker. I stand to support the Motion on the Senate amendments because they are well placed. The idea of having a person occupying land for one year and being compensated is bad in all angles, especially now when infrastructure is being constructed in many places.

Strangers will invade other people's land waiting for compensation because as speculators they know very well that a certain infrastructure will pass through a certain place. Since they have occupied that portion of land for one year, they will expect to be paid. Therefore, this amendment will encourage anarchy in Kenya.

In common law, we only have positions whereby if one occupies a portion of land for a period of 12 years, they are considered as having interest in that portion of land because they have stayed there for a reasonable period without interruption. When this period is reduced to one year, according to the Senate amendments, it means, they are lacking foresight.

For that, I support the Motion as it is because that amendment is bad in law.

Hon. Speaker, I support.

Hon. Speaker: Next in the list is Member for Homa Bay Town, Hon. Kaluma.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. I rise to support the proposals made by the Committee. I think that between the two Houses, a number of very useful improvements are being made. Even though there maybe some areas of differences in semantics and so on, I think the Senate's perception of land laws is broader, whereas the land index value is much more specific. Maybe we should remain with the specific nature.

Unfortunately, Hon. (Dr.) Oundo of Funyula has left. I would have liked to indirectly share and exchange on these issues, but he is not here. What worries me is the risk of generality in arriving at an index. A good index should be based on the land potential in terms of earning potential or some other value to that land. As it happens, when you get assessments based on right of way, there is a tendency to generalise very broadly in areas with completely differing values. If you are dealing with an area-based type of assessment, or if you get a chance of having more consistent yield or value potential of that land, developing indices makes it relatively easy. Anytime an index is developed, it is simplification and anytime you have simplification, it means that you will get an array of differences, some of who will be underpaid and others overpaid because you are trying to simplify some middle ground.

The middle ground simplification helps us to get some idea about what the cost should be. Instead of having recommendations or proposals that compensation be made, let us say, within a year – whether that is prompt or not – we should go to the old consideration that used to be in the 80s and 90s. It was there because of the difficulty of organising beneficiary groups after

projects had started. These matters must be settled prior to commencement of project activity. They should be done in advance totally prior to commencement. The first line expenditures of budget are on these kinds of compensation, resettlement, action plans and how that will be done. Those should precede the kind of works that are proposed because the moment the projects start, the project persons and entities are better organised, they have access to the law and they can easily intimidate individual land owners who are objecting. If you get to the courts, it will take a long time and there are high transaction costs when you are dealing with courts. That is one amendment that would have been clear. It would have helped the weak. The weak are these individual owners of land in various places.

Secondly, I do not see sufficient clarity on land ownership. You can own land by virtue of certain legal or quasi legal rights, either through inheritance or purchase or some other recognition that lies in the law. Under the current thinking on issues of compensation, there are people who simply need compensation on the basis of rights. You have put your kiosk there, a line comes up and your kiosk is being removed. Probably, you had rented the land informally. The right type of ownership also needs to be clarified. I did not find that clarity. Whereas the CS has a say in the membership of tribunals, I hope this would be done separately from considerations of a specific activity. If you take things like the SGR, you will find how much manipulation there was along the line. I hope that the tribunals will be independent entities from the proposed projects.

In conclusion, my prayer is that these kinds of compensations, however best we are simplifying them by using the land value index, this needs to be made prior to commencement of projects.

Thank you, Hon. Speaker.

Hon. Speaker: Next is the Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker, for giving me the opportunity. I also start by commending the Committee for the good work they have done. Also, I think we should commend the Senate because if out of the 12 issues that arose, there is actually an agreement on about five, it means the Senate made reasonable amendments.

The whole issue here is that of compulsory acquisition which always has been bedevilled by speculation and has delayed projects where there has been delayed or inadequate compensation hurting the owners of land. To that extent, the issue of index is paramount in this law. Therefore, I cannot understand how the Senate could actually think of removing the word “index” because without that, the rest is lost. We agree with the Committee on that. Without the word “index”, there will be speculation. People inflate prices particularly if there is insider information. In the long run, this will actually give a reference point. I know in this country, in the sale of land there is willing seller and willing buyer. However, if there is some reference point that is used in government processes, it will stabilise the value of land. People will make reference to it even when they are dealing with private issues although they may not be forced to do so. I think that is something that we should not leave out and so I agree with the Committee on that.

On the issue of compensating promptly, that was a good amendment. I agree and support what the Committee said. One year is a reasonable time. There are cases where there have been long periods after somebody’s land has been taken and they have not been compensated. I support the idea of having a defined period and a timeline. Also, in the issue of full compensation, again it is important because sometimes there has been a dispute on the

improvements of the land. There may be an attempt to say we are compensating for the land taking into consideration improvement. Sometimes, improvements may be seen as temporary but they may be earning a livelihood for the people that have put them up. I also support the issue of full compensation.

I also agree with the Committee in rejecting Clause 5 on short period of occupation. If you make it one year in this country where there is high speculation and people have information on what the Government is planning to do here and there... Just look at the Lamu issue. I remember just before the Lamu issue, there was just a rumour and people moved in and started buying land or moved in to stay. So, if we take such a short period to give ownership and, therefore, seek compensation during acquisition, then you will find that in any projects in any place where the Government is planning to put up projects, people will move there one year before and then it will be impossible or they will be extremely expensive. You know that moving people, once they have been at a place, is extremely difficult. I agree with the Committee on that.

On the issue of the tribunal, nothing better can be done in resolving disputes. Going to court is expensive. Many people whose land is acquired are not able to go to court. It is expensive for them. They are not used to court processes and, therefore, many have just given up and thrown their hands. I think having a tribunal and giving it ministerial authority to appoint members will serve this country well.

With that, I support the recommendations of this Committee. Thank you.

Hon. Speaker: Member for Mwea, what is your intervention?

Thank you, Hon. Speaker. I rise under Standing Order No.95. Following this debate, Members seem to be in agreement with what the Committee has proposed, the recommendations they have put forward and the areas in which they are not in agreement with the Senate. Therefore, I would like to propose that the Mover be called upon to reply.

Hon. Speaker: That seems to be the mood of the House. Can I find out through a Question?

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

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to reply.

Hon. Speaker: Very well. Hon. Members, that suffices. Having looked round, we may not proceed to the next procedure. I would like to inform the House that Order No.14, which was the Committee of the whole House on the two Senate Bills, is deferred to tomorrow to allow the proposed amendments by the Committee to be on the Order Paper. This is so that when we do the Committee of the whole House, Members will be in a position to follow what it is that the Committee will be saying with regard to those two Bills, namely; the one we have just finished and the next one, which is Order No.13. Order No.14 is deferred to tomorrow afternoon to allow the Committee's amendments to be put on the Order Paper. It will be excellent if you pass Order No.13 because the two Bills can then proceed to committee tomorrow.

We earlier on passed the Motion on alteration of the House Calendar. I hope the Leader of the Majority Party and Leader of Minority Party will have all the necessary mediation committees in place in respect of the various Bills before the House proceeds on recess from 5th April next week. As you know, under Article 113 of the Constitution, the mediation committees have a maximum of 30 days within which to hammer out a consensus or throw out the baby with

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the bathwater. I am sure this is not jargon. If they cannot hammer out a consensus, it means that the Bills are lost. We want a situation whereby the leadership both from the majority and minority parties are ready with regard to the two Bills as well as the others, namely; the Irrigation Bill and the Roads Repair Bill. The membership should go into mediation to assist but not to fight. They should build a consensus on all of the Bills that can be acceptable to both Houses. Failure to get a consensus would mean that the Bills are lost and that would not be beneficial to anybody. Order No.14 is deferred. When we finish the next Order, we will then move to Order No.15.

Let us move to the next Order.

(Consideration of Committee of the whole House under Order No. 14 deferred)

SENATE AMENDMENTS TO THE PHYSICAL PLANNING BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, the Senate amendments to the Physical Planning Bill (National Assembly Bill No.34 of 2017) be now considered.

Just to give a background, the Physical Planning Bill, 2017 seeks to make provisions for the planning, use, regulation and development of land in Kenya. The Bill was passed by the National Assembly on 3rd May 2018. It is coming back to the House nearly one year later. Thereafter, it was considered by the Senate in accordance with the provisions of Article 110(4) of the Constitution. Subsequently, the Senate considered the Bill and passed it with amendments on 14th February 2019. A Message was conveyed to the National Assembly regarding the passage of the Bill on Thursday, 21st February 2019. The amendments were, thereafter, conveyed to the Departmental Committee on Lands chaired by Hon. Rachael Nyamai on 21st February 2019. That is the timeline within which these Senate amendments landed in the House.

[The Speaker (Hon. Justin Muturi) left the Chair]

[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]

Just like the Land Value Index Laws Bill, 2018 which we have just completed and looking at the dates and timelines within which the Senate got back in terms of conveying that decision, this has taken a long time. The Physical Planning Bill, 2017 was meant to implement Article 66 of the Constitution of Kenya, 2010. We are behind schedule. This was part of the implementation matrix that both Houses had to deal with. I will not say anything more on the inordinate delay by the Senate but it is doing a disservice to the people of this great nation who look up to them in terms of executing their legislative role. They need to pull up their socks and deal with timelines. I mean the socks we wear with our shoes. I can be misquoted on other things. You only pull the socks which are on your feet.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Leader of the Majority Party, which other kind of socks did you have in mind?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I do not want to go on record describing other types of socks. I am only referring to the ones we wear on our feet.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are referring to the ones that are ordinarily worn on the feet.

Hon. Aden Duale (Garissa Township, JP): Yes, those are the ones I am talking about. I do not want somebody to say that I imputed improper motive on the Senate. Thank you for the change of guard.

I had a chance to look at the Senate amendments to the Bill. I noted that there were nearly 45 pages of amendments, which invited me to seriously examine them with a view of making a determination on what could have informed the Senate to substantially alter a Bill that originated from this House yet it was carefully and extensively considered by the Departmental Committee on Lands. After going through the 45-page amendment, I noted that they were largely related to the amendments to the Land Value Index Laws Bill of 2018. The Senate changed the title of the Bill. In their honest opinion, they said that it should not be called the “Physical Planning Bill of 2017” but the “Land Use Planning Bill”. There is a difference between land use and physical planning. If he is in the House, I agree with the Member for Kitui Central. There is something wrong with the staff in the Senate. They have a problem even with basic English. The Physical Planning Bill deals with specifics which are not about land use. That is how business is conducted there.

I was advised by the drafters that whenever you change a title, you must make conforming amendments to every clause of a Bill which has referred to “Physical Planning” and substitute with “Land Use Planning”. That is basic. I do not know whether the legal team in the Senate which is the drafter of the Bills understands this. If you change the title from “Physical Planning” to “Land Use Planning” then you have to change in the whole Bill anywhere “Physical Planning” appears and you substitute it with “Land Use Planning”. This explains why we have 45 pages of Senate amendments. If we disagree with them on the title, then our work will be very easy. The other amendments are not very important.

I agree with the Departmental Committee on Lands of the National Assembly which rejected the amendments to change the title of the Bill and consequential amendments as the title of the Bill does not offend the provisions of Article 66 of the Constitution which we are implementing. This is a constitutional provision which we must implement. There was no need for the change of the title. I agree with the Committee. We forget about the use of the title “Land Use Planning”.

The title of the Bill does not in any way limit the application to matters of land use. The Bill can still be called “Physical Planning” and that does not limit you on matters of land use. Hence, it does not warrant the changing of the title and the content of the Bill to refer to it as “Land Use Planning Bill”. In a nutshell, I note that the Committee did not just rely on the legal advice in rejecting the Senate amendments but they also considered expert advice on the meaning of the two terms: “Physical Planning” and “Land Use Planning”. Expert opinion on the definition of those two terms was sought by the Departmental Committee on Lands. The legal advice was also considered.

I am duly advised that physical planning is concerned with the general patterns of land use; the standards and development control aspects such as the character and location of public buildings and structures; the design of streets; the location of transit and transportation systems

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and all other physical facilities which are necessary and desirable to promote economic betterment, comfort, convenience and general welfare. Land use planning refers only to the process of zoning specific parcels of land to indicate their best usage or future use with the aim of regulating the use and development of that land. The definition of “land use planning” is very narrow. However, the definition of “physical planning” encompasses land use planning. In this regard, “physical planning” is a broader term while “land use planning” is limited in scope and content.

By the Senate failing to answer the question of the title of the Bill correctly, it means all other consequential amendments that are related to the changing of the title stand null and void. That is why we will deal with a very little matter because those are the 45 amendments which they have proposed. It therefore goes without saying that the next course of action will be in line with provisions of Article 113 of the Constitution on the establishment of a mediation committee. We have no choice. The moment we disagree with them on the changing of the title of the Bill, we have no choice but to go through Article 113 of the Constitution. We will appoint four Hon. Members from our House, who will include the leadership, Chair of the Committee and two other Hon. Members from the Departmental Committee on Lands who were very active when this Bill was being drafted. I ask the Chair to give me names of Members who attend Committee meetings. She should not give me Members who make technical appearance because when we will go to the mediation committee, they will not know the difference between “land use planning” and “physical planning” and they will end up siding with the Senate. We want a Member who will offer technical or expert advice. That is what we will discuss.

I beg to move and request the Chair of the Departmental Committee on Lands, Hon. Nyamai, to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Motion on the Senate amendments to the Physical Planning Bill, National Assembly Bill No. 34 of 2017.

This Bill was passed by the National Assembly on 14th May 2018. The Senate stayed with this Bill for nine months. I would like to put nine months into perspective. A child can be conceived and delivered in nine months’ time. This shows lack of seriousness on a matter that is serious for this House and country. As the Leader of the Majority Party has said, the Senate has proposed amendments to 89 clauses and four schedules in the Bill. The Committee was very keen. We read the amendments from the Senate very keenly. We wanted to see how far we can agree and areas that we could not disagree. We are in full agreement with amendments to 12 clauses that we feel would make the Bill better. We are in partial agreement with 25 clauses. This shows goodwill. We are not out to disagree with what the Senate wants this House to do, but we reject amendments to 52 clauses. As the Leader of the Majority Party has said, these 52 clauses arise from changing the title of the Bill from “Physical Planning” to “Land Use Planning”. They are not serious amendments that will affect the Bill.

To show the seriousness of this Bill, it was supposed to be passed in 2017 because it is one of the constitutional Bills meant to actualise the Constitution, 2010. It had a deadline of five years which was extended by one year. I wanted to put this to perspective, so that Members can see that it is an extremely important Bill.

Hon. Temporary Deputy Speaker, please give me a minute to put the documents properly.

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The Temporary Deputy Speaker (Hon. Christopher Omulele): It is granted.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker, for that. The amendments that the Committee is rejecting, which were passed by the Senate, were consequential on the change of the title from “Physical Planning Bill” as passed by this House to “Land Use Planning Bill.” The Leader of the Majority Party has tried to put into perspective the difference between the two terms.

The Senate amendments to the title of the Bill were rejected by the Committee because the Bill relates to matters of physical planning. The title of the Bill does not offend the provisions of Article 66 of the Constitution which refers to land use planning. So, by calling it physical planning, we do not offend the use of the phrase “land use”. We reject it.

I would like to talk about what physical planning is. The Committee sought expert opinion in order to avoid making a difference that would change the purpose of the Bill. Physical planning is concerned with the general pattern of land use. Land use is part of physical planning. It entails the general patterns of land use; standards and development control aspects; the character and location of public buildings; the structures and design of streets; the location of transit and transportation systems; and, other physical facilities which are necessary and desirable to promote economic betterment, comfort, convenience and general welfare. The physical planning function entails provision of spatial framework for arrangement and organisation of socio-economic activities and space at the national, inter-county, county and local levels to achieve optimal use and suitable development for the wellbeing of the society.

What is land use planning? It refers to the process of zoning of specified parcels of land to indicate the best present and future uses with the aim of regulating its use and development. Land use planning allocates available space among competing user groups and activities. From the definition of “land use” and “physical planning”, it is evident that physical planning is a form of land use planning. As proposed by the Senate under the proposed revision of Clause 2(e), “physical planning” is a form of land use planning which attempts to achieve an optimal spatial co-ordination of different human activities for the enhancement of quality of life.

Looking at the two definitions, I want to emphasise the fact that there is no need to change the title of the Bill. The matter has been explained very well by the Mover of the Motion, Hon. Duale.

We also looked at other jurisdictions. Legislation of planning for a majority, especially in the Commonwealth nations, has tended to stick to physical planning as opposed to land use. We would also like to go with the other jurisdictions on how they handle this matter.

We also made reference to Sessional Paper No.1 of 2017 on the National Land Use Policy that is in sync with the title, “Physical Planning”. The Policy provides guidelines on improvement of physical planning practice. Chapter Four of the implementation framework of the policy provides for the following:

1. Establishment of the Department of Physical Planning;
2. Establishment of the Office of the National Director of Physical Planning;
3. An increase in budgetary allocations for the national Department of Physical Planning; and,
4. Restructuring and revision of organisational structure of the national department to give it adequate institutional capacity.

We are trying to show that the phrase “physical planning” is the best title. We do not know why the Senate wants to change it to “land use.” Physical planning is broader while land

use is limited. For that reason, we ask the House to agree with the Committee. You realise that, as Hon. Duale has said, it will deal with 52 consequential amendments to it.

The other part we agree with the Senate on is the proposed amendment that seeks to restore the membership of the National Planning Consultative Forum. The Senate has suggested that we reduce the number of the members. It has 60 members now as a result of the membership by the 47 County Executive Committee (CEC) Members. The Senate seeks to replace them with the membership of only three governors. So, instead of having 47 CECs, the Senate suggests that we have three governors from the Council of Governors (CoG). We feel this is a good amendment because it will assist in the prudent use of public resources. The new membership suggested by the Senate will reduce the membership by 20 members. The suggested membership by the Senate will also allow the forum to be represented by designated members. The Committee agrees with the amendment because it will make the forum more manageable such that when the CEC is not present the CoG can designate people to stand in for them.

The amendment is also important as it provides for designation of members thus allowing continuity even in the absence of members of the forum. Initially, we had the 47 CECs as part of the consultative forum. However, we do not agree on something. The Committee is of the view that the establishment of the County Planning Consultative Forum in each county is not necessary. We have the National Consultative Forum, but the Senate suggests we also have consultative forums at the county level. The Committee has a problem with that proposal. It is not necessary because the national forum is adequate in terms of dealing with policy issues. Their proposal will amount to duplication of the cabinet. The membership of the county forum entails CECs from different departments who sit together and that is equal to having a cabinet sitting meant to deliberate on land matters. Indeed, that is something that can be easily done by the CEC in charge of lands. This will create bureaucratic structures that will slow decision-making and make counties incur huge costs.

Further, the Committee agrees with the Senate proposal to increase the representation of the Council of Governors in the National Physical Planning Consultative Forum as it will ensure that the interests of county governments are adequately taken care of at the national level.

The issue of timelines has also been introduced by the Senate as it has happened in the Land Value Index Laws Bill. The Committee noted that the introduction of timelines in preparation of the national physical development plans is important. The Senate amendment to Clause 21, for example, will ensure adherence to timelines. For instance, within 30 days of the preparation of the National Land Use Development Plan, the Cabinet Secretary shall publish a notice in the *Gazette*, in at least two newspapers with national circulation and through electronic media, informing the public of the decision and also the comments received by the Cabinet Secretary. We saw that to be a good amendment.

Further, within 21 days of the expiry of the period for making comments under sub-section (1), the Cabinet Secretary is to consider the comments on the National Land Use Development Plan and may incorporate the comments in the plan. This is about making sure that when changes have been made there are timelines as to when it is made public and available to the community.

Clause 25, however, deletes the provision through which an aggrieved person can appeal against the decision of the Inter-county Physical Planning Joint Committee and this would result in a vacuum in as far as redress mechanisms are concerned. The amendment to Clause 25 means that if a person has a problem with the Inter-county Physical Planning Joint Committee, he does

not have an opportunity to get redress from a higher level. So, we feel it is not a good amendment.

Regarding planning authorities, the Committee noted that Clause 2 of the Bill defines “planning authorities” to include both the Cabinet Secretary and the County Executive Committee Member. Since the Bill deals with physical planning in both levels of Government as stipulated in the Fourth Schedule of the Constitution, it is important to retain the word “planning authorities” in the Bill to refer to the relevant authority.

Deletion of the words “planning authority” and substituting therefore with the words “county executive committee member” in clause 63 of the Senate is not in order, according to the Committee.

As I conclude, although the amendments are many, 52 of them focus on the words “physical planning”. There are amendments that we have accepted; others that we have rejected fully and others that have been agreed to partially. You can see that the Committee did a very good job and we tried to work within the stipulated timeliness.

With those many remarks, I thank Members of the Departmental Committee on Lands because they also did justice in looking at this Bill within the 14 days that the Speaker had given us.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): I will give the first opportunity to Hon. Angwenyi, Member for Kitutu Chache North.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Departmental Committee on Lands of the National Assembly. We should look for a session so that we can work with the Senate. They seem to be undermining the work of the National Assembly. We discuss issues here thoroughly and they go and change what we have resolved.

For example, substituting the title of the Bill, which has been discussed by this House thoroughly, shows that they do not appreciate the work and the mandate of the National Assembly. I should not say much because the Chairperson of the Departmental Committee on Lands has explained fully all the aspects of this Bill. I support the decision of the Departmental Committee on Lands fully. I also make an appeal that we should seek quite quickly to talk to the Senate and tell them what their mandate is and how they should handle Bills which come from the National Assembly.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. (Dr.) Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, thank you for this opportunity. I would not want to make so many comments in view of the ruling by the substantive Speaker that the specific amendments will be attached together with the Committee’s amendments. At that particular point, we can interrogate those issues critically and thoroughly for the benefit of this House. I am a bit surprised and taken aback that anybody at this level of legislation cannot understand the difference between the terms “physical planning” and “land use planning”. I cannot just understand how somebody cannot understand it at this level. Nevertheless, over time the terms “physical planning” and “land use planning” have grown and

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metamorphosed. At the point of Independence, based on the Commonwealth definition, we talked about town and county planning. After that, in order to give it the thrust of the law and practice, we moved to physical planning as a process of ensuring there is orderly use of spaces or land and there is orderly development of those spaces. Ultimately, the target of any physical planning framework is to achieve the best use of any piece of land or site, be it in the rural or urban area.

When you talk about physical planning, it is all encompassing. We are talking about things like zoning where we state that this particular site will be devoted for agricultural use, commercial use, industrial use or residential use. Even if it is residential, is it high density, medium density or low density? If it is industrial, we are talking about offensive, inoffensive, harmful or related terminologies. That is basically zoning. At times, it can seem to relate to land use planning which concept the Senate seems to have had such a narrow understanding of.

I am persuaded to believe, and this is with due respect to the legal fraternity, some technical legislation ought to be left to the technical people who understand the technical aspects. The Senate is basically dominated by senior advocates in some sections who believe that things must be done in a certain manner. Essentially, this was a purely technical land related legislation. If they had sought the advice of land and development experts, they would not have got themselves into such an embarrassing situation to confuse “land use planning” with “physical planning”. When talking about physical planning in entirety, we are concerned about public health and public safety. How do we order our development to ensure we maintain public health and ensure safety of the occupants of the houses in terms of construction? That is why we have building bylaws that go hand in hand with planning regulations and planning systems.

There are issues of plot ratios, site coverage and height restrictions. All those factors are considered under the Physical Planning Act. The new theory that has developed in this line is that when you talk about land use planning, we are more or less concerned with rural land use planning, and land use planning for purposes of rehabilitating derelict parcels of land. Essentially, I completely agree with the Committee and the Leader of the Majority Party that anything related to this particular change of term should be rejected *in toto*. We need to have a session with the Senate to explain to them some of these technical aspects. We can volunteer before they go for mediation to offer lessons as part of public service.

I support the Committee. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Music to my ears, Hon. (Dr.) Oundo. It is true that the term “physical” in the title in this particular piece of legislation has acquired technical significance over time. It means it has a long period of usage and it cuts across a lot of pieces of legislation. So to just change it overnight will be doing a disservice to a lot of other road users.

Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. In the Senate amendments, there is a change of term that will eventually affect the intentions of this particular Bill.

I appreciate Hon. Oundo who has spoken because he seems to be intelligent in that field and he has done a lot of research. I advise the Senate to get some free advice from Hon. Oundo. I know he will give them freely because he is a very good man.

When you talk of land use and physical planning, they are different words. In physical planning, we want to know entirely how we will use the land of this country. Some places will be

set aside for agriculture. As you may know, our population is increasing and soon each individual will probably own a quarter hectare of land if it is divided equally. If you have a quarter hectare with a house, cattle *boma* and pit latrine on it, you will not have space for agriculture. So, physical planning is bigger than just land use. When you do physical planning of towns, you set aside some land for settlement.

As Hon. Oundo said, there will be low population density or high population density, depending on whether an area is inhabited. There will be middle class and upper class. There will also be a place for industries. This is important when it comes to physical planning, so that we know which industry is offensive and which one is not. When we talk of offensive, we are talking in terms of how much noise and waste products an industry emits, and how harmful they are to the general population. These are set up in areas where settlement is low. In their physical planning, most urban authorities set up such industries in areas they cannot drain their waste products into rivers. Some industries that manufacture biscuits or bread can be set up in any area.

I support the Report of the Committee on Lands. Through you, I request the Committee to sit with the Senate Committee on Lands and educate them. These terms did not come accidentally; they were well thought by experts like Hon. Oundo.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oduol Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the Report of the Committee. I commend the Chairperson of the Committee on Lands, Hon. Rachael Nyamai. The Report clearly helps us to look at the amendments to this important Bill.

What was raised by the Leader of Majority Party and the Chairperson of the Committee, which is of great concern and makes me support this Bill, is the manner in which the Senate displays lack of seriousness in recognition of what the Bill is intended to do. When you look at the term “physical planning” and what we are dealing with, you will see that we are referring to orderly arrangements of land use or a systematic way by which there will be a framework, a policy and approach that will inform the way land will be used. Land use will be the actual activities that will be undertaken. If you, therefore, have a Bill that is titled “Physical Planning” in the context and background of our nation, not only at the national level but also at the county level, it is an opportunity to ensure that there will be no conflict.

Without planning, there will be conflict in terms of land use, pollution by industries that will be located in residential areas and, as I have begun to see in Siaya County and other counties, loss of valuable land that had been zoned for agricultural production. This land will be used to construct buildings and all other kinds of utilities which may not be relevant. Such scenario will not help to create harmony as we look for what is of interest.

Therefore, having looked at the amendments that have been proposed by the Committee as well as the recommendations, I support them. I commend the Senate for flagging out certain areas with the aim of reducing wastage of funds and avoiding creation of overlaps and conflict. It is, however, unfortunate that the manner in which they seek to change the title of the Bill takes away a lot of serious contributions. My appeal to the Senate is that as they scrutinise Bills, it is important for them to see how the provisions in those Bills will resonate with what is happening in the country. A key challenge we are facing right now is land being used without recourse to proper planning and failure to recognise that land use and physical planning are not synonyms.

Let us undertake orderly planning to clearly show what we intend to use land for, what the needs are and how we would like them addressed.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wachira Kabinga, Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Departmental Committee on Lands. I want to commend them for taking time to go through the Senate proposed amendments. Going through the 89 clauses that were proposed for amendments by the Senate was not an easy task for the Committee but they did it. It is worrying that the Senate can take nine months. This is not the only Bill that has taken time in the Senate, I am aware of other Bills that are still pending at the Senate. Something needs to be done.

(Hon. (Ms.) Sabina Chege stood between the Chair and Hon. Josphat Kabinga)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Murang'a County, you have blocked the view of the Speaker on the Member for Mwea as he makes his contribution.

Member for Mwea, proceed.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I had not noticed because I was serious with what I was saying.

I wanted to highlight the fact that we are getting worried, as Members of Parliament, about the handling of Bills that originate in this House. When the Senate takes nine months to consider them, a lot of resources go to waste. Bills referred to the Senate are subjected to public participation and consultations. This is duplication of effort that is costing this country a lot of resources.

I want to commend the Committee for carefully looking at the amendments that were proposed by the Senate and rejecting some of them while accepting others. In particular, I am impressed by the reduction of the membership of the national consultative forum to include only three governors, and the rejection of the proposal to have extra county consultative forums that would cost this country extra resources for no reason.

I think it is high time that the leadership of the two Houses sat down and came up with a way of handling Bills originating from either of the Houses without necessarily causing Wanjiku to lose much more resources and spending time, nine months. This Bill would have been in place. Some of the things that are proposed would now be in place or would be implemented by now. Having lost the period that we had in this House discussing this Bill and the nine months when the Bill was in the Senate and another period that we are going to spend to have a mediation committee before they agree for this Bill to come again, we are denying Kenyans out there a lot from some of these Bills.

I am particularly worried that some Bills, like the Irrigation Bill which was discussed alongside this Bill, came from the Senate the other day and they made so many amendments to it. When you look at the amendments, quite honestly, as it has been mentioned by my colleagues, changing of titles does not make sense, more so when you change a technical title, a title that has been thought by experts. You want to change it, you want to bring 89 amendments in almost 45

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pages to prove and justify why you have taken that long; to prove and justify that there is need for these Bills to go to the Senate and take time there. It is high time that the leadership relooked at the way we handle Bills, especially when they are well discussed and thought of in this House.

I support the Committee and their recommendations. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi Kevin, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I get embarrassed when I look at this; very embarrassed indeed. Even the Oxford Dictionary would have given you the answer to this amendment. So, I do not understand why we have taken such a long time. I think our colleagues should even have had the courtesy of just checking the meaning to come up with amendments. Imagine, from what the Chairlady has mentioned, 89 clauses. In fact, I thought it was something else. The Order Paper is full of those amendments. To my surprise and that of my neighbour here who is an expert in this area because he is a physical planner, he has told me there is nothing they have done. Even those amendments that have been accepted by the Committee, we may relook at them and reduce further. This is not very good for colleagues in the next House. As far as I am concerned from my little English, in which I got Distinction 2, it tells me that what they are doing is not very good. It is just a narrow way of looking at things. They want to be relevant. I remember this Bill was here a year ago. It is just undermining this House or trying to be relevant. To me, they view these amendments very narrowly. I think they just want to be relevant.

In physical planning, you are talking about structures. Basically, that is what it is. You come up with a plan and come up with a structure which is physical: buildings, roads, landscaping. Those are what we are talking about. I think we are wasting so much time on this and it is costing the public. They have done this and we may now have to go for mediation, another two or three months down the line. And this is a constitutional Bill. Without wasting time, I will invoke Standing Order 95 to close this debate because there is nothing we are debating. It is just a waste of time. We will then want the Committee...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kevin Wanyonyi, it cannot be possible that your contributions in this House can be a waste of time. Your contributions are very valuable. Every Member makes a valuable contribution.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, with all due respect, I have looked at the amendments proposed to the 89 clauses. They come to us here. The Committee has looked at those amendments and 59 of them should be thrown out the window. I think what we do now, with all due respect to my colleagues in the 'lower' House, we do not need to go for mediation. Let us accept these amendments and throw away the rest and move forward to have the Bill approved.

With those few remarks, I support the Committee. We should do something about some of these Bills being taken to the Senate. It is the fourth time we are debating amendments from the Senate and basically they are just changing the title. Nothing else. I support the amendments by the Committee.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, the role of the Committee is to look at the proposed amendments and make recommendations. And it is within their mandate to even reject everything that may have been proposed by the Senate. So, they have actually performed their role perfectly well. The Senate has also performed its role. We must be alive to that fact.

I will give this opportunity to Hon. Hulufu Oda, Member for Isiolo North.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. I would also like to thank Members of the Lands Committee for a very good job. It is unfortunate that the Senate has taken nine months to look at the Bill which was forwarded to them. It is even unfortunate that 52 of the proposed amendments relate to the proposed change of title from “physical planning” to “land use planning”. I fully agree with the other Members who have spoken before me that the two terms, “physical planning” and “land use planning”, are different and one is actually a subset of the other. Land use planning could be seen as a subset of the broader physical planning.

I would like to know whether the staff who are assigned to us as parliamentarians give us adequate technical support when we are looking at some of these legislative issues. This may call for broadening the disciplines from which we recruit staff so that when we are looking at some of these issues which are technical in nature, we are guided appropriately so that we avoid a situation where we make simple mistakes like the ones we are seeing here. Of course, by proposing those amendments, Senators have done their part. The only issue we have with what they have proposed is that they are inappropriate. Therefore, I fully agree with the Committee of this House in their rejection of the change of title and all other changes that have come along as a result of the proposed change of title.

There are a few areas where the proposed amendments by the Senate are good. For example, the suggestion that the membership of the National Consultative Forum should be reduced by having two representatives of CoG as opposed to having 47 CECs from all the 47 counties is something which is very good because in such forums, the lesser people the better it is in terms of decision-making and the quality of discussions. It is also going to help us reduce cost. If we agree with that particular amendment then I will be comfortable with the one that proposes that we have a similar forum at the county level. The only point I feel I need not agree with our Committee is that in as long as we reduce the number of CECs in charge of land in the National Consultative Forum, we should have a similar forum at county level.

With those few remarks I support the recommendations of our Committee.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. May I also commend the Committee. For it to go through 98 amendments over a period of time, that is a commendable job. This is largely a technical Bill, but it was not handled technically. I say that because in the more than 40 amendments which were not actually technical, you find that there was general agreement in many of them. This means that were it not for the technical issues we would have had very few amendments to look at. So, to that extent, I would agree with the previous speaker who said we must look at the composition of the clerks in our committees.

In legal terms, in terms of legislation and law the committees are very well constituted and have appropriate capacity. However, when issues come up that are technical outside the legal domain you see these things happening. So, we may have to think that in some committees we get people who have a technical background to help those committees.

The Senate is new and you cannot compare it with the National Assembly that has been in existence for many years. Maybe, they need more of our assistance than blame so long as they will be willing to accept that support.

The issue here is the difference between physical planning and land use planning. It is so clear. Even if they just used *Google* it would have been so clear that in physical planning, we are

looking at proper human settlement arrangement. Here we are dealing with organised transport and proper infrastructure of buildings, roads, railways, social amenities, including estates. It is so that there is harmony in existence. Physical planning has to do with promotion of health and safety. That seems to be the main focus. It is a situation where they decide in advance what to do, where to do it and when to do it, with what. It could be on the surface of the land, under or inside the land. Some structures can be situated underground.

With regard to land use, it is the regulating of land use in a larger concept in the socio-economic environment to have an outcome...

(Hon. John Mutunga crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Member for Tigania! Is that the Member for Tigania who has just crossed the Floor? The Member who is standing in the gangway, you cannot do that. You have to go right back and do the honourable thing. This is a House of order.

Proceed, Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): So, it is the process of regulating land use to promote a desirable socio-economic environment and in a large scale. Here we are talking of where towns and cities are placed. We are talking of placement of dams and farms. What is farming land? What is grazing land? What is forestry? What is wildlife? What is tourism? All the questions are asked when considering land use. It is about an economist's aspect and I do not see how they missed this point. However, I must say that they really lacked technical advice. When it comes to the mediation process, caution should be taken that there is proper technical advice. Otherwise, this mediation may be stuck on the ground of egos and feeling of power whereas this is simply a technical issue.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nyikal, if you recall, the substantive Speaker gave a direction that when it comes to the mediation process under Article 113, he will be requiring that Members who will be going for that mediation should go there with an open mind to agree to give and take. They should not go there with a mind that they want to fight and show the other side that they are greater than them. All of us have a duty to this country. I think that the Senate has done its part. Part of the process of learning and teaching each other on what is correct and what is not is part of what we are doing today. They have done theirs; we are looking at it and picking up from the weaknesses and strengths. That should be the way to go. It is not a contest between the National Assembly and the Senate; rather it is a joint effort to do what is right for the nation.

I will give this opportunity to Hon. Kositany Caleb.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Temporary Deputy Speaker for according me this opportunity. Just for the record, I am a Member of the Lands Committee and we went through this very thorough process of having this Bill passed.

I want to commend the experts that we involved. I remember we invited the Institute of Quantity Surveyors of Kenya and the physical planners. We sat with them in Mombasa and went through every bit. Even the issue of the change of name came up. I do not want to go through what Dr. Nyikal has said but they gave a very similar explanation. What worries me is that it took our brothers and sisters in the Senate nine months to state that the biggest recommendation

they would have on this Bill is the change of the title of the Bill. I would not want to blame them but I think it is a wakeup call so that we determine whether they have the capacity to handle such complex issues. This is, indeed, a very serious matter. As you have said, when we go for the mediation, we will definitely go with an open mind. We will welcome their views. We urge them, as we wait for the dates of the mediation, to do their research so that we can have an easy engagement and dispense with this matter.

When we sit in these Houses, we need to bear in mind that we are serving Kenyans. As MPs we need to be seen to be taking things seriously so that we do not take nine months to do such a simple thing. You can see not everybody likes MPs. You saw an article about us and so we should be seen to be taking our work seriously.

We support this Bill and I thank my fellow colleagues in the Committee and the experts that we invited for their contribution that enabled us to come this far. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Bunyasi, the Member for Nambale.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I support this Report. The work done was very laborious but extremely useful, in my view. It is a theme that is exploring areas that are terribly important for us in terms of physical planning and land use which is a bit more complex in terms of personal rights and attitudes. Physical planning is extremely important too. Remember we are growing our urban centres in ways that are completely haphazard and we are allowing this to happen daily. Our little market centres are tomorrow's towns. They are absolutely disjointed and everybody does their own thing. Big cities around the world have beautiful layouts that we admire, but such layouts cannot be found in our cities because we have left it too much to everybody's choice.

In terms of the relationship between the Senate and National Assembly, I generally take the approach that is very much in line with what you said. Each side has some role to play. In the maze of things that have been suggested, we can always find something that is useful and discard that which is not. I think together, we have a chance of producing quality legislation.

In terms of staff support, probably, there is need to recalibrate the staff input on both sides. After all, they are mostly managed centrally, and the quality of staff at the Senate and National Assembly side should not have a big variance. If there is, then mixing them will improve and balance this.

One of the lessons from this process is the issue of timelines. It is about eight or nine months since this Bill was presented to the Senate. However, I do not know about the prior time taken. This shows we are rather slow as Parliament in processing legislation. It is like there is no need to worry about tomorrow, and we can do this next month or the year thereafter. I do not believe that the nine months have been used in a quality way for additional improvements to this Bill. I think this is more like a background factor.

In the National Assembly, we also have the same problem. Sometimes, in the Order Paper you find Bills being put as the second last item. So, we run a whole session without reaching them. I think the House Business Committee ought to put some timelines on this. They should urge the House in question which is the Senate to quicken processes.

I think we need to strengthen our physical planning capacities around the country particularly with the advent of devolution, so that they are enriched and embedded within these areas. From there, we might have some luck in pushing them further down to the wards and villages.

If you visit villages in parts of Northern India, you will find they have set aside divisional quarters with free Wi-Fi, where you can download information. There are halls where people can meet with many radio stations. You can get around like you are in New Delhi. They taught about it in the physical and socio-economic sense. This is because land use planning and physical planning are sort of subtle partners. One derives from the other but for an experienced hand like Prof. Oundo, he knows that you can analytically separate them. However, in practice, they must be thought of conjointly. It is rare that you can close your mind entirely on one rather than the other.

I think that overall, the contributions of our Committee and the effort of the Senate, in my view, have been largely complementary.

I support the Committee's Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, seeing no further interest in speaking to this, I will call upon the Mover to reply, Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. On behalf of the Leader of the Majority Party, who has stepped out for some business also related to this Bill, I would like to thank the Hon. Members for the time they have taken looking at the Senate amendments and comparing them with what the Committee agreed and disagreed on.

I would like to thank the Members for participating. This is an extremely important Bill. When I was seconding the Motion, I said it is one of the constitutional Bills that needed to be passed within five years and it was given an extension of one year. I would like to thank each and every Member who has taken time to debate. I look forward to the Committee of the whole House, hopefully tomorrow, so that we can go through the specific amendments raised and together as a House we will pass this law.

I am also looking forward to the mediation. I would like to tell the Senate that this is not a competition. We will look at all the amendments together and get expertise opinion. I am sure we will come with a Bill which is useful for this country.

With those many remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well done Chair of the Departmental Committee on Lands. I think the Report has been well received by the Members of the House. That speaks for itself and it is commendable. Hon. Members, for obvious reasons, I will defer the necessary action on this particular business to such other time when it will be set down for consideration by the House. I, therefore, direct that we move to the next business, which is Order No.15.

(Putting of the Question deferred)

REPORT ON INSPECTION VISIT TO THE NAMANGA
ONE STOP BORDER POST IN KAJIADO COUNTY

The Temporary Deputy Speaker (Hon. Christopher Omulele): Chair.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Regional Integration on Inspection Visit of the Namanga One Stop Border Post, Kajiado

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County held from 7th to 10th April 2018, laid on the Table of the House on Tuesday, 13th November 2018.

The Committee visited a number of the one stop border posts across the country. It is important to note that most of them are facing similar challenges. Most importantly, the main reason why countries across East Africa came up with them was to reduce transportation time by saving up to a third of the time which was taken before. We have made great progress. We went there and saw how quickly it takes truck drives dealing with export issues to cross from Kenya to Tanzania.

This saves a lot of time and we saw how seamless it was in both sides. This is something that is quite commendable for us as a country and region. While we were there, we met the Kenya Revenue Authority (KRA) officers who are the people who run the day to day activities. We also met the community living along the Namanga border post and they raised various concerns. We know that before the one stop border points were created, people moved freely from one country to another doing their business.

However, one of the challenges they raised is that it has curtailed free movement of local people who have small businesses which once thrived. Consequently, when we came back we met KRA officials from the headquarters so as to iron out some of the issues raised by local communities. One major issue was non-employment of community members at the border posts and failure to be awarded small tenders. When we met KRA officials, they pledged support for the local economy by ensuring that they will look at the issues of employment of the local communities for them to also be able to do businesses so that they can thrive.

There were various observations that the Committee noted and they are of great importance for us even as a country as we continue to work and partner with our neighbouring country – Tanzania. Some of the observations that we noted is that there is need for better enforcement of various laws and conventions. There is improved understanding of different Government agencies' mandates and the value of uniform application of procedures at different borders. The communities and traders who crossed over to do business on the Kenyan side said that the treatment they were given is not the same kind of treatment that Kenyans received when they crossed to Tanzania. The Committee then observed that there was need for the laws to be improved to ensure that both countries have a uniform application of the procedures on both sides.

We also noted that integrating Kenyan and Tanzanian communities requires harmonisation of integration laws, especially considering the punitive action taken against the Kenyan people on free movement. It was realised that this happens even to *boda boda* riders. We are not saying that the Kenyan people should not abide by the laws of our neighbouring country. They said that the measures taken once they are arrested on the Tanzanian side are very punitive. There is general lack of harmonised charges and fees on import permits by various Government agencies, for example, veterinary and Kenya Plant Health Inspectorate Service (KEPHIS) and non-tariff barriers such as levies and fees imposed on small-scale traders' exports from Tanzania. This is all about ensuring that we harmonise so that traders from both sides of the country can actually have the same treatment.

We also noted that authorities need to anchor the joint border coordinating committee meetings under the EAC framework to ensure structured engagement by the two countries. When we visited the Namanga One Stop Border Post, it was at the time when our neighbours, Tanzanians, had confiscated cows and chickens from Kajiado County. The communities did not

feel that it was the right thing to do. They also felt that there was no cordial relationship between Kenya and our neighbours, Tanzania. So, they said that the EAC spirit is not fully embraced by the neighbouring partner states. The Committee also observed that the border community's livestock issues were not handled in a very good way and that the action taken had created a rift between the two communities. We realised that it is important that whatever each of our countries does, it should ensure integration and not create a rift between the two countries.

The small-scale women traders who sold beads at the border were restricted to certain areas of the Namanga One Stop Border Post and cannot access potential customers. So, even as we construct this very huge, beautiful and big One Stop Border Post, it should not affect the *mama mbogas* and the people who actually used to freely trade at the border post. It is something which we have to protect as a country. We need to take care of our small-scale traders even as we look at the bigger picture of the country and how we generate revenue and things like those. It is very important that we also focus on our small-scale traders who reside at the border posts.

As I conclude, there are recommendations that the Committee came up with. One of them is that the Committee urges the Ministry of East African Community (EAC) to initiate and coordinate harmonisation of laws. We also said as a Committee that we will look at these laws and policies to be followed by the Government agencies to allow for mutual trade and harmonised charges and fees on import permits.

The second recommendation is that the Ministry of EAC, in collaboration with relevant stakeholders, should urgently facilitate standardisation of rules, laws and operationalisation of all border point procedures so that what is happening in Kiunga should happen in Namanga and Busia. We want the same thing to happen in all our border points and not that one area has different procedures from the others.

The law on free movement of locals should be relooked into in order to allow the communities living within a radius of 15 kilometres to move freely without being subjected to rigorous exercises of producing movement permits.

The Committee recommends affirmative action on employment of all locals on the basis of the Constitution of Kenya. That is one of the issues that the communities that reside in Namanga actually said. We saw that it is fit that the local communities are also considered on youth employment and also be allowed to carry out small businesses such as putting up cyber cafes, cleaning or even running a canteen. It is important that it creates employment for the people of Namanga.

The KRA should extend support in form of educational scholarships or support local tournaments as part of corporate social responsibility. We discussed that matter with KRA and they said they will look at those issues.

The last one was allocate women traders some space inside the One Stop Border Post facility to enhance their trade. They should not feel that the Post came to destroy their businesses.

Those were some of the issues that we found when we visited, some of the responses that we got from KRA and the recommendations the Committee came up with. We will definitely work to ensure and follow up to see that the recommendations made by the Committee have been actualised and are followed up by the Ministry of EAC and KRA, who are running the One Stop Border Post.

Thank you, Hon. Temporary Deputy Speaker. I now call upon the Vice Chair, Hon. Ruweida, to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Ruweida to second.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Thank you, Hon. Temporary Deputy Speaker. There is need for better enforcement of various laws and conventions due to improvement of understanding of different Government agencies' mandates and the value of uniform application of procedures in different borders with Tanzania. We also noted that, although the Chair has already given some of the information I am giving, there is need for more funds to cater for sustainable maintenance and repairs of the One Stop Border Post.

We noted that the East African spirit was not fully embraced. The small-scale women traders, as the Chair said, needed to sell their beads. We talked to the KRA and they agreed to give the women of Namanga a chance. I do not have much to say.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to support the Report on the inspection visit of the Namanga Border Post.

The Namanga Border Post is one of the border posts in Kenya. I am glad to be talking and supporting this Motion because I come from a border post town. I come from the Isebania-Sirare-Tarime Border Point in Migori County and I can attest that these border posts are in the spirit of the East African cooperation that we enjoy as a country. It is high time we commended the President for commissioning the Namanga, Isebania and Busia border points, among other border stations, that ease trade among the EAC countries. I commend the Chair of the Committee on Regional Integration for this extensive Report and especially the recommendations that we need to apply to ensure that this cooperation really works.

There are communities that live within the one-stop border posts. At the Isebania Border Point, there is the Kuria community that borders Sirare and Tarime of Tanzania. That is why I support the Chair's point that there is a lot that is needed to sensitise the community. Most of the communities that live around the border posts of Isebania, Busia or Namanga are yet to fully understand the concept of those border points so that they can benefit. At the border points, there are communities of women who are usually small traders hawking little things that do not add value. They always see those buildings. In Isebania, for example, they do not even move very close. They trade in very minute products. How can we, as a country, ensure that these women and the young people who live by the border points that earn this country revenue are capacitated, awareness is created to go into the offices and jobs are created for the members of those communities?

I support the idea that we need to sensitise and engage the KRA. The KRA is making a lot of money and earning this country a lot of revenue through the border points. How can the KRA be mandated to make sure that a portion of their revenue - even if it is a small percentage - goes to corporate social responsibility and support women, young people and communities that live within the Isebania, Namanga and Busia border areas, so that they can benefit and know that

this is a project that is embraced within their community and does not belong to the national Government?

We need to also ensure that the people who live within the borders are given a leeway. The Chair talked about a certain perimeter. We have a radius. If, for example, I come from Isebania, I must be given some radius of distance where I can operate without being subjected to a lot of torture around the borders. We need to sensitise the Customs officials. We have seen situations whereby trucks of oil stay at the border points for almost three or five days without proper paperwork to ensure that the trucks carrying fuel from Mombasa going to Tarime, Tanzania, quickly transition and pass by the borders so that they continue doing their businesses. The border points are in the best interests of trade in this country.

It is good we are talking about Tanzania. You are aware that Tanzanians are a little bit sceptical when it comes to their engagement in business with Kenyans. They always think that Kenyans are extremely capitalistic, rough and want everything for themselves. How then can we ensure that even within our own Customs and the East African countries, we bring in opportunities to sensitise our people so that they are able...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Dennitah, I am sure your intentions are noble. The Republic of Tanzania is friendly to the Republic of Kenya. We shall maintain cordial discussions as far as it concerns the Republic of Tanzania. I request you to withdraw the comment that they do not consider Kenya as very friendly to their business enterprises.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Temporary Deputy Speaker, allow me to withdraw. I border Tanzania. I come from the Isebania Border and they always think that we are a bit too strong. Let me use that word. We are too aggressive and strong when it comes to looking for business opportunities. That is why I suggested that it is high time we created that atmosphere so that our brothers from the other side can feel that we are in a mutual relationship. That is the intention of the EAC.

From my experience and what the Chair of Committee on Regional Integration mentioned, the one stop border posts should be strengthened. These border points generate a lot of revenue for this country. The Isebania-Tarime Border Post collects over Kshs200 million for this country. That is a lot of money. It is high time we invested heavily in our borders. As a country, we do not give a lot of emphasis and attention to borders yet that is where goods come in and people come in to engage in business. We do not pay attention to the border points. Around Isebania, for example, we need to see a lot of activities going on. Those are the counties, constituencies and borders where people are supposed to be rich. There is no point of people being poor yet a lot of money is collected within the borders of this country.

As you are aware, the World Bank recently granted Migori County Kshs500 million to upgrade their areas into municipalities. I was extremely disappointed to see that a post like Isebania which generates over Kshs200 million for this country was not given a municipality status. The World Bank had released that money.

Hon. Temporary Deputy Speaker, it is a shame because that is where we bring business to this country. I support the Report that seeks to reduce the hurdles that are there at the borders, so that we can move together. We need to create awareness among the officials and communities on the benefits of the border posts like Isebania and Busia. We need to create opportunities for our young people to get employment within the border posts. There is no point of the young people roaming the streets when we have big structures that generate a lot of money in this

country and in our borders. Our youths do not benefit from that. It is a source of income. It is high time the Committee on Regional Integration seeks for ways to strengthen income level and employment for our youths. We need to get ways to strengthen investment opportunities at the borders through the EAC.

I support the Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Hon. Wanyonyi Kevin, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute. I am not a Member of the Committee, but I want to take this opportunity to thank them for what they have presented to us.

There are things to stress. One is their recommendation which is the mutual trade between Kenya and Tanzania, which I support. There is also the decentralisation of the border posts. There is a long border line in Moshi all the way to the border in the north. It is good to have a standard way of manning our borders. I was in Namanga and I was impressed by the movement of people from both sides. It is good to have a standard way of looking at each other. I know Kenyans who go to Tanzania are construed to be very aggressive. They want to get anything on their way. You will excuse me. We do not have a very good name because this country is viewed as very corrupt. It is upon us to change our culture and way of doing things. I also agree that our people are very aggressive. However, let us have a standard way of looking at the issues at the border.

It is important for the joint border committee for both sides to look at issues very fairly, so that we are not given that tag as being very corrupt. As it has been mentioned by Hon. Dennitah, we are losing a lot of money at the borders. I was at Namanga and I took a cup of tea and observed the way people moved around. It is a bit embarrassing that our people allow people to come in without paying what is supposed to be paid for the benefit of our country. We should get much more than what we get today from the border points. I agree that Tanzania is a very friendly country compared to the other countries. It is one of the friendliest countries in the region. We have learnt so much from each other. We should encourage mutual respect for each other. Most of our goods which go to Tanzania should be treated fairly. If you ask somebody who has sent goods to Tanzania, he will tell you that they are a bit restrictive. They overcharge some of our exports there.

Our exports to Tanzania were quite high five or 10 years ago. However, they are dwindling over time because of their charges. The taxes which they impose on our products are a bit punitive. Therefore, the joint border committee that the Chairlady has just mentioned should treat our people fairly in the spirit of brotherhood. I have also been to Uganda. When you go there, our people are treated fairly well. Our brothers there say that we are a man-eat-man society. They still maintain that we are not very friendly. Given that it is a friendly country, we should play it safe and encourage our good brothers from Tanzania to work with us.

If you compare Tanzania and Somalia where there is a physical border between the two, we have various crossing border posts. Kenya and Tanzania should man them properly, so that we can get some income from people who are doing business on both sides. This country has had a lot of problems from immigrants, but Tanzania is doing very well on this issue.

I want to support this Report. The best thing is to have a standard way of looking at people who are coming to our country and those going to Tanzania as well. I want to take this opportunity to support the Report. At the same time, our joint border committee should be very

friendly, so that we can do business with Tanzania. It was the second country to Uganda which was doing business with us. I understand that trade has been going down of late, but we should adjust that with this joint border committee.

I support the Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. I have been waiting for an opportunity when we will have a report to discuss matters concerning the EAC. I really want to commend the Committee because this Report is only on the inspection visit to the Namanga One Stop Border Post in Kajiado County, which was opened by our President and the President of Tanzania. It was opened to facilitate easy movement of goods and people between the two nations. It is manned by Customs and Immigration officials from both Kenya and Tanzania. It is supposed to enhance the economic, social and political integration of the EAC, which I fully support.

It is also commendable that the Single Custom Territory Programme has been rolled out under this programme. It is a full attainment of the Customs Union, which is achieved by the removal of duties and other restrictive regulations or minimisation of internal border Custom controls when it comes to goods and services. They move from partner states with ultimate realisation of free circulation of goods.

Is that the true position? It is not. I want to go on record that the EAC common market or the EAC is only on paper. Kenya is disadvantaged. The business we are doing with Tanzania, particularly under the current Tanzanian Government, does not favour Kenyan business people. I even shared that with the Chair of the Committee.

If you travel to Namanga today, at this hour, on the Kenyan side of the border you will see empty Tanzanian trucks going back to Tanzania. When you cross the border, on the Tanzanian side you will find trucks with goods in a queue of more than five kilometres. The President of Tanzania last week introduced a system where any goods from Kenya must first be certified by their equivalent of our Kenya Bureau of Standards. The oranges we eat in Nairobi are from Tanzania and yet our local farmers cannot sell their produce there! There is complete imbalance. Kenyans cannot get work permits in Tanzania. Kenyans who work for multinationals or global companies cannot get jobs in Tanzania. Let me give the example of Ms. Mulinge who was appointed to head Tanzania Vodafone. She went there but was denied a work permit. She is now back at Safaricom. How many Tanzanians work in Kenya? We must reassess...

Every time Tanzania is asked why it puts barriers on Kenyan goods, the answer it gives is that their Parliament in Dodoma has said no to our goods. We want to tell President Uhuru Kenyatta that we also represent people. We represent businesspeople and we represent communities that live along the border of Tanzania, from Isebania to Namanga. Goods coming from Tanzania and Uganda show that their biggest trading partner is Kenya, but Kenya cannot sell any item in Tanzania or Uganda. So, we must re-evaluate our membership in the East African Community. Kenya is a very big economy. Many international companies are based in Kenya. Today, Farmer's Choice cannot sell sausages and meat products in Tanzania because one month ago, Tanzania raised the tariffs. What I am saying is true. The Chair should confirm it with me. We are the people's representatives and we will protect them. You cannot dump your goods in our country and when Kenyans want to export goods to Tanzania you say that the Tanzanian Standards Authority must first give certification. Time has come for the House and

the Committee on Regional Integration to go on a fact-finding mission to Isebania and Busia. All animal feeds in Kenya come from Uganda. There is maize in the country from Uganda.

President Museveni is coming to Kenya tomorrow, I am told. At one time he said that Uganda is the biggest trading partner of Kenya. If you look at the Kenyan market, the small and medium traders are being fought in the country by the multiagency team on account of counterfeit goods and now our partner states have blocked Kenyan companies from selling their products in Tanzania, Uganda, Rwanda and Burundi. It is more in Tanzania where standards are altered arbitrarily and taxes raised by the Tanzanian Government which also denies Kenyans work permits. There is no goodwill from Tanzania. We must call a spade a spade. We are not in the East African Community marriage to be a flower girl. We want to be in the East African Community so that our businesspeople and professionals access that market. If that is not the case, then I ask the Committee and Government that any goods from Tanzania, be they oranges or anything else, must first be certified by the Kenya Bureau of Standards. The Government must stop it. If Tanzanians are saying that goods from Kenya must be certified by the Tanzanian standards body, we must tell Kenya Bureau of Standards (KEBS) officers based in Namanga, Isebania and all the other border points to stand up and insist that before oranges or other goods get here, they must get a certificate from the KEBS.

Secondly, if Tanzania can raise taxes arbitrarily, outside the framework of the three common markets revenue tariffs agreed by the revenue authorities and the ministers of finance, then Kenya must impose stiff tax rates on goods coming from Tanzania. It must be an eye for eye. Kenyans who get jobs in Tanzania are not given work permits. You remember our cows crossed to Tanzania and were auctioned while our chickens were burnt. We are not inferior to Tanzania. That is a Government that burnt our chicken! That is a Government that auctioned poor farmers' hard-earned livestock from Kajiado County! The earlier, the better. We want to tell the Tanzania Government that we are not in this House to do the business of selling *mitumba*. We are here to represent our people. I ask the Chair of the Committee to do a fact-finding mission. Let her go to Namanga and see, on the Tanzanian side, trucks in a five-kilometre queue. She will also see no truck on the Kenyan side. She will only see empty Tanzania trucks going back to their country. We must protect our people and our economy. We are in the East African Community Common Market in good faith. If they want to play games with us in the East African Community, just like the Britons are struggling to exit the European Union, we can call for a referendum to determine whether we should be in the Community or not. In fact, we do not need a referendum in Kenya. We are a big economy. The budget of Tanzania, Rwanda, Burundi and Uganda...

At times, I must speak as a Member for Garissa Township. This is a Report from a Committee and this is the story that is out there. If you talk to the Kenya Private Sector Alliance and the Kenya Association of Manufacturers, you will be told that ordinary people who do thriving business in Isebania and Namanga are now experiencing bad business. Their businesses are dying because of unfair practices. Every day, I have been looking at the Order Paper to see where I will get an entry. Today, the House looked empty. So, I was worried that when you propose the Question maybe there will be nobody else to speak. So, I had to rush here.

The Chair is a lady I have a lot of respect for. There are those who used to say that pastoralists are conservative. They can now see what pastoralists have brought to the House; Hon. Lesuuda, Hon. Sophia and Hon. Sara. We want Hon. Lesuuda to take lead and save the business community in our country. Let us support our President so that when he goes to the East

African Community Heads of State meeting, he can say that he cannot leave because his Parliament has issues with member states. The Committee can go to Farmer's Choice. They can go to Safaricom and talk to a corporate lady, Ms. Mulinge, who won a job to work for Vodafone, Tanzania. The moment she reported in Tanzania to work for Vodafone as the Chief Executive Officer - she was not going to Tanzania to work for the Tanzanian Government - she was told there was no work permit.

Finally, I will file a Question. We must be told what we are gaining from the EAC. Kenya joined the EAC because it was a very big economy, but our partner states have played monkey business. Our people have been blocked from accessing markets in Tanzania because the taxes have been raised. They cannot access jobs because they are denied work permits. Tanzanians are everywhere. It is very easy to tell Tanzanian businesspeople in Kenya. I beg to support, but I challenge the Chair that this thing... In fact, somebody should bring a Motion to discuss our status, our position, our role, our gains and our failures in being a partner state within the EAC.

I rest my case. I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Leader of the Majority Party, you have spoken with a lot of panic as it were in this particular subject. I am sure you must be alive to the ethos and the spirit of the East African Community cooperation and I am sure you must be alive - and the Chair too - to the underlying principle of non-preferential, technical barriers and non-tariff barriers to trade that should guide the relationship between the countries in the Community. I am sure that is what you were speaking to. It is the duty of the Committee to look into this so that we can get proper guidance on how to relate with our neighbours in a cordial way and equal treatment and fairness to each other so that we do not seem to be competing and killing trade and building barriers to the widening and deepening of the relationship between the countries, as it were. I am sure, the Chair was taking notes.

I will give this opportunity to Hon. Eve Obara, Member for Kabondo Kasipul.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to speak on this Report, which I support.

I am a Member of the Committee. From the outset, I want to appreciate that businesses and movement of goods and services with the introduction of one border post has certainly improved. I want to also appreciate that revenue collected has also improved at the border posts. I thank the KRA for the good job they are doing.

I too would not want to pretend that this did not come up in our Report about the harsh treatment that our people are getting from our neighbours. These are the local people at the border. It is not a secret that the treatment is harsh on Kenyans on our side, not only in Namanga. This also came up in Busia and Isebania. As a Committee, we said that this must be brought to the attention of the Ministry in charge for it to be handled politically so that our people are not treated like second class citizens yet the majority of the businesses that their neighbours are enjoying are from Kenya.

It is true that when we went to Busia and Isebania, trucks on the other side - this is what the Leader of the Majority Party has alluded to - you could obviously see that there was unfair treatment. Even the KRA was feeling frustrated because trucks came from Mombasa right across to Uganda and the first stop was on the Ugandan side not even on the Kenyan side. That is on Isebania. This is not to pre-empt what is going to come from the Report because this is clearly stated in our Report from Isebania.

In Namanga, it is about employment of the local community. Here, we had an issue of what is defined as local. Is it the indigenous or just the people who happen to live there? We said that a certain quota must be given to the indigenous community in that locality.

Secondly, on the issues of business opportunities, we said that certain quotas must be given to the locals so that they can benefit from this one post border point. Special emphasis was made on the youth that they should be considered for businesses because there were issues of unfairness when it came to allocating some businesses to the youth.

Finally, as much as the Ministry is looking at coordinating and harmonising the laws that govern trade, as much as they are looking at standardising rules across all borders, as long as we do not sort out this issue of our people being made to feel like they are second class citizens in this entire operation, I do not think we will be talking about the EAC or cordial relationships and those kinds of things. Let us look at it and see how we can handle it politically, so that our people begin to feel that they too are appreciated as Kenyans.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Obara, what happened to the big brother, namely, Kenya being the big brother in the relationship and allowing others to piggyback a little bit so that they can also catch up? Sometimes the big brother suffers a little more than the smaller one. Your contribution is noted. I will give this opportunity to Hon. Teyiaa, Member for Kajiado.

Hon. (Ms.) Janet Teyiaa (Kajiado CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support the Report. I am a Member of the Committee and a Member for Kajiado County, where the border is. I was in the team that went to the ground.

The Committee did a lot of work on this border post matter. We met several groups. We met Government agencies and all the stakeholders. We also got time to interact with the community and got the information from them and the problems they are going through.

As to what the Chair has said, we tried to meet both sides and listened to them. On our side, we found some problems which need to be addressed. One, our people do not get employment, which I think is a requirement. In the Namanga Border Post, the list we were given had very few people from Kajiado. So, it was a big issue, which sometimes leads to demonstration in the county. Coming to local women in Kajiado, they do beads and we have tourists. They are chased away and not given time to sell their beads. The Committee recommends that the women should have a place to sell their beads, which is part of earning their livelihoods.

There is lack of harmonisation of charges for import permits. We should try to address that. We also noted that the spirit of the EAC is not embraced by the neighbouring partner state. The Committee observed the handling of the border community and livestock issue in Kajiado in a cruel way. The Committee really tried. I think we have a lot to do in this border post. We need to address these issues, so that our people can benefit and not be abused.

Hon. Temporary Deputy Speaker, with those few remarks, I support the Report. A lot needs to be done in the border post. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): We shall now have Hon. Odege, Member for Nyatike.

Hon. Tom Odege (Nyatike, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me this chance. First, let me point out that my constituency borders Tanzania.

In Migori County, we have the longest border with Tanzania. Today, I am surprised that we can sit here and start praising our relationship with Tanzania when my people suffer every day.

First, I support the Report with the recommendations that I will make. The insecurity we are experiencing in my constituency is because of how we manage our borders. You will agree with me that if a criminal cross into Kenya, Kenyans will volunteer to hand over the criminal back to Tanzania. You will also agree with me that all criminals from Kenya who cross to Tanzania do not come back because Tanzanians accommodate them. When we talk of illegal firearms in my constituency and in Migori County at large, my sister, Hon. Dennitah Ghati, will attest to this, they all come from Tanzania. So, as we talk about how we are going to manage our borders and make business easier, we should also be very much concerned about security, which we currently see being compromised in the way we manage our borders.

When you talk about business, the way the Leader of the Majority Party was trying to put it, when you weigh the business we currently do at the border with Tanzania, it benefits Tanzania more than Kenya. In my constituency, for instance, alcohol and the sodas people consume are all from Tanzania. Why? When you cross the border, a bottle of soda is Kshs5 cheaper than the Kenyan one. A bottle of beer made in Kenya is Kshs5 cheaper in Tanzania than it is in Kenya. So, this should be an eye opener to the country because as much as we say that we want free trade, how does it benefit our country when almost all the goods that we consume along the border are from our neighbouring countries? We need to review ourselves. If we are opening the borders, how are we going to compete favourably so that our country's economy can also gain?

On what has been pointed out by my colleague on our relationship with our neighbours, you will also agree with me that it is not friendly. In January, I drove to Mwanza. On reaching Mwanza, all cars were passing, but because I had a Kenyan number plate, I was stopped. The first question was: "Do you have a fire extinguisher?" Yes. "Where is it? It is too small. We need a bigger one." That was mistake number one. But I had a fire extinguisher. Number two: "Can you enter your car and test your lights." The front and backlights were all working. Unfortunately, one break light was not working. I had to pay Kshs2,000. When the lady said 2,000 shillings, I asked whether it was Tanzanian shillings or not. She said that it was Kshs2,000 and I was not given a receipt. That is how Kenyans are treated when they cross to Tanzania. When you cross to Tanzania, you realise that the East African brotherhood that we are talking about is only for citizens of other countries when they come to Kenya. When we cross to other countries, everybody is suspicious of us. So, as we say that we want to be one Community, we have to appeal to our neighbours: They first must accept us and that is when we are also going to accept them.

Currently, when you look at the business opportunities in this country, whether employment or trade, our country is fairing very poorly. We have to be competitive as a country to gain from this marriage which we are trying to come up with. Otherwise, I support the Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oduol Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for the opportunity to speak on this Report. I would like to support the Report, particularly because it speaks on issues that are very critical that deal with border points. These are issues that look at how we standardise rules and procedures and ensure that citizens of different nationalities are handled well. It also deals with issues of security where we would want to ensure that as much as possible, there is sufficient security not only for persons who are

moving and seeking to engage in trade or go about their business and issues where we would want to see that the indigenous communities in those areas feel that they are accommodated and their interests are taken care of.

As I support this Report, I wanted in particular to flag out an issue that I noticed, namely, the treatment of women traders. As I looked at the Report, I have seen there is a recommendation by the Committee, which is very good, that would ensure that those in charge of coordinating the harmonisation of laws and policies, in particular Government agencies, go beyond the idea of just having a designated area. I support because we can see that part of the main interest of ensuring that we have the one stop border post was to support economic activities with a view to ensure that a number of the women who we see a lot engaging in trade across the border would feel not only secure, but would get the sort of benefits that would ensure that we can reduce poverty. We know that when women engage in cross-border trade and they succeed, it helps the family and the nation by extension.

I thank the Committee because I can see that their recommendations are very specific and are seeking to find ways through which we can reduce the treatment of Kenyan nationals that does not seem to be working well when we look at the regulations. I want to just inform the Committee that as we look particularly at the manner in which we will be dealing with movement of goods and people, I have a special interest in child protection and by extension looking at the protection and security of women not only in terms of whether they will have room to sell their merchandise such as beads, but also sometimes the tendency that women could become victims either of trafficking for purposes of sexual trade or the children could be un-accompanied or be in the company of people who might purport to be their guardians or people who have their best interests at heart, but they do not.

So, I looked at the Report and saw the way in which there was concern of how we would have government agencies and key stakeholders address interests of all the categories including youth when we are talking about their seeking to be supported to open companies. I would inform the Committee to look in particular at the movement of children, young girls and to bear in mind that we know that there is worldwide lots of movements of persons that in a number of cases, can be trafficking of persons and is sometimes something that is extended even to young persons for domestic labour and other areas.

We know that when we are looking at the border points, we are going to experience issues because we will find that there will be exits, issues of transition and points at which they will be originating from one border to another. So, I thank the Committee as I look at the Report and its recommendations.

Finally, I encourage that when we talk about youth, and I see the recommendations asking that the Ministry responsible for youth affairs facilitates youth to register companies and apply for tenders, my experience when I visited Israel was that one of the main reasons why they do very well in getting youth and other categories to engage and create employment is that they have what is known as start-up capital. So, as we recommend and seek to get the youth to register companies, I want to inform the Committee, which has said that we need to get the youth to register companies, that we should be doing something in terms of planning for start-up capital. When we do not support by way of framework, getting the ideas of the start-up capital, we will find that the youth may be discouraged or end up in a situation where they could fall prey to ideas that are not useful.

With this, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Members allow me to recognise Members of the Board of Management of Kapsaos Secondary School, Aldai Constituency, Nandi County, who are seated in the Public Gallery. They are welcome to observe the proceedings of Parliament.

We shall now have contribution from Hon. Gichimu Githinji.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute in support of this Motion. Much has been said about employment of youth and women at the border points, but let me touch on trade. In the course of inquiry into a certain commodity through the Departmental Committee on Trade, Industry and Cooperatives and the Departmental Committee on Agriculture and Livestock, it was found that about 5 to 10 per cent of products in this country usually find their way into this country as contraband goods through border points and unguarded boundaries with other neighbouring countries. They do not find their way through the legal channel especially the port. So, though the Committee has done a very good job, as they look into other issues that touch on border points, because that lies within their mandate, it would be proper in future for them to think of engaging other Committees such as that of Trade, Industry and Cooperatives, so that issues of trade can find their way into the recommendations of the Report.

Also, I support one of my colleagues who has said that it beats logic when a certain commodity comes from Kenya and it is cheaper when it is sold in the neighbouring country. That is very common at the Namanga Border Post. You find people are taking resources from Kenya and going to make another country grow. So, that is another area that probably this country of ours, through the relevant ministry, should think whether some taxes in Kenya should be reduced, so that there can be a proper balance in trade. This make ensure that we do not earn our money from Kenya and go and make another neighbouring country rich.

Another issue that needs to be looked at is the East African Community bilateral trade.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gichimu, did you say that you are a Member of the Committee on Trade, Industry and Cooperatives?

Hon. Gichimu Githinji (Gichugu, JP): Yes.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. I am just wondering what happened to the EAC Customs Union that was supposed to provide uniformity of customs and tariffs across East Africa, but proceed.

Hon. Gichimu Githinji (Gichugu, JP): The problem that we have is that countries such as Tanzania are very slow in embracing that. That is why you find there is a bit of imbalance between Kenya and Tanzania. They are reluctant to accommodate our products, but they are easily moving their goods into the country. Basically, that is an area that goes further than what the Committee did. So, let me not delve so much into that, but it is high time our country, through the leadership and the relevant ministries, pushed Tanzania to embrace the free trade agreements they have been signed amongst the EAC partner states.

The other issue that should be looked at across the borders, not only the Namanga Border in Kajiado, but in all the border points, is security. That falls under the Ministries of Interior and Coordination of National Government and that of Defence. They should make our borders very safe so that we do not have an influx of illegal firearms. That has been happening a lot from the North Eastern border points. It is high time this is restrained at all costs. Because a lot has been said about this Report, I beg to stop at this point so that other Members can have an opportunity to contribute.

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I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oyoo Onyango, Member for Muhoroni.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to speak to this Report. This is a very good Report. The Committee came up with mechanisms of bringing business processing under one roof, which will make it simpler and easier for businessmen from the East African countries to do business better.

I have listened to the various excuses and fears expressed on the Floor of this House by my colleagues. As much as I sympathise with my colleagues who have been denied work permits in Tanzania or any other country, it is time for us to learn our lesson and maybe take the bull by the horn. We have relaxed our systems so much, such that while Tanzania is busy protecting the few job opportunities that they have so that their people can get proper placement, we are busy opening the doors wide, that many useless Asians and Chinese are flooding our country taking small-scale...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oyoo, who are these useless people you are referring to? There can never be useless people.

Hon. Onyango Oyoo (Muhoroni, ODM): As I speak, there are Chinese traversing our streets, especially in Kilimani.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oyoo, you can refer to them as Chinese or whatever nationalities, but they can never be useless. Withdraw that bit, please.

Hon. Onyango Oyoo (Muhoroni, ODM): Normally, we would get experts to do the jobs.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Withdraw the word 'useless'.

Hon. Onyango Oyoo (Muhoroni, ODM): I withdraw.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Proceed.

Hon. Onyango Oyoo (Muhoroni, ODM): I urge the Government to be vigilant about the fears expressed. People purporting to represent Government interests, like my good friend, the Leader of the Majority Party in this House - and this makes me laugh - should be advising the Government to tighten the system when considering work permits. We will continue crying as they are busy safeguarding future opportunities for other citizens and opening our doors wide.

Concerning business opportunities, several companies like the East Africa Breweries create the same brand for Kenya and Tanzania. However, their products are much cheaper in Tanzania than in Kenya. So, this only calls for us to make adjustments. This may be done with a lot of pain, but we must wake up to the realities and ensure that there is competition out there. We must make our systems flexible such that we can compete with other countries. Otherwise, we end up making people to fear us for nothing.

This Report is very good and those in the Departmental Committee on Trade, Industry and Cooperatives should ensure the common tariff on customs is properly brought on board. How I wish we could go back to the East African Community that I used to know when Kenyans would freely walk to Tanzania to do business using their currency and Tanzanians would come in with no restrictions. This has only been hampered by lots of mistrust because some of us are not patriotic.

You know Tanzanians are very patriotic such that you hardly hear cases of *Al Shabaab* in Tanzania because any stranger that crosses over there, they report to the authorities. Here in

Kenya, funny characters come in and the leadership mixes with them thinking they are investors when they are people of no substance who have crossed into the country. The Report is good, but we need to open our eyes and make adjustments so that we can match the requirements of proper business consideration with our neighbouring countries.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well, Hon. Oyoo. There can never be useless people. You must take note of that. We are all God's people created equally before his eyes. Hon. Duale Dahir, Member for Dadaab.

Hon. Mohamed Duale (Dadaab, KANU): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Report. From the outset, I support it.

Our country borders several countries like Tanzania, Uganda, Ethiopia and Somalia. We have gazetted border entry points, which have customs and immigration security and one of them is the Namanga Border Point. The observations captured by the Committee Members are valid and the recommendations thereof.

However, I want to speak about border issues in general because border points in many places in the country are supposed to enhance trade, economy of the communities and contribute to the national revenue. While talking about issues of a ready functional place, I want to note that there are places with gazetted entry points which have been closed for over 10 years. If we are not careful, we are having illegal entry of goods. I am referring to the border points in Mandera, Liboi and Kiunga, because they are gazetted and have not been functional. My colleagues have also commented about illegal entry of goods. The points are closed and the Government is pretending that nothing comes in.

In terms of border entry points, we need to promote smooth flow of people and goods and monitor what is coming in and allow people to engage in legal trade. This will contribute to the economy of this country. While I note this is a functional border point, Garissa County has the Liboi Border Post, which has been closed for over 10 years yet many people and goods move through this point. We do not get any revenue or inspect goods coming in. We do not check whether they have expired, whether there is ammunition or illegal goods.

The Committee should think of how they can advise the Government to officially open the border points along the Kenya-Somalia border for trade because we are not at war with Somalia. We officially need to know what is coming in and going out in a formal way. This will enhance trade and prevent mass migration of people from Garissa, Wajir and Mandera counties to other parts of Kenya looking for livelihood and trade. If this is not curtailed, we will end up with serious migration issues which can bring about other problems in other parts of the country because some people perceive that people from other regions are taking over their businesses and trade.

I am not saying this kind of mix-up is not good, but Government policies should encourage Kenyans to earn their livelihood wherever they are without moving to other places. This country's policies have been very harsh to communities from North Eastern Region. For the past 10 years, it has been disastrous in terms of getting livelihoods. The poverty index is very high. The migration has continued to the extent that we are getting people from other countries across the border into this country.

Thank you, Hon. Temporary Deputy Speaker. On that note, I support the Report and its contents.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Chair to reply.

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Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to thank all the Members who have contributed to this Motion. They have really added value to what the Committee observed and even its recommendations. What has come out clearly from the Members' contributions is that there has to be more sensitisation by the Ministry and the relevant authorities from all the countries. They need to see to it that communities that live within the borders are sensitised on the one stop border post and on the whole issue of integration. There is a big gap in terms of understanding how the one stop border post helps. Even when we visited Namanga, we realised that it is like it was taking away business from them. To an extent, it is true and it is something we have to look at.

Many issues have been discussed. What came out clearly when the Leader of the Majority Party was making his comments is the fact that we really need to relook our position as a country. That much has been captured in our current Report and even in the other reports that we have tabled in this House before. We have even had conversations with the Ministry officials, and specifically the Cabinet Secretary, on how we are benefiting as a country. Later, we will be asking the House to adopt a report on the financials of the EAC. We are the greatest contributors to the Community and definitely, it is important for us to know the value of the EAC to Kenyans. So, just as he mentioned, for us to specifically look at that issue about trade, a Member can come up with a Motion or even ask Questions to the Cabinet Secretary and our Committee will take it up as a serious issue. We will interrogate the Ministry. Even if it means going out there to get more facts, we will get them and table the information in this House. We shall undertake to do that, so that it can be discussed by the Parliament of Kenya and we register our voices on those issues. I give the assurance that, as a Committee, we are committed to that. The Committee is ready and willing to go further in terms of dealing with specific issues that have been raised on the Floor.

As a Committee, we have thought about it - we are at an advanced stage - and we want a forum of all committees that deal with the EAC issues so that we can understand the issues that have been raised. We need to ensure that integration is not just on paper, but is a reality and it serves all the countries fairly.

I beg to reply. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I direct that the necessary motions on this particular Motion be taken when the matter will be set down for consideration again by our House Business Committee. I, therefore, direct that we move to the next business on our Order Paper.

BILLS

Second Reading

THE COUNTY STATISTICS BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): I direct that we defer consideration of this particular Order and we move on to the next Order.

(Bill deferred)

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Second Reading

THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): I also direct that consideration of this particular Order be deferred to the next time that it will be set down for consideration.

Next Order.

(Bill deferred)

MOTIONREPORTS ON BUDGETARY PROPOSALS FOR THE EAST AFRICAN
COMMUNITY FOR 2017/2018 AND 2018/2019

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have the Chair.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House notes the Report of the Committee on Regional Integration on the Reports of the Committee on General Purpose on the Budgetary Proposals for the FY 2018/2019 and Supplementary Budget Proposals for the FY 2017/2018 of the East African Community, the EAC Supplementary Appropriation Bill, 2018 and the EAC Appropriation Bill, 2018, laid on the Table of the House on Tuesday, 27th November 2018.

Hon. Temporary Deputy Speaker, when the Committee considered the Report and the Appropriation Bills, it noted that the development budget for the EAC is largely funded by development partners, namely, 84 per cent. The recurrent budget is largely supported by the member states at 88 per cent. This may present a challenge on the member states in terms of the ownership of the EAC integration process and future funding risks if the donor support stops. It was clear that the development budget of the EAC was largely, up to 84 per cent, funded by donors. We have been seeing what the US President, Donald Trump, has been doing namely, withdrawing donor aid to countries even on major projects. If, by any chance, the donors pull out, one is left to wonder how the development of the EAC projects is going to run.

The member states need to adequately support the development budget of the EAC to mitigate against future funding risks and for ownership purposes. Definitely, when a country puts its own money, there will be ownership of the projects across the EAC. This is, therefore, a legitimate need for additional resources to implement the EAC Customs Union, the Common Market Protocol and the Monetary Union Protocol and the Political Federation Roadmap. As a Committee, we noted that it is important that the EAC countries put their money into implementation of the four because there will be ownership among the member states and probably, we will even see more commitment by the countries.

The Committee made the following observations: First, the delayed remittances present a risk in funding the 2018/2019 priority areas such as moving towards a Monetary Union. This is

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something that has been on the discussion table for a very long time. The target set may not be met, thus the issue of partial remittance by the member states needs to be addressed. Further, there is need to institute sanctions on partner states defaulting on their contributions in line with Article 143 of the Treaty. There are member states who delay in remitting their contributions. Others have never contributed a single shilling to the EAC while they are members and probably sometimes are seen to take hard stance while they are not contributing. What we are saying is that maybe sanctions have to be implemented so that partner states can contribute.

The establishment of new EAC institutions and additional activities should also be guided and marched by increase in partner states' financial contribution. It is unfair for a member state to be the highest contributor in the EAC while it is not equivalent with the projects that are being implemented in the country. It should be guided and matched by what a country contributes. There is, therefore, need to institute reforms to align the EAC structure, programmes and activities with financial resources available from the EAC partner states. The delay in remittance of partner states' contributions relates to significant low budget performance of the EAC organs and institutions and irregular use of funds from the Reserve Account to fill up operations' cash flow gaps instead of being a stop-gap measure. There are no clear guidelines and procedures for all transactions into and out of the General Reserve Account hence making the account to be abused by making withdrawals for long-term projects.

We also observed that there is need for public finance and budgeting reforms within the EAC since vital information regarding the budget is scanty. For instance, the budget for various organs and institutions of the EAC are not broken down into recurrent and development. When we looked at the documents, it was not clear to us what falls under recurrent or development. It also did not give us project details as to where a certain project has reached or who is implementing it. Also, target setting for various activities and budget performance information seems to be missing among other best budgeting practices just as what we do as a Parliament. The Kenyan Parliament has one of the best budgeting practices and the EAC and even the East African Legislative Assembly (EALA) can borrow a leaf from what we do. Such reforms, therefore, require review of the EAC budgeting laws. The EALA needs to review the EAC Budget Act, 2008, a recommendation which has also been highlighted in this Report.

The current system where the partners contribute equally has not been effective. Some states are in arrears most of the time. Kenya is one of the countries that contribute in time. We contribute a high amount. Earlier, Members raised concerns that it looks unfair that we pay our remittances on time and contribute the highest. If you read the Report, you will see how much we contribute as a country. You could hear from the remarks by the Members of Parliament today that we are not being treated fairly. I was just looking at the Report that Kenya is one of the countries that have contributed the highest amount and we are not in arrears. The current system where partner states contribute equally has not been effective because some states are in arrears most of the time. There is, therefore, need to review the current systems of contributions by partner states taking into consideration the Gross Domestic Product (GDP) of each partner state, the population percentage of a country's tax on imports, increased equal contribution, weighted voting rights, secretariat membership among other valuables. Some country has not even contributed to the EAC, but when it comes to all the member states sitting at the table, they have equal voting rights.

We also noted that the Report has been submitted to the National Assembly without the records of debates and resolutions of EALA on the Report, which is contrary to Article 65(a) of

the EAC Treaty. It was fitting that we take note of that, so that in future, the report of EALA must accompany the report forwarded to the Assembly.

In conclusion, the Committee thanks the offices of the Speaker and the Clerk of the National Assembly and the Office of the Cabinet Secretary because we engaged them when we were looking at the report of the EAC. We thank them for the support they extended us while preparing this Report. The Committee's recommendation on this is that the Council of Ministers should establish clear guidelines and procedures for all transactions into and out of the General Reserve Account and refrain from using the Reserve Account funds for long-term running projects. We also recommend that the Clerk of EALA should submit to the National Assembly reports with relevant records as envisaged under Standing Order No.212.

I beg to move and call upon the Member for Dadaab to second the Motion.

Hon. Mohamed Duale (Dadaab, KANU) seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I direct that debate on this Order will proceed at such time as it will be set down again by the House Business Committee for consideration by the House.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 6.58 p.m., this House stands adjourned until Wednesday, 27th March 2019, at 9.30 a.m.

The House rose at 6.58 p.m.