

EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY

Tabled 4/4/23  
HA

PARLIAMENT  
OF KENYA  
LIBRARY



COMMITTEE ON LEGAL, RULES AND PRIVILEGES

REPORT OF THE OVERSIGHT ACTIVITY ON THE IMPLEMENTATION OF  
THE PROTOCOLS AND LAWS  
GOVERNING EAC INSTITUTIONS

THE NATIONAL ASSEMBLY DAR ES SALAAM	
DATE: 03 AUG 2023	05 5-8 MARCH 2023 Thursday
TABLED BY:	Dr. Naomi Wago, MP Deputy Majority Whip
CLERK-AT THE TABLE:	Anne Shitiko

Clerk's Chambers  
EALA Headquarters, 3<sup>rd</sup> Floor  
EAC Headquarters  
Arusha - TANZANIA

April 2023

## LIST OF ACRONYMS

AFCAC	African Civil Aviation Commission
BAGASOO	Banjul Accord Group Aviation Safety Oversight Organization
CAK	Competition Authority of Kenya
CASSOA	Civil Aviation Safety and Security Oversight Agency
CCASAP	Climate Change Adaptation Strategy and Action Plan
CHEMS	Commonwealth Higher Education Management Services
COMESA	Common Market for Eastern and Southern Africa
CIFA	Committee for the Inland Fisheries of Africa
CTC	Council to the Community
EABC	East African Business Council
EAC	East African Community
EACA	East African Community Competition Authority
EADB	East African Development Bank
EAFRO	East African Fisheries Research Organization
EAFFRO	East African Freshwater Fisheries Organization
EAHRC	East African Community Health Research Commission
EAJSTI	East African Journal on Science, Technology and Innovation
EAKC	East African Community Kiswahili Commission
EALA	East African Legislative Assembly
EASTECS	East African Community Science and Technology
EAQFHE	East African Qualifications Framework for Higher Education
FAO	Food and Agriculture Organization
FASCoM	Fisheries and Aquaculture Sectoral Council
FCC	Fair Competition Commission
GIZ	German Agency for International Cooperation
ICAO	International Civil Aviation Organization
ICIPE	International Centre of Insect Physiology and Ecology
ICT	Information and Communication Technology
ITD	International Tax Dialogue
IWRMP	Integrated Water Resources Management Plan
IUC	University Committee
IUCEA	Inter-University Council of East Africa
KEPSA	Knya Priate Sector Alliance
KIRDO	King Island Regional Development Organisation
LVBC	Lake Victoria Basin Commission
LVFO	Lake Victoria Fisheries Organisation
LVFS	Lake Victoria Fisheries Service
MDAs	Ministries, Departments, and Agencies
NIRDA	National Industrial Research and Development Agency
PSFR	Public Sector Funds Recovery
PSFU	Private Sector Foundation Uganda
R&D	Research & Development
RFMO	Regional Fisheries Management Organization
RICA	Rwanda Inspectorate, Competition and Consumer Protection Authority
RSS	Republic of South Sudan

RTOs	Research & Development Organizations
SADC	Southern African Development Community
SMEs	Small Medium Enterprises
STI	Science, Technology and Innovation
TIRDO	Tanzania Industrial Research and Development Organization
TPSF	Tanzania Private Sector Foundation
TRA	Tanzania Revenue Authority
TVET	Technical and Vocational Education and Training
UNECA	United Nations Economic Commission for Africa
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNEP	United Nation Environment Programme
VAT	Value Added Tax

## Table of Contents

1.0	INTRODUCTION.....	7
2.0	OBJECTIVES.....	7
3.0	METHODOLOGY.....	8
4.0	INFORMATION FROM THE INSTITUTIONS.....	8
4.1	THE EAST AFRICAN KISWAHILI COMMISSION (EAKC).....	8
4.1.1	Establishment of the EAKC.....	8
4.1.2	The EAKC Headquarters' Agreement.....	9
4.1.3	Functions of the EAKC.....	9
4.1.4	Legal Instruments Governing the Operations of the EAKC.....	10
4.1.5	Achievements of EAKC.....	10
4.1.6	Challenges Facing the EAKC.....	11
4.1.7	Request of EAKC to EALA.....	12
4.1.8	Observations of the Committee.....	12
4.2	THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AUTHORITY (CASSOA).....	13
4.2.1	Establishment and Operations of CASSOA.....	13
4.2.2	Key Stakeholders of CASSOA.....	14
4.2.3	Challenges Facing CASSOA.....	14
4.2.4	Privileges and Immunities.....	14
4.2.5	Observations by the Committee.....	15
4.3	EAST AFRICAN COMPETITION AUTHORITY (EACA).....	15
4.3.1	Establishment of the EACA.....	15
4.3.2	Status of enactment of Competition laws and establishment of Institutions in the EAC.....	16
4.3.3	Legal Framework Governing EACA.....	16
4.3.4	Mandate, Functions and Powers of EACA.....	17
4.3.5	Stakeholders of EACA.....	18
4.3.6	Achievements of EACA.....	18
4.3.7	Challenges Facing EACA.....	19
4.3.8	Observations of the Committee.....	19
4.4	INTER UNIVERSITY COUNCIL OF EAST AFRICA (IUCEA).....	19

4.4.1	Historical Background.....	19
4.4.2	Establishment of IUCEA.....	20
4.4.3	Functions of IUCEA.....	20
4.4.4	Legal and Operational Framework of IUCEA.....	21
4.4.5	Key Stakeholders of IUCEA.....	21
4.4.6	Stakeholders of the IUCEA.....	22
4.4.7	Governance of IUCEA.....	22
4.4.8	The Annual Meeting.....	22
4.4.9	Privileges and Immunities of IUCEA and its Staff.....	23
4.4.10	Proposed Amendments to the IUCEA Protocol.....	24
4.4.11	EAC Common Higher Education Area.....	24
4.4.12	Challenges facing IUCEA.....	25
4.4.13	Proposed Solutions and Assistance Needed.....	25
4.4.14	Observation of the Committee on IUCEA.....	25
4.5	EAST AFRICAN SCIENCE AND TECHNOLOGY COMMISSION (EASTEKO).....	26
4.5.1	Establishment of the EASTECO.....	26
4.5.2	Legal Instruments Governing EASTECO.....	29
4.5.3	Stakeholders of EASTECO.....	29
4.5.4	Challenges Facing EASTECO.....	29
4.5.5	Areas Require Amendment to the Legal Instruments.....	30
4.5.5.1	The EASTECO Protocol.....	30
4.5.5.2	Headquarters' Agreement.....	30
4.5.6	Observations of the Committee on the EASTECO.....	30
4.6	EAST AFRICAN HEALTH RESEARCH COMMISSION (EAHRC).....	31
4.6.1	Establishment of EAHRC.....	31
4.6.2	Legal Framework Governing the EAHRC.....	31
4.6.3	Process to amend the Protocol on the Establishment of the EAHRC.....	32
4.6.4	Headquarters of the EAHRC.....	32
4.6.5	Stakeholders of EAHRC.....	32

4.6.6	Request of EAHRC to EALA .....	33
4.6.7	Observation of the Committee with regards to EAHRC.....	33
4.7	LAKE VICTORIA BASIN COMMISSION (LVBC) .....	33
4.7.1	Establishment of the LVBC.....	33
4.7.2	Harmonized Policies, Laws and Regulations.....	34
4.7.3	Governing Legal Instruments.....	34
4.7.4	Challenges Facing the LVBC.....	34
4.7.5	Observations of the Committee.....	35
4.8	LAKE VICTORIA FISHERIES ORGANISATION (LVFO).....	36
4.8.1	Establishment of the LVFO.....	36
4.8.2	Stakeholders of the LVFO.....	37
4.8.3	Implementation of Legal Instruments of LVFO .....	38
4.8.4	Challenges facing the LVFO .....	38
4.8.5	Areas require amendment to the legal instruments .....	38
4.8.6	Status, Privileges and Immunities .....	38
4.8.7	Observations of the Committee.....	39
5.0	GENERAL OBSERVATIONS OF THE COMMITTEE.....	39
6.0	RECOMMENDATIONS OF THE COMMITTEE.....	41

## **Tables**

Table 1 :	Universities, University Colleges and other Degree – Awarding Institutions.....	22
Table 2 :	The Strategic Priority of Areas of EASTECO.....	27
Table 3 :	The Achievements in the Priority Areas.....	27

## **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. The institutions of the EAC are:

- i. The East African Development Bank (EADB);
- ii. The Lake Victoria Fisheries Organisation (LVFO);
- iii. The Lake Victoria Basin Commission (LVBC);
- iv. The Civil Aviation Safety and Security Oversight Agency (CASSOA);
- v. The Inter-University Council of East Africa (IUCEA);
- vi. The East African Community Health Research Commission (EAHRC);
- vii. The East African Community Science and Technology (EASTECO);
- viii. The East African Community Kiswahili Commission (EAKC); and
- ix. The East African Community Competition Authority (EACA).

Partner States, organs, institutions and other stakeholders are required to comply with and implement the legal instruments governing the institutions. It is against this background that the Committee on Legal, Rules and Privileges undertook the Oversight Activity to assess the implementation of the Treaty, Protocols, Conventions, Agreements, Laws and Regulations governing the operations of the EAC institutions.

## **2.0 OBJECTIVES**

The main objective of this activity was to assess the implementation of the Treaty, Protocols and Laws of the Community and other legal instruments establishing and supporting the function of the institutions. The specific objectives included the following:

- i. To understand the existing legal instruments governing the EAC institutions;
- ii. To assess the implementation of the legal instruments by the respective institutions and stakeholders;
- iii. To assess the challenges faced by the institutions in the implementation of the legal instruments;

- iv. To propose amendment to protocols and laws of the Community governing the institutions; and
- v. To assess the status, privileges and immunities accorded to the EAC institutions by the Partner States.

### **3.0 METHODOLOGY**

The Committee undertook this activity by conducting interactive meeting with the heads of institution. In order to cover all the institutions within the short time provided, the activity took place in Dar es Salaam, United Republic of Tanzania. All the institutions attended the activity except the East African Development Bank (EADB). Institutions were requested to provide the following information:

- i. Establishment of the Institution;
- ii. The legal instruments governing the institution;
- iii. Key stakeholders and how they work with them;
- iv. How the protocols and laws governing the institution are implemented by all key stakeholders;
- v. Challenges facing the institution in the implementation of the protocols and laws;
- vi. Areas that require review or amendment in the existing legal instruments and the action taken by the institution; and
- vii. Matters relating to the status, privileges and immunities of the institution and staff working with the institution.

### **4.0 INFORMATION FROM THE INSTITUTIONS**

#### **4.1 THE EAST AFRICAN KISWAHILI COMMISSION (EAKC)**

##### **4.1.1 Establishment of the EAKC**

The East African Kiswahili Commission (EAKC) was established by the Protocol for the Establishment of Kiswahili Commission. It started its operations in 2015. The headquarters of EAKC is located in Zanzibar, United Republic of Tanzania. The establishment of EAKC was necessitated by Article 137 of the Treaty, which provides for the development and use of Kiswahili as lingua franca of the Community. The vision of the EAKC is to be the leading body in the promotion and coordination of the



development and usage of Kiswahili for regional unity and sustainable social-economic development in Partner States.

In accordance with the Protocol establishing the Commission, the EAKC is composed of the following representatives:

- i. Two representatives of the National Kiswahili Councils for each Partner State;
- ii. Two representatives of the Kiswahili Associations of each Partner State;
- iii. A representative of Kiswahili Research Institutions for each Partner State;
- iv. A representative of the Kiswahili Departments of the Public and Private Universities of each Partner State;
- v. A representative of the Kiswahili media operators for each Partner State;
- vi. A representative of the Media Council of each Partner State;
- vii. A representative of Kiswahili Writers Association of each Partner State;
- viii. A representative of the Ministry responsible for Kiswahili in each Partner State;
- ix. A representative of the Ministry responsible for Culture in each Partner State; and
- x. A representative of the Ministry responsible for Education in each Partner State.

#### **4.1.2 The EAKC Headquarters' Agreement**

- i. The Headquarters Agreement was signed on 8<sup>th</sup> September 2015 between EAC and Government of the United Republic of Tanzania;
- ii. The Commission has been allocated the Headquarters building free of rent;
- iii. Following the request from EAC, the Government of Zanzibar has commenced process of allocating land for the permanent headquarters of the Commission;
- iv. In line with Article 138 of the EAC Treaty, the Headquarters' Agreement provide for immunities and privileges for the Commission and its staff.

#### **4.1.3 Functions of the EAKC**

The EAKC is the principal advisory institution of the Community on all matters related to Kiswahili. Its functions are:

- i. Coordinate and oversee the work of National Kiswahili Councils and other institutions;

- ii. Strengthen collaboration in regional research and assist Partner States develop centres of advanced study and research in Kiswahili;
- iii. Create and develop collaborative relations with development partners and existing organizations 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 including curriculum review, teaching methods, development of instructional materials and research;
- vi. Advocate for the use of Kiswahili as a *lingua franca* within the Community and beyond;
- vii. Encourage the use of Kiswahili in the conduct of official business and public life within the Community; and
- viii. Perform any other function for the furtherance of the objectives of the Commission.

#### **4.1.4 Legal Instruments Governing the Operations of the EAKC**

- i. The Treaty Establishing the EAC
- ii. The Protocol for the Establishment of the EAKC
- iii. The Headquarters Agreement
- iv. Relevant international conventions

#### **4.1.5 Achievements of EAKC**

- i. Establishment and operationalization of the EAKC Headquarters in Zanzibar;
- ii. Declaration of Kiswahili as official language of the EAC by the 21<sup>st</sup> Meeting of the Summit of EAC Heads of State;
- iii. Development of roadmap for implementation of Kiswahili as official language of the Community;
- iv. Conducted capacity assessment of use of Kiswahili in the EAC Partner States;
- v. Development of Programs and Manuals for Capacity Building in Partner States;

- vi. Development of the 1<sup>st</sup> Strategic Plan (2017-2022);
- vii. Translation of key documents of the Community into Kiswahili;
- viii. Development of the Draft Kiswahili Language policy;
- ix. Baseline studies on different aspects for development of Kiswahili;
- x. Awareness creation and advocacy on Kiswahili language;
- xi. Commemoration of the World Kiswahili Day.

#### **4.1.6 Challenges Facing the EAKC**

- i. Whereas the 21<sup>st</sup> Meeting of the Summit of Heads of State adopted Kiswahili as one of the official languages of the Community, the Treaty and the Protocol for the Establishment of the Kiswahili Commission are not yet amended;
- ii. The Composition of the Commission as provided for by Article 9 of the Protocol for Establishment of the Kiswahili Commission is too huge and has proved impossible to operationalize;
- iii. While the Protocol for the Establishment of the Kiswahili Commission provides for 2 Deputy Executive Secretaries, the new structure adopted by the EAC, provides for only one;
- iv. Though EAKC has tax exemptions, the exemption is only tenable from Zanzibar Revenue Board. Claims for VAT refunds from TRA have not been forthcoming;
- v. Staff entitlement to two cars while serving the Community was reduced to one car;
- vi. Inadequate staffing which impedes implementation of activities;
- vii. Inadequate funding for implementation of activities;
- viii. Inadequate capacity for resource mobilization;
- ix. Nonexistence of Governing Board delays decision-making;
- x. Delay in disbursement of funds from Partner States;
- xi. Lack of National Kiswahili Councils and National Kiswahili Policies in some Partner States.

#### **4.1.7 Request of EAKC to EALA**

The EAKC is requesting EALA to advocate for:

- i. Establishment of a Governing Board for enhanced governance and decision making;
- ii. Fast-tracking amendment of the Treaty to provide for Kiswahili as one of the Official languages of the EAC;
- iii. Fast-tracking the amendment of EAKC Protocol to address emerging issues of the Commission;
- iv. Enhanced funding to the Commission for implementation of key activities;
- v. Appointment of staff to critical positions.

#### **4.1.8 Observations of the Committee**

- i. Whereas the Summit made Kiswahili and French official languages of the EAC, the legal instruments including the Treaty are not yet amended to actualize that decision;
- ii. The Governing Board of the EAKC is yet to be established because of the need to amend the Protocol to reduce the number of Members of the Board;
- iii. The government of Zanzibar identified 10 plots of land which the Commission is requested to select one plot where the headquarters of the Commission will be constructed;
- iv. EAKC receives VAT refund from the Zanzibar Revenue Board, however no refund is received from the Tanzania Revenue Authority;
- v. The EAKC should look for alternative financing of their activities instead of relying only on the Partner State's contributions;
- vi. EAKC should put more efforts to assist Partner States to establish Kiswahili Councils;
- vii. The government of the United Republic of Tanzania reduced the number of tax-free cars from two to one for the staff of the Commission.

## **4.2 THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AUTHORITY (CASSOA)**

### **4.2.1 Establishment and Operations of CASSOA**

The East African Community Civil Aviation Safety and Security Agency (CASSOA) was established on 18<sup>th</sup> April, 2007. It started its operations on 1<sup>st</sup> June, 2007, as an autonomous self-accounting institution. The Headquarters of CASSOA is in Entebbe, Republic of Uganda. The Agency is established by the Protocol for Establishing CASSOA and the East African Community Civil Aviation Safety and Security Oversight Agency Act, 2009. The organs of CASSOA are the Board, the Secretariat, technical committees and working groups. Other legal instruments are:

- i. The Treaty for the Establishment of the East African Community;
- ii. The CASSOA Staff Rules and Regulations, 2016; and
- iii. The CASSOA Financial Rules and Regulations, 2019.

The Objectives of the Agency as stipulated by Article 4 of the Protocol are:

- i. Promote safe, secure and efficient use and development of civil aviation among Partner States;
- ii. Assist Partner States in meeting their safety and security oversight obligations;
- iii. Providing Partner States with appropriate forum and structure to discuss, plan and implement common measures required for achieving the safe and orderly development of international civil aviation.

Article 5 of the Protocol provides for the following functions of the Agency:

- i. Harmonizing operating regulations to ensure that they meet international standards and recommended practices;
- ii. Developing standardized procedures for licensing, approving, certificating and supervising civil aviation activities; and
- iii. Providing guidance and assistance to Partner States including putting in place measures for resource sharing particularly for the technical personnel.

#### **4.2.2 Key Stakeholders of CASSOA**

- i. Civil Aviation Authorities of the EAC Partner States;
- ii. EAC Secretariat;
- iii. International Civil Aviation Organization (ICAO);
- iv. African Civil Aviation Commission (AFCAC);
- v. Banjul Accord Group Aviation Safety Oversight Organization (BAGASOO);
- vi. Interim SADC Aviation Safety Organization;
- vii. European Aviation Safety Agency.

#### **4.2.3 Challenges Facing CASSOA**

- i. Limited resources constrain its capacity to carry out its mandate;
- ii. The level of technical expertise and knowledge on safety oversight is limited in Partner States, which impacts on the levels of effective implementation of ICAO Standards and Recommended Practices (SARPs);
- iii. Slow pace of harmonization of regulations across Partner States; and
- iv. Different objectives, goals and modus operandi among key stakeholders makes it difficult to closely collaborate.

CASSOA submitted a proposal for the amendment of Section 30 of the CASSOA Act to facilitate the financial autonomy of the Agency. The proposal is still under consideration by stakeholders including Partner States.

#### **4.2.4 Privileges and Immunities**

The privileges and immunities accorded to CASSOA and its staff are similar to those granted to other international organizations and their staff. However, the following areas need to be considered:

- i. Proposed re-negotiation of the CASSOA Headquarters' Agreement with the Government of Uganda; and
- ii. Delay in remittance of VAT refund.

#### **4.2.5 Observations by the Committee**

- i. Liberalization of Air Space in the EAC is still under negotiation by the Partner States;
- ii. The Protocol on Privileges and Immunities is yet to be implemented although it is fully ratified;
- iii. High taxes charged by Partner States in the EAC is one of the major causes of high cost of air transport;
- iv. The EAC has few experts in the Aviation Industry which increases the costs of the aviation sector in the region;
- v. Delayed and non-remittance of VAT is one of the challenges facing CASSOA.

#### **4.3 EAST AFRICAN COMPETITION AUTHORITY (EACA)**

##### **4.3.1 Establishment of the EACA**

The East African Competition Authority (EACA) was established by Section 37 of the East African Community Competition Act, 2006 for furtherance of the commitment of Partner States to cooperate in trade liberalization and development including matters of competition as provided for under Article 75 of the Treaty. The benefits of regulating competition include:

- i. To facilitate competitive markets to promote economic efficiency, thereby generate lower prices, increase choice, quality goods, innovation and economic growth and thus enhance the welfare of consumers and the general community.
- ii. Implementation of the Customs Union and Common Market require a strong framework to regulate competition.
- iii. Strengthens the capacity of EAC to identify and articulate their interests as a block and negotiate in that context.

### 4.3.2 Status of enactment of Competition laws and establishment of Institutions in the EAC

Table:1 Status of enactment of Competition laws and establishment on NCA

Partner State	The Competition Law	Year enacted	Competition Authority
Burundi	Competition Act Law No. 1/06	2010	
DRC	DR Congo Competition Act	2018	DRC Competition Commission
Kenya	Competition Act	2011	Competition Authority of Kenya (CAK)
Rwanda	Law No. 36/2012 Competition and Consumer Protection	2012	Rwanda Inspectorate, Competition and Consumer Protection Authority (RICA)
RSS			
Tanzania	Fair Competition Act	2003	Fair Competition Commission (FCC)
Uganda			

Source: Presentation of EACA before the Committee

### 4.3.3 Legal Framework Governing EACA

- i. The Treaty for the Establishment of the EAC;
- ii. The Protocol for the Establishment of the EAC Customs Union;
- iii. The Protocol for the Establishment of the EAC Common Market;
- iv. The EAC competition Act, 2006 as amended;
- v. The Competition Regulations, 2010;
- vi. The EAC Competition Authority (Conduct of Meetings), Rules, 2018;
- vii. EAC Competition (Mergers and Acquisitions) Regulations, 2022;



- viii. The EAC Competition (Sharing of Merger and Acquisition) Revenue Regulations, 2022;
- ix. EAC Competition Merger Notification Thresholds;
- x. EAC Competition Merger Notification Fee Notice;
- xi. EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure, 2022.

The EACA institutional framework comprises the Commission and the Secretariat. The Commission consists of five Commissioners appointed by the Council from the Partner States (Burundi, Kenya, Rwanda, Uganda and United Republic of Tanzania). The Commission gives policy guidance on competition matters and determine cases received and investigated by the Authority. The Secretariat under the Registrar is responsible for the day-to-day management of the affairs of the institution. Any person aggrieved by the decision of EACA can appeal to the East African Court of Justice.

#### **4.3.4 Mandate, Functions and Powers of EACA**

The mandate of EACA is to promote and protect fair competition and to provide for consumer welfare in the Community. The main functions of EACA are:

- i. Regulation of market structure;
- ii. Regulation of market conduct;
- iii. Protecting consumer welfare;
- iv. Advocacy and capacity building;
- v. The mandate of EACA is for matters with cross-border effect.

The Powers of EACA are provided for under Section 42 of the EAC Competition Act 2006:

- i. Investigating and compelling evidence, including the search and seizure of documents;
- ii. Gathering information;
- iii. Holding hearings;
- iv. Issuing legally binding decisions;
- v. Imposing sanctions and remedies;

- vi. Referring matters to the Court for adjudication;
- vii. Recommending to the Council to make regulations;
- viii. Developing appropriate procedures for public sensitization, consultation and participation;
- ix. Formulating by-laws for the operation of the Authority;
- x. Collecting data, undertake studies and publish reports; and
- xi. Co-operating with regional and international organisations and with foreign competition authorities.

#### **4.3.5 Stakeholders of EACA**

- i. Business community;
- ii. National and regional competition agencies;
- iii. Ministries and departments responsible for competition;
- iv. Sector regulators;
- v. Judiciary and legal practitioners;
- vi. Consumer organizations;
- vii. East African Legislative Assembly (relevant Committees);
- viii. EAC Policy Organs, Directorates;
- ix. Media;
- x. Small Medium Enterprises (SMEs);
- xi. Civil society; and
- xii. Academia.

#### **4.3.6 Achievements of EACA**

- i. Training, advocacy activities and events undertaken by the Authority in different Partner States;
- ii. Technical support to Partner States which resulted to establishment of Rwanda Inspectorate Competition and Consumer Protection Authority, Burundi in the process of setting up National Competition Authorities (NCA), RSS and Uganda have recently developed National Competition Bills;

- iii. Prepared amendments to the EAC Competition Act and revised the EAC Competition (Mergers and Acquisition) Regulation;
- iv. Established necessary infrastructure to facilitate the functions of EACA including a Strategic Plan, Policy frameworks on prioritization and advocacy, guidelines and a website.

#### **4.3.7 Challenges Facing EACA**

- i. Lack of competition laws and authorities in some Partner States;
- ii. Lack of culture and understanding of competition;
- iii. Inadequate human resource;
- iv. Financial constraints;
- v. Un refunded tax claims;
- vi. Delays in decision making by policy Organs of the EAC; and
- vii. Overlapping jurisdiction.

#### **4.3.8 Observations of the Committee**

- i. Delay by some Partner States to enact competition laws and establishment of Competition Authorities hinders the operations of EACA;
- ii. The multiple membership of Partner States (EAC, SADC and COMESA) brings a jurisdiction challenge to the EACA because COMESA is also having a similar institution;
- iii. There is a need to sensitize leaders and the general public about the activities and the importance of having competition regulatory authority within their Partner States and EAC;

### **4.4 INTER UNIVERSITY COUNCIL OF EAST AFRICA (IUCEA)**

#### **4.4.1 Historical Background**

The higher education interaction and cooperation in East Africa originates from the pre-independence era when Makerere University College was the only higher education institution serving Kenya, the then Tanganyika, Zanzibar as well as the then Rhodesia and Nyasaland in Central and Southern Africa. In 1963, university colleges were formed

in Nairobi and Dar es Salaam as constituent colleges of the University of East Africa. Makerere College was the third constituent college of the University of East Africa.

In 1970, the University of East Africa was dissolved and the University of Dar es Salaam, Makerere University and the University of Nairobi were established as separate national universities for Tanzania, Uganda, and Kenya respectively. In the same year, the Inter-University Committee (IUC) was established under the auspices of the first EAC. Its role was to facilitate contact and cooperation among the three universities.

In 1977, the former EAC collapsed and the support that IUC was receiving from the Partner States declined. However, IUC continued to coordinate cooperation between the three universities albeit with resource constraints that severely limited its functions.

#### **4.4.2 Establishment of IUCEA**

In 1980, the three countries (Kenya, Uganda and Tanzania) signed a Memorandum of Understanding which led to the transformation of IUC into the current Inter-university Council for East Africa (IUCEA). The IUCEA faced decline in financial support from the three governments, the challenge that made it impossible to carry out the collaborative activities. This raised concern about institutional sustainability and hence prompted a study by the Commonwealth Higher Education Management Services (CHEMS) between November 1998 and March 1999 with a view to revitalizing IUCEA. The aim of the study was to develop a viable strategy for expansion and sustainability of IUCEA. Upon its re-establishment, EAC recognized IUCEA as one of the surviving institutions of the former Community.

#### **4.4.3 Functions of IUCEA**

- i. Advise the Partner States on all matters related to higher education.
- ii. Contribute to:
  - a. meeting national and regional development needs;
  - b. developing quality assurance processes in order to ensure high teaching and research standards;

- c. assisting member universities identify and implement good management practices;
- d. developing human resource capacity in all disciplines of higher education in the community; and;
- e. promoting equal opportunities for all students of East Africa, including those with special needs.

#### **4.4.4 Legal and Operational Framework of IUCEA**

- i. Legal instruments
  - a. The Treaty for the Establishment of the East African Community;
  - b. The Protocol for the Establishment of Inter-University Council for East Africa, 2002;
  - c. The Inter-University Council for East Africa Act, 2009; and
  - d. The headquarters' agreement signed between IUCEA and the Government of the Republic of Uganda.
- ii. Operational instruments
  - a. EAC Development Strategy;
  - b. IUCEA Strategic Plan 2021-2026;
  - c. Annual work plans.
- iii. Funding
  - a. Partner States;
  - b. Membership subscription;
  - c. Development partners.

#### **4.4.5 Key Stakeholders of IUCEA**

- i. Universities, university colleges and other degree-awarding institutions;
- ii. National Councils for Higher Education of all Partner States;
- iii. Ministries of EAC Affairs of each Partner State;
- iv. The Private sector; and
- v. Ministries in charge of Higher Education of each Partner State.

#### 4.4.6 Stakeholders of the IUCEA

Table 2: Universities, University Colleges and other Degree – Awarding Institutions

SN	Partner State	Public Institutions	Private Institutions	Total
1	Burundi	5	10	15
2	Kenya	18	20	38
3	Rwanda	1	16	17
4	United Republic of Tanzania	17	19	36
5	Uganda	9	21	30
6	Republic of South Sudan	2	1	3
7	DRC			
<b>Total</b>		<b>52</b>	<b>87</b>	<b>139</b>

#### 4.4.7 Governance of IUCEA

- i. EAC Council of Ministers;
- ii. EAC Sectoral Council of Ministers;
- iii. East African Legislative Assembly (EALA);
- iv. EAC Secretariat;
- v. IUCEA Organs;
  - a. Annual Meeting (of Vice-Chancellors);
  - b. Executive Committee (Governing Board);
  - c. Standing Committees (technical);
  - d. The Secretariat.

#### 4.4.8 The Annual Meeting

The Annual Meeting is composed of the following:

- i. The Chairperson of the Executive Committee/ Board;
- ii. All Vice Chancellors and Principals of Member Universities;
- iii. Executive Director/Secretary of the National Commissions/Councils for Higher Education;

- iv. One representative from the Ministry in charge of Higher Education from each Partner State; and
- v. One representative from the private sector in each Partner State.

The Annual Meeting is responsible for the following:

- i. Determine the general policies of IUCEA;
- ii. Approve and amend the general framework for the work programs of IUCEA;
- iii. Receive and endorse the budget and audited accounts;
- iv. Review and determine membership subscription;
- v. Elect of the Chairperson of IUCEA Executive Committee/Board;
- vi. Elect the members of the Executive Committee;
- vii. Receive annual progress reports on all activities of IUCEA; and
- viii. Give professional guidance to the Executive Committee/Board and the Secretariat.

For overall policy in-put and guidance on all matters handled by the IUCEA Executive Committee and the Annual Meeting, they are submitted to the Sectoral Council on Education, Science, Technology Sport and Culture and the Council of Ministers.

#### **4.4.9 Privileges and Immunities of IUCEA and its Staff**

- i. The status, privileges and immunities of IUCEA and its staff are embedded in the Headquarters Agreement signed on 13 September 2002, between IUCEA and the Government of the Republic of Uganda.
- ii. The Protocol on Privileges and Immunities requires Partner States to grant the EAC, Organs and Institutions similar treatment in terms of Privileges and Immunities as those granted to other international organizations hosted in a Partner State. However, research indicates that Uganda accords different granted different privileges and immunities to similar institutions it hosts. Therefore, there is a need for the EAC to engage with Partner States to streamline equal grant of privileges and immunities.

- iii. IUCEA will soon embark on negotiations to amend the Agreement to cater for privileges and immunities for G4 and G5 staff as per the Protocol on Privileges and Immunities.

#### **4.4.10 Proposed Amendments to the IUCEA Protocol**

IUCEA Secretariat proposed amendments to the IUCEA Protocol. The Council considered the proposal and directed that the proposed amendments be forwarded to Partner States for comments. All Partner States except the Republic of South Sudan and the Republic of Rwanda have submitted their comments. The proposed amendments aims at:

- i. Incorporating new functions to IUCEA related to the operationalization of the Common Higher Education Area and implementation of the East African Qualifications Framework for Higher Education;
- ii. To remove governance and management functions from the Annual Meeting of IUCEA and to reserve all its functions to the Executive Committee/ Board;
- iii. Transforming the Annual Meeting of IUCEA into a forum of Stakeholders who deal with emerging issues on matters related to the higher education and make recommendations to the IUCEA Executive Committee/Board; and
- iv. To provide an avenue for all recognized universities in all EAC Partner States to automatically become members of IUCEA without necessity payment of subscription fees.

#### **4.4.11 EAC Common Higher Education Area**

- i. The EAC is declared a common higher education area;
- ii. Council of Ministers was directed by Summit of Heads of State to ensure harmonization of education;
- iii. IUCEA tasked with technical mandate to guide the process.

The building blocks of the Common Higher Education Area are:

- i. Regional quality assurance system, incorporating:
  - a. Standards, guidelines and procedures;
  - b. Programme benchmarks;
  - c. Quality assurance policy framework.



- ii. East African Qualifications Framework for Higher Education, EAQFHE;
- iii. Regional TVET Qualifications framework and occupational standards;
- iv. Staff and students' mobility policies; and
- v. EAC harmonized fees structure model.

#### **4.4.12 Challenges facing IUCEA**

- i. Delayed remittance of contribution and arrears;
- ii. Limited fundraising mechanism in the Region due to the geo-economic and political situation that is prevailing;
- iii. Slow adoption of regional policies, guidelines and approaches by Partner States;
- iv. Slow implementation of EAC laws by Partner States;
- v. The shift to digital learning if facing a major challenge of high cost of internet and acquiring computer and tablets both for students and staff;
- vi. Funding in context of expanded mandate and expanding community;
- vii. Sustainability and ownership of success from donor funded project;
- viii. Student pass-visa to student free indeed but logistics to access it very expensive;
- ix. Slow operationalization of the East African Common Higher Education Area;
- x. Internet connectivity cost for universities; and
- xi. Lack of strong impact of research in the region

#### **4.4.13 Proposed Solutions and Assistance Needed**

- i. EALA to be proactive in advocating for timely remittance of yearly contribution.
- ii. Continuous advocacy and sensitization of all relevant stakeholders to speed up the operationalization of the Common Higher Education Area.
- iii. Engage internet providers to considerably reduce the cost of internet for universities

#### **4.4.14 Observation of the Committee on IUCEA**

- i. The implementation of Common Market Protocol is delayed by the challenges experienced in mobility of students;
- ii. Some Universities charges difference fees between students from their Nationals and those from other Partner States;

- iii. Some students are facing challenges in renewing their resident permits especially those living far from the capitals of the relevant Partner States;
- iv. The different quality of education provided by various universities in the EAC is one of the barriers to the student mobility in the EAC;
- v. There is delay in the amendment of the law and protocol governing the IUCEA.

#### **4.5 EAST AFRICAN SCIENCE AND TECHNOLOGY COMMISSION (EASTEKO)**

##### **4.5.1 Establishment of the EASTEKO**

The East African Science and Technology Commission (EASTEKO) is an institution of the EAC established in 2007. It was established by the Protocol on the Establishment of East African Science and Technology Commission. It is hosted by the Republic of Rwanda in Kigali, under the Headquarters' Agreement signed on 25<sup>th</sup> February, 2014. It started its operations in July 2015.

The overall objectives of EASTEKO is to promote & coordinate the development, management and application of Science and Technology to support regional integration and socio-economic development. The specific objectives of EASTEKO are:

- i. The formulation of regional Science, Technology and Innovation (STI) policies, strategies & frameworks;
- ii. The joint development and application of STI;
- iii. The promotion of regional research centers of excellence;
- iv. The exchange and utilization of scientific information;
- v. Promotion of public and private sector partnership in STI;
- vi. Mobilization of resources for STI development in the community;
- vii. Fostering scientific & technological innovation in the Partner States; and
- viii. Development, adoption and utilization of ICT and new and emerging technologies.

Table 3: The Strategic Priority of Areas of EASTECO

Priority Areas 1	Development of regional Science, Technology and Innovation Policies
Priority Areas 2	Promotion of Scientific Knowledge, Technology Advancement and Innovation
Priority Areas 3	Support to Application of Science, Technology and Innovation for Socio-Economic Development
Priority Areas 4	Enhance Stakeholder Engagement for STI development
Priority Areas 5	Strengthening the Institutional Framework of STI development

Table 4: The Achievements in the Priority Areas

Priority Areas	Achievements
Priority Area 1: STI Policies	<p><b>a) Regional STI Policies</b></p> <ul style="list-style-type: none"> <li>i. EAC Regional Policy for Science, Technology and Innovation;</li> <li>ii. EAC Regional Policy on Intellectual Property;</li> </ul> <p><b>(b) Regional Strategies</b></p> <ul style="list-style-type: none"> <li>i. EAC Bio-economy Strategy;</li> <li>ii. EAC Science, Technology, Engineering and Mathematics (STEM) Strategy;</li> <li>iii. EAC Indigenous Knowledge and Technology Strategy;</li> <li>iv. EAC Innovation and Technology Transfer Strategy;</li> <li>v. EAC Digital strategy</li> <li>vi. EAC 4<sup>th</sup> Industrial Revolution Strategy</li> </ul>
Priority Area 2: Promoting of STI Knowledge Management	<ul style="list-style-type: none"> <li>i. Establishment of Regional program on Collaborative Research &amp; Development in STI;</li> <li>ii. Development of Regional STI Indicators and web-based M &amp; E database;</li> </ul>

	<ul style="list-style-type: none"> <li>iii. Regional Capacity Building program (Training in Manuscript &amp; Grant writing);</li> <li>iv. Dissemination of STI data and information through: <ul style="list-style-type: none"> <li>a) Publications - East African Journal on Science, Technology and Innovation (EAJSTI)</li> <li>b) Conferences, workshops and exhibitions.</li> </ul> </li> </ul>
<p>Priority Area 3: Application of STI for Socio-Economic Development:</p>	<p>Networking of Knowledge and Technology Transfer Institutions</p> <ul style="list-style-type: none"> <li>i. Identification of Regional Centers of Excellence in Knowledge and Technology Transfer</li> <li>ii. Entrepreneurship Skills development</li> <li>iii. Network of Industrial Research &amp; Development Organizations (RTOs)</li> </ul>
<p>Priority Area 4: Enhancing Stakeholder Engagement for STI development</p>	<ul style="list-style-type: none"> <li>i. Regional STI Stakeholder Consultations in all policy, strategy, and frameworks development undertakings;</li> <li>ii. Establishment of Regional Working Groups in STI priority areas including R&amp;D; ICT and ITD</li> <li>iii. Development of Strategic Partnership with Global, Continental, regional and national organizations</li> </ul>
<p>Priority Area 5: Strengthening the institutional framework for Science and Technology</p>	<ul style="list-style-type: none"> <li>i. Constitution of 1<sup>st</sup> and 2<sup>nd</sup> EASTECO Governing Board;</li> <li>ii. Constitution of Committees of the Governing Board;</li> <li>iii. Development and operationalization of Governing Board Operations Manual;</li> <li>iv. Development and operationalization of the Rules of Procedure for the EASTECO Governing Board;</li> <li>v. Creation of regional focal points in Partner States for ease of coordination;</li> <li>vi. Creation of Regional STI Thematic Groups/Committees</li> </ul>

#### **4.5.2 Legal Instruments Governing EASTECO**

- i. The Treaty for the establishment of the EAC;
- ii. The Protocol for the establishment of the EASTECO;
- iii. The Protocol for the establishment of the EAC Common Market;
- iv. The Headquarters Agreement between EASTECO Republic of Rwanda; 2014
- v. EAC Financial Rules and Regulations, 2012;
- vi. EAC Staff Rules and Regulations, 2006; and
- vii. EAC Procurement Procedures Manual, 2020.

#### **4.5.3 Stakeholders of EASTECO**

- i. EAC Organs and Institution (IUCEA, EAHRC, LVBC, LVFO);
- ii. National Councils/Commissions on Science & Technology;
- iii. Ministries Responsible for STI in Partner States;
- iv. Ministries Responsible for EAC Affairs;
- v. Ministries responsible for ICT and Innovation;
- vi. EAC Regional Centers of Excellence;
- vii. Public and Private Universities;
- viii. National and international Research Institutions/Organizations;
- ix. International and Regional Organizations including the AfDB, USAID; IDRC, Sida, ICIPE, UNESCO, Republic of Estonia, UNEP and UNECA, RISA, TIRDO, UIRI, KIRDO, NIRDA, CTNA Burundi and GIZ-EAC.
- x. National and Regional Private Sector Association; EABC, KEPSA, PSFU, TPSF, PSFR.

#### **4.5.4 Challenges Facing EASTECO**

- i. Delay in the amendment of EASTECO Protocol to address the size and membership of Governing Board and to separate the functions of the Commission from the functions of the Governing Board;
- ii. Delayed approvals - EAC Science, Technology and Innovation (STI) and Intellectual property Policies (IP);

- iii. Permanent Headquarters: Republic of Rwanda still prospecting for a suitable space to allocate for the construction of the EASTECO headquarters;
- iv. Inadequate staff;
- v. The Headquarters' Agreement between EASTECO and Rwanda denies some immunities and privileges to Rwandans employed by EASTECO;
- vi. Financial challenges including the late disbursement of Partner States funds to EASTECO.

#### **4.5.5 Areas Require Amendment to the Legal Instruments**

##### **4.5.5.1 The EASTECO Protocol**

The Protocol for the Establishment of EASTECO need to be reviewed to reduce the number of members of Governing Board from 45 to a manageable number. The Legal Experts and Science & Technology Experts met from 17-19 October 2022 and prepared a draft Revised EASTECO Protocol which will be presented to the Sectoral Council.

##### **4.5.5.2 Headquarters' Agreement**

The main challenge is the exclusion of Rwandans in the privileges and immunities accorded to the staff of the Commission:

- i. Their salaries are not exempted from taxation (this article is however not enforced by the commission at the moment);
- ii. The right to import or purchase household and personal effects including one car free of duty, VAT and withholding tax.

EASTECO raised this matter with the relevant ministry of the government of Rwanda and to the Committee on Legal, Rules and Privileges of EALA. The matter is not yet resolved.

#### **4.5.6 Observations of the Committee on the EASTECO**

- i. The delay in the amendment of the Protocol governing EASTECO affects the functioning of the Commission;
- ii. EASTECO is hosted in Rwanda at a hired building. The hired building limits the application of some of the immunities and privileges accorded to EASTECO by the Republic of Rwanda;

- iii. There are challenges on the privileges and immunities accorded to the EASTECO by the government of Rwanda:
  - a. Staff of the Commission from the Republic of Rwanda are not entitled to some of the privileges and immunities;
  - b. Salaries of the staff from Rwanda are not exempted from the tax; and
- iv. EASTECO should put effort to support Partner States to engage in the technology space.

#### **4.6 EAST AFRICAN HEALTH RESEARCH COMMISSION (EAHRC)**

##### **4.6.1 Establishment of EAHRC**

The East African Health Research Commission (EAHRC) was established in accordance with Article 118 of the Treaty and the Protocol for the Establishment of EAHRC signed on 13 September 2008. The EAHRC is the principal advisory institution to the East African Community on health Research and Development (R&D). The broad objective of the EAHRC is to promote, facilitate, and coordinate the conduct and application of health research for the improvement of health and for the wellbeing of the people of East Africa. Specific objectives are to:

- i. Establish research programmes, networks, partnerships and centres of excellence in health research;
- ii. Establish capacity development and capacity utilisation programmes;
- iii. Create an environment that is conducive for research, including harmonised regional regulatory affairs and ethics review frameworks in the Partner States;
- iv. Establish mechanisms for health research knowledge management; and
- v. Mobilise resources to support health research for development.

##### **4.6.2 Legal Framework Governing the EAHRC**

- i. The Treaty for the Establishment of the East African Community;
- ii. The protocol establishing the East African Health Research Commission; and
- iii. The Headquarters Agreement between the Government of the Republic of Burundi and the East African Community.

#### **4.6.3 Process to amend the Protocol on the Establishment of the EAHRC**

The 12<sup>th</sup> Meeting of the Sectoral Council of Ministers for Health directed the EAHRC to prepare and submit a draft amendment to the Protocol. The EAHRC in collaboration with the EAC health and legal experts, CTC and EAHRC Commissioners prepared the amended EAHRC Protocol, which was circulated to Partner States for comments. Partner States are still considering the proposals to amend the Protocol. The development of the EAHRC law was suspended until the process of amendment of the Protocol is completed.

#### **4.6.4 Headquarters of the EAHRC**

In 2019, the government of Burundi granted a land to the EAHRC to construct its permanent headquarters in Bujumbura. The EAHRC in collaboration with the EAC secretariat started preparation of the architectural plan.

The EAHRC is exempted from paying tax in Burundi. Staff are given resident permit although they are required to renew from time to time. However, the EAHRC reported that staff of the Commission from the Republic of Burundi do not enjoy the privileges and immunities accorded to the Commission and its staff.

#### **4.6.5 Stakeholders of EAHRC**

The following are some of the stakeholders working with the 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; and
- ix. Research Networking.



#### **4.6.6 Request of EAHRC to EALA**

- i. Advocacy for resources for the construction of the permanent Headquarters’;
- ii. Fast track the recruitment of EAHRC staff (The EAHRC has been without the substantive Executive Secretary for two years now);
- iii. Advocacy for EAHRC to conduct research on critical areas on COVID-19; and
- iv. Support in the finalization of the process to amend the EAHRC Protocol.

#### **4.6.7 Observation of the Committee with regards to EAHRC**

- i. There is a delay in the amendment of the Protocol to address some of the major operation challenges affecting the Commission including the big number of Members of the Governing Board a situation that had led to the delay in the establishment of the Board;
- ii. Adequate resource is needed to finance the construction of the EAHRC Headquarters in Bujumbura;
- iii. The Commission requested a supplementary budget to expand its activities to the DRC. The supplementary budget was approved by the Council awaiting approval by the Assembly; and
- iv. Officers from the Republic of Burundi does not enjoy the privileges and immunities accorded to the Commission by the Republic of Burundi.

### **4.7 LAKE VICTORIA BASIN COMMISSION (LVBC)**

#### **4.7.1 Establishment of the LVBC**

The Lake Victoria Basin Commission is a specialized institution established under Article 33 of the Protocol for the Sustainable Development of the Lake Victoria Basin (2003). The LVBC is hosted in Kisumu, Republic of Kenya, with an existing Headquarters Agreement signed in 2007. The functions of LVBC are:

- i. Co-ordinate the harmonization of policies, laws, regulations and standards concerning LVB;
- ii. Promote stakeholder participation in sustainable development of natural resources in LVB;
- iii. Provide guidance on implementation of sectoral projects and programs;

- iv. Provide capacity building and institutional development within the LVB;
- v. facilitate and coordinate security and safe navigation on Lake Victoria;
- vi. Coordinate resource mobilization for sectoral projects and programmes.

#### **4.7.2 Harmonized Policies, Laws and Regulations**

LVBC facilitated the harmonization of the following:

- i. The harmonized EAC Regional Standards for Industrial and Municipal Effluent Discharges, was adopted and gazette in 2016 (ISSN 0000211, Vol. AT1-No 1, Legal Notice No. EAC/4/2016);
- ii. Harmonized Policy for Water Resources Management (2012);
- iii. Inland Fisheries and Aquaculture Policy for EAC;
- iv. Information and Data Sharing Guidelines among and within countries and agencies in Lake;
- v. The Integrated Water Resources Management Plan (IWRMP) for the LVB;
- vi. Basin-wide Sustainable Land Management Strategy;
- vii. LVB Climate Change Adaptation Strategy and Action Plan (CCASAP 2018).

#### **4.7.3 Governing Legal Instruments**

- i. The Treaty for the Establishment of EAC;
- ii. Protocol for the Sustainable Development of the Lake Victoria Basin, 2003;
- iii. The East Africa Community Lake Victoria Transport Act, 2007;
- iv. The Protocol on Privileges and Immunities of the EAC, 2015;
- v. The Lake Victoria Basin Commission Act 2022; and
- vi. Headquarters Agreement between EAC and the Republic of Kenya

#### **4.7.4 Challenges Facing the LVBC**

- i. While the Headquarters Agreement accords most of the immunities to the Commission and her staff, some privileges have not been fully accorded to the Commission and her staff compared to the privileges accorded to staff in other Organs and Institutions of EAC hosted in other EAC Partner States and to some extent privileges accorded to other Diplomatic Institutions hosted in the Republic of Kenya;

- a. The Headquarters' Agreement provides exemption for only goods and services imported, leaving out goods and services purchased within the Republic of Kenya. Additionally, the Commission is not exempted from paying the Exercise Duties.
- b. The Headquarters' Agreement need to be amended to accord Kenyan nationals working with LVBC similar privileges and immunities accorded to other nationals when they work for international institutions in their respective countries.
- c. The LVBC Headquarters' Agreement need to be renegotiated and be amended to reflect the Protocol on Privileges and Immunities and other international best practice;
- ii. The Functions of the Commissions provided by Section 6 of the Lake Victoria Basin Commission Act limit the scope of the mandate of the Commission and consequently leaving out the Republic of South Sudan and the Democratic Republic of Congo;
- iii. Commission request the Assembly to support the process of renegotiation of the Headquarters Agreement to ensure conformity with the Protocol on Privileges and Immunities of EAC.

#### **4.7.5 Observations of the Committee**

- i. The LVBC mandate is limited within the Lake Victoria Basin, leaving out the Republic of South Sudan and the Democratic Republic of Congo. It was however, observed that to enhance and promote better coordination and mutual collaboration with other entities particularly Partner States with shared lakes and rivers, there is need to establish a framework for the terrestrial eco-systems and water resources management of transboundary nature;
- ii. The implementation of the East African Lake Victoria Transport Act is in slow pace because:
  - a. Partner States are using their national laws instead of this law; and

- b. A number of regulations required for implementation of this law are yet to be made.
- iii. There is delays in the implementation of some programs and projects in the Partner States which cause challenges to the financiers of projects and programs;
- iv. Budget constraints and understaffing;
- v. There are challenges with regards to immunities provided to LVBC by the Republic of Kenya:
  - a. Staff from Kenya are not included in the privileges and immunities, even for function privileges and immunities, a situation that causes discrimination and affects the functioning of the Commission; and
  - b. There is no tax exemption for goods and services purchased within the Republic of Kenya and for Excise Duties.

#### **4.8 LAKE VICTORIA FISHERIES ORGANISATION (LVFO)**

##### **4.8.1 Establishment of the LVFO**

Collaborative efforts to manage the fisheries of Lake Victoria originate from the study conducted in 1927- 28 to assess the fisheries of the lake that recommended for the establishment of a lake-wide authority, the Lake Victoria Fisheries Service (LVFS) in 1928. The LVFS was replaced by the East African Fisheries Research Organization (EAFRO) in 1947, which was later upgraded to be the East African Freshwater Fisheries Organization (EAFFRO). The EAFFRO disintegrated following the collapse of the First EAC in 1977. However, the three riparian states continued to collaborate in the management of the Lake Victoria fisheries under the aegis of the Food and Agriculture Organization (FAO) through its Committee for the Inland Fisheries of Africa (CIFA). Later on, CIFA recommended for the formation of the Lake Victoria Fisheries Organization (LVFO). The LVFO was established through a Convention signed on 30<sup>th</sup> June 1994 by the three Partner States sharing the Lake Victoria (Kenya, Uganda and Tanzania). The LVFO is recognised by FAO as a Regional Fisheries Management Organization (RFMO). With the revival of the East African Community (EAC), the LVFO became a specialized institution of the Community under Article 9(3) of the Treaty.

For the LVFO to become institution of the Community, it was necessary to review the Convention and its functions to include all Partner States. A Functional Analysis Study conducted in July 2008 during the Implementation of the first Fisheries Management Plan pointed to the need to widen the scope of LVFO to include all the EAC Partner States and to expand the coverage to regional fisheries beyond the Lake Victoria and to address aquaculture and postharvest issues.

In collaboration with FAO, the EAC amended the Convention establishing the LVFO on 29<sup>th</sup> January 2016 to allow all Partner States to join the LVFO by ratifying the Convention and depositing the ratification instrument with FAO. The Republic of Burundi ratified and deposited the instrument of ratification.

#### **4.8.2 Stakeholders of the LVFO**

The role of the LVFO Secretariat is to coordinate the fisheries and aquaculture activities in the region and the related key stakeholders include contracting parties through their Ministries, Departments, and Agencies (MDAs) responsible for fisheries and aquaculture, fishers, fish farmers, fish traders, fish processors and their related groupings. The Secretariat relates with the key stakeholders through:

- i. Technical Committees: Scientific committee (comprising Heads of Fisheries Research Agencies in Partner states) and Fisheries management committee (Heads of Fisheries Management Agencies in the Partner States);
- ii. Regional Working Groups (several in diverse thematic areas) in the Partner States (Comprising Technical Staff from Technical Agencies in Partner States);
- iii. National Working Groups (several in diverse thematic areas);
- iv. Fishers/Fish Farmers/Fish Processors and Traders in the Partner States;
- v. Ministries Responsible for EAC Affairs; and
- vi. The EAC Secretariat particularly the Department for Agriculture and Food Security.

### **4.8.3 Implementation of Legal Instruments of LVFO**

The activities of LVFO governed by the Convention establishing the LVFO. At regional level, the Contracting Parties agree on programs and activities through the directives and decisions of the Fisheries and Aquaculture Sectoral Council (FASCoM). Implementation is mainly at national level where each Contracting Part is required to implement and report to the Sectoral Council. Specific MDAs in Partner States coordinated by the LVFO Secretariat implement the decisions and directives and report progress.

### **4.8.4 Challenges facing the LVFO**

- i. The budgetary constraints, which has been stagnant and even declining in some years. For instance, in 2019/2020, the Partner States budget to LVFO was US\$ 2,060,485, whereas in 2022/2023 it decreased to US\$ 1,862,000;
- ii. Incomplete contribution of the approved budget from Partner States; as at to date the Partner States are in arrears of USD434,363 (23% of the current budget) and cumulative arrears of USD 935,304;
- iii. Staffing gaps have seriously affected the delivery of the mandate;
- iv. The organization has aggressively solicited and attracted development partners supported projects but face limitation of working space to house the addition staff and project activities.

### **4.8.5 Areas require amendment to the legal instruments**

The LVFO Secretariat hired a consultant to undertake the legal and institutional review regarding the expansion of the mandate, scope and the possible change of the name to be the East African Fisheries Organization (EAFO) and ultimately aligning the LVFO Convention to the Treaty. The meeting of stakeholders to validate the findings of the study is scheduled for 8<sup>th</sup> – 9<sup>th</sup> May 2023.

### **4.8.6 Status, Privileges and Immunities**

- i. Section 2 of the Convention on the privileges, immunities and facilities of the Convention exempts the LVFO from payment of taxes. However, the institution is facing the challenge of tax refund from the relevant tax authorities of the Partner States. As of to date, the tax refund claims stand at USD150, 350.71.

- ii. Whereas Article XVIII.2 of the Convention accords the Executive Secretary, the Deputy Executive Secretary and other staff of the Organization, diplomatic privileges the professional staff are not given the privileges like the diplomatic number plates for cars, diplomatic IDs and passports.

#### **4.8.7 Observations of the Committee**

- i. Tax refund is a major challenge. Whereas LVFO can get refund from the Republic of Uganda where they are hosted, there is no framework for institutions to claim tax refund from other Partner States where institutions are undertaking their activities;
- ii. Some Partner States are not Members of the LVFO, therefore LVFO can only undertake its activities in Partner States which ratified to the Convention;
- iii. There is an increase of the trade in fish maw (mabondo), Partner States are requested to regulate their trade in order to protect the fish resources in the region;
- iv. There is delay in amending the legal instruments to extend the mandate of the LVFO to be an East African Fisheries Organization; and
- v. There are issues of immunities and privileges accorded to the LVFO as compared to other international organizations hosted in Uganda.

#### **5.0 GENERAL OBSERVATIONS OF THE COMMITTEE**

- i. Whereas the EAC adopted Kiswahili and French as official languages of the Community, the Treaty for the Establishment of the EAC is yet to be amended to affect that decision;
- ii. The government of Tanzania is in the process of granting a plot of land for the construction of the EAKC Headquarters in Zanzibar;
- iii. The EAHRC is at the initial stage of constructing its permanent headquarters in Bujumbura. Adequate resource is needed to finance the construction of the Headquarters;

- iv. The Protocol on Privileges and Immunities, which is fully ratified, is not yet implemented. The Secretary General should initiate the review of all Headquarters' agreements to align them with the Protocol;
- v. There is disparities of privileges and immunities accorded to staff of Organs and Institutions of the EAC; therefore, there is a need for the office of the Secretary General to review all the Headquarters' Agreements to address the problem. More issues on the same matter were reported by LVBC, EAHRC and EASTECO;
- vi. The EAHRC has been without the Substantive Executive Secretary for two years now due to delay in the employment procedures of the EAC;
- vii. All Organs and Institutions of the EAC have pending VAT claims from their hosting Partner States. It was also observed that the EAC does not have a mechanism to enable Organs and Institutions to claim VAT refund from other Partner States apart from the Partner States that host the said Organ or Institution;
- vi. The mandate of the LVBC and LVFO are limited to the Lake Victoria and its basin, leaving out some Partner States. Whereas there are steps taken to expand the mandate of LVFO, there is no action taken by the Council to also widen the scope of LVBC;
- viii. All Organs and Institutions of the EAC are seriously underfunded and understaffed;
- ix. The Protocols for the Establishment of EAKC, EAHRC and EASTECO have serious issues that require amendment of the relevant Protocols. However, it has taken a very long time to amend the mentioned Protocols. The EAC Secretariat should fast track the process of these amendment;
- x. During its previous activities on privileges and immunities, the Committee made several recommendations for the Council and the Secretary General to take appropriate actions to address the challenges. However, there are no feedback received from the Secretary General on the action taken by its office;
- xi. Partner States contribute to the delay in the amendment of Protocols and Laws governing the institutions by delaying submitting comments on the proposed amendments;



- xii. The EADB did not cooperate with the Committee during the undertaking of this activity. It neither participated nor gave reasons for non-participation;
- xiii. The Lake Victoria Transport Act, 2007, an Act that was enacted to regulate maritime safety along Lake Victoria is not fully implemented;
- xiv. There is increment of marine accident within the Lake Victoria.

## **6.0 RECOMMENDATIONS OF THE COMMITTEE**

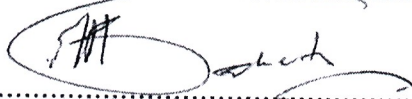
The Committee recommends to the Assembly to urge the Council of Ministers to:

1. Fast track the amendment of the relevant provision of the Treaty to facilitate the adoption of Kiswahili and French as official languages of the Community;
2. Commend the government of the Republic of Burundi for granting land for the construction of the permanent headquarters of the EAHRC;
3. The Council should allocate adequate resources to finance the construction of the EAHRC headquarters;
4. Urge all Partner States that are hosting EAC Organs and Institutions to grant suitable piece of land for the construction of the headquarters of the respective Organs and Institutions;
5. Direct the Secretary General to initiate the process of reviewing all the Headquarters' Agreements in order to align them with the Protocol on Privileges and Immunities and to address all issues raised by the relevant organs and institutions from time to time;
6. Direct all Partner States that were requested to give comments on the proposed amendments to protocols and laws governing institutions to provide their comments within a specific period specified by the Council;
7. Direct the Secretary General to fast track the process of amendments of Protocols establishing the EAKC, EAHRC and EASTECO, to address the serious challenges that were identified many years ago that affects the fully functioning of the said institutions;
8. Direct Partner States that have pending VAT claims for the organs and institutions of the EAC to settle all the claims within this financial year;

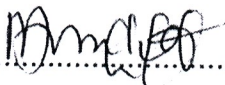
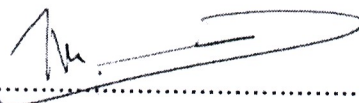
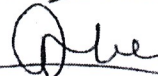
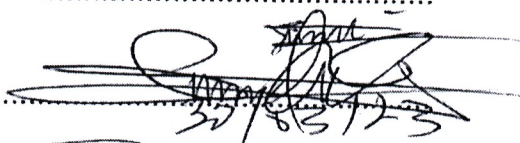
9. To set up a mechanism to enable Organs and Institutions to make their VAT Claims to other Partner States apart from the hosting Partner States;
10. To fast track the process of recruiting the Executive Secretary of the EAHRC and other key positions in all Organs and Institutions of the EAC;
11. To put in place all the legal and other infrastructure required for the fully implementation of the Lake Victoria Transport Act, 2007;
12. Direct all organs and institutions of the EAC to always adhere and cooperate with the call by the EALA or its Committees;
13. Direct Council of Ministers to take urgent action to address the issues concerning the integration of EADB into EAC systems;
14. Direct IUCEA to fast track the implementation of mobility of students as part of implementing the Common Market Protocol;
15. Direct IUCEA to sensitize universities to adopt and implement the EAC Common High Education Area by charging the same fees to students from all the EAC Partner States; and
16. Direct Council of Ministers to initiate the process of amending the Lake Victoria Basin Commission Act, 2022 to provide for a framework for coordination and mutual collaboration of terrestrial eco-systems and water resources management of transboundary in nature.

**REPORT OF THE COMMITTEE ON LEGAL, RULES AND PRIVILEGES ON THE  
OVERSIGHT ACTIVITY ON THE IMPLEMENTATION OF THE PROTOCOLS  
AND LAWS GOVERNING EAC INSTITUTIONS**

1. Hon. Khalfan N. Mashaka
2. Hon. Alex Bahati
3. Hon. Clement Musangabatware
4. Hon. Dennis Namara
5. Hon. Dr. Gerald Siranda Blacks
6. Hon. Dr. Ipenda Boulu Desire
7. Hon. Dr. Maghembe Ngwaru
8. Hon. Dr. Mathias Harebamungu
9. Hon. Dr. Saidi Kibeya
10. Hon. George S. Odongo
11. Hon. Geraldine Kaubo
12. Hon. Hassan Omar Hassan
13. Hon. Jeremie Maswama
14. Hon. Kachwamba Ansar Abubakar
15. Hon. Kanini Kega
16. Hon. Kennedy Kalonzo
17. Hon. Kennedy Mukulia



ND



18. Hon. Kim Gai .....
19. Hon. Luke Thomas Thoan .....
20. Hon. Olivier Nkurunziza .....
21. Hon. Victor Burikukiye .....