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EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY



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COMMITTEE ON LEGAL, RULES AND PRIVILEGES

REPORT OF THE OVERSIGHT ACTIVITY ON COMPLIANCE WITH THE EAC
PROTOCOLS AND LAWS BY EAC INSTITUTIONS (PHASE TWO)

1ST TO 5TH NOVEMBER 2020

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LIST OF ABBREVIATIONS

AfDB	African Development Bank
CTC	Counsel to the Community
EADB	East African Development Bank
CASSOA	Civil Aviation Safety and Security Oversight Agency
EAJSTI	East African Journal on Science, Technology and Innovation
EAKC	East African Kiswahili Commission
EAHRC	East African Health Research Commission
EARTDF	East African Research and Technological Development Fund
EASTECO	East African Science and Technology Commission
ICIPE	International Centre of Insect Physiology and Ecology
ICT	Information Communication Technology
IDRC	International Development Research and Ecology
IP	Intellectual Property
LVB	Lake Victoria Basin
LVBC	Lake Victoria Basin Commission
LVFO	Lake Victoria Fisheries Organisation
SGCI	Science Granting Councils Initiative
SIDA	Swedish International Development Cooperation Agency
STEM	Science, Technology, Engineering and Mathematics.
STI	Science Technology Innovation
TRA	Tanzania Revenue Authority
UNECA	United Nations Environment Program
UNEP	United Nations Economic Commission for Africa
UNESCO	United Nations Educational, Scientific and Cultural Organization
VAT	Value Added Tax

1.0 INTRODUCTION

Article 9 (2) of the Treaty for the Establishment of the East African Community empowers the Summit of Heads of State to establish institutions of the Community. Article 9 (3) provides that the East African Development Bank (EADB) and the Lake Victoria Fisheries Organisation (LVFO) are surviving institutions of the Community. Other institutions of the Community are the Lake Victoria Basin Commission (LVBC), the Civil Aviation Safety and Security Oversight Agency (CASSOA), the Inter-University Council of East Africa (IUCEA), the East African Community Health Research Commission (EAHRC), the East African Community Science and Technology (EASTECO), the East African Community Kiswahili Commission (EAKC) and the East African Competition Authority (EACA).

Institutions of the Community are established by various legal instruments including protocols, charters and Acts of the Community. Organs, institutions and other stakeholders are required to comply with and implement the legal instruments establishing the institutions and those related to the functions of the said institutions.

From 9th -12th October 2020, the Committee on Legal, Rules and Privileges undertook an oversight activity to assess the compliance and implementation of the protocols, laws and other legal instruments by the institutions of the Community. Due to resource constraints, the Committee was able to undertake this activity to institutions located in the Republic of Uganda, which are:

- i. The East African Development Bank (EADB);
- ii. The Lake Victoria Fisheries Organisation (LVFO);
- iii. The Inter- University Council of East Africa (IUCEA); and
- iv. The Civil Aviation Safety and Security Oversight Agency (CASSOA).

It is against the above information, the Committee on Legal, Rules and Privileges decided to proceed with phase two of this activity to cover the following institutions:

- a. The Lake Victoria Basin Commission (Kisumu, Kenya);
- b. The East Africa Health Research Commission (Bujumbura, Burundi);
- c. The East Africa Science and Technology Commission (Kigali, Rwanda); and
- d. The East Africa Kiswahili Commission (Zanzibar, United Republic of Tanzania).

2.0 OBJECTIVES

The main objective of this activity was to assess the level of compliance to the protocols and laws of the Community by the EAC Institutions. The specific objectives included the following:

- i. To assess how the institutions comply to and implement the protocols and laws of the Community;
- ii. To assess the effectiveness of EAC Protocols and laws governing the EAC institutions;
- iii. To assess the status, privileges and immunities of the institutions of the Community as provided for by Article 138 of the Treaty;
- iv. To assess the challenges facing the EAC Institutions in complying with and implementing EAC Protocols and laws; and
- v. To propose amendment to protocols and laws of the Community.

3.0 METHODOLOGY

This activity held physically and virtually as follows:

- a. Members of the Committee from the Partner State where the institution is located visited the headquarters of the respective institution and held interactive engagement with the management of that institution. Institution visited were the East African Kiswahili Commission (EAKC), the East African Health Research Commission (EAHRC) and the East Africa Science and Technology Commission (EASTECO);
- b. Virtual meeting through Microsoft Teams where institutions interacted with all Members of the Committee; and

- c. Institutions made their presentations before the Committee during the virtual engagement.

In their presentations, institutions were requested to provide the following information:

- i. Establishment of the institution;
- ii. The legal instruments governing the institution;
- iii. Regional and national legal instruments that affect the operations of the institution;
- iv. The status, privileges and immunities of the institution as per Article 138 of the Treaty and other related issues;
- v. Key stakeholders of the institution and how they work with them;
- vi. Challenges the institution face in complying with and implementing the protocols and laws of the Community and those of Partner States if any;
- vii. Areas that require review or amendment in the existing legal instruments; and
- viii. Expectation of the institution from the Committee and the Assembly in general.

4.0 PRESENTATION FROM INSTITUTIONS

4.1 THE LAKE VICTORIA BASIN COMMISSION (LVBC)

4.1.1 Establishment of the LVBC

The Lake Victoria Basin Commission (LVBC) is an institution of the East African Community established through the Protocol for Sustainable Development of Lake Victoria Basin. The Protocol was signed in November 2003 by the then three East African Community Partner States of Kenya, Tanzania and Uganda. The Protocol was ratified in December, 2004 paving way for two very important aspects:

- a. Establishment of a framework for joint management of Lake Victoria Basin; and
- b. Establishment of institutional framework for the management and development of the Lake Victoria Basin ecosystem.

When the Republics of Rwanda, Burundi and South Sudan joined the Community, they acceded to the Protocol.

4.1.2 Legal Instruments Governing LVBC

The primary legal instrument that governs the LVBC in undertaking her mandates is the Protocol for Sustainable Development of Lake Victoria Basin. Article three (3) of the Protocol provide for the scope of cooperation which list the area that Partner States have in the conservation of LVB. Further provisions outline on how the LVBC should address each of the areas. The Protocol is complemented by other documents such as the "shared vision and strategy framework for management and development for Lake Victoria Basin. This document was approved by the Council of Ministers in 2005 and comprehensively explains the vision for Lake Victoria Basin and further provides a strategy for the attainment of the vision.

4.1.3 Regional and National Legal Instruments that Affect the Operations of LVBC

There are a number of regional legal instruments that complement the operations of the Lake Victoria Basin Commission. Such instruments include the Treaty, the Charter establishing Lake Victoria Fisheries Organization, the EAC Climate Change Policy and Action Plan, the Lake Victoria Transport Act (2007) and its Regulations (2010).

The overall effect of this legal instrument is positive because they address areas of the Protocols that are weak for instance management and development of Fisheries resources. Perhaps the biggest challenge is the national legal instruments which often downplay the Protocol as well as other regional legal instruments.

4.1.4 The Status of Privileges and Immunities of the LVBC

The privileges and immunities for Lake Victoria Basin Commission are enshrined within the Headquarters Agreement that was signed in 2006 between the Republic of Kenya and the East African Community. While most of the immunities have been accorded by Kenya to the Commission and her Staff, the same cannot be said with regard to privileges which are basically negotiated.

LVBC prepared a report on the status of immunities and privileges of its staff which is attached as Annex 1 of this report. Annex 2 of the Headquarters' Agreement between the Republic of Kenya and the East African Community for the LVBC.

4.1.5 Key stakeholders of the Lake Victoria Basin Commission

Given the broad mandates that the Lake Victoria Basin Commission is accorded by the Protocol, engagement of stakeholders is a very critical such that among the guiding principle for implementation of the various provisions of the Protocol is the principle of public participation or simply put "stakeholders' participation". Three categories of stakeholders have been critical in the management of LVBC's operations within the Lake Victoria Basin namely:

- a. The EAC Partner States through the Sectoral Council of Ministers for LVB;
- b. Private Sector through the LVB investment forum; the Civil Society through the Stakeholders Forum/the LV Lead Partners Inter Agency Network Forum; and
- c. The Development Partners through the Donor's Consultative Forum/Donors Strategic Dialogue Forum.

4.1.6 Challenges Facing the LVBC

- i. The LVBC operates through the Protocol (soft law) without action for non-compliance;
- ii. The Commission is required to refund the Development Partners on money they use on VAT. The Headquarters Agreement only provides for VAT exemption on services and not goods; and
- iii. Some Partner States are normally reluctant to implement regional legal instruments and prefer their national legal instruments.

4.1.7 Areas that Require Review or Amendment in the Existing Legal Instruments

- a. Enactment of the LVBC Act to give the Commission the corporate Identity. EALA already passed this Bill and it awaits assent by the Heads of State.

- b. Amendment of the Headquarters Agreement between the Government of Kenya and the East African Community for the LVBC Headquarters in Kisumu, Kenya. Issues for consideration are highlighted in Annex 1.
- c. Incorporation of the Republic of South Sudan in the programs of the LVBC. The provision that defines the Riparian Partner States of EAC is based on the inflows into Lake Victoria and must consider the effects of Lake Victoria on the downstream countries as witnessed recently during the floods.
- d. Review the scope of cooperation under the Protocol for Sustainable of the Lake Victoria Basin which is quite broad. It was suggested that the Commission may need to focus more on issues of transboundary ecosystem, blue economy and maritime transport.

4.1.8 Expectations of the LVBC from the Committee on LRP and the Assembly

The LVBC expect the Committee on LRP and the Assembly to assist the Commission by urging the Council to address issues that are facing the Commission including the following:

- i. Fast-tracking the assent of the LVBC Bill by the Heads of State;
- ii. The proposed review of the Protocol on issues relating to the scope of cooperation, definition of the Basin (inclusion of downstream countries), inclusion of all transboundary ecosystems into the mandates of the Commission and autonomy of the Sectoral Council of Ministers.
- iii. Renegotiation of the Headquarters Agreement to ensure conformity with the one of the EAC Secretariat.

4.2 THE EAST AFRICA HEALTH RESEARCH COMMISSION (EAHRC)

The presentation of the East African Health Research Commission (EAHRC) was made by Dr. Novat Twungubumwe, the Acting Executive Secretary of EAHRC. He informed the Committee that EAHRC was established in accordance with Article 118 of the Treaty. It was established by the Protocol for the Establishment of the East African Health Research Commission, signed on 13th September 2008 and operationalized in 2015. It

was established as a mechanism for making available to the EAC, advice upon all matters of health and health-related research and findings that are necessary for knowledge generation, technological development, policy formulation and practice, and for related matters.

The Vision of EAHRC is a healthy and prosperous community built on evidence-driven policy and practice, which emanate from high quality research. Its mission is to improve health and well-being of the citizens of the Community by generating, accessing, capturing, assessing, synthesizing, sharing, disseminating, and utilising health research and findings, as well as technological development that are suitable and relevant to the Community and its people.

The Permanent Headquarters of the Commission is in Bujumbura, Burundi. The land to build the permanent Headquarters was acquired free of service fees in November 2019. The money for preliminary construction works was secured last year however it was not utilized because of the COVID-19 pandemic. The EAHRC is preparing a team of experts from the EAC secretariat to support the EAHRC to develop an architectural plan.

4.2.1 LEGAL INSTRUMENTS GOVERNING THE EAHRC

The following are the reported legal instruments governing the EAHRC:

- a. The Protocol for Establishment of the East African Health Research Commission;
- b. The Headquarters' Agreement between the Government of the Republic of Burundi and the East African Community for the EAHRC; and
- c. The Draft Bill on the Establishment of the EAHRC.

The 12th Sectoral Council of Ministers of Health directed the EAHRC Secretariat to prepare and submit proposals for amendment of the Protocol for the Establishment of EAHRC. The Secretariat prepared the proposed amendments which were considered by various organs and institutions of the Community. However, the process is yet to be

accomplished due to the challenges of aligning the mandate of the Commission and that of the Health Department at the EAC Secretariat.

4.2.2 Privileges and Immunities

According to the Headquarters Agreement, EAHRC is exempted from paying taxes from the relevant authorities and staff of the Commission are always given resident permits. However, it was reported that staff of EAHRC from the Republic of Burundi do not enjoy privileges like their colleagues from other Partner States.

4.2.3 Key Stakeholders of EAHRC

- i. Ministry in charge of EAC Affairs;
- ii. Ministry in charge of Health;
- iii. National Focal Points;
- iv. Research Institutions;
- v. Academic Institutions;
- vi. Health facilities;
- vii. Pharmacies;
- viii. Research scientists;
- ix. Research Networking.

4.2.4 Expectations of the EAHRC from EALA

- a. Advocacy for getting funds to start the process of building the permanent headquarters;
- b. Fasttrack the recruitment of EAHRC staff;
- c. Guidance on privileges of EAHRC staff who are nationals of the Republic of Burundi;
- d. Advocacy for EAHRC to conduct research on critical areas on COVID-19;
- e. Amendment of the Protocol establishing the EAHRC;
- f. Enactment of the EAHRC Act.

4.3 THE EAST AFRICA SCIENCE AND TECHNOLOGY COMMISSION (EASTEKO)

The Presentation for the EASTEKO was made by Muyambi Fortunate, the Acting Executive Secretary. He presented the following information.

4.3.1 Establishment of EASTEKO

The 5th Extra-ordinary Summit of the EAC Heads of State held on 18th June 2007 established the East African Science and Technology Commission as an institution of the EAC. The Commission was operationalized in July 2015. The Overall Objective of EASTEKO is to promote and coordinate the development, management and application of Science and Technology to support regional integration and socio-economic development. The mandate and functions of EASTEKO are to coordinate and facilitate the activities of the Partner States and national science and technology institutions. The Commission has a Governing Board and the Secretariat. Its organogram provides for 25 staff. Currently, the Commission has 8 staff in established positions, and 3 short term staff.

4.3.2 Legal Instruments Governing EASTEKO

- a. The Treaty for the establishment of the EAC;
- b. The Protocol on the establishment of the EASTEKO;
- c. The EAC Financial Rules and Regulations, 2012;
- d. The EAC Staff Rules and Regulations, 2006;
- e. The EAC Procurement Procedures Manual, 2020;
- f. The Headquarters Agreement between EASTEKO and the Republic of Rwanda; 2014;
- g. The Rules of Procedure for the EASTEKO Governing Board, 2019;
- h. The EAC Development Strategy, 2016/17 - 2020/21); and
- i. The EASTEKO Governing Board Manual, 2017.

4.3.3 Regional and national legal instruments that affect EASTECO operations

- i. Protocol on the establishment of the EAC Common Market;
- ii. Protocol on Environment and Natural Resources;
- iii. Protocol on Information, Communications and Technology Networks
- iv. EAC Oaths Act, 2019
- v. EAC Human Resources and Procedures Manual, 2015;
- vi. Industrialization Strategy, 2012-2032;
- vii. EAC Development Strategy, 2016/17 - 2020/21; and
- viii. Protocol on the Establishment of the East African Health Research Commission.

4.3.4 Status, Privileges and Immunities of EASTECO

4.3.4.1 Status of the Commission (Article IV)

The Government of Rwanda accords the following privileges and immunities to EASTECO, its property, funds and assets wherever located on its territory:

- a. Property and assets for EASTECO enjoy immunity from the legal process except where it has expressly been waived.
- b. The Commission's property and assets are immune from search, requisition, confiscation or expropriation and any judicial or legislative action.
- c. Archives of the Commission and all documents belonging to it or held by it, wherever located are inviolable.
- d. The Commission, its property, assets, income and transactions are exempt from direct taxation including VAT, customs duties on goods and equipment or purchases for its official use, obligation relating to payment, withholding or collection of any tax or duty provided that such assets are not sold in Rwanda.
- e. The Commission may hold funds and operate accounts in any currency. It is free to transfer such funds from one Partner State to another subject to foreign exchange regulations.

- f. The Commission may lease additional premises for its official use. Such additional premises are deemed to form part of the Headquarters of the Commission for the duration of the lease and enjoy such privileges and immunities.

4.3.4.2 Communications of the Commission (Article V)

- i. Communications of the Commission enjoys treatment not less favorable than that accorded to any international organization in Rwanda.
- ii. No censorship is applied to official correspondence of the Commission that includes publications, documents, visual aids, still and moving pictures, films, sound recordings and other scientific recordings.
- iii. The Commission has the right to receive official correspondence to publications, recordings and either by courier or in sealed bags which enjoy privileges as diplomatic couriers and bags.

4.3.4.3 Right to Access and Residence (Article VI)

The following persons have the right to entry, residence, transit and exit in Rwanda for proper performance of their functions:

- a. Members of the Staff of the Commission.
- b. Consultants employed by the commission;
- c. Staff of the Secretariat of the Community;
- d. Persons other than members of staff of the Commission who shall carry out missions for the Commission; and
- e. Any representative of the media whom the Commission shall decide to accredit after due consultation with the Government.

4.3.4.4 Immunities Accorded to Other Representatives of the Commission

Representatives of Partner States attending meetings convened by the Commission enjoy the following immunities and privileges:

- i. Inviolability for all papers and documents;
- ii. The right to use codes and to receive papers or correspondence by courier or sealed bags;
- iii. Exemption from immigration restrictions or national service obligations in the state which they are visiting in the exercise of their functions;
- iv. The same facilities in respect of currency or exchange restrictions accorded to representatives of foreign governments on temporary official missions;
- v. The same immunities on their personal baggage as are accorded to members of comparable ranks of diplomatic missions;
- vi. Accorded the same privileges on exchange control facilities as accorded to the officials of comparable rank in diplomatic missions; and
- vii. Given the same repatriation facilities (with their families) in time of crisis as staff of diplomatic missions.

4.3.5 Key Stakeholders of EASTECO

- a. EAC Organs and Institutions;
- b. National Councils/Commissions on Science & Technology;
- c. Ministries Responsible for STI in Partner States;
- d. Ministries Responsible for EAC Affairs;
- e. Ministry responsible for ICT and Innovation;
- f. EAC Regional Centers of Excellence;
- g. Public and Private Universities;
- h. National Research Institutions and Organisations;
- i. International and Regional Organizations AfDB, USAID; IDRC, Sida, ICIPE, UNESCO, Republic of Estonia, UNEP and UNECA;
- j. National and Regional Private Sector Associations; and
- k. Innovators, incubators and ICT hubs.

4.3.6 Challenges Faced by EASTECO in Implementing EAC Protocols and Laws

- i. Delayed amendment of the EASTECO Protocol by the Secretariat and EAC Partner States;
- ii. Delayed ratification of EAC Science, Technology and Innovation and Intellectual property Policies by some EAC Partner States;
- iii. Non-compliance with Regulation 23(13) of EAC Staff Rules and Regulations on staff promotions by steps on the same positions (2006);
- iv. Non-compliance with Regulation 39(6) of EAC Staff Rules and Regulations on staff salary increment;
- v. Absence of policies and laws on STI in some EAC Partner States;
- vi. Inadequate Staffing of the Commission;
- vii. Inadequate budget for the Commission.

4.3.7 Areas that require review in existing EAC laws

The EASTECO informed the Committee that the Protocol on the Establishment of the EASTECO needs to be amended in the following areas:

- a. Amendment of Article 8 on composition of the Governing Board from 9 to 5 Members;
- b. Amendment of functions of the Governing Board. They are not explicit in the Protocol. They are mixed with functions of the Commission (paragraph 6 (2); and
- c. Amendment paragraph 9(3) on the quorum of the Board meetings to define the quorum for the Board meetings in compliance to the proposed composition of the Governing Board.

4.3.8 Expectation of EASTECO from the Committee and EALA

- i. Advocacy to ensure that the amendment of the EAC Protocol and ratification of other STIs Protocols is expedited;

- ii. Urge EAC Partner States to enact national laws that regulate science, technologies and innovation;
- iii. Initiate an EAC Science, Technology and Innovation Act;
- iv. Amend the Protocols establishing IUCEA, EAHRC to remove conflicting mandates with EASTECO.
- v. Urge EAC Partner States to timely disburse funds to enable EASTECO to implement its programs.
- vi. Advocate to ensure more allocation funding to EASTECO programme activities to at least 60% of the total budget.

4.3.9 Some Achievements of EASTECO

The East Africa Science and Technology Commission informed the Committee about some of its achievements as follows:

- a. The Commission secured a land for the construction of its permanent headquarters although the process of getting the title deed is still ongoing.
- b. Development of the EAC Regional Policy for Science, Technology and Innovation;
- c. Development of the EAC Regional Policy on Intellectual Property;
- d. The Regional EAC Innovation-led Bioeconomy Strategy;
- e. Development EAC Regional STEM Strategy;
- f. Establishment of East African Journal on Science, Technology and Innovation (EAJSTI);
- g. Regional Collaborative Research Programme developed;
- h. Regional Capacity Building in STEM: Training in Scientific Paper and proposal writing;
- i. Assessment of Existing Knowledge and Technology Transfer institutions in the EAC region, and identification of potential Regional Centers of Excellence in Knowledge and Technology Transfer;
- j. Training in Entrepreneurship Skills and Job Creation for STEM post-graduate students and researchers;

- k. Network of National Industrial Research & Development Organisations (RTOs) to support adaptation and transfer of manufacturing and industrial technologies;
- l. The 2nd eHealth and Telemedicine Workshop, Ministerial Conference and Trade Exhibition held (to support ICT applications for Health);
- m. 1st Regional STI conference held 2019 in Kampala, Uganda;
- n. 1st Regional Bioeconomy Conference held Virtually 21st -22nd Oct 2020;
- o. Regional STI Stakeholder Consultations Conducted to validate Regional STI Policy, IP Policy and Bioeconomy Strategy;
- p. Establishment of Regional Working Groups in STI priority areas;
- q. Partnership mobilization conducted: UNESCO-Nairobi; UNECA; AfDB; ICIPE/Bio Innovate Africa; SGCI and Estonia; and
- r. Constitution of 1st and 2nd EASTECO Governing Board and its Technical Committees.

4.4 THE EAST AFRICA KISWAHILI COMMISSION (EAKC)

4.4.1 Establishment of EAKC

The East African Kiswahili Commission is an institution of the East African Community responsible for the coordination and promotion of the development and use of Kiswahili in the region and beyond. The Commission derives its mandate from Article 137 (2) of the EAC Treaty which states that Kiswahili shall be developed as a *lingua franca* of the Community. The following are the functions of the EAKC:

- i. Coordinate and oversee the work of national Kiswahili Councils and other member institutions;
- ii. Strengthen collaboration in regional research and assist Partner States develop centres of advanced study and research in Kiswahili;
- iii. Promote and enhance collaborative relations with development partners and organisations with similar objectives;
- iv. Facilitate the development of regional Kiswahili policies for the exchange of staff and students in Kiswahili institutions and monitor the effectiveness of such policies;

- v. Identify Kiswahili training needs and address them through such efforts as curriculum review and development, reform, change and innovation, teaching/learning methods, development of instructional materials and research and dissemination;
- vi. Advocate for the development and use of Kiswahili as a *lingua franca* within the Community and beyond; and
- vii. Encourage the use of Kiswahili in the conduct of official business and public life within the Community.

4.4.2 Legal Instruments Governing EAKC

The EAKC was established by a Protocol ratified by all the Partner States of the EAC. The Commission developed the East African Kiswahili Commission Bill which is currently under the consideration by the Counsel to the Community. This will provide a comprehensive legal framework for the full and effective operationalization of the Commission.

4.4.3 Regional and National Legal Instruments that Affect EAKC

The Commission is guided by national, regional, continental and global legal instruments. They include;

- a. The Treaty for the Establishment of the East African Community;
- b. Protocol for the Establishment of EAKC;
- c. Headquarters Agreement between EAC and the United Republic of Tanzania;
- d. Constitutions of Partner States;
- e. The Cultural Charter for Africa (1976);
- f. The Language Plan of Action for Africa (1986);
- g. The Charter for African Cultural Renaissance, the Harare Inter-Governmental Conference (1997);
- h. The UN's Universal Declaration of Human Rights (1948).

4.4.4 Status of Privileges and Immunities as Per Article 138 of the Treaty

In line with Article 138 of the Treaty, the Headquarters' Agreement between the United Republic of Tanzania and East African Community under article 2, 3, 6, 7, 8, 9 and 10 provide for immunities and privileges. Specifically, the Commission gets tax exemptions from Zanzibar Revenue Board but claims for VAT refunds from TRA remain forthcoming. Staff of the Commission are granted all immunities and privileges prescribed under Article 10 of the Headquarters Agreement.

4.4.5 Key Stakeholders of EAKC

Citizens of the EAC Partner States are their key stakeholders. However, the Protocol for the establishment of EAKC identifies ten key stakeholders as follows:

- i. National Kiswahili Councils from Partner states;
- ii. Kiswahili Associations from Partner States;
- iii. Kiswahili Research Institutions from Partner States;
- iv. Kiswahili Departments of Public and Private Universities in Partner States;
- v. Kiswahili Media Operators from Partner States;
- vi. Media Councils of Partner States;
- vii. Kiswahili Writers Associations in Partner States;
- viii. Ministries responsible for Kiswahili in Partner States;
- ix. Ministries Responsible for Culture in Partner States;
- x. Ministries Responsible for Education from the Partner States.

4.4.6 The Challenges Facing the EAKC

The Commission faces a number of challenges but the main ones are;

- a. Inadequate personnel.
- b. Inadequate funding for implementation of activities at regional and national levels.
- c. Lack of National Kiswahili Councils in Partner States except for the United Republic of Tanzania.
- d. Lack of National Kiswahili Policies.

4.4.7 Areas that Require Amendments

The EAKC informed the Committee that the following amendments are needed:

- i. The Protocol for Establishment of EAKC (amendments prepared and approved by the Council);
- ii. The Treaty to provide for Kiswahili as an official language of the Community.

4.4.8 Expectation of the EAKC from EALA

- a. To lobby Partner States to establish National Kiswahili Councils and develop favorable National Kiswahili Policies for its development and use.
- b. To allocate sufficient budget to EAKC (Double the current budget of 1.3M USD) and lobby Partner States to allocate budget for Kiswahili activities.
- c. To urge Council of Ministers to fast-track recruitment of key staff of the Commission.

4.4.9 Achievements of EAKC

The EAKC informed the Commission about the following achievements registered by the Commission:

- i. Renovation of Head Office Building;
- ii. Kiswahili Capacity Assessment in EAC (Capacity assessment report);
- iii. Research and publications (three publications were made);
- iv. Curriculum review and change (Book on curriculum review and change);
- v. Providing advice on establishment of National Kiswahili Councils;
- vi. Formation of Regional Kiswahili Associations;
- vii. Formation of National Kiswahili Association (RSS);
- viii. Draft EAC Kiswahili Policy;
- ix. Development of Programmes and Manuals for Kiswahili Teaching and Learning;
- x. Assisting Partner States Kiswahili Institution to develop and promote Kiswahili (Mobility Program).

5.0 OBSERVATIONS OF THE COMMITTEE

- a. The tenure of service of Executive Secretaries of EAKC, EAHRC and EASTECO expired more than six months ago and all these institutions are being headed by Acting Executive Secretaries. Moreover, the tenure of the Executive Secretary of LVBC is going to expire in June 2021.
- b. There is a disparity of privileges accorded to the Organs and Institutions of the Community depending on the host Partner State. The ratification of the Protocol on Privileges and Immunities is expected to address this challenge.
- c. The Protocols that established all the 4 institutions covered under this activity need to be amended. The Committee noted that the process of reviewing those Protocols is too slow.
- d. All Organs and Institutions of the Community face a serious problem of understaffing occasioned by the delay of recruitment process.
- e. National Kiswahili Councils are expected to promote the use of Kiswahili in Partner States and the entire Community, however only the United Republic of Tanzania has the National Kiswahili Council.
- f. All institutions of the Community are seriously underfunded by the Community.
- g. Some Partner States do not have national laws to regulate Science, Technology and Innovations, a situation that hampers the work of the EASTECO.
- h. There is a challenge of overlapping of the mandate between the IUCEA, the EAHRC and the EASTECO that necessitates for the harmonisations of the Protocols establishing those institutions.
- i. Delay in the disbursements of contributions from Partner States affects all organs and institutions of the Community.
- j. Some Partner States prefer their national laws over the EAC Protocols and laws contrary to Article 8 (4) of the Treaty.
- k. Some Partner States delay in refunding the VAT paid by Organs and Institutions of the Community and consequently affects the operations of the Community.
- l. Lack of National Kiswahili Policies in Partner States delays the process of making Kiswahili a lingua franca of the Community.

6.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee on Legal, Rules and Privileges recommends to the Assembly to urge the Council of Ministers to:

- 1. fast track the recruitment of the Executive Secretaries of all Institutions and all the existing vacancies in all organs and institutions of the Community;**
- 2. direct the Partner State that have not ratified the Protocol on Privileges and Immunities to ratify it in order to address the existing problems with regards to privileges and immunities in the Community;**
- 3. fast track the review and amendment of all Protocols governing the institutions of the Community;**
- 4. direct all Partner States that do not have the national Kiswahili Councils and the national Kiswahili policies to establish those Councils and develop the Kiswahili policies;**
- 5. consider and increase the budget of all organs and institutions of the Community;**
- 6. direct all Partner States to enact national laws to regulate science, technology and innovation in their respective Partner States;**
- 7. address the conflict of mandate between the IUCEA, EAHRC and EASTECO;**
- 8. direct the Secretary General to renegotiate the Headquarters' Agreement between the Republic of Kenya and the East African Community for the Lake Victoria Basin Commission to address the disparities identified;**
- 9. fast track the assent of the Lake Victoria Basin Commission Bill;**
- 10. provide resources for the construction of the EAHRC and EASTECO headquarters;**
- 11. prepare Bills to legislate on the establishment of EAC Institutions that are not established by Community laws;**

- 12. direct Partner States to timely remit their financial contributions to enable organs and institutions of the Community to implement their programs as planned; and**
- 13. remind all Partner States that in accordance with paragraph 4 of Article 8 of the Treaty, Community organs, institutions and laws shall take precedence over similar national ones on matters pertaining to the implementation of the Treaty.**

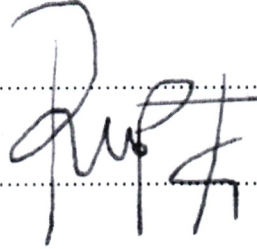
COMPLIANCE WITH THE EAC PROTOCOLS AND LAWS BY EAC INSTITUTIONS (PHASE TWO)

1ST TO 5TH NOVEMBER 2020

1. Hon. Mukulia Kennedy Ayason



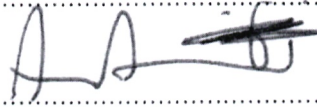
2. Hon. Thomas Dut Gatkek



3. Hon. Kim Gai Ruot Duop

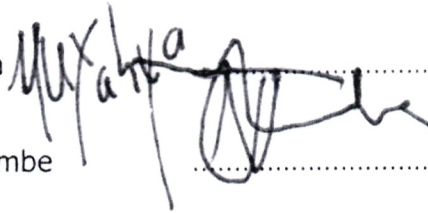
4. Hon. Simon Mbugua

5. Hon. Kennedy Kalonzo



6. Hon. Lawrence Mpuru Aburi


7. Hon. Maryam Ussi Yahya



8. Hon. Dr. Ngwaru Maghembe

9. Hon. Alhaj Adam O. Kimbisa

10. Hon. Dr. Kalinda F. Xavier

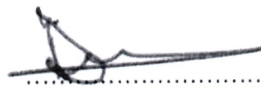


11. Hon. Rutazana Francine

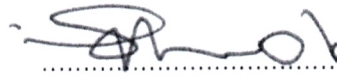
12. Hon. Uwumukiza Francoise

13. Hon. Mukasa Fred Mbidde

14. Hon. Namara Denis



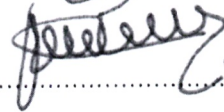
15. Hon. Rose Akol Okullu



16. Hon. Victor Burikukiye



17. Hon. Mo-Mamo Karerwa



18. Hon. Sophie Nsavyimana

