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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.

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

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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;

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;

- (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.

(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.