

Uganda

Eastern and Southern African Trade and Development Bank Act Chapter 53

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Eastern and Southern African Trade and Development Bank Act
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Eastern and Southern African Trade and Development Bank Act

Chapter 53

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An Act to provide for the carrying out of the obligations of the Government of Uganda arising under the charter of the Eastern and Southern African Trade and Development Bank and for other matters relating thereto.

1. Interpretation

In this Act—

- (a) **"bank"** means the Eastern and Southern African Trade and Development Bank established by the charter adopted by the member States of the Preferential Trade Area of the Eastern and Southern African States on the 12th July, 1985;
- (b) **"charter"** means the Charter of the Eastern and Southern African Trade and Development Bank;
- (c) **"Minister"** means the Minister responsible for finance.

2. Financial provisions

- (1) There shall be charged and paid out of the Consolidated Fund without further appropriation than this Act all payments required to be made from time to time by the Government to the bank under the terms of the charter.
- (2) For the purpose of providing any sums required for making payments under this section, the Minister may, on behalf of the Government, make such arrangements as are necessary, or raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to payment, redemption or otherwise as he thinks fit, and the principal and interest of those securities and the charges and expenses incurred in connection with their issue shall be charged on and issued out of the Consolidated Fund.
- (3) Monies received by the Government from the bank, or raised under subsection (2), shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which the Consolidated Fund is available.

3. Articles 24 and 43 to have the force of law

Articles 24 and 43 of the charter which are set out in the Schedule to this Act shall have the force of law in Uganda.

Schedule (Section 3)

Provisions of the charter which have the force of law in Uganda

Article 24 – Currencies

1. Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.
2. The Member States may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following:—
 - (a) currencies received by the Bank in payment of subscriptions to its capital stock;
 - (b) currencies purchased with the currencies referred to in subparagraph (a) of this paragraph;
 - (c) currencies received by the Bank by borrowing for inclusion in its ordinary capital resources;
 - (d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in subparagraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantee made and other services rendered by the Bank; and
 - (e) currencies received from the Bank in the distribution of the net income of the Bank in accordance with the provisions of Article 22 of this Charter.
3. The Member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency received by the Bank which does not come within the provisions of paragraph 2 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.
4. The Member States may not maintain or impose any restrictions on the holding or use of the Bank, for making amortisation payments or for repurchasing in whole or in part the obligations of the Bank, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.
5. Each Member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 17 of this Charter shall be made available in exchange for the currency of the Member States concerned.

Article 43 – Status, capacity, immunities and privileges

1. To enable the Bank to achieve its objectives and perform the functions with which it is entrusted, the status, capacity, privileges, immunities and exemptions set out in paragraphs 3 to 10 of this Article shall be accorded with respect to the Bank in the territory of each Member State.
2. The Bank shall possess full juridical personality and, in particular, full capacity:—
 - (a) to enter into contracts;
 - (b) to acquire and dispose of immovable or movable property; and
 - (c) to institute legal proceedings.
3. The Bank, its property and assets shall enjoy immunity from every form of legal process except insofar as in any particular case it has, through the President, expressly waived its immunity:

Provided however that no waiver of immunity shall extend to any measure of execution.

4. The principal as well as regional offices of the Bank shall be inviolable. The property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation, and any other form of interference whether by legislative, executive, judicial or administrative action.
5. The Archives of the Bank and in general all documents belonging to it or held by it, shall be inviolable.
6. The official communications of the Bank shall be accorded by each Member State the same treatment that it accords to the official communications of other Member States or international organisations including diplomatic missions.
7.
 - (a) The Bank, its property, other assets, income and its operations and transactions, shall be exempt from all taxation and from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Bank for its official use. The Bank shall also be exempt from any obligation relating to the payment, withholding or collection of any tax or duty.
 - (b) No tax of any kind shall be levied on any obligations or securities issued by the Bank, including any dividend or interest thereon, by whomever held—
 - (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
 - (ii) if the sole reason for the imposition of such a tax is the place or currency in which such obligations or securities are issued, made payable or paid or the location of any office maintained by the Bank.
 - (c) No tax of any kind shall be levied on any obligations or securities guaranteed by the Bank including any dividend or interest thereon, by whomever held—
 - (i) which discriminates against such obligations or securities solely because it is guaranteed by the Bank; or
 - (ii) if the reason for the imposition of such a tax is the location of any office maintained by the Bank.
8. All governors, directors, alternates, officers and staff whose names and categories are specified by the President and approved by the Council shall enjoy in the territories of the members of the Bank the same privileges and immunities as those enjoyed by the representatives of the Member States and the employees of the Preferential Trade Area of similar rank under the provisions of paragraph 4 of Article 44 of the Treaty.
9. All officials of the Bank shall be provided with a special identity card certifying that they are officials of the Bank enjoying the privileges and immunities specified in this Charter.
10. Without prejudice to the foregoing provisions, the Member States undertake to accord to all representatives of the Member States, all officials of the Bank and experts providing advice or assistance to the Bank, such facilities and courtesies as are necessary for the exercise of their functions in connection with the Bank. All such persons shall more particularly, in pursuance of the provisions of this Charter, have the right of entry into sojourn, or exist as is necessary for the purpose of performing their duties. They shall be granted facilities for speedy travel and visas, where required, and this shall be granted promptly and free of charge.
11. The Bank shall prevent its premises from becoming a refuge for fugitives from justice or for persons subject to extradition or persons avoiding service of legal process or judicial proceedings.
12. The President shall have the right and duty to waive the immunity of any official of the Bank in cases where in his opinion the immunity would impede the cause of justice and can be waived without prejudice to the interests of the Bank.
13. The Bank shall co-operate at all times with the appropriate authorities of the Member States to facilitate the proper administration of justice, secure the observance of national laws, and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.