



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

**Official Report of the Proceedings of the East African Legislative Assembly
36TH SITTING – SECOND ASSEMBLY: SECOND MEETING – SECOND
SESSION**

Tuesday, 23 September 2008

*The East African Legislative Assembly met at 2.30 p.m. in the Chamber of Deputies,
Parliament of Rwanda, Kigali.*

PRAYER

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

The Assembly was called to order.

MOTION

For the Introduction of a Private Member's Bill

**The Chairperson of the Committee on Agriculture, Tourism and Natural Resources
(Dr George Nangale) (Tanzania):** Mr Speaker:

*WHEREAS Article 59 of the Treaty for the Establishment of the East African
Community empowers members of the Assembly to propose any motion or to introduce
any Bill in the Assembly;*

*AND WHEREAS the provisions of Article 59 of the Treaty are translated in the Rules of
Procedure of the Assembly, and particularly on Rules 26 and 64;*

*AND RECOGNISING the right of members to introduce a Private Members' Bill
for the purpose of deepening and widening the EAC integration process;*

I beg to move that this Assembly do resolve to grant me leave to introduce a Private Member's Bill entitled "The East African Community Trans-boundary Ecosystem Management Bill, 2008".

Mr Speaker, I hereby lay on the Table the draft of the Bill.

Ms Kwekwe (Kenya): Seconded.

The Speaker: Hon Nangale can you justify your motion?

Dr Nangale: Honourable Speaker, the objective of this Bill is to provide a legal framework aimed at effecting and streamlining the management of trans-boundary ecosystem with a view of enhancing the quality of the environment, and to ensure the sustainable utilisation of shared natural resources. The Bill makes provisions for institutionalisation of trans-boundary environmental impact assessment procedures, public participation, adoption of common environmental standards, and exchange of information, among others. Honourable Speaker, I beg to move.

The Speaker: Honourable members, the proposal on the Floor is that this Assembly, pursuant to the provisions of Article 59 (1) of the Treaty and Rule 64 of the Rules of Procedure of the Assembly do grant leave to the hon. Dr George Nangale, Chairperson of the Committee on Agriculture, Tourism and Natural Resources, to introduce a Private Members' Bill entitled "*the East African Community Trans-boundary Ecosystem Management Bill 2008*". Debate is now open.

(Question put and agreed to)

Ms Margaret Zziwa (Uganda): Thank you very much Mr Speaker, I rise on a point of procedure, and I would like some guidance.

On the previous Order of Business of the House, "Questions for oral answers" was indicated, but we were not able to deal with that on Thursday as it was listed. I would like to seek your guidance, hon. Speaker, because I had a question and it was not given a number, although it has been outstanding for the last four months. Mr Speaker, sir, may I get some guidance or clarification from you or from the minister, when this question - *(Interruption)* -

The Speaker: Honourable member, it is under the Rules. It is the Speaker who decides on what comes on the order paper, and the Speaker did not see it fit for the questions to appear on today's order paper. So, honourable member, you are advised to wait until the questions do appear on the order paper.

BILLS

Second Reading

The Inter-University Council for East Africa Bill, 2008

(Debate interrupted on Thursday, 18 September 2009 resumed)

The Minister for EAC Affairs, Rwanda and Chairperson, Council of Ministers (Ms Monique Mukaruliza): I wish to thank you for according me this opportunity to respond to what, in my opinion, has been an incisive, purposeful and well fathomed debate of the motion on the Floor of the House. The proceedings so far attest to this august House's continued legislative capability for the purposes of not only concretising our achievements to date, but also of ensuring that our way forward is well focussed and legally entrenched.

Mr Speaker, I feel indebted to the Chairperson of the General Purpose Committee, the hon. Lydia Wanyoto Mutende and the entire membership of the Committee for the thorough consideration of the Inter-University Council for East Africa Bill. I have noted with appreciation that for purposes of facilitating the Second Reading of this Bill, the Committee delved deep into the background of the Inter-University Council for East Africa. The Committee also opined on such contents of the Bill as its scope; policy harmonisation in the area of human resource development; the proper placement of the Inter-University Council within the Community's institutional framework; the need for improvement in fees structures and regulation of institutions of higher learning; the need for a regional examination and accreditation system; and, the need to protect regional research and technological advancement. I have carefully studied the Committee's 14 main recommendations and the proposal to amend clauses 2-12, 16-17, 19 and 20 and the schedules.

Regarding the debate on the Floor of this August House, allow me to particularly applaud hon. Gervase Akhaabi, hon. Margaret Zziwa, hon. Safina Kwekwe Tsungu, hon. Valerie Nyirahabineza, hon. Dr. Fortunatus Masha, hon. Mike Kennedy Sebalu, hon. Bernard Mulengani, hon. Abdul Karim Harelimana, hon. Catherine Kimura, hon. Leonce Ndarubagiye, hon. Damian Habumuremyi and hon. Nusura Tiperu for their overwhelming support of the motion. I also note, with appreciation, the constructive criticism of the Bill and the useful proposals for its improvement that have emerged from the debate.

From the report of the Committee, and from our debate, I have discerned the following as being the cornerstones of an improved Bill befitting our deliberation as the region's legislature:

- (a) The need to align the Bill to the requirements of Chapter 16 of the Treaty for the Establishment of the East African Community, and particularly Article 102 on the development of education and training;
- (b) The imperative to establish a strong inter-university council of "serious thinkers", with a streamlined and homogenised membership, with an unambiguous structure that can satisfy the requirements of good governance;
- (c) The need to establish an institution that can effectively address issues pertaining to higher education such as accreditation, quality assurance and monitoring; harmonisation of fees and cross border movement of students; enhancement of research and protection of intellectual rights; harmonisation of examination structures;

enhancement of entrepreneurial culture through the production of job creators as opposed to job seekers; and handling of fraud and forgery of certificates ; and,

(d) Financial and other support to higher institutions of learning.

Mr Speaker, on the basis of the Committee's inputs and the outcome of the debate, and by its own volition, the Council of Ministers has acceded to the need to review the Inter-University Council for East Africa Bill. I have the honour, therefore, to report to this august House that the Council is agreeable to appropriate review and necessary amendments in the following five broad areas:-

(i) Institutional Arrangements

Clauses 4 and 5 will have to be amended to establish the Inter-University Council, which will transact business through regular meetings including an annual general meeting, an Executive Committee that will function as the Council's alter ego, a Secretariat which will be the Council's principal administrative organ, and an Executive Secretary who will be the Council's principal executive officer. The new streamlined arrangement will obviate the need for a governing board. Therefore, Clause 9 will be deleted and, consequentially, all references to "the governing board" in the Bill will be deleted. The effect of this will be to rid the Council of an amorphous structure which imported misplaced supremacy of an unnecessary governing board.

(i) Functions of the Council

Clause 4(2) should be amended to better articulate the purpose of the Council as envisaged under the Treaty whereby the need to also provide for the "Objectives of the Council" will no longer arise. Consequently Clause 6, with the exception of sub-clauses (g) and (i) which are essentially "purposes", will be deleted.

(ii) Functions of the Council

Clause 7 should be amended to more succinctly provide such functions as are commensurate with the purposes of the Council and those that were originally provided under clauses 4(2)(b) and 6(d) to (m) .

(iii) Modus Operandi of the Council

Clause 8 will have to be amended to better articulate on the regular and annual general meetings of the Council as the forum for deliberations. A revised text will provide for the participation at each such meeting, and will make reference to the conduct of business at those meetings. On the basis of a new clause 9, the Council will be able to establish standing committees to assist it in the carrying out of its functions.

(iv) Consequential Amendments

Consequent upon a review of the institutional arrangements, Clause 2 will be re-worded to delete a definition of the term "governing board" and to include a definition of the term

“executive committee”; all references to the “governing board” will be substituted with references to the “executive committee”.

Clause 5(6) will be re-worded to enable the executive committee to make rules applicable to the admission of universities and termination of membership.

Clauses 7(d), 8(1), 8(2), 8(8), 9(1), 9(3), 10(i), 11(5) will be re-worded for purposes of consistency and better drafting;

Clauses 9(4), 12 and 20 will be deleted for superfluity. Furthermore the First and Second Schedules will be deleted. The intended import of these schedules regarding the composition of the Governing Board and its rules of procedure are now aptly reflected under clauses pertaining to the Executive Committee.

Mr Speaker, sir, the Council’s input to the Committee’s proposed amendments will be better highlighted at Committee Stage, but suffice it to say that the Council has benefited from the Report of the Committee, and from the deliberations on the floor of the House. I believe that the Bill, in its revised form, will establish an Inter-University Council that meets the requirements of the Treaty, that has a results-oriented institutional framework and that serves to promote higher education for our region’s needs.

Mr Speaker, sir, I beg to move that the Bill entitled ‘The Inter-University Council for East Africa Bill, 2008 be read a Second Time. *Asante sana; Asanteni.*

The Speaker: Honourable Members, before I put the question I would like to acknowledge the presence of the hon, Jennifer Namuyangu, Minister of State for Water and Environment from the Republic of Uganda. *(Applause)*

(Question that the Inter University Council for East Africa Bill, 2008 be read the Second Time put and agreed)

Bill read a Second Time.

THE ASSEMBLY IN COMMITTEE OF THE WHOLE HOUSE

(Mr. Abdirahin Abdi in the Chair)

BILLS

Committee Stage

The Inter-University Council for East Africa Bill, 2008

Clause 1, agreed to

Clause 2

(Question proposed that Clause 2 be part of the Bill)

The Chairperson, General Purpose Committee (Ms. Lydia Wanyoto): Thank you hon. Chairman. I would like to propose that the following amendment be made in Clause 2:

(i) To delete the definition of the “*Governing board*”

(ii) To insert in their correct alphabetical order the following new definitions;

“*Assembly*” means the East African Legislative Assembly established by Article 9 of the Treaty.

“*Executive Committee*” means executive committee established under the section.

(iii) Add at the end of the definition of “*Vice Chancellor*”, the words “*and includes Director, Principal, and Rector*”.

Ms. Mukaruliza: I agree.

(Question on the amendment put and agreed to)

Clause 2, as amended, agreed to.

Clause 3, agreed to

Clause 4

(Question proposed)

Ms Wanyoto: Honourable Chairperson, I would like to propose that Clause 4(2) of the Bill is amended by substituting it with the following new sub clause:

“(2) *Without limiting the generality of subsection (1), the Council shall contribute to_*

a) meeting national and regional development needs;

b) developing quality assurance processes in order to ensure that teaching and research achieve and maintain standards;

c) assisting member universities identify and implement good practices in the management of institutions and the use of resources;

d) the development of human resource capacity in all disciplines of higher education in the community;

e) promoting equal opportunities for all students of East Africa including those with special needs.”

Ms Mukaruliza: Honourable Chairman, I agree

(Question on the amendment put and agreed to)

Clause 4, as amended, agreed to.

Clause 5

(Question proposed)

Ms. Wanyoto: Thank you Chairperson, I would like to make the following amendment in sub clauses 1(b) and (5) to delete “*Governing board*” and to replace it with “*Executive committee*”

(ii) To delete Sub clause (6) and to replace it with the following new Sub clause (6):

(6) “*The executive committee shall make rules to govern the vetting of applications, admissions and terminations of membership as may be necessary*”.

Ms. Mukaruliza: Mr Chairperson, I agree to those amendments.

(Question on the amendment put and agreed to)

Clause 5, as amended, agreed to.

Clause 6

(Question proposed)

Ms. Wanyoto: Mr Chairman, I would like to propose that Clause 6 of the Bill be deleted.

Ms Mukaruliza: Mr Chairperson, I agree to that amendment.

(Question put and agreed to)

Clause 6 deleted.

Clause 7

(Question proposed)

Ms. Wanyoto: Thank you Chair, I would like to request that the following amendments be made to Clause 7 of the Bill.

i) Paragraph (c) of the clause is amended by inserting a new sub paragraph (v) after sub paragraph (iv):

“(v) *Endorsing all approved programmes by accreditation bodies in the Partner States of courses offered through distance learning*”

ii) Paragraph (d) of the clause is deleted in whole.

iii) Insert the following new paragraphs between paragraphs (c) and (f):

“(d) Promote Curriculum reforms in order to equip graduates with the skills and knowledge which meet the needs of employers as well as needs for self employment, and to conform to the development plans of the Community;

(e) Enrich the development of institutions of higher learning in the Community;

(f) Oblige member universities to offer quality education to graduates in all academic disciplines;

(g) Collaborate with Partner States and other appropriate bodies and authorities in developing strategies for increased investment in higher education in the Community;

(h) Encourage the exchange of students and staff between member universities;

(i) Conduct subject meetings, conferences and workshops;

(j) Mobilise funds and resources for these activities;

(K) Provide scholarships to students and grants to teaching and research assistants;

(l) Establish and grant awards to deserving students, faculties and individuals for outstanding contributions to education, research and public service;

(m) Promote, through relevant activities in member universities, the meaning and value of East African unity;

(n) Resolve issues in every appropriate sector or activity of higher education in the Community;

(o) Receive and handle as appropriate complaints from these members.”

Ms Mukaruliza: Mr Chairperson, I agree to that amendment.

(Question on the amendment put and agreed to)

Clause 7, as amended, agreed to.

Clause 8

(Question proposed)

Ms Wanyoto: Thank you Chairperson, I would like to make the following proposals to the amendment of Clause 8 of the Bill.

i) Sub Clause (1) is deleted and replaced with the following new sub clause:

8(1) *The Council shall meet at least once every year provided that one of such meetings shall be an annual meeting of the council.*

ii) Sub clause (2) is deleted and replaced with the following new sub clause:

8(2) *The annual meeting of the Council shall comprise:*
 (a) *the Chairperson of Council;*
 (b) *all vice chancellors and principles of member universities;*
 (c) *one representative from the ministry responsible for higher education from each Partner State;*
 (d) *one representative from the private sector in each Partner State;*

iii) Sub clause (3) of the clause is deleted in whole.

(iv) In sub clause (5) substitute “*two representatives*” with “*one representative*”

(v) In sub clause (8) delete ‘*governing board*’ and replace it with ‘*executive committee*’

(vi) Delete sub clause (8) paragraph (f) and replace it with the following:

“(f) *Elect the chairperson of the council on a bi-annual basis*”

(vii) In sub clause (8) insert after paragraph (f) the following new paragraph:

“(g) *Elect members of the executive committee specified under section*”

(viii) Insert the following new sub clause after sub clause (8):

(9) *A meeting of the council other than an annual meeting shall comprise:*
 (a) *One vice chancellor representing the public universities of each Partner State;*
 (b) *One vice-chancellor representing private universities from each Partner State;*
 (c) *The head of higher education regularity body in each partner state;*
 (d) *One representative from the east African business council;*
 (e) *One representative of the university teaching staff from each Partner State;*
 (f) *One representative from the association of professional societies of East Africa;*
 (g) *One representative from a recognised regional association of university students of east Africa;*
 (h) *The permanent secretary responsible for higher education from each Partner States;*

(i) *The secretary general*

Thank you Mr Chairman.

Mr Mike Sebalu (Uganda): Thank you, Mr Chairman. I just want to seek a small clarification; maybe it will be taken care of by consequential amendments following the amendment of Clause 2 in terms definition. In Part 3 where it says “*add at the end of the definition of “vice chancellor” the words “and include director, principal and rector”*”, I am wondering whether it is applicable in the amendment of clause 2(b), which looks at the vice-chancellors and principals of member universities. Would that include the rectors and directors as already taken care of in the previous amendment? I am wondering whether it is a consequential amendment or otherwise.

The Counsel to the Community (Mr Wilbert Kaahwa): Mr Chairperson, consequent upon the amendment of Clause 8 in terms stated by the hon. chairperson of the committee on General Purpose, there has been a consequential amendment of the Bill in Clause 2 to define “vice-chancellor” to include director, principle and rector. I thank you sir.

Mr Sebalu: I thank you.

Ms Mukaruliza: Mr. Chairperson, I agree to the amendment on Clause 8

(Question put and agreed to)

Clause 9

(Question proposed)

Ms Wanyoto: Thank you Chairperson, I would like to make the following proposed amendment to Clause 9 of the Bill:

(i) To delete “*governing board*” wherever it appears and to replace it with “*executive committee*”;

(ii) To delete sub clause (i) and replace it with the following: “*there is established a committee of the council known as the executive committee*”;

(iii) Delete sub clause 9(3) and replace it with the following:

“9(3) *The executive committee shall comprise:*

(a) *the chairperson of the council; (b) one vice-chancellor from the public universities;*

(c) *one vice-chancellor from the private universities;*

(d) *one person representing the head of authorities responsible for higher education in the Partner States;*

(e) *one representative from the East African Business Council*

(iv) *Clause 9(iv) of the Bill is deleted.*

I thank you, Mr Chairman.

Ms Mukaruliza: Mr. Chairperson, I agree to those recommendations on Clause 9

(Question put and agreed to)

Clause 10

(Question proposed)

Ms. Wanyoto: Hon Chairman, I beg your indulgence and the indulgence of the House to read the new Clause 9, which we propose to insert. I would like to propose that we insert a new clause 9 to read as follows:

“9(1) The council shall establish standing committees to assist in the carrying out of its functions and may delegate to any committee such functions as it may consider fit, subject to such conditions that it may determine.

9(2) The members of the committees established under sub clause (1) of this section will be elected from amongst members of the council, provided that every Partner State will be represented by two representatives from:

- (i) outside a university setting ;*
- (ii) members of the governing board as eligible for election;*

9(3) each committee shall be governed by their own rules made by the council.”

I thank you chair for that indulgence.

Ms Mukaruliza: Mr Chairperson, I agree to the new Clause 9. *(Applause)*

(Question put and agreed to).

Clause 9, as amended, agreed to.

Clause 10

(Question proposed)

Ms. Wanyoto: I would like to propose that the following amendment be made to Clause 10 of the Bill:

- (i) Delete “*governing board*” wherever it appears and replace it with “*executive committee*”;
- (ii) Delete paragraph (a) and (e);
- (iii) In paragraph (1) delete the words ‘*conducive to*’ and replace with ‘*for*’

I thank you chair.

Ms Mukaruliza: Mr Chairperson, I agree to those amendments.

Question put and agreed to.
Clause 10, as amended, agreed to.

Clause 11

(Question proposed)

Ms. Wanyoto: Thank you chairperson, I would like to make the following amendments to Clause 11 of the Bill:

- (i) To delete “*governing board*” wherever it appears and to replace it with “*executive committee*”;
- (ii) In sub clause (5) delete the words “*for the time being*” appearing in the second line thereof;
- (iii) Insert immediately after the sub clause (6), the following new sub clause:

“(7) *The members of the executive committee shall elect from among their number the vice chairperson.*”

I thank you chair.

Ms Mukaruliza: Mr Chairperson, I agree to those amendments. *(Applause)*

(Question put and agreed to).

Clause 11, as amended, agreed to.
Clause 12

(Question proposed)

Ms Wanyoto: Honourable Chairperson, I would like to propose that Clause 12 of the bill be deleted.

Ms Mukaruliza: Mr Chairperson I agree to that amendment on Clause 12.

(Question put and agreed to)

Clause 12 Deleted.

Clause 13

(Question proposed)

Ms Wanyoto: Honourable chairman, I would like to make the following amendments on clause 13 to delete the ‘*Governing board*’ and replace it with ‘*Executive committee*’

Ms Mukaruliza: Mr Chairperson I agree to that amendment

Question put and agreed to.

Clause 13, as amended, agreed to.

Clause 14

(Question proposed)

Ms Wanyoto: Honourable Chairman, I would like to propose the following amendments to Clause 14 of the Bill:

(i) In sub clause (iii) delete ‘*governing board*’ and replace it with ‘*council of ministers*’

(ii) Delete ‘*governing board*’ wherever it appears and replace it with the ‘*executive committee*’

Ms Mukaruliza: Mr Chairperson I agree to those amendments to Clause 14

(Question on amendment put and agreed to).

Clause 14, as amended, agreed to.

Clause 15

(Question proposed)

Ms Wanyoto: I propose to amend sub clause 2 of Clause 15 of the Bill by adding at the end thereof the words: “*with the approval of the Assembly*”

Mr Kaahwa: Mr Chairperson, sir, with all due respect to the Committee on General Purpose, I would like to bring to the attention of this Committee of the Whole House the fact that the mischief which is being addressed by the proposed amendment, whereby the

approval of which will be necessary when it comes to any transfer of any headquarters, should be found in Clause (3) of Article 15 rather than in Clause (2) because Clause (3) provides for the headquarters being the permanent seat of the council. Let me read it for the avoidance of doubt:

15(2) “The headquarters shall be the permanent seat of the council, and shall not be transferred unless the Council of Ministers so decides”.

Mr. Chairperson, sir, that is the law; now the mischief is actually with regard to Clause 3, which reads as follows:

15(3) “Any transfer of the headquarters temporarily to another location shall not constitute removal of the headquarters unless there is an express decision by the Council of Ministers to that effect.”

Transfer is very fundamental as far as headquarters is concerned, and the mischief which was being addressed by the Committee, and which has been appreciated by the Council of Ministers, is where a situation may arise following a temporary transfer of the headquarters. A situation may arise such that the temporary becomes permanent, and that will be in breach of the law. So, the approval of the Assembly is actually with regard to addressing such a situation.

Mr Chairman, I therefore move an amendment that this addition by the Committee on General Purposes, with the approval of the Assembly, should be added onto Clause (3) rather than Clause (2). I thank you.

Mr Gervase Akhaabi (Kenya): Mr Chairman, a close reading of Clause 15(2) of the Bill advises us that the headquarters shall be the permanent seat of the council and shall not be transferred unless the Council of Ministers so decides. So, it is the Council of Ministers that decides whether or not to change the permanent seat of the council. And what the proposed amendment seeks to do is to show that that decision by the Council of Ministers shall not be made without the approval of the Legislative Assembly.

So, with due respect, I do not agree with the learned Counsel to the Community that, that proposed amendment should come under sub clause (3). Sub clause (3) deals specifically with temporary locations but permanent change is under sub clause (2). I therefore support the proposed amendment and say that the objection by the learned Counsel to the Community – *(Interruption)* -

Mr Sebalu: Mr Chairman, I think the Committee has very good reasons for bringing in this amendment because the decision to change a permanent headquarters is too important a decision to be left just to the council alone. If we go by the spirit of the EAC integration, it is people centred, so the Committee is trying to widen the scope of the authority to have the headquarters changed, and that creates a better legitimacy in that decision making.

So, like the honourable Akhaabi has argued very well, the amendment is in the right place, unless the Counsel to the Community is opposed to the principle of bringing in Parliament as part of that decision, which I find to be very legitimate. Already the Council is provided for, but the amendment is simply saying that there should be a wider involvement in making such an important decision. And I find that not to be curing any mischief; if anything, I think a mischief is being created.

Mr Bernard Mulengani (Uganda): Thank you Mr Chairman. I am a member of the Committee, and I would like to state that the reason we advanced for that particular argument, among others, was that making a law that does not widen the level of consultations would not be a good law because, as honourable Sebalu has said, confining the decisions to the Council of Ministers alone will not really give a true picture of integration, and the organs of integration for that matter.

I would have loved for the Counsel to the Community, whereas he is proposing that particular amendment to section (3), to go and put a check on Article 15 Section (2), and to have gone further to say that we are all human beings, and in the circumstance that the minister has made a mistake, we would go kneeling to ensure that that mistake is rectified. I therefore want to call upon the Counsel to the Community to, if possible, withdraw his proposal and go along with the proposal of the Committee. It is well intended, Mr Chairman. Thank you very much.

Ms Dora Byamukama (Uganda): Mr Chairman, I would like to support hon. Akhaabi and hon. Mulengani, and I think, with all due respect, that the honourable Counsel to the Community is actually creating a mischief in that the Council in its wisdom brought this law to the Assembly, seeking to establish a permanent seat. But when it comes to the issue as to whether there should be any transfer, this Bill leaves out the Assembly, which is sought, in the first instance, to establish a permanent headquarter, but the Bill is proposing to do this without the Assembly, only to use the Council. This creates a degree of ambiguity or absurdity or lack of clarity and lack of consistency and, therefore, I would like to ask kindly that the honourable Counsel to the Community withdraws and supports the Committee position. In effect it is tantamount to amendment of the law without the Assembly. Thank you.

Mr Kaahwa: Mr Chairperson, sir, one thing I like about participating in the legislature is that members are enabled to exchange views, and we have exchanged views on my proposed amendment to the amendment moved by the Committee. At this point in time, all I can do is to thank all honourable members for their kind words and appreciation of the proposed amendment that I brought to the Floor. Now, Mr Chairperson, sir, it is up to you to put the question.

The Speaker: Honourable members. There are two proposals on the Floor: the one from the Counsel to the Community and the other one from the Committee, and the Counsel to the Community does not want to withdraw his proposed amendment but he wants us to vote on it. Before I put the question, I think the honourable Minister wants to say something.

The Minister for EAC Affairs, Kenya (Mr Jaffah Kingi) (Ex-Officio): Thank you Mr Speaker. I have listened to both sides, and whereas the concerns of both sides are quite legitimate, I think for us to get a middle ground to section 15 of the proposed Bill, if we have to adopt the position as advanced by the Assembly, then we also have to carry it to sub clause (3), and yet if we adopt it we cannot afford to adopt it to one of the sub clauses. It is either the two of them or none at all, otherwise then there is going to be a conflict because the very mischief you have been trying to clear in sub section (2) of section 15 will apparently be left open in sub section (3). Therefore, if our aim is actually to try to tackle the mischief, then we have to go both ways or we forget about the two clauses all together; we leave them as they are.

The Speaker: This was not a mischief but - (*Applause*) - I think there is a third amendment to this amendment, which says that we also add this to Clause (3). I think before I close that article let me put - (*Interruption*) -

Ms Wanyoto: Thank you very much chairperson and honourable colleagues. The reason we left here at 9 p.m. last night was partly because of the debate on these two clauses, and I would like to thank very much the honourable ministers who were present, including honourable Kingi, because they are part and parcel of this debate and because they give and take.

The view of the Committee, which I have also heard on the Floor of the House, is that this is a piece of legislation, and in line with the principle of checks and balances and separation of powers, a piece of legislation cannot be touched or tampered with permanently or temporarily without the approval of the House. Last night we spent about two hours on these two clauses, and in line with the principle of give and take, we said ok, let the temporary one go but the permanent one must come to the House. So, I am very excited that it is back on the Floor of the House because it is the legislature that passes the laws. There is no way you can tamper with even a comma or a dot on any piece of legislation without coming back to the legislature. Therefore, honourable colleagues, I think this is our day; the two clauses should come back to the Assembly for approval, and we remove the mischief completely.

So, the two clauses should, as in my amendment...it is the spirit of the Committee and the spirit of the House that anything that is called a law of the East African Community is the mandate of this Assembly. We agree and support that the ministers serve their mandate to decide on the headquarters and whatever they want to do with the institutions, but if they want them in the laws that we pass, they should come back for approval. I thank you, honourable Chairman and honourable colleagues.

Mr Chairman: Honourable Counsel to the Community, with this new development, do you yield or do you still go forward?

Mr Kaahwa: Mr Chairperson, let me clarify one misconception, which has arisen. It was not my intention to create any mischief; in fact no mischief has been created. The purpose

of my standing up was to try and enrich the law that we are enacting. Now, having heard the members, and procedurally, sir, I request you to put my proposed amendment to the vote, I thank you.

The Chairman: Honourable members, I have now to put the question to you – *(Interruption)* -

Mr Dan Wandera Ogalo (Uganda): Thank you Mr Chairman. I am rising on a point of procedure. What is on the Floor is the amendment as proposed by the Committee. The CTC here has not proposed any amendment at all; there is no question to put. If he wants he can formally move his amendment and then it is put to vote and then we can debate it. But as of now, I propose that you put the question on the amendment on the Floor, which is that of the Chairperson of the Committee.

The Chairman: The hon. CTC is putting an amendment to the amendment of the Committee. He is actually saying that we should do what we call remove the amendment; deletion of the amendment to the amendment of the Committee. I think that is what he is saying, isn't it? *(Loud Consultations)* - *(Interruption)* -

Ms Byamukama: Mr Chairman, sir, permit me to seek your indulgence in this, because indeed what we have is a committee position and when a member wants to move an amendment, he has to do it formally. Apart from that, I believe the Council of Ministers is the mover of the Bill. I listened very carefully to hon. Kingi, he did not differ from the position of the Committee; he left it as is. So, I am wondering on what premise we would be considering the hon. CTC's position!

Mr Chairman: I think the rule says that he has to do it in writing, but in this particular case he's amending an amendment moved by the committee, which is also allowed as well.

I now put the question to the amendment by the committee; whether we are in favour of that or not. The question I am putting is on the committee's position and then from there, there is also another amendment, but the problem is that this one is not in writing, so how do we go about it? – *(Interjection)* - No, hold on please - because the minister here also has a proposal that if you put it there, you have to put it in sub clause (3) as well. *(Interjection)* - Is it in writing? Well you know you said that it is not good for the CTC, and now you expect to take it for you as well?

Mr Mulengani: Mr Chairman, I propose that you put a question to the position of the amendment of the Committee and the one of the minister will become a consequential amendment.

(Question put and agreed to (laughter))

Mr Chairman: Honourable Minister, are you standing up on Clause (3) of the Bill. You had something...do you still want to move it?

Mr Kingi: Thank you Mr Chairman. My concerns really were what ultimately we are trying to achieve by amending sub clause (2) of Clause 15 and leaving subsection (3) as it is because the alleged mischief that is being cured by amending sub clause (2) cannot be cured if subsection (3) is left as it is, because temporary removal to another location shall not constitute removal of the headquarters unless it is an express decision by the Council of Ministers to that effect.

There are two ways of removing headquarters: One, you can do it under sub section (2), with the approval of the Assembly, and if you do not involve the Assembly, you can remove it by using subsection (3) as it. Therefore, if we are moving towards parliamentary democracy where we need to be able to approve the decision on the removal of the headquarters, then both sub clauses must reflect that, and that is the position I would urge to be adopted.

The Chairman: Hon. Minister, can I then say that you want an amendment to sub clause (3) to include “*with the approval of the Assembly*” at the end of it?

Mr Kingi: It will only make sense if sub clause (3) is amended as such.

(Question put and agreed to)

Clause 16

(Question proposed)

Ms Wanyoto: Thank you, hon. Chairperson. I would like to make the following proposals as part of the amendment to Clause 16 of the Bill:

(1) In sub clause (1) delete the words “*through annual grants in equal proportion*”

(2) Delete sub clause (4) and replace it with the following:

“16(4) A member university which fails to honour its obligations under subsection (2) is liable to suspension.”

(3) Insert the following new sub clause immediately after the sub clause (4)

16(5) A member university suspended in accordance with sub section (4) shall cease to enjoy the benefits provided under this Act, but shall continue to be bound by the membership obligations until the suspension is lifted.”

In Part (IV), delete ‘*governing board*’ wherever it appears, and replace it with ‘*executive committee*’.

Ms Mukaruliza: Mr Chairperson, I agree to those amendments on Clause 16.

(Question put and agreed to)

Clause 16, as amended, agreed to.

Clause 17

(Question Proposed)

Ms Wanyoto: Hon. Chairperson, I would like to make the following proposals for the amendment of Clause 17 of the Bill:

(1) Delete “*governing board*” wherever it appears and replace it with ‘*executive committee*’.

(2) In sub clause (5), insert the words ‘*for consideration*’ after the word ‘*Assembly*’ appearing in the second line thereof.

Ms Mukaruliza: Mr Chairperson, I agree to those amendments.

(Question put and agreed to).

Clause 17, as amended, agreed to.

Clause 18, agreed to.

Clause 19

(Question proposed)

Ms Wanyoto: Honourable Chairman, I would like to make the following amendment to Clause 19 of the Bill: Delete ‘*governing board*’ and replace it with ‘*executive committee*’. I thank u chair.

Ms Mukaruliza: Mr Chairperson, I agree to that amendment on Clause 19.

Clause 19, as amended, agreed to

Clause 20

(Question Proposed)

Ms Wanyoto: First, I would like to make the following proposal in the amendment of Clause 20 of the Bill: to delete the clause in all.

Ms Mukaruliza: Mr Chairperson, I agree to that amendment.

(Question put and agreed to)

Clause 20 deleted.

The Schedule

(Question proposed)

Ms Wanyoto: Thank you, hon. Chairperson. I would like to propose that Schedule 1 and Schedule 2 of the Bill be deleted from the Bill. I thank you.

Ms Mukaruliza: Honourable Chairperson, I agree.

(Question put and agreed to)

Schedule 1 and Schedule 2 deleted.

Title, agreed to

Ms. Mukaruliza: Mr Chairperson, I beg to move that the House do resume and the committee of the whole House do report thereto.

(Question put and agreed to.)

(The House resumed, the Speaker, presiding)

BILL'S Report Stage

The Inter-University Council for East Africa Bill, 2008

The Minister for EAC Affairs, Rwanda, and Chairperson Council of Ministers (Ms M. Mukaruliza): Mr Speaker sir, I beg to report that the Committee of the whole House has considered the Bill entitled the *Inter-University Council for East Africa Bill, 2008* and approved it with some amendments.

Adoption of the Report of the Committee of the Whole House

Ms Mukaruliza: Mr Speaker, I beg to move that the Report of the Committee of the whole House be adopted.

(Question put and agreed to)

**BILL'S
Third Reading**

The Inter-University Council for East Africa Bill, 2008

The Minister for EAC Affairs, Rwanda, and Chairperson Council of Ministers (Ms M. Mukaruliza): Mr Speaker, I beg to move that a Bill for an Act of the Community for the establishment of the Inter-University Council for East Africa and other related matters be read a Third Time and do pass.

Mr Gervase Akhaabi (Kenya): Thank you, Mr Speaker, I stand under Rule 71 of the rules of this House and wish to refer the august Assembly to Clause 9 (2) as adopted by this House, which refers to a governing board.

Mr Speaker, as the House will appreciate, we have already done away with the governing board, so any reference to the governing board in Clause 9(2), therefore, does appear to be misplaced. In accordance with Rule 71, therefore, I move that this particular sub clause of the Bill be recommitted for the purpose of deleting reference to the governing board, and substitute the term 'executive committee' therewith, unless this Assembly considers that this may be treated under the slip rule and be amended accordingly.

The Speaker: Honourable Members, the Motion on the Floor is that the Bill be recommitted in respect to Article 9(2).

Ms Byamukama: Mr Speaker, when we are dealing with extensive amendments sometimes you may not be able to cause amendments on each and every clause, and what we do is, under the slip rule I presume what he is referring to is that it would be considered as a consequential amendment. So, Mr Speaker, I would like to support him but in principle say that this could be considered as consequential amendment just in case there is another clause that we may want to recommit. So, we would rather have this kind of procedure so that it can address any other aspect. And this is acceptable, at least, in most of our jurisdictions. I hope he will appreciate this. I thank you.

Mr Kaahwa: Mr Speaker, as it has already been indicated, the intention of the Committee in consultation with the Council of Ministers is to replace the pre-existing governing board as an organ of the Inter-University Council of the executive committee. As one honourable member, honourable Byamukama was observing, this was not an intentional inclusion of the governing board in the new clause. I think it was an advertent error, which can be addressed consequentially other than recommitting the whole Bill to the Committee of the Whole House. I therefore crave your indulgence that this matter be treated as a consequential amendment while agreeing with the correct observation of my honourable friend Akhaabi.

Mr Akhaabi: Mr Speaker, I think the spirit in which we are making these observations is well understood, and in light of what we seem to be concurring with, I would go by the

proposals from honourable Byamukama and honourable Kaahwa so that we treat this as a slip to the amendment. Thank you.

*(Question on the Third Reading put and agreed to
Bill read a Third Time.*

The Speaker: Honourable Members, I think we have come to the end of the day. I would like to once again congratulate the Minister for I think she is the only Minister who has passed four Bills in one Meeting - *(Applause)*. I know she has many more to come. I would also like to add that the Minister is hosting us for dinner this evening at 8.00 O'clock. I also would like to inform the House Business Committee members to meet in my office straight after this meeting.

ADJOURNMENT

The Speaker: Honourable Members, with that I adjourn the House until tomorrow at 2.30 p.m.

(The House rose and adjourned until Wednesday, 24 September 2008 at 2.30p.m.)