

THE EAST AFRICAN COMMUNITY

**ACT SUPPLEMENT**

*No. 1*

*1<sup>st</sup> August, 2007*

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THE EAST AFRICAN COMMUNITY  
STANDARDISATION, QUALITY ASSURANCE, METROLOGY  
AND TESTING ACT, 2006

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**FORM OF STATEMENT BY THE SPEAKER ON SUBMISSION OF  
ASSENT COPIES OF BILLS TO HEADS OF STATE**

Forwarded by me is the printed copy of the Bill entitled

**The East African Community Standardisation Quality Assurance,  
Metrology and Testing**

that was passed by the East African Legislative Assembly on the

24 day May of 2006 for your assents.

*Signed:.....*

*Speaker of the East African Legislative Assembly*

**FORM OF STATEMENT OF THE HEADS OF STATES' ASSENT**

I signify my assent to the Bill

Signed:.....  
*President of the United Republic of Tanzania*

Date of Assent:.....

Signed:.....  
*President of the Republic of Kenya*

Date of Assent:.....

Signed:.....  
*President of the Republic of Uganda*

Date of Assent:.....

THE EAST AFRICAN COMMUNITY



*Date of Assent 10<sup>th</sup> September, 2006*

*Date of Commencement 1<sup>st</sup> August, 2007*

**An Act of the Community to make provision for ensuring standardisation, quality assurance, metrology and testing of products produced or traded in the Community in order to facilitate industrial development and trade; to make provision for ensuring the protection of the health and safety of society and the environment in the Community; to establish the East African Standards Committee and the East African Accreditation Board; and to provide for related matters.**

ENACTED by the East African Community and assented to by the President of the United Republic of Tanzania, the President of the Republic of Kenya and the President of the Republic of Uganda.

Citation  
and  
com-  
mence-  
ment

1.-(1) This Act may be cited as the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2005.

(2) This Act shall come into force on such date as the Council may by notice in the *Gazette* appoint.

Interpreta-  
tion

2. In this Act unless the context otherwise requires-

**“accreditation”** means third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks;

**“Board”** means the East African Accreditation Board established under section 11 of the Act;

**“certification”** means the issue of a written statement by a third-party, based on a decision following review, that products, processes, systems or persons have fulfilled specified requirements;

**“certified reference material”** means reference material, accompanied by a certificate, one or more of whose property values are certified by a procedure which establishes traceability to an accurate realization of the unit in which the property values are expressed, and for which each certified value is accompanied by an uncertainty at a stated level of confidence;

**“Committee”** means the East African Standards Committee established under section 4 of this Act;

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

**“compulsory standard”** means an East African Standard which lays down product, service or process characteristics with which compliance has been made mandatory, in accordance with this Act;

**“conformity assessment”** means the demonstration that specified requirements relating to a product, process, system, person or body are fulfilled, with the subject field of conformity assessment including activities such as testing, inspection and certification, as well as the accreditation of conformity assessment bodies;

**“consensus”** means general agreement, characterized by the absence of sustained opposition to substantial issue by an important part of the

concerned interests, arrived at by a process that involves seeking to take into account the views of the parties concerned and to reconcile any conflicting arguments;

**“consumer”** means a person or a group of persons within the target range of the producer or manufacturer or packer of goods, and includes the market within the anticipation of such producer, manufacturer or packer;

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

**“designated institutions”** means public or private institutions nominated by the government as the main organizations representing the standards, metrology, legal metrology, accreditation, testing or certification domain respectively of the Partner State;

**“East African Standard”** means a standard approved by the East African Standards Committee and declared as such by the Council;

**“gazette”** means the official *gazette* of the Community;

**“inspection”** means the examination of a product design, product, process or installation, and determination of their conformity with specific requirements or, on the basis of professional judgement, with general requirements;

**“liaison office”** means the Standards, Quality, Metrology and Testing Office established within the structure of the East African Community Secretariat to provide administrative support in matters relating to standardization, metrology and conformity assessment;

**“measurement standard”** means a material measure, measuring instrument, reference material or measuring system intended to define, realise, conserve or reproduce a metrological unit or one or more values of a quantity to serve as a reference;

**“metrological unit”** means the seven Le Système International d'Unités (SI) base units, namely the metre, kilogram, second, ampere, Kelvin, mole and candela or any SI derived unit expressed in terms of the SI base units and supplementary units;

**“metrology”** means a science of measurements and includes scientific, industrial and legal metrology;

**“national focal point”** means a Partner State liaison office that handles or coordinates an element of conformity assessment in the absence of a national accreditation body;

**“normative document”** means a document developed and approved by the Committee, that resembles an East African Standard, but which for reasons of urgency, cost, or expediency, has not achieved the same degree of consensus as an East African Standard;

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

**“person”** means a natural or legal person;

**“product”** means goods and services designed to be released or launched in a market;

**“quality assurance”** means that part of the coordinated activities to direct and control an organization with regard to quality, focused on providing confidence that quality requirements shall be fulfilled;

**“quality system”** means the totality of policy, legal, infrastructure and institutional arrangements that provide support and services in standards, metrology, testing, certification and accreditation in both the regulatory and non-regulatory domain;

**“reference material”** means material or substance one or more of whose property values are sufficiently homogeneous and well established to be used for calibration of an apparatus, the assessment of a measurement method, or for assigning values to materials;

**“secretariat”** means the Secretariat established by as defined in the Treaty;

**“standard”** means a document approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics of products and their related processes or production methods, with which compliance is not mandatory and may cover terminology, symbols, packaging, marking or labelling requirements as they apply to a process or production method;

**“standardization”** means the activity of establishing, with regard to actual or potential problems, provisions for common and repeated use, aimed at achievement of the optimum degree of order in a given context;



**"summit"** means the Summit of Heads of State of the East African Community established by Article 9 of the Treaty;

**"technical regulation"** means a document that lays down product characteristics or their related processes or production methods, including administrative provisions, with which compliance is mandatory and may cover terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;

**"testing"** means determination of one or more characteristics of an object of conformity assessment, according to a procedure;

**"traceability"** means the property of a result of a measurement or the value of a measurement standard whereby it can be related to stated references, usually national or international measurement standards, through an unbroken chain of comparisons all having stated uncertainties;

**"Treaty"** means the Treaty for the Establishment of the East African Community;

**"WTO"** means the World Trade Organisation; and

**"WTO TBT Agreement"** means the Agreement on Technical Barriers to Trade of the World Trade Organisation.

3. The objects of this Act are to—

(a) protect and improve the health and safety of consumers and the public in general;

(b) protect the environment and reduce waste;

(c) enhance consumer confidence and limit consumers exploitation by increasing the number of products and processes that conform to established standards;

(d) enhance the quality, reliability and reputation of products produced or traded in the Community;

(e) harmonise national and East African Standards with international standards to reduce costs, enhance compliance and develop trade opportunities;

- (f) increase opportunities for companies within the Community to participate in international technology transfer through standardisation, quality assurance, metrology and testing programmes;
- (g) facilitate regional and international trade.

4.-(1). There is established a Committee to be known as the East African Standards Committee.

(2) The functions of the Committee shall be to—

- (a) undertake and coordinate activities related to standardization, metrology and conformity assessment.
- (b) develop and establish frameworks that advance compliance by the Partner States with their obligations under this Act;
- (c) set out priorities and prepare implementation programmes with regard to standardisation, metrology and conformity assessment activities at national and Community levels consistent with the provisions of this Act;
- (d) monitor and keep under constant review the implementation of the standardization, metrology and conformity assessment programmes at national and Community levels;
- (e) submit standards, reports and recommendations to the Council on its own initiative or upon request of the Council concerning the implementation of the Treaty that affect standardisation, metrology and conformity assessment;
- (f) establish procedures for the development, approval, *gazetting* and withdrawal of harmonised East African Standards including the adoption of these standards at the national levels;
- (g) establish liaison mechanisms with other regional and international organisations consistent with the objects of this Act;
- (h) monitor and keep under constant review the effectiveness of the national WTO TBT Agreement enquiry points; and

- (i) hear appeals with regard to administrative measures for Compulsory Standards implemented in the Partner States;
  - (j) perform other functions consistent with the objects of this Act, or as directed by Council.
- (3) In carrying out its functions, the Committee shall have due regard for the requirements and obligations of the WTO TBT Agreement.
- (4) The Committee shall comprise -
- (a) two chief executives from the national quality system institutions designated under section 6 (1) (a), (b) and (c), from each Partner State;
  - (b) one representative of private sector testing laboratories and certification organizations from each Partner State; and
  - (c) two representatives of national manufacturing associations, trading associations and consumer organizations from each Partner State.
- (5) The Committee may establish subcommittees to assist it in its operations.
- (6) The Committee, in executing its responsibilities, shall liaise with regulatory authorities in the Partner States.
- (7) The Committee shall -
- (a) meet at least once every year, and may hold extraordinary meetings at the request of any Partner State;
  - (b) be chaired in rotation among the Partner States, corresponding to the tenure of the Summit;
  - (c) take decisions by consensus; and
  - (d) determine its own procedures.

Establishment and Functions of the Liaison Office

5.-(1) There is established a liaison office to provide administrative support to the Committee.

(2) The functions of the liaison office shall be to—

- (a) facilitate and provide logistical support for the Committee and the Board;
- (b) provide input into the deliberations of the Committee in establishing priority areas for standardization, metrology and conformity assessment programmes at national and Community levels;
- (c) provide logistical support to the Committee in the design and management of Community projects for the implementation of standardization, metrology and conformity assessment activities;
- (d) arrange for public review of draft East African Standards to solicit for comments by interested parties;
- (e) arrange for the presentation of draft East African Standards to the Council for declaration as East African Standards and for the *gazetting* of the Standards;
- (f) maintain the catalogue and authoritative text of the declared East African Standards;
- (g) coordinate and provide regional and international notifications regarding East African Standards;
- (h) facilitate responses to enquiries with respect to standards and technical regulations;
- (i) facilitate the liaison of regional standardization, metrology and conformity assessment activities to other relevant sub-regional, regional and international activities;

*Standardisation, Quality Assurance, Metrology and Testing*

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- (j) identify training needs and areas for capacity building in standardisation, metrology and conformity assessment for the Committee;
- (k) publicise and promote standardisation, metrology and conformity assessment activities;
- (l) coordinate the activities of the Committee;
- (m) report to the Committee on the implementation of the decisions of the Council related to standardization, metrology and conformity assessment;
- (n) prepare budgets and work plans of the Committee; and
- (o) perform any other activity requested by the Committee;
- (p) perform other function consistent with the objects of this Act.

6.-(1) Each Partner State shall designate a national quality system institution to function as—

Designation of National Institutions

- (a) a national standards body;
- (b) a national metrology institute;
- (c) a national legal metrology department; and
- (d) a national accreditation body.

(2) An institution designated under subsection (1) may be a single institution combining a number of responsibilities, or two or more institutions each with its own designated responsibilities.

(3) A designated institution shall on request provide information to another designated institution in respect of standardisation, metrology and conformity assessment.

National  
Standards  
Bodies

7.—(1) A national standards body designated under section 6(1) (a) shall—

- (a) develop and publish national standards in line with internationally recognized procedures;
- (b) liaise with relevant regional and international organisations with the similar objectives;
- (c) give effect to the decisions and recommendations of the Council and the Committee with regard to East African Standards;
- (d) promote and facilitate the use of standards as the basis for the development of technical regulations;
- (e) provide standards and standard related information to the public and private sectors; and
- (f) promote the concept of standardisation in general.

(2) A national standards body shall represent or coordinate representation of the Partner State on—

- (a) relevant regional and international standardisation organisations such as the African Regional Standards Organisation (ARSO), the International Organisation for Standardisation (ISO); the International Electro-technical Commission (IEC); and
- (b) the Committee.

National  
Metro-  
logy  
Institutes

8.—(1) A national metrology institute designated under section 6 (1) (b) shall—

- (a) realise, maintain and act as custodian of the national measurement standards according to the needs of the private and public sectors and in accordance with international standards;

- (b) disseminate units of measurement and maintain a traceability chain; National Standards Bodies
- (c) ensure that the national measurement capabilities are appropriately tied to the international mutual recognition arrangements on measurement capability;
- (d) liaise with regional and international organisations with the similar objectives;
- (e) give effect to the decisions and recommendations of the Council and the Committee with regard to metrology;
- (f) provide information on metrology to the public and private sector; and
- (g) promote the concept of metrology in general.

(2) A national metrology institute shall represent or coordinate representation of the Partner State on—

- (a) relevant regional and international metrology organisations, such as the Bureau International de Poids et Mesures (BIPM);
- (b) the International Committee of weights and measures (CIPM) Mutual Recognition Arrangement; and
- (c) the Committee.

9.—(1) A national legal metrology department designated under section 6 (1) (c) shall— National Legal Metrology Departments

- (a) protect society from the consequences of false measurements in public and private transactions in the work environment and the health and safety sectors;
- (b) approve or ensure approval by another designated institution, measuring equipment to be used for a public or private transaction in the work environment and the health and safety sectors;

- (c) control the use of measuring equipment in public and private transactions;
- (d) control the use of measuring equipment in the work environment and the health and safety sectors;
- (e) control pre-packaging of products;
- (f) liaise with regional and international organisations with similar objectives;
- (g) give effect to the decisions and recommendations of the Council and the Committee with regard to legal metrology;
- (h) provide information on legal metrology to the private and public sectors;
- (i) promote the concept of legal metrology in general;
- (j) ensure that legal metrology measurement standards are traceable to national measurement standards; and
- (k) perform other functions consistent with the objects of this Act.

(2) A national legal metrology department shall represent or coordinate representation of the Partner State on—

- (a) relevant regional and international legal metrology organisations, such as the Organization Internationale de Metrologie Legale (OIML);
- (b) the International Committee of Weights and Measures (CIPM) Mutual Recognition Arrangement; and
- (c) the Committee.

National  
Accreditation  
Bodies

**10.**—(1) A national accreditation body designated under section 6(1) (d) shall—

- (a) accredit conformity assessment bodies and personnel within a Partner State;
- (b) monitor international activities relevant to its own activities;



- (c) represent the Partner State on the relevant regional and international accreditation bodies;
- (d) enter into agreements on mutual recognition with regional and international accreditation bodies;
- (e) give effect to the decisions of the Board and the Council; and
- (f) promote the concept of accreditation in general.

(2) A national accreditation body designated under section 6(1) (d) shall be recognised by the Partner States provided that the body demonstrates that it is pursuing international recognition or is internationally recognised by the International Accreditation Form.

**11.-(1)** There is established board to be known as the East African Accreditation Board.

East  
African  
Accredita-  
tion  
Board

(2) The Board shall comprise the chief executives of the national accreditation bodies and the national focal points.

(3) The functions of the Board shall be to-

- (a) facilitate cooperation and coordinate accreditation activities to avoid duplication of functions of the national accreditation bodies and national focal points;
- (b) facilitate accreditation of conformity assesment service providers within the Partner States; and
- (c) promote the acceptability of test, certification and inspection results from accredited organisations within the Community.

(4) The Board shall-

- (a) meet at least once every year, and may hold extraordinary meetings at the request of any Partner State;

- (b) be chaired in rotation among the Partner States, corresponding to the tenure of the Summit
- (c) take decisions by consensus; and
- (d) determine its own procedures.

Test  
Laborato-  
ries

**12.**—(1) Partner States may establish or designate organisations to function as test laboratories to provide scientific and technical services.

(2) Where a test laboratory is established or designated under section 12(1), it shall—

- (a) supply information on analysis methods and comparative testing to other laboratories;
- (b) co-ordinate the development of new analytical methods.
- (c) organise and participate in inter-laboratory comparisons and proficiency testing schemes between various national, regional and international laboratories;
- (d) ensure that certified reference materials in strategic areas, for quality control, are available;
- (e) ensure that adequate and competent staff is available; and
- (f) pursue accreditation.

(3) Partner States shall ensure that test laboratories established or designated under section 12(1)—

- (a) have qualified staff with sufficient knowledge of the relevant techniques;
- (b) have sufficient resources for carrying out the relevant tasks;
- (c) have suitable infrastructure to enable them to perform the required tests; and
- (d) operate quality management systems in accordance with the relevant international standards.

(4) Where a designated test laboratory of a Partner States is accredited, the other Partner States shall accept the test results and test reports of that test laboratory.

(5) Where a designated test laboratory of a Partner State is not accredited, the other Partner States may accept the test results and test reports from that laboratory by agreement.

**13.**-(1) An East African Standard shall be developed jointly by the national standards bodies of the Partner States.

Develop-  
ment of  
East  
African  
Standard

(2) An East African Standard shall be developed in accordance with procedure approved, published and maintained by the Committee.

**14.**-(1) The Council may by notice in the *Gazette* declare a standard for any product or for the manufacture, production, processing, treatment or performance of any product, or for any process, installation, construction, testing, operation or use of any article or device to be an East African Standard.

Declara-  
tion of  
East  
African  
Standard

(2) The Council may amend or withdraw an East African Standard.

(3) The Council shall before declaring an East African Standard ensure that-

- (a) the standard is set or amended in accordance with procedures developed, published and maintained by the Committee; and
- (b) the interests of all relevant parties, including the manufacturer, supplier and consumer are considered.

(4) Only a standard declared by the Council shall be called an East African Standard.

(5) A declaration or amendment of an East African Standard shall be sufficient where the *Gazette* notice states the title and number of the standard.

**15.**-(1) Within six months of the declaration of an East African Standard, the Partner States shall adopt, without deviation from the approved text of the standard, the East African Standard as a national standard and withdraw any existing national standard with similar scope and purpose.

Adoption  
at East  
African  
Standards  
by  
Partner  
States

(2) The national standards bodies of the Partner States shall publish the text of the adopted East African Standard as a national standard in accordance with ISO/IEC Directives.

Norma-  
tive  
Docu-  
ments

**16.**—(1) The Committee may develop and approve a normative document to serve as an East African Standard.

(2) For purposes of urgency, a normative document shall be developed in place of an East African Standard.

(3) A normative document shall be valid for a period of two years from the date of approval by the Committee.

(4) The Committee shall publish guidelines for the compilation and publication of normative documents.

(5) The normative documents shall be published by the national standards bodies of the Partner States in a manner that distinguishes them from East African Standards.

Catalogue  
and  
Authori-  
tative  
Text of  
East  
African  
Standard

**17.**—(1) The Secretariat shall maintain a catalogue of East African Standards and normative documents.

(2) The catalogue shall be made available to the public by the Secretariat in such format as the Council may direct.

(3) The catalogue shall include—

(a) the title and number of the East African Standard or normative document; and

(b) a summary of the scope and purpose of that East African Standard or normative document.

(4) The Secretariat shall maintain the authoritative text of each East African Standard and normative document in hard copy and electronic format, in a manner that ensures the integrity of the text.

**18.-(1)** Notwithstanding any other law-

- (a) the copyright in any East African Standard or other normative documents shall vest in the national standards bodies of the Partner States; and
- (b) the national standards bodies of the Partner States shall not be deprived of a copyright in paragraph (a) where a standard or a provision of the standard is incorporated in a law in terms of the provisions of any law.

Copyright  
and  
Publica-  
tion of  
East  
African  
Standards

(2) A person shall not without the authorisation of a national standards body of a Partner State; publish, reproduce, record or transmit any document or any part of a document in respect of which a copyright vests under subsection (1),

**19.-(1)** The Council on the recommendation of the Committee and subject to the expiry period in subsection 6 (d) may declare an East African Standard or a provision of that standard to be a compulsory standard throughout the Community

Declara-  
tion  
Publica-  
tion and  
Imple-  
mentation  
of  
Compul-  
sory  
Standards

(2) The declaration of a compulsory standard shall be to-

- (a) prevent deceptive practices;
- (b) protect human health and safety;
- (c) protect animal or plant life or health; and
- (d) protect the environment.

(3) The Council on the recommendation of the Committee may amend or withdraw a compulsory standard.

(4) The Committee shall when recommending to the Council that an East African Standard be declared a compulsory standard, ensure, that-

- (a) the problem to be solved is precisely stated;
- (b) the intervention is based on clear evidence that government action is justified;

- (c) it is not practicable to achieve the purpose of the standard other than by declaring it a compulsory standard;
- (d) the required legislation and infrastructure to enforce the compulsory standard in the Partner States are in place; and
- (e) appropriate notification under the WTO TBT Agreement has been forwarded to the WTO Secretariat.

(5) The Council shall, before declaring an East African Standard a compulsory standard publish in the *Gazette* and in at least one newspaper of national circulation in each Partner State, a notice of its intention to declare a compulsory standard.

(6) The notice under subsection (5) shall-

- (a) contain the number and title of the East African Standard;
- (b) state the reason for declaring it a compulsory standard;
- (c) contain the addresses where the complete text of the East African Standard may be viewed or obtained from; and
- (d) invite objections from any interested person to be lodged with the Council, within sixty days in a manner as the Council may specify in the notice.

(7) The Council shall not declare an East African Standard a compulsory standard, unless all persons who lodged objections under subsection 6(d) have been given an opportunity to be heard.

(8) Upon declaration of a compulsory standard, the Council shall publish a notice in the *Gazette* to that effect.

(9) The notice of the compulsory standard in the *Gazette* shall contain-

- (a) the number and title of the compulsory standard; and

(b) the proposed date of implementation of the standard.

(10) Within three months of the declaration of a compulsory standard, each Partner State shall ensure that the compulsory standard is implemented in its territory.

(11) The Partner States shall approximate their conformity assessment modalities applicable for demonstrating compliance with compulsory standards.

(12) A product within the scope of a compulsory standard which is approved by a public regulatory authority of a Partner State appointed under section 21 shall be accepted by the public regulatory authorities of the other Partner States without imposition of any additional requirements.

(13) Subsection (12) shall only apply after the Partner States approximate their conformity assessment modalities as required under subsection (11).

**20.**—(1) Each Partner State shall appoint public regulatory authorities to administer compulsory standards.

Regulatory  
Authorities  
in  
Partner  
States

(2) Each Partner State shall notify the Secretariat and the Partner States of the public regulatory authorities appointed under subsection (1).

(3) The Partner States shall ensure that the public regulatory authorities-

- (a) administer the compulsory standards;
- (b) monitor and take measures to ensure compliance with the compulsory standards;
- (c) grant approval for the manufacture of products, operation of processes and rendering of services to which a compulsory standard applies, when required;
- (d) grant approval for trading, distribution, selling or bringing into circulation products and rendering of services to which a compulsory standard applies, when required;

- (e) apply sanctions in cases of non compliance with the compulsory standards;
- (f) collect fees and levies payable in respect of products, and processes to which a compulsory standard applies; and
- (g) make recommendations to the Committee on the publication, amendment and withdrawal of particular compulsory standards.

Confor-  
mity  
Assess-  
ment  
Providers  
for  
Compul-  
sory  
Standards

**21.-(1)** Each Partner State shall register technically competent national conformity assessment service providers including inspection agencies, test laboratories and certification organizations to provide services in support of the implementation of compulsory standards in its territory, and shall notify the Secretariat and the other Partner States accordingly.

(2) A national conformity assessment service provider may be a person or a private or a public entity registered under the laws of the Partner State.

(3) A national conformity assessment service provider that loses its technical competency or fails to conform to any legal requirements shall be suspended and where the service provider does not regain its technical competence or comply with legal requirements within a period of six months from the date of suspension, it shall be deregistered by the Partner State.

(4) Suppliers of products and processes shall procure conformity assessment services in compliance with compulsory standards, from registered national conformity assessment service providers or from accepted foreign conformity assessment service providers.

(5) A Partner State shall notify the other Partner States of its intention to accept conformity assessment results from foreign conformity assessment service providers in the administration of specific compulsory standards and the basis for this acceptance.

(6) A foreign conformity assessment service provider shall be a person or a private or a public entity registered as such under the laws of a foreign country.



(7) Each Partner State shall maintain a register of all national and foreign conformity assessment service providers and make it accessible to the public.

(8) Each Partner State shall ensure that its regulatory authorities accept as far as is practicable, inspection results, test results and certification from conformity assessment service providers notified by the other Partner States.

**22.—(1)** No person shall manufacture, trade distribute, sell, supply or bring a product that is within the scope of a compulsory standard into the Community unless the product conforms to the requirements of the compulsory standard.

Enforcement of Compulsory Standards

(2) The Partner States shall ensure that their public regulatory authorities suspend the manufacture, trading distribution or sale of products that do not conform to compulsory standards.

(3) Where products already on the market do not comply with the compulsory standards, the regulatory authority shall-

(a) order the importer or supplier of the product to remove the product from the market;

(b) order the importer of the product to return it to the country of origin; and

(e) confiscate and destroy the product.

(4) In addition to the powers in subsections (2) and (3), the Partner States shall apply their national legislation in the enforcement of compulsory standards.

(5) Any person aggrieved by a decision or order under this section may within fourteen days of the decision or order appeal to the Committee.

(6) An appeal to the Committee shall be dealt with within forty five days of the appeal being lodged.

(7) During the hearing of the appeal, the manufacture, trade, distribution, sale or circulation of the product that does not conform to compulsory standards shall remain suspended.

National  
Technical  
Regula-  
tions

**23.—(1)** Where a Partner State intends to develop and implement a national technical regulation relating to a product that does not fall within the scope of a compulsory standard, the Partner States shall notify the Secretariat and the other partner State of the National technical regulation at least sixty days before the national technical regulation comes into force.

(2) Partner States shall where practicable base their national technical regulations on East African Standards, where these exist, in order to, where necessary, lead to the declaration of the technical regulations as compulsory standards.

Declara-  
tion and  
Accept-  
ance of  
Product  
Certifica-  
tion  
Marks

**24.—(1)** Each Partner State shall notify the Council of the product certification marks within the jurisdiction of the Partner State including the design of the marks.

(2) Partner States shall recognise as equal to their own, product certification marks awarded by national quality system institutions of other Partner States provided that which the administrative provisions with control the use of the marks meet the obligations in this section.

(3) Partner States shall ensure that the administrative provisions relating to the use of product certification marks meet the following requirements-

- (a) product certification marks are established and appropriately registered to confer protection similar to trade marks;
- (b) product certification marks are not identical to or so nearly resemble any trade mark registered under the trade mark law of a Partner State;
- (c) no person is allowed to apply a product certification mark specified under paragraph (a), of this subsection to any product or label attached to any product except under a permit issued by

a national quality systems institution and unless that product complies with the relevant standard; and

- (d) pre-award testing and quality assurance requirements, post-award surveillance, application of the mark and offences and penalties between the Partner States are approximated to ensure similarity in awarding certification marks in order to foster mutual recognition of the product certification marks and acceptance by the consumers.

**25.** Partner States shall enact or amend and approximate their national laws to provide penalties for the following offences-

Offences

- (a) statements or representations made, that convey the impression that a product meets the requirements of a standard where does not;
- (b) statements or representation made, that convey the impression that a product carries the product certification mark where it does not; and
- (c) continuous use of a product certification mark where the permit for the use is revoked or expired.

**26.**-(1) Any Partner State whose interests have not been appropriately recognised by the Committee in the -

Disputes between partner states

- (a) development of an East African Standard,
- (b) establishment and application of rules and procedures of the Committee, or
- (c) development and implementation of metrology, legal metrology, testing, certification or accreditation systems,

may appeal to the Council in writing no later than sixty days or the relevant decision of the Committee.

(2) Any dispute between the Partner States regarding—

- (a) the use of standards to restrict access of products into the other Partner States market; or
- (b) deliberate and wilful neglect by a Partner State to ensure compliance with standards within its jurisdiction to the detriment of the other Partner States, shall be referred to the Council for determination.

(3) Where a Partner State fails to meet its obligations under this Act, any of the other Partner States may appeal to the Council in writing to have the matter resolved.

(4) Where the Council fails to resolve a matter referred to it the matter shall be referred to the East African Court of Justice.

Approximation  
and  
Alignment  
of  
National

**27.** The Partner States shall approximate their national laws on standardisation, quality assurance, metrology, legal metrology, testig and accreditation and align them with this Act.

Laws  
Regulations

**28.—(1)** The Council may make, amend or revoke regulations generally for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Council shall make regulations providing for -

- (a) the conduct of standardisation, metrology and conformity assessment;
- (b) ensuring adequate support for standardization, metrology and conformity assessment activities.
- (c) the forms that may be required under the provisions of this Act; and
- (d) the fees to be paid under this Act.