NATIONAL ASSEMBLY

OFFICIAL REPORT

SPECIAL SITTING

Tuesday, 20th September, 2016

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The First and Second Quarterly Reports of the Ethics and Anti-Corruption Commission covering the periods 1st January to 31st March, 2016 and 1st April to 30th June, 2016, pursuant to Section 36(4) of the Anti-Corruption and Economic Crimes Act, 2003.

The Reports of the Auditor-General on the Financial Statements of the Constituencies Development Fund (CDF) in respect of the following constituencies for the year ended 30th June, 2015, and the certificates therein:-

1) Kikuyu;
2) Kirinyaga Central;
3) Matungulu;
4) Ndaragwa;
5) Tetu;
6) Njoro;
7) Ol-Kalou;
8) Kiambaa;
9) Mathira;
10) Kabete;
11) Kipipiri;
12) Othaya;
13) Thika Town;
14) Kieni;
15) Kigumo; and,
16) Githunguri.

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2015, and the certificates therein:-

1) National Social Security Fund;
2) Dedan Kimathi University College;

3) Kenya Ordinance Factories Corporation;
4) Simlaw Seeds Company Limited;
5) Lake Basin Development Authority;
6) Kenya Ports Authority;
7) Kenya Safari Lodges and Hotels Limited;
8) National Environment Trust Fund;
9) National Environment Management Authority;
10) Kabianga University;
11) Tanathi Water Services Board; and,
12) Moi Teaching and Referral Hospital.

The Annual Report and Financial Statements of the Kenya Accountants and Secretaries National Examinations Board for the year ended 30th June, 2015.

Hon. Speaker: Is it the Annual Report and Financial Statements of the Kenya Accountants and Secretaries National Examinations Board for the year ended 30th June, 2015 or 30th June, 2016?

Hon. A.B. Duale: Hon. Speaker, it is 30th June, 2015. Let me correct for the sake of the HANSARD.

Hon. Speaker: Okay. Next Order.

Hon. Lessonet: Hon. Speaker, I have a Paper to lay.

Hon. Speaker: You have a Paper to lay? But you know you just do not walk into the Chamber with all manner of collections from wherever. Hon. Lessonet, you are an experienced Member. You ought to have approached the Clerk's Office and they would know if there are any documents. They are the ones to decide whether it is worthy my eyes. As you know, my eyes are not supposed to see just anything that is on the---

(Hon. Lessonet consulted the Clerks-at-the-Table)

That document is not signed by anybody. Who is its author? That is why it is not easy --- My eyes should not have seen that. Hon. Lessonet, are you its author?

Hon. Lessonet, before I can allow you to even purport to table the document, I see it bears the name of somebody who purports to be an acting Chief Executive Officer (CEO). You are purporting to sign on behalf of that acting CEO. As far as we are concerned, you are the Member of Parliament for Eldama Ravine. You have now assumed that you are an acting CEO of some body!

(Laughter)

Have you resigned from being a Member of Parliament so that we can then throw you out since you will be a stranger?

Hon. Lessonet, in the event that this may be useful to Members, kindly, explain to them. We know you to be a Member of this House, not somebody signing for some acting CEO. This is total confusion. Kindly explain, in the event that it may be of value to Members.

Hon. Lessonet: Thank you Hon. Speaker for your indulgence. I thought the document was from my Committee, but I will promptly organize to have that rectified and seek your indulgence to table it later in the course of this afternoon. I agree with you that it is not correct. I kindly request you to allow me to table later this afternoon.

Hon. Speaker: What does it purport to be? If it is of no value to Members, then---

Hon. Lessonet: Hon. Speaker, this document is very important in the sense that it explains the status of disbursements of Constituencies Development Fund (CDF) monies to constituencies. Of more importance, it is showing us those constituencies which are seriously in arrears and possibly, we need to trigger some actions from those constituencies. This is because the CDF Board has money, which for particular reasons; it is not able to disburse to particular constituencies. As I had mentioned earlier, it also explains the allocation to constituencies this financial year. So, it explains why we are not able to table the documents on allocations today. The law which was assented on 13th September, 2016 does not require tabling of the allocations for each constituency. We made the process much easier and simpler. All that is needed is just communication to respective constituencies about the allocations. More so, this is about monies to be disbursed to constituencies and the point of interest is those constituencies which have not received money. This Report will, therefore, trigger some action from those particular constituencies.

Hon. Speaker: Hon. Members, there is nothing for debate because this document should not be anywhere near here. Hon. Lessonet should have taken it to the Clerk, who should have looked at it and noticed that it is not signed by the person who purports to be the author. They would have then given it back to Hon. Lessonet to take it back to where he picked it from. So, even if I allow you Members to contribute, you will be discussing something which should not be here. Hon. Lessonet, Members had expected that the many issues that they raised in the morning are the ones that you would be addressing this afternoon. I thought you promised or undertook to come and respond to the many concerns that have been raised by Members. What I do not know is whether this document is now in response to those many concerns which were raised by various Members who spoke this morning. Is this document supposed to satisfy those concerns?

Hon. Lessonet: Hon. Speaker, this document explains all the concerns raised by Members earlier today. I was tabling this document so that in the course of this afternoon, you can allow me one hour to take Members through this document, explaining to them item by item, table by table. The document explains all the issues raised by Members this morning. I brought it in response to all the issues raised by Members earlier on today. Just like you have asked, it does explain all the issues raised by Members this morning.

Hon. Speaker: Hon. Lessonet, to say that I give you one hour later will be in breach of the Standing Orders, specifically today being a Special Sitting, whose business is already on the Order Paper; and, at the conclusion of which there can be no other business. So, the only avenue available to you at this point is under Statements. Up to that point, we have not got to the business. Once we get into business, any other purported business would be outside of the provisions of Standing Order No.29, under which this Sitting is called. We had expected that at Order No. 7 – Statements - this is the point at which before we begin business, you were to come with a document that Members would make comments on or seek clarifications from you. After that, we will get into the business for which the House has been called.

Hon. Lessonet: Thank you, Hon. Speaker. I oblige and I will do it under Statements in the next Order.

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, first, I want to thank you for saving us from the Chairman. Firstly, the document he purported to table is one that is supposed to be signed by Yusuf Buno, who is the acting CEO of the Board and not the Chairman. This document is about CDF disbursement and the state of affairs; arrears owed by the National Treasury; progress

Report on the CDF court cases; achievements made or intended to be made following the August amendment and so on. That is not what this House was expecting. This House expected the Chairman to table the allocation matrix of each and every constituency. We need to see the amount of money allocated as has been the tradition in this House.

(Applause)

Members ought to get a copy of that document that has been tabled and, on the basis of the amount of money allocated to their respective constituencies, they can go and plan during the recess. This document is talking about those who received 100 per cent or 50 per cent and those who have arrears. That was not the intention.

Hon. Speaker, I would urge you that the Chairman should not be given time to discuss this document. It is about a critique of the 290 constituencies and that does not form part of the business that brings us here today. If the Chairman is saying that the matter is administrative under the new law, then he is under obligation to refer the matter to my office or the Clerk's Office, or the Office of the Leader of the Minority Party. I am talking about the allocation for 2016/2017. He needs to go back to the drawing board and come back at 4.00 p.m. before we finish with the matter that has brought us to this House. We only have one agenda. There is no Motion to discuss CDF in the Order Paper. As you said, the Motion we have is on the Ratification of the Economic Partnership Agreement.

So, Hon. Speaker, please, do not allow this document to be discussed. Let the Chair, even if he comes back at 4.00 p.m., to show Members how the allocations for 2016/2017 Financial Year are. This is a matter he can discuss with the Committee and the House at a later date, maybe, through a Motion, but not through a Statement.

Thank you.

Hon. Speaker: For the reason that I consider it absolutely necessary that Members need to get the information, I will rearrange business so that Order No.7, which is Statements, can come at an appropriate time soon after conclusion of business which the House has been called to discuss. The Chair of the National Government Constituencies Development Fund Select Committee will be allowed to make a Statement explaining the issues that Members desire to know relating to the various constituencies.

That is the only way we can accommodate Members' concerns. Hon. Lessonet, you will, perhaps, be the person to miss debate which is ensuing because the House wants you to go and seek whoever you must so that by 4.00 p.m. or soon thereafter, you are in a position to make a Statement regarding the National Government Constituencies Development Fund, particularly on issues to do with disbursement for the 2015/2016 Financial Year where it is applicable, and for the first quarter and any other quarter for the Financial Year 2016/2017 as the case may be.

Next Order.

MOTION

RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT

Hon. Speaker: Hon. Members, in the event that I may not be in the Chair, nobody should rise to question the issue of the re-arrangement of the Order Paper as it has been read in accordance with our Standing Orders. Order Nos.1, 2, 3, 4, 5, and 6 have been read. You have noticed, as directed, the Clerk did not read out Order No.7 so as to allow for the Chair of the National Government Constituencies Development Fund Select Committee to make the Statement. Hon. Members, we are all clear that it is for the convenience of the House and the rules permit.

The Chair, Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat.

Hon. Langat: Thank you, Hon. Speaker. I wish to move the Motion in an amended version pursuant to Standing Order No.48.

The amendment I want to include is to replace the word “adopts”, with the word “notes”. And after the word “the”, there is an insertion of the word “progress”. After the words “planning and trade”, there is an insertion of the words “Regional Integration Committee”. That way, the Motion in the Order Paper will comply with the Motion I gave notice to in the morning.

Hon. Speaker, I beg to move the following Motion:-

> THAT, this House notes the Progress Report of the Departmental Committee on Finance, Planning and Trade on its consideration of the Economic Partnership Agreement intended to be comprehensively entered between the Partner States of the East African Community (EAC) on the one hand, and the European Union and its Member States on the other hand, laid on the Table of the House on Tuesday, September 20, 2016 (Morning Sitting), and in furtherance to the provisions of Article 2(6) of the Constitution and in accordance with the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the Economic Partnership Agreement entered between the Republic of Kenya, as a Partner State of the EAC on the one hand, and the European Union and its Member States on the other hand.

Hon. Speaker, I draw the attention of this House to this very important exercise. I want Members to listen to the Motion so that we participate in it.

Hon. Speaker: Hon. Langat, if you look at Standing Order No.48 under which you claim to be moving your Motion, you can only move a Motion whose notice you had given in an amended form with the permission of the Speaker. You have not sought that permission but, listening to what you are saying, I have sympathies to what you have just said. I consider that it does not materially affect the general tenor and substance of the Motion. So, I permit you to proceed. You cannot assume that I have given permission. You are now permitted to do so.

Hon. Langat: Hon. Speaker, I had sought your permission through the Clerks. Maybe, the message was still on the way but, I have noted your guidance.

Hon. Speaker, I draw the attention of this House to the importance of this Motion which is for the ratification of the Economic Partnership between the East African Community (EAC), Kenya in particular, and the European Union (EU) countries. This is a very important exercise. I request Members to remain until we vote on this Motion because the employment of 4 million Kenyans and investments worth Kshs200 billion will be at stake if we do not conclude this Motion today. So, the Motion is very important to our country.

Further, we are in this process courtesy of Article 2 (6) of our Constitution, 2010 and, of course, the Treaty Making and Ratification Act of 2012, which requires that all agreements or treaties entered between the Executive and other countries, should be ratified by the National Assembly. The economic partnership has already been agreed to by the Executive and has been approved by the Cabinet. So, what remains is ratification by this House and it is the reason we are here today.

Let me give the House a brief background. Trade between Kenya and the EU for the last 30 years---

Hon. (Dr.) Nyikal: On a point of order, Hon. Speaker.

Hon. Speaker: There is a point of order from the Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker. Arising from your comment on Standing Order No.48 which queries whether the amendment substantially alters the meaning of the Motion, I rise to seek your guidance. In my mind "adopts" is totally different from "noting the progress". I just need guidance on that. In my mind, it seems to make a significant difference although further down we are approving. But I still need your guidance on the difference between "adopts" and just "notes progress".

Thank you, Hon. Speaker.

Hon. Speaker: It is perfectly in order to note the progress made by the Joint Committee but finally approving. There is no contradiction. It is progress on one hand--- You are being asked to approve the ratification of the Economic Partnership Agreement (EPA). Let him move and, perhaps, you can make substantive comments on it.

Hon. Langat: For the comfort of the Member, I would want to inform him that the report that we are noting is for information; that we are informed of the deliberations. The substantive Motion is for the ratification of EPAs and the Report of the Committee is for the information of the House. This House, at the end of the day, can adopt, amend or reject the Report of the Committee. The substantive Motion which we are discussing here is the ratification of EPAs.

The trade between Kenya and the EU for the last 30 years up to 31st December, 2007 was conducted under a non-reciprocal preferential trade regime under what was called the Lomé Agreement between 1975 and 2000 and subsequently, the Cotonou Agreement of 2000 to 2007. The EPA which we are ratifying today is a baby of the Cotonou Agreement following the commitment by the EU and the African Caribbean Pacific countries to enter into an agreement. The EPA is enshrined in the Cotonou Partnership Agreement which was signed in June 2000. The legal basis of EPA is, therefore, the Cotonou Agreement, which Kenya is a signatory.

Basically, the objective of EPA is to set trade rules between the East African Community on one side and the EU on the other side so that the rules are clear and consistent. Therefore, if a trader in Kenya wants to trade with the EU, the rules are clear. The tariffs which are attracted by Kenyan goods are clear. It is the same for the EU traders in Kenya.

Basically, the overall objectives of EPA are to ensure sustainable development of Kenya and other African Caribbean and Pacific countries, the smooth and the gradual integration into the global economy and eradication of poverty. Specifically, the EPA aims at promoting sustained growth, increasing the production of supply capacity, fostering the structural transformation and diversification of the Kenyan economy and support for regional integration.

This process of economic partnership agreement negotiations started way back in 2000. So, it is a process which has taken almost 16 years since it began. There were so many disagreements along the way, but the process kept moving on up to now. I would say all the EU countries have signed and ratified. In the East African region, it is Kenya and Rwanda who have already signed. Tanzania, Burundi and other countries recently said that they needed time to check further and, maybe, sign in the next three months.

I wish to draw the attention of this House to the fact that Kenya, in the East African region, is considered a developing country. The other countries are still considered as least developed countries and, therefore, whether they sign it or not, it may not affect their trade. Kenya, which is considered a developing country, if we do not ratify this agreement, we stand to lose as from 1st October, 2016. That was the deadline that was given to rally the other East African Community countries to ratify the process.

How will we lose? Maybe, that is the question which Members are asking. Kenya, as I have said, was given up to 30th September, 2016. After 1st October 2016, all exports to the EU market, and they are major--- About 22 per cent of our export business are to the EU. From 1st October 2016, if we do not show willingness and goodwill to ratify the treaty, all our exports to the EU which stand at 22 per cent will be levied duties in the EU market ranging from 5 per cent to 22 per cent. The effect is that it will reduce competitiveness of our products in the EU market. We export flowers, coffee and tea to the EU market. If EU were to levy 25 per cent duty, then our products will lose market because they will not be competitive. The effect of that is that 4 million Kenyans who are working on flower farms, tea industries and coffee farms are likely to lose their employment.

Secondly, the investments which have been made in those sectors, which is approximated by our Ministry to be worth slightly over Kshs200 billion, is likely to be lost. So, this is a very serious matter. In order for us to continue securing the EU, I request the House to approve and ratify this treaty so that we can save our trade with the EU and the East African Community. That is the danger we find ourselves in. The other thing, having informed the House of the consequences, is about the stakes or the issues. I know many people have been hearing outside there that our industries and agriculture may collapse. I want to thank the Kenyan negotiators. The approach they took is that they first did a research on the issues that needed to be addressed. Sometime back, the Government of Kenya commissioned the Kenya Institute for Public Policy Research and Analysis (KIPPRA) to do a research on EPA, so that they can set the agenda to protect the Kenyan economy.

Out of that, I would want to mention a few issues. One, in the agreement, there is a clause that talks about exclusion list which means that there will be no imports from EU markets to Kenya under any circumstances. The areas that have been covered under exclusion are for agriculture purposes. Agriculture is very key to this economy. It is the backbone of our economy. This agreement says that there shall be no direct imports of agricultural raw materials from any EU country, be it beef products, raw milk products and others. So, our farmers are actually protected against cheap imports of subsidized agricultural products. For our industries, safeguards have been made so that our small processing companies are protected.

Two, what we are offering - and which Kenya has agreed to - is what is called the intermediate goods. Intermediate goods which, for example, can be imported to Kenya so that assembly plants can be set up in Kenya or additional manufacturing can be done in Kenya. This is not new. We have always been passing what we call the exemptions under VAT for assembly plants for motor vehicles so that they are imported cheaply and can be assembled in Kenya and, therefore, create employment. That is what Kenya has agreed to. It is very good because we are trying to industrialise. I want to inform the House that even if we ratify the agreement today, there is a seven-year grace period for monitoring and checking before it takes effect.

There is another thing which has been secured. Looking at this agreement today, there are more than 1,000 items which Kenya has been allowed to export to the European Union (EU) markets duty-free and quota-free. That means that businessmen in our country have the opportunity to manufacture because, through this agreement, the market for an additional 1,000 tariff items has been secured. This means several other products can be sold in the EU market. Employment opportunities and our economic activities will increase because there is a new market in the EU.

Since I know the Leader of the Majority Party will second the Motion, and we have also agreed that Members will remain so that they debate it, I do not want to finish all the points. There are fears that once we enter into this agreement, Kenya will be locked into it. I want to inform the House that there are clauses in the agreement that provide for a situation whereby we can decide not to proceed with the agreement. If we decide to amend some sections, having found them to be detrimental, there is the amendment clause which provides flexibility for parties to amend any provision, including tariff liberalisation schedules, when a need arises. The provisions allow for amendment of tariff liberalisation schedules under certain circumstances such as to accommodate a regional integration process. This Economic Partnership Agreement is a living agreement. It can be amended whenever it is deemed necessary and on mutual agreement.

So as to allay the fears that we are being locked into this agreement, I would like to tell Hon. Members that it provides for a comprehensive review of the entire agreement after every five years. After every five years, the member states can review the whole document and check whether there is need for a comprehensive review or changes depending on what is pertinent at that stage. As I have said, it is a living document. It will go through a five-year review to capture any emerging issues.

The agreement also provides flexibility for the parties to quit the agreement if they are not satisfied in the course of its implementation. There is an exit clause. Exiting the agreement requires one to give a one-year simple notice to the other party. If you do not want to be part of the agreement anymore, you just give a one-year notice.

I have already talked about the benefits of this agreement to our economy. In summary, we will secure and maintain the EU market for Kenyan goods. One thousand other items have been allowed duty-free and quota-free to the EU markets. The other issue is rules of origin. Simplified rules of origin have been agreed with the EU, which makes it easier for Kenya to export a wide range of products to the EU market. The negotiated flexibility of the rules is supportive of our agricultural and industrial development, laying emphasis on value addition for agricultural products. The agreed rules will promote industrial development in the East African region.

There is also the issue of the supply side constraints that has hampered Kenya’s ability to exploit the EU market and access opportunities through the commitment to support the infrastructural development programme projects in Environmental Protection Agency (EPA) development matrix that is geared towards industrial and agricultural competitiveness. The funding of this programme is foreseen under the Environmental Defence Fund (EDF) and the funding modalities are foreseen in the EPA agreement.

The other issue is with regard to secure investment and jobs. If we sign this agreement, our exports will continue accessing the EU markets, duty-free and quota-free. This means our employment opportunities will be safeguarded and the investments of roughly Kshs200 billion, which I had already mentioned, will be secured.

There was a Motion which was moved by the Deputy Speaker in this House on compliance with EPA, on which the House resolved on 9th July, 2013. I wish to make a statement with regard to that. During the negotiations on outstanding contentious issues, the resolutions of the House, as passed on 9th July 2013, were taken into account. Contentious issues were highlighted by the House, including the most favoured nation clause, export access, agriculture domestic support, export subsidies, reference to Cotonou Partnership Agreement nonexecution clause; good governance in the tax area and the Turkey Clause; unless restrictive rules of origin were resolved in favour of the East African Community (EAC).

Kenya and Rwanda have already signed the agreement and we are just finalising the process. Uganda is in agreement but in the spirit of the EAC, they want to bring the Tanzanians on board. Kenya, being a special country in terms of development status, is treated differently by the EU. Therefore, this ratification process is crucial for us to continue trading with the EU, as I have already said. I recommend very strongly that the National Assembly approves the ratification of the EPA, pursuant to Section 8 of the Treaty Making and Ratification Act, 2012.

With those remarks, I beg to move and request the Leader of the Majority Party to second the Motion.

Hon. Speaker: Before the Leader of the Majority Party seconds, let me recognise the presence, in the Public Gallery, of students from Oruba Mixed Secondary School from Suna West Constituency in Migori County. They are welcome to observe the proceedings in the National Assembly.

Leader of the Majority Party!

Hon. A.B. Duale: Thank you, Hon. Speaker. As I rise to second this Motion, allow me to observe that this Special Sitting of the House is a significant and symbolic moment. It is also of important economic national interest to our country. For the benefit of my colleagues who were not in the 10^{th} Parliament, I would like to remind them that in this House, we passed a Motion on 10^{th} May 2012, regarding the signing and ratification of economic partnership agreements by the EAC countries.

Hon. Speaker, the Motion which was moved on 10^{th} May 2012 was revived and adopted by the current House in June 2013. That Motion urged the Government to address the contentious issues that were raised by the East African Community (EAC) and, in particular Kenya, relating to the Economic Partnership Agreement (EPA). The Motion also required the Government of Kenya to continue in consultation with the partner states to explore trade negotiations with the European Union (EU), whether on multi-lateral or bilateral approach for the benefit of the Republic of Kenya.

Under the leadership of the Deputy Speaker, who is the leader of the Kenyan delegation of the African, Caribbean, Pacific and EU (ACP-EU) Joint Parliamentary Assembly, they had the opportunity - from the political intervention - to urge the larger membership of the EAC to the amendment to Regulation No. 1528. If that was not done, then it would have created a tremendous negative impact to the economies of Africa, Caribbean and the Pacific.

Thirdly, through the leader of the Kenyan delegation to the African, Caribbean, Pacific and the EU Joint Parliamentary Assembly, the Deputy Speaker, Hon. (Dr.) Joyce Laboso, your Deputy informed us that they have agreed to a request from the Parliament of Kenya, the National Assembly. We will host the next Joint Parliamentary Assembly in December, 2016 in Nairobi. We are proud of our colleagues. We have also been informed that this will bring together more than 400 delegates to our Capital City to discuss this trade.

As I go into the Motion, the Deputy Speaker of the National Assembly and her colleagues; the Deputy Speaker of the Senate, Sen. Kembi Gitura, Hon. Musikari Kombo from the last Parliament, and members of the Committee of Ambassadors, and those who believed in a balanced North-South State within the context of ACP-EU deserve a recognition by this House.

Having said that, I want to emphasise on a few points of the state of play of the EPA and what brought us here today. I want to talk about its status and the reason we recalled this House. We need to deal with this very important matter.

In November, 2007, the East African Partner States initiated the framework for the establishment of EPA signalling the commencement of this negotiation. The negotiation was supposed to deal with a comprehensive EPA. By then, Kenya was exporting most of her goods to the EU on a duty-free basis for a period of over 40 years. The exports to the EU have gradually increased over the years, making the EU the second largest export destination for Kenyan exports. In 2015, those exports earned our country more than Kshs126 billion.

In January 2008, Kenya continued to enjoy the duty-free, quota-free market access on the basis of the EPA process. As at 30th September 2014, Kenya should have concluded ratification of EPA. That was the period given to member states, including Kenya. Missing this deadline meant loss of the duty- free, quota-free market access preference for the region and, more importantly, Kenya. I have deliberately decided to take the House and the country on a step by step process so that we can finally come to where we are today, and how we can move forward.

From January, 2008, the East African Partner States engaged the EU in negotiation for this comprehensive EPA as a bloc. They wanted to deal with the matter as a combined EAC bloc. This went on smoothly culminating in a conclusion of a negotiation and initialling of the document, EPA text in October 2014, signifying the conclusion of the comprehensive negotiation.

Hon. Speaker, Kenyan goods started attracting duty in the EU to the tune of Kshs600 million per month. This situation lasted until December 2014 when Kenya, as an individual country, was reinstated to the market access regulations allowing our exports to enter the EU market on duty-free, quota-free market access once again. Kenya was reinstated to access the EU market on condition that by 30th September, 2016, 10 days from now, we would have ratified the EPA. The current deadline standing is 30th September 2016. If we do not ratify either as East Africa or as an individual country, our goods will attract all forms of taxation.

The EAC Sectoral Council on Trade, Industry, Finance and Investment sat on 26th February 2016 and took a deliberate decision for EPA to be signed. They instructed the Secretariat to liaise with the EU to organise the signing of EPA by June, 2016 because of the pending deadline of 1st October, 2016. The Sectoral Council’s decision was upheld by the EAC Council of Ministers on 29th February, 2016. During the extraordinary meeting of this Sectoral Council conducted through a video conference attended by all partner states, except Tanzania, four partner states confirmed their availability to sign EPA. But Tanzania indicated that she was not ready yet to sign it until certain prevailing circumstances are rectified.

Hon. Speaker, the narrative of EPA must be said well because it is good for Kenyans and for EAC to hear about it, and for it to go to the HANSARD. Kenya and Rwanda, on the basis of the above decision made at the Sectoral Council, proceeded to sign the EPA on 1st September 2016, in view of the fast approaching deadline of 1st October 2016, pending signing by our other colleagues within the region.

Many efforts were put at the Ministers’ and the Heads of State levels. Despite the above efforts, the EU Commission on 8th July 2016, with the assumption that Kenya might not have ratified the EPA by 30th September 2016, petitioned the EU Parliament to remove Kenya from the market access regulations with effect from 1st December, 2016. That is a very important step that was taken by the European Union (EU) Parliament in its Sitting on that day.

Hon. Speaker, this proposal by the EU Parliament was scheduled to be discussed during the Session of the EU Parliament’s Committee on International Trade on 31st of August. I really want to commend the Cabinet Secretary (CS) for Industry, Trade and Cooperatives Mr. Aden Mohamed and his Principal Secretary (PS) Dr. Kiptoo, for doing all that it takes within the

Executive to make sure that we have recalled the House today. That is having the Executive doing their bit and the Legislature doing their bit by ratifying this agreement.

What happened when the matter was before the EU Parliament? That matter was about Kenya, the regulations and the deadline of 1st October, 2016. Kenya had only one option. Kenya took the initiative to counter this eventuality by seeking an opportunity to sign the EPA in view of the regional decision by the partner states to sign the EPA later. Kenya assured the EU of an accelerated process of ratification in order to meet the 30th September deadline by which the country will have ratified the EPA and notified the EU Council on the same. So, the moment we ratify this agreement today, the CS and more so, the Executive, will have 10 days to notify the EU Council on the same so that, altogether, the Executive, the Legislature and the EU Council, will save our country from the imminent deadline of 1st October, 2016.

The effect of this will be to guarantee Kenya market access in the EU. What we are doing today, the moment we ratify and the Executive does its bit, will guarantee Kenya market access in the EU market under the Market Access Regulations on Duty-Free, Quota-Free basis as the East African Community (EAC) member states sort out the regional process of signing the EPA.

Finally, what are the threats of not ratifying the EPA? This is very important. If Kenya does not ratify the EPA, the EU will subject our exports to the ordinary tariffs effective 1st October, 2016. That is a date that may not be pushed to 8th January, 2017 as our member states are asking for. When the EU meets, it will vote Kenya out of the Market Access Regulations if we will not have ratified the EPA. So, the matter is between our obligation to the EAC and our obligation to the citizens that we and the Executive represent.

Secondly, Kenya will be losing its market access opportunities to EAC countries such as Tanzania and Uganda and other African countries like Ethiopia, South Africa, Egypt, Morocco and Tunisia that already have duty-free and quota-free access in the European Market. For Tanzania, whether they ratify or not, they will not be a victim of the 1st October deadline.

Thirdly, the overnight loss of the EU market will have major, serious and fundamental ramifications to our economy. The first will be undermining the country’s fight against unemployment. Huge losses will be realised and livelihoods of an estimated 4 million people will be affected. Flower, tea and coffee farmers, among others, will be affected. I am sure that even the *miraa* market will be affected in the event that we get it back to the EU market.

(Applause)

In addition, the hard work of investment and promotion will be brought to a halt as investments worth Kshs200 billion stand to be lost. It will be affected seriously. Major companies will be affected. They will fold up and leave our country.

Finally, Kenya will lose its dream of expanding our export to the EU in over 1,000 tariff lines. That is the vision and dream of the Ministry of Industry, Trade and Cooperatives. These are tariffs that were previously closed out under the Lome IV Convention and the Cotonou trade regimes which have now been liberalised under the EPA.

Kenya has a comparative and competitive advantage in the production of commodities in most of these tariff lines, especially livestock production and agro-processed products. The EU market scan has shown that the market potential in our country is estimated at over Kshs300 billion.

As I conclude, may I confirm to the House and go on record that our ratification of this agreement follows a request from the Executive. It is in line with the EAC Heads of State

Summit, which took place on 8th September, 2016. We will not - and I want to repeat - undermine or jeopardise our larger commitment to the membership of the EAC and to the larger trading negotiations within the EAC.

With those many remarks, the step we have taken is important to our country, economy and farmers. It is within the Manifesto of President Uhuru Kenyatta and the Jubilee administration.

I beg to second.

(Applause)

(Several Hon. Members walked in the aisle)

Hon. Speaker: Order, Hon. Members! It is good if you could take your seats. The Hon. Member for Kajiado West or East, it is good if you could take a seat.

(Question proposed)

Hon. David Ochieng.

Hon. Ochieng: Thank you so much, Hon. Speaker. I rise to support this very important Motion because countries do not do trade. It is the citizens and companies that are in countries that do trade. The role of the Government is to facilitate by making sure that the environment that exists in the country enables traders to do business without any hindrances. Where cross-border trade is concerned, the role of the Government is to ensure that we enter into agreements that are beneficial to the citizens, companies and manufacturers.

Therefore, apart from meeting a very important legal obligation, the Motion before us today seeks to ensure that our businesses have a better and fair shot as they approach their counterparts in the EU. That is why I want to support this very important Motion.

Hon. Speaker, the Mover and the Seconder have talked of the importance of having this agreement ratified urgently, but the urgency is not whether to ratify or not. The urgency is in whether the Kenya Government and the traders in this country are prepared to take advantage of the opportunities we are creating by signing this EPA. I am happy that in negotiating this agreement, something that I participated in from 2006 to the time I came to Parliament, the Ministry of Industrialisation, Trade and Cooperatives took into account the requirements and demands of this Assembly that a couple of things be met before this Agreement is signed. I congratulate the Ministry, the Cabinet Secretary (CS) and the Principal Secretary (PS) concerned for moving very fast to ensure that the concerns of this Assembly are taken into account as we do this.

I want to allay the fears that we have left Tanzania. The reason we are negotiating as the East African Community (EAC) is that EAC has something called the Common External Tariff that requires us, as EAC member states, to approach the rest of the world as a unit of five countries. So, even as we approve this agreement today, we shall only be ratifying it to show the world that the EAC is one and that we are willing to be flexible to enable those who are moving faster to move faster as we give a chance to those who are moving slowly to catch up later. Like Tanzania has chosen to move slowly and catch up later. Our ratifying of the agreement today does not undermine in any way the capacity and ability of Tanzania to come on board later, nor does it undermine our integration agenda within the EAC.

Over and above the issues of procedure involving ratification and the EAC, the most important thing is whether as a country, we are prepared to take advantage of the economic and business opportunities that are being created in the EU. In the last three years we have been in this Parliament, we have voted so much money to the Ministry of Industrialisation, Trade and Cooperatives to ensure that we develop the capacity of our businesses to produce for the external markets. We have given money to the Ministry to increase production in the leather industry. We are trying to do something in the cement industry. We are trying to raise capacity in the agriculture industry and to invest in livestock and meat production. We are doing this to capture international markets we are yet to access. We are trying to ensure that we are able to sell more meat products to the EU, the UAE and the USA. What is important is how the Government of Kenya responds in terms of allocating resources to the Ministries concerned and creating an environment that is conducive to our industries producing for those markets.

A case in point is the sugar industry. We have had a long running agreement with the EU on sugar, but we have never been able to meet our quota because we have not invested well in the sugar sector. We have not structured our sugar industry to enable it to be competitive and to produce enough not just for local consumption, but also for better prices in Europe. Mauritius is a country in Africa. They sell all the sugar they produce in their country to Europe and import cheaper sugar from elsewhere for their domestic consumption because Europe gives them better prices when they export under the sugar agreement than anybody can give them. As a country, we should also decide to go over and above flowers, which we are now crying about today. We are crying about flowers losing market. We have dealt with flowers forever. Over and above increasing the capacity of our horticulture farmers to export to Europe, we want to diversify and create other avenues and businesses in the livestock business. We have been advised by the Ministry of Industrialisation, Trade and Cooperatives that the share of our trade on meat products is very low and yet, the amount of meat product exports to Europe is very high. Kenya has enough livestock, be it camels, cattle, goats or sheep. We need to invest in that area to enable the North Eastern people to export those products, create jobs, industrialise this production and ensure that we are doing business in the most competitive manner possible.

Hon. Speaker, if you look at our trade with Europe in the area of semi-processed goods, we are exporting raw coffee and tea to Europe today. They take it, blend it, bring it back and sell it very expensively to us. What this country must do to take advantage of the EPA that we are ratifying today is to inculcate the approach of adding value to our products. We cannot export raw materials the way we used to do in the colonial times. We cannot export raw products as if we are in 1963 or before. We are in 2016 and we should export processed products. We should add value to our products. We do not make money by exporting raw materials for others to go and add value and sell back to us. Cadbury and Nestle add value to our raw materials and bring their products back to the country and sell them very expensively. So, the challenge to the Ministry of Industrialisation, Trade and Cooperatives and to all of us who want the best for this country, in terms of creating employment and investment opportunities, is to ensure that we add value to our products by allowing enough resources to go into those areas so that Kenyan products can be competitive.

Also, of importance is for this country to operationalise the system of protecting our infant industries. For example, how do we protect the battery industry in this country? Eveready used to produce very good batteries, but it has been wiped out by fake products and unfair competition as a result of our failure to protect our infant industries. We are losing so much. In the last 10 years, the construction industry has been doing very well. We are importing basic items like tiles, cement and iron sheets. We are basically exporting jobs that we badly need at home. What we must do as a country within the framework of EPA is to invest in producing at home. It is a no brainer. China is building a railway line in Kenya today and it is importing everything they are using, from the nuts and bolts to cement. They are exporting jobs that we needed at home like yesterday. How do we call ourselves a country if we are going to allow people to support their home industries by bringing their products here and in effect, turning us to a consumer nation? The same applies to furniture. I am always happy sitting in the seats we have in Parliament because I know they were built by Kenyans. However, Hon. Speaker, the furniture in your office is probably imported. The furniture in our offices and in the Cabinet Secretaries' Offices is all imported. How do we grow if we are going to import basic items?

At the core of this agreement is not what we are saving in terms of market access. What will determine how we proceed? The success of the EPA will not be in terms of meeting the deadline concerned, but it will be in terms of how, as a country, we prepare to take advantage of the market access. The EAC has five member States. The EU has 27. This means the market access we are getting is so huge that we cannot meet its demand if we do not invest in a better manner.

I have proposed a legislation that provides for anti-dumping and counter-availing safeguard measures so that we do not open up our industries to uncompetitive products. European countries subsidise their production by almost 100 percent. It is said that an average European cow will be given US$10,000 in a month and yet in Kenya, a human being lives on US$2 a day. Europe subsidises almost all the things they sell to us. We must ensure that we have a framework which stops products that are subsidised in order to allow fair competition. That is the only time the EPA we are signing today will help.

I strongly recommend this particular agreement to this House and ask all of us to support it so that we can support trade in this country.

With those remarks, I support.

Hon. Speaker: Member for Emurua Dikir.

Hon. Kipyegon: Thank you, Hon. Speaker, for allowing me to contribute to the Motion. At the outset, I would like to state clearly that I support it. I support it because this is a new dawn in our bilateral relations and trade with the EU.

The Agreement states clearly that for a long time, four countries that form the East African Community (EAC) have never had a serious agreement with the European Union (EU). So, for trade that is usually done, most of the previous agreements are majorly between countries and the EU. This time round, when we combine the EAC and EU to trade together in this Agreement, it is going to be of great blessing to our countries.

The only challenge that we still have is how to make the EAC a compatible economic bloc, so that we can trade, do business together and allow these countries to work together as a team towards the EU. The ideologies behind our political frameworks in the country sometimes become an impediment within the EAC. However, we believe these challenges will be removed so that we can have a clear understanding between the EAC and how to trade with the EU.

We export many goods to the EU economic bloc. Areas that have been of great benefit to our country are flowers and agricultural products like tea, fish and meat. When these countries give you ordinary tariffs, they make us look like ordinary traders. This Motion will allow the EAC to meet several agreements that will enable us to have a free market. I agree mostly with the issue of compatibility with the World Trade Organisation (WTO) rules. Trade organisations have tough rules on how to trade with other countries especially on issues of the origin of by-products. This Agreement will allow us to have good trading relations. The issue of non-reciprocal preference trade regime, which has been in place, has not been favourable to our country, but with these new changes, we are going to have good trading opportunities with those countries.

We must remember that the problem that has been bedeviling this country in matters of trade has been high tariffs which this Agreement will lower and thus allow us to have serious benefits. With regard to access to the EU markets, our countries are under-developed and we cannot compete with developed countries. This Agreement will allow us to compete in a way that will not be disadvantageous based on our under-development.

There used to be imposition of some products on matters of technicalities and health standards. Our country is not so developed industrially like some other countries. So, imposing certain standards that we must meet especially on health and technical products was disadvantaging our countries. With this Agreement, they will readjust and remove the unilateral imposition of those technicalities. This will allow our countries to have proper access to their countries. On what the EU market will offer our countries, there is an imposition on goods that will have duty-free or quota-free market. I agree with them on the exception especially on arms and ammunition.

If we were to have free access and allow free market on arms and ammunition, most of our countries do not have a serious moral ground on how to use arms. If arms were that cheap and easy to access, most of the people would acquire arms to kill each other.

Another issue that caught my eye is the zero duty on 15,000 tonnes of sugar. This country has been having serious problems on matters of sugar and this market will allow our farmers to face the challenges that we normally have. There is something that touches on the liberalisation of 82 per cent of the EAC market for European imports. One thing which I would have liked to be noted is the issues which have been liberalised up to 82 per cent. When you look at the annexes, you realise that some rules have been placed to safeguard issues like anti-dumping. Most African countries have been turned into dumping grounds. When I look at these regulations, I am very happy with them unlike the regulations that we have with countries like China and Asian countries.

Countries like China, Russia and other Asian countries have no serious rules. Most of them have made this country like a dumpsite where they dump all kinds of materials. When you look at these agreements, they are very special and safeguard our country from consuming products from such countries and from counterfeit products. So, I am happy with this Agreement because it protects our country from being turned into a dumping site.

I am also happy with the rules which have been mentioned here especially the rules of origin. They state that in order for this country and other countries to trade in goods, there is the question of origin of the goods especially from the EAC. There was a time when people would import cars into this country through other countries with no barriers. We have had situations where people import sugar into this country claiming that there is a shortage of sugar, thus importing cheap sugar from one country and exporting it to another country using the same rule that the sugar originates from Kenya. So, I believe the rule which has been imposed by this Agreement will not allow cartels to import sugar from other countries and export it as if it originates in Kenya. The rule will stop such cartels that have been trading with sugar.

Another rule which I am happy with is the simplicity of the standards of our products because of industries which are not of the right standards. The last one is the source of raw materials. They have simplified the rule for our countries, so that it does not matter the source of the materials as long as we are the ones who make the products.

With those few remarks, I support this proposal. I support this Report especially the penalties which have been placed and the imports which will be allowed.

Hon. Speaker: Hon. Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker for giving me the opportunity. I rise to support this Motion and support the approval that it is seeking for ratification. As has been indicated, Kenya and parts of East Africa have been trading with the EU on the old law, the Cotonou Convention, which provided duty-free access, but did not provide any other support. Basically, the rest of the competition was allowed in Europe. The old law did not provide any other support and the rest of the competition was allowed in Europe. We did not do as well as we would have liked because certain conditions were set, for example, conditions of production at home. This made it difficult for our products to be accepted in Europe even though they were duty-free. Other members of the World Trade Organisation (WTO) who were not offered this access felt that it was unfair for some countries to be given duty-free access such as Brazil and Thailand.

The coming into effect of EPA is an improvement on the Cotonou regime. These negotiations have taken fairly a long time and a lot of work has been done. It is important to note, as I had indicated, that Kenya is on notice to ratify it before 1st October, 2016. Kenya and Rwanda are the only countries within the East African Community which have signed. That does not mean that we are running away from the Community, but it has to be realised that Kenya has been classified differently internationally as a developing country and therefore, has more restrictions.

If we delay, we will lose a lot on our goods that are going to Europe which include fruits, vegetables, flowers and fish. This brings a considerable income to this country. If you look at fruits and vegetables, only in 2008, we had an export worth 17 million Euros and 16 million Euros in 2015. In terms of fish, we had an export of 14 million Euros in 2008 and 28 million Euros in 2015. With regard to cut flowers, we have about 6 million Euros every year. So, we cannot sit back and not meet the deadlines. It will be a catastrophe for our agro industry if we do not do that.

I have read through the Agreement and have heard the explanations given by the Mover and the Seconder. The offer is good to Kenya. If we are going to have duty-free and quota-free entry into Europe, this is extremely important. It is not only that there is special emphasis on items like fish and sugar. On the other hand, we are expected to liberalise 82 per cent of our market over 25 years. This is gradual and there is a moratorium of seven years. Those are good conditions.

There are sensitive products, which if liberalized, manufactured here and exported to Europe, we would compete unfavourably and that would hinder our agricultural progress. Those have been excluded from the access we are giving to Europe. The rule of origin, as indicated, is not only that we do not get from elsewhere and take to Europe, but it takes into consideration that even within East Africa, there are certain conditions which were very stringent before, but now considering where the items are coming from, they are done in agreement which we have negotiated with the European Union. That makes it acceptable.

The Agreement also has flexibilities in customs and trade facilitation, so that we are not tied strictly to the conditions that would apply in Europe. Whatever conditions we are tied to are negotiated, so that we have an input in them. We did not have some provisions within the Lome

Convention and the Cotonou Agreement which just provided that you get duty-free, but then tied you up. The Agreement looks at how we defend our agriculture and make sure that there is no dumping of goods from Europe, for example, subsidised goods. If we start having subsidised goods coming here duty-free that, definitely, is unfair. Again, that has been looked at in the Agreement.

Under fisheries, they have looked at the big problem of conserving fisheries, which is a big problem both inland and even at the Coast. If we just allow free fishing and exportation and do not get support, then we will very soon exhaust this important resource. Again, I find it acceptable that it is not only about the movement of goods, but what do we do to our agriculture? How do we support it and what technology do we get from Europe to help us develop it? What other support do we get to develop it ourselves? Again, those issues are included in this Agreement.

On the area of taxation, there will be discussions. If you just say you are exporting and you do not look at taxation both here and in Europe, it will not augur well. The fact that we can sit down and discuss those issues within this Agreement, the Agreement is acceptable. It is also pretty good that structures have been laid down. The EPA Council, the committee of senior officials, consultative committees and dispute resolution arrangements have been put in place. Those are the things that you need in any agreement. This provides not only for now, but for the future. There are things that will come in the future that are important and I liked this. We are talking to a large extent on trade in goods, but there are provisions in future for trade in services because that is where we are going.

With regard to the competition policy, if we put our products to compete directly in Europe, then the provision we have been given may not work and we can look at that. In the area of intellectual property, people may not think that we have a lot of intellectual property to protect. Once we start opening up and trading, you find that there are areas where people pick ideas from you and develop them. On the area of transparency in public procurement, we may think that we are the only people with the problem of lack of transparency, but I think the problem is in all countries. When we have such arrangements, the agreement is favourable and we can support it.

There are remedies that have been put to safeguard our country from dumping, so that many goods are not dumped in our country because we have opened up. Like in any agreement, you must have provision for amendment and review. In this case, it is every five years. There are even provisions for exit, so that if we feel that this Agreement is not good for us, we can exit.

As we sign this Agreement with developed countries, there is a trend going on in the country that we must look at. Globalisation seems to be coming to an end and it is starting with the limitation of movement of people. We have seen what happened with the British Exit (BREXIT). The main issue was that Britain was not happy with the many people going into Britain. We are seeing the unusual popularity of Donald Trump because he is saying he will not allow people into the United States of America (USA).

Hon. Speaker: Member for Kajiado South.

Hon. Katoo: Thank you, Hon. Speaker. I stand to second this Motion which is important for the economy of this country.

Hon. Member: It was seconded.

Hon. Katoo: I am not seconding, but supporting because it has already been seconded. Thank you for the correction.

This is an important Motion for the economy of this country. One of the global challenges that we are facing right now in our country is the high rate of unemployment. Many Kenyan youth leave institutions of higher learning, but unfortunately, the job market cannot absorb the numbers that graduate every year. The few that are absorbed, a majority of them are absorbed by the sector we are discussing, namely, the private sector. As the Mover has said, about four million jobs are at stake if we, as a House, do not ratify this Agreement. A sector that creates four million jobs needs to be protected at all cost. If we do not protect it by ratifying this Agreement, it will be very difficult to expand the sector. The products in this sector will become uncompetitive because of high tariffs or taxes of up to 22 per cent that are going to be imposed and this will make our products very expensive in the market. That will have a net loss in our employment sector.

In terms of particular firms that are in this group, there are about 200 Kenyan firms that are at stake because of this Agreement not being ratified in due time. The time is very short, which is 1st October and it is about 10 days to go. We cannot, as a House, let 200 Kenyan firms be declared redundant or folded up because of an error that might not be of their own making. Therefore, I plead with this House to save the four million jobs that are at stake and the 200 plus Kenyan firms that serve this market by ratifying this Agreement.

The Mover of the Motion talked of Kshs200 billion coming out of this sector, but I would like to say that in 2015, there was about Kshs581 billion worth of Kenya's export. Out of that, about 32 per cent are exports to the EU market. Therefore, a market that provides 32 per cent of our export needs to be looked into. We should not lose that opportunity by not ratifying this Agreement.

I do not have to repeat the kinds of products in this market because they have been mentioned. It is good to just highlight that horticultural produce, flower, tea, fresh vegetables, coffee and fish are the main products in this market. We should protect them so that they are not penalised as they are taken to that market. If we let taxes of up to 22 per cent to be imposed, the traders will have no option other than to raise their prices in order to break even. By so doing, they will lose in the market.

Let me briefly talk about the East African Community (EAC). It is good that the House is informed, as the Mover mentioned, that our bargaining power lies in negotiating as a region, and the region is EAC. The EAC/EU Export Preferential Agreement needs to be implemented and ratified by all the EAC countries as a bloc. They always say synergy in numbers brings strength. I think we should not have isolated discussions in terms of each country negotiating on its own, though it might become a necessity of last resort. There is need to bring all EAC countries together in all sectors, be it business, political or social. It is good that we all move together in the same direction. If we negotiate and ratify this Agreement as a regional bloc, we will have a predictable and uniform trade scheme for all the EAC member states that respects their Customs Union and preserves the duty-free, quota-free access to the EU market. We should not be allowed as the EAC to encourage the culture of divide and rule. If we are divided as EA countries then we try to negotiate individually, I think we are going to lose big. In unity there is strength.

I want to first of all appreciate the effort of Rwanda, our good neighbour, because they have ratified this Agreement. Also, the Republic of Uganda has shown very strong indication that they are going to ratify it. I wish to call upon our good neighbours Tanzania and Burundi, and particularly Tanzania because I border them. A lot of the produce from my constituency goes to Tanzania and business comes from Tanzania. I want to plead with them that we move together in the same direction and ratify the same agreement.

It is good, as the Mover has said, that in the region it is only Kenya that is classified by the EU as a developing nation. There are about 44 countries plus the other four EA countries, that is a total of 48 countries, classified as low-developed countries that have full free access to the EU market. Even if we do not ratify this Agreement, our neighbours will not be affected. But I think that should not be taken as an advantage by the countries because a good friend is a friend in need. I believe this is the time that we show unity and stand together as one bloc. It will be of great benefit to all of us. Even those neighbouring countries will not be in that low-developed status for long. In unity, we believe. In the spirit of EAC, all of us as a region will move to the next level.

With those few remarks, I beg to support.

Hon. Speaker: I just want to remind the House that this is a Special Sitting and the Motion is one in which you must make a decision. The decision is premised on the provisions of Article 121 of the Constitution. There must be a particular number of Members present to make the decision. Those who contribute are advised or requested not to exit because you will deny the House the opportunity to make a decision.

The Member for Kaiti.

Hon. Makenga: Thank you, Hon. Speaker for this opportunity to contribute to this very special Motion. Some of us travelled very long distances from our constituencies just to come and transact this business which is very important and key to this country. I would like to start by supporting the Motion.

I take this opportunity to commend the Departmental Committee on Finance, Planning and Trade and the Committee on Integration. They have worked really hard on this Motion. Today marks a milestone for this country because the ratification of this Agreement will put the country into another page. The Economic Partnership Agreement (EPA) is coming along with a lot of benefits considering that over 1,000 products have been offered an opportunity to enter the EU market. This is a very good step forward now that the country will access that market and the opportunity for Kenyans to trade freely and export their products without paying any taxes. The East African Community partner states have come a long way in negotiating for this EPA. I am aware that the partner states have shown a lot of interest as a bloc to do business with the EU. The partner states have initiated the Agreement. As my colleague, the Minority Whip, has alluded, we urge the Tanzanian Government to fast-track the signing of this Agreement. I would like to applaud Rwanda, which along with our country, Kenya, has signed the Agreement and have moved forward towards the ratification of the Agreement. I would also urge other countries like Uganda, Tanzania and Burundi to sign their part, so that the EAC countries can form a good formidable economic bloc. The non-ratification of this Agreement would have jeopardised the market stake for our country and, therefore, once we adopt the Motion and approve the ratification, this country will enjoy a good market stake in the EU.

Hon. Speaker, considering the timeline that has been given to the partner states in this bloc to sign and ratify the Agreement, which is 1st October, this House has shown goodwill of making sure that we put our country at the level where it should be to increase our trade within the EU.

Globalization is all about movement of goods and services; it makes the market a global village. We will be able to trade freely, negotiate or even do business with other countries. Therefore, I would be very happy to see this Agreement being ratified. Securing and maintaining the European market is one of the benefits which this Agreement is coming along with. The flexibility or simplicity of the rules of origin will make Kenya export its products to the European market easily by opening the new markets for exportation of over 1,000 products. I would urge the Department of Trade to consider sensitising Kenyans on the importance of doing trade with the EU. This opportunity may be open to just a few people who are knowledgeable in matters of international trade. It is, therefore, important that Kenyans who are not well versed with international trade be sensitised and be involved in international trade. That way, even farmers will be in a position to access the international markets without necessarily going through middlemen or brokers.

Kenya is very well-known in terms of floriculture and agriculture. Therefore securing the opportunity to export products to these countries would really enhance trade and investments. There is also the guarantee of jobs for those people whose products will be exported to EU; it will mean that extra jobs will be created and the general well-being of Kenyans will be improved.

Hon. Speaker, I would urge my colleagues to support the adoption of the Report and ensure that ratification of the Agreement is done without much delay. This is a very important Agreement that will take our country to another level.

With those few remarks I would like to support and urge my colleagues to support as well. Thank you very much hon. Speaker for this opportunity.

Hon. Speaker: Member for Teso South.

Hon. (Ms.) Otucho: Thank you, Hon. Speaker for this opportunity.

Hon. Gikaria: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order?

Hon. Gikaria: Thank you, Hon. Speaker. I rise under Standing Order No. 95. I am not belittling the importance of this Motion, but going by what all the speakers have said, there is a general agreement that we support the ratification. You have just given a direction that if one has made contribution, he should not leave. If we continue like this, we might not utilize today's opportunity. Allow me to request you to call upon the Mover to reply.

Hon. (Ms.) Otucho: He will reply after I have made my contribution since I have the Floor.

Hon. Speaker: I have heard you, but I think in fairness, I have not heard that other gender making their contribution to this Motion. This is the more reason I should allow Hon. Mary Emase to make her contribution knowing that some people were in court over the issue of gender. It is only fair that Hon. Mary Emase makes her contribution.

Hon. (Ms.) Otucho: Thank you, Hon. Speaker. I will go right away and give my comments. This is a very important Motion. I would like to start by giving the status that currently Kenya enjoys quota-free duty-free access under the EU Market Access Regulation. What is at stake is that we are on notice. By 30th September we need to have ratified this particular Agreement. If we do not ratify, we stand to lose market for our exports in the EU. Just to illustrate how important this Motion is, Members, if you remember in 2014 when the EAC/EU, EPA negotiations failed to meet the stipulated deadline, Kenya lost free market access and therefore we incurred huge losses to the tune of Kshs1 billion. It was until December that it was reinstated. When we were reinstated to free access, it was on condition that Kenya was going to rally under East African countries to sign or ratify this particular Agreement.

That takes me to my next point which has already been alluded to by other Members. I just want to emphasise that this particular Agreement opens new areas for Kenyan exports. If you look at situational analysis from Page 22 to Page 28, you will realize that in those tables, there are huge opportunities that Kenya could tap into. I want to make reference especially to trade in chilled fish where the extra EU imports are so huge. When you look at the total EU market, it is at 5,249 Euros, but 4,443 are extra EU exports. Kenya's share in the particular imports is just about 1.16 Euros, while for a country like Morocco it is 54.25 Euros.

This is a challenge even to us legislators. There is so much opportunity, which will guide us on where to redirect our resources and where to invest. Other Members have mentioned the need for us to create employment. Most of our youths are getting the knowledge and skills. We are investing so much in institutions such as training technical institutes. Where are we taking the youths who graduate from those institutions? These agreements present an excellent opportunity for investments for our youth, women and business people who would want to run private investments. In addition, this will promote industrialization.

Most of the issues have already been mentioned. However, I would like to add that it also provides for trade remedies agreement which will prevent dumping. We have talked about so many goods being brought into this country from other countries such as China. In this particular Agreement, if goods that enjoy huge subsidies in the country of origin find their way into this country, those goods will be subjected to high taxes in this country. That way, we will make our goods more competitive. This is a very important Bill and I would like to urge all Members to support it. I also would like to appeal to other East African partner states to fast-track the process. Some of them like Tanzania have asked for more time to read and understand the Agreement. That was not too much to ask for. They were granted that time, but they need to read through and give it the necessary and urgent consideration that it requires. As Kenyans we need to approve this Bill failure to which it will cost us, for we stand to lose business. We stand to lose 70 per cent of exports worth Kshs90 billion and investments worth Kshs200 billion. We will fail this country if we do not ratify this Agreement at this point in time.

Thank you, Hon. Speaker, I support.

Hon. Member: *Miraa*.

Hon. Speaker: This is not about *miraa*. This is bigger. Those are small things for the villages. Since the Leader of the Minority Party is present, he is at liberty to make his contribution. I am sure he has noticed the mood of the House. I will then put the Question on what Hon. Gikaria proposed.

Hon. Nyenze: Thank you, Hon. Speaker, for giving me a chance to contribute to this very important Motion. I support the Motion because it is very important. It adheres to the provisions of Article 2(6) of the Constitution. I understand the urgency of the Motion because it is to be ratified before 30th September, 2016. So, it is very important that we pass it.

I would have preferred we had more time to study and consult experts to see the pros and cons as we proceed with our trade agreements with the EU. The EU is the destination of 32 per cent of our exports. This means that goods worth Kshs165 billion are exported to the EU. That means that 200 firms and over four million Kenyans benefit through direct jobs. By signing this Agreement, we will stop the EU Parliament from imposing a Kshs10 billion a year on Kenya's exports, especially on flowers. This Agreement means that the EU will have access to over 82 per cent of our markets. We must look for ways to subsidise some of our products. The rules should be enforced strictly to ensure that goods from third party countries are not dumped in this country. We should aggressively make manufacturing industries competitive, so that we can move from import substitution to export promotion economy. Unless we add value, we may not make a lot of gain from the EU.

World class infrastructure like standard gauge railways, ports and airports, whatever the Government is doing, go hand in hand with development. If we continue developing the infrastructure, the export sector will also grow.

The EPAs are being signed at the level of regional blocs. We know that Kenya is a developing country and countries within the EAC are least developed. We have these challenges, but I hope they will be overcome through negotiations. I know the Agreement integrates marine and inland fisheries into these agreements. Kenya has massive untapped potential in fishing, but if we count the number of ships and boats that we have in the fishing industry, we realise that we have none. We only see some vessels from other countries coming to fish in our waters.

I support and I can read the mood of the House. When Donald Trump says that he would make America great again, he is saying that he will bring back manufacturing. I support this. I am not supporting Donald Trump, but I am only saying that when he says that he will make America great, he means that he will bring back jobs. I emphasise that whenever we deal with the EU, we have to do value addition and be competitive. We export over 32 per cent to the EU unlike other blocs.

With those few remarks, I support the Motion.

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

Hon. Speaker: The Mover has the liberty to donate whatever time he has. Hon. Members, the Member for Eldama Ravine is back. I am sure he may have to make a Statement. It is only fair that we also give him some time.

Hon. Langat.

Hon. Langat: Hon. Speaker, let me donate a minute to Hon. M'eruaki and one minute to the Vice-Chairman of the Committee.

(Loud consultations)

Hon. Speaker: Are you donating something to the Member for Muhoroni? Donate a minute to the Member for Muhoroni? Hon. M'eruaki.

Hon. M'uthari: Thank you, Hon. Speaker. I support the Motion, which is very important. It gives a huge opportunity to Kenya.

As we ratify this Agreement, we urge the EU to accept *miraa* into their market because it is a huge market for the *miraa* trade. It is one of the commodities that may require to be considered. *Miraa* is a very important crop in my area. I represent the people who produce *miraa*, market and chew it. It should have room in this negotiated Agreement with the EU.

Hon. Speaker: Hon. Gaichuhie.

Hon. Gaichuhie: Thank you, Hon. Speaker. I also want to support the ratification of these EPAs. I urge the Ministry of Industrialisation, Trade and Cooperatives to be very pro-active because once we open our markets and are allowed to export duty-free without many tariffs, we need to diversify. I urge the Ministry to be very proactive, so that we can benefit from the free market.

If the *status quo* remains, it will not be of any benefit. By 2042, as we all know, we are going to allow European products to be imported into this country. If we are not proactive, then we will flood this country. If the Ministry is active, we will not have any threat. I urge the Ministry to be proactive.

With those few remarks, I support the ratification of the EPAs.

Hon. Speaker: Hon. Member for Muhoroni, your card was in, but you appear to have lost interest. Is that the case? Your card is not there. You are on donated time.

Hon. Oyoo: Thank you, Hon. Speaker, for pleading my case. My neighbour thought that we should be considered because we have a burning issue jointly with him which links up with the Motion we are discussing. Peculiarly enough, I want to be the only voice that is going to oppose this Motion because I believe a time is coming when I will be confronting a similar problem that is occasioned by this kind of agreement.

I am saying this because we have a lot of trade imbalances.

This opportunity is going to create room for unscrupulous businessmen to flood our country with many unwanted goods because we are going to export 22 per cent and they are ready to bring 100 per cent. The Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives, I want to put you on notice that the Cabinet Secretary has authorised the sugar companies in western Kenya to import raw sugar when our sugarcane is rotting in the factory. These millers cannot buy their own farms and develop---

Hon. Speaker: Member for Muhoroni, your time is over. You should take back your seat. Hon. Langat.

Hon. Langat: My good friend from Muhoroni has abused our friendship. Having given him time to support the Bill, he opposed it. Next time, I will know how to deal with him. Having said that, I want to thank Members who have contributed to this Bill. The way I see---

Hon. Speaker: There is no Bill.

Hon. Langat: Sorry, Hon. Speaker. It is the Motion. I want to thank the Members who have contributed to this Motion. Listening to all of them, save for Member for Muhoroni, all of them supported the Motion. I want to thank them.

Listening to their concerns, the general concern is: Will we be prepared to take advantage of the opportunities that have been opened up within the EU now that 1000 other products have been given opportunity? The Ministry's staff headed by the Principal Secretary are here. He needs to take notice that going forward, he needs to ensure that he designates one of the parastatals to ensure that information is given to the public of these opportunities that have been created afresh from this Agreement.

I want to thank everybody. I know they are going to rise to the occasion when the voting comes up. I want to ask the Members to support strongly and vote for this Motion.

I beg to reply.

Hon. Speaker: Hon. Members, this is an important matter, since among other things, it has connections with our provisions of Article 2(6) of the Constitution. Therefore, it is absolutely necessary that we satisfy ourselves that we have the relevant quorum. I have confirmed that we quorate.

(Question put and agreed to)

The only "nay" did not even rise in his place to claim a division.

Hon. Members, save for reorganisation of business which I did concerning statements, Order No. 7, we revert to it for the convenience of the House and request that Hon. Lessonet makes a statement.

STATEMENT

DISBURSEMENT OF NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

Hon. Lessonet: Thank you, Hon. Speaker. I stand to make a statement on the National Government Constituencies Development Fund (NG-CDF) disbursements, importantly for the Financial Year 2015/2016 and also to update the House on the progress of disbursements for this Financial Year, 2016/2017.

We have 81 constituencies which have received their total allocation. Equally, 163 constituencies have received at least 90 per cent of the allocation of monies for the last Financial Year. Of those 163 constituencies which have received at least 90 per cent, most of the balances is about Kshs500,000 per constituency. The Board is waiting for those constituencies to identify the projects to benefit from that Kshs500,000 which initially had been earmarked for an item called "audit fees". The Members are aware that it has now been underwritten by the Auditor-General. So, once the 163 constituencies identify the projects benefiting from that amount, the NG-CDF Board will promptly disburse the monies to them.

Forty five constituencies which have received on average 50 per cent of the allocation for this Financial Year, for various reasons, that 50 per cent has not been disbursed. The money is there but for various reasons including simple ones like making requisition to the CDF Board, identifying projects and maintaining balances above Kshs10 million in their CDFC accounts, it has not been disbursed to them. Those are the reasons 45 constituencies are yet to receive monies amounting to 50 per cent of the allocation for those constituencies.

We have one constituency which has just received statutory allocation for the last Financial Year. It is for the same reasons I mentioned like making a requisition, providing for projects to benefit from monies for the Financial Year and of course the last one being balances above Kshs10 million in those accounts.

In this Financial Year, the National Treasury has shown commitment to disburse Kshs25 billion, and I am sure Members are aware now that the allocation this year to NG-CDF is Kshs25 billion. With the new Act, each constituency will receive Kshs81,896,551.70, now that we are sharing this money equally among the 290 constituencies. The National Treasury has shown willingness and commitment to promptly disburse monies to NG-CDF. They have given us a programme which by December, they will have disbursed all the Kshs25 billion. The National Treasury has disbursed Kshs8 billion to the NG-CDF Board. The Board is already in receipt of that Kshs8 billion. The NG-CDF Board will be writing to constituencies to call for proposals so that the NG-CDF Committees can submit proposals towards that Kshs81, 896, 551.70. Once the NG-CDF Board is in receipt of such proposals, they will disburse monies to the NG-CDF Constituency Committees.

I would also like to inform Members that the new Act after the amendments has simplified the process. Initially, we were required to table a list showing the budget ceiling for each constituency in this House. It required the Cabinet Secretary to bring a budget ceiling to the Committee that I chair. We have since simplified that. We have given that responsibility to the Board, for purposes of promptness and timeliness.

Another issue which Members need to note is that the President assented to the Bill on 13th of this month. Article 116 of the Constitution requires that publication should be done within seven days. We expect publication of the new NG-CDF Act as amended to happen today. Seven days from 13th September is today, 20th September.

Once published, the House is aware that there are a further 14 days required after publication for the NG-CDF Act to come into operation. As much as I have told you the figures, for the Act to be properly operationalised, those timelines need to be observed. The first timeline of publication has been disposed of today. I hope the Attorney-General will comply and publish the Act today so that we can start the countdown of the 14 days for the NG-CDF Act as amended to come into operation.

That is my statement. I thank you for indulging me and giving me time this afternoon to communicate to Members on matters of the NG-CDF. I beg that any questions from Members be centred on the Kshs25 billion, knowing very well that there was a court ruling which limited disbursement to the NG-CDF to Kshs25 billion. Any comments or questions by Members should be restricted to that Kshs25 billion.

Hon. Speaker: Hon. Members, this was a statement. Hon. Lessonet brought out a salient point with regard to Article 116 of the Constitution. Once the President assents to a Bill, the Attorney-General is required to publish that Bill within seven days. The Bill becomes an Act of Parliament and takes effect 14 days after the date of publication, unless the Act stipulates otherwise. It is important.

I indicated a month ago that the power of Members to amend any proposed legislation can never be taken away by whatever arrangement. It is within your powers to even indicate the date you want a particular law to take effect. If you choose to allow that power to be exercised by others outside here, we will go by Article 116(2). There will be an assent date, seven days after that the Bill will be published and 14 days from the date of publication, it will take effect. I say this for the benefit of Members of some Committee, including Hon. (Eng.) Mahamud, so that you feel comfortable that once 14 days after publication are over, those other laws can take effect. Any other stories being bandied in FM stations and other avenues of communication are just expressions of desires by uninformed citizenry. Those are the processes. Anybody else making other statements is just doing so *per incuriam*, which means in ignorance of the law.

Are there any comments on the statement by Hon. Lessonet?

Hon. Members: No!

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, the House stands adjourned until Tuesday, 4th October 2016, at 2.30 p.m.

The House rose at 5.01 p.m.