


EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY



COMMITTEE ON AGRICULTURE, TOURISM AND NATURAL RESOURCES

REPORT OF THE CONSIDERATION OF THE LAKE VICTORIA BASIN
COMMISSION BILL, 2019

PARLIAMENT
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Clerk's Chambers
EALA Headquarters, 3rd Floor
EAC Headquarters
Arusha - TANZANIA

February 2020

1.0 Introduction

The Lake Victoria Basin Commission Bill, 2019 was initiated and submitted to the Assembly by the Council of Ministers in accordance with Paragraph 3 (b) of Article 14 and Article 59 of the Treaty for the Establishment of the East African Community (Treaty). The Bill was read for the first time on 20th June, 2019 and later referred to the Committee on Agriculture, Tourism and Natural Resources on 30th September, 2019.

The Lake Victoria Basin Commission (LVBC) is one of the specialized institutions of the East African Community established by the Council of Ministers in accordance with Article 33 of the Protocol for Sustainable Development of Lake Victoria Basin, 2003 (Protocol). The LVBC is responsible for the promotion of sustainable development in the Lake Victoria Basin. The broad functions of the LVBC as stipulated under Article 33 of the Protocol are to promote, facilitate and coordinate activities of different actors towards sustainable development and poverty eradication within the Basin.

2.0 Historical Background of the Lake Victoria Basin Commission Bill

On 21st June, 2007, the Council of Ministers introduced for the First Reading before the East African Legislative Assembly the Lake Victoria Basin Commission Bill, 2007¹. The Bill was referred to the Committee on Agriculture, Tourism and Natural Resources of the Second Assembly for consideration. After consultation with stakeholders, the Committee intended to propose the changes of the management structure of the LVBC by replacing the Sectoral Council on Lake Victoria with the governing board which excluded ministers and establishment of a stakeholder's advisory consultative committee.

The Bill came for second reading on 3rd February, 2011, however, the Council of moved a motion for the withdrawal of the Lake Victoria Commission Bill 2007. The then Chairperson of the Council of Ministers informed the House that the Bill was being withdrawn because of the disagreement between the Council and the Committee on the proposal to change the management structure of LVBC. Specifically, the Council informed the House that the proposed amendments such as the replacement of the sectoral committee with the governing board that excludes Ministers in its composition

¹ Hansard (The Official Report of the Proceedings of the East African Legislative Assembly of 21st June, 2007)

and the establishment of a stakeholder's advisory consultative committee were inconsistent with the provisions of the Protocol which is an integral part of the Treaty². The Bill was therefore withdrawn in accordance with Rule 34 of the Rules of Procedure of the Assembly.

3.0 The Lake Victoria Basin Commission Bill, 2019

The Lake Victoria Basin Commission Bill, 2019 is premised on Chapter Nineteen of the Treaty, particularly Article 114, under which the Partner States agreed to cooperate in the management of their water and marine resources, and specifically, to establish a body for the management of Lake Victoria. The object of the Bill is to provide for the Lake Victoria Basin Commission as an institution of the Community. The Bill is made up of 26 Clauses.

4.0 Methodology

In consideration of this Bill, the Committee employed the following methodology:

- i. Interactive meeting with the Secretariat of the LVBC led by the Executive Secretary, Dr. Ali Said Matano;
- ii. Interactive meeting with the Council of Ministers;
- iii. Considered various legal instruments and other documents relating to the Lake Victoria including the:
 - a. Treaty for the Establishment of the East African Community;
 - b. The Protocol on the Sustainable Development of the Lake Victoria Basin, 2003;
 - c. The Lake Victoria Transport Act, 2007;
 - d. The Laws of the Community (Interpretation) Act, 2003;
 - e. The Acts of the East African Community Act, 2003;
 - f. The Official Reports of the East African Legislative Assembly;
- iv. Conducted stakeholders public hearing;
- v. Consideration of the Bill Clause by Clause;

² Hansard (the Official Report of the Proceedings of the East African Legislative Assembly of 3rd February, 2007

- vi. Published the Bill on the LVBC and EAC websites and advertised on the East African Newspaper requesting stakeholders to access it and provide comments; and
- vii. Requested stakeholders to submit their written comments.

5.0 Comments from stakeholders

As stipulated above, the Committee received comments from stakeholders during the public hearings and through written submission. The Committee conducted public hearing in Kisumu and interacted with more than thirty stakeholders representing civil society organizations, academia, media and various associations.

Also, the Committee requested for written comments from various individuals and organizations from within and beyond the EAC. On this the Committee posted an advertisement in "the East Africa" and published the Bill on the LVBC and EAC websites. Stakeholders were requested to provide their written comments to the Committee through the Office of the Clerk. As an outcome, the Committee received written comments from the following:

- i. Prof. Mattias Wengelin from the Department of Service Studies, Lund University, Sweden.
- ii. Uganda Coalition for Sustainable Development on behalf of other organizations (East African International Network for Sustainable Energy and East Africa Sustainability Watch Network);
- iii. the Village Association for Mutual Aid and Community Development (AVEDEC-Burundi)

The written comments are attached to this report as annexes. The following is the summary of all comments received from stakeholders:

- i. Lake Victoria Basin is an important resource for the entire East African Community which need to be jointly protect by the entire Community;
- ii. The LVBC like the other EAC institutions does not have enforcement powers, hence it depends on the goodwill of Partner States to implement various agreed policies and actions;

- iii. Stakeholders were concerned with the number of deaths that occur in the lake due to various reasons including accidents. It is estimate that around 5,000 people die every year in the lake;
- iv. LVBC should take up the implementation role of actions agreed for the Lake Victoria Basin;
- v. Partner States need to establish a mechanism to solve conflicts that occur in the Lake Victoria basin, especially the fishing areas like the Migingo Island;
- vi. Clause 11 (4) on National Focal Points need to be expounded further in conformity with the regionality of the LVBC and in support of local and national action that contribute to the regional cooperation on sustainable development of Lake Victoria in view of the regional and global challenges like climate change, pollution, and illegal fishing practices;
- vii. The functions of the Commission under Clause 6. (1) should include to promote stakeholder participation in sustainable development of the natural resources of the LVB;
- viii. The role of oversight for the Lake Victoria needs to be given more prominence and clear responsible institution; and
- ix. The Lake Victoria Bill is an important legal instrument which will support the activities of the Lake Victoria Basin Commission.

6.0 Observations of the Committee

The Committee made the following observations:

- i. The Lake Victoria Basin Commission Bill, 2019, is almost similar to the Lake Victoria Basin Commission Bill, 2007, which was introduced by the Council of Ministers in 2007 and later withdrawn by the same Council on 2011;
- ii. Most of the features and provisions of the Bill are taken from the Protocol, this is caused by the fact that the Protocol is detailed like a law;
- iii. There are many transboundary water bodies in the EAC that does not have specific EAC institutions to manage those resources;

- iv. The Indian Ocean which is also a transboundary water resource is facing several challenges similar to what Lake Victoria faces, however, the Ocean do not have specific institution of the Community to manage it;
- v. The Protocol was concluded in 2003, however, many changes and development occurred since 2003 which necessitates the review and amendment of the Protocol; and
- vi. There are mainly two benefits of enacting this Bill:
 - a. Establishment of the LVBC as a body corporate with perpetual succession and a common seal which will empower the LVBC to acquire and hold properties, sue and be sued in its corporate name and to do other things a body corporate may lawfully do; and
 - b. To enable the Council of Ministers to make regulations to give effect to the LVBC.

7.0 Recommendations

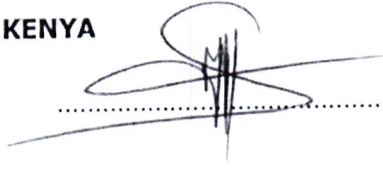
The Committee recommends the Assembly to:

- i. Consider and pass the Lake Victoria Basin Commission Bill taking into consideration the attached schedule of the proposed amendments prepared by the Committee;
- ii. Urge the Council of Ministers to review and amend the Protocol for Sustainable of the Lake Victoria Basin;
- iii. Urge the Council of Ministers to establish a specialized institution for the sustainable management of the Indian Ocean; and
- iv. Urge the Council of Ministers to consider expanding the mandate of LVBC to cover all the EAC water bodies.

REPORT OF THE COMMITTEE ON AGRICULTURE, TOURISM AND NATURAL RESOURCES ON THE LAKE VICTORIA BASIN COMMISSION BILL, 2019

15TH – 19TH JANUARY 2020, KISUMU- KENYA

1. Hon. Mathias Kasamba



2. Hon. Adam O. Kimbisa



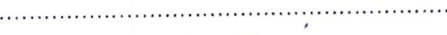
3. Hon. Alex Bahati



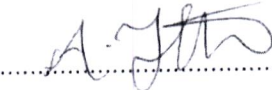
4. Hon. Alfred Ahingejeje



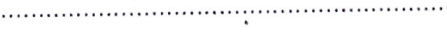
5. Hon. Chris Opoka-Okumu



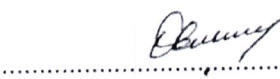
6. Hon. Dr. Anne Itto Leonardo



7. Hon. Dr. Gabriel Garang Arol Aher



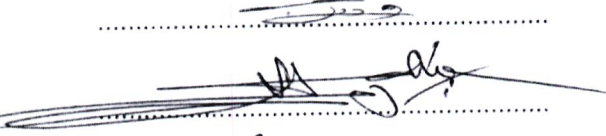
8. Hon. Dr. Oburu Oginga



9. Hon. Dr. Woda Odok Jeremiah



10. Hon. Eng. Mohamed H. Mnyaa



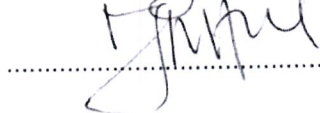
11. Hon. Fatuma Ibrahim Ali



12. Hon. Francoise Uwumukiza



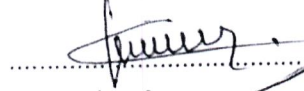
13. Hon. Josephine S. Lemoyan



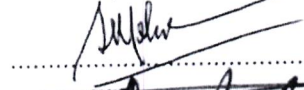
14. Hon. Mary Mugenyi



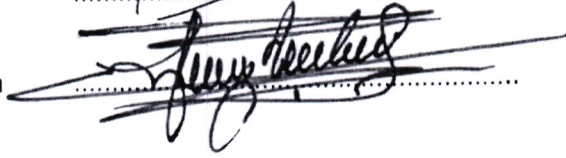
15. Hon. Mo-Mamo Karerwa



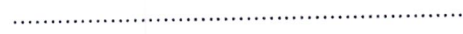
16. Hon. Nooru Adan Mohamed



17. Hon. Dr. Pierre Celestin Rwigema



18. Hon. Sophie Nsavyimana



THE EAST AFRICAN COMMUNITY

BILLS SUPPLEMENT

No. 5

29th May, 2019.

to the East African Community Gazette No. 7 of 29th May, 2019.

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THE EAST AFRICAN COMMUNITY


THE LAKE VICTORIA BASIN COMMISSION BILL, 2019

MEMORANDUM.

The object of this Bill is to provide for the Lake Victoria Basin Commission as an institution of the Community.

The Bill is premised on Chapter Nineteen of the Treaty for the Establishment of the East African Community, particularly Article 114, under which the Partner States agreed to cooperate in the management of their water and marine resources, and specifically, to establish a body for the management of Lake Victoria.

The Commission shall be responsible for among other duties, the co-ordination of stakeholder participation in sustainable development of the natural resources of the Lake Victoria Basin, and the harmonization of policies, laws, regulations and standards concerning the Lake Victoria Basin.

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The Lake Victoria Basin Commission Bill, 2019

The Commission shall in pursuit of the above objects provide capacity building and institutional development within the Basin and facilitate and co-ordinate security and safety of navigation on Lake Victoria.

HON. DR. RICHARD SEZIBERA,
Chairperson, Council of Ministers.

THE LAKE VICTORIA BASIN COMMISSION BILL, 2019

ARRANGEMENT OF CLAUSES

Clause.

1. Short title.
2. Interpretation.
3. The Lake Victoria Basin Commission.
4. Headquarters of the Commission.
5. Objectives of the Commission.
6. Functions of the Commission.
7. Organs of the Commission.
8. Functions of the Sectoral Council.
9. Meetings of the Sectoral Council.
10. Coordination Committee.
11. Sectoral Committees.
12. Functions of the Sectoral Committee.
13. Secretariat.
14. Functions of the Secretariat.
15. Executive Secretary of the Commission.
16. Deputy Executive Secretaries.
17. Other officers of the Commission.
18. Power of Council to delegate to Commission.
19. Power of Council to give directions.
20. Seal of the Commission.

The Lake Victoria Basin Commission Bill, 2019

Clause.

21. Funding of the Commission.
22. Annual budget.
23. Accounts, records and audits of the Commission.
24. Protection from liability.
25. Privileges and immunities.
26. Regulations.

A Bill for an Act

ENTITLED

THE LAKE VICTORIA BASIN COMMISSION ACT, 2019

An Act of the Community to provide for Lake Victoria Basin Commission as an institution of the Community and for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited as the Lake Victoria Basin Commission Act, 2019. Short title.

2. In this Act, unless the context otherwise requires— Inter-pretation.

“Audit Commission” means the Audit Commission established by Article 134 of the Treaty;

“Commission” means the Lake Victoria Basin Commission established under Article 33 of the Protocol;

“Community” means the East African Community established by Article 2 of the Treaty;

“Council” means the Council of Ministers of the Community established by Article 9 of the Treaty;

“Lake Victoria Basin” means the geographical area extending within the territories of the Partner States determined by the watershed limits of the system of waters, including surface and underground waters flowing into Lake Victoria;

“Partner States” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the Republic of South Sudan, the Republic of Uganda and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of the Treaty;

“Protocol” means the Protocol For the Sustainable Development of Lake Victoria Basin;

“Sectoral Council” means the Sectoral Council on Lake Victoria Basin established under Section 7;

“stakeholder” means a person, legal or natural and any other entity, governmental or non-governmental, residing, having interest or conducting business in the Lake Victoria Basin;

“sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs;

“Treaty” means the Treaty for the Establishment of the East African Community.

3. (1) The Commission as established by the Council under Article 33 of the Protocol shall be an institution of the Community.

The Lake
Victoria
Basin
Commission.

(2) The Community shall be a body corporate with perpetual succession and a common seal and may—

- (a) acquire, hold and dispose of movable and immovable property;
- (b) sue and be sued in its corporate name; and
- (c) do any other thing that a body corporate may lawfully do.

(3) The Commission shall be the successor to the Commission known as the Lake Victoria Basin Commission existing immediately prior to the coming into force of this Act.

4. (1) The headquarters of the Commission shall be located in the city of Kisumu in the Republic of Kenya.

Headquarters
of the
Commission.

(2) There may be established other offices of the Commission in the Partner States as may be determined by the Council.

5. The objectives of the Commission shall be to promote—

Objectives
of the
Commission.

- (a) equitable economic growth;
- (b) measures aimed at eradicating poverty;
- (c) sustainable utilization and management of natural resources;

The Lake Victoria Basin Commission Bill, 2019

Functions
of the
Commission.

- (d) the protection of the environment within the Lake Victoria Basin; and
- (e) compliance with safety of navigation.

6. (1) The Commission shall—

- (a) co-ordinate the harmonisation of policies, laws, regulations and standards concerning the Lake Victoria Basin;
- (b) promote stakeholder participation in sustainable development of the natural resources of the Lake Victoria Basin;
- (c) provide guidance on the implementation of sectoral projects and programmes;
- (d) provide capacity building and institutional development within the Lake Victoria Basin;
- (e) facilitate and co-ordinate security and safety of navigation on Lake Victoria;
- (f) promote research development and demonstration;
- (g) monitor, evaluate and ensure compliance with policies and agreed actions, concerning the Lake Victoria Basin;
- (h) prepare and harmonise negotiating positions for the Partner States against any other State on matters concerning the Lake Victoria Basin;
- (i) receive and consider reports from Partner States' institutions on their activities relating to the management of the Lake Victoria Basin;
- (j) initiate and promote programmes that target poverty eradication; and

- (k) perform any other function that may be conferred upon the Commission under this Act.

(2) In performing its functions under sub section (1), the Commission shall promote, facilitate and co-ordinate the activities of different actors towards sustainable development and poverty eradication in the Lake Victoria Basin.

(3) In co-ordinating the preparation, negotiation and implementation of national and regional programmes and the implementation of this Act, the Commission may involve relevant inter-governmental and non-governmental organizations and other parties.

7. The Commission shall have the following organs—

Otgams
of the
Commission.

- (a) the Sectoral Council on Lake Victoria Basin;
- (b) the Co-ordination Committee on Lake Victoria Basin;
- (c) Sectoral Committees; and
- (d) the Secretariat.

8. The Sectoral Council shall—

Functions of
the Sectoral
Council.

- (a) provide overall policy directions for the implementation of projects and programmes in the Lake Victoria Basin;
- (b) guide the implementation of development programmes in Lake Victoria Basin;
- (c) issue directives, take decisions and make recommendations and give opinions in accordance with the provisions of the Protocol;

- (d) consider and approve the work programmes of the Commission;
- (e) consider and approve measures to be undertaken by the Partner States in order to promote the attainment of the objectives of the Commission;
- (f) recommend to the Council terms and conditions of service for the staff of the Commission;
- (g) adopt annual progress reports from the Co-ordination Committee;
- (h) perform any function as may be delegated by the Council in accordance with the Treaty.

Meetings of
the Sectoral
Council.

9. (1) The Sectoral Council shall promulgate rules and procedures for its meetings, consistent with the Treaty.

(2) Every meeting of the Sectoral Council shall be preceded by a meeting of the Co-ordination Committee.

Coordination
Committee.

10. (1) The Co-ordination Committee shall—

- (a) implement the decisions of the Sectoral Council;
- (b) submit reports and recommendations on any matter concerning the Lake Victoria Basin, to the Sectoral Council;
- (c) receive and consider reports of Sectoral Committees;
- (d) assign any Sectoral Committee to deal with any matter relevant to the Lake Victoria Basin; and
- (e) perform any other functions as may be conferred upon it by this Act or as may be directed by the Sectoral Council.

(2) Subject to any directions which may be given by the Sectoral Council, the Co-ordination Committee shall meet at least twice in each year and may hold extraordinary meetings, as it deems necessary.

(3) The Co-ordination Committee shall promulgate rules and procedures for its meetings, consistent with the Treaty.

11. (1) The Co-ordination Committee shall make recommendations to the Sectoral Council for the establishment of Sectoral Committees in line with the scope of co-operation provided for in Article 3 of the Protocol. Sectoral
Committees.

(2) In making recommendations under sub section (1), the Co-ordination Committee shall take cognizance of any existing sectoral bodies and indicate the operational linkages between these bodies and the proposed Sectoral Committee.

(3) A Sectoral Committee shall be composed of—

- (a) senior officials of the Partner States;
- (b) heads of the relevant public institutions of the Partner States;
- (c) representatives of the relevant regional institutions;
- (d) representatives of sectors covered under Article 3 of the Protocol;
- (e) representatives of the business and industry sectors; and
- (f) representatives of the civil society.

The Lake Victoria Basin Commission Bill, 2019

(4) The Partner States shall have national focal points, which shall be responsible for co-ordinating national initiatives on the Lake Victoria Basin and for sharing of information with the Commission and other stakeholders.

Functions of
the Sectoral
Committee.

12. Subject to any directions that the Sectoral Council gives, a Sectoral Committee shall—

- (a) co-ordinate regional activities and the activities of the national focal points within the Lake Victoria Basin;
- (b) be responsible for the preparation of implementation of programmes and the setting out of priorities for the Lake Victoria Basin;
- (c) monitor and keep under constant review the implementation of the programmes undertaken in the Lake Victoria Basin;
- (d) submit reports and recommendations of working groups and focal Points in the Basin; and
- (e) perform such other functions as may be conferred by this Act.

Secretariat.

13. There shall be a Secretariat of the Commission headed by the Executive Secretary and assisted by such number of Deputy Executive Secretaries as the Council may decide, and such other officers as may be appointed by the Council.

Functions of
the
Secretariat.

14. The functions of the Secretariat shall be to—

- (a) co-ordinate all activities within the scope of this Act;
- (b) initiate the co-ordination and harmonization of the policies and strategies related to the development of the Commission;

- (c) establish a regional database and promote sharing of information and development of information systems and data exchange;
- (d) convene meetings of Sectoral Committees of the Commission and other working groups;
- (e) facilitate research and studies on the sustainable development of the Lake Victoria Basin;
- (f) submit reports to the Sectoral Council through the Co-ordination Committee;
- (g) generally undertake the administration and financial management of the Commission;
- (h) disseminate information on the Commission to stakeholders and the international community;
- (i) mobilize resources for the implementation of the projects and programmes of the Commission;
- (j) develop a sustainable funding mechanism for facilitating the sustainable development in the Lake Victoria Basin;
- (k) implement the decisions of the Sectoral Council; and
- (l) perform any other function as may be conferred on it by this Act.

15. (1) The Executive Secretary shall be appointed by the Council on a competitive basis and under the principle of rotation, for a fixed term of five years.

Executive
Secretary of
the
Commission.

(2) The Executive Secretary shall—

- (a) implement the work of the Commission in accordance with the policy and decisions of the Sectoral Council;

The Lake Victoria Basin Commission Bill, 2019

- (b) submit reports on the work of the Commission and audited accounts to the Council;
- (c) be the accounting officer of the Commission; and
- (d) carry out any other duties conferred by this Act or as may be directed by the Council.

Deputy
Executive
Secretaries.

16. (1) The Executive Secretary shall be assisted by such number of Deputy Executive Secretaries as the Council may appoint on a rotational basis and who shall each serve on a three year term, renewable once.

(2) The Deputy Executive Secretaries shall be of nationalities different from that of the Executive Secretary.

Other
officers
of the
Commission.

17. (1) There shall be other officers and staff in the service of the Commission as may be determined by the Sectoral Council.

(2) All staff of the Commission shall be appointed on contract and in accordance with the staff rules and regulations, and the terms and conditions of service of the Community.

(3) The terms and conditions of service of the staff of the Commission shall be determined by the Council.

Power of
Council to
delegate to
Commission.

18. The Council may by notice in the *Gazette* delegate any of the powers conferred upon it under this Act to the Commission.

Power of
Council
to give
directions.

19. The Council may give to the Commission such general directions, not inconsistent with the provisions of this Act or any regulations, on the policy to be pursued in the administration of this Act, and the Commission shall take such steps as are necessary or expedient to give effect to the directions of the Council.

20. (1) The seal of the Community shall be the seal of the Commission unless otherwise determined to the contrary by the Council. Seal of the Commission.

(2) The affixing of the seal shall be authenticated by the Executive Secretary or any other person authorised by the Council.

(3) Any document issued under the seal of the Commission shall be admissible in evidence and shall be deemed to be executed or issued as the case may be, without further proof, unless the contrary is proved.

21. (1) The sources of funds for the Commission shall be— Funding of the Commission.

- (a) the East Africa Community budget;
- (b) contributions, grants and donations from stakeholders and development partners; and
- (c) any other source as shall be approved by the Council.

(2) The income and property of the Commission shall be used solely for the promotion of the objectives of the Commission.

22. The Commission shall prepare an annual budget for submission to the Council for approval in accordance with Article 132 of the Treaty. Annual budget.

23. (1) The Commission shall keep proper accounts and records of its transactions and affairs and ensure that the monies recovered are properly accounted for and that all payments out of its funds are correctly made and properly authorised and that adequate control is maintained over its property. Accounts, records and audits of the Commission.

(2) The annual accounts of the Commission shall be audited by the Audit Commission.

DATE: 11 MAY 2021

(3) The Commission shall within three months after the end of each financial year submit—

(a) to the Council an annual report in respect of that financial year containing—

- (i) the financial statements;
- (ii) report on the operations of the Commission;
- (iii) an audit of the procurement processes for goods and services; and
- (iv) any other information the Sectoral Council may deem appropriate.

(b) to the Audit Commission—

- (i) the accounts of the Commission for the preceding financial year; and
- (ii) the annual report referred to in paragraph (a) of this sub-section.

(4) The Audit Commission shall audit the accounts of the Commission within three months of submission and deliver to the Commission and the Council the audited accounts and a report of the audit.

(5) The Council shall cause to be laid before the East African Legislative Assembly, the annual report together with a copy of the report of the Audit Commission within six months after receiving the reports.

Protection
from
liability.

24. No civil action shall lie against any officer of the Commission or any other person appointed or authorised to perform any function under this Act, in respect of anything done or omitted to be done by that officer or person in good faith, in the exercise or performance of any power, authority or duty conferred or imposed on that officer or person under this Act.

25. The Partner States shall grant the Commission the status, privileges and immunities pertaining to the Community in accordance with Article 138 of the Treaty. Privileges and immunities.

26. The Council may, by statutory instrument on the recommendation of the Commission make regulations for the better carrying into effect the provisions of this Act. Regulations.