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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

REPORT ON-

THE RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN
THE EUROPEAN UNION, OF THE ONE PART AND THE REPUBLIC OF KENYA, A
MEMBER OF THE EAST AFRICAN COMMUNITY OF THE OTHER PART

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	23 APR 2024
	DAY: TUESDAY
TABLED BY:	Hon Marianne Kitany, MP Vice-chairperson, Trade & Industry
CLERK-AT THE TABLE:	A. shubuko

Directorate of Departmental Committees,
Clerk's Chambers,
Parliament Buildings,
NAIROBI.

April, 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

ACP	:	Africa, Caribbean and Pacific
EAC	:	East Africa Community
EPA	:	Economic Partnership Agreement
EU	:	European Union
WTO	:	World Trade Organisation

LIST OF ANNEXURES

1. The adoption list of the report **Annex 1**
2. Minutes on the adoption proceedings of the Committee **Annex 2**
3. Newspaper advertisement on public participation **Annex 3**
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CHAIRPERSON'S FOREWORD

The Economic Partnership Agreement between the European Union, of The One Part, and the Republic of Kenya, a Member of The East African Community, of The Other Part (Hereinafter referred to as "the EPA") was laid before the House on Wednesday, 6th March, 2024, and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration.

The EPA was presented to the National Assembly for ratification pursuant to the provisions of the Constitution and the Treaty Making and Ratification Act of 2012. The ratification of the EPA was approved by the Cabinet on 15th December 2023, and on 18th December, 2023, the EPA was between the EU and Kenya.

The EPA seeks to boost bilateral trade in goods, increase foreign direct investments and spur economic growth by opening the European Union market to Kenyan exports "duty-free, quota-free". It aims at the implementation of the EU EAC Economic Partnership Agreement, which was negotiated with EAC partner states in 2014. Kenya signed and ratified the same in 2016 and attained "duty-free, quota-free" access to the EU market. The current bilateral EPA between Kenya and the EU has made necessary adjustments for the implementation of the regional EPA by an individual EAC member. Once ratified, Kenya will with immediate effect enjoy the duty-free quota-free exportation of goods for twenty-five (25) years, hence ensuring a secure long-term and predictable trade framework per the modalities set out in the EPA. For the EU, it is intended that market liberation for goods originating in the EU will be gradual over the 25-year period, with the tariff liberalisation schedule set out in the EPA.

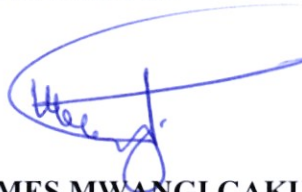
According to the provisions of Article 118 (1)(b) of the Constitution on public participation and Section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies of nationwide circulation, on 9th March, 2024, requesting for submissions of memoranda on the EPA. The Committee received memoranda from several stakeholders in support of EPA.

Further, the Committee deliberated on the EPA with the Government agencies involved, in recognition of the crosscutting nature of the Agreement. The Committee also received views from stakeholders for two days, the 17th and 18th of April, 2024, and thereafter retreated to write this report.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. The Committee also wishes to thank all stakeholders who submitted their comments on the EPA. Finally, I wish to express appreciation to the Honourable Members of the Committee, and the Committee Secretariat for their immense contribution towards the preparation and production of this Report.

Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012, and Standing Order 199, it is my pleasant duty to present the Report of the Departmental Committee on Trade, Industry and

Cooperatives on its consideration of the Treaty on the establishment of the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part.



**HON. JAMES MWANGI GAKUYA, MP
CHAIRPERSON**

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Trade, Industry and Cooperatives is established under Standing Order 216 (1).

1.2 Mandate of the Committee

2. The Committee is mandated under Standing Order 216 (4) and (5) to inter alia-
 - a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - b) study the programme and policy objectives of ministries and departments and the effectiveness of the implementation and effectiveness of the implementation;*
 - c) study and review all legislation referred to it;*
 - d) study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - e) investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - (fa) examine treaties, agreements and conventions;*
 - g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - h) consider reports of Commissions and independent offices submitted to the house pursuant to the provisions of Article 254 of the Constitution; and*
 - i) examine any questions raised by Members on a matter within its mandate.*
3. In executing its mandate, the Committee oversees the Ministry of Investment, Trade and Cooperatives;
4. According to the Second Schedule of the Standing Orders, the Committee is mandated to consider the following subjects; trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion and development including micro, small and medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.

1.3 Committee Membership

5. The Committee was constituted by the House on 27th October, 2022, and comprises of the following Members;

Chairperson

Hon. James Mwangi Gakuya, MP

Embakasi North Constituency

UDA Party

Vice-Chairperson

Hon. Kitany Jebet Marianne, MP

Aldai Constituency

UDA Party

Members

Hon. Dr. Oundo Wilberforce Ojiambo, MP

Funyula Constituency

ODM Party

Hon. Oluoch Anthony, MP

Mathare Constituency

ODM Party

Hon. Dr. Adagala Beatrice Kahai, MP

Vihiga Constituency

ANC Party

Hon. Guyo Adhe Wario, MP

North Horr Constituency

KANU Party

Hon. Githinji Robert Gichimu, MP

Gichugu Constituency

UDA Party

Hon. Korir Adams Kipsanai, MP

Keiyo North Constituency

UDA Party

Hon. Kamene Joyce, MP

Machakos Constituency

WDM Party

Hon. Maina Mwago Amos, MP

Starehe

Jubilee Party

Hon. Mwalyo Joshua Mbithi, MP

Masinga Constituency

Independent Member

Hon. Sakimba Parashina Samwel, MP

Kajiado South Constituency

ODM Party

Hon. Wanaina Antony Njoroge, MP

Kieni Constituency

UDA Party

Hon. Waithaka John Machua

Kiambu Constituency

UDA Party

1.4 Committee Secretariat

7. The following are the Secretariat who support the Committee;

Ms. Rose Mudibo, OGW
Senior Clerk Assistant /Head of Secretariat

Mr. Ellam Omuhinda
Clerk Assistant III

Ms. Everlyn Klaudia Orina
Clerk Assistant III

Ms. Doreen Karani
Senior Legal Counsel

Ms. Nancy Chepkemoi
Legal Counsel II

Mr. Arkan Ali Mumin
Research Officer III

Ms. Priscilla Saidi
Research Officer III

Mr. Daniel Psirmoi
Media Relations Officer

Ms. Pauline Sifuma
Hansard Reporter

Mr. Loice Olesia
Fiscal Analyst III

Mr. Peris Kaburi
Serjeant-At-Arms

Mr. Cosmas Akhonya
Audio Recording Officer II

2.0 ANALYSIS OF THE ECONOMIC PARTNERSHIP AGREEMENT

2.1 LEGAL PROVISIONS ON TREATY-MAKING AND RATIFICATION

8. Article 2(5) of the Constitution of Kenya, 2010, provides that the general rules of international law, while Article 2(6) of the Constitution provides that, any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.
9. The Treaty Making and Ratification Act, No. 45 of 2012 (hereinafter referred to as “the Act”), was enacted by Parliament to give effect to Article 2(6) of the Constitution. The Act governs the making and ratification of treaties in Kenya.
10. Section 2 of the Act defines a treaty as an “international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation and includes a convention”.
11. Under the Constitution and the Act, the responsibility of initiating the treaty making process, negotiating and ratifying a Treaty lies with the Executive. In making this decision, the Executive ought to be guided by Section 5(2) of the Act, which provides considerations that must be followed including;
 - a) the need that the new treaty is to meet;
 - b) the existing legal regime, including the extent of its applicability to the perceived problem;
 - c) the probability of reaching the required measure of agreement on the solution aimed for;
 - d) any relevant legislative efforts related to the perceived problem;
 - e) the optimal form for the proposed treaty;
 - f) the likelihood that the proposed treaty shall be accepted by a sufficient number of states, where the treaty is multilateral;
 - g) the anticipated time schedule for completing the treaty-making process;
 - h) the expected costs of formulating and adopting the treaty to Kenya; and
 - i) in formulating treaties relating to technical or scientific problems; whether extensive scientific studies or research have been carried out to determine the parameters of the problem and the lines of potential solutions.

2.2 ROLE OF THE NATIONAL ASSEMBLY IN TREATY MAKING AND RATIFICATION

12. Although initiation of the treaty making process is the role of the Executive, Parliament as the legislative arm decides whether a Treaty shall form part of the law of Kenya, upon which the

treaty comes into force. This flows from Article 94(5) of the Constitution, which provides that “no person or body, other than Parliament, has the power to make provision having the force of law in Kenya, except under authority conferred by this Constitution or by legislation”.

13. After the Treaty has been approved by the National Assembly, it therefore becomes binding upon Kenya and Kenya cannot invoke the provisions of its domestic law to justify any failure to perform its obligations under a treaty ratified by it.
14. According to the Vienna Convention on the Law of Treaties, 1969 which governs the making and ratification of treaties internationally, a treaty becomes binding on a state upon ratification.
15. Section 2 of the Treaty Making and Ratification Act defines ratification as “the international act by which the State signifies its consent to be bound by a treaty, and includes acceptance, approval and accession where the treaty so provides”.
16. Under Section 7 of the Act, where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining—
 - a) the objects and subject matter of the treaty;
 - b) any constitutional implications including—
 - i. any proposed amendment to the Constitution; and
 - ii. that the treaty is consistent with the Constitution and promotes constitutional values and objectives;
 - c) the national interests which may be affected by the ratification of the treaty;
 - d) obligations imposed on Kenya by the treaty;
 - e) requirements for implementation of the treaty;
 - f) policy and legislative considerations;
 - g) financial implications;
 - h) ministerial responsibility;
 - i) implications on matters relating to counties;
 - j) the summary of the process leading to the adoption of the treaty;
 - k) the date of signature;
 - l) the number of states that are party to the treaty;
 - m) the views of the public on the ratification of the treaty;
 - n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
 - o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and
 - p) whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

2.3 CONSIDERATION BY THE NATIONAL ASSEMBLY

2.3.1 The Treaty Making and Ratification Act, No. 45 of 2012

17. Section 8 of the Treaty Making and Ratification Act, No. 45 of 2012, provides for the consideration of Treaties by Parliament. Upon approval of a Treaty by Cabinet, the relevant Cabinet Secretary shall submit the Treaty together with a memorandum on the Treaty to the Speaker of the National Assembly for tabling pursuant to the Standing Orders.

18. Section 8(3) of the Treaty Making and Ratification Act, No. 45 of 2012, provides that the relevant Parliamentary Committee in the National Assembly is tasked with consideration of the Treaty, and shall ensure public participation in the ratification process in accordance with the laid down parliamentary procedures (Section 8(3) of the Act).

2.3.2 Decision on Ratification by the National Assembly

19. The National Assembly may;

- a) **refuse to approve the ratification of a Treaty**-where the National Assembly refuses to approve the ratification of a treaty, the Clerk of the National Assembly shall submit the resolution of the House to the relevant Cabinet Secretary within fourteen (14) days of such resolution (Section 8(7) of the Act), and the Government shall not ratify the said Treaty;
- b) **approve the ratification of a Treaty without reservations** to specific provisions of the treaty (Section 8(4) of the Act) - where the ratification of a treaty is approved by the National Assembly without any reservations to the treaty, the relevant Cabinet Secretary (the Cabinet Secretary for the time being responsible for the subject matter of the treaty) shall, within thirty (30) days from the date of the approval of the ratification of the treaty request the Cabinet Secretary (Cabinet Secretary responsible for the time being responsible for matters relating to foreign affairs) to prepare the instrument of ratification of the treaty;
- c) **approve the ratification of a Treaty with reservations to specific provisions of the treaty** - where a treaty is approved for ratification with reservations to some provisions of the treaty, the treaty shall be ratified with those reservations to the corresponding article in the treaty.

20. Proposed reservations made by the National Assembly are introduced as a provision into the Treaty in line with the procedure set out in the Standing Orders (Section 8(5) of the Act).

21. In making the decision on the approval for ratification of a Treaty, Section 8(9) of the Act provides that the National Assembly shall not approve;

- a) the ratification of a treaty or part of it if its provisions are contrary to the Constitution; and
- b) a reservation to a treaty or part of it, if that reservation negates any of the provisions of the Constitution, even if the reservation is permitted under the relevant treaty.

22. Section 12 of the Act provides that a Treaty cannot be ratified unless the same has been considered and approved by the Cabinet and Parliament. A person who ratifies a Treaty without following this process commits an offence, and shall be liable to imprisonment for a term not exceeding fifteen (15) years, or to a fine not exceeding twenty (20) million shillings, or to both such fine or imprisonment.

2.3.3 The National Assembly Standing Orders

23. One of the functions of Departmental Committees under Standing Order 216(5)(fa) is to “*examine treaties, agreements and conventions*”.

24. The procedure of ratification of treaties is guided by Part XXI, and in particular Standing Order 170A of the National Assembly Standing Orders. Standing Order 170A provides;

“(1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

(2) The committee shall undertake public participation before submitting its report to the House.

(3) In addition to the information required to be submitted to the National Assembly under written law, the committee may require the relevant Cabinet Secretary to submit further information, including—

a) the social and environmental impact of the treaty in the short-term, medium term and long-term; and,

b) the nature and evidence of any public participation conducted on the treaty.

(4) The report of the committee to the House shall include—

a) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the committee;

b) the findings of the committee on the treaty and any other information the committee may deem necessary; and

c) a recommendation that the House—

(i) approves the ratification of the treaty, or

(ii) approves the ratification of the treaty with reservations, or

(iii) rejects the ratification of the treaty.

(5) In approving ratification of a Treaty with reservations, the House shall specify the affected provisions of the Treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.

(6) Upon decision of the House on a Treaty, the Clerk shall, within seven (7) days, notify the relevant Cabinet Secretary and enter the information in the register of treaties.”

2.4 OBJECTIVE OF THE ECONOMIC PARTNERSHIP AGREEMENT

25. The objectives of the EPA are;

- i. Contribute to economic growth and development through the establishment of a strengthened and strategic trade and development partnership, consistent with the objective of sustainable development;
- ii. promote regional integration, economic cooperation and good governance in the EAC Partner State(s);
- iii. promote the gradual integration of the EAC Partner State(s) into the world economy, in conformity with their political choices and development priorities;
- iv. foster the structural transformation of the economies of the EAC Partner State(s), and their diversification and competitiveness by enhancing their production, supply and trading capacity;
- v. improve the capacity of the EAC Partner State(s) in trade policy and trade-related issues;
- vi. establish and implement an effective, predictable and transparent regulatory framework for trade and investment in the EAC Partner State(s), thus supporting the conditions for increasing investment and private sector initiatives; and
- vii. strengthen the existing relations between the Parties based on solidarity and mutual interest. To this end, consistent with their WTO rights and obligations, this Agreement shall enhance commercial and economic relations, support a new trading dynamic between the Parties using the progressive, asymmetrical liberalization of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade and investment.

26. The Organs of the EPA are-

- (a) The EPA Council-the highest policy-making organ of the Agency. It is composed of the representatives of the Parties at the ministerial level and shall be co-chaired by a representative of each Party. The Council shall meet at regular intervals, not exceeding a period of two (2) years, and extraordinarily, whenever circumstances so require, with the agreement of the Parties.
- (b) Committee of Senior Officials. It shall be composed of Permanent Secretaries or Principal Secretaries, as the case may be, from the EAC Partner State(s), and representatives from the EU at the Senior Official level
- (c) The EPA Consultative Committee is established with the task of assisting the Committee of Senior Officials to promote dialogue and cooperation between representatives of the private sector, organisations of civil society, including the academic community, and social and economic partners.

(d) The Arbitration Panel - shall be composed of three arbitrators to resolve any dispute arising.

2.5 PUBLIC PARTICIPATION ON THE AGREEMENT

(a) Legal Provision on Public Participation

27. Article 118 (1) (b) of the Constitution of Kenya provides as follows;

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

28. Section 8 of the Treaty Making and Ratification Act, No. 45 of 2012 provides for the consideration of Treaties by Parliament. Upon approval of a Treaty by Cabinet, the relevant Cabinet Secretary shall submit the Treaty together with a memorandum on the Treaty to the Speaker of the National Assembly for tabling pursuant to the Standing Orders.

29. Section 8(3) of the Treaty Making and Ratification Act, No. 45 of 2012 provides that;

*“the relevant Parliamentary Committee shall, during its consideration of the Treaty, ensure **public participation** in the ratification process in accordance with laid down parliamentary procedures”.*

30. Standing Order 170A provides that;

*“(2) **The committee shall undertake public participation before submitting its report to the House.***

(4) The report of the Committee to the House shall include—

*d) **information on the views of the people on the ratification of the treaty emanating from public participation conducted by the committee;***

(b) Methodology used by the Committee in Public Participation

31. The Agreement was laid before the House on Wednesday, 6th March, 2024, and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration.

32. Pursuant to the aforementioned provisions of the Constitution, the Treaty Making and Ratification Act, 2012, and Standing Orders, the Committee through local daily newspapers of 9th March, 2024, published an advertisement inviting the public to submit memoranda. Further, in a letter dated 11th April, 2024, the Committee wrote to various stakeholders including the Ministry of Finance and Planning, Ministry of Trade, Investment and Industry, Ministry of Foreign and Diaspora Affairs, Office of the Attorney General and Department of Justice, and Kenya Law Reform Commission to submit a memorandum on the Agreement.

The Ministry of Trade, Investment and Industry, the Ministry of Foreign and Diaspora Affairs, the Office of the Attorney General and the Department of Justice all supported the Agreement.

33. The Committee also held a stakeholder engagement forum on Wednesday, 16th and Thursday, 17th April 2024, with various non-state actors and non-governmental organizations at the Hilton Garden Inn Hotel, Nairobi. The stakeholders who attended the forum included;
- i. The Institute of Economic Affairs Kenya;
 - ii. The Law Society of Kenya;
 - iii. The Fresh Produce Exporters Association of Kenya;
 - iv. The New Kenya Planters Cooperative Union;
 - v. The Kenya Association of Manufacturers;
 - vi. The Kenya Tea Growers Association (KTGA);
 - vii. The Tea Board of Kenya (TBK); and
 - viii. The Scrap Metal Council

The Committee also received submissions from the Kenya Banker's Association.

34. The report is divided into two parts as follows;

Part I of the Report contains the analysis of the public submissions on the ratification of the Agreement, written and oral submissions received from various stakeholders noting general comments in support or against the ratification of the Agreement, and the list of institutions that submitted their memoranda.

Part II of the Report contains a copy of the newspaper advertisements of Tuesday, 9th March 2024, inviting the public to submit memoranda on the ratification of the Agreement, and a letter inviting the relevant stakeholders for memoranda and the minutes of the Committee sitting during the adoption of the ratification of the Agreement. Also, it contains the list of Members who adopted the Agreement, submissions by stakeholders and the Agreement.

3.0 STAKEHOLDER VIEWS ON THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION, OF THE ONE PART, AND THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE OTHER PART

35. The following are the highlights of stakeholder comments on the ratification of the Treaty—

Institute of Economic Affairs Kenya

The Institute of Economic Affairs Kenya submitted as follows;

The Kenya EU EPA is the most ambitious trade deal between the EU and a developing country. This trade deal is ambitious because of the provisions in climate and environmental protection, labour rights and gender equality. The social and climate commitments are the strongest of any EU Trade deal with an African country. The agreement will open up the EU market to Kenyan products and incentivise EU investment in Kenya.

The Kenya EU EPA will allow Kenya to plug into the global value chains physically, commercially and institutionally, and through the expansion of the knowledge and product spaces. Physical linkages will be formed through Kenya's land, sea and air infrastructure. Goods and people moving between Europe and Kenya will travel through Kenya's ports and airports and exploit Kenya's infrastructure as they navigate the region.

Institutional linkages will begin with this trade agreement and include coordination on trade dispute resolution, in addition to climate and environmental protection, labor rights and gender equality.

Institutional linkages create lock in mechanisms that can be difficult to remove. If they provide stability through transparency and predictability, these institutions will have a positive effect on welfare. This is because these institutions will give traders and investors in both Europe and Kenya, the confidence to plan for enduring time horizons.

Law Society of Kenya

The Law Society of Kenya submitted as follows;

Economic Partnership Agreements (EPAs) are trade and development agreements negotiated between the EU and African, Caribbean, and Pacific (ACP) countries.

They open up EU markets fully and immediately, whereas ACP partners open only partially to EU imports, over transitioning periods. EPAs are WTO-compatible agreements. However, they usually go beyond conventional free-trade agreements, focusing on ACP development, taking account of their socio-economic circumstances, and including co-operation and assistance to help ACP countries benefit from the agreements.

The EPA provides a platform to support job creation on both sides, along with targeted cooperation to enhance Kenya's economic development. According to the EU, it is the most ambitious trade deal ever signed by the EU with a developing country when it comes to sustainability provisions, such as climate and environmental protection, labour rights and gender equality.

The LSK lauds the Government on the ingenious way out of the quagmire that faced the EU-EAC EPA. The variable geometry route for the implementation was indeed a well thought out strategy for Kenya under the circumstances.

The LSK takes special note of the provisions in the Agreement, which take into account Kenya's development needs by providing a longer period to gradually open its market, a special safeguard for agriculture, food security and infant industry, a dedicated chapter on economic and development cooperation, aimed at enhancing the competitiveness of the Kenyan economy, EU development assistance aimed at helping to build capacity and assist Kenya in implementing the EPA smoothly, while supporting local farmers in meeting EU standards and in reaping the opportunities that this agreement provides.

LSK has identified a number of factors it considers might prevent the full realization of the benefits attendant to the signing of the agreement, which include;

i. Domestic Legal and Institutional Reforms

Kenya has undertaken onerous obligations under the agreement, which require extensive reforms at the legal, institutional and policy reforms. These reforms must be aimed at enhancing a conducive environment for the private sector to reap the benefits of the agreements. These include reforms to address the cost of production, support industrialization and value addition, modernize agricultural policies, etc.

ii. Inclusion of the Annex on Trade and Sustainable Development

This annexe was not there in the original EU-EAC EPA text, and other partner states have argued that by including such, the agreement has been substantively amended, and therefore they will not sign. Therefore, there is a Possibility of litigation before the EACJ on this issue and this may expose Kenya in terms of trade diplomacy within the EAC.

iii. Legality of the Variable Geometry Application

The principle of Variable Geometry is an approach in regional integration that allows member states flexibility to choose differentiated speed towards integration.

The principle of Variable Geometry is provided for in the EAC Treaty and allows for progression in cooperation among groups "within the Community for wider integration schemes in various fields and at different speeds".

Some critics have argued that the application of Variable Geometry in the EU-Kenya EPA is a misapplication of this principle, as this principle applies to integration within the EAC and does not apply to third parties.

If wrongly evoked, as recently applied by Kenya, it will lead to unintended consequences of fusing the EAC in the EU Free Trade Area. This is because if Kenya implements the EPA, it will be part of the Free Trade Area with the EU and by default, the entire region will be, given the fact that the EAC has a common external tariff.

iv. Effects of the EPA on EAC Integration

Concerns have been on the likely implication of the EPA on EAC's regional integration in terms of whether it will reverse the gains made in enhancing intra-African trade, as well as the challenge with regards to Rules of Origin.

v. Market Access Challenges when accessing the EU Market

The EU is known to implement strict SPS conditions, as well as other standards/ regulations that create huge compliance costs, especially on the MSMES. The mechanisms for addressing these challenges should be emphasized in the agreement.

vi. Technical support provisions

Training of internal manufacturers and producers on how to take advantage of the markets created by the agreement. The need to review domestic laws and regulations to create a conducive environment for the agreement cannot be overemphasized.

Whereas LSK supports the Government's efforts to open up markets and trading spaces for local traders through bilateral and multilateral interventions, deliberate efforts must be made by the Government through domestic legislation and policy review to create a conducive environment that makes our traders competitive.

Lessons must be learnt from previous agreements that had enormous promises and opportunities, but little success in terms of implementation due to harsh domestic environment. The Government must also take caution not to erode gains already made with regional trading partners within EAC.

Fresh Produce Exporters Association of Kenya

Fresh Produce Exporters Association of Kenya submitted as follows;

That they are in support of the Economic Partnership Agreement (EPA) between the Republic of Kenya and the European Union (EU). The EPA provides for quota-free, duty-free entry of all agricultural products from Kenya into the EU. This provision is very important for continued business for the horticulture industry in Kenya.

Horticulture sub-sector is one of the top foreign exchange earners for the country generating approximately Kshs 150 billion annually. The industry employs over 350,000 Kenyans directly, 1 million indirectly and supports over 4 million livelihoods. The industry is labour intensive where 80 % of the employees are non-skilled. Over 80% of horticultural produce in Kenya is grown by smallholder farmers, many of whom are not involved in the export business, but supply exporters, as contract farmers and the domestic market.

New Kenya Planters Cooperative Union

In response to the call for public participation on the afore-referenced Economic Partnership Agreement, the New Kenya Planters Cooperative Union proposed the following amendments to be considered before the document is enacted.

i. Article 12 (Standstill clause)

Proposal

Provide for Adjustment/opportunity for review of the terms of agreement in view of the evolving economic conditions.

Justification

While the Article may seek to promote predictability and stability in trade relations, the period of the treaty (25 years) is a long period, subject to many political and economic changes. For instance, farmers risk significant losses arising from factors such as weak shilling, high cost of production, climate change, animal diseases and locust infestation. In this regard, there is need to review Article 12, to consider periodic reviews of customs duty.

Kenya Association of Manufacturers

The Kenya Association of Manufacturers submitted as follows-

Kenya should implement the Kenya-EU EPAs. The agreement will easily boost bilateral trade in goods and investment flows and contribute to sustainable economic growth. Trade related development cooperation is critical to support economic growth and job creation. Kenya will open its market to EU gradually, benefiting from a transitional period of 25 years, and will be able to exclude sensitive products from liberalization. Kenya can benefit from other EPA provisions that consider its development needs, such as special safeguards for agriculture, measures on food security and infant industry protection.

The EPA agreement has a chapter on agriculture that is geared towards sustainable agriculture development including food and nutrition security, rural development including sustainable use and management of natural and cultural resources, income and job creation in agricultural sector. The Chapter guarantees that EU will not apply export subsidies, even in time of market crisis, and commits the Parties to deepened policy dialogue on agriculture and food security, including transparency as regards their respective domestic policies.

The bilateral and economic and development cooperation mechanism will enhance the business and investment environment and help generate new trading and investment opportunities. EPAs are international agreements and do not expire. Thus, both the free access of Kenya into the EU market without time limit, and the long-term free access of EU products to the Kenya market will increase incentives to invest in Kenya and build capacity to meet EU Standards.

Within 25 years, trade between Kenya and EU will be fully liberalised, with EU goods having duty-free, quota-free market access to Kenya. For this reason, the Departmental Committee on

Trade, Industry and Cooperatives should provide a legislative framework on which Kenya would be able to build its industrial competitive capacity, to be able to engage with EU within a market led economy.

KAM proposes a systemic long approach to provide interventions around the following key pillars;

- i. Global competitiveness;
- ii. Export-led industrialization;
- iii. SME's development; and
- iv. Agriculture for Industry.

The Kenya Tea Growers Association (KTGA)

The Kenya Tea Growers Association submitted as follows;

They laud the opening of the market for Kenyan tea into the EU market on a quota-free and duty-free basis. This presents opportunities for the growth of the sector in terms of its contribution to poverty reduction, job and wealth creation and as a model for sustainable agriculture.

On Energy Transition and Sustainable Tea Production; EPA presents an opportunity to enhance the value of Kenyan tea because of its being sustainably produced. With the EU having sustainable agriculture as a priority in its economic policy, the sub-sector presents an avenue through which the Country can be supported with resources for energy transition: having modelled low-carbon production.

There is an opportunity through the EPA to develop infrastructure, such as logistical links for the movement of tea and support to be given to enable the Country to transition to low-carbon production; digital infrastructure for traceability and carbon footprint reporting. Sensitization of sector actors on the energy transition opportunities, especially because tea is a carbon sequester and by virtue of maintaining land under tea production, the sector is already green literally and figuratively.

The EPA provides an opportunity for the Government to obtain financial support for building the capacity of agencies that serve the sector and consolidating costs to lower cost of production.

Tea Board of Kenya (TBK)

The Tea Board of Kenya submitted as follows;

Having reviewed the above document which was signed on 16.01.2024, the Tea Board of Kenya noted the following;

TBK agrees with the document as presented. The agreement does not present any restrictions concerning tea. Upon ratification by Parliament, the Board proposes to engage further on the agreement by proposing various MOUs, with selected member states on areas of capacity building and technology transfer. to widen the scope of tea trade with these countries.

Scrap Metal Council

The Scrap Metal Council submitted as follows;

SMC is in support of the Agreement. The EPA Agreement presents opportunities for the growth of the sector in terms of its contribution to poverty reduction, job and wealth creation and as a model for sustainable agriculture.

The agreement will easily boost bilateral trade in goods and investment flows and contribute to sustainable economic growth.

Kenya Bankers Association

The Kenya Bankers Association submitted as follows;

The EPA effectively cements quota-free, duty-free access to the European market by local exporters; a benefit that Kenya has been enjoying under a temporary special arrangement that has been in place since 2014. The agreement provides for products from the EU to progressively receive duty reductions over a period of 25 years.

The EPA is bound to provide opportunities for value-chain integration across the EAC and the EU, which will enable businesses in the region to engage in value addition, rather than exporting products in their raw form, resulting in higher returns for businesses in the region.

The EPA affords Kenya the certainty it requires to attract investors from Europe; thereby creating opportunities for local businesses in the value chains. This, amidst the implementation of the African Continental Free Trade Area, is important for the country to seize the opportunity and entrench itself as a natural manufacturing choice for European businesses seeking markets in the COMESA, SADC and the wider continent.

It includes a dedicated trade and sustainable development chapter that covers aspects, such as a commitment to implement the Paris Agreement on Climate Change; thereby cementing the parties' commitment to climate change mitigation and adaptation. Kenya receiving EU development funds under the EPA arrangements would go a long way in stabilizing foreign exchange markets and augmenting budgetary support;

Several concerns continue to linger on the EU-Kenya EPA; Kenya's EAC partners have raised concerns that the Agreement will in the long term, negatively impact the region's development as a Common Market; in terms of its competitiveness and productive capacity. This is because the Agreement implies that Kenya would offer a reciprocal FTA, with a much more developed partner, and yet this would present attendant negative consequences for the country.

4.0 COMMITTEE OBSERVATIONS

36. The Committee having considered the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part (the EPA), and submissions from stakeholders, makes the following observations;

1. **THAT** the main objective of the EPA is to liberalise trade between Kenya and the European Union.
2. **THAT** the EPA foresees an asymmetric removal of tariffs. This means that the European Union will fully liberalise its markets immediately upon coming into force of the EPA, and all goods from Kenya, except arms, can enter the EU market without tariffs or quotas.

On the other hand, Kenya will liberalise 82.6% of the trade for goods originating in the EU in a gradual manner phased over 25 years. Kenya will be able to exclude sensitive goods from full liberalisation and shall wait 7 years before commencing any negotiations. In this respect, the tariff liberalisation structure for goods originating in the EU is as follows;

Year	% of trade liberalized/excluded	Approx. Number of Tariff Lines
Time – 0 (7-12)	65.4 %	1,934
Time 0 to 15 <i>(7 years moratorium then liberalization commences in the 7th year to the 15th year</i>	14.6%	1,082
Time 0 to 25 <i>(12 years moratorium then liberalization commences in the 12th year to the 25th year</i>	2.6%	990
Exclusion Excluded from liberalization for ever	17.4	1,432

3. **THAT** Kenya and the EU are required to set up an EPA Council to steer the implementation of the EPA. The Kenyan representative in the Council will be the Cabinet Secretary responsible for matters relating to trade.
4. **THAT** Kenya had previously signed the EU-ACP EPA on 31st August, 2016, and subsequently ratified the Agreement on 20th September, 2016. The regional EPA had been negotiated with EAC partner states in 2014. The signing and subsequent ratification of the regional EPA by Kenya secured continued duty-free-quota-free market access into the EU for the country's exports under the EU Market Access Regulation (MAR) 1528/2016.

5. The Committee observed that the current bilateral EPA between Kenya and EU has made necessary adjustments for the implementation of the regional EPA by an individual EAC Member. This bilateral EPA between Kenya and EU will sustain duty free and quota free access of Kenyan exports to the EU market, and is a more predictive legally binding Agreement compared to the EU Market Access Regulation (MAR) 1528/2016, which could be unilaterally withdrawn by the EU. This has secured a predictable legally binding framework, which cannot be challenged, and give assurance to both exporters/importers, as well as potential investors.
6. **THAT** in terms of policy and legislative consideration, the Government has already anchored the EPA, along with all other trade agreements in the National Trade Policy and the Integrated National Exports Development and Promotion Strategy.
7. **THAT** the Agreement will benefit the country, as it will secure access to the European Union market. The EU is a 27-country, Euro16 trillion market, accounting for 17% of global GDP. It offers a significant export opportunity for Kenyan goods. There will be expanded market access in that more products will enter the EU market without paying any duties. Under the agreement, all the manufactured products which were not allowed to enter the EU market in the previous framework can now access the EU market duty-free and quota-free, over and above primary products which continue to enter without duty. The EU, in addition to being one of the world's largest markets, is also a premium one, where product earnings are typically higher, and disposable income is also higher for consumers. The EPA envisages future negotiations for mutual access for trade in services, which will provide opportunities for growth and modernization of Kenya's services sector.
8. **THAT** the possible negative effects include-
 - a. removal of import duties from products that Kenya has committed to liberalize under this agreement may lead to loss of government revenue over time;
 - b. potential difficulties in tariff liberalization because of balancing the EAC Common External Tariff during implementation; and
 - c. local industries are likely to face more competition over time from EU zero-rated products.
9. **THAT** the following measures are proposed to mitigate any negative effects arising from the EPA-
 - (a) the exclusion list - includes excluded products that Kenya considers strategic and sensitive.
 - (b) long phased-down period – 15 years for the intermediate and 25 years for finished products that Kenya has committed to liberalize.
 - (c) Infant Industry Clause – which allows Kenya to protect infant industries likely to be negatively affected by zero-rated EU products for a maximum of 15 years. The infant

industries have not been defined in the EPA, hence giving Kenya flexibility and autonomy to declare and determine industries in this category.

- (d) Trade Remedies Provisions- these provide for safeguards, Countervailing Measures and Anti-dumping. The trade remedies safeguard against unfair trade practices which lead to market distortion.
 - (e) Amendment Clause - provides flexibility to the Parties to seek for amendments on any provisions when the need arises.
 - (f) Mandatory 5-Year Review Clause - provides for a comprehensive mandatory review of the entire agreement every 5 years.
 - (g) Exit clause - provides for flexibility to the Parties to exit upon giving one year written notice.
10. **THAT** upon undertaking public participation, the Committee received numerous submissions from key stakeholders including the Ministry of Investments, Trade and Industry, the Tea Board of Kenya, the Scrap Metal Council, the Law Society of Kenya, the Kenya Association of Manufacturers, the Institute of Economic Affairs Kenya, the Fresh Produce Exporters Association of Kenya, the Kenya Tea Growers Association and the Kenya Bankers Association. These submissions were in full support of the Agreement as it will open up EU markets fully and immediately, whereas Kenya will open its markets only partially to EU imports, over transitioning periods. Further, it is a WTO-compatible agreement. The stakeholders indeed observed that according to the EU, it is the most ambitious trade deal ever signed by the EU, with a developing country when it comes to sustainability provisions such as, climate and environmental protection, labour rights and gender equality.
11. **THAT** stakeholders in full support of the Agreement took special note of the provisions in the Agreement, which take into account Kenya's development needs, by providing a longer period to gradually open its market, a special safeguard for agriculture, food security and infant industry, a dedicated chapter on economic and development cooperation, aimed at enhancing the competitiveness of the Kenyan economy, EU development assistance aimed at helping to build capacity and assist Kenya in implementing the EPA smoothly, while supporting local farmers in meeting EU standards and in reaping the opportunities this agreement provides.
12. **THAT** during the stakeholder engagement meeting, the New Kenya Planters Cooperative Union expressed a concern over Article 12 (standstill clause), in that while the Article may seek to promote predictability and stability in trade relations, the period of the treaty (25 years) is a long period, subject to many political and economic changes. For instance, farmers risk significant losses from factors such as weak shilling, high cost of production, climate change, animal diseases and locust infestation. In this regard, the Union proposed the need to review Article 12, to consider periodic reviews of customs duty. The Committee observed that once ratified, the European Union will remove all the customs

duties on all the products immediately, upon entry into force of the Agreement. This means that Kenya will immediately enjoy the duty-free quota-free exportation of all goods including coffee to the EU. There will therefore be no customs duty applicable to Kenyan exports to be reviewed. For the EU partner states, the duty applicable will continue existing, but reducing gradually over 25 years as per the tariff liberalization schedule. Coffee and other specified agricultural goods are excluded from liberalization under the exclusion list.

13. The Committee observed that there are other safeguard mechanisms provided for in the Agreement where either Kenya or the EU seeks variation. The amendment clause (clause 143) provides flexibility to the parties to seek amendments on any provisions when the need arises. The Agreement also contains a mandatory five-year review clause (clause 142), which provides for a mandatory review of the entire agreement every five years, and reviews can be done at that time. The Committee observed that the New Kenya Planters Cooperative Union expressed that it was satisfied with the explanations offered and confirmed that the EPA contained provisions that adequately addressed its concerns.

4506 8/20/02

5.0 FINDINGS

37. Upon analysis of the submissions and documents tabled, the Committee finds that the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part is consistent with the Constitution of Kenya and does not propose any amendment to the Constitution.

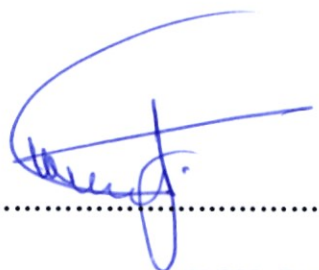
6.0 COMMITTEE RECOMMENDATION

38. The Committee recommends:-

THAT, according to Section 8 of the Treaty Making and Ratification Act, the House **APPROVES the Ratification** of the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part.

Justification

The Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part, is expected to drive growth and expansion of exports.

Signed.....  Date: 23/24/24

HON. JAMES MWANGI GAKUYA, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 APR 2024	DAY.
TABLED BY:	
CLERK-AT THE TABLE:	



THE NATIONAL ASSEMBLY
13TH PARLIAMENT - THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ADOPTION LIST

AGENDA: Adoption of the Kenya-EU EPA

DATE: 19th April 2024

TIME: From: 02:30 pm To: 04:30 pm

VENUE: Hilton Garden Inn, Suite 3, 6th Floor, Mombasa Rd, Malindi County

NO.	NAME	SIGNATURE
1.	Hon. Gakuya James Mwangi, MP- Chairperson	
2.	Hon. Kitany Marianne Jebet, MP - Vice Chairperson	
3.	Hon. Dr. Oundo Wilberforce Ojiambo, MP	
4.	Hon. Dr. Beatrice Adagala, MP	
5.	Hon. Githinji Robert Gichimu, MP	
6.	Hon. Kamene Joyce, MP	
7.	Hon. Mwalyo Joshua Mbithi Mutua, MP	
8.	Hon. Oluoch Anthony Tom, MP	
9.	Hon. Guyo Adhe Wario, MP	
10.	Hon. Korir Adams Kipsanai, MP	
11.	Hon. Maina Mwago Amos, MP	
12.	Hon. Sakimba Parashina Samuel, MP	
13.	Hon. Wainaina Antony Njoroge, MP	
14.	Hon. Waithaka John Machua, MP	

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES, FOR THE ADOPTION OF THE REPORT ON THE RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION, OF THE PART, AND THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE OTHER PART HELD AT THE HILTON GARDEN INN HOTEL ON SATURDAY, 19TH APRIL 2024, AT 2.30 PM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. Gakuya James Mwangi, MP | - | Chairperson |
| 2. Hon. Kitany Marianne Jebet, MP | - | Vice-Chairperson |
| 3. Hon. Adagala Beatrice Kahai, MP | | |
| 4. Hon. Githinji Robert Gichimu, MP | | |
| 5. Hon. Kamene Joyce, M.P | | |
| 6. Hon. Mwalyo Joshua Mbithi Mutua, MP | | |
| 7. Hon. Oluoch Anthony Tom, MP | | |
| 8. Hon. Korir Adams Kipsanai, MP | | |
| 9. Hon. Waithaka John Machua, MP | | |
| 10. Hon. Maina Mwago Amos, MP | | |
| 11. Hon. Wainaina Antony Njoroge, MP | | |

APOLOGIES

1. Hon. Dr. Oundo Wilberforce Ojiambo M.P
2. Hon. Guyo Adhe Wario, MP
3. Hon. Sakimba Parashina Samuel, MP

SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Ellam Omuhinda | - | Clerk Assistant III |
| 2. Ms. Doreen Karami | - | Senior Legal Counsel |
| 3. Ms. Nancy Chepkemoi | - | Legal Counsel II |
| 4. Ms. Loise Olesia | - | Fiscal Analyst |
| 5. Ms. Priscilla Saidi | - | Research Officer III |
| 6. Mr. Arkan Mumin | - | Research Officer III |
| 7. Ms. Florence Wanja | - | Protocol Officer |
| 8. Mr. Daniel Psrimoi | - | Media Relations officer |
| 9. Ms. Peris Kaburi | - | Serjeant at Arms |

AGENDA

1. Preliminaries
2. Confirmation of Minutes
3. **Consideration and Adoption of the Report the Economic Partnership Agreement between the European Union- EPA**
4. **Any Other Business**
5. Adjournment

MIN. NO. NA/TRADE/2024/ PRELIMINARIES

The meeting was called to order at 2.30 pm with a word of prayer from the Chairperson. This was later followed by an introduction from the Members. Thereafter, the agenda was adopted having been proposed by Hon. Kamene Joyce, M.P and seconded by Hon. Githinji Robert Gichimu, MP.

MIN. NO. NA/TRADE/2024/

CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO. NA/TRADE/2024/

CONSIDERATION AND ADOPTION OF THE REPORT ON THE KENYA-EU EPA

1. COMMITTEE OBSERVATIONS

The Committee having considered the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part, and submissions from stakeholders, makes the following observations;

THAT:

1. The main objective of the EPA is to liberalise trade with Kenya. The EPA foresees an asymmetric removal of tariffs. This means that the European Union will fully liberalise its markets immediately upon coming into force of the EPA, and all goods from Kenya, except for arms, can enter the EU market without tariffs or quotas;
2. The other hand, Kenya will liberalise 82.6% of the trade for goods originating in the EU in a gradual manner phased over 25 years. Kenya will be able to exclude sensitive goods from full liberalisation and shall wait 7 years before commencing any negotiations. In this respect, the tariff liberalisation structure for goods originating in the EU is as follows;

Year	% of trade liberalized/excluded	Approx. Number of Tariff Lines
Time – 0 (7-12)	65.4 %	1,934
Time 0 to 15 <i>(7 years moratorium then liberalization commences in the 7th year to the 15th year</i>	14.6%	1,082
Time 0 to 25 <i>(12 years moratorium then liberalization commences in the 12th year to the 25th year</i>	2.6%	990
Exclusion Excluded from liberalization for ever	17.4	1,432

3. Kenya and the EU are required to set up an EPA Council to steer the implementation of the EPA. The Kenyan representative in the Council will be the Cabinet Secretary responsible for Trade.
4. Kenya had previously signed the EU ACP EPA on 31st August 2016 and subsequently ratified the Agreement on 20th September 2016. The regional EPA had been negotiated with EAC partner states in 2014. The signing and subsequent ratification of the regional EPA by Kenya secured continued duty-free-quota-free market access into the EU for the country's exports under the EU Market Access Regulation (MAR) 1528/2016.
5. The Committee observed that the current bilateral EPA between Kenya and EU has made necessary adjustments for the implementation of the regional EPA by an individual EAC Member. This bilateral EPA between Kenya and the EU will sustain duty-free and quota-free access of Kenyan exports to the EU market and is a more predictive legally binding Agreement compared to the EU Market Access Regulation (MAR) 1528/2016, which could be unilaterally withdrawn by the EU. This has secured a predictable legally binding framework, which cannot be challenged, and give assurance to both exporters/importers, as well as potential investors.
6. In terms of policy and legislative consideration, the Government has already anchored the EPA, along with all other trade agreements in the National Trade Policy and the Integrated National Exports Development and Promotion Strategy.
7. The Agreement will benefit the country, as it will secure access to the European Union market. The EU is a 27-country, Euro16 trillion market, accounting for 17% of global GDP. It offers a significant export opportunity for Kenyan goods. There will be expanded market access in more products will enter the EU market without paying any duties. Under the agreement, all the manufactured products which were not allowed to enter the EU market in the previous framework can now access the EU market duty-free and quota-free, over and above primary products which continue to enter without duty. The EU, in addition to being one of the world's largest markets, is also a premium one, where product earnings are typically higher, and disposable income is also higher for consumers. The EPA envisages future negotiations for mutual access for trade in services, which will provide opportunities for growth and modernization of Kenya's services sector.
8. The possible negative effects include-

- a. removal of import duties from products that Kenya has committed to liberalise under this agreement may lead to loss of government revenue over time;
 - b. potential difficulties in tariff liberalisation because of balancing the EAC Common External Tariff during implementation; and
 - c. local industries likely to face more competition over time from EU zero-rated products
9. The following measures are proposed to mitigate any negative effects arising from the EPA-
- (a) the exclusion list - includes excluded products that Kenya considers strategic and sensitive.
 - (b) long phased-down period – 15 years for the intermediate and 25 years for finished products that Kenya has committed to liberalize.
 - (c) Infant Industry Clause – which allows Kenya to protect infant industries likely to be negatively affected by zero-rated EU products for a maximum of 15 years. The infant industries have not been defined in the EPA, hence giving Kenya flexibility and autonomy to declare and determine industries in this category.
 - (d) Trade Remedies Provisions- these provide for safeguards, Countervailing Measures and Anti-dumping. The trade remedies safeguard against unfair trade practices which lead to market distortion.
 - (e) Amendment Clause - provides flexibility to the Parties to seek amendments on any provisions when the need arises.
 - (f) Mandatory 5-Year Review Clause - provides for a comprehensive mandatory review of the entire agreement every 5 years.
 - (g) Exit clause - provides for flexibility to the Parties to exit upon giving one year written notice.
10. The upon undertaking public participation, the Committee received numerous submissions from key stakeholders including the Ministry of Investments, Trade and Industry, the Tea Board of Kenya, the Scrap Metal Council, the Law Society of Kenya, the Kenya Association of Manufacturers, the Institute of Economic Affairs Kenya, the Fresh Produce Exporters Association of Kenya, the Kenya Tea Growers Association and the Kenya Bankers Association. These submissions were in full support of the Agreement as it will open up EU markets fully and immediately, whereas Kenya will open its markets only partially to EU imports, over transitioning periods. Further, it is a WTO-compatible agreement. The stakeholders indeed observed that according to the

EU, it is the most ambitious trade deal ever signed by the EU, with a developing country when it comes to sustainability provisions such as climate and environmental protection, labour rights and gender equality.

11. The stakeholders in full support of the Agreement took special note of the provisions in the Agreement, which take into account Kenya's development needs, by providing a longer period to gradually open its market, a special safeguard for agriculture, food security and infant industry, a dedicated chapter on economic and development cooperation, aimed at enhancing the competitiveness of the Kenyan economy, EU development assistance aimed at helping to build capacity and assist Kenya in implementing the EPA smoothly, while supporting local farmers in meeting EU standards and in reaping the opportunities this agreement provides.
12. During the stakeholder engagement meeting, the New Kenya Planters Cooperative Union expressed concern over Article 12 (standstill clause), in that while the Article may seek to promote predictability and stability in trade relations, the period of the treaty (25 years) is a long period, subject to many political and economic changes. For instance, farmers risk significant losses arising from factors such as weak shilling, high cost of production, climate change, animal diseases and locust infestation. In this regard, the Union proposed the need to review Article 12, to consider periodic reviews of customs duty. The Committee observed that once ratified, the European Union will remove all the customs duties on all the products immediately, upon entry into force of the Agreement. This means that Kenya will immediately enjoy the duty-free quota-free exportation of goods including coffee to the EU. There will therefore be no customs duty applicable to Kenyan exports to be reviewed for the EU partner states, the duty applicable will continue existing, but be reduced gradually over 25 years as per the tariff liberalization schedule. Coffee and other specified agricultural goods are excluded from liberalization under the exclusion list.
13. The Committee observed that there are other safeguard mechanisms provided for in the Agreement where either Kenya or the EU seeks variation. The amendment clause (clause 143) provides flexibility to the parties to seek amendments on any provisions when need arises. The Agreement does also contain a mandatory five-year review clause (clause 142), which provides for a mandatory review of the entire agreement every five years, and reviews can be done at that time. The Committee observed that the New Kenya Planters Cooperative Union expressed that it was satisfied with the explanations

offered and confirmed that the EPA contained provisions that adequately addressed its concerns.

2. COMMITTEE FINDINGS

Upon analysis of the submissions and documents tabled, the Committee finds that the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part is consistent with the Constitution of Kenya and does not propose any amendment to the Constitution.

3. COMMITTEE RECOMMENDATION

The Committee recommends:- THAT:

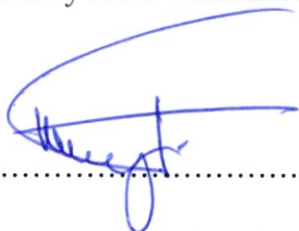
According to Section 8 of the Treaty Making and Ratification Act, the House **APPROVES the Ratification** of the Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part.

Justification

The Economic Partnership Agreement between the European Union, Of The One Part, and the Republic Of Kenya, a Member of The East African Community, of The Other Part, is expected to drive growth and expansion of exports.

MIN. NO. NA/ TRADE /2024/ ADOPTION OF THE REPORT

The Committee adopted the Report after having been proposed by Hon. Guyo Adhe Wario, MP and seconded by Hon. Waithaka John Machua, MP.

Signed.......... Date: 23/20/24.....

**HON. JAMES MWANGI GAKUYA, MP
CHAIRPERSON**

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

**IN THE MATTER OF ARTICLES 2(5) & (6) AND 118 (1)(b) OF THE
CONSTITUTION AND SECTION 8 OF THE TREATY MAKING AND
RATIFICATION ACT, 2012**

AND

**IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF
THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND
THE EUROPEAN UNION**

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees;

AND WHEREAS, the **Economic Partnership Agreement between Kenya and the European Union** was tabled in the House on 6th March, 2024 and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting to the House;

IT IS NOTIFIED THAT, the **Economic Partnership Agreement between Kenya and the European Union**, with regard to trade in goods; fisheries; agriculture; and economic and development cooperation, seeks to—

- (a) secure long-term market access for exports on a duty-free-quota basis and gradual liberalization of tariffs on goods originating from the EU;
- (b) contribute to economic growth and development through the establishment of a strengthened and strategic trade and development partnership consistent with the objective of sustainable development;
- (c) promote regional integration, economic cooperation, and good governance;
- (d) promote the gradual integration of the EAC Partner State(s) into the world economy, in conformity with their political choices and development priorities;
- (e) foster the structural transformation of the economies of the EAC Partner State(s), and their diversification and competitiveness by enhancing their production, supply and trading capacity;
- (f) improve the capacity of EAC Partner State(s) in trade policy and trade-related issues;
- (g) establish and implement an effective, predictable and transparent regulatory framework for trade and investment and support the conditions for increasing investment and private sector initiatives;
- (h) strengthen existing relations based on solidarity and mutual interest by enhancing commercial and economic relations, supporting a new trading dynamic between the Parties through the progressive, asymmetrical liberalization of trade between them, and reinforcing, broadening, and deepening cooperation in all areas relevant to trade and investment;
- (i) establish an agreement consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994);
- (j) facilitate the continuation of trade by EAC Partner State(s) under terms no less favourable than those under the Cotonou Agreement or its successor agreement; and
- (k) establish the framework and scope of potential negotiation in relation to other issues including trade in services, trade-related issues as identified in the Cotonou Agreement or its successor agreement and any other areas of interest to both Parties.

NOW THEREFORE, in compliance with Articles 2(5) & (6) and 118(1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012, the **Departmental Committee on Trade, Industry and Cooperatives** hereby invites members of the public and stakeholders to submit Memoranda on the Agreement.

The memoranda should be addressed to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to cna@parliament.go.ke; to be received **on or before Tuesday 16th April, 2024 at 5.00 p.m.**

The Agreement and the accompanying Memorandum are available at the National Assembly Table Office, Main Parliament Buildings and may be accessed at <https://www.parliament.go.ke/sites/default/files/2024-04/Economic%20partnership%20agreement%20between%20EU%20of%20the%20one%20part%20and%20Kenya.pdf>

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

9th March 2024

"For the Welfare of Society and the just Government of the People"



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

NA/DDC/TRADE/2024/067

11th April, 2024

Mr. Alfred Ombudo K'Ombudo
Principal Secretary
State Department for Trade
Ministry of Investments, Trade and Industry
23rd Floor, NSSF Building Block A
NAIROBI

Dear

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP
AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION**

The National Assembly Departmental Committee on Trade, Industries, and Cooperatives is mandated under National Assembly Standing Order 216 (5) (fa) to amongst others, "*examine treaties, agreements and conventions*".

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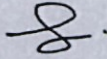
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The liaison officers for this meeting are **Ms. Rose Mudibo, OGW** who may be contacted on **Tel No. 0717 442 440** or email: rose.mudibo@parliament.go.ke, **Mr. Ellam Omuhinda** who may be contacted on **Tel. No. 0755 883 451**, email: ellam.omuhinda@parliament.go.ke, and **Ms. Everlyn Klaudia Orina**, who may be contacted on **Tel. No. 0711 201 833** or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For CLERK OF THE NATIONAL ASSEMBLY

Copy: **Ms. Rebecca Miano**
Cabinet Secretary
Ministry of Investments, Trade and Industry
17th Floor, NSSF Building Block A
NAIROBI





THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

NA/DDC/TRADE/2024/067

11th April, 2024

Mr. Alfred Ombudo K'Ombudo
Principal Secretary
State Department for Trade
Ministry of Investments, Trade and Industry
23rd Floor, NSSF Building Block A
NAIROBI

Dear

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP
AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION**

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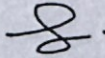
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Yours

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For CLERK OF THE NATIONAL ASSEMBLY

Copy: **Ms. Rebecca Miano**
Cabinet Secretary
Ministry of Investments, Trade and Industry
17th Floor, NSSF Building Block A
NAIROBI





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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

NA/DDC/TRADE/2024/067

11th April, 2024

Ms. Lindah Oluoch
The Chief Executive Officer
Kenya Tea Growers Association
KTGA Building, Kericho, Next to Kenya
Commercial Bank Kericho
P.O. Box 20064 – 00200
NAIROBI

Mr. Timothy Mirugi
The Chief Executive Officer
New Kenya Planters Cooperative Union
Wakulima House, Haile Selassie Avenue
P.O. Box 59638 – 00200
NAIROBI

✓ **Kenya Coffee Producers Association**
Wakulima House 4th Floor
P.O. Box 8100-00300
NAIROBI

Mr. Fred Kaigua
The Chief Executive Officer
Kenya Association of Tour Operators (KATO)
P.O. BOX 48461-00100
NAIROBI

Mr. Hosea Machuki
The Chief Executive Officer
Fresh Produce Exporters Association of Kenya
New Rehema House, 4th Floor, Westlands,
P.O. Box 40312-00100
NAIROBI

Mr. Antony Mwangi
The Chief Executive Officer
Kenya Association of Manufacturers
15 Mwanzi Road, Opposite Westgate Mall
Westlands
P.O. Box 30225-00100
NAIROBI

Ms. Carole Kariuki
The Chief Executive Officer
Kenya Private Sector Alliance
Two Rivers, South Tower, 7th Floor Limuru Rd,
Nairobi
P.O. Box 3556-00100
NAIROBI

Mr. Patrick Nyangweso
Chief Executive Officer
Kenya National Chamber of Commerce &
Industry
Heritan House (Ground Floor), Woodlands Road,
Off Argwings Kodhek Road, Opposite the
Department Of Defence HQs
Hurlingham
P.O. Box 00200-47024
NAIROBI

Dear

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP
AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION**

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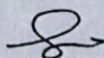
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The purpose of this letter, therefore, is to invite you to a stakeholder meeting with the Departmental Committee on Trade, Industries and Cooperatives at **02.00 pm on Wednesday 17th April 2024** at a venue to be communicated.

Please avail your submissions on or before **Tuesday 16th April 2024** by **5.00 pm** to the Clerk of the National Assembly. Soft copies of the same may be sent to cna@parliament.go.ke. Also, provide twenty (20) copies of your submission during your appearance before the Committee. The Agreement can be accessed at <http://www.parliament.go.ke/sites/default/files/2024-04/Economic%20partnership%20agreement%20between%20EU%20of%20the%20one%20part%20and%20Kenya.pdf>.

The liaison officers for this meeting are **Ms. Rose Mudibo, OGW** who may be contacted on **Tel No. 0717 442 440** or email: rose.mudibo@parliament.go.ke, **Mr. Ellam Omuhinda** who may be contacted on **Tel. No. 0755 883 451**, email: ellam.omuhinda@parliament.go.ke, and **Ms. Everlyn Klaudia Orina**, who may be contacted on **Tel. No. 0711 201 833** or email: everlyn.orina@parliament.go.ke.

Yours



JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Nairobi, Kenya
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Email: ena@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

NA/DDC/TRADE/2024/067

11th April, 2024

Mr. Newton Wang'oo
Chairman
Kenya Transporters Association Limited
P.O. Box 88502 – 80100
MOMBASA

Mr. Gideon Oele
Scrap Metal Council
Social Security House, NSSF 23rd Floor Block A
P.O Box 30418 – 00100
NAIROBI

Mr. Emmanuel Mukua
African Cotton & Textile Industries Federation
(Actif)
TRV Park West Office Suites, 5th Floor, Suite 5E,
3rd Avenue, Parklands
1249 - 00606 (Sarit Centre)
NAIROBI

Dr Grace Kamau
The Chief Executive Officer
ICPAK
CPA Centre, Ruaraka, Thika Road,
NAIROBI

Mr. Daniel Ngumy
Partner
Anjarwalla & Khanna LLP
Eldama Ravine Close, Off Eldama Ravine Road,
Westlands
NAIROBI

Mr. Kwame Owino
The Chief Executive Officer
Institute of Economic Affairs
5th Floor, ACK Garden House, ACK Garden
House
P.O. Box 53989 – 00200
NAIROBI

Dr. Habil Olaka
The Chief Executive Officer
Kenya Bankers Association
13th Floor, International House
Mama Ngina Street
P.O.Box 73100 – 00200
NAIROBI

Dear *Mr Owino*

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP
AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION

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The purpose of this letter, therefore, is to invite you to a stakeholder meeting with the Departmental Committee on Trade, Industries and Cooperatives on **Thursday 18th April, 2024** at **9.00 am** in a venue to be communicated.

Please avail your submissions on or before **Tuesday 16th April 2024** by **5.00 pm** to the Clerk of the National Assembly. Soft copies of the same may be sent to cna@parliament.go.ke. Also, provide twenty (20) copies of your submission during your appearance before the Committee. The Agreement can be accessed at <http://www.parliament.go.ke/sites/default/files/2024-04/Economic%20partnership%20agreement%20between%20EU%20of%20the%20one%20part%20and%20Kenya.pdf>.

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Yours



JEREMIAH NDOMBI, MBS

For: CLERK OF THE NATIONAL ASSEMBLY



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 11812-00100
Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

NA/DDC/TRADE/2024/067

11th April, 2024

Dr. A. Korir Sing'oei, PhD, CBS
Principal Secretary
State Department for Foreign Affairs
Ministry for Foreign and Diaspora Affairs
Old Treasury Building, Harambee Avenue
NAIROBI

Hon. Shadrack John Mose
Solicitor General
Office of the Attorney-General and
Department of Justice
Sheria House
Harambee Avenue
NAIROBI

Dr. Chris K. Kiptoo, CBS
Principal Secretary
The National Treasury
The National Treasury & Economic Planning
Treasury Buildings, Harambee Avenue
NAIROBI

H.E. Anne Mumbi Waiguru, EGH
Chairperson, Council of Governors
Off Waiyaki Way
P.O. Box 40401-00100
NAIROBI

Mr. Joash Dache, MBS
Commission Secretary/ Chief Executive
Officer (CEO)
Kenya Law Reform Commission
Taifa Road
NAIROBI

Mr. Willy K Mutai
The Chief Executive Officer
Tea Board of Kenya
Tea House, Naivasha Road, Off Ngong Rd
P.O. Box 20064 – 00200
NAIROBI

Ms. Henriette Geiger
The EU Ambassador to Kenya
Dunhill Towers 19th Floor 115 Waiyaki Way
NAIROBI

Dear

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP
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Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy:

Hon. Musalia Mudavadi, E.G.H
Cabinet Secretary
Ministry for Foreign and Diaspora
Affairs
Old Treasury Building,
Harambee Avenue
NAIROBI

Hon. Justin B. N. Muturi E.G.H.
The Attorney General of the Republic
of Kenya
Sheria House, Harambee Avenue
P.O. Box 40112-00100
NAIROBI

Prof. Njuguna Ndung'u, CBS
Cabinet Secretary
The National Treasury & Economic
Planning
Treasury Buildings, Harambee Avenue
NAIROBI

Ms. Mary Mwiti
Chief Executive Officer (CEO)
Council of Governors
Off Waiyaki Way
P.O. Box 4040-00100
NAIROBI



KENYA BANKERS

ASSOCIATION

One Industry Transforming Kenya

18th April 2024

Mr. Jeremiah Ndombi, MBS

Office of the Clerk of the National Assembly

P.O Box 44842-00100

Nairobi.

Dear sir,

RE: BANKING INDUSTRY VIEWS ON THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION

Kenya Bankers Association acknowledges your letter dated 11th April 2024 inviting the Association to a meeting with the Departmental Committee on Trade, Industry and Cooperatives regarding the Economic Partnership Agreements (EPA) between Kenya and the European Union. The Association commends the Government for making progress towards enhancing trade and development linkages with the rest of the world aimed at delivering economic benefits to Kenya.

In this regard, the Association is pleased to submit the banking industry's comments on the EPA based on our assessment of its indirect impact on our member banks' relationships with customers that would potentially be affected by the EPA and on the economy at large.

Our assessment of bank customers in the export business indicates that Europe remains a significant market for Kenyan floriculture and fresh produce (accounting for about 70% of total exports) due to its proximity and size. The existing trade linkages between Kenya and Europe have compelled local growers to align production to suit European market needs. Switching this volume to other markets costs time, effort, and financial investments with the potential to generate financial losses to the tune of 15%. To this end, improvements in the EPA provisions are a welcome initiative.

Some of the notable potential cross-cutting benefits that the EU-Kenya EPA presents to Kenya include:

- The EPA effectively cements quota-free, duty-free access to the European market by local exporters; a benefit that Kenya has been enjoying under a temporary special arrangement that has been in place since 2014. The agreement provides for products from the EU to progressively receive duty reductions over a period of 25 years;
- The EPA is bound to provide opportunities for value-chain integration across the EAC and the EU, which will enable businesses in the region to engage in value addition rather than exporting products in their raw form, resulting in higher returns for businesses in the region;
- It includes a trade-related development assistance component to tackle some factors limiting Kenya's exports, such as lack of productive capacities, infrastructure, human capital and capacities to comply with EU standards;

Kenya Bankers Association, International House, 13th Floor Mama Ngina Street, P.O. Box 73100-00200, Nairobi, Kenya Telephone: (+254 20) 2221704/2217757/2224014/2224015 Mobile: (+254 02) 0733312770/0711562910 Email: info@kba.co.ke Website: www.kba.co.ke

- The EPA affords Kenya the certainty it requires to attract investors from Europe; thereby creating opportunities for local businesses in the value chains. This, amidst the implementation of the African Continental Free Trade Area, is important for the country to seize the opportunity and entrench itself as a natural manufacturing choice for European businesses seeking markets in the COMESA, SADC and the wider continent;
- It includes a dedicated trade and sustainable development chapter that covers aspects such a commitment to implement the Paris Agreement on Climate Change; thereby cementing the parties' commitment to climate change mitigation and adaptation. Kenya receiving EU development funds under the EPA arrangements would go a long way in stabilizing foreign exchange markets and augmenting budgetary support;
- While the agreement assures a stable market for industrialists -mostly in the European Union - that deal in machinery and mechanical appliances, pharmaceutical products, chemicals, electrical machinery, beverages and other processed products, it also presents an assurance to Kenyan producers of flowers, coffee, tea, fish, peas, and the edible fruits and nuts sectors a predictable EU market;

However, several concerns continue to linger on the EU-Kenya EPA:

- (i) **Kenya's EAC partners have raised concerns that the Agreement will, in the long term, negatively impact the region's development as a Common Market; in terms of its competitiveness and productive capacity.** This is because the Agreement implies that Kenya would offer a reciprocal FTA with a much more developed partner, and yet this would present attendant negative consequences for the country;
- (ii) It is estimated that over 91percent of Kenya's exports to the EU are predominantly primary commodity exports (agricultural products such as coffee, tea, spices, fruit and vegetables, fish, tobacco, hides and skins) and yet the Country's largest market for its exports is EAC (accounting for about 25% of its total exports) and not the EU given the former's achievable standards on goods, shared tastes and preferences by the population, and logistical proximity;
- (iii) According to the agreement, Kenya has offered to liberalise about 83 percent of her imports from the EU over a 25-year period by initially liberalising 65 percent on coming into force of the agreement. The rationale is that some of these products are currently zero-rated because they are either industrial inputs or capital goods, for instance, machinery and pharmaceuticals. However, only about 17 percent (or about 1,432 tariff lines) have been excluded from liberalisation to presumably cater for the protection of sensitive products and infant industries. This liberalisation seems not to envisage Kenya graduating to produce either industrial inputs or capital goods.

Our clients identify the local pharmaceuticals sector as one of those that will be impacted negatively by the Kenya-EU EPA; with a potential to adversely affect their ability to service outstanding loans with banks.

While it is good to zero-rate pharmaceuticals at this stage because we need cheap and affordable medicines, we should be looking forward to producing these pharmaceuticals in

future. The zero-rating and the Standstill clause (Article 12) effectively constrain the policy space for the region to achieve this aspiration.

Given (i) - (iii) above, the banking sector raises two critical questions:

- a) Would Kenya be able to achieve its long-term strategic industrialization aspirations with this agreement that opens up the market to EU products in place?;
 - b) Was the signing of the agreement informed by a cost-benefit analysis of the impact of the EPA on the economy in the short, medium and long term? If not, can this be incorporated before the ratification?;
- (iv) KIPPRA (2015) study sought to examine the economic implication of EPAs on Kenya by analysing trade relations between Kenya and EU, the implications of EPAs on regional trade and other trade arrangements, and the welfare effects on Kenya. While confirming that Kenya's exports to the EU market are dominated by a narrow range of primary commodity exports, the perceived preference margins that Kenya is to enjoy with the conclusion of EPAs were noted to be declining and would continue to decline in the future since the EU was also been negotiating FTAs with other countries/regions, and that multilateral trade liberalization under the WTO provides for the continued decline of tariffs and other trade barriers in the future.

On the policy front, the study recommends that for Kenya to benefit from EPAs, there is a need to urgently address supply-side constraints, such as inadequate infrastructure and low productive capacity of producers, which limit exports to the EU. Kenya should also enhance export growth and diversification from limited primary and natural resource-based commodities. In addition, the country should target more decisively to improve export competitiveness to retain and benefit from EPAs because tariffs and other trade barriers are decreasing over time in the international markets. **To this end, the EU-Kenya EPA should enable Kenya to build on these recommendations if the country is to align and reap optimum benefits from the EPA.**

KBA appreciates your consideration of inviting our input to your legislative process.

Thank You

Yours sincerely,



Mr. Raimond Molenje
Ag. CHIEF EXECUTIVE OFFICER



KENYA TRANSPORTERS ASSOCIATION LTD

P.O BOX 88502 - 80100

TEL: +254 731010000/+254 701726025

EMAIL: info@kta.co.ke

www.kta.co.ke

NATIONAL ASSEMBLY
RECEIVED

17 APR 2024

DEPUTY CLERK
J.W.N

P.O. Box 41842 - 00100, NAIROBI

Date: 16th April, 2024

② Mr. Ellam Omukinda
Pls TNA. J.M. 17/04/24
To: Jeremiah Ndombi, MBS,
Clerk of the National Assembly,
Parliament Buildings
P.O. Box 41842 – 00100
Nairobi, Kenya.

NATIONAL ASSEMBLY
RECEIVED

17 APR 2024

CLERK'S OFFICE

P.O. Box 41842, NAIROBI

17 APR 2024

Dear Sir,

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION.

The Kenya Transporters Association Ltd (KTA) is the umbrella body representing road freight transporters. Its broad objective is to provide a single authoritative voice to articulate the business constraints faced by its members in transporting goods to any destination within Kenya and across the East African Region.

I am writing to extend my sincere apologies for the late response and my inability to attend the stakeholder meeting with the Departmental Committee on Trade, Industry, and Cooperatives regarding the economic partnership agreement between Kenya and the European Union scheduled for Thursday, April 18th, 2024, at 9:00 a.m.

Based on the agenda and topics to be discussed, I believe the following associations would be valuable contributors to the meeting:

1. Fresh Produce Exporters Association of Kenya (FPEAK) - representing growers, exporters, and service providers in the horticulture industry.
2. Kenya National Chamber of Commerce and Industry (KNCCI) – representing the commercial and industrial interests of the Kenyan business community.
3. Kenya Maritime Authority (KMA) - ensuring sustainable, safe, secure, clean, and efficient water transport for the benefit of stakeholders.
4. Kenya Private Sector Alliance (KEPSA) – Conducting high-level advocacy on cross-cutting law and policy-related issues, and ensuring Kenya is globally competitive in doing business
5. Kenya Association of Manufacturers (KAM) – representative organisation for manufacturing value-add industries in Kenya.
6. Shippers Council of Eastern Africa (SCEA) – represents the interests of importers and exporters in Kenya and the Eastern Africa Region

The above associations possess the necessary knowledge, expertise, and authority to represent our organization effectively and contribute meaningfully to the discussions and decisions that will be made during the meeting.


KENYA TRANSPORTERS ASSOCIATION LTD

Location: Tom Mboya Road, Opposite Tudor Water Sports, Tudor - Mombasa.
P.O Box 88502 – 80100, Mombasa, Email: info@kta.co.ke Website: www.kta.co.ke

A united association of global excellence in advancing sustainable and competitive road freight industry

Please accept my apologies once again for any inconvenience caused by my absence. Thank you for your understanding.

Yours faithfully,

 16 APR 2024

Newton Wang'oo
Chairman
Kenya Transporters Association Limited



LAW SOCIETY OF KENYA

**MEMORANDUM TO THE NATIONAL ASSEMBLY DEPARTMENTAL
COMMITTEE ON TRADE, INDUSTRY AND CO-OPERATIVES REGARDING THE
ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE
EUROPEAN UNION**

SUBMITTED ON BEHALF OF THE LAW SOCIETY OF KENYA BY:

DR. DANIEL ACHACH AND MR. PATRICK ANAM

TO

MR. SAMWEL NJOROGE

CLERK OF THE NATIONAL ASSEMBLY OF KENYA

17TH APRIL 2024



Introduction

- The Law Society of Kenya (LSK) is in receipt of a letter dated 11th April 2024, received on 15th April 2024 by the Clerk of the National Assembly inviting the Society to a Stakeholder meeting with the Assembly's Departmental Committee on Trade, Industries and Co-Operatives.
- The stakeholder meeting is scheduled pursuant to Article 118(1) of the Constitution and Standing Order No. 127(3) that obligates the Committee to undertake public participation during legislation process. Notably, the Committee is undertaking a ratification process for the EU-Kenya EPA Agreement that has been signed between Kenya and EU and ratified by the EU.
- Owing to the urgent nature of the invitation and limited time, LSK appointed Dr. Daniel Achach and Mr. Patrick Anam, both advocates of the High Court of Kenya and with vast experience and expertise in the subject area to present LSK's Memorandum before the Committee.
- The LSK wishes to sincerely thank the Committee for the invitation to this meeting.

The Place of LSK as a Stakeholder:

- The Law Society is a Statutory body created under the Law Society Act, Cap 18 Laws of Kenya with the mandate, *inter alia*, to assist the government and the courts in all matters affecting legislation and the administration and practice of the law in Kenya and to protect and assist the public in Kenya in all matters touching, ancillary or incidental to the law section 4(e).
- By dint of article 2(6) of the Constitution of Kenya 2010, any Treaty or Convention ratified by Kenya shall form part of the law of Kenya. The LSK is therefore not only an essential player in the process of negotiating and ratification of international agreements but is statutorily obligated to participate in the process.
- Besides the Statutory mandate, LSK is the umbrella society for all advocates in Kenya legally mandated to provide legal services. To the extent that a trade agreement touches on liberalization on trade in services therefore, LSK becomes the key player in representing the interests of Legal Services providers.
- Based on the above mandate, with respect to the EPA and other trade agreements, LSK performs dual functions. First is enabling lawyers to trade in legal services and take

opportunities legal practices space at the national level, regional level, and international level. Secondly, LSK has the duty to ensure the general public and other members of the society are not negatively impacted by trade deals. This is done in different way including through legal advisories and also through public interest litigation to challenge trade deals that violate Kenya's constitutions, local laws and policies.

LSK's Expertise on International Trade Law:

- The LSK has established an *ad hoc* committee on International Trade and Regional Integration that comprises of eminent experts and practitioners in the area. The LSK has members who have vast experience and expertise spanning different areas of international trade law and policy.
- LSK decries lack of an engagement framework with the government and the Committee on negotiating trade deals, signing and ratification of trade agreements. The LSK recommends a deeper engagement and invites both the government and the National Assembly to take advantage of the vast experience and expertise that lies within the LSK's membership.

The Role of the Committee on Ratification

- LSK is alive to the fact that the EU-Kenya EPA Agreement has already been signed by the two parties and ratified by the EU. This Committee is carrying out Stakeholder engagements to fulfil the legal requirements for ratification of the agreement. The Treaty Ratification Act does not give this Committee the power to recommend substantive changes to the Treaties such as the EPA. This needs examination with the view to making amendments to the Treaty Ratification Act to allow of changes. Also, the amendment discussion should address how Parliament be meaningfully participate in the pre- treaty negotiation processes.

Comments on the EU-Kenya EPA Agreement

- Economic Partnership Agreements (EPAs) are trade and development agreements negotiated between the EU and African, Caribbean, and Pacific (ACP) countries. They

open up EU markets fully and immediately, whereas ACP partners open only partially to EU imports, over transitioning periods.

- EPAs are WTO-compatible agreements. However, they usually go beyond conventional free-trade agreements, focusing on ACP development, taking account of their socio-economic circumstances, and including co-operation and assistance to help ACP countries benefit from the agreements.
- The Government of Kenya and the EU concluded negotiations for an Economic Partnership Agreement (EPA) on 19 June 2023 and signed in December 2023.
- The Current Kenya- EU EPA has its roots in the East African Community-EU EPA which was finalized in 2014 but which could not be applied despite Kenya's ratification as it required signature and ratification by all the EAC countries.
- Therefore, following the EAC Summit decision of February 2021, Kenya requested to move forward under 'variable geometry', subsequently engaged the EU on 17 February 2022 to advance on the bilateral implementation of the EU-EAC.
- The agreement aims to implement the provisions of the EAC EPA, and it will be open for other EAC countries to join in the future.
- The EPA provides a platform to support job creation on both sides, along with targeted cooperation to enhance Kenya's economic development. According to the EU, it is the most ambitious trade deal ever signed by the EU with a developing country when it comes to sustainability provisions such as climate and environmental protection, labour rights and gender equality.
- The LSK lauds the government on the ingenious way out of the quagmire that faced the EU-EAC EPA. The variable geometry route for the implementation was indeed a well thought out strategy for Kenya under the circumstances.
- The LSK takes special note of the provisions in the Agreement which take into account Kenya's development needs by providing a longer period to gradually open its market, a special safeguard for agriculture, food security and infant industry, a dedicated chapter on economic and development cooperation, aimed at enhancing the competitiveness of the Kenyan economy, EU development assistance aimed at helping to build capacity and assist Kenya in implementing the EPA smoothly, while supporting local farmers in meeting EU standards and in reaping the opportunities this agreement provides.

Limiting Factors in the Agreement

- LSK has identified a number of factors it considers might prevent the full realization of the benefits attendant to the signing of the agreement:

1. Domestic Legal and Institutional Reforms

- Kenya has undertaken onerous obligations under the agreement which require extensive reforms at the legal, institutional and policy reforms. These reforms must be aimed at enhancing a conducive environment for the private sector to reap the benefits of the agreements. These include reforms to address cost of production, support industrialization and value addition, modernize agricultural policies, etc.

2. Inclusion of the Annex on Trade and Sustainable Development

- This annex was not there in the original EU-EAC EPA text and other partner states have argued that by including such, the agreement has been substantively amended and therefore they will not sign.
- Possibility of litigation before the EACJ on this issue.
- Does this expose Kenya in terms of trade diplomacy within the EAC?

3. Legality of the Variable Geometry Application

- The principle of Variable Geometry is an approach in regional integration that allows member states flexibility to choose differentiated speed towards integration.
- The principle of Variable Geometry is provided for in the EAC Treaty and allows for progression in cooperation among groups “within the Community for wider integration schemes in various fields and at different speeds”.
- Some critiques have argued that the application of Variable Geometry in the EU-Kenya EPA is a misapplication of this principle, as this principle applies to integration within the EAC and does not apply to third parties.
- If wrongly evoked, as recently applied by Kenya, it will lead to unintended consequences of fusing the EAC in the EU Free Trade Area.
- This is because if Kenya implements the EPA, it will be part of the Free Trade Area with the EU and by default the entire region will be, given the fact that the EAC has a common external tariff.
- Does the ratification of this agreement expose Kenya to litigation by her trading partners from the EAC?



4. Effects of the EPA on EAC Integration

- Concerns have been concerns on the likely implication of the EPA on EAC's regional integration in terms of whether it will reverse the gains made in enhancing intra-African trade as well as the challenge with regards to Rules of Origin.

5. Market Access Challenges when accessing EU Market

- The EU is known to implement strict SPS conditions, as well as other standards/regulations that create huge compliance costs especially on the MSMES. The mechanisms of addressing these challenges should be emphasized in the agreement.

6. Technical support provisions

- Training of internal manufacturers and producers on how to take advantage of the markets created by the agreement. There need to review domestic laws and regulations to create a conducive environment for the agreement cannot be overemphasized.

Conclusion

- Whereas LSK supports the government's efforts to open up markets and trading spaces for local traders through bilateral and multilateral interventions, deliberate efforts must be made by the government through domestic legislation and policy review to create a conducive environment that makes our traders competitive. Lessons must be learnt from previous agreements that had enormous promises and opportunities but little success in terms of implementation due to harsh domestic environment. The government must also take caution not to erode gains already made with regional trading partners within EAC.

-END-

DR. DANIEL ACHACH
ADVOCATE

MR. PATRICK ANAM
ADVOCATE



MEMORANDUM

ON

**KENYA- EUROPEAN UNION ECONOMIC PARTNERSHIP AGREEMENTS
(KENYA -EU EPAS)**

TO

**NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON TRADE,
INDUSTRY AND COOPERATIVES**

PRESENTED BY

MR. ANTHONY MWANGI

CHIEF EXECUTIVE

KENYA ASSOCIATION OF MANUFACTURERS

APRIL 2024

1. About KAM

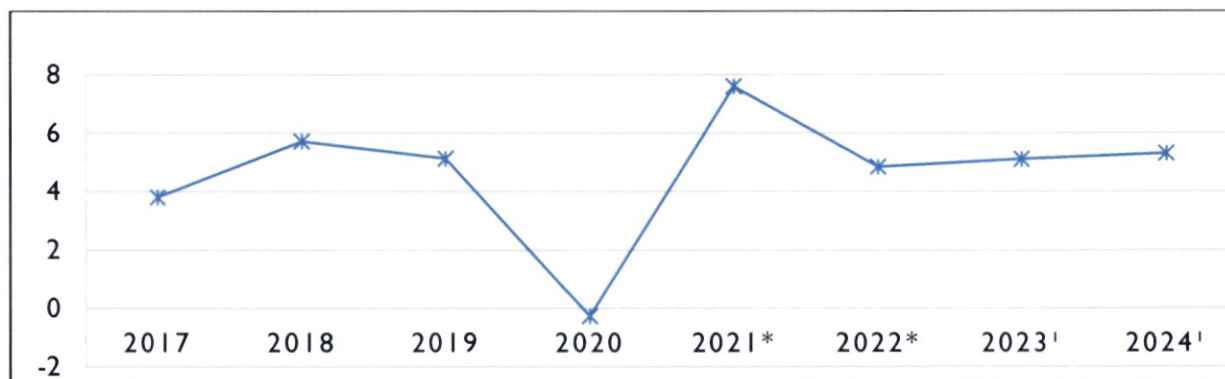
- ✓ KAM was established in 1959.
- ✓ KAM is the representative organization for manufacturing value-add industries in Kenya, comprising of more than 1300 members who cut across 14 sectors; all of whom are distributed in different counties across the country.
- ✓ In pursuit of our core mandate of policy advocacy, KAM plays a key role on behalf of manufacturers in Kenya by providing an essential link for co-operation, dialogue, and understanding with the Government and its related agencies.

2. Kenya's economic outlook

a) GDP growth rate

- ✓ Kenya's economy has in general terms exhibited volatility in the period under review (Figure 1).
- ✓ The real GDP growth accelerated from 4.8% in 2022 to an estimated 5.1% in 2023 and is projected to grow by 5.3% in 2024.
- ✓ This growth is attributed to a strong rebound in the agriculture sector in 2023, which had faced a persistent and severe drought, resilience of the service sector and supportive macroeconomic policies.
- ✓ Growing investments boosted by increased credit to the private sector as the government reduces domestic borrowing is expected to drive growth in Kenya.

Figure 1: Kenya's GDP growth rate 2017-2023



Data source: Kenya Economic Survey and IMF, 2023

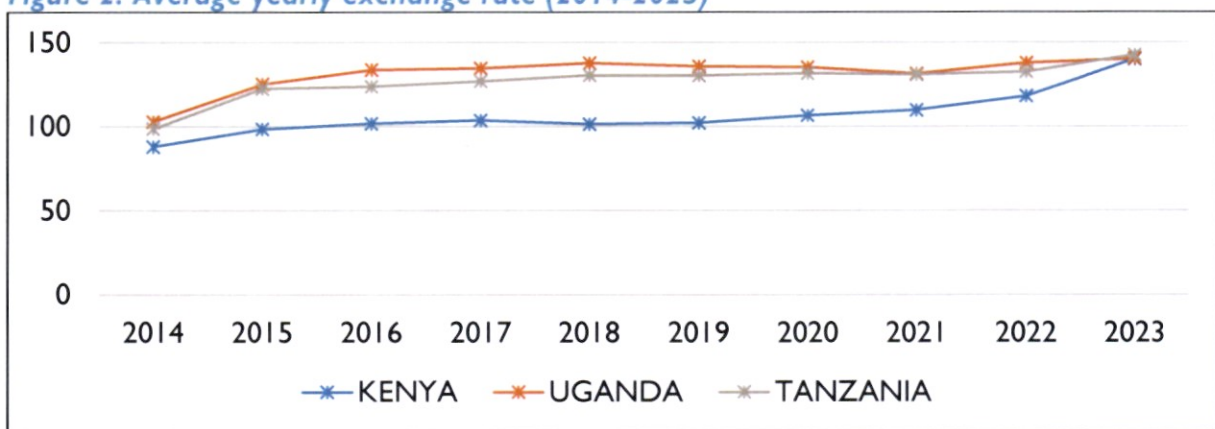
Note: * = estimate; ¹ = forecast.

- ✓ It is difficult for an economy to realize sustained economic growth in the absence of structural transformation (industrialization).
- ✓ Even if there is an improvement in macroeconomic stability and governance, it can only foster resilience and lay groundwork for growth, but not ignite and sustain rapid productivity growth.

b) Exchange Rate

- ✓ The Kenyan shilling has experienced significant depreciation against the US\$ and other major global currencies, including those of EAC Partner States (Figure 2).
- ✓ Between 2022 and 2023, Kenya's currency depreciated by 18.59% compared to 13.35% and 1.78% for Tanzania and Uganda, respectively.
- ✓ Pricing and availability of the US\$ matters to manufacturers in Kenya because the sector depends heavily on imported raw materials, intermediate inputs, and capital goods.
- ✓ With the depreciating exchange rates, importation of the industrial inputs and capital goods become more expensive.

Figure 2: Average yearly exchange rate (2014-2023)



Source: Central Bank of Kenya

Note: Exchange rate - Tsh/Ksh (17.63) and Ugx/Ksh (27)

c) Direction of trade

- ✓ Africa is the dominant destination of Kenya's exports accounting for 41.0% of total value of export earnings in 2022 (Table 2.1).
- ✓ Total exports to Africa increased by 15.7 per cent to Ksh 357.7 billion in the review period. This growth was mainly occasioned by a 17.7% increase in exports to the EAC economic bloc, which accounted for 63.3% of the total exports to Africa.
- ✓ This illustrates the importance of the African continent and the value of the AfCFTA as an export market.

Table 2.1: Table of Total Exports by selected destinations (Ksh billion)

Country/region	2018	2019	2020	2021	2022*
EAC	130.0	140.4	158.3	192.4	226.5
Total Africa	217.6	224.2	246.1	309.3	357.7
European Union	131.2	133.4	99.3	115.8	133.2
US	47.3	51.9	49.3	59.6	79.9
Grand total exports	614.3	596.7	643.7	743.7	873.1
% total Africa	35%	37%	38%	41%	41%

Data Source: Economic Survey, 2023

d) Export Structure

- ✓ Kenyan exports primarily consist of raw materials and primary goods (Table 2.2)
- ✓ In 2022, exports of food and beverages accounted for 43.1% of total exports, followed by non-food industrial supplies at 28.5% (Table 2.2).
- ✓ During this period, the share of domestic exports of fuel and lubricants increased from 0.91% in 2021 to 1.34% in 2022, largely driven by domestic exports of primary fuel and lubricants.
- ✓ However, there was a contrasting trend in the share of domestic exports of machinery and other capital equipment, which declined from 1.78% in 2021 to 1.41% in 2022.

Table 2.2: Kenya's export structure, 2014-2022 (% of value)

	2014	2015	2016	2017	2018	2019	2020	2021	2022
Food & Beverages	40.84	44.68	45.17	47.95	47.66	44.22	46.4	43.06	43.07
Industrial supplies (non-food)	27.02	25.87	24.51	23.63	23.52	23.94	23.78	25.5	28.51
Fuel & lubricants	0.71	1.26	0.9	0.99	0.99	1.19	1.05	0.91	1.34
Machinery & other capital equipment	1.63	1.91	2.62	1.34	1.25	1.93	1.68	1.78	1.41
Transport equipment	1.57	1.42	1.15	0.84	1.12	1.22	0.88	1.06	0.97
Consumer goods not elsewhere specified	27.89	24.85	25.64	25.21	25.45	27.49	26.21	27.61	24.7
Goods not elsewhere specified	0.31	0.01	0.02	0	0	0	0	0.09	0

Source: Economic Survey, 2023

- ✓ Countries specializing in sophisticated products generally experience faster economic growth.
- ✓ Table 2.2 shows that most of our exports comprise of food and beverages, which can be said to be poor country goods.
- ✓ Production of sophisticated goods is only possible through manufacturing.

e) Import Structure.

- ✓ Kenyan's import profile comprises mainly intermediate products (industrial supplies) along with other types of value-added products such as machinery, capital, and transport equipment (Table 2.3).
- ✓ Non-food industrial supplies constituted 47.27% of total value of imports in 2022.
- ✓ This underscores Kenya's reliance on imported inputs for processing purposes. This excludes industrial supplies related to food and beverages.

Table 2.3: Import structure (%)

	2018	2019	2020	2021	2022
Food & beverages	9.98	10.34	10.73	10.04	10.19
Industrial supplies (non-food)	34.57	43.78	49.61	49.2	47.27
Fuel & lubricants	19.19	18.50	13.66	17.75	26.01
Machinery & other capital equipment	16.47	17.97	16.96	14.35	11.49
Transport equipment	10.72	10.55	9.95	9.45	6.91
Consumer goods not elsewhere specified	8.43	8.66	9.56	9.05	7.95
Goods not elsewhere Specified	0.64	0.54	0.26	0.20	0.37

Source: Economic Survey, 2023

3. State of manufacturing sector in Kenya

a) Growth of the manufacturing sector

- ✓ The growth of the manufacturing sector for countries in the EAC is volatile (Figure 3.1). Economic growth is also volatile (Figure 3.1).
- ✓ Highest growth rate by the sector over the period under review was realized in Q2 of 2021 at 11.1%. In Q3 of 2023, the sector grew by 2.6% compared to 1.8% in the corresponding quarter of 2022.
- ✓ This growth was driven by increased processing of dairy and tea products as well as cement production, which grew by 6.8%, probably driven by the government's affordable housing program.
- ✓ However, domestic production of sugar declined by 56.1% in Q3 of 2023.

Figure 3.1: Manufacturing sector growth (%)

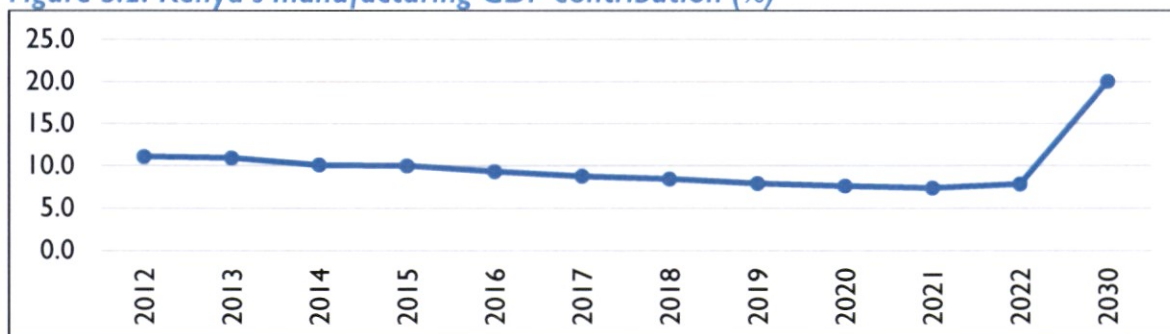


Data source: World Development Indicators (WDI)

b) GDP contribution of the manufacturing sector (%)

- ✓ Manufacturing GDP contribution can give indications whether a country is making strides in industrialization.
- ✓ Notwithstanding, the sector's performance over the last 10 years has faced significant challenges, which has seen its contribution to GDP drop significantly from 11.08% recorded in 2011 to 7.8% in 2022 (Figure 3.2).
- ✓ Kenya hopes to reverse this trend through the Manufacturing 20BY30 Vision that seeks to increase the sector's contribution to the GDP to 20% by 2030.

Figure 3.2: Kenya's manufacturing GDP contribution (%)



Data source: WDI

c) Manufacturing output

- ✓ The value of manufacturing output increased by 17.6% from Ksh 2,700.2 billion in 2021 to 3,175.3 billion in 2022 (Table 3.1).
- ✓ Intermediate consumption increased by 17.3% in 2022 leading to an increase in value added by 18.1% in the same period.
- ✓ Compensation of employees in the sector grew by 8.1% to Ksh 250.1 billion in 2022 from Ksh 231.4 billion in 2021.
- ✓ Table 3.1 also reveals the heavy reliance of the manufacturing sector on intermediate inputs which averaged 65% of final output for the 2018-2022 period. Most of the intermediate inputs are imported.

Table 3.1: Manufacturing output, 2018-2022 Ksh (billions)

Year	Value of Output	Intermediate Consumption	Intermediate consumption as % of final output	Value Added	Compensation of Employees
2018	2,216.5	1,431.2	65	785.4	206.4
2019	2,311.6	1,502.3	65	809.3	218.3
2020+	2,376.4	1,562.1	66	814.3	215.5
2021	2,700.2	1,814.5	67	885.6	231.4
2022*	3,175.3	2,129.1	67	1,046.3	250.1
Average			66		

Source: Economic Survey, 2023

*Provisional, +Revised

d) Contribution to employment

- ✓ The manufacturing sector created 352.6 thousand jobs in both the public and private sector, which is an increase from 336.8 thousand jobs created in 2021 (Table 3.2).
- ✓ In 2022, the private sector created 329.6 thousand jobs, up from 313.5 thousand recorded 2021, while the public sector exhibited a slight decline from 23.3 thousand jobs created in 2021 to 23 thousand jobs created in 2022.
- ✓ Over the 2017-2022 period, manufacturing sector jobs accounted for an average of 12% of total wage employees in the country.
- ✓ Given that a manufacturing GDP of 7.8% in 2022 was equivalent to 352.6 thousand jobs, holding other factors constant, a manufacturing GDP contribution of 20% by 2030 will yield about 1 million jobs.

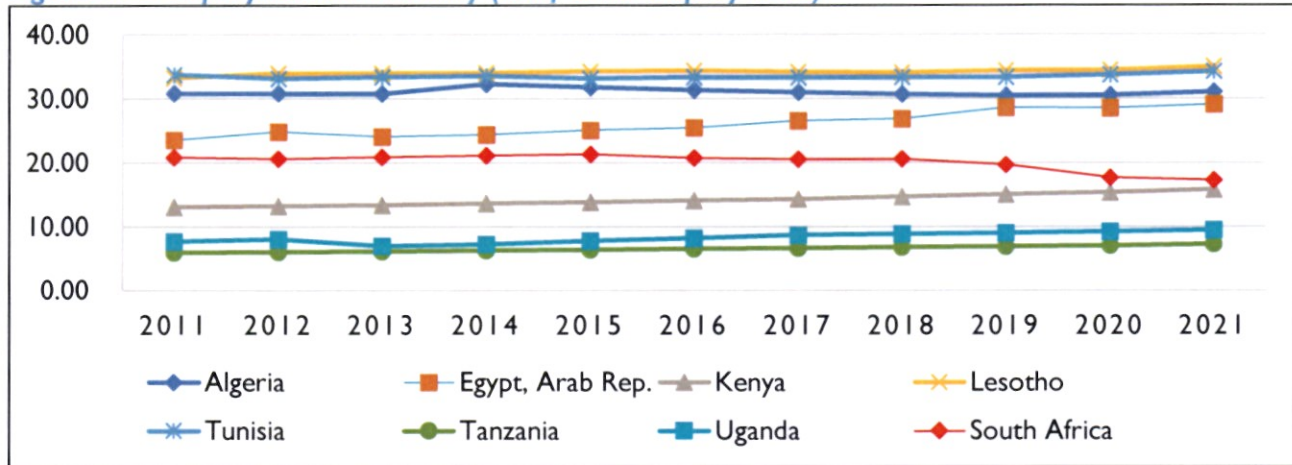
Table 3.2: Wage employment by industry and sector, 2017-2021 (000)

	2017	2018	2019	2020	2021	2022*
Manufacturing (private sector)	317.5	321.3	329.0	293.8	313.5	329.6
Manufacturing (public sector)	26.2	26.3	24.1	23.0	23.3	23.0
Total manufacturing employment	343.7	347.6	353.1	316.8	336.8	352.6
Total wage employees	2,792.7	2,859.7	2,928.4	2,742.6	2,906.1	3,015.4
Manufacturing employees as a % of total wage employees	12.3	12.2	12.1	11.6	11.6	11.7

Source: Economic Survey, 2022 & 2023 & KAM calculations * Provisional

- ✓ Figure 3.3 shows that employment in industry for Kenya has been growing slowly from 2011 to 2021 period, better than Tanzania.
- ✓ Comparable to other to African countries, Lesotho, Tunisia, Algeria, Egypt and South Africa and Uganda had higher percentage of people employed in industry.

Figure 3.3: Employment in industry (% of total employment)



Data source: WDI (modelled ILO estimate) 2023

4. The Kenya – European Partnership Agreements (EPAs).

- ✓ Kenya -EU have been trading under the Kenya- EAC terms where Kenya was allowed to implement the agreement pending the ratification of the agreement by fellow EAC partner states.
- ✓ Kenya imported products worth about \$1.7 billion in 2022 mainly comprising of machinery, pharmaceuticals, chemicals, and agricultural products.
- ✓ On the other hand, Kenya exported goods worth about \$1.1 billion to the EU mainly comprising of agricultural commodities including of flowers, fresh produce, coffee, tea, fruits and some miscellaneous value-added products.
- ✓ The exports are scratch of the surface of the 16trillion EU economy.
- ✓ As the Kenya- EU EPAs come into force; there is an opportunity for Kenya to take up the market opportunities presented by the huge demand in the EU.
- ✓ However, there is a need for Kenya to address competitiveness issues; bearing in mind that the 25-year window is meant to enable the country to build its capacity to compete with EU on an level playing field.
- ✓ Taking a leaf from AGOA that has been with Kenya for the past 24 years; it is important to acknowledge that the country has not yet been able to work on its backward and forward integration as envisioned in the 2000 due to the lack of synergised and deliberate long term competitiveness enhancement program for Kenya.
- ✓ The European Union has Free Trade Agreements with about 70 countries across the world including Vietnam, Singapore, Mexico, Chile, South Korea, Mercosur (Brazil, Argentina, Uruguay, Paraguay), Egypt, Morocco among others.
- ✓ Therefore, Kenya needs to be globally competitive so as to be able to compete with about 70 countries that have duty free, quota free market access to the European Union.

4.1 Key Features of the Kenya- EU EPAs

i. Immediate Duty Free/ Quota Free Market Access

- ✓ The Kenya -EU Economic Partnership Agreements (EPAs) provide for duty free/ quota free of goods produced in Kenya to the European Union immediately after it comes into force. The agreement provides Kenyan manufacturers and business with an access to a 15 trillion Euro GDP market characterised by a high purchasing power that would drive a big demand for Kenyan products.
- ✓ Currently, Europe is the third largest regional export destination for Kenyan products behind EAC and rest of Africa (COMESA included) with exports of about \$ 133.2 billion dollars in 2022.

ii. Market Liberalisation of the Kenyan Market from European Union

- ✓ The Kenya -EU Economic Partnership Agreements (EPAs) provides for an asymmetry in tariff liberalisation providing for a transitional period of 25years past which goods imported from the EU to Kenya will attract a 0%.

- ✓ It is expected that the 25-year window would protect Kenyan business from the much-advanced industries in Europe.
- ✓ However, it is important that Kenya has in place a deliberate and rigorous strategy that is combined with deliberate timebound implementation to enable its industries develop the competitive capacity to compete with European firms.
- ✓ This requires a myriad of strategic interventions as outlined in the section below:

5.0 Kenya's Exports Performance

5.1 Export -Import Trend Analysis for Kenya

- ✓ Kenya's exports have been growing at an average rate of 5.5 % for the past 10 years to reach a tune of Kes 780 billion in 2022 (Figure 5.1). Domestic exports accounted for Kes 779.6 billion while re exports accounted for Kes 93.5 billion in 2022.
- ✓ The exports versus imports ratio for Kenya is about 1:3 with exports in 2022 being about \$7.4 billion againsts imports of about \$21.1 billion as shown in the figure 5.1 below.
- ✓ The huge trade deficit in Kenya has continuously exposed the Kenyan shilling to forex fluctuations alongside continued competition to local manufacturing sector.



Figure 5.1: Exports versus imports (Data source- ITC)

- ✓ However, the Kenya Exports to GDP ratio has been declining over time (figure 5.2), irrespective of the growth of exports within the same period.
- ✓ This is reflective a dire need to relook at the country's export environment and come up with mitigation and remedial measures to reverse the trend.



Figure 5.2 :Exports as a percent share of Kenya's GDP

- ✓ A look at exports to GDP ratios of other key global competitors in the global and European market (Table 5.1) reflects to a case where the country needs to work on a measure to reverse the trend.

Comparison of Exports in selected countries (2021)

	Kenya	Vietnam	Chile	Egypt	Singapore	Bangladesh
Exports to GDP ratio	6%	91%	30%	9%	75%	11%
Position in world exports	109	18	39	58	19	56
Exports Value (\$Bn)	7.3	370	91.1	44.5	351	51
GDP (\$ Bn)	113.4	408.8	301	476.7	466.8	460.2
Population (Mln)	50	97.5	19.5	109	5.5	169.4

Table 5.1 :Export Indicator Comparisons between Selected countries(UNIDO and World bank)

Observations from Table

- ✓ Vietnam and Singapore have high Exports to GDP ratio which corresponds to their global leadership position in exports at 18 and 19 respectively as compared to Kenya which is ranked at 109th.
- ✓ Singapore and Chile that have a significantly smaller population than Kenya but are exporting higher values at 48 and 12 times respectively than Kenya

6.0 Competitiveness as a Driver for Exports

For Kenya to be able to compete with European Union on a level playing field after 25 years, it is imperative that the country works on its industrial competitiveness.

According to UNIDO's Kenya's competitive Industrial index performance (CIP) stands at 108 out of 153 countries in 2021 as compared to 107 in 2020. Specifically, Kenya's 2021 score is 0.009 against a world average of 0.061.

Specific indicators relevant to the manufacturing sector and exports: -

- ✓ Kenya is ranked 132 out of 153 countries on Manufacturing Export per Capita Index with a score of 0.001 against a world average of 0.112. This is the capacity to produce, and export manufactured goods,
- ✓ Kenya also ranks at 130 out of 153 countries on Manufacturing Value Added Per capita Index with a score of 0.004 against a world average of 0.059.
- ✓ Kenya ranks at 108 out of 153 countries on share of manufacturing exports to total exports, with a score of 0.479 against a world average of 0.635.

Kenya's production is based on low economic complexity products and bulk of the Kenya's exports heavily concentrated on commodities and basic items. For instance, there lies great potential of shifting the value of exported tea by 7 times through a transition from raw to value added tea.

6.1 Comparisons between Kenya and Selected Countries

Even though Kenya is considered as a regional economic hub, it still lags behind key global competitor countries especially in manufactured exports such as Singapore, Turkey, Vietnam, Chile, Bangladesh and Egypt. A look at the current CIP ratings of the countries show that they are ranked at positions Singapore (9), Turkey (27), Vietnam (30), Chile (48), Bangladesh (64), Egypt (68) respectively, as compared to **Kenya's 108**. Interestingly, Kenya, Vietnam and Chile had the same score in 1990 of about 0.017 as shown in the figure below.

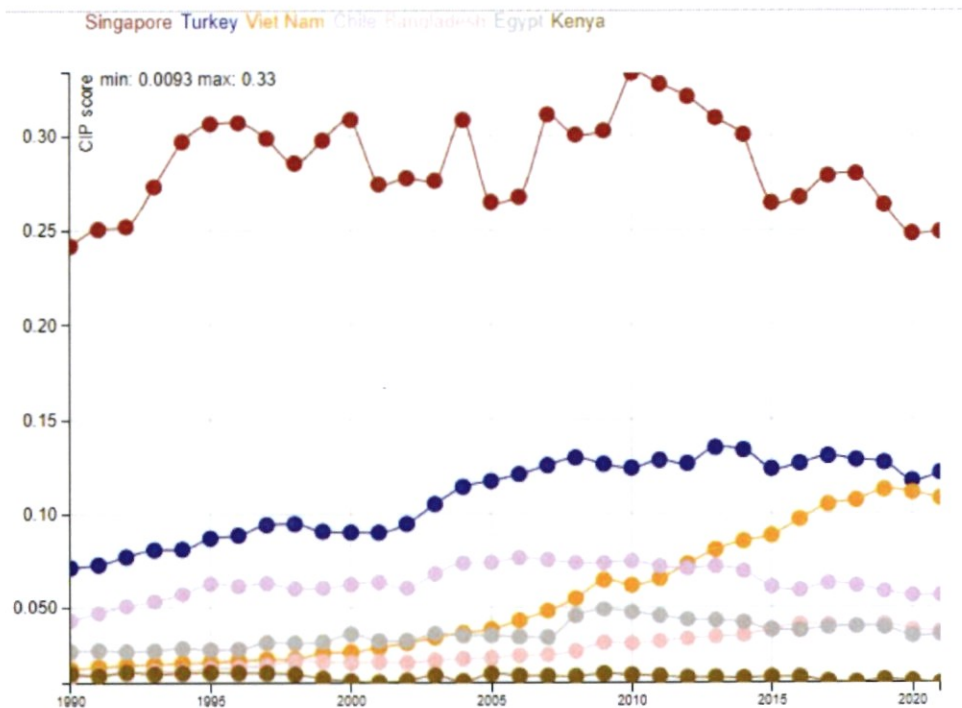


Figure 6.1 :Kenya's Competitive Industrial Performance (CIP) Source UNIDO

- ✓ However, deliberate, and focused systemic interventions to address competitiveness and create an export focussed orientation has led to the current discrepancy where the Chile and Vietnam countries have greatly improved their industrial competitiveness and by extension their exports competitiveness.
- ✓ The comparator countries have since improved their competitiveness. Currently, Singapore leads the pack with a CIP rating of 9, followed by, Turkey and Vietnam with its current CIP rating of 27 and 30 respectively.
- ✓ The comparator countries score highly on the key indicators of industrial competitiveness including share of high technology value add economic activities in the specific countries, share of manufactured exports as a share of total exports and quantum of manufacturing value add services as shown in table 3 below.
- ✓ From Figure 6.1 above, Vietnam was at par with Kenya in CIP rating in 1990. Through long term sustained competitiveness development, the country now ranks at position 38 globally against Kenya's 108.

7.0 Way Forward

- ✓ Kenya should implement the Kenya-EU EPAs.
- ✓ The agreement will easily boost bilateral trade in goods and investment flows and contribute to sustainable economic growth.
- ✓ Trade related development cooperation is critical to support economic growth and job creation. Kenya will open its market to EU gradually, benefiting from a transitional period of 25 years and will be able to exclude sensitive products from liberalization.
- ✓ Kenya can benefit from other EPA provisions that consider its development needs such as special safeguards for agriculture, measures on food security and infant industry protection.
- ✓ The EPA agreement has a chapter on agriculture that is geared sustainable agriculture development including food and nutrition security, rural development including sustainable use and management of natural and cultural resources, income and job creation in agricultural sector. The Chapter guarantees that EU will not apply export subsidies, even in time of market crisis, and commits the Parties to deepened policy dialogue on agriculture and food security, including transparency as regards their respective domestic policies.
- ✓ The bilateral and economic and development cooperation mechanism will enhance the business and investment environment and help generate new trading and investment opportunities. EPAs are international agreements and do not expire. Thus, both the free access of Kenya into the EU market without time limit, and the long-term free access of EU products to the Kenya market will increase incentives to invest in Kenya and build capacity to meet EU Standards.
- ✓ Legal certainty, stability and predictability are among the main aspects potential investors are likely to consider when deciding on an investment.
- ✓ Within 25 years, trade between Kenya and EU will be fully liberalised, with EU goods having duty free, quota free market access to Kenya. For this reason, the trade, industry and cooperatives committee should provide a legislative framework on which Kenya would be able to build its industrial competitive capacity to be able to engage with EU within a market led economy.
- ✓ KAM proposing a systemic long approach to provide interventions around the following key pillars:
 - i. Global competitiveness
 - ii. Export-led industrialization.
 - iii. SMEs development
 - iv. Agriculture for Industry

*****END***

**THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE
EUROPEAN UNION**

By, Emmanuel Wa-Kyendo, Program Officer, International Trade and Development, Institute
of Economic Affairs Kenya.

The Kenya EU EPA is the most ambitious trade deal between the EU and a developing country. This trade deal is ambitious because of the sustainability provisions in climate and environmental protection, labour rights and gender equality. The social and climate commitments are the strongest of any EU Trade deal with an African country. The agreement will open up the EU market to Kenyan products and incentivise EU investment in Kenya.

The Kenya EU EPA will allow Kenya to plug into the global value chains physically, commercially and institutionally and through the expansion of the knowledge and product spaces. Physical linkages will be formed through Kenya's land, sea and air infrastructure. Goods and people moving between Europe and Kenya will travel through Kenya's ports and airports and exploit Kenya's infrastructure as they navigate the region. Institutional linkages will begin with this trade agreement and include coordination on trade dispute resolution, in addition to climate and environmental protection, labor rights and gender equality. In principle, unilateral liberalization of trade is good trade policy. Kenya could go as far as liberalize its markets unilaterally. At a glance, however, the EPA comes close enough.

Institutional linkages create lock in mechanisms that can be difficult to remove. If they provide stability through transparency and predictability, these institutions will have a positive effect on welfare. This is because these institutions will give traders and investors in both Europe and Kenya the confidence to plan for enduring time horizons.

On the commercial front, markets are an emergent phenomena. The entrepreneurial activities that will take place as the EPA comes into force are unpredictable. Shielding firms from competition is tantamount to taking away the consumer surplus for the benefit of the producer. That is, explicit calls for buy Kenya build Kenya are calls to hurt the consumer for the sake of the producer. While the returns of trade are not symmetrical or infinitely abundant, they are not necessarily zero sum, either. What should concern policy makers and pundits is the emergence of product complexity or the lack thereof. After all, economic complexity has a strong correlation with per capita incomes.

All things equal, a nation charting a path towards prosperity should invest in knowledge. Knowledge comes in tacit, codified and embodied forms. While knowledge in embodied and tacit forms can be moved around, tacit knowledge cannot easily be uprooted. This is because it does not reside in a single mind or machine. Rather, tacit knowledge exists in a collection of bodies. Tacit knowledge is also the most valuable.

That highly trained electrical engineers would still require years of experience, working together to build computer chips is evidence of the significance of the barrier to entry that tacit knowledge can form. In other words, it took a critical mass of German scientists emigres to run the Manhattan project and build the atom bomb. Such a migration of a blob of tacit knowledge space is rare. The Kenya EU EPA postulates the creation of relationships of technical transfer with the objective of raising Kenya's manufacturing capabilities.

If this is an effort in sharing embodied and codified knowledge, the margins will be small. If foreign investments from Europe to Kenya are directed towards the generation of tacit knowledge, Kenyans will design and manufacture final products, enjoy higher factor returns and find markets in Europe. That is, investments in tacit knowledge will generate higher factor returns than investments in embodied or codified forms of knowledge. Furthermore, concerns about the EPA evolving into an instrument of the destruction of Kenyan and East African manufacturing can only be countered with material investments to expand the East African product space by expanding the quantum of tacit knowledge. Investing in tacit knowledge is investing in economic complexity.

Basic Structure of the Kenya EU EPA

The Kenya EU EPA liberalizes trade between the EU and Kenya. When the EPA is ratified, Kenyan goods except arms will have quota free, tariff free access to the European Union. For its part, Kenya will only gradually open its market for European goods. Kenya will also have an allowance to restrict goods from liberalization. Additional safeguards will be placed for agriculture, food security and the protection of infant industry. This means that while Europe is fully liberalizing its market to Kenya, Kenya is not fully opening up its own market to Europe.

EPA Elimination of Customs Duties

Kenya committed to the liberalization of an equivalent of 82.6% of EU exports to Kenya. Kenya's current tariff regime welcomes almost half of its imports from the world duty free. While almost 15% of the value of EU exports to Kenya will be liberalized in the 15 years following the entry into force of the EPA, 2.9% will be liberalized within a 25 year period. The goods to be excluded from liberalization are, namely, vehicles, articles of base metal, glassware, ceramic products, footwear, textiles and clothing, wood based paper, plastics, chemicals, wines and spirits and a number of agricultural products.

Trade Sustainability

Binding provisions on, sustainability, climate and labor will make reversals to commitments next to impossible. This bodes well for institutional transformation.

Opportunities for Farmers

The European Union is the largest importer of agricultural products from the Africa, Caribbean Pacific region. The EU will allow Kenya to guard its agricultural sector and also support farmers as they comply with EU sanitary and phytosanitary prescriptions. Kenyan exports to the EU are made in horticulture. Kenya can also maintain safeguards for its sensitive agricultural products and take food security precautions where necessary.

EPA Support for Sustainable Agriculture

The EU will take measures to support Kenyan agriculture, food and nutrition security and rural development. The EU has also pledged to raise transparency in its domestic agricultural policies and will not apply export subsidies, even during market crises. These measures are designed to support sustainability in Kenyan agriculture¹.

Bibliography

EUBusiness. (2023, December 18). *EUBusiness*. From EUBusiness: <https://www.eubusiness.com>

¹ (EUBusiness, 2023)





NEW KENYA PLANTERS
CO-OPERATIVE UNION

**SUBMISSIONS ON THE ECONOMIC
PARTNERSHIP AGREEMENT BETWEEN KENYA
AND THE EUROPEAN UNION**

Submitted to

THE CLERK OF THE NATIONAL ASSEMBLY

Presented by

**TIMOTHY MIRUGI
MANAGING DIRECTOR
NEW KENYA PLANTERS COOPERATIVE UNION**

April 2024



SUBMISSIONS ON THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION

1 Introduction

New KPCU is a State Corporation in the State Department for Co-operatives. It is mandated to Warehouse, Mill and Market farmers coffee as well as Administer Coffee Cherry Advance Revolving Fund to coffee farmers.

2 Proposed Amendments to The Economic Partnership Agreement

In response to the call for public participation on the afore-referenced Economic Partnership agreement, we propose the following amendments to be considered before the document is enacted.

S/no.	Clause	Proposal	Justification
1.	Article 2 (c))	Delete the word 'Choices'	Political choice is a democratic right. One of Kenya's Political priority is to promote a democratic state. Removing "choices" clarifies Kenya's political agenda to promote democracy.
2.	Article 12 (Standstill clause)	Provide for Adjustment /opportunity for review of the terms of agreement in view of the evolving political and economic realities.	The period of the treaty (25 years) is a long period, subject to many political and economic changes. e.g. Farmers risk significant losses arising from such factors as weak shilling, high cost of production, climate change, animal diseases and locust infestation. What happens if Kenya cannot meet its obligations due to these factors?



NEW KENYA PLANTERS
CO-OPERATIVE UNION

			What guarantees are there that this agreement does not perpetuate the old exploitative trade relations, especially considering that taxes will be levied for movement of goods (Article 13:1)
--	--	--	---

Glory Kamungi
Glory Kamungi
FOR: MANAGING DIRECTOR



FRESH PRODUCE EXPORTERS ASSOCIATION OF KENYA

New Rehema Hse., 4th Flr.,
Rhapta Road, Westlands,
P.O. Box 40312 - 00100
NAIROBI, KENYA
Tel: 254-20-4451488 / 445044
Fax: 254-20-4451489
E-mail: info@fpeak.org
Website: www.fpeak.org

16th April 2024

Mr. Samwel Njoroge
Clerk of the National Assembly
Parliament Buildings,
P.O. Box 41842-00100
Nairobi

Dear Mr. Njoroge,

RE: FPEAK SUPPORT FOR ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE EUROPEAN UNION.

Fresh Produce Exporters Association of Kenya (FPEAK) is in support of the Economic Partnership Agreement (EPA) between the Republic of Kenya and the European Union (EU). The EPA provides for **quota free, duty-free** entry of all agricultural products from Kenya into the EU. This provision is very important for continued business for the horticulture industry in Kenya.

Horticulture sub-sector is one of the top foreign exchange earners for the country generating approximately Kshs 150 billion annually. The industry employs over 350,000 Kenyans directly, 1 million indirectly and supports over 4 million livelihoods. The industry is labour intensive where 80 % of the employees are non-skilled. Over 80% of horticultural produce in Kenya is grown by smallholder farmers, many of whom are not involved in the export business but supply exporters, as contract farmers, and the domestic market.

FPEAK is a trade association representing growers, exporters, and service providers in the horticulture industry in Kenya.

Thank you for your continued support to the horticulture industry in Kenya.

Yours Sincerely,

Mr. Hosea Machuki
Chief Executive Officer

- Issues on chemicals, labour & labour laws
- Expected increase in trade?
- Items traded are? a clo
- Disadvantages?

Supporting Kenya's Fresh Horticultural Exports we expect more fresh produce

Directors: Mr. Robert Kotut, Mrs. Leah Sonkoi Meja, Mr. Dennis Mwirigi, Mr. Peter Njonjo, Mr. Asif Muhammad, Mr. Dickson Kimathi,
Mr. Edwin Maina, Mr. Simon Odhiambo.



TEA BOARD OF KENYA

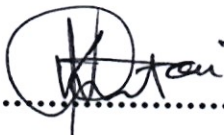
Realizing the Tea Promise

TEA BOARD OF KENYA SUBMISSION TO THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES REGARDING THE ECONOMIC PARTNERSHIP AGREEMENT WITH THE EUROPEAN UNION

Having reviewed the above document which was signed on 16.01.2024, Tea Board of Kenya notes as follows: -

TBK is in agreement with the document as presented. The agreement does not present any restrictions with respect to tea our presentation during the negotiations for duty free quota free was honored with respect to the tea industry we support the document as presented and agree that it can be ratified by parliament.

Upon ratification by parliament the Board proposes to engage further on the agreement by proposing various MOUs with selected member states on areas of Capacity Building and Technology transfer in order to widen the scope of tea trade with these countries.

SIGNED:  DATE..... 17/04/2024

**WILLY K. MUTAI
CHIEF EXECUTIVE OFFICER
TEA BOARD OF KENYA**



THE TEA BOARD OF KENYA
RECEIVED

28 FEB 2024 337

P. O. Box 20064 - 00200
NAIROBI, KENYA

MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
STATE DEPARTMENT FOR AGRICULTURE
Office of the Principal Secretary

Telephone: 2718870/9
Website: www.kilimo.go.ke
Email: cdarprincipalsecretary@gmail.com
When replying please quote;

KILIMO HOUSE
CATHEDRAL ROAD
P. O. Box 30028
NAIROBI

REF: MOA/MIN/15/27/1 VOL.IV

22nd February, 2024

The Managing Director

Kenya Plant Health and Inspectorate Services (KEPHIS)
NAIROBI

Ag. Director General

Agriculture and Food Authority (AFA)
NAIROBI

The Director

Kenya Agriculture and Livestock Research Organization (KALRO)
NAIROBI

The Chief Executive Officer

Agriculture Development Corporation (ADC)
NAIROBI

THE 7TH SESSION OF THE KENYA-EGYPT JOINT COMMISSION FOR COOPERATION 5TH- 8TH MARCH, 2024, NAIROBI

Reference is made to the letter from the Ministry of Foreign and Diaspora Affairs Ref. No MFA/LEG/43/ VOL.3 (11) dated 2nd February 202.

Kenya and Egypt Bilateral relations are anchored on the Joint Commission for Cooperation (JCC). H.E the President of the Republic of Kenya is scheduled to undertake a reciprocal State visit to the Arab Republic of Egypt from 15th -16th April, 2024 where the two heads of State will hold bilateral talks to review the relations between the two countries.

After consultations with the Arab Republic of Egypt, it was agreed that the 7th JCC precedes the State visit and is scheduled for 5th March - 8th March 2024 in Nairobi Kenya.

In view of the above, kindly go through the Memorandum of Understanding with Egypt and provide a progress report (format attached) and nominate an officer who will be part of the team deliberating on the areas of cooperation. Share the requested information and nominee to directorpolicy2021@gmail.com copy to evelyneheyi@gmail.com.



Dr. Kiprono Ronoh P.
PRINCIPAL SECRETARY

Copy to:

Cabinet Secretary
MINISTRY OF AGRICULTURE & LIVESTOCK DEVELOPMENT

Encl.

Telephone: +254-20-318888
Fax: +254-20-2240066 341935 344333
E-mail: communication@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



MOAL&F/0001
STATE DEPT. OF AGRICULTURE
EXTERNAL DOCUMENT
P.O. Box 30551-00100
NAIROBI, KENYA
05 FEB 2024

**MINISTRY OF FOREIGN AND DIASPORA AFFAIRS
STATE DEPARTMENT OF FOREIGN AFFAIRS**

Ref. No. **MFA.LEG/43/VOL.3(11)**

2nd FEBRUARY, 2024

**Principal Secretary
State Department for Agriculture
Ministry of Agriculture and Livestock Development
NAIROBI**


*#1/Policy
- kindly deal
2/11/2024*

RE: MEMORANDUM OF UNDERSTANDING IN THE FIELD OF AGRICULTURE COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT.

MEMORANDUM OF UNDERSTANDING BETWEEN THE MINISTRY OF AGRICULTURE AND LAND RECLAMATION OF THE ARAB REPUBLIC OF EGYPT AND MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES OF THE REPUBLIC OF KENYA FOR THE ESTABLISHMENT OF AN INTEGRATED JOINT MODEL FARM IN THE REPUBLIC OF KENYA

Reference is made to the above captioned matters.

Following the Inter-ministerial meeting held virtually on 1st February 2024 in preparation for the forthcoming Seventh (7TH) Session of the Kenya-Egypt Joint Commission for Cooperation (JCC), scheduled to take place in Nairobi from 5th -8th March 2024, please find enclosed herewith copies of the memoranda of understanding for your records and further action.


**EDDAH MOGAKA
FOR: PRINCIPAL SECRETARY**
Encls.

1987

Agreement on Trade
In the Field of Agricultural Cooperation.

Between

The Government of the Republic of Kenya
And the Government of the Arab Republic of Egypt



Agreement for technical cooperation between the Government of Kenya and the Government of the People's Republic of China

Understanding that this cooperation will result in the mutual benefit and welfare of the people of the two countries

Have agreed on the following:

Article 1
Objective

The Parties shall cooperate and collaborate to mutually benefit from the experience of the Kenyan and Chinese agriculture for each country with different agricultural areas of mutual interest

Article 2
Technical Missions

The Parties shall agree on the sending of consular missions to visit Kenya to study and identify areas for technical agricultural needs and prepare joint working programmes for cooperation

Article 3
Areas of cooperation

The Parties shall cooperate in the following areas:

a) Rice Technology - Production of high yielding rice varieties



The Parties have agreed to cooperate in the field of agricultural investment, training and capacity building, and to establish a joint working group to coordinate and monitor the implementation of the present Memorandum of Understanding.

**Article 4
Training and Capacity Building**

The Party in Party shall send to the other Party experts to attend courses in different fields of agriculture at the Egyptian International Center for Agriculture in Cairo in accordance with the regulations in force.

**Article 5
Agricultural Investment**

The Parties shall encourage the private sector of both countries to invest in different fields of agriculture.

**Article 6
Amendments**

Any amendment to this Memorandum shall be made after mutual agreement in writing through written communication between the Parties, or orally through diplomatic channels. These amendments shall enter into force after the last notification to the other Party (to be agreed upon by both Parties).

1. The first part of the document is a list of the names of the authors and their institutions. The names are listed in alphabetical order of the authors' last names. The institutions are listed below the authors' names.

For the view and more
information, click

on the "Publications" link

Memorandum of Understanding

Between

Ministry of Agriculture and Land Reclamation of the Arab Republic
of Egypt

And

Ministry of Agriculture, Livestock and Fisheries of the Republic of
Kenya

For

The Establishment of an integrated Joint Model Farm in the
Republic of Kenya


KCP

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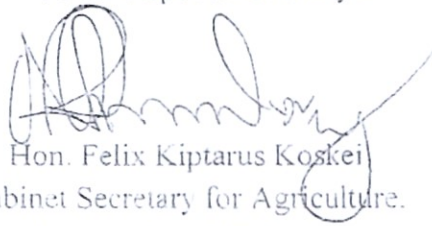
The AFD/ISS Memorandum of Understanding on Agricultural Research Cooperation between the Government of the Arab Republic of Egypt and the Government of Kenya, in English and Arabic languages, both texts being equally authentic. In event of divergence of interpretation, the English text shall prevail.

Signed in Cairo on Sunday 22nd of March 2015

For the Ministry of Agriculture
and Land Reclamation
Of the Arab Republic of Egypt


Prof. Dr. Salah Helal
Minister of Agriculture and
Land Reclamation

For the Ministry of Agriculture,
Livestock and Fisheries
Of the Republic of Kenya


Hon. Felix Kiptarus Koskei
Cabinet Secretary for Agriculture,
Livestock and Fisheries

Memorandum of Understanding

Between

Ministry of Agriculture and Land Reclamation of the Arab Republic
of Egypt

And

Ministry of Agriculture, Livestock and Fisheries of the Republic of
Kenya

For

The Establishment of an integrated Joint Model Farm in the
Republic of Kenya

RP

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THE GOVERNMENT OF THE STATE OF KERALA
AND THE GOVERNMENT OF THE STATE OF MADHYA PRADESH
HEREBY HERETO COLLECTIVELY REFERRED TO AS "THE PARTIES"

WHEREAS the Parties are:

- A. Convinced of the importance of reinforcing and strengthening ties of fraternity and cooperation that will consequently help in raising the standard of living of their people;
- B. Aware of the fact that in order to realize development goals in their respective countries, the Parties need to take steps towards further strengthening cooperation in the different fields of agriculture between the two countries;
- C. Further convinced that such a step would be to establish an integrated joint model farm with the purpose of carrying out research and improving crop, livestock and fisheries production by using high quality varieties and livestock breeds, through the application of advanced agricultural and technological methods;

NOW THEREFORE The Parties hereto acknowledge and agree as follows:-

ARTICLE 1:

Objectives

The objectives of establishing the model farm will be;

1. Optimization and commercialization of the model farm for crop, livestock and fisheries production
2. Capacity building of staff on modern agricultural technologies

- 14. The Parties shall agree on the following:
 - (a) Demarcation of farm plots, equipment and machinery;

ARTICLE 2:

Establishment of an Integrated Joint Model Farm

The Parties have agreed to collaborate in establishing an integrated joint model farm of 300 hectares on a suitable irrigable area near a permanent source of water in Kenya. The site of the farm should be identified within five months from the date of commencement of Memorandum of Understanding as maximum and should be agreeable to the Egyptian side. The farm shall be used for carrying out the joint agricultural undertakings as agreed upon in this Memorandum of Understanding.

ARTICLE 3

Obligations of the Parties


The MALR shall

1. Provide technical assistance needed for setting up and managing the farm
2. Appoint in consultation with MALF, an Egyptian manager and other experts.
3. Provide funds for the farm operations and experts including payment of temporary laborers wages.
4. Provide production requirements and the agricultural equipment needed for operating the farm and the costs of transferring the needed agricultural equipment and production.

THE UNDERSIGNED, on behalf of the Government of the Arab Republic of Egypt, by their representative or representatives hereinafter mentioned, and the undersigned, on behalf of the Government of Kenya, by their representative or representatives hereinafter mentioned, in English and Arabic languages, both texts being equally authentic. In event of divergence of interpretation, the English text shall prevail.

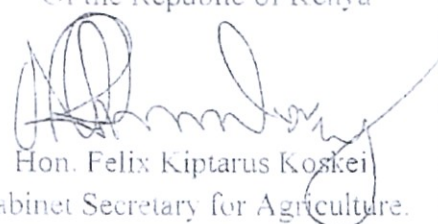
Signed in Cairo on Sunday 22nd of March 2015

For the Ministry of Agriculture
and Land Reclamation
Of the Arab Republic of Egypt



Prof. Dr. Salah Helal
Minister of Agriculture and
Land Reclamation

For the Ministry of Agriculture,
Livestock and Fisheries
Of the Republic of Kenya



Hon. Felix Kiptarus Koskei
Cabinet Secretary for Agriculture,
Livestock and Fisheries

5. Details of the farm to be established, including the location, size, and equipment to be used.

ARTICLE 2:

Establishment of an Integrated Joint Model Farm

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3. Provide funds for the farm operations and experts including payment of temporary laborers wages.
4. Provide production requirements and the agricultural equipment needed for operating the farm and the costs of transferring the needed agricultural equipment and production.

7. Develop and implement exchange programs of experts between the Arab Republic of Egypt and the Republic of Kenya.
8. Provide tertiary and on-farm irrigation infrastructure and irrigation equipment as per technology to be deployed
9. Provide superior seeds and livestock breeds subject to evaluation by the relevant Kenyan institutions.

The MALF shall:

1. Provide 300 hectares for the establishment of an integrated joint model farm for commercial production of crops, livestock and fisheries.
2. Provide primary irrigation infrastructure, including in-take and main line, stores for inputs and products of the farm, administrative offices, training hall, electric power, roads, staff houses, as well as determining permanent sources of water for irrigation.
3. Provide the farm with permanent and temporary labor force and payment of salaries for the permanent staff.
4. Provide suitable dwelling houses within the farm for the farm manager, Egyptian experts and technicians.
5. Provide the Egyptian technicians, experts and staff working on the farm with facilities normally granted to Egyptian experts in Kenya
6. Take necessary reasonable measures to ensure the security of the project personnel, infrastructure, inputs and products of the farm

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4. To ensure the implementation of the objectives of the project and the welfare of the farm

ARTICLE 4 Joint Obligations

The Parties shall:

1. Exempt all production requirements from all taxes and customs duties subject to applicable laws in their respective countries;
2. Expand successive initiatives of the project through establishing more farms in other regions in Kenya;
3. Market the farm production in the Kenyan and Egyptian market as well as other foreign markets;
4. Create and manage a joint bank account for the farm
5. Constitute a joint committee (to be headed alternatively) of not more than three members from each side with technical competence relevant to the farm operations;

The committee shall be responsible for:-

- i. Approving annual plans and budgets prepared by the Project Management;
- ii. Monitoring the implementation of the project and providing guidance to the Management as necessary;
- iii. Ensuring that each party to this Memorandum of Understanding fulfills its obligations.

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7. The Parties shall take necessary measures to ensure that irrigation infrastructure established on the model farm are in accordance with Environmental Laws and other relevant Kenyan Laws on water use and management.
8. The parties shall share the annual profits accruing from the farm equitably at the end of each fiscal year;
9. Once the site is identified, the Parties shall agree to dispatch experts missions to design the model farm agricultural cooperation programs. The recommendations of the experts' missions may be used to amend this Memorandum of Understanding if deemed necessary;
10. All items included herein above shall be carried out as planned and agreed upon by the two parties;

**ARTICLE 5:
Legal Implication**

This Memorandum of Understanding merely constitutes a statement of mutual intentions of the Parties with respect to its contents and does not constitute any legal obligation binding the Parties.

**ARTICLE 6:
Entry into Force, Duration and Termination**

1. **Entry into force and duration**
 - i. This Memorandum of Understanding shall enter into force upon signing by both Parties and shall be valid for a period of seven (7) years. It shall be automatically be extended for a subsequent period

...
executive contract for handling ...
be concluded between the Parties.

2. Termination

- i. Either Party may terminate this Memorandum of Understanding at any time by giving the other Party six (6) months prior written notice of its intention to do so through diplomatic channels
- ii. Any ongoing activities at the time of termination arising out of the Memorandum of Understanding shall be carried out to their conclusion as if the Memorandum of Understanding was in force
- iii. In the event of this Memorandum of Understanding being terminated each Party shall be solely responsible for the payment of any expenses it has incurred pursuant to the termination
- iv. In the event of termination of this Memorandum of Understanding, all equipment and machines shall devolve to the Government of the Republic of Kenya.

ARTICLE 7: Dispute Resolution

All disputes that may arise concerning the interpretation or the implementation of this Memorandum of Understanding shall be settled amicably through mutual consultations or through diplomatic channels.

ARTICLE 8: Force Majeure

Each party undertakes to notify the other party about any circumstances or unforeseen obstacles (force majeure) that may hinder the smooth

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ARTICLE 9:
Amendments

1. This Memorandum of Understanding may be modified and/or amended as may be required from time to time by mutual written consent of both parties. Such modifications and/or amendments shall be signed and dated by all parties prior to any changes being made and shall come into force on such a date as shall be mutually agreed upon by the parties and shall form part of the Memorandum of Understanding.
2. Any modifications and/or amendments shall be done without prejudice to the rights and obligations arising from or based on this Memorandum of Understanding prior to the date of such modification and/or amendment.

ARTICLE 10:
Participation in Similar Activities

This Memorandum of Understanding in no way restricts the Parties from participating in similar activities with other public or private organizations, agencies and individuals.

ARTICLE 11:
Basic Principle of Implementation

The Parties shall adhere to the internationally accepted principles and values which shall be consistent with the applicable domestic laws.

ARTICLE 12:
Funding and Resources

The conduct of activities under this Memorandum of Understanding shall be funded on terms to be mutually determined and agreed upon by the

ARTICLE 13:
(Continuing Law)

The Memorandum of Understanding shall be construed in accordance with the Laws of Kenya.

ARTICLE 14:
Notices

1. Notices and other communications with fixed periods shall be by hand delivery, registered letter, telegram, telefacsimile or email with evidence of receipt by the addressee. The date of the registration in the case of registered letter or stated date of the receipt of other means of delivery as the case may be, shall be conclusive evidence for the determination of the period. Deliveries by facsimile and email shall be confirmed by email.
2. Notices and other communications shall be sent to respective addresses below or to other addresses previously notified in writing by either party to the other as its new address for such purposes.

For the MoALF:

The Principal Secretary
State Department of Agriculture
Ministry of Agriculture, Livestock and Fisheries
P O Box 30028 00100
Nairobi, Kenya
Telephone _254202718870
Website: www.kilimo.go.ke

For MoALR:

The Project Executive Director

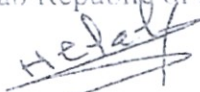
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1. BOTH TEXTS OF THIS AGREEMENT, WRITTEN IN ENGLISH AND ARABIC, SHALL BE GIVEN EQUAL WEIGHT AND EFFECT BY THEIR RESPECTIVE GOVERNMENTS. IN THE EVENT OF ANY DISCREPANCIES BETWEEN THE TRANSLATIONS OF THIS AGREEMENT INTO ENGLISH AND ARABIC LANGUAGES, BOTH TEXTS BEING EQUALLY AUTHENTIC. IN EVENT OF DIVERGENCE OF INTERPRETATION, THE ENGLISH TEXT SHALL PREVAIL.

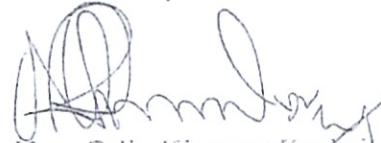
Signed in Cairo on Sunday 22nd of March 2015

For the Ministry of Agriculture
and Land Reclamation
Of the Arab Republic of Egypt



Prof. Dr. Salah Helal
Minister of Agriculture and
Land Reclamation

For the Ministry of Agriculture,
Livestock and Fisheries
Of the Republic of Kenya



Hon. Felix Kiptarus Koskei
Cabinet Secretary for Agriculture,
Livestock and Fisheries

PROGRESS ON MOU- ESTABLISHMENT OF AN INTEGRATED JOINT MODEL FARM IN THE REPUBLIC OF KENYA

SN	FORMS OF COOPERATION	REVELANT INSTITUTION	ACHIEVEMENTS TO DATE	REMARKS
1	Provision of 300 hectares for the establishment of an integrated model farm for commercial production of crops, livestock and fisheries			
2	Provision of primary irrigation infrastructure including intake and main lines, stores for inputs, products of the farm, administrative offices, training hall, electricity, roads, staff houses, permanent sources of water for irrigation			
3.	Provision of permanent and temporary labor force and payment of salaries for the permanent staff			
4.	Provision of suitable dwelling houses within the farm for the farm manager, Egyptian experts and technicians			
5.	Provision of facilities normally granted to Egyptian experts in Kenya			
6	Ensure security of the project personnel, infrastructure, inputs and products of the farm			
7.	Appointment of a counterpart manager from Kenya to assist the farm manager			
8.	Facilitation to customs on clearance of inputs such as seeds, equipment and machinery for the farm			
9.	Facilitation on administrative procedures and other procedures related to the farm			

PROGRESS ON MOU- IN THE FIELD OF AGRICULTURAL COOPERATION WITH THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT

SN	FORMS OF COOPERATION	REVELANT INSTITUTION	ACHIEVEMENTS TO DATE	REMARKS
1	Rice Technology- Production of high yielding varieties			
2	Cotton			
3.	Effective use of irrigation water and fertilizer and improving water resource management systems in Agriculture			
4.	Agriculture mechanization and its techniques			
5.	Sending of trainees from Kenya to attend courses in the different fields of Agriculture at the Egyptian International Centre for Agriculture in Cairo			

MINISTERIAL BRIEF ON THE KENYA – EUROPEAN UNION ECONOMIC PARTNERSHIP AGREEMENT

A. Background

1. Kenya and the European Union signed the Kenya – EU Economic Partnership Agreement on 19th December 2023, at State House.
2. The full title of the Agreement is “**The Economic Partnership Agreement between Kenya, a member of the East African Community, of the one part, and the European Union, of the other part.**”

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- ii. Annex VI on Trade and Sustainable Development; and,
- iii. Joint Statement on Trade and Sustainable Development;
- iv. Joint Statement on the transition Rules of Origin; and,
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changes in the EU. Moreover, to date, the EU has not ratified the Agreement since such ratification was pegged on signature and ratification by ALL the EAC Partner States, of which, the latter is yet to happen;

13. Since the EPA had not entered into force, then, from a legal standpoint, a protocol for its implementation could not be attached to it. In that regard therefore, the two Parties proposed development of an Interim Kenya – EU EPA. The new Agreement would substantially apply the provisions of the EAC-EU EPA with some technical adjustments but also introduce a new chapter on Trade and Sustainable Development as per the EU's new regulations on Agreements with third parties.

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14. The EU is a USD 16 trillion market offering a huge potential market for Kenyan exports particularly agriculture manufacturing, fisheries and livestock sector.
15. The European Union is one of Kenya's biggest export market destinations globally absorbing, on average, 21.1 per cent of the country's total exports annually. Kenya's exports to the EU – 27 (excluding the UK) were valued at USD 1.213 billion; USD 1.304 billion; and USD 1.413 billion in 2020, 2021 and 2022 respectively, while imports from the EU – 27 were valued at USD 2.110 billion; 2.216 billion; and USD 2.095 billion during the same period.
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accessories; and Articles of apparel and clothing accessories.

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18. The EPA will sustain duty free and quota free access of Kenyan exports to the EU market and is a more predictive legally binding Agreement compared to the EU Market Access Regulation (MAR) 1528/2016 which could be unilaterally withdrawn by the EU.

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Part II

Trade in Goods

Article 5 - Scope and Objectives

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Parts III – V (Articles 51 – 102) defines the various aspects of Economic Cooperation covering fisheries, agriculture, development cooperation, infrastructure, private sector development, water and environment, sanitary and Phytosanitary measures, technical barriers to trade, and customs and trade facilitation, among

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Article 54 - Fisheries Management and Conservation Issues

Article 55 - Vessel Management and Post-Harvest arrangements

Title III

Inland Fisheries and Aquaculture Development

Article 56 - Scope and Objectives

PART IV

Agriculture

Article 57 - Scope and Definitions

Article 58 – Objectives

Article 59 - General Principles

Article 60 - Comprehensive Dialogue

Article 61 - Regional Integration

Article 62 - Enabling Policies

Article 63 - Sustainable Agricultural Development

Article 64 - Food and Nutrition Security

Article 65 - Value Chain Management

Article 66 - Early Warning Systems

Article 67 - Technology

Article 68

Domestic Policy Measures

Article 69-Production and Marketing of Agricultural Commodities

Article 70 –Monitoring

Article 71 - Net Food Importing Countries

Article 72 - Importance of Certain Sectors

Article 73 - Exchange of Information and Consultation

Article 74 - Geographical Indications

Part V

Economic and Development Cooperation

Article 75 - General Provisions

Article 76 – Objectives

Article 77 - Areas of Cooperation

NOTE

However, in anticipation of accession by the other EAC Partner States, the Parties agreed on an annexure that

applies only to Kenya. It was also recognized that most of the development project applicable to Kenya now form part of the bilateral Strategic Dialogue between Kenya and the EU.

Title I

Infrastructure

Article 78 - Scope and Objectives

Article 79—Transport

Article 80 – Energy

Article 81 - Information and Communications Technologies (ICT)

Title II

Agriculture

Article 82 - Scope and Objectives

Article 83 - Areas of Cooperation

Title III

Private sector development

Article 84 - Scope and Objectives

Article 85 - Investment Promotion

Article 86 - Enterprise Development

Title IV

Fisheries

Article 87 - Scope of Cooperation

Article 88 - Areas of Cooperation in Marine Fisheries

Article 89 - Inland Fisheries and Aquaculture Development

Title V

Water and environment

Article 90 - Scope and Objectives

Article 91 - Water Resources

Article 92 - Environment

Title VI

Sanitary and phytosanitary measures

Article 93 - Scope and Objectives

Article 94 – Harmonization

Article 95 - Zoning and Compartmentalization

Article 96 - Special and Differential Treatment and
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Title VII

Technical Barriers to Trade

Article 97 - Scope and Objectives

Title VIII

Customs and Trade Facilitation

Article 98 - Scope and Objectives

Title IX

EPA Adjustment Measures

Article 99 - Scope and Objectives

Article 100 - Areas of Cooperation

Title X

Resource Mobilisation

Article 101 - Principles and Objectives

Article 102 - Obligations

Part VI

Institutional Provisions

Article 103 - Scope and Objective

Article 104 - EPA Council

Article 105 - Powers of the EPA Council

Article 106 - Committee of Senior Officials

Article 107 - Powers of the Committee of Senior Officials

Article 108 - EPA Consultative Committee

Part VII

Dispute Avoidance and Settlement

Article 109 - Scope and Objective

Title I

Dispute Avoidance

Article 110 - Consultations

Article 111 - Mediation

Title II

Dispute Settlement

Article 112 - Initiation of the Arbitration Procedure

Article 113 - Establishment of the Arbitration Panel

Article 114 - Interim Panel Report

Article 115 - Arbitration Panel Ruling

Article 116 - Review of Any Measure Taken to Comply with the Arbitration Panel Ruling

Article 117 - Temporary Remedies in case of Non-Compliance

Article 118 - Review of Any Measure Taken to Comply After the Adoption of Appropriate Measures

Title III

Common Provisions

Article 119 - Mutually Agreed Solution

Article 120 - Rules of Procedure

Article 121 - Information and Technical Advice

Article 122 - Language of the Submissions

Article 123 - Rules of Interpretation

Article 124 - Arbitration Panel Rulings Procedure

Article 125 - List of Arbitrators

Article 126 - Relations with WTO Dispute Settlement

Article 127 - Time Limits

Part VIII

General Exceptions

Article 128 - General Exception Clause

Article 129 - Security Exceptions

Article 130 - Taxation

Part IX

GENERAL AND FINAL PROVISIONS

Article 131 - Balance of Payments Difficulties

Article 132 - Definition of the Parties and Fulfilment of Obligations

Article 133 - Contact Points

Article 134 - Transparency and Confidentiality

Article 135 - Relations with Annex III

Article 136 - Relations with the WTO Agreement

Article 137 - Notifications

Article 138 - Entry into Force

Article 139 - Denunciation

Article 140 - Territorial Application

Article 141 - Review Clause

Article 142 - Amendment Clause

Article 143 - Accession of Contracting Parties to The Treaty for the Establishment of the East African Community

Article 144-Amendments to Agreement Made on Accession

Article 145 - Authentic Texts

Article 146 - Annexes

F. Obligations of the Kenya- EU EPA

20. Implications on matters relating to Counties;

Kenya's major exports to the EU are ALL sourced from different counties therefore the EPA opens trade opportunities for Counties by providing a prime market for these products. The huge market potential in the EU is a real economic stimulant for Counties, which are expected to take advantage of this market by initiating

programs that expose County trade sectors to EU market opportunities.

21. Policy and legislative considerations

The Government has already anchored the EPA, along with all other trade agreements in the National Trade Policy and the Integrated National Exports Development and Promotion Strategy.

22. Administrative Obligations

Kenya and the EU are required to set up an EPA Council to steer the implementation of the EPA. The Kenyan representative in the Council will be the Cabinet Secretary responsible for Trade.

23. Ministerial obligation

The EPA is to be implemented by the Ministry of Investments, Trade and Industry and any such successor Ministry/Department

24. Possible negative effects include:

- a. Removal of import duties from products that Kenya has committed to liberalize under this agreement may lead to loss of government revenue over time;
- b. Potential difficulties in tariff liberalization because of balancing the EAC Common External Tariff during implementation;
- c. Local industries likely to face more competition over time from EU zero rated products.

d. Summary of Kenya's offer in the Kenya-UK EPA

Year	% of trade liberalized/excluded	Approx. Number of Tariff Lines
Time - 0 (Immediate)	65.4 %	1,934
Time 0 to 15	14.6%	1,082

<i>(7 years moratorium then liberalization commences in the 7th year to the 15th year</i>		
Time 0 to 25 <i>(12 years moratorium then liberalization commences in the 12th year to the 25th year</i>	2.6%	990
Exclusion Excluded from liberalization for ever	17.4	1,432

25. Measures to mitigate any negative effects arising from the EPA

- a. **The exclusion list** - includes excluded products that Kenya considers strategic and sensitive.
- b. **Long phased-down period** – 15 years for the intermediate and 25 years for finished products that Kenya has committed to liberalize.
- c. **Infant Industry Clause** – which allows Kenya to protect infant industries likely to be negatively affected by zero-rated EU products for a maximum of 15 years.
- d. **Trade Remedies Provisions: Safeguards, Countervailing Measures and Anti-dumping** - provides for trade remedies to safeguard against unfair trade practices which leads to market distortion.
- e. **Amendment Clause** - provides flexibility to the Parties to seek for amendments on any provisions when need arises.

f. **Mandatory 5-Year Review Clause** - provides for a comprehensive mandatory review of the entire agreement every 5 years.

g. **Exit clause** - provides for flexibility to the Parties to exit upon giving one year written notice.

26. Benefits of the Agreement to the Kenyan people

a. The EU is a 27 country, Euro16 trillion market, accounting for 17% of global GDP. It offers a significant export opportunity for Kenyan goods.

b. The EU, in addition to being one of the world's largest markets, is also a premium one, where product earnings are typically higher, and disposable income also higher for consumers.

c. The EU is a global leader in services trade, technology and innovation. The EPA envisages future negotiations for mutual access for trade in services, which will provide opportunities for growth and modernization of Kenya's services sector.

d. The EU is already one of Kenya's largest development partners. The EPA creates additional windows for enhanced development cooperation in trade and investment, especially in support of Kenya's transition to the green economy.

27. Kenya's strategy is to pursue a robust marketing campaign with a target for the first year of 5% increase over the current exports to the EU market. The subsequent years will grow incrementally by the same or higher margins. Just by way of example, I will proceed to give you a few lines and statistics.

28. In the **Agricultural Sector**, coffee, horticulture, and tea remain key export products for Kenya. An analysis of the EU market in 2022 shows that:

- ✓ The EU imported coffee worth **USD 12.9 Billion** from the world, with Kenya exporting a mere **USD 151.7 million** worth of coffee to the EU, accounting for only **0.68%** of this market.
- ✓ The EU imported tea worth **USD 1.13 billion** from across the world, with Kenya exporting **USD 51.5 million** worth of tea to the EU, which accounts for **4.57%** of that market.
- ✓ The EU imported **USD 12.98 billion** worth of flowers and live plants from across the world, with Kenya exporting **USD 484.7 million**, which accounted for **3.75%** of the market. Our export potential for the floricultural sector into the EU is approximately **USD 10 billion**.
- ✓ The EU imported fruits worth **USD 26.7 billion** from across the world, with Kenya exporting **USD 190.6 million**, which accounted for **0.7%** of the market.
- ✓ The EU imported vegetables worth **USD 29.9 billion** from the rest of the world of which Kenya exported **USD 104.1 million**, translating to **0.34%** of the market. Kenya's export potential for vegetables into the EU is estimated at **USD 4.2 billion**.
- ✓ The EU imported fish worth **USD 35.7 billion** of which Kenya exported **USD 42.9 million** translating to market share of **0.12%** of the market.
- ✓ The consolidated EU import market for edible Herbs, including **peppers, ginger, saffron, turmeric, thyme, bay leaves, curry, and other spices**, is valued at

approximately USD 1.75 billion, with Kenya exporting a measly USD 1.75 million or 0.10% of this, notwithstanding that Kenya has the potential to export herbs worth about USD 232 million.

29. For the manufacturing sector, there is a focus on Agro-processing, Textiles and Apparel, Leather and Footwear, Pharmaceutical and Medical Equipment, Plastic and Rubber, Light Engineering, Automotive parts, and Furniture.

- ✓ For instance, for textile, apparels and accessories, the EU import market is valued at USD 302.4 billion, with Kenya selling a mere USD 18.7 million worth of products, notwithstanding that Kenya has the potential to export approximately over USD 1 billion worth of textiles and apparel if we revitalized our industries, which the Ministry is currently focused on.
- ✓ The same goes for leather and leather products where Kenya exported about USD 3.06 million worth of products, against EU imports of USD 28.1 billion.
- ✓ In pharmaceutical and medical commodities, the EU imports from the rest of the world were valued at USD 366.5 billion, of which Kenya exported USD 10.8 million.

30. With this Agreement, we have also unlocked the export market for the Livestock Sector, focusing on Live Animals, Meat, Dairy, and Honey. For instance, the EU's import market for honey is valued at approximately USD 111 Million. Kenya is currently not even exporting any honey into the EU, yet it can produce enough for the EU market.

31. The EU is also among top Kenya's import sources, specifically capital equipment (machinery), motor vehicles, pharmaceuticals, printed books and other paper products, and electrical and electronic equipment

Conclusion

32. Therefore, the Kenya – EU - EPA that under ratification will be signing is expected to drive growth and expansion of exports in some priority sectors and value chains identified in the Bottom-up Economic Transformation Agenda, Integrated National Export Development and Promotion Strategy, including in agriculture, manufacturing, fisheries, livestock and home décor where Kenya has substantial export potential.

33. We are confident that Kenya has negotiated a futuristic EPA that, once ratified and implemented, will deliver immense export and investment opportunities for the people of Kenya and the EAC region. It will support our Government's Bottom-up Economic Transformation Agenda and Kenya the Vision 2030, thus empowering our economy to social and economic prosperity.

MINISTRY OF INVESTMENTS, TRADE AND INDUSTRY

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- 1. BRIEF TO PARLIAMENT**
- 2. KENYA-EU EPA SIGNED PAGE**
- 3. FULL POWERS TO SIGN THE EPA**
- 4. KENYA – EU AGREEMENT CABINET APPROVAL**
- 5. MAIN BODY**
- 6. ANNEXES III, IV, V, VI – PROTOCOL 1 JOINT**

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- Article 64 - Food and Nutrition Security
- Article 65 - Value Chain Management
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Domestic Policy Measures

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Part V

Economic and Development Cooperation

- Article 75 - General Provisions
- Article 76 – Objectives
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NOTE

However, in anticipation of accession by the other EAC Partner States, the Parties agreed on an annexure that

applies only to Kenya. It was also recognized that most of the development project applicable to Kenya now form part of the bilateral Strategic Dialogue between Kenya and the EU.

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Private sector development

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Article 90 - Scope and Objectives

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Article 128 - General Exception Clause

Article 129 - Security Exceptions

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Article 133 - Contact Points

Article 134 - Transparency and Confidentiality

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Article 136 - Relations with the WTO Agreement

Article 137 - Notifications

Article 138 - Entry into Force

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Article 140 - Territorial Application

Article 141 - Review Clause

Article 142 - Amendment Clause

Article 143 - Accession of Contracting Parties to The Treaty for the Establishment of the East African Community

Article 144-Amendments to Agreement Made on Accession

Article 145 - Authentic Texts

Article 146 - Annexes

F. Obligations of the Kenya- EU EPA

20. Implications on matters relating to Counties;

Kenya's major exports to the EU are ALL sourced from different counties therefore the EPA opens trade opportunities for Counties by providing a prime market for these products. The huge market potential in the EU is a real economic stimulant for Counties, which are expected to take advantage of this market by initiating

programs that expose County trade sectors to EU market opportunities.

21. Policy and legislative considerations

The Government has already anchored the EPA, along with all other trade agreements in the National Trade Policy and the Integrated National Exports Development and Promotion Strategy.

22. Administrative Obligations

Kenya and the EU are required to set up an EPA Council to steer the implementation of the EPA. The Kenyan representative in the Council will be the Cabinet Secretary responsible for Trade.

23. Ministerial obligation

The EPA is to be implemented by the Ministry of Investments, Trade and Industry and any such successor Ministry/Department

24. Possible negative effects include:

- a. Removal of import duties from products that Kenya has committed to liberalize under this agreement may lead to loss of government revenue over time;
- b. Potential difficulties in tariff liberalization because of balancing the EAC Common External Tariff during implementation;
- c. Local industries likely to face more competition over time from EU zero rated products.

d. Summary of Kenya's offer in the Kenya-UK EPA

Year	% of trade liberalized/excluded	Approx. Number of Tariff Lines
Time - 0 (Immediate)	65.4 %	1,934
Time 0 to 15	14.6%	1,082

<i>(7 years moratorium then liberalization commences in the 7th year to the 15th year</i>		
Time 0 to 25 <i>(12 years moratorium then liberalization commences in the 12th year to the 25th year</i>	2.6%	990
Exclusion Excluded from liberalization for ever	17.4	1,432

25. Measures to mitigate any negative effects arising from the EPA

- a. **The exclusion list** - includes excluded products that Kenya considers strategic and sensitive.
- b. **Long phased-down period** – 15 years for the intermediate and 25 years for finished products that Kenya has committed to liberalize.
- c. **Infant Industry Clause** – which allows Kenya to protect infant industries likely to be negatively affected by zero-rated EU products for a maximum of 15 years.
- d. **Trade Remedies Provisions: Safeguards, Countervailing Measures and Anti-dumping** - provides for trade remedies to safeguard against unfair trade practices which leads to market distortion.
- e. **Amendment Clause** - provides flexibility to the Parties to seek for amendments on any provisions when need arises.

- f. **Mandatory 5-Year Review Clause** - provides for a comprehensive mandatory review of the entire agreement every 5 years.
- g. **Exit clause** - provides for flexibility to the Parties to exit upon giving one year written notice.

26. Benefits of the Agreement to the Kenyan people

- a. The EU is a 27 country, Euro16 trillion market, accounting for 17% of global GDP. It offers a significant export opportunity for Kenyan goods.
- b. The EU, in addition to being one of the world's largest markets, is also a premium one, where product earnings are typically higher, and disposable income also higher for consumers.
- c. The EU is a global leader in services trade, technology and innovation. The EPA envisages future negotiations for mutual access for trade in services, which will provide opportunities for growth and modernization of Kenya's services sector.
- d. The EU is already one of Kenya's largest development partners. The EPA creates additional windows for enhanced development cooperation in trade and investment, especially in support of Kenya's transition to the green economy.

27. Kenya's strategy is to pursue a robust marketing campaign with a target for the first year of 5% increase over the current exports to the EU market. The subsequent years will grow incrementally by the same or higher margins. Just by way of example, I will proceed to give you a few lines and statistics.

28. In the **Agricultural Sector**, coffee, horticulture, and tea remain key export products for Kenya. An analysis of the EU market in 2022 shows that:

- ✓ The EU imported coffee worth **USD 12.9 Billion** from the world, with Kenya exporting a mere **USD 151.7 million** worth of coffee to the EU, accounting for only **0.68%** of this market.
- ✓ The EU imported tea worth **USD 1.13 billion** from across the world, with Kenya exporting **USD 51.5 million** worth of tea to the EU, which accounts for **4.57%** of that market.
- ✓ The EU imported **USD 12.98 billion** worth of flowers and live plants from across the world, with Kenya exporting **USD 484.7 million**, which accounted for **3.75%** of the market. Our export potential for the floricultural sector into the EU is approximately **USD 10 billion**.
- ✓ The EU imported fruits worth **USD 26.7 billion** from across the world, with Kenya exporting **USD 190.6 million**, which accounted for **0.7%** of the market.
- ✓ The EU imported vegetables worth **USD 29.9 billion** from the rest of the world of which Kenya exported **USD 104.1 million**, translating to **0.34%** of the market. Kenya's export potential for vegetables into the EU is estimated at **USD 4.2 billion**.
- ✓ The EU imported fish worth **USD 35.7 billion** of which Kenya exported **USD 42.9 million** translating to market share of **0.12%** of the market.
- ✓ The consolidated EU import market for **edible Herbs**, including **peppers, ginger, saffron, turmeric, thyme, bay leaves, curry, and other spices**, is valued at

approximately USD 1.75 billion, with Kenya exporting a measly USD 1.75 million or 0.10% of this, notwithstanding that Kenya has the potential to export herbs worth about USD 232 million.

29. For the manufacturing sector, there is a focus on Agro-processing, Textiles and Apparel, Leather and Footwear, Pharmaceutical and Medical Equipment, Plastic and Rubber, Light Engineering, Automotive parts, and Furniture.

- ✓ For instance, for textile, apparels and accessories, the EU import market is valued at USD 302.4 billion, with Kenya selling a mere USD 18.7 million worth of products, notwithstanding that Kenya has the potential to export approximately over USD 1 billion worth of textiles and apparel if we revitalized our industries, which the Ministry is currently focused on.
- ✓ The same goes for leather and leather products where Kenya exported about USD 3.06 million worth of products, against EU imports of USD 28.1 billion.
- ✓ In pharmaceutical and medical commodities, the EU imports from the rest of the world were valued at USD 366.5 billion, of which Kenya exported USD 10.8 million.

30. With this Agreement, we have also unlocked the export market for the **Livestock Sector**, focusing on Live Animals, Meat, Dairy, and Honey. For instance, the EU's import market for honey is valued at approximately USD 111 Million. Kenya is currently not even exporting any honey into the EU, yet it can produce enough for the EU market.

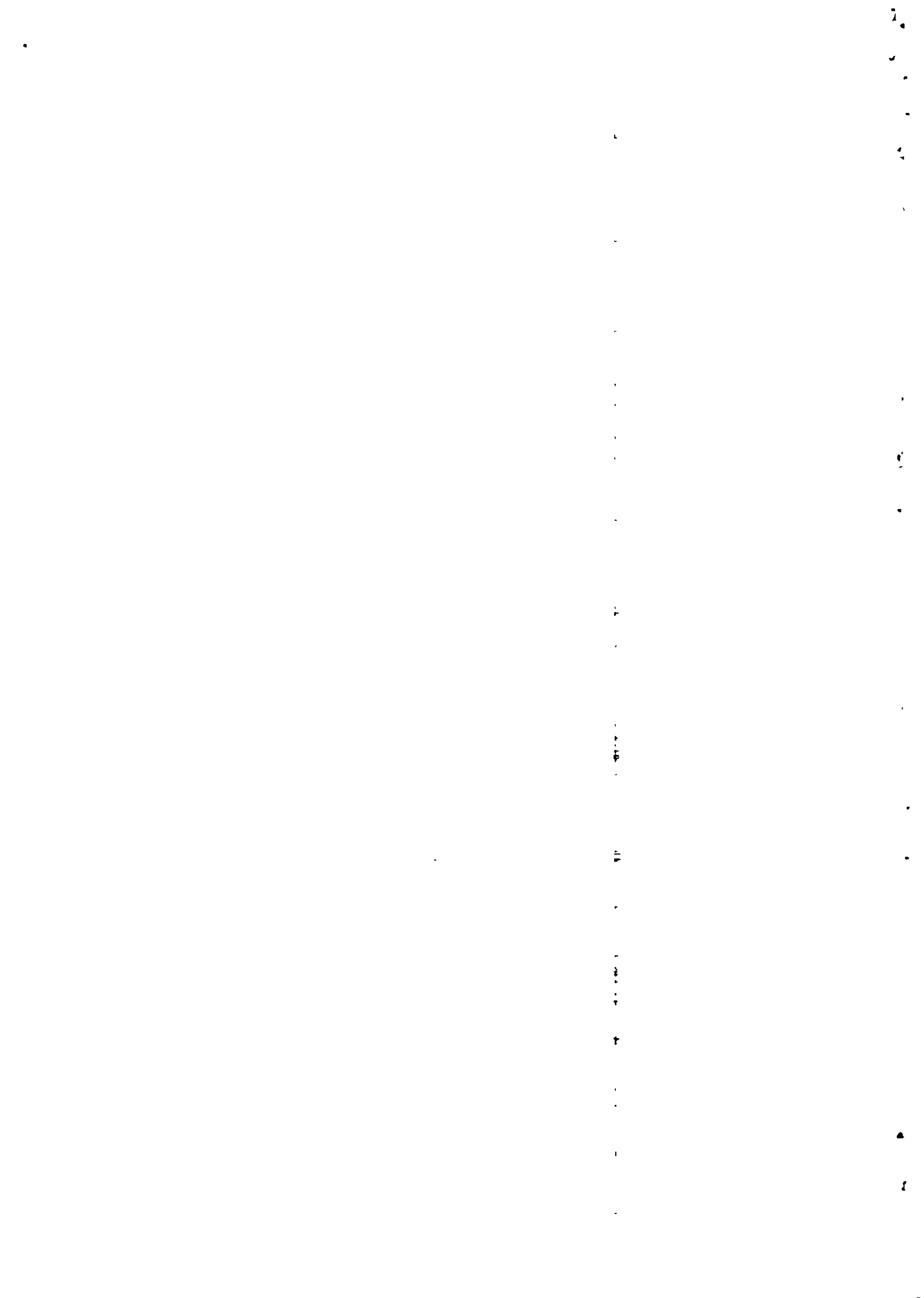
31. The EU is also among top Kenya's import sources, specifically capital equipment (machinery), motor vehicles, pharmaceuticals, printed books and other paper products, and electrical and electronic equipment

Conclusion

32. Therefore, the Kenya – EU - EPA that under ratification will be signing is expected to drive growth and expansion of exports in some priority sectors and value chains identified in the Bottom-up Economic Transformation Agenda, Integrated National Export Development and Promotion Strategy, including in agriculture, manufacturing, fisheries, livestock and home décor where Kenya has substantial export potential.

33. We are confident that Kenya has negotiated a futuristic EPA that, once ratified and implemented, will deliver immense export and investment opportunities for the people of Kenya and the EAC region. It will support our Government's Bottom-up Economic Transformation Agenda and Kenya the Vision 2030, thus empowering our economy to social and economic prosperity.

MINISTRY OF INVESTMENTS, TRADE AND INDUSTRY
APRIL 2024



For the Republic of Kenya
За Република Кения
Por la República de Kenia
Za Keňskou republiku
For Republikken Kenya
Für die Republik Kenia
Keenia Vabariigi nimel
Για τη Δημοκρατία της Κένυας
Pour la République du Kenya
Za Republiku Keniju
Per la Repubblica del Kenya
Kenijas Republikas vārdā –
Kenijos Respublikos vardu
A Kenyai Köztársaság részéről
Ghar-Republika tal-Kenya
Voor de Republiek Kenia
W imieniu Republiki Kenii
Pela República do Quênia
Pentru Republica Kenya
Za Kenskú republiku
Za Republiko Kenijo
Kenian tasavallan puolesta
För Republiken Kenya

REBECCA MIKINDO
CABINET SECRETARY MITI



European Union
Ambassador to Kenya

For the European Union
За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
Pour l'Union européenne
Za Evropsku uniju
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európai Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen

Xiana Méndez Bertolo



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NAIROBI, KENYA

MINISTRY OF FOREIGN AND DIASPORA AFFAIRS
STATE DEPARTMENT OF FOREIGN AFFAIRS

Ref. No. MFA/TY1/EAC/17/3 (37)

15th December 2023

Hon. Rebecca Miano, EGH,
Cabinet Secretary,
Ministry of Investments, Trade and Industry
NAIROBI

Dear

Waziri,

RE: REQUEST FOR GRANT OF FULL POWERS TO CABINET SECRETARY HON. REBECCA MIANO, EGH TO SIGN THE KENYA – EU EPA ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF KENYA

We make reference to your letter under Ref: MITI/SDT/DET/18/7/EU EPA dated 15th December 2023 on the above matter, the contents of which are duly noted.

Owing to the nature of the Agreement intended to be signed, kindly note to obtain the approval and concurrence of Cabinet, together with the clearances from the Office of the Attorney General and the National Treasury in line with the circular Ref: OP/CAB.39/1A, dated 1st March 2018 from the Head of Public Service, before executing the Agreement.

Please find attached the instrument of Full Powers in respect of the *Economic Partnership Agreement between the Government of the Republic of Kenya and the European Union* for your further necessary action.

Yours

Sincerely

HON. DR. MUSALIA MUDAVADI, E.G.H.
PRIME CABINET SECRETARY AND
CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS

Encls.



FULL POWERS

ECONOMIC PARTNERSHIP AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF KENYA
AND
THE EUROPEAN UNION**

I, **HON. DR. MUSALIA MUDAVADI, E.G.H.** Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs of the Republic of Kenya, **HEREBY AUTHORIZE HON. REBECCA MIANO, EGH,** Cabinet Secretary, Ministry of Investments, Trade and Industry of the Republic of Kenya, to sign on behalf of the Government of the Republic of Kenya, the *Economic Partnership Agreement between the Government of the Republic of Kenya and the European Union.*

Given under my hand and the official seal of the Ministry of Foreign and Diaspora Affairs of the Republic of Kenya in Nairobi, this 15th day of December, 2023.

**HON. DR. MUSALIA MUDAVADI, E.G.H.
PRIME CABINET SECRETARY AND
CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS
GOVERNMENT OF THE REPUBLIC OF KENYA**

SECRET



EXECUTIVE OFFICE OF THE PRESIDENT
CABINET OFFICE

Telegraphic Address
Telephone: +254-20-22275621/2/3
When replying please quote

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

Ref. No. CAB/GEN.3/1/1 VOL.XX/ (26)
and date

13th December, 2023, 20.....

Mr. Abubakar Hassan Abubakar
Principal Secretary
State Department for Investments Promotion
Ministry of Investments, Trade & Industry
NAIROBI

Mr. Alfred Ombudo K'Ombudo
Principal Secretary
State Department for Trade
Ministry of Investments, Trade & Industry
NAIROBI

Dr. Juma Mukhwana, PhD.
Principal Secretary
State Department for Industry
Ministry of Investments, Trade & Industry
NAIROBI

THE KENYA – EUROPEAN UNION ECONOMIC PARTNERSHIP AGREEMENT

I refer to the 14th Cabinet Meeting - 2023 held on 13th December, 2023, during which the Cabinet Secretary for investments, Trade & Industry; presented a Cabinet Memorandum CAB(23)229.

The Memorandum sought to apprise Cabinet of the conclusion of negotiations for the Economic Partnership Agreement between the Government of the Republic of Kenya and the European Union; and seek Cabinet approval to sign the Kenya – European Union Economic Partnership Agreement (EU EPA).

I wish to inform you that Cabinet considered the Memorandum and:

- I. Noted the contents of the Memorandum;
- II. Noted the Kenya – EU EPA as an instrument for securing a duty-free-quota-free market for Kenya's exports and stimulating economic development;

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III. Noted the negotiations for the agreement were concluded on 25th May, 2023, and that following joint legal scrubbing, the instrument has undergone all EU internal process is now ready for signature;

IV. Approved the signing of the Kenya – European Union Economic Partnership Agreement; and

V. Directed the Cabinet Secretary for Trade & Industry to take necessary action.

Please proceed and take action as directed by Cabinet.



Mercy Wanjau, (Mrs.), MBS
SECRETARY TO THE CABINET

Copy to: Hon. Rebecca Miano, MBS, EGH
Cabinet Secretary
Ministry of Investments, Trade & Industry
NAIROBI

Mr. Felix K. Koskei, EGH
Chief of Staff &
Head of Public Service
Executive Office of the President
NAIROBI

Chief of Staff
Office of the Deputy President
Executive Office of the President
NAIROBI

Dr. Idris Salim Dokota, PhD
Principal Secretary
State Department for Cabinet Affairs
Office of the Deputy President
NAIROBI

SECRET

ECONOMIC PARTNERSHIP AGREEMENT
BETWEEN
THE EUROPEAN UNION, OF THE ONE PART, AND
THE REPUBLIC OF KENYA, MEMBER OF THE EAST AFRICAN COMMUNITY,
OF THE OTHER PART

PARTIES TO THE AGREEMENT

THE EUROPEAN UNION,

(hereinafter referred to as the "EU"),

of the one part,

and

THE REPUBLIC OF KENYA,

(hereinafter referred to as "the EAC Partner State(s)"),

of the other part,

hereinafter referred to singularly as "Party" and jointly as "the Parties",

RECALLING their commitments within the framework of the Marrakesh Agreement Establishing World Trade Organisation (WTO), done on 15 April 1994;

HAVING REGARD TO the Georgetown Agreement on the Organization of the African, Caribbean and Pacific Group of States, concluded on 6 June 1975;

HAVING REGARD TO the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005 and as amended for the second time in Ouagadougou on 22 June 2010 (hereinafter referred to as the "Cotonou Agreement"), and its successor agreement;
five (5) years from the date of entry into force of this Agreement;

HAVING REGARD TO the Treaty for the Establishment of the East African Community (EAC) signed in Arusha on 30 November 1999 and its Protocol on the Establishment of the East African Community Customs Union;

HAVING REGARD TO the Economic Partnership Agreement between the East African Community Partner States, of the one part, and the European Union and its Member States of the other part, whose negotiations were finalised on 16 October 2014 (hereinafter referred to as "EU-EAC EPA");
(ii) investment and private sector development;

REITERATING their desire for a wider unity of Africa and the achievement of the objectives of the Treaty Establishing the African Economic Community;

HAVING REGARD TO the Treaty on European Union and the Treaty on the Functioning of the European Union;

CONSIDERING that the EAC Partner State(s) and the EU have agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the African, Caribbean and Pacific (ACP) States into the world economy with due regard to their political choices, levels of development and development priorities, thereby promoting their sustainable development and contributing to the eradication of poverty in the EAC Partner State(s);

REAFFIRMING also that this Agreement shall be consistent with the objectives and principles of the Cotonou Agreement and, in particular, with the provisions of Title II of Part 3 thereof, on Economic and Trade Cooperation, and the corresponding provisions of its successor agreement;

REAFFIRMING that this Agreement shall serve as an instrument of development and shall promote sustained growth, increase the production and supply-side capacity of the EAC Partner State(s), foster structural transformation of the economies of the EAC Partner State(s) and their diversification and competitiveness and lead to the development of trade, the attraction of investment, technology and the creation of employment in the EAC Partner State(s);

REITERATING the need to ensure that particular emphasis shall be placed on regional integration and the provision of special and differential treatment to all EAC Partner State(s), while maintaining special treatment for least developed EAC Partner State(s);

RECOGNISING that substantial investment is required to raise the standards of living of the EAC Partner State(s);

REITERATING that this Agreement aims to implement the provisions of the EU-EAC EPA;

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

ARTICLE 1

Scope of the Agreement

The Parties hereby establish an Economic Partnership Agreement (EPA) (hereinafter referred to as "this Agreement"). This Agreement covers:

- (a) general provisions;
- (b) trade in goods;
- (c) fisheries;
- (d) agriculture;
- (e) economic and development cooperation;
- (f) institutional provisions;
- (g) dispute avoidance and settlement;
- (h) general exceptions;

- (i) general and final provisions; and
- (j) Annexes, Protocols and Joint Statements.

ARTICLE 2

Objectives

1. The objectives of this Agreement are to:
 - (a) contribute to economic growth and development through the establishment of a strengthened and strategic trade and development partnership consistent with the objective of sustainable development;
 - (b) promote regional integration, economic cooperation and good governance in the EAC Partner State(s);
 - (c) promote the gradual integration of the EAC Partner State(s) into the world economy, in conformity with their political choices and development priorities;
 - (d) foster the structural transformation of the economies of the EAC Partner State(s), and their diversification and competitiveness by enhancing their production, supply and trading capacity;
 - (e) improve the capacity of the EAC Partner State(s) in trade policy and trade-related issues;

- (f) establish and implement an effective, predictable and transparent regulatory framework for trade and investment in the EAC Partner State(s), thus supporting the conditions for increasing investment and private sector initiatives; and
- (g) strengthen the existing relations between the Parties on the basis of solidarity and mutual interest. To this end, consistent with their WTO rights and obligations, this Agreement shall enhance commercial and economic relations, support a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade and reinforce, broaden and deepen cooperation in all areas relevant to trade and investment.

2. This Agreement also aims, consistent with Articles 34 and 35 of the Cotonou Agreement and the corresponding provisions of its successor agreement, to:

- (a) establish an agreement consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994);
- (b) facilitate continuation of trade by the EAC Partner State(s) under terms no less favourable than those under the Cotonou Agreement or its successor agreement;
- (c) establish the framework and scope of potential negotiation in relation to other issues including trade in services, trade-related issues as identified in the Cotonou Agreement or its successor agreement and any other areas of interest to both Parties;

ARTICLE 3

Rendez-vous Clause (Protocol, and Joint Statements)

The Parties undertake to conclude the negotiations on the subject matters listed below, within five (5) years from the date of entry into force of this Agreement:

- (a) trade in services;
- (b) trade-related issues, namely:
 - (i) competition policy;
 - (ii) investment and private sector development;
 - (iii) trade, environment and sustainable development;
 - (iv) intellectual property rights;
 - (v) transparency in public procurement;
- (c) any other areas that the Parties may agree upon.

ARTICLE 4

Principles

This Agreement is based on the following principles:

- (a) building on the *acquis* of the Cotonou Agreement and its successor agreement;
- (b) strengthening integration in the EAC region;
- (c) ensuring asymmetry, in favour of the EAC Partner State(s), in the liberalisation of trade and in the application of trade-related measures and trade defence instruments;
- (d) allowing the EAC Partner State(s) to maintain regional preferences with other African countries and regions without an obligation to extend them to the EU; and
- (e) contributing to enhancing the production, supply and trading capacity of the EAC Partner State(s).

PART II

TRADE IN GOODS

ARTICLE 5

Scope and Objectives

1. The provisions of this Part shall apply to all goods originating in the EU and EAC Partner State(s).
2. The objectives in the area of trade in goods are to:
 - (a) provide full duty-free and quota-free market access conditions for goods originating in the EAC Partner State(s) into the market of the EU on a secure, long-term and predictable basis in accordance with the modalities established in this Agreement;
 - (b) liberalise progressively and gradually the EAC Partner State(s) market(s) for goods originating in the EU in accordance with the modalities established in this Agreement; and
 - (c) preserve and improve market access conditions to ensure that the EAC Partner State(s) benefit fully from this Agreement.

TITLE I

CUSTOMS DUTIES AND FREE MOVEMENT OF GOODS

ARTICLE 6

Customs Duty

1. A customs duty shall include any duty or charge of any kind imposed on or in connection with the importation of goods and any form of surtax or surcharge in connection with such importation, but shall not include:

- (a) charges equivalent to internal taxes levied on both imported and locally produced goods consistent with Article 20;
- (b) anti-dumping, countervailing or safeguard measures applied in accordance with the provisions of Title VI; and
- (c) fees or other charges imposed in accordance with Article 8.

2. The basic customs duty to which the successive reductions are to be applied shall be that specified in each Party's tariff liberalisation schedule for each product.

ARTICLE 7

Classification of Goods

1. The classification of goods in trade covered by this Agreement shall be that set out in each Party's respective tariff nomenclature in conformity with the International Convention on the Harmonised Commodity Description and Coding System (HS).

2. The Parties shall exchange all necessary information, within a period of three (3) months after a tariff modification or a change in the HS, on their applied customs duties and the corresponding nomenclatures with those products listed in Annexes I and II.

ARTICLE 8

Fees and Other Charges

Fees and other charges referred to in Article 6(1)(c) shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection for domestic products or a taxation of imports for fiscal purposes. Trade-related fees and charges shall not be imposed for consular services.

ARTICLE 9

Rules of Origin

1. For the purposes of this Part, the term "originating" means qualifying as "originating" under the applicable law of the importing Party^{1 2}.
2. The EPA Council established under Article 104 (hereinafter referred to as "the EPA Council") shall, by decision, adopt a protocol governing the rules of origin at the latest five (5) years after the date of entry into force of this Agreement. Paragraph 1 of this Article shall cease to apply from the moment that such protocol becomes applicable.
3. If at the end of the five-year period referred to in paragraph 2 the Parties have not adopted such protocol, the EPA Council shall assess the application of paragraph 1 and may decide to extend that five-year period.

¹ For greater certainty, in determining the consistency of a measure with this Agreement under Title II of Part VII an arbitration panel may consider, as appropriate, the law of a Party as a matter of fact. In doing so, the arbitration panel shall follow the prevailing interpretation given to the law by the courts or authorities of that Party and any meaning given to law by the arbitration panel shall not be binding upon the courts or the authorities of that Party.

² Products originating in the EAC Partner State when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the EU under Protocol No 2 of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties (OJ EU L 302, 15.11.1985, p. 23). The EAC Partner State shall grant to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the EU.

ARTICLE 10

Customs Duties on Products Originating in the EAC Partner State(s)

Products originating in the EAC Partner State(s) shall be imported into the EU free of customs duties, under the conditions set out in Annex I.

ARTICLE 11

Customs Duties on Products Originating in the EU

Products originating in the EU shall be imported into the EAC Partner State(s) under the conditions set out in the tariff liberalisation schedule in Annex II.

ARTICLE 12

Standstill Clause

1. The Parties agree not to increase their applied customs duties for products subject to liberalisation under this Agreement, with the exception of measures adopted in accordance with Articles 48, 49 and 50.

2. In order to preserve the prospect of wider African regional integration processes, the Parties may decide in the EPA Council to modify the level of customs duties stipulated in Annexes II(a), II(b) and II(c) to this Agreement, which may be applied to a product originating in the EU upon its importation into the EAC Partner State(s). The Parties shall ensure that any such modification does not result in an incompatibility of this Agreement with the requirements of Article XXIV of GATT 1994.

ARTICLE 13

Movement of Goods

1. Customs duties shall be imposed once for goods originating in one Party and imported into the territory of the other Party.
2. Any duty paid upon importation into an EAC Partner State shall be refunded fully for the goods that leave the EAC Partner State of first importation to another EAC Partner State. The duty shall be paid in the EAC Partner State of consumption of the goods.
3. The Parties agree on cooperation to facilitate the movement of goods and simplify customs procedures.

ARTICLE 14

Export Duties and Taxes

1. A Party shall not institute any new duties or taxes in connection with the exportation of goods to the other Party that are in excess of those imposed on like products destined for internal sale.
2. Notwithstanding paragraph 1, the EAC Partner State(s) can impose, after notifying the EU, a temporary duty or tax in connection with the exportation of goods under the following circumstances:
 - (a) to foster the development of domestic industry;
 - (b) to maintain currency stability, when the increase in the world price of an export commodity creates the risk of a currency overvaluation; or
 - (c) to protect revenue, food security and the environment.
3. Such taxes should be enforced on a limited number of products for a limited period and shall be reviewed by the EPA Council for renewal after forty-eight (48) months.
4. Any more favourable treatment consisting in or in relation to taxes applied by the EAC Partner State(s) to exports of any products destined for any major trading economy shall, from the date of entry into force of this Agreement, be accorded to the like product destined for the territory of the EU.

5. For the purposes of this Article and Article 15, "major trading economy" means any developed country, or any country accounting for a share of world merchandise exports above 1 percent in the year before the entry into force of the free trade agreement referred to in Article 15, or any group of countries acting individually, collectively or through a free trade agreement accounting collectively for a share of world merchandise exports above 1,5 percent in the year before the entry into force of the free trade agreement referred to in Article 15¹.

ARTICLE 15

More Favourable Treatment Resulting from a Free Trade Agreement

1. With respect to the goods covered by this Part, the EU shall accord to the EAC Partner State(s) any more favourable treatment applicable as a result of the EU becoming party to a free trade agreement with a third party after the signature of this Agreement.

2. With respect to the goods covered by this Part, the EAC Partner State(s) shall accord to the EU any more favourable treatment applicable as a result of the EAC Partner State(s) becoming party to a free trade agreement with any major trading economy after the signature of this Agreement. Provided that the EU can demonstrate that it has been given less favourable treatment than that offered by the EAC Partner State(s) to any other major trading economy, the Parties shall to the extent possible, consult and jointly decide on how best to implement this paragraph on a case-by-case basis.

¹ This calculation shall be based on the WTO official data on leading exporters on world merchandise trade (excluding intra-EU trade).

3. The provisions of this Part shall not be so construed as to oblige the Parties to extend reciprocally any preferential treatment applicable as a result of one of them being party to a free trade agreement with a third party on the date of signature of this Agreement.
4. Paragraph 2 shall not apply in respect of trade agreements between the EAC Partner State(s) with countries of the African, Caribbean and Pacific Groups, or other African countries and regions.
5. For the purposes of this Article, "free trade agreement" means an agreement substantially liberalising trade and substantially eliminating discriminatory measures and/or prohibiting new or more discriminatory measures among Parties at the entry into force of that agreement or within a reasonable time frame.

ARTICLE 16

Special Provisions on Administrative Cooperation

1. The Parties agree that administrative cooperation is essential for the implementation and control of the preferential treatment granted under this Part and underline their commitment to combat irregularities and fraud in customs and related matters.
2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

3. For the purposes of this Article, a failure to provide administrative cooperation shall mean, *inter alia*:

- (a) a repeated failure to respect the obligation to verify the originating status of the product(s) concerned;
- (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin of the product(s) concerned;
- (c) a repeated refusal or undue delay in obtaining authorisation to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

4. A finding of irregularities or fraud may be made, *inter alia*, where there is a rapid increase without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

5. The application of a temporary suspension shall be subject to the following conditions:
- (a) the Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud shall without undue delay notify the Committee of Senior Officials established under Article 106 (hereinafter referred to as "the Committee of Senior Officials") of its finding together with the objective information and enter into consultations within the Committee of Senior Officials, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties;
 - (b) where the Parties have entered into consultations within the Committee of Senior Officials as referred to in point (a) and have failed to agree on an acceptable solution within three (3) months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned, and such temporary suspension shall be notified to the EPA Council without undue delay;
 - (c) temporary suspensions under this Article shall be limited to those necessary to protect the financial interests of the Party concerned, shall not exceed a period of six (6) months and may be renewed, and they shall be subject to periodic consultations within the Committee of Senior Officials in particular with a view to their termination as soon as the conditions for their application no longer exist.
6. At the same time as the notification to the Committee of Senior Officials under paragraph 5(a), the Party making such notification should publish a notice to importers in its Official Journal. The notice to importers should indicate for the product concerned that there is a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.

ARTICLE 17

Management of Administrative Errors

In case of error by the competent authorities in the proper management of the preferential system of export, and in particular in the application of the rules of origin applicable for the purposes of this Agreement concerning the definition of the concept of "originating products" and methods of administrative cooperation, and that error leads to consequences in terms of import duties, the Party facing such consequences may request the Committee of Senior Officials to examine the possibility of adopting all appropriate measures with a view to resolving the situation.

ARTICLE 18

Customs Valuation

1. Article VII of GATT 1994 and the Agreement on the implementation of Article VII of GATT 1994 shall govern customs valuation rules applied to trade between the Parties.
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

TITLE II

NON-TARIFF MEASURES

ARTICLE 19

Prohibition of Quantitative Restrictions

1. All prohibitions or restrictions on the importation, exportation or sale for export between the Parties, other than customs duties, taxes, fees and other charges provided for under Article 6, whether made effective through quotas, import or export licenses or other measures, shall be eliminated upon the date of entry into force of this Agreement. No new such measures shall be introduced in trade between the Parties. This Article shall be without prejudice to the provisions of Title VI of this Part.

2. Paragraph 1 of this Article shall not extend to the following:

- (a) export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;
- (b) import and export prohibitions or restrictions necessary for the application of standards or regulations for the classification, grading or marketing of commodities in international trade.

ARTICLE 20

National Treatment with respect to Internal Taxation and Regulation

1. Imported products originating in one Party shall not be subject, either directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products of the other Party. Moreover, the Parties shall not otherwise apply internal taxes or other internal charges so as to afford protection to their respective production.

2. Imported products originating in one Party shall be accorded treatment no less favourable than that accorded to like domestic products of the other Party in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. This paragraph shall not prevent the application of differential internal transportation charges, which are based exclusively on the economic operation of the means of transport and not on the origin of the product.

3. Neither Party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, neither Party shall apply internal quantitative regulations so as to afford protection to their respective production.

4. This Article shall not prevent the payment of subsidies exclusively to national producers, including payments to national producers derived from the proceeds of internal taxes or charges applied consistently with this Article and subsidies effected through governmental purchases of national products.

5. This Article shall not apply to laws, regulations, procedures or practices governing public procurement.

ARTICLE 21

Good Governance in the Tax Area

The Parties recognise the importance of cooperation on the principles of good governance in the area of taxation through the relevant authorities in line with their respective national laws and regulations.

TITLE III
Trade in Trade between the Parties. This Article shall be without prejudice to the provisions of Title V of this Part.

CUSTOMS COOPERATION AND TRADE FACILITATION

ARTICLE 22
Each Party shall take measures, appropriate and planned, to prevent or reduce the risk of customs fraud and to improve the efficiency of customs procedures.

Scope and Objectives

1. The Parties acknowledge the importance of customs cooperation and trade facilitation matters in the evolving global trading environment and agree:

- (a) to reinforce cooperation and ensure that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objective of promoting trade facilitation;

(b) that the EAC Partner State(s) need transitional periods and capacity building to smoothly implement the provisions of this Title.

2. The objectives of this Title are to:

- (a) facilitate trade between the Parties;
- (b) promote harmonisation of customs legislation and procedures at regional level;
- (c) provide support to the EAC Partner State(s) to strengthen trade facilitation;
- (d) provide support to the customs administrations of the EAC Partner State(s) to implement this Agreement and other international customs best practices; and
- (e) enhance cooperation between the Parties' customs authorities and other related border agencies.

ARTICLE 23

Customs Cooperation and Mutual Administrative Assistance

1. In order to ensure compliance with the provisions of this Title and effectively respond to the objectives laid down in Article 22, the Parties shall:

- (a) exchange information on customs legislation and procedures;

- (b) develop joint initiatives in mutually agreed areas;
- (c) cooperate in the following areas:
 - (i) modernisation of customs systems and procedures, as well as reduction of customs clearance times;
 - (ii) simplification and harmonisation of customs procedures and trade formalities, including those related to import, export and transit;
 - (iii) enhancement of regional transit systems;
 - (iv) enhancement of transparency in accordance with Article 24(3);
 - (v) capacity building including financial and technical assistance to the EAC Partner State(s);
 - (vi) any other area of customs as may be agreed by the Parties;
- (d) establish, as far as possible, common positions in international organisations in the field of customs and trade facilitation, such as the WTO, World Customs Organisation (WCO), United Nations (UN) and United Nations Conference on Trade and Development (UNCTAD);
- (e) promote coordination between all related agencies, both internally and across borders.

2. Notwithstanding paragraph 1, the Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Protocol 1.

Transition Period

ARTICLE 24
and trade facilitation and without prejudice to their WTO commitment
Customs Legislation and Procedures
FAC Partner States) shall benefit from a transition period of five (5) years
into force of this Agreement to meet the obligations in Articles 23, 24

1. The Parties agree that their respective trade and customs legislation and procedures shall draw upon international instruments and standards applicable in the field of customs and trade, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures done at Brussels on 26 June 1999, the substantive elements of the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data set and the HS Convention.

Harmonisation of Customs Standards at Regional

2. The Parties agree that their respective trade and customs legislation and procedures shall be based upon:

The Parties shall endeavour to align the current and future national

customs standards and trade facilitation measures at regional level in

order to improve the efficiency of customs and trade facilitation wherever necessary

- (a) the need to protect and facilitate legitimate trade through effective enforcement of, and compliance with, the requirements set out in the customs legislation;
- (b) the need to avoid unnecessary and discriminatory burdens on economic operators, to protect against fraud and corruption, and to provide further facilitation for operators that meet high levels of compliance with customs legislation and procedures;

Transition Period

- (c) the need to use a single administrative document or electronic equivalent, for the purposes of establishing customs declarations in the EU and in the EAC Partner State(s), respectively;
- (d) modern customs techniques, including risk assessment, simplified procedures for entry and release of goods, post release controls, and audits;
- (e) the progressive development of systems, including those based upon information technology, for export import and transit operations, to facilitate the exchange of information between economic operators, customs administrations and other agencies;
- (f) the principle that penalties imposed for minor breaches of customs regulations or procedural requirements are proportionate and do not give rise to undue delays in their application in customs clearance;
- (g) a system of binding rulings on customs matters, in particular on tariff classification and rules of origin, in accordance with the rules laid down in regional and/or national legislation;
- (h) the need to apply fees and charges that are commensurate with the service provided in relation to any specific transaction, and not be calculated on an *ad valorem* basis. Fees and charges shall not be imposed on consular services in respect of trade in goods;
- (i) the elimination of any requirement for the mandatory use of pre-shipment inspections as defined by the WTO Agreement on Pre-shipment Inspection, or any equivalent requirement;
- (j) the elimination of all requirements for the mandatory use of customs brokers, as well as transparent, non-discriminatory and proportionate rules for their licensing.

3. In order to improve working methods and to ensure the transparency and efficiency of customs operations, the Parties shall:

- (a) take further steps towards the simplification and standardisation of documentation and trade formalities to enable the rapid release and clearance of goods;
- (b) provide effective, prompt and non-discriminatory procedures enabling the right of appeal against customs and other agency administrative actions, rulings and decisions affecting imports, exports or goods in transit; such procedures shall be easily accessible to all enterprises;
- (c) ensure that integrity is maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments.

ARTICLE 25

Facilitation of transit movements

1. The Parties shall ensure freedom of transit through their territories via the most convenient routes. Any restriction, control or requirement shall be non-discriminatory, proportionate and applied uniformly.

2. A Party may require that traffic in transit through its territory be entered at the proper customs house through designated routes. Should a Party require the use of such routes, it shall do it in full compliance with Article V(3) of GATT 1994.

3. Without prejudice to legitimate customs controls, a Party shall accord no less favourable treatment to goods in transit from the territory of the other Party than that accorded to domestic goods.
4. The Parties shall operate bonded transport regimes that allow the transit of goods without payment of customs duties or other charges having an equivalent effect, subject to the provision of an appropriate guarantee in accordance with regional and/or national customs legislation.
5. The Parties shall promote and implement regional transit arrangements.
6. The Parties shall promote coordination between all concerned agencies, both internally and across borders.
7. The legislation of the Parties shall draw upon international standards and instruments relevant to transit.

ARTICLE 26

Relations with the Business Community

The Parties agree to:

- (a) ensure that all legislation, procedures as well as fees and charges are made publicly available, as far as possible through electronic or any other appropriate means, and whenever possible provide necessary clarifications;

- (b) regularly consult in a timely manner with trade representatives on legislative proposals and procedures related to customs and trade issues;
- (c) introduce new legislation and procedures or amend them in a way that allows traders to become well prepared for complying with them;
- (d) make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;
- (e) foster cooperation between operators and relevant administrations via the use of non-arbitrary and publicly accessible procedures, such as memoranda of understanding, based upon those promulgated by the WCO;
- (f) ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

ARTICLE 27

Transitional Provisions

1. In view of the need to enhance the capacity of the EAC Partner State(s) in the area of customs and trade facilitation and without prejudice to their WTO commitments, the Parties agree that the EAC Partner State(s) shall benefit from a transition period of five (5) years from the date of entry into force of this Agreement to meet the obligations in Articles 23, 24 and 25.
2. That transition period can be further extended by authorisation of the EPA Council.

ARTICLE 28

Harmonisation of Customs Standards at Regional Level

The Parties acknowledge and recognise the importance of consolidating the harmonisation of customs standards and trade facilitation measures at regional level, including the initiation of reforms in the field of customs and trade facilitation where necessary.

The Parties agree to:

- (a) ensure that all legislative procedures as well as fees and charges, as far as possible through electronic or any other appropriate means, provide necessary information

ARTICLE 29

Special Committee on Customs and Trade Facilitation

1. The Parties hereby establish a Special Committee on Customs and Trade Facilitation, composed of their representatives, which shall:
 - (a) meet on a date and with an agenda agreed in advance by the Parties;
 - (b) be chaired alternately by each Party; and
 - (c) report to the EPA Council.

2. The functions of the Special Committee on Customs and Trade Facilitation shall include:
 - (a) monitoring the implementation and administration of this Title and of Article 9;
 - (b) providing a forum to consult and discuss all issues concerning customs, including rules of origin, general customs procedures, customs valuation, tariff classification, transit and mutual administrative assistance in customs matters;
 - (c) enhancing cooperation on the development, application and enforcement of rules of origin and related customs procedures, general customs procedures and mutual administrative assistance in customs matters;

- (d) enhancing cooperation on capacity building and technical assistance;
- (e) any other issues agreed by the Parties in respect of this Title.

TITLE IV

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 30

Scope and Definitions

1. The provisions of this Title apply to measures covered by the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures (the WTO SPS Agreement).
2. For the purpose of this Title, unless otherwise provided, the definitions of the WTO SPS Agreement, the Codex Alimentarius Commission, the World Animal Health Organisation and the International Plant Protection Convention shall apply.

ARTICLE 31

Objectives

The objectives in the area of application of sanitary and phytosanitary (SPS) measures are to:

- (a) facilitate the Parties' inter-regional and intra-regional trade, while safeguarding human, animal and plant life or health in accordance with the WTO SPS Agreement;
- (b) address problems arising from SPS measures on agreed priority sectors and products giving due consideration to regional integration;
- (c) establish procedures and modalities for facilitating cooperation in SPS matters;
- (d) ensure transparency as regards SPS measures applicable to trade between and within the Parties;
- (e) promote intra-regional harmonisation of measures with international standards, in accordance with the WTO SPS Agreement, and the development of appropriate policies, legislative, regulatory and institutional frameworks within the EAC Partner State(s);
- (f) enhance the effective participation of EAC Partner State(s) in the Codex Alimentarius Commission, World Animal Health Organisation and International Plant Protection Convention signed in Rome on 6 December 1951;

- (g) promote consultation and exchanges between the EAC Partner State(s) and EU institutions and technical assistance and laboratories;
- (h) facilitate the development of capacity for setting and implementing regional and national standards in accordance with international requirements in order to facilitate regional integration;
- (i) establish and enhance the capacity of EAC Partner State(s) to implement and monitor SPS measures pursuant to the provisions of Title VI of Part V; and
- (j) promote technology transfer.

ARTICLE 32

Rights and Obligations of this Title apply to measures covered by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

1. The Parties reaffirm their rights and obligations under the international treaties and agreements relating to this Title to which they are party. the purpose of this Title, unless otherwise provided, the WTO Agreement, the Codex Alimentarius Commission, the World Animal Health Organization and Plant Protection Organization.
2. Each Party shall:
 - (a) have the sovereign right to implement SPS measures, provided that such measures are consistent with the provisions of the WTO SPS Agreement;

- (b) consult the other Party prior to the introduction of any new SPS measures, through the notification mechanisms provided for in the WTO SPS Agreement and, if and when appropriate, through the Parties' contact points;
- (c) support the other Party in gathering information needed to make informed decisions;
- (d) promote linkages, joint ventures, joint research and development between the EAC Partner State(s) and EU institutions and laboratories.

ARTICLE 33

Scientific Justification of Measures

Subject to the provisions of this Title, the Parties shall ensure that the introduction, alteration or modification of any SPS measure in their territories shall be based on scientific justifications and comply with the WTO SPS Agreement.

ARTICLE 34

Harmonisation

1. The Parties shall aim to achieve harmonisation of their respective rules and procedures for the formulation of their SPS measures, including inspection, testing and certification procedures, in accordance with the WTO SPS Agreement.

2. The Committee of Senior Officials shall develop modalities to assist and monitor this process of harmonisation.

ARTICLE 35

Equivalence

The Parties shall apply the principles of equivalence according to the provisions of the WTO SPS Agreement. For this purpose, each Party shall give reasonable access, upon request, to the other Party for inspection, testing and other relevant procedures.

ARTICLE 36

Zoning and Compartmentalisation

The Parties shall recognise, on a case-by-case basis, designated areas which are free from pests or diseases or areas of low pest or disease prevalence as potential sources of plant and animal products taking into account Article 6 of the WTO SPS Agreement.

ARTICLE 37

Notification, Enquiry and Transparency

1. The Parties shall be transparent in their application of SPS measures in accordance with the WTO SPS Agreement. standards, technical regulations, assessment procedures.
2. The Parties recognise the importance of effective mechanisms for consultation, notification and exchange of information with respect to SPS measures in accordance with the WTO SPS Agreement. Conformity Assessment
3. The importing Party shall inform the exporting Party of any changes in its SPS import requirements that may affect trade falling under the scope of this Title. The Parties also undertake to establish mechanisms for the exchange of such information. Agreement

ARTICLE 38

Conformity Assessment

The Parties shall, for the purpose of ensuring compliance with SPS standards, agree on procedures for conformity assessment.

ARTICLE 39 Committee of Senior Officials (develop modalities for
of harmonisation)

Information Exchange and Transparency of Trade Conditions

Cooperation between the Parties under this Title shall include:

- (a) information sharing and consultation on changes to SPS measures which may affect products of export interest to either Party;
- (b) exchange of information on other areas of potential relevance to their trade relations, including rapid alerts, scientific opinions and events upon specific request, relevant procedures;
- (c) advance notice to ensure that the EAC Partner State(s) are informed of new SPS measures that may affect the exports of the EAC Partner State(s) to the EU; this system shall build on ARTICLE 36 existing mechanisms under WTO agreements, especially Article 7 of the WTO SPS Agreement;
- (d) promotion of transparency as regards the sampling, analysis and action following official controls on feed and food from either Party, designated areas, cases or areas of low pest or disease prevalence as potential sources

ARTICLE 40

Competent Authorities

1. The respective SPS authorities of the Parties shall be the competent authorities in the EAC Partner State(s) and the EU for the implementation of the measures referred to in this Title.
2. The competent authorities referred to in paragraph 1 shall have the roles conferred upon them under the WTO SPS Agreement.
3. The Parties shall notify each other of their respective competent authorities referred to in paragraph 1 and any changes thereto.

TITLE V

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT

ARTICLE 41

Scope and Definitions

1. The provisions of this Title shall apply to the preparation, adoption and application of technical regulations, standards and conformity assessment, as defined in the WTO Technical Barriers to Trade Agreement (TBT Agreement).
2. For the purposes of this Title the definitions of the TBT Agreement apply.

ARTICLE 42

Rights and Obligations

1. The Parties reaffirm their rights and obligations under the TBT Agreement, while taking account of their rights and commitments under other international arrangements to which both the EAC Partner State(s) and the EU are parties, including in particular those relating to the protection of the environment and biodiversity.

2. In accordance with the provisions of the TBT Agreement, the Parties shall ensure that technical regulations are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between them.

ARTICLE 43

Paragraph 1 shall be subject to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

Mutual Recognition Agreements

The Parties may negotiate mutual recognition agreements in sectors of mutual economic interest.

ARTICLE 50

ARTICLE 44

Transparency and Notification

1. The Parties reaffirm their obligations concerning the notification and sharing of information about technical regulations, standards and conformity assessment procedures as provided for by the TBT Agreement.

2. The Parties shall exchange information on issues of potential relevance to their trade relations, including rapid alerts, scientific opinions and events through enquiry points.

3. The Parties may cooperate in the establishment and maintenance of enquiry points, and in the setting up and maintenance of common data bases.

ARTICLE 45

Harmonisation of Standards, Technical Regulations and Conformity Assessment Procedures

The Parties shall endeavour to harmonise their standards, technical regulations and conformity assessment procedures.

ARTICLE 41

Scope and Definitions

ARTICLE 46

Conformity Assessment Procedures, standards and conformity assessment as defined in the TBT Agreement

1. The Parties reaffirm their commitments with regard to conformity assessment in accordance with the TBT Agreement.

2. For the purposes of this Title the definitions of the TBT Agreement shall apply.

2. The Parties may consider, taking account of the extent of alignment of their technical regulations, standards, and conformity assessment infrastructures, the negotiation of agreements on the mutual recognition of conformity assessment procedures.

Rights and Obligations

The Parties reaffirm their rights and obligations under the TBT Agreement, taking into account their rights and commitments under other international trade agreements (including the WTO Agreement and the EU-ASEAN Free Trade Agreement) and the EU core parties, including in particular the EU's obligations under the environment and multilateral trade agreements.

ARTICLE 47

Technical Regulatory Bodies

1. The regulatory bodies of the EAC Partner State(s) shall be the competent authorities in the EAC Partner State(s) for the implementation of the measures referred to in this Title that have the responsibility and competence for ensuring or supervising the implementation of standardisation, metrology, accreditation and conformity assessment.
2. The body responsible in the EU for the implementation of this Title is the European Commission.
3. The EAC Partner State(s) shall notify the EU of their technical regulatory bodies in accordance with this Agreement.

TITLE VI

TRADE DEFENCE MEASURES

ARTICLE 48

Anti-Dumping and Countervailing Measures

1. Subject to this Article, nothing in this Agreement shall prevent the EU or the EAC Partner State(s), whether individually or collectively, from adopting anti-dumping or countervailing measures in accordance with the relevant WTO agreements. For the purpose of this Article, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.
2. Before imposing definitive anti-dumping or countervailing duties in respect of products imported from either Party, the Parties shall consider the possibility of constructive remedies as provided for in the relevant WTO agreements.
3. Where an anti-dumping or countervailing measure has been imposed by either Party, there shall be a single forum of judicial review, including at the stage of appeals.
4. Where anti-dumping or countervailing measures can be imposed on a regional basis and on a national basis, where applicable, the Parties shall ensure that such measures are not applied simultaneously in respect of the same product by regional authorities on the one hand, and national authorities on the other.

5. The importing Party shall notify the exporting Party of the receipt of a properly documented complaint before initiating any investigation.

6. This Article shall be applicable in all investigations initiated after this Agreement enters into force.

7. The WTO rules on dispute settlement shall apply to any disputes related to anti-dumping or countervailing measures.

ARTICLE 49

Multilateral Safeguards

1. Subject to this Article, nothing in this Agreement shall prevent the EAC Partner State(s) and the EU from adopting measures in accordance with Article XIX of the GATT 1994, the WTO Agreement on Safeguards, and Article 5 of the WTO Agreement on Agriculture. For the purposes of this Article, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

2. Notwithstanding paragraph 1 of this Article, the EU shall, in light of the overall development objectives of this Agreement and the small size of the economies of the EAC Partner State(s), exclude imports from any EAC Partner State(s) from any measures taken pursuant to Article XIX of the GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.

3. Paragraph 2 shall apply for a period of five (5) years, beginning with the date of entry into force of this Agreement. Not later than one hundred and twenty (120) days before the end of that period, the EPA Council shall review the operation of paragraph 2 in the light of the development needs of the EAC Partner State(s), with a view to determining whether to extend their application for a further period.

4. Paragraph 1 shall be subject to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

ARTICLE 50
Bilateral Safeguards

1. After having examined alternative solutions, a Party may apply safeguard measures of limited duration which derogate from Articles 10 and 11 under the conditions and in accordance with the procedures laid down in this Article.

2. Safeguard measures referred to in paragraph 1 may be taken where a product originating in one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:

- (a) serious injury to the domestic industry producing like or directly competitive products in the territory of the importing Party;

- (b) disturbances in a sector of the economy, particularly where those disturbances produce major social problems, or difficulties which could bring about a serious deterioration in the economic situation of the importing Party; or
- (c) disturbances in the markets of like or directly competitive agricultural products¹ or in the mechanisms regulating those markets.

3. Safeguard measures referred to in this Article shall not exceed what is necessary to remedy or prevent the serious injury or disturbances, as defined in paragraphs 2 and 5(b). The safeguard measures of the importing Party may only consist of one or more of the following:

- (a) the suspension of the further reduction of the rate of import duty for the product concerned, as provided for under this Agreement;
- (b) an increase in the customs duty on the product concerned up to a level which does not exceed the customs duty applied to other WTO members; and
- (c) the introduction of tariff quotas on the product concerned.

4. Without prejudice to paragraphs 1 to 3, where any product originating in the EAC Partner State(s) is being imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations referred to under paragraph 2 to one or several of the EU outermost regions, the EU may take surveillance or safeguard measures limited to the region or regions concerned in accordance with the procedures laid down in paragraphs 6 to 9.

¹ For the purpose of this article, agricultural products are those covered by Annex I to the WTO Agreement on Agriculture.

5. (a) Without prejudice to paragraphs 1 to 3, where any product originating in the EU is being imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations referred to in paragraph 2 to the EAC Partner State(s), the EAC Partner State(s) may take surveillance or safeguard measures limited to their territory in accordance with the procedures laid down in paragraphs 6 to 9.
 - (b) The EAC Partner State(s) may take safeguard measures, in accordance with the procedures laid down in paragraphs 6 to 9, where a product originating in the EU as a result of the reduction of duties is being imported into their territory in such increased quantities and under such conditions as to cause or threaten to cause disturbances to an infant industry producing like or directly competitive products. Such provision is only applicable for a period of ten (10) years from the date of entry into force of this Agreement. This period may be extended by the EPA Council for a period of a maximum of five (5) years.
6. (a) Safeguard measures referred to in this Article shall be maintained only for such a time as may be necessary to prevent or remedy serious injury or disturbances as defined in paragraphs 2, 4 and 5.
 - (b) Safeguard measures referred to in this Article shall not be applied for a period exceeding two (2) years. Where the circumstances warranting the imposition of safeguard measures continue to exist, such measures may be extended for a further period of no more than two (2) years. Where the EAC Partner State(s) apply a safeguard measure, or where the EU applies a safeguard measure limited to the territory of one or more of its outermost regions, such measure may nevertheless be applied for a period not exceeding four (4) years and, where the circumstances warranting the imposition of safeguard measures continue to exist, may be extended for a further period of four (4) years.

(c) Safeguard measures referred to in this Article that exceed one (1) year shall contain clear elements progressively leading to their elimination by the end of the set period, at the latest.

(d) No safeguard measure referred to in this Article shall be applied to the import of a product that has previously been subject to such a measure for a period of at least one (1) year since the expiry of the measure.

7. For the implementation of paragraphs 1 to 6, the following provisions shall apply:

(a) where a Party takes the view that one of the circumstances set out in paragraphs 2, 4 or 5 exists, it shall immediately refer the matter to the Committee of Senior Officials for examination;

(b) the Committee of Senior Officials may make any recommendation needed to remedy the circumstances which have arisen; if no recommendation has been made by the Committee of Senior Officials aimed at remedying the circumstances, or no other satisfactory solution has been reached within thirty (30) days of the matter being referred to the Committee of Senior Officials, the importing Party may adopt the appropriate measures to remedy the circumstances in accordance with this Article;

(c) before taking any measure provided for in this Article or, in the cases to which paragraph 8 of this Article applies, as soon as possible, the EAC Partner State(s) shall supply the Committee of Senior Officials with all relevant information required for a thorough examination of the situation, with a view to seeking a solution acceptable to the Parties concerned;

- (d) in the selection of safeguard measures pursuant to this Article, priority must be given to those which least disturb the operation of this Agreement;
- (e) any safeguard measure taken pursuant to this Article shall be notified in writing immediately to the Committee of Senior Officials and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

8. Where exceptional circumstances require immediate action, the importing Party concerned may take the measures provided for in paragraph 3, 4 or 5 on a provisional basis without complying with the requirements of paragraph 7. Such action may be taken for a maximum period of one hundred and eighty (180) days where measures are taken by the EU, and of two hundred (200) days where measures are taken by the EAC Partner State(s) or where measures taken by the EU are limited to the territory of one or more of its outermost regions. The duration of any such provisional measure shall be counted as a part of the initial period and any extension referred to in paragraph 6. In the taking of such provisional measures, the interest of all Parties involved shall be taken into account, including their level of development. The importing Party concerned shall inform the other Party and shall immediately refer the matter to the Committee of Senior Officials for examination.

9. If an importing Party subjects imports of a product to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows liable to give rise to the problems referred to in this Article, it shall inform the Committee of Senior Officials without delay.

10. The WTO Agreement shall not be invoked to preclude a Party from adopting safeguard measures in conformity with this Article.

PART III

FISHERIES

TITLE I

GENERAL PROVISIONS

ARTICLE 51

Scope and Principles

1. The cooperation in fisheries trade and development shall cover marine, inland fisheries and aquaculture.
2. The Parties recognise that fisheries constitute a key economic resource of the EAC Partner State(s), contribute significantly to the economies of the EAC Partner State(s), and have great potential for future regional economic development and poverty reduction. They are also an important source of food and foreign exchange.
3. The Parties further recognise that fisheries resources are also of considerable interest to both the EU and the EAC Partner State(s), and agree to cooperate for the sustainable development and management of the fisheries sector in their mutual interests, taking into account economic, environmental and social impacts.

4. The Parties agree that the appropriate strategy to promote the economic growth of the fisheries sector and to enhance its contribution to the economy of the EAC Partner State(s), while taking into consideration its long-term sustainability, is through increasing value-adding activities within the sector.

ARTICLE 52

Principles of Cooperation

1. The principles of cooperation in fisheries shall include:
 - (a) supporting the development and strengthening of regional integration;
 - (b) preserving the *acquis* of the Cotonou Agreement and its successor agreement;
 - (c) providing special and differential treatment;
 - (d) taking into account the best available scientific information for resource assessment and management;
 - (e) ensuring functioning monitoring systems for the environmental, economic and social impacts in the EAC Partner State(s);

(f) ensuring conformity with existing national laws and relevant international instruments, including the United Nations Convention on the Law of the Sea of 1982, done at Montego Bay on 10 December 1982 (UNCLOS), regional and sub-regional agreements;

(g) ensuring the preservation of, and the priority of particular needs of, the artisanal/subsistence fishery.

2. Those guiding principles should contribute to sustainable and responsible development of the living inland and marine resources and aquaculture, and to optimising the benefits of this sector for present and future generations, through increased investment, capacity building and improved market access.

3. The Parties shall cooperate to ensure that financial and other support will be provided to improve the competitiveness and production capacity of the processing factories, the diversification of the fishing industry and the development and improvement of port facilities in the EAC Partner State(s).

4. Detailed areas of cooperation are identified under Title IV of Part V, take coordinated efforts to improve the monitoring and eliminating IUU fishing, and to this end take appropriate measures to improve data collection, reporting and enforcement by port authorities. They should not be allowed to fish again in waters of the EAC Partner States unless prior authorisation has been obtained from both the EAC Partner States, as well as, where relevant, the RFMC concerned.

TITLE II
The Parties agree that the appropriate strategy to promote the
fisheries sector and to enhance its contribution to the economy of the
MARINE FISHERIES

WITHIN THE SECTOR

ARTICLE 53

Scope and Objectives

1. The provisions of this Title shall apply to the utilisation, conservation and management of marine fisheries resources to optimise the benefits from fisheries for the EAC Partner State(s) shall include:
through investment, capacity building and improved market access.
2. The objectives of cooperation between the Parties under this Title are to:
 - (a) promote the sustainable development and management of fisheries;
 - (b) strengthen cooperation to ensure the sustainable exploitation and management of fisheries resources as a strong basis for regional integration, given the straddling and migratory species which are shared among coastal EAC Partner State(s), and given that no individual EAC Partner State has the capacity to ensure sustainability of the resource;
 - (c) ensure a more equitable share of the benefits derived from the fisheries sector;
 - (d) ensure effective the monitoring control and surveillance necessary for combating illegal, unreported and unregulated (IUU) fishing;

- (e) promote the effective exploitation, conservation and management of the living marine resource in the Exclusive Economic Zone (EEZ) and waters in which the EAC Partner State(s) have jurisdiction based on international instruments, including UNCLOS, for the social and economic benefit of the Parties;
- (f) promote and develop regional and international trade based on best practices;
- (g) create an enabling environment, including infrastructure and capacity building, for the EAC Partner State(s) to cope with the stringent market requirements for both industrial and small-scale fisheries;
- (h) support national and regional policies aimed at increasing the productivity and competitiveness of the fisheries sector; and
- (i) build links with other economic sectors.

ARTICLE 54

Fisheries Management and Conservation Issues

1. A precautionary approach shall be applied in determining levels of sustainable catch, fishing capacity and other management strategies to avoid or reverse undesirable outcomes such as over-capacity and over-fishing, as well as undesirable impacts on the ecosystems and artisanal fisheries.

2. Each EAC Partner State may take appropriate measures, including seasonal and gear restrictions, in order to protect its territorial waters and ensure the sustainability of artisanal and coastal fisheries.
3. The Parties shall promote the membership of all concerned EAC Partner State(s) to the Indian Ocean Tuna Commission (IOTC) and other relevant fisheries organisations. The EAC Partner State(s), with the EU, shall coordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and to facilitate relevant scientific research.
4. Where there is insufficient scientific evidence for the competent national management authority to determine limits and target levels of sustainable catch in the EEZ of the EAC Partner State(s), the Parties, in consultation with the competent national authority, and together with IOTC and, where relevant, other regional fisheries organisations, shall support such scientific analysis.
5. The Parties agree to take appropriate measures where an increase in effort results in catch levels above the target sustainable level established by the competent national authority.
6. In order to conserve and manage straddling stocks and highly migratory fish stocks, the EU and the EAC Partner State(s) shall ensure compliance by vessels flying their flags with relevant national, regional and sub-regional fisheries management measures and related national laws and regulations.

ARTICLE 55

Vessel Management and Post-Harvest Arrangements

1. Vessel Management and post-harvest arrangements emerging from IOTC and any other relevant regional fisheries organisations will be observed. The EAC Partner State(s) and the EU shall set out minimum terms and conditions with respect to the monitoring, control and surveillance of EU fishing vessels operating in the waters of the EAC Partner State(s), which should include the following:

- (a) a vessel monitoring system (VMS) will be set up for the EAC Partner State(s) and if the EAC Partner State(s) do not have a VMS they will be assisted by the EU to set up a compatible VMS;
- (b) in addition to a compulsory compatible VMS system, the EAC Partner State(s), together with the EU, will develop other mechanisms to ensure effective monitoring, control and surveillance, and the EU will support the EAC Partner State(s) to put such an agreed system in place and assist in its implementation;
- (c) the EU and the EAC Partner State(s) shall have the right of placing observers, whether in national or international waters, with the procedures concerning the deployment of observers being well stipulated; observers are to be paid by the national governments, but all costs on board are to be met by the ship-owner; the EU shall support the costs of training observers;
- (d) common systems of reporting of fishing will be developed and used throughout the region, with minimum terms set for reporting;

(e) all vessels that land or tranship their catch within an EAC Partner State shall do so in ports or outer-port areas. No transhipment shall be allowed at sea, except on particular conditions foreseen by the relevant Regional Fisheries Management Organisation (RFMO); the Parties shall cooperate to develop and modernise landing or transhipment infrastructure in ports of the EAC Partner State(s), including development capacity of fish products;

(f) discards reporting shall be compulsory; priority should be given to avoiding discards through the use of selective fishing methods in line with principles of the IOTC and relevant regional fisheries organisations; as far as possible, by-catch shall be brought ashore.

2. The Parties agree to cooperate in developing and implementing national/regional training programmes for EAC Partner State(s) nationals in order to facilitate their effective participation in the fishing industry. Where the EU has negotiated a bilateral fisheries agreement, the employment of EAC Partner State(s) nationals shall be encouraged. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply to seamen signed on EU vessels.

3. The Parties shall undertake coordinated efforts to improve the means for preventing, deterring, and eliminating IUU fishing, and to this end take appropriate measures. Fishing vessels involved in IUU fishing should be confiscated and the owners prosecuted by the competent authorities. They should not be allowed to fish again in waters of the EAC Partner State(s) concerned unless prior authorisation has been obtained from both the flag State and that EAC Partner State(s) as well as, where relevant, the RFMO concerned.

TITLE III

INLAND FISHERIES AND AQUACULTURE DEVELOPMENT

ARTICLE 56

Scope and Objectives

1. The provisions of this Title shall apply to inland fisheries, coastal and aquaculture development in the EAC Partner State(s) with respect to capacity building, technology transfer, SPS standards, investment and investment finance, environmental protection, and legal and regulatory frameworks.
2. The objectives of cooperation in inland fisheries and aquaculture development will be to promote sustainable exploitation of inland fisheries resources and enhance aquaculture production, remove supply-side constraints, improve fish and fish products' quality to comply with international SPS measures, improve access to the market of the EU, address intra-regional trade barriers, attract capital inflows and investment into the sector, build capacity and enhance access to financial support for the private investors for inland fisheries and aquaculture development.

PART IV

AGRICULTURE

ARTICLE 57

Scope and Definitions

1. The provisions of this Part shall apply to crops and livestock, including productive insects.
2. For the purposes of this Part and Title II of Part V, the following definitions shall apply:
 - (a) "agriculture" includes crops, livestock and productive insects;
 - (b) "agricultural products" means those covered by Annex I to the WTO Agreement on Agriculture;
 - (c) "agricultural financing" means providing financial resources in support of agricultural related activities along the whole value chain, such as input supplies, agricultural services, production, storage, distribution, product transformation and marketing;
 - (d) "agricultural inputs" means all substances or materials, equipment and tools used in the production and handling of agricultural products;

- (e) "sustainable agriculture technology" means technology designed with special consideration of its environmental, social and economic impacts;
- (f) "food and nutrition security" means that all people at all times have both physical and economic access to safe, sufficient and nutritious food to meet their needs for a productive and healthy life;
- (g) "livelihood security" means adequate and sustainable access to income and resources to meet basic needs in an equitable manner (including adequate access to food, potable water, health facilities, educational opportunities, housing and time for community participation and social integration);
- (h) "natural disaster" means the consequence of natural calamities, such as droughts, earthquakes, landslides, volcanic eruptions, floods, pests and diseases;
- (i) "small-scale farmers" means producers with limited resources and own small land holdings of less than two (2) hectares and whose scale of operations is too small to attract the provision of services needed to significantly increase productivity and leverage market opportunities;
- (j) "sustainable development" in the context of this Part includes the management and protection of the natural resource base for economic and social development in such a manner as to aim at meeting human needs for present and future generations.

ARTICLE 58

Objectives

1. The Parties agree that the fundamental objective of this Part is sustainable agricultural development which includes, but is not limited to, food and livelihood security, rural development and poverty reduction in the EAC Partner State(s).

2. The objectives of this Part are to:

- (a) foster cooperation between the Parties with a view to creating wealth and improving the quality of life of those engaged in agricultural activities through increased production, productivity and market share;
- (b) improve food and nutrition security in the EAC Partner State(s) by promoting value addition, increasing output, quality, safety, market integration, trade, availability and accessibility;
- (c) contribute to the provision of gainful employment throughout the value chain of the modernised agricultural sector;
- (d) develop modern and competitive agriculture-based industries;
- (e) promote the sustainable use and management of natural and cultural resources, by developing environmentally friendly and sustainable technologies that improve agricultural productivity;

- (f) contribute to competitiveness by promoting value addition throughout the supply chains to access markets;
- (g) improve producers' revenue by developing the marketing of value added agricultural products in the marketplace;
- (h) facilitate the adjustment of the agricultural sector and the rural economy to cope with global economic changes;
- (i) mobilise and increase the economic performance of small-scale farmers through capacity building of farmers' organisations;
- (j) improve trade and market facilitation for agricultural commodities in order to increase foreign exchange earnings;
- (k) improve infrastructure within the EAC Partner State(s) for enhancing the production, productivity, marketing and distribution of agricultural inputs and products, with particular attention to storage, grading, handling, packing and transport.

ARTICLE 59

General Principles

1. The Parties recognise the importance of agriculture in the economies of the EAC Partner State(s) as the main source of livelihood for the majority of the population of the EAC Partner State(s), as the primary factor to ensure food and nutrition security, as a potential sector for high growth and added value, and as a source of export earnings.
2. In view of the multi-functional role agriculture plays in the economy of the EAC Partner State(s), the Parties agree to use a comprehensive approach to agriculture as a basis for sustainable development.
3. The Parties agree to cooperate in promoting the sustainable growth of the agriculture sector, taking into account its multiple facets and the diversity of the economic, social and environmental characteristics as well as development strategies of the EAC Partner State(s).
4. The Parties recognise that deeper integration of the agricultural sector across the EAC Partner State(s) will contribute to the expansion of inter-regional markets, and increase the scope for investment and private sector development.
5. The Parties recognise the importance of supporting agricultural production, the promotion of value addition, agricultural trade and market development initiatives through appropriate instruments, and the provision of appropriate regulatory framework to respond to changing market conditions. In this respect, the Parties resolve to work together to attract necessary investment into the EAC Partner State(s).

6. The Parties agree that agricultural priorities considered in this Part shall be clearly linked to the regional overarching policy framework for food and nutrition security and poverty reduction to ensure consistency and guidance of the regional development agenda.

ARTICLE 60

Comprehensive Dialogue

1. The Parties shall establish an EAC Partner State(s)-EU Comprehensive Dialogue on Agriculture and Rural Development Policy (hereinafter referred to as the "Agriculture Dialogue") on all matters covered in this Part. The Agriculture Dialogue shall monitor progress in implementing this Part and shall provide a forum for exchange and cooperation on the Parties' respective domestic agricultural policies and, in particular, the role of agriculture in the EAC Partner State(s) in raising farm incomes, food security, sustainable use of resources, rural development and economic growth.

2. The Agriculture Dialogue shall take place within the Committee of Senior Officials.

3. The Parties shall establish the working procedures and modalities of the Agriculture Dialogue by mutual agreement.

ARTICLE 61

Regional Integration

The Parties recognise that the integration of the agricultural sector across EAC Partner States, through the progressive removal of barriers, the provision of an appropriate regulatory and institutional framework, and the harmonisation and convergence of policies, will contribute to the deepening of the regional integration process and thus contribute to the expansion of regional markets, which will increase the scope for investment and private sector development.

ARTICLE 62

Enabling Policies

The Parties recognise the importance of adopting and implementing policies and institutional reforms to enable and facilitate the achievement of the objectives of this Part.

ARTICLE 63

Sustainable Agricultural Development

The Parties shall cooperate to achieve sustainable agricultural development with a special focus on supporting vulnerable rural populations in the EAC Partner State(s) in light of the changing world production and trade patterns as well as consumer tastes and preferences.

ARTICLE 64

Food and Nutrition Security

1. The Parties agree that the provisions of this Agreement shall enable the EAC Partner State(s) to implement effective measures to achieve food and nutrition security and sustainable agricultural development, and to develop commercial agricultural markets in the region to ensure food and nutrition security.
2. The Parties shall ensure that actions taken under this Part aim at enhancing food and nutrition security, and avoid the adoption of measures that could endanger achievement of food and nutrition security at the household, national and regional levels.

ARTICLE 65

Value Chain Management

The Parties agree to have a regional strategy for enhancing supply capacities in agriculture, identifying high value agricultural sub-sectors for which the region has competitive advantage, and capitalise on investments that can facilitate the shift from comparative to competitive advantages.

ARTICLE 66

Early Warning Systems

The Parties recognise the need to establish, improve and enhance food security information systems, including national early warning systems, as well as vulnerability assessment and monitoring systems, and to implement capacity building actions, in conjunction with, and through, existing international and regional mechanisms.

ARTICLE 67

Technology

The Parties recognise the importance of modern and sustainable agricultural technologies and agree to develop and promote the use of modern agricultural technologies that include:

- (a) sustainable irrigation and fertigation technologies;
- (b) tissue culture and micro propagation;
- (c) improved seed;
- (d) artificial insemination;
- (e) integrated pest management;

- (f) product packaging;
- (g) post-harvest handling;
- (h) accredited laboratories;
- (i) biotechnology;
- (j) risk assessment and management.

The Parties agree to cooperate in the areas of livelihood security, technical support services, agricultural financing services and rural development.

Exchange of Information and Consultation

each other on all issues in pursuit of the objectives of this Part.

ARTICLE 68

Domestic Policy Measures

1. Each Party shall ensure transparency in the area of agricultural support related to trade in agricultural products. To this end, the EU shall report periodically within the Agriculture Dialogue to the EAC Partner State(s) on the legal basis, form and amount of such support. Such information is deemed to have been provided if it is made available by the Parties or on their behalf on a publicly accessible website.

2. The EU shall not grant export subsidies for any agricultural product to the EAC Partner State(s), after the date of entry into force of this Agreement. This prohibition shall be reviewed by the EPA Council after forty-eight (48) months.

3. Furthermore, the Committee of Senior Officials shall examine issues that may arise in relation to the access of the Parties' agricultural products to each other's markets. The Committee may make recommendations to the EPA Council in accordance with Article 107.

The Parties recognise the need to establish, improve and enhance, including national early warning systems, as well as vulnerability monitoring systems, and to implement capacity building actions.

Production and Marketing of Agricultural Commodities and Products

1. The Parties recognise the challenges faced by the EAC Partner State(s) due to their dependence on the export of primary agricultural commodities, which are subject to high price volatility and declining terms of trade, for foreign exchange earnings.

2. The Parties therefore agree to:

- (a) strengthen public-private partnership in investments for production, processing and marketing of agricultural commodities;
- (b) cooperate in developing capacities to access niche markets and facilitate compliance with commodity standards to meet such markets requirements;
- (c) support diversification of agricultural production and export products in the EAC Partner State(s);
- (d) improve producers' revenue by developing the marketing of value added agricultural products in the market place.

ARTICLE 70

Monitoring

The Parties agree that the EPA Council shall review and monitor the implementation of their obligations under this Agreement. The EPA Council shall provide effective surveillance of compliance with obligations through ensuring transparency and give the Parties an opportunity to assess the contribution of those obligations to their long-term objective of establishing a fair and market-oriented agricultural trading system.

ARTICLE 71

Net Food-Importing Countries

1. The Parties recognise the importance of addressing the concerns of the net food-importing EAC Partner State(s). Therefore, the objective of this Article is to assist States that are net food importers to develop programmes to ensure food security.
2. The Parties agree to:
 - (a) address constraints on food production, storage and distribution in the EAC Partner State(s);

(b) source food aid from within the EAC Partner State(s) and other African regional economic communities;

(c) improve the coordination of food aid.

3. The Parties agree to maintain an adequate level of food aid, taking into account the interests of food aid recipients, and to ensure that the measures mentioned in paragraph 2 do not unintentionally impede the delivery of food aid provided to deal with emergency situations.

4. The Parties shall ensure that food aid is provided in full conformity with the measures that aim at preventing commercial displacement, which include:

(a) ensuring that all food aid transactions are needs-driven and in full grant form; and

(b) not tying them directly or indirectly to commercial exports of agricultural products or of other goods and services.

ARTICLE 72

the Parties agree to use and support as appropriate nationally and or regional
Importance of Certain Sectors for facilitating for channeling and coordinating resources
of this Agreement.

1. The Parties recognise that:
 - (a) the provision of adequate access to food, clean and safe drinking water, health facilities, educational opportunities, housing, community participation and social integration is important for the livelihood security of rural populations;
 - (b) agricultural infrastructure development, including production, processing, marketing and distribution, plays a crucial role in the social-economic rural development and regional integration of the EAC Partner State(s);
 - (c) technical support services, such as agricultural research, extension and advisory services training, are important in increasing agricultural productivity;
 - (d) facilitating agricultural financing is an important measure for transforming the agricultural sector in the EAC Partner State(s) as financing is required for agricultural technology development, agricultural credit and insurance, infrastructure development and markets as well as farmer training; and
 - (e) sustainable rural development is important to improve standards of living of the rural population of the EAC Partner State(s).

2. The Parties agree to cooperate in the areas of livelihood security, agricultural infrastructure, technical support services, agricultural financing services and rural development, as provided for in Title II of Part V.

(c) improve the coordination of food aid,

ARTICLE 73 Parties agree to maintain an adequate level of food aid, take care of food aid recipients, and to ensure that the measures mentioned in paragraph 1 do not lead to commercial displacement, which includes:

Exchange of Information and Consultation

1. The Parties agree to exchange experience and information on best practices, and to consult each other on all issues in pursuit of the objectives of this Part, which include:

2. The Parties agree to:

- (a) exchange information on agricultural production, consumption and trade and on the respective market developments for agricultural products;
- (b) exchange information on investment opportunities and incentives available in the agricultural sector, including small-scale activities;
- (c) exchange information on agricultural policies, laws and regulations between them;
- (d) discuss policy and institutional changes needed to underpin the transformation of the agricultural sector, as well as the formulation and implementation of regional policies on agriculture, and rural development in pursuit of regional integration;

- (e) exchange information on new and appropriate technologies, as well as policies and measures related to the quality of agricultural products.

ARTICLE 74

Geographical Indications

1. The Parties recognise the importance of geographical indications for sustainable agriculture and rural development.
2. The Parties agree to cooperate in the identification, recognition and registration of products that could benefit from protection as geographical indications and any other action aimed at achieving protection for products so identified.

PART V

ECONOMIC AND DEVELOPMENT COOPERATION

ARTICLE 75

General Provisions

1. In accordance with Articles 34 and 35 of the Cotonou Agreement and the corresponding provisions of its successor agreement, the Parties reaffirm that development cooperation is a core element of their Partnership and an essential factor for achieving the objectives of this Agreement. The Parties agree that the provisions of Annex VI to this Agreement prevail over the provisions of this Part.
2. The Parties agree to address the developmental needs of the EAC Partner State(s) by: increasing production and supply capacity, fostering the structural transformation and competitiveness of their economies, enhancing their economic diversification and increasing added value, in order to promote sustainable development and support regional integration.

3. The Parties commit to cooperate in order to facilitate the implementation of this Agreement and to support regional integration and development strategies. The Parties agree that cooperation shall be based on this Part and the EPA Development Matrix, both subject to the provisions of Annex VI which prevail, in addition to the regional and national development strategies of the EAC Partner State(s). The EPA Development Matrix and corresponding baseline benchmarks, indicators and targets reflecting the needs identified by the EAC Partner State(s) at the time of the EU-EAC EPA signature are attached to this Agreement as Annex III(a) and Annex III(b), respectively. They shall be reviewed every five (5) years. The cooperation shall take the form of financial and non-financial support to the EAC Partner State(s).

4. The financing relating to development cooperation between the EAC Partner State(s) and the EU for the implementation of this Agreement shall be carried out within the framework of the rules and relevant procedures provided for by the Cotonou Agreement and its successor agreement and within the framework of the successive relevant instruments financed by the general budget of the EU. In this context, taking into account the new challenges deriving from enhanced regional integration and competition on the global markets, the Parties agree that one of the priorities shall be to support the implementation of this Agreement. The Parties agree that financial instruments provided for in the Cotonou Agreement and its successor agreement shall be mobilised so as to maximise the expected benefits of this Agreement.

5. For the purposes of the implementation of this Agreement, the Parties commit to jointly and individually mobilising resources, with guidance thereon provided by the specific provisions of Title X, subject to the provisions of Annex VI which prevail.

6. Consistent with the OECD Paris Declaration on Aid Effectiveness adopted on 2 March 2005, the Parties agree to use and support as appropriate nationally and/or regionally-owned delivery mechanisms, funds or facilities for channelling and coordinating resources for the implementation of this Agreement.

ARTICLE 76

Objectives

The economic and development cooperation shall aim to:

- (a) enhance the competitiveness of the economies of the EAC Partner State(s);
- (b) build up supply capacity and enable the smooth implementation of this Agreement;
- (c) transform the structure of the economies of the EAC Partner State(s) by establishing a strong, competitive and diversified economic base through enhancing production, distribution, transport and marketing;
- (d) develop trade capacity as well as capacity to attract investment;
- (e) strengthen trade, investment policies and regulations; and
- (f) deepen regional integration.

ARTICLE 77

Areas of Cooperation

Economic and development cooperation shall include the following areas, subject to the provisions of Annex VI which prevail:

- (a) infrastructure;
- (b) agriculture and livestock;
- (c) private sector development;
- (d) fisheries;
- (e) water and environment;
- (f) market access issues, including:
 - (i) SPS;
 - (ii) TBT; and
 - (iii) customs and trade facilitation in the EAC Partner State(s);
- (g) EPA adjustment measures referred to in Title IX; and
- (h) the mobilisation of resources.

TITLE I

INFRASTRUCTURE

ARTICLE 78

Scope and Objectives

1. Cooperation in the development of physical infrastructure shall include in particular transport, energy, information and communications technology.
2. The objectives in this area are to:
 - (a) increase the competitiveness of the EAC Partner State(s);
 - (b) address supply-side constraints at institutional, national, and regional levels; and
 - (c) enhance the development of public-private partnerships.

ARTICLE 79

Transport

1. Cooperation in transport shall include road, rail, air and water transport.

2. The objectives in this area are to:

- (a) improve national and regional connectivity, to deepen regional economic integration;
- (b) develop, restructure, rehabilitate, upgrade and modernise the durable and efficient transport systems of the EAC Partner State(s);
- (c) improve the movement of people and flow of goods; and
- (d) provide better access to markets through improved road, air, maritime, inland water and rail transports.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:

- (a) the management of transport systems;
- (b) the improvement, development and modernisation of infrastructure at all levels, including the development of inter-modal infrastructure networks;
- (c) strengthening the institutional, technical and administrative capacities of the EAC Partner State(s) in standards, quality assurance, metrology and conformity assessment services;
- (d) technology development and transfer, innovation, information exchange and networks, and marketing;

- (e) the encouragement of partnerships, linkages and joint ventures between economic operators;
- (f) the improvement of safety and reliability of the transport sector, including meteorological forecasting, management of hazardous goods, and emergency responses;
- (g) the development of regional transport policies and the regulatory frameworks.

ARTICLE 80

Energy

1. Cooperation in the energy sector shall include public and private sector participation in energy generation, transmission, distribution and cross-border energy trade.

(a) increase the competitiveness of the EAC Partner States;

2. The objectives in this area are to:

(a) develop, increase and expand the region's energy generation capacity;

(b) increase the number of alternative sources of energy;

(c) develop, increase and expand networks;

(d) develop, increase and expand distribution and transmission;

- (e) improve the access of the EAC Partner State(s) to modern, efficient, reliable, diversified, sustainable and renewable sources of clean energy at competitive prices;
- f) enhance the production, distribution and management capacity of energy at national and regional levels;
- (g) promote power interconnectivity both within and outside the EAC Partner State(s) for maximum energy utilisation; and
- (h) support the creation of an environment conducive to attracting investment in this sector.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:

- (a) production, transmission and distribution capacity of existing energy sources, in particular hydropower, petroleum and biomass;
- (b) diversification of the energy mix to include other potential sources of energy that are socially and environmentally acceptable and that reduce dependency on oil;
- (c) development of energy infrastructure, including for rural areas;
- (d) development of appropriate energy regulatory and policy reforms, including commercialisation and privatisation;
- (e) regional and inter-regional interconnectivity and cooperation in the production and distribution of energy;

- (f) capacity building in human resources, improvement in management, service standards, and institutional structures;
- (g) technology development and transfer, research and development, innovation, information exchange, development of databases and networks;
- (h) partnerships, linkages and joint ventures.

ARTICLE 81

Information and Communications Technologies

1. Cooperation in the information and communications technologies (ICT) sector shall include the development of ICT, competitiveness, and innovation, as well as the smooth transition towards the information society.
2. The objectives in this area are to:
 - (a) develop the ICT sector; and
 - (b) enhance the contribution of ICT in facilitating trade through e-services, e-commerce, e-government, e-health, secure transactions and other socio-economic sectors.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:
- (a) ICT connectivity and cost-effectiveness at the national, regional and global levels;
 - (b) dissemination of new ICT;
 - (c) development of the legal and regulatory frameworks for ICT;
 - (d) technology development, transfer and applications, research and development, innovation, information exchange and networks and marketing;
 - (e) capacity building in human resources, improvement in service standards, and institutional structures;
 - (f) partnerships, linkages and joint ventures between economic operators;
 - (g) promotion and support for the development of niche markets for ICT-enabled services.

TITLE II Capacity building for human resources, improvement in training and institutional structures

AGRICULTURE

- (c) technology development and transfer, research and development, exchange, development of databases and networks

ARTICLE 82

- (b) partnerships, linkages and joint ventures.

Scope and Objectives

1. Cooperation under this Title shall apply to crops and livestock, including productive insects.
2. The Parties agree that the main objective of this Title is sustainable agricultural development, which includes but is not limited to food and livelihoods security, rural development and poverty reduction in the EAC Partner State(s).
3. The other objectives of this Title are stipulated in Article 58.

1. Cooperation in the information and communications technologies, the development of ICT, competitiveness, and innovation, as well as the

2. The objectives in this area are to:

ARTICLE 83

Areas of Cooperation

1. The Parties acknowledge the importance of the agricultural sector to the economies of the EAC Partner State(s) and agree to cooperate in promoting its transformation to increase its competitiveness, ensure food and nutrition security, rural development and facilitate the adjustment of agriculture and the rural economy to accommodate the effects of implementation of this Agreement, with special attention to small-scale farmers.

2. The Parties agree to cooperate in the following areas:

(a) regional integration:

improvement of access to regional and international markets for agricultural products including the development of market systems and market development strategies;

(b) enabling policies:

(i) development of national and regional agricultural policies, legal and regulatory frameworks, building of the necessary capacity and support to institutional development;

(ii) building capacities in the EAC Partner State(s) to take full advantage of increased trading opportunities and to maximise the benefits of trade reforms;

(c) sustainable agricultural development:

(i) undertaking joint activities on a regional basis, including fertiliser production, seed production, livestock development and plant and animal disease control;

(ii) promotion and strengthening processing, marketing, distribution and transportation and the handling of agricultural products;

(iii) capacity building to comply with international standards relating to agricultural production, packaging and SPS measures;

- (d) agricultural infrastructure:
 - (i) development of agricultural support infrastructure, including sustainable irrigation systems, water harvesting, storage and management, marketing, and grading;
 - (ii) development of research and training infrastructure, storage facilities, feeder and community access roads;
 - (iii) development of agri-processing infrastructure;
 - (iv) establishment of an agrometeorology centre in the EAC Partner State(s);
 - (v) development of modern market infrastructure for the expansion of domestic and regional markets;
- (e) food and nutrition security:
 - (i) capacity building of rural and urban communities for the promotion of improved livelihoods, eradication of poverty, and sustainable development;
 - (ii) diversification of agricultural production and development of products that address the food and nutrition security needs of the EAC Partner State(s);
 - (iii) design and implementation of programmes that lead to increased production and productivity in the agricultural sector, with special focus on small-scale farmers;

- (iv) capacity development for national and regional food safety compliance; and
- (v) design and implementation of social adjustment programmes in regions adversely affected by natural disasters;
- (f) value chain management:
 - (i) promotion of the use of sustainable agricultural technologies and supply of necessary farm inputs;
 - (ii) enhancing production, productivity and competitiveness of the agricultural sector through promoting agro-based industries;
 - (iii) enhancing value addition throughout the supply chain of agricultural products to meet the requirements of national, regional and international markets; and
 - (iv) promoting the development of activities in the areas of processing, marketing, distribution and transport of agricultural products;
- (g) early warning systems:
 - (i) capacity building in terms of assessing and disseminating information on the likely impacts of impending disasters well in advance in order to take contingent measures and early responsiveness;

- (ii) development and management of national and regional information systems;
 - (iii) development, strengthening and linking of early warning systems and contingency plans and strategies for disaster response management at national and regional levels; and
 - (iv) supporting climate change adaptation and mitigation options in the EAC Partner State(s);
- (h) production and marketing of agricultural commodities:
- (i) developing capacities to access niche markets and facilitating compliance with commodity standards to meet such market requirements;
 - (ii) diversification of agricultural production and export products in the EAC Partner State(s)
 - (iii) development of modern market infrastructure for expansion of domestic and regional markets; and
 - (iv) developing product packaging and labelling programmes which enable the producers of the EAC Partner State(s) to secure premium prices for commodity exports;
- (i) rural development:
- (i) capacity building of farmers' groups along the entire agricultural value chain;

- (ii) improving transport, communication and market facilities for marketing agricultural inputs and outputs;
 - (iii) addressing socio-cultural barriers such as language differences, literacy levels, gender biases and community health, that influence the nature of farming systems;
 - (iv) improving farmers' access to credit services and natural and cultural resource management; and
 - (v) developing relevant policy measures to support the availability of adequate agricultural inputs to small-scale farmers on a timely basis;
- (j) net d-importing countries:
- addressing constraints in food production, storage and distribution in the EAC Partner State(s);
- (k) livelihood security:
- (i) capacity building for developing social services for populations in rural and peri-urban areas;
 - (ii) improving total household income from agricultural production through diversification, adding value, off-farm employment and the adoption of new sustainable agricultural technologies, *inter alia*, in the EAC Partner State(s);

- (iii) increasing productivity of the agricultural sector within the EAC Partner State(s); and
- (iv) increasing the use of sustainable agricultural technologies;

(l) technical support services:

the EU commits to provide adequate resources and technical assistance for capacity building to the EAC Partner State(s) in a manner that is predictable and sustainable in the following areas:

- (i) strengthening of innovation and transfer of technology, knowledge, research and development;
- (ii) developing and increasing use of mechanisation of the agricultural sector of the EAC Partner State(s);
- (iii) establishing agricultural input plants and distribution systems within the EAC Partner State(s);
- (iv) promoting and strengthening investment in agricultural research, extension services, training and links between research-extensions and farmers;
- (v) as appropriate, establishing and strengthening regional centres of excellence, including an agro-meteorology centre, biotechnology, analytical and diagnostic laboratories for crops, livestock and soils; and

- (vi) improving access to services in plant and animal production, including livestock, breeding services, veterinary services and plant protection services.
- (m) agricultural financing services:
- (i) strengthening rural financial services for small-scale producers, processors and traders;
 - (ii) developing regionally owned mechanisms or a fund for agricultural and rural development;
 - (iii) developing agricultural micro-financing institutions and insurance schemes;
 - (iv) facilitating access to credit from banks and other financial institutions for agro processors, traders and farmers; and
 - (v) supporting the financial institutions in the EAC Partner State(s) that serve the agriculture sector and facilitating access by the private sector to capital markets to raise both short- and long-term capital;
- (n) geographical indications:
- (i) developing policies and legal frameworks on geographical indications;
 - (ii) establishing regulations on geographical indications;
 - (iii) developing a code of practice to define products in relation to their origin;

- (iv) facilitating local organisations and institutions to coordinate local stakeholders on geographical indications and product conformity;
- (v) building capacity on identification, registration, marketing, traceability and conformity on geographical indications products; and
- (vi) developing any other area of cooperation under this heading that may arise in the future.

TITLE III

PRIVATE SECTOR DEVELOPMENT...

ARTICLE 84

Scope and Objectives

1. Cooperation in private sector development shall include investment promotion and enterprise development.
2. The objectives of this Title are to:
 - (a) create an environment conducive to the promotion of investment and private enterprises, including the development of new industries, foreign direct investment and technology transfer;

- (b) enhance supply capacities, competitiveness and value addition;
- (c) improve access to investment finance from EU financing institutions such as the European Investment Bank;
- (d) build capacity and provide institutional support for private sector development institutions such as investment promotion agencies, apex bodies, chambers of commerce, associations, contact points and trade facilitation institutions;
- (e) develop and/or strengthen a policy, legal and regulatory framework that promotes and protects investment;
- (f) improve support and delivery mechanisms to the private sector from the joint ACP-EU institutions, including the Centre for the Development of Agriculture (CTA), *inter alia*, for promotion of investment in the EAC Partner State(s); and
- (g) create or strengthen partnerships, joint ventures, subcontracting, outsourcing and linkages.

ARTICLE 85

Investment Promotion

The Parties agree to promote investments within the EAC Partner State(s) in the following areas:

- (a) supporting reforms in the policies, legal and regulatory frameworks;

- (b) supporting enhancement of institutional capacities, in particular, capacity building for investment promotion agencies of the EAC Partner State(s) and institutions involved in promoting and facilitating foreign and local investment;
- (c) supporting the establishment of appropriate administrative structures, including one-stop shops, for the entry and setting up of investments;
- (d) supporting the creation and continuity of a predictable and secure investment climate;
- (e) supporting efforts of the EAC Partner State(s) to design revenue generating instruments to mobilise investment resources;
- (f) establishing and supporting risk insurance schemes as a risk-mitigating mechanism in order to boost investor confidence in the EAC Partner State(s);
- (g) supporting the establishment of mechanisms for exchange of information between investment agencies of the EAC Partner State(s) and their counterparts in the EU;
- (h) encouraging private sector investments from the EU in the EAC Partner State(s);
- (i) supporting the establishment of financial frameworks and instruments adapted to the investment needs of small and medium-sized enterprises; and
- (j) facilitating partnerships through joint ventures and capital financing.

ARTICLE 86

Enterprise Development

The Parties agree to cooperate on enterprise development within the EAC Partner State(s) through supporting:

- (a) the promotion of EAC Partner State(s)-EU private sector business dialogue, cooperation and partnerships;
- (b) efforts for the promotion and integration of micro-, small- and medium-sized enterprises (MSMEs) into mainstream business activities;
- (c) the promotion of efficient production and the marketing of businesses of EAC Partner State(s);
- (d) the implementation of private sector development strategies of the EAC Partner State(s);
- (e) the promotion of a favourable environment for the development and growth of MSMEs;
- (f) private sector organisations' capacities to comply with international standards;
- (g) the protection of innovations from piracy; and
- (h) the capacities of the EAC Partner State(s) for the exploration, exploitation and marketing of natural resources.

TITLE IV
investment promotion agencies of the EAC Partner State(s) and in

FISHERIES

(c) supporting the establishment of appropriate administrative

ARTICLE 87

Scope of Cooperation

Cooperation in fisheries shall cover marine and inland fisheries and aquaculture:

Investment resources.

ARTICLE 88

boost investor confidence in the EAC Partner State(s)

Areas of Cooperation in Marine Fisheries

(g) supporting the establishment of mechanisms for exchange of info

1. Cooperation in marine fisheries shall include: (a) fisheries management and conservation issues; (b) vessel management and post-harvest arrangements; (c) financial and trade measures; and (d) development of fisheries and fisheries products and marine aquaculture.

(a) fisheries management and conservation issues; encourage private sector investments from the EU in the EAC I

(b) vessel management and post-harvest arrangements; strong vessel management and national frameworks and in-shore

(c) financial and trade measures; and investment needs of small and medium-sized enterprises; and

(d) development of fisheries and fisheries products and marine aquaculture. (p) facilitating partnerships through joint ventures and capital

2. The EU shall contribute to the mobilisation of the resources for the implementation of the identified areas of cooperation at national and regional levels, which will also include support for regional capacity building.

3. Subject to the provisions of Part III and Article 75, the Parties agree to cooperate, in the following areas:

- (a) development and improvement of infrastructure for storage, marketing and distribution of fish and fish products;
- (b) capacity building at the national and regional levels to meet SPS/TBT/Hazard Analysis Critical Control Points technical requirements, development of monitoring control and surveillance systems of the EEZ of the EAC Partner State(s), and the introduction and management of certification schemes for specific marine fisheries;
- (c) investment and technology transfer in fishing operations; fish processing, port services, development and improvement of port facilities, diversification of the fishery to include non-tuna species which are under-exploited or not exploited;
- (d) joint ventures and linkages especially with MSMEs and artisanal fisheries within the fisheries supply chain;
- (e) value addition on fish; and
- (f) research and development on stock assessment and sustainability levels.

4. The Parties undertake to cooperate in promoting the setting-up of joint ventures in fishing operations, fish processing, port services, enhancing production capacity, improving competitiveness of fishing and related industries and services, downstream processing, development and improvement of port facilities and diversification of the fishery to include non-tuna species which are under-exploited or not exploited.

ARTICLE 89

Inland Fisheries and Aquaculture Development

Cooperation on inland fisheries and aquaculture development shall include EU contributions to the following areas:

- (a) capacity building and export market development through:
 - (i) building capacity in industrial and artisanal production, processing and product diversification that strengthen the competitiveness of the region's inland fisheries and aquaculture; for example, through the creation of research and development centres, including the development of aquaculture for commercial fishing farms;
 - (ii) building capacity for managing export market chains, including the introduction and management of certification schemes for specific product lines; and the implementation of market promotion, value addition and reduction in post-harvest losses in fisheries products;

- (iii) increasing capacity in the region through, for example, improving fisheries competent authorities, traders' and fishermen's associations in order to participate in fisheries trade with the EU Party, and training programs in product development and branding;
- (b) infrastructure through:
 - (i) the development and improvement of infrastructure for inland fisheries and aquaculture;
 - (ii) facilitating access to funding for infrastructure, including all types of equipment;
- (c) technology through:
 - (i) the development of technical capabilities, including value-adding technology promotion, for example through fisheries technology transfer from the EU to the EAC Partner State(s);
 - (ii) the enhancement of fisheries management capacity in the region, for example through research and data collection systems and contribution towards appropriate technologies on harvesting and post-harvest management;
- (d) legal and regulatory framework through:
 - (i) the development of inland fisheries and aquaculture regulations and monitoring control and surveillance systems;

- (ii) the development of appropriate legal and regulatory instruments on intellectual property rights and building capacity for their implementation in international trade;
 - (iii) the protection of eco-labelling and intellectual property;
- (e) investment and finance through:
- (i) the promotion of joint ventures and other forms of mixed investments between stakeholders in the Parties, for example for the setting-up of modalities for identifying investors for joint venture operations in inland fisheries and aquaculture;
 - (ii) providing access to credit facilities for the development of small- to medium-scale enterprises, as well as industrial-scale inland fisheries;
- (f) environmental and stocks conservation in fisheries through measures to ensure that the fish trade supports environmental conservation, safeguards against stock depletion, the maintenance of biodiversity and the cautious introduction of exotic species for aquaculture; for example, through the cautious introduction of exotic species to be introduced only in managed/closed spaces in consultation with all neighbouring countries concerned;
- (g) socioeconomic and poverty alleviation measures through:
- (i) the promotion of small- and medium-scale fishers, processors and fish traders by building the capacity of the EAC Partner State(s) to participate in trade with the EU;

- (ii) the participation of marginal groups in the fishing industry; for example, through the promotion of gender equity in fisheries, and particularly developing the capacity of women traders involved or intending to engage in fisheries; other disadvantaged groups with the potential to engage in fisheries for sustainable social economic development will also be involved in such processes.

TITLE V

WATER AND ENVIRONMENT

ARTICLE 90

Scope and Objectives

1. Cooperation under this Title shall include natural resources, in particular water, the environment and biodiversity.
2. The objectives of cooperation under this Title are to:
 - (a) enhance the linkages between trade and environment;
 - (b) support the implementation of international environmental agreements, conventions and treaties;

- (c) ensure the balance between environmental management and poverty reduction;
- (d) protect the environment, and enhance biodiversity conservation and genetic preservation;
- (e) promote the equitable and sustainable utilisation of natural resources;
- (f) facilitate and encourage the sustainable utilisation of shared resources;
- (g) promote public and private sector involvement in natural resource management.

ARTICLE 91

Water Resources

1. Cooperation in the area of water resources shall include irrigation, hydropower generation, water production and supply, and the protection of water catchment areas.
2. The objectives of cooperation in this area are to:
 - (a) develop the sustainable use and management of water resources in the EAC Partner State(s), so as to improve the livelihood of the population of the EAC Partner State(s);
 - (b) promote regional cooperation for the sustainable utilisation of transboundary water resources;
 - (c) develop water supply infrastructure for productive purposes.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:
- (a) the development of water supply infrastructure in the region;
 - (b) the development of the relevant legal and regulatory frameworks;
 - (c) integrated water resource management;
 - (d) capacity building in human resources, improvement in service standards, water management, and institutional structures;
 - (e) creation of partnerships, linkages and joint ventures between economic operators;
 - (f) the promotion of technology development, transfer and applications, research and development, innovation, information exchange and networks;
 - (g) the development of water pollution control, purification and conservation, wastewater treatment and sanitation;
 - (h) the promotion of sustainable irrigation schemes.
- (b) as appropriate, support the harmonisation of SPS measures with appropriate regulatory frameworks, policies, matters concerning dispute settlement bodies, training, information events and technical assistance;
- (d) as appropriate, support the harmonisation of SPS measures with appropriate regulatory frameworks, policies, matters concerning dispute settlement bodies, training, information events and technical assistance;
- (d) support in the area of fisheries with the aim of developing harmonised legislation and standards of fish products to promote trade between the Parties;
- (e) support with the aim of promoting cooperation between the SPS institutions of the Parties and equivalent SPS institutions of the EC.

ARTICLE 92

Environment

1. Cooperation in the area of environment shall include the protection and sustainable management of the environment, as well as the implementation of trade-related environmental policies.

2. The objectives of cooperation in this area are to:

- (a) protect, restore and conserve the environment and biodiversity (flora, fauna and microbial genetic resources, including their ecosystems);
- (b) develop industries in the EAC Partner State(s) that use environmentally friendly technologies;
- (c) promote technology development, transfer and application, research and development, innovation and information exchange.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:

- (a) the implementation of international environmental agreements, conventions and treaties;
- (b) strengthening and promoting equitable and sustainable utilisation, conservation and management of environment and biodiversity, including forestry and wildlife resources;

- (c) the reinforcement of institutional and legal frameworks and the capacity to develop, implement, administer and enforce environmental laws, regulations, standards and policies;
- (d) the creation of partnerships, linkages and joint ventures between economic operators;
- (e) the prevention and mitigation of natural environmental disasters and the loss of biodiversity;
- (f) the promotion of technology development and adaptation, transfer and applications, research and development and innovation;
- (g) the protection and management of coastal and marine resources, domestic and wild indigenous biological and genetic resources;
- (h) the development of alternative environmentally friendly activities and livelihoods;
- (i) the production and facilitation of trade in goods and services for which eco-labelling is important;
- (j) information exchange and networking on products and their requirements, in terms of production process, transport, marketing and labelling;
- (k) the development of infrastructure facilities on environmentally friendly products;
- (l) the integration of local communities into the management of biodiversity, forestry, and wildlife resources;

- (m) the development of waste management, and the safe disposal of industrial and toxic wastes;
- (n) the promotion of stakeholder participation in international environmental dialogue.

TITLE VI

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 93

Scope and Objectives

1. Cooperation under this Title shall include supporting and building capacity in harmonisation, zoning and compartmentalisation, conformity assessment, information exchange and transparency of trade conditions.
2. The objectives of cooperation under this Title are to:
 - (a) facilitate the Parties' inter-regional and intra-regional trade, whilst safeguarding human, animal and plant life or health in accordance with the WTO SPS Agreement;
 - (b) address problems arising from SPS measures on agreed priority sectors and products, giving due consideration to regional integration;

- (c) stipulate procedures and modalities for facilitating cooperation in SPS matters;
- (d) ensure transparency as regards SPS measures applicable to trade between and within the Parties;
- (e) promote intra-regional harmonisation of measures with international standards, in accordance with the WTO SPS Agreement, and the development of appropriate policies, legislative, regulatory and institutional frameworks in the EAC Partner State(s);
- (f) enhance the effective participation of the EAC Partner State(s) in the Codex Alimentarius Commission, the World Organisation for Animal Health and the International Plant Protection Convention;
- (g) promote consultation and exchanges between EAC and EU institutions and laboratories;
- (h) facilitate the development of capacity for setting and implementing regional and national standards in accordance with international requirements in order to facilitate regional integration;
- (i) establish and enhance the capacity of the EAC Partner State(s) to implement and monitor SPS measures pursuant to this Article; and
- (j) promote technology transfer.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:
- (a) support the EAC Partner State(s) to comply with SPS measures, including the development of appropriate regulatory frameworks, policies, matters concerning the work of the relevant international standards-setting bodies, training, information events, capacity building, and technical assistance;
 - (b) as appropriate, support the harmonisation of SPS measures within the EAC Partner State(s) and the setting-up of national SPS coordinating committees, and promote the capacity of the public and private sector for sanitary control; priority areas include development and implementation of a quality programme, training, information events, the building, upgrading, modernisation and accreditation of laboratories;
 - (c) support on matters concerning the work of the relevant international standards-setting bodies; this cooperation may include training, information events, capacity building and technical assistance;
 - (d) support in the area of fisheries with the aim of developing harmonised regional rules, legislation and standards of fish products to promote trade between the Parties and within the EAC region;
 - (e) support with the aim of promoting cooperation between the SPS institutions of the EAC Partner State(s) and equivalent SPS institutions of the EU;

- (f) support the implementation of the SPS Agreement, particularly in strengthening the competent authorities, notification and points of enquiry of the EAC Partner State(s);
- (g) support information sharing and exchange.

ARTICLE 94

Harmonisation

1. The Parties shall aim to achieve harmonisation of their respective rules and procedures for the formulation of their SPS measures, including inspection, testing and certification procedures, in accordance with the WTO SPS Agreement.
2. As appropriate, the EAC Partner State(s) will develop, with the support of the EU, a program and timeframe for harmonising their SPS standards.
3. The Committee of Senior Officials shall develop modalities to assist and to monitor the process of harmonisation within the regions, as appropriate.

ARTICLE 95

Zoning and Compartmentalisation

The Parties shall recognise on a case-by-case basis designated areas which are free from pests or diseases and areas of low pest or disease prevalence as potential sources of plant and animal products, taking into account Article 6 of the WTO SPS Agreement.

ARTICLE 96

Special and Differential Treatment and Technical Assistance

1. The EU agrees to provide technical assistance and special and differential treatment in accordance with Articles 9 and 10 of the WTO SPS Agreement.
2. The Parties shall cooperate to address the special needs of the EAC Partner State(s) arising from the implementation of provisions of this Title.
3. The Parties agree that the following areas are priorities for technical assistance:
 - (a) the building of technical capacity in the public and private sectors of the EAC Partner State(s) to enable sanitary and phytosanitary controls, including training and information events for inspection, certification, supervision and control;

- (b) the enhancement of technical capacity for the implementation and monitoring of SPS measures, including promoting greater use of international standards;
- (c) the development of capacities for risk analysis, harmonisation, compliance, testing, certification, residue monitoring, traceability and accreditation including through the upgrading or setting-up of laboratories and other equipment to help the EAC Partner State(s) comply with international standards;
- (d) the support for the participation of the EAC Partner State(s) in the work of relevant international standards-setting bodies;
- (e) the development of the capacity of the EAC Partner State(s) for effective participation in the notification processes.

ARTICLE 98

Scope and Objectives

1. The Parties acknowledge and recognise the importance of cooperation in trade facilitation matters in the evolving global trading environment.
2. The Parties agree to cooperate with a view to ensuring the consistency of administrative procedures, as well as the administrative capacity of the relevant authorities, with a view to the objective of promoting trade facilitation.
3. The Parties acknowledge the need for proper administrative capacity. They agree that the EAC Partner State(s) will need transitional period to strengthen and improve the administrative capacity.

TITLE VII

TECHNICAL BARRIERS TO TRADE

The Parties shall recognise on a case-by-case basis designated and other areas of low pest or disease prevalence as potential source products, taking into account Article 6 of the WTO SPS Agreement.

Scope and Objectives

1. Cooperation under this Title shall include the preparation, adoption and application of technical regulations, standards and conformity assessment procedures, as defined in the TBT Agreement.
2. The objectives of cooperation under this Title are to:
 - (a) progressively eliminate technical barriers to trade, in order to facilitate trade between the Parties and within the EAC Partner State(s);
 - (b) enhance regional integration among EAC Partner State(s) by harmonising standards, technical regulations and conformity assessment procedures applied in the EAC Partner State(s), in accordance with the TBT Agreement;
 - (c) promote greater use of international technical regulations, standards and conformity assessment procedures, including sector-specific measures;

- (d) develop functional links, joint ventures and joint research and development work between the EAC Partner State(s) and EU standardisation, conformity assessment and regulatory institutions;
- (e) enhance market access for products originating in the EAC Partner State(s), through improvements in their safety, quality and competitiveness;
- (f) promote the greater use of international best practices for technical regulations, international standards and conformity assessment procedures;
- (g) ensure that the preparation, adoption and application of standards and technical regulations are transparent and do not create unnecessary obstacles to trade between the Parties, in accordance with the provisions of the TBT Agreement;
- (h) support the development of appropriate regulatory frameworks, policies and reforms within the EAC Partner State(s), to meet internationally accepted practices;
- (i) assist the EAC Partner State(s) to implement the TBT Agreement and to comply with the TBT requirements of their trading partners in the context of the TBT Agreement.

3. Subject to Article 75, the Parties agree to cooperate in the following areas:

- (a) support for the promotion of greater use of international standards, technical regulations and conformity assessments, including sector-specific measures in the Parties' territories;

- (b) support for the capacity building of EAC Partner State(s) in the fields of standardisation, metrology, accreditation and conformity assessment procedures, including support for the upgrading and setting up of laboratories and relevant institutions, as well as the procurement of relevant equipment;
- (c) support for quality management and assurance in selected sectors of importance to the EAC Partner State(s);
- (d) support for the full participation of the standards and other technical regulatory bodies of the EAC Partner State(s) in international standard-setting bodies, and reinforcing the role of international standards as a basis for technical regulations;
- (e) support for efforts by the conformity assessment bodies of the EAC Partner State(s) to obtain international accreditation;
- (f) the development of functional links between the Parties' standardisation, conformity assessment and certification institutions;
- (g) support for the development of common understanding on good regulatory practices, including:
 - (i) transparency in the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;

- (ii) the necessity and proportionality of regulatory measures and related conformity assessment procedures, which may include the use of suppliers' declarations of conformity;
- (iii) the use of international standards as a basis for setting up technical regulations, except where such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued;
- (iv) the enforcement of technical regulations and market surveillance activities; and
- (v) the establishment of mechanisms and methods for reviewing technical regulations, standards and conformity assessment procedures;
- (h) the identification, prioritisation and support in the development of, the necessary technical infrastructure and transfer of technology in terms of metrology, standardisation, testing, certification and accreditation, to support technical regulations;
- (i) the enhancement of regulatory, technical and scientific cooperation by, *inter alia*, exchange of information, experiences and data, with a view to improving the quality and level of the relevant technical regulations and making efficient use of regulatory resources;
- (j) the development of compatibility and convergence of the respective technical regulations, standards and conformity assessment procedures;

- (k) the promotion and encouragement of bilateral cooperation between the Parties' respective organisations responsible for metrology, standardisation, testing, certification and accreditation;
- (l) the promotion of cooperation between the Parties and in the EAC in relation to the work of relevant international institutions and organisations, and fora dealing with TBT issues.

TITLE VIII

CUSTOMS AND TRADE FACILITATION

ARTICLE 98

Scope and Objectives

1. The Parties acknowledge and recognise the importance of cooperation in customs and trade facilitation matters in the evolving global trading environment.
2. The Parties agree to reinforce cooperation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objective of promoting trade facilitation.
3. The Parties acknowledge the need for proper administrative capacity to meet those objectives. They agree that the EAC Partner State(s) will need transitional periods and capacity building to smoothly implement the provisions of this Title.

4. The objectives of cooperation under this Title are to:
 - (a) facilitate trade between the Parties;
 - (b) promote the harmonisation of customs legislation and procedures at regional level;
 - (c) provide support to the EAC Partner State(s) to strengthen trade facilitation;
 - (d) provide support to the customs administrations of the EAC Partner State(s) to implement this Agreement and other international customs best practices;
 - (e) enhance cooperation between the Parties' customs authorities and other related border agencies.

5. Subject to Article 75, the Parties agree to cooperate in the following areas:
 - (a) exchange of information on customs legislation and procedures;
 - (b) development of joint initiatives in mutually agreed areas;
 - (c) support for the:
 - (i) modernisation of customs systems and procedures and reduction of customs clearance time;

- (ii) simplification and harmonisation of customs procedures and trade formalities, including those related to import, export, and transit;
 - (iii) enhancement of regional transit systems;
 - (iv) enhancement of transparency in accordance with Article 134;
 - (v) capacity building, including financial and technical assistance to the EAC Partner State(s) in this area; and
 - (vi) any other area of customs as agreed on by the Parties to this Agreement;
- (d) establishment, as far as possible, of common positions in international organisations in the field of customs and trade facilitation, such as the WTO, WCO, UN and UNCTAD;
- (e) promotion of coordination between all related agencies, both internally and across borders.
6. The Parties shall cooperate in customs matters and on rules of origin through:
- (a) the introduction of procedures and practices which reflect international instruments and standards applicable in the field of customs and trade facilitation, including WTO rules and WCO instruments and standards;
 - (b) the implementation of activities aimed at consolidating the harmonisation of customs standards and trade facilitation measures;

- (c) the application of modern customs techniques, including risk assessment, binding rulings, simplified procedures, post release controls and audit methods;
- (d) the automation of customs and other trade procedures, including electronic exchange of customs and trade information;
- (e) the training of customs officials and other relevant public and private sector officials on customs and trade facilitation; and
- (f) in any other areas that may be identified by the Parties;

TITLE IX

EPA ADJUSTMENT MEASURES

ARTICLE 99

Scope and Objectives

1. The Parties recognise that the elimination and/or substantial reduction of tariffs as set out in this Agreement will be a challenge for the EAC Partner State(s). The Parties agree that this specific challenge shall be addressed through the creation of a compensatory framework, subject to the provisions of Annex VI which prevail.

2. The Parties also recognise that the implementation of this Agreement may result in potential adjustment challenges, *inter alia* in the social, economic and environmental domain, to the economies of the EAC Partner State(s). The Parties agree that those challenges shall be addressed through economic and development cooperation actions.

3. Cooperation under this Title aims at addressing actual and potential adjustment challenges resulting from the implementation of this Agreement.

ARTICLE 100

Areas of Cooperation

1. With regard to revenue losses linked to the reduction of tariffs, the EU shall, subject to the provisions of Annex VI which prevail:

- (a) engage in an enhanced dialogue on fiscal adaptation measures and reforms;
- (b) establish cooperation modalities to support fiscal reform;
- (c) provide financial resources to cover transitionally the agreed losses of government revenue arising from the elimination of, and/or a substantial reduction in, customs tariffs.

2. To ensure that the economies of the EAC Partner State(s) take full advantage of this Agreement, the EU agrees to work with the EAC Partner State(s) to undertake appropriate cooperation activities aiming at:

- (a) improving the competitiveness of productive sectors within the EAC Partner State(s);

- (b) improving productive and professional capacities of the workforce of the EAC Partner State(s), including training of workers displaced by the closure of firms and/or equipping them with new skills for new activities etc.;
- (c) supporting measures towards sustainable environment;
- (d) building capacity to enhance macro-economic discipline;
- (e) mitigating the possible impacts affecting food and nutrition security, rural development, livelihood security and export earnings in the EAC Partner State(s);
- (f) addressing other possible cooperation areas related to the implementation challenges of this Agreement.

TITLE X

RESOURCE MOBILISATION

ARTICLE 101

Principles and Objectives

1. Recognising the EU's commitment to support the implementation of this Agreement and the efforts of the EAC Partner State(s) themselves to finance their development needs, the Parties agree to work both jointly and independently to mobilise financial resources to support the implementation of this Agreement, regional integration and the development strategies of the EAC Partner State(s).
2. The objective of joint resource mobilisation is to complement, support and promote in a spirit of interdependence, the efforts of the EAC Partner State(s) in pursuing alternative sources of funding to support regional integration and the development strategies, in particular the EPA Development Matrix in Annex III(a), subject to the provisions of Annex VI which prevail.

ARTICLE 102
Obligations

1. Subject to the provisions of Annex VI which prevail, the EAC Partner State(s) shall:
 - (a) commit resources from their financing mechanisms on a timely and predictable basis to support regional integration and the EPA-related development strategies and projects as contained in the EPA Development Matrix;
 - (b) develop their development strategies with due regard for the right of the EAC Partner State(s) to determine the direction and the sequence of their development strategies and priorities;
 - (c) establish an EPA Fund to channel EPA-related resources;
 - (d) incorporate the priorities of the EPA Development Matrix in regional and national strategies;
2. Subject to the provisions Annex VI which prevail, the EAC Partner State(s) shall formulate rules and regulations for the management of the EPA Fund, to ensure transparency, accountability and value for money in the utilisation of those resources. Without prejudice to other partners' contributions to the EPA Fund, the channelling of the EU resources will be made provisionally on a successful assessment of the EPA Fund's operating procedures by the EU.

3. Subject to the provisions of Annex VI which prevail, The EU shall commit resources on a timely and predictable basis taking particularly into account the supply-side constraints of the EAC Partner State(s) linked to the implementation of this Agreement, including financing gaps identified in the EPA Development Matrix, through:

- (a) the EU budget;
- (b) any other instrument that will be used to implement the EU's official development assistance

4. The Parties shall jointly commit to work towards mobilising the following resources:

- (a) funds of other (multilateral or bilateral) donors;
- (b) grants, concessional loans, public-private partnerships, and specialised facilities;
- (c) any other official development assistance resources available from development partners

PART VI

INSTITUTIONAL PROVISIONS

ARTICLE 103

Scope and Objective

1. The provisions of this Part apply to the EPA Council, the Committee of Senior Officials, the EPA Consultative Committee established under Article 108 (hereinafter referred to as the "EPA Consultative Committee") and to any other institutions and committees that may be established under this Agreement.
2. The objective of this Part is to establish institutions which will facilitate the achievement of the objectives of this Agreement.

ARTICLE 104

EPA Council

1. An EPA Council is hereby established upon the date of entry into force of this Agreement.
2. The EPA Council shall be composed of the representatives of the Parties at ministerial level.

3. The EPA Council shall establish its own rules of procedure within six (6) months from the date of entry into force of this Agreement.
4. The EPA Council shall be co-chaired by a representative of each Party, in accordance with the provisions laid down in its rules of procedure.
5. The EPA Council shall meet at regular intervals, not exceeding a period of two (2) years, and extraordinarily, whenever circumstances so require, with the agreement of the Parties.
6. The EPA Council shall be responsible for:
 - (a) the operation and implementation of this Agreement and the monitoring of the fulfilment of its objectives;
 - (b) the examination of any major issue arising within the framework of this Agreement, as well as any other question of common interest affecting trade between the Parties, without prejudice to the rights conferred under Part VII; and
 - (c) the examination of proposals and recommendations from the Parties for the review and amendment of this Agreement.

ARTICLE 105 The EPA Council shall have powers to take decisions on

Powers of the EPA Council

1. The EPA Council shall have powers to take decisions and may adopt recommendations from the Committee of Senior Officials in writing by mutual agreement.
2. The decisions taken shall be binding on the Parties, who shall take all the measures necessary to implement them in accordance with their respective internal rules.
3. The EPA Council shall establish and adopt within six (6) months from the date of entry into force of this Agreement the rules of procedure required for the establishment of an arbitration panel, as provided for in Articles 112 and 113.
4. For matters in which an EAC Partner State acts individually, the adoption of such decisions by the EPA Council shall require the agreement of the EAC Partner State concerned.

ARTICLE 106 This Part applies to any dispute concerning the interpretation and

Committee of Senior Officials

1. A Committee of Senior Officials is hereby established upon the date of entry into force of this Agreement.

2. It shall be composed of Permanent Secretaries or Principal Secretaries, as the case may be, from the EAC Partner State(s), and representatives from the EU at Senior Official level.
3. Subject to any directions which may be given by the EPA Council, the Committee of Senior Officials shall meet at least once a year and may hold extraordinary meetings whenever circumstances so require, at any time agreed by the Parties. The Committee of Senior Officials shall also meet preceding the meetings of the EPA Council.
4. The Committee shall be co-chaired by a representative of each of the Parties.
5. The Committee of Senior Officials shall be responsible for:
 - (a) assisting the EPA Council in the performance of its duties;
 - (b) receiving and considering reports of the specialised committees, working sessions, task forces or any bodies established by the Committee under Article 107(1) and coordinating their activities, as well as making recommendations for consideration by the EPA Council;
 - (c) submitting reports and recommendations on the implementation of this Agreement to the EPA Council, either on its own initiative or at the request of the EPA Council, or at the request of a Party;
 - (d) in the area of trade:
 - (i) supervising, and being responsible for, the implementation and proper application of the provisions of this Agreement, and discussing and recommending areas of cooperation in this regard;

- (ii) undertaking action to avoid disputes, and resolving disputes, that may arise regarding the interpretation or application of the Agreement, in accordance with the provisions of Title I of Part VII;
 - (iii) assisting the EPA Council in the performance of its functions, including the submission of recommendations for decisions to be taken by the EPA Council;
 - (iv) monitoring the development of regional integration and of economic and trade relations between the Parties;
 - (v) monitoring and assessing the impact of the implementation of this Agreement on the sustainable development of the Parties;
 - (vi) discussing and undertaking actions that may facilitate trade, investment and business opportunities between the Parties; and
 - (vii) discussing any matters pertaining to this Agreement and any issue liable to affect the attainment of its objectives;
- (e) in the area of development:
- (i) assisting the EPA Council in the performance of its functions regarding development cooperation related matters falling under this Agreement;
 - (ii) monitoring the implementation of the cooperation provisions laid down in this Agreement and coordinating such action with third party donors;

- (iii) making recommendations on trade-related cooperation between the Parties;
- (iv) keeping under periodic review the areas of cooperation set out in this Agreement, and making recommendations on the inclusion of new priorities, as appropriate; and
- (v) reviewing and discussing cooperation issues pertaining to regional integration and the implementation of this Agreement.

ARTICLE 107

Powers of the Committee of Senior Officials

1. In the performance of its functions, the Committee of Senior Officials shall:
 - (a) establish as appropriate, give directives to and oversee any specialised committees, working sessions, task forces or bodies to deal with matters falling within its competence, and determine their composition, duties and its rules of procedure unless otherwise provided for in this Agreement;
 - (b) take decisions or adopt recommendations in the cases provided for in this Agreement or where such implementing power has been delegated to it by the EPA Council. In cases where such implementing power has been delegated to the Committee, it shall take decisions or make recommendations in accordance with the conditions laid down in Article 105; and

(c) consider any issues under this Agreement and take appropriate action in the exercise of its functions.

2. The Committee shall hold specific working sessions to perform the functions provided for in paragraph 1(a).

3. The Committee shall determine its own rules of procedure within three (3) months from the date of entry into force of this Agreement.

ARTICLE 108

EPA Consultative Committee

1. An EPA Consultative Committee is hereby established with the task of assisting the Committee of Senior Officials to promote dialogue and cooperation between representatives of the private sector, organisations of civil society, including the academic community, and social and economic partners. Such dialogue and cooperation shall include all matters covered under this Agreement as they arise in the context of the implementation this Agreement.

2. Participation in the EPA Consultative Committee shall be decided by the EPA Council, upon recommendations from the Committee of Senior Officials, with a view to ensuring a broad representation of all interested parties.

3. The EPA Consultative Committee shall carry out its activities on the basis of consultations by the Committee of Senior Officials or on its own initiative and make recommendations to the Committee of Senior Officials. Representatives of the Parties shall attend the meetings of the EPA Consultative Committee.

4. The EPA Consultative Committee shall adopt its rules of procedure within three (3) months from its establishment, in agreement with the Committee of Senior Officials.

PART VII

DISPUTE AVOIDANCE AND SETTLEMENT

In the performance of its functions, the Committee of Senior Officials shall:

ARTICLE 109

(a) establish an appropriate, independent and impartial dispute resolution mechanism;

Scope and Objective task forces or bodies to deal with matters falling within

determine their composition, duties and its rules of procedure.

1. This Part applies to any dispute concerning the interpretation and application of the provisions of this Agreement, unless otherwise provided.

2. The objective of this Part is to avoid or settle in good faith any dispute between the Parties concerning the interpretation and application of this Agreement and, where possible, to arrive at a mutually agreed solution.

TITLE I

DISPUTE AVOIDANCE

ARTICLE 110

Consultations

1. The Parties shall enter into consultations and endeavour to resolve in good faith any dispute concerning the interpretation and application of this Agreement with the aim of reaching a mutually agreed solution.
2. A Party shall seek consultations by means of a written request to the other Party, copied to the Committee of Senior Officials, identifying the measure at issue and the provisions of the Agreement that it considers the measure not to be in conformity with.
3. Consultations shall take place, unless the Parties agree otherwise, in the territory of the Party complained against and shall be held within twenty (20) days of the date of the receipt of the request. The consultations shall be deemed concluded within sixty (60) days of the date of the receipt of the request of the Party complained against, unless the Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.
4. Consultations on matters of urgency, including those regarding perishable or seasonal goods shall be held as soon as is practically possible and in any event within fifteen (15) days of the date of the receipt of the request, and shall be deemed concluded within thirty (30) days of the date of the receipt of the request, unless the Parties agree to continue consultations.

5. If the Party to which the request for consultations is made does not respond to that request within ten (10) days of the date of its receipt thereof, or if consultations are not held within the respective time frames laid down in paragraphs 3 and 4 of this Article, or if consultations have been concluded and no agreement has been reached on a mutually agreed solution, either Party may request settlement of the dispute by arbitration in accordance with Article 112.

6. The Parties may agree to amend the time limits referred to in paragraphs 3 to 5, in light of the difficulties or complexities of the case experienced by either Party.

ARTICLE 111

Mediation

1. If consultations fail to produce a mutually agreed solution, the Parties may, by agreement, seek recourse to a mediator. Unless the Parties agree otherwise, the terms of reference for the mediation shall be the matter referred to in the request for consultations.

2. Either Party may proceed to arbitration under Article 112 without recourse to mediation.

3. Unless the Parties agree on a mediator within fifteen (15) days of the date of the agreement to request mediation, the Chairperson of the Committee of Senior Officials, or his or her delegate, shall immediately and in secret shall select by lot a mediator from the pool of individuals who are on the list referred to in Article 125 and are not nationals of either Party. The selection shall be made within twenty five (25) days of the date of the submission of agreement to request mediation and in the presence of a representative of each Party. The mediator shall convene a meeting with the Parties no later than thirty (30) days after being selected. The mediator shall receive the submissions of each Party no later than fifteen (15) days before the meeting and notify an opinion no later than forty five (45) days after having been selected.

4. The mediator's opinion may include a recommendation on how to resolve the dispute consistent with the provisions of this Agreement. The mediator's opinion is non-binding.

5. The Parties may agree to amend the time limits referred to in paragraph 3. The mediator may also decide to amend those time limits upon request of any of the Parties or on his or her own initiative, in light of the difficulties experienced by the Party concerned or the complexities of the case.

6. The proceedings involving mediation, in particular all information disclosed and positions taken by the Parties during those proceedings shall remain confidential.

TITLE II

DISPUTE SETTLEMENT

ARTICLE 112

6. The Parties may agree to amend the mechanisms referred to in paragraph 1 of this Article in the event of a dispute. The Parties may also agree to amend the mechanisms referred to in paragraph 1 of this Article in the event of a dispute. The Parties may also agree to amend the mechanisms referred to in paragraph 1 of this Article in the event of a dispute.

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 110, the complaining Party may give notice to initiate the procedure for the establishment of an arbitration panel, which shall be established in accordance with Article 113.

2. The notice for establishment of an arbitration panel shall be made in writing to the Party complained against and to the Committee of Senior Officials. The complaining Party shall identify in its notice the specific measures at issue, and it shall clearly explain how such measures constitute a breach of the provisions of this Agreement.

ARTICLE 113

Establishment of the Arbitration Panel

1. An arbitration panel shall be composed of three arbitrators.

2. Within ten (10) days of the date of the submission of the notice for the establishment of an arbitration panel to the Committee of Senior Officials, the Parties shall consult each other in order to reach an agreement on the composition of the arbitration panel.

3. In the event that the Parties are unable to agree on the composition of the arbitration panel within the time frame laid down in paragraph 2 of this Article, each Party will select an arbitrator, from the list of arbitrators established under Article 125, within five (5) days. If one of the Parties fails to appoint its arbitrator upon request of the other Party, that Party's arbitrator shall be selected by lot by the Chairperson of the Committee of Senior Officials, or the Chairperson's delegate from the sub-list of that Party established under Article 125.

4. Unless the Parties reach an agreement concerning the Chairperson of the arbitration panel within the time frame established in paragraph 2 of this Article, the two arbitrators shall in turn appoint a third arbitrator as the Chairperson of the panel, from the list established under Article 125, within five (5) days of their appointment and shall notify the Committee of Senior Officials of the appointment. In the event of a failure to appoint the Chairperson of the panel, either Party may ask the Chairperson of the Committee of Senior Officials or the Chairperson's delegate to select by lot the Chairperson of the arbitration panel from the sub-list of Chairpersons, contained in the list established under Article 125, within five (5) days.

5. The date of establishment of the arbitration panel shall be the date on which the three arbitrators are selected and have accepted their appointment in accordance with the rules of procedure adopted under Article 120.

ARTICLE 114

Interim Panel Report

1. The arbitration panel shall notify the Parties of an interim report containing both the descriptive section and its findings and conclusions, as a general rule not later than ninety (90) days from its date of establishment. Where it considers that this deadline cannot be met, the Chairperson of the arbitration panel must notify the Parties and the Committee of Senior Officials in writing, stating the reasons for the delay and the date on which the panel plans to issue its interim report. Under no circumstances should the interim report be issued later than one hundred and twenty (120) days after the date of the establishment of the arbitration panel. Any Party may submit written comments to the arbitration panel on precise aspects of its interim report within fifteen (15) days of the notification of the report.

2. In cases of urgency, including those involving perishable or seasonal goods, the arbitration panel shall make every effort to issue its interim report within thirty (30) days, and in any case no later than forty five (45) days, after its establishment. A Party may submit a written request for the arbitration panel to review precise aspects of the interim report, within seven (7) days of the notification of the interim report.

3. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate. The final arbitration panel ruling shall include a discussion of the arguments made at the interim review stage and shall respond clearly to the questions and observations of the Parties.

ARTICLE 115

Arbitration Panel Ruling

1. The arbitration panel shall notify its ruling to the Parties and to the Committee of Senior Officials within one hundred and twenty (120) days from the date of its establishment.

4. In the event that the original arbitration panel is, or some of its members are, unable to act, the Chairperson of the arbitration panel shall apply. Notwithstanding the first subparagraph, where that deadline cannot be met, the Chairperson of the arbitration panel shall notify the Parties and the Committee of Senior Officials in writing, stating the reasons for the delay and the date on which the panel plans to issue its ruling. Under no circumstance shall the ruling be notified later than one hundred and fifty (150) days from the date of its establishment.

2. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel:

- (a) shall notify its ruling within sixty (60) days from the date of its establishment;
- (b) may give a preliminary ruling, as soon as that is practically possible, and in any event within seven (7) days of its establishment, on whether it deems the case to be urgent.

3. The arbitration panel ruling shall include recommendations as to how the Party complained against could bring itself into compliance.

4. Notwithstanding paragraphs 6 to 10 on the reasonable period of time, the Party complained against shall take any measure necessary to comply immediately and in good faith with the arbitration panel ruling.

5. If immediate compliance is not possible, the Parties shall endeavour to agree on the period of time to comply with the ruling. In such a case, the Party complained against shall, no later than twenty one (21) days after the notification of the arbitration panel ruling to the Parties, notify the complaining Party and the Committee of Senior Officials of the time it will require for compliance.

6. If there is disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within fourteen (14) days of the notification made under paragraph 1, request in writing the arbitration panel to determine the length thereof. Such request shall be notified simultaneously to the Party complained against and to the Committee of Senior Officials. The arbitration panel shall notify its ruling to the Parties and to the Committee of Senior Officials within twenty one (21) days from the date of the submission of the request.

7. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 113 shall apply. The time limit for notifying the ruling shall be thirty five (35) days from the date of the submission of the request referred to in paragraph 6 of this Article.

8. In determining the length of the reasonable period of time, the arbitration panel shall take into consideration the length of time that it will normally take the Party complained against to adopt comparable legislative or administrative measures to those identified by such Party as being necessary to ensure compliance, and in particular, the panel shall take into account the difficulties the EAC Partner State(s) may encounter due to lack of requisite capacity.

9. The reasonable period of time may be extended by agreement between the Parties.

ARTICLE 116

Review of Any Measure Taken to Comply with the Arbitration Panel Ruling

1. The Party complained against shall notify the complaining Party and the Committee of Senior Officials before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.

2. Where, at the end of the reasonable period of time, the Party complained against has not complied with paragraph 1 of this Article, the complaining Party may take, upon notification to the Party complained against and to the Committee of Senior Officials, appropriate measures in accordance with Article 118(2).

3. Where there is a disagreement between the Parties as to whether the Party complained against has brought itself into compliance with the provisions of this Agreement, either Party may request in writing the arbitration panel to rule on the matter. Such a request shall identify the specific measure at issue and it shall explain clearly how such measure is incompatible or compatible with the provisions of the Agreement and the arbitration panel ruling.

4. The arbitration panel shall endeavour to notify its ruling within forty-five (45) days of the date of the submission of the request referred to in paragraph 3. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel shall notify its ruling within thirty (30) days of the date of the submission of the request.

5. In the event that the original arbitration panel is, or some of its members are, unable to reconvene within fifteen (15) days, the procedures set out in Article 113 shall apply. In such cases, the time limit for notifying the ruling shall be eighty (80) days from the date of the submission of the request referred to in paragraph 3 of this Article.

ARTICLE 117

Temporary Remedies in case of Non-Compliance

1. If the Party complained against fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that the measure notified under Article 116(1) is not compatible with the obligations of the Party complained against under the provisions of this Agreement, the complaining Party shall be entitled, upon notification to the Party complained against, to adopt appropriate measures.

2. In adopting such measures, the complaining Party shall endeavour to select measures that least affect the attainment of the objectives of this Agreement, and shall take into consideration their impact on the economy of the Party complained against. In addition, where the EU has obtained the right to adopt such measures, it shall select measures which are specifically aimed at bringing into compliance the EAC Partner State whose measures were found to be in breach of this Agreement.

3. At any time after the expiry of the reasonable period of time, the complaining Party may request the Party complained against to provide an offer for temporary compensation, and the Party complained against shall present such an offer.

4. Compensation or retaliatory measures shall be temporary and shall be applied only until any measure found to breach the provisions of this Agreement has been withdrawn or amended so as to bring it into conformity with those provisions, or until the Parties have agreed to settle the dispute.

ARTICLE 118

Review of Any Measure Taken to Comply after the Adoption of Appropriate Measures

1. The Party complained against shall notify the other Party and the Committee of Senior Officials of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to the application of appropriate measures by the complaining Party.

2. Where the Parties do not reach an agreement on the compatibility of the notified measure with the provisions of this Agreement within thirty (30) days of the date of the submission of the notification, the complaining Party shall request in writing the arbitration panel to rule on the matter. Such a request shall be notified to the Party complained against and to the Committee of Senior Officials. The arbitration panel ruling shall be notified to the Parties and to the Committee of Senior Officials within forty-five (45) days of the date of the submission of the request.

3. If the arbitration panel rules that any measure taken to comply is not in conformity with the provisions of this Agreement, it shall determine whether the complaining Party may continue to apply appropriate measures. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions of this Agreement, the appropriate measures shall be terminated immediately following the date of the ruling.

4. In the event that the original arbitration panel is, or some of its members are, unable to reconvene, the procedures laid down in Article 113 shall apply. The period for notifying the ruling shall be sixty (60) days from the date of the submission of the request referred to in paragraph 2 of this Article.

TITLE III

COMMON PROVISIONS

1. If the Party complained against fails to notify any measure taken to comply with an arbitration panel ruling before the expiry of the reasonable period of time...

ARTICLE 119

1. If the Party complained against under the provisions of this Agreement, the...

Mutually Agreed Solution

The Parties may reach an agreed solution to a dispute under this Part at any time and shall notify the Committee of Senior Officials thereof. If the solution requires approval pursuant to the relevant domestic procedures of either Party, the notification shall refer to that requirement, and the proceedings shall be suspended. If such approval is not required, or upon notification of the completion of any such domestic procedure, the proceedings shall be terminated.

ARTICLE 120

Rules of Procedure

Dispute settlement procedures shall be governed by rules of procedure to be adopted by the EPA Council within six (6) months from the date of entry into force of this Agreement.

ARTICLE 121

Information and Technical Advice

At the request of either Party, or upon its own initiative, the arbitration panel may obtain information for the arbitration panel proceedings from any source it deems appropriate, including the Parties involved in the dispute. The arbitration panel shall also have the right to seek the opinion of relevant experts as it deems appropriate. Interested natural or legal persons of the Parties and other third parties are authorised to submit *amicus curiae* briefs to the arbitration panel in accordance with the rules of procedure adopted under Article 120. Any information obtained in such manner must be disclosed to the Parties, who may submit comments thereon.

ARTICLE 122

Language of Submissions

1. The written and oral submissions of the Parties shall be made in any official language of those Parties.
2. The Parties shall endeavour to agree on a common working language for any specific proceedings under this Part. If those Parties are unable to agree on a common working language, each Party shall arrange for and bear the costs of the translation of its written submissions and interpretations at the hearings into the language chosen by the Party complained against, unless such language is an official language of that Party¹.

ARTICLE 123

Rules of interpretation

1. Arbitration panels shall interpret the provisions of this Agreement in accordance with the customary rules of interpretation of public international law, including those set out in the Vienna Convention on the Law of Treaties signed at Vienna on 23 May 1969.
2. The interpretations and rulings of the arbitration panel cannot add to or diminish the rights and obligations provided in this Agreement.

¹ For the purpose of this Article, official languages are those listed in Article 146.

ARTICLE 124

Arbitration Panel Rulings Procedure

1. The arbitration panel shall make every effort to take any decision by consensus. Where a decision cannot be adopted by consensus, the matter at issue shall be decided by majority vote.
2. Any ruling of the arbitration panel shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the reasoning behind any findings, recommendations or conclusions that it makes. The Committee of Senior Officials shall make the arbitration panel rulings publicly available.
3. Arbitration panel rulings shall be final and binding on the Parties.

ARTICLE 125

List of Arbitrators

1. The Committee of Senior Officials shall, not later than six (6) months from the date of entry into force of this Agreement, establish a list of at least fifteen (15) individuals who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party to serve as arbitrators; and one sub-list of individuals that are not nationals of either Party and who shall be available to act as Chairperson of the arbitration panel. Each sub-list shall include at least five (5) individuals. The Committee of Senior Officials shall ensure that the list is always maintained at this level, in accordance with the rules of procedure adopted under Article 120.

2. Should any of the sub-lists not be established or not contain sufficient names of individuals at the time a notice is made pursuant to Article 113(2), the arbitrators shall be drawn by lot from the individuals who have been formally proposed for the respective sub-list by one or both of the Parties. If only one Party has proposed names, the three arbitrators shall be drawn by lot from among those names.

3. In case there is no list of arbitrators established under paragraph 1, or names of arbitrators proposed under paragraph 2, the Party initiating the process of arbitration shall request the Secretary-General of the Permanent Court of Arbitration to act as the appointing authority.

4. Arbitrators must have specialised knowledge of, and experience in, law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the code of conduct annexed to the rules of procedure adopted under Article 120.

ARTICLE 126

Relation to WTO Dispute Settlement

1. Arbitration panels established under this Agreement shall not adjudicate disputes on either Party's rights or obligations under the WTO agreements.

2. The interpretations and rulings of the arbitration panel shall add and obligations provided in this Agreement.

2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action within the WTO framework, including dispute settlement action. However, where a Party has, with regard to a particular measure, initiated a dispute settlement proceeding, either under this Title or under the WTO Agreement, it shall not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. In addition, a Party shall not seek redress for the breach of an obligation which is identical under this Agreement and under the WTO Agreement in both fora. In such case, once a dispute settlement proceeding has been initiated, a Party shall not bring a claim seeking redress for the breach of the identical obligation under the other agreement to the other forum, unless the forum selected fails for procedural or jurisdictional reasons to make findings on the claim seeking redress of that obligation.

3. A Party may, with regard to a particular measure, institute a dispute settlement proceeding either under this Part or under the WTO Agreement, as follows:

- (a) dispute settlement proceedings under this Part shall be deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 112, and shall be deemed to be ended when the arbitration panel notifies its ruling to the Parties and to the Committee of Senior Officials under Article 115, or where a mutually agreed solution has been reached under Article 119;
- (b) dispute settlement proceedings under the WTO Agreement shall be deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the DSU, and shall be deemed to be ended when the WTO Dispute Settlement Body adopts the report of the WTO panel or the Appellate Body, as the case may be, under Articles 16 and 17(14) of the DSU.

4. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the WTO Dispute Settlement Body. The WTO Agreement shall not preclude a Party from suspending obligations under this Agreement.

ARTICLE 127

Time Limits

1. Any time limits laid down in this Part, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or fact to which they refer.
2. Any time limit referred to in this Part may be extended by mutual agreement of the Parties.

PART VIII
assess the balance of payments situation of the concerned Party and the
GENERAL EXCEPTIONS

(a) the nature and extent of the balance of payments and the external
ARTICLE 128

(b) the external economic and trading environment;
General Exception Clause

Subject to the requirement that such measures not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by the EU or the EAC Partner State(s) of measures:

- (a) necessary to protect public security and morals or to maintain public order;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importation or exportation of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under Article II(4) and Article XVII of GATT, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

ARTICLE 132

Definition of the Parties and Fulfilment of Obligations
The Parties to this Agreement are the Republic of Kenya, the Government of the East African Community, the Government of the EAC Partner States, on the one part, and the European Union, herein referred to as the other part.

- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources, if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the GATT Contracting Parties and not disapproved by them or which is itself so submitted and not so disapproved¹;
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan; such measures shall, however, not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;
- (j) essential to the acquisition or distribution of products in general or local short supply, provided that any such measures shall be consistent with the principle that the EU or the EAC Partner State(s) are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement, shall be eliminated as soon as the conditions giving rise to them have ceased to exist.

¹ The exception provided for in this point extends to any commodity agreement which conforms to the principles approved by the GATT Economic and Social Council in its Resolution 30 (IV) of 28 March 1947.

ARTICLE 129

Security Exceptions

1. Nothing in this Agreement shall be construed:
 - (a) to require the EU or the EAC Partner State(s) to furnish any information the disclosure of which it considers contrary to its essential security interests; or
 - (b) to prevent the EU or the EAC Partner State(s) from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to fissionable materials or the materials from which they are derived;
 - (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - (iii) relating to government procurement indispensable for national security or for national defence purposes;
 - (iv) taken in time of war or other emergency in international relations; or

(c) to prevent the EU or the EAC Partner State(s) from taking any action in pursuance of their obligations under the United Nations Charter signed in San Francisco on 26 June 1945 for the maintenance of international peace and security.

2. The Committee of Senior Officials shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

ARTICLE 130

Taxation

1. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent a Party from distinguishing, in the application of the relevant provisions of its fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

2. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.

3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

PART IX

GENERAL AND FINAL PROVISIONS

ARTICLE 131

Balance of Payments Difficulties

1. Where a Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods.
2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.
3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. It shall be in accordance with the conditions established in the WTO agreements and consistent with the Articles of Agreement of the International Monetary Fund (IMF), as applicable.
4. A Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Party and to the EPA Council and present as soon as possible, a time schedule for their removal.

5. Consultations shall be held promptly within the EPA Council, and such consultations shall assess the balance of payments situation of the concerned Party and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:

- (a) the nature and extent of the balance of payments and the external financial difficulties;
- (b) the external economic and trading environment;
- (c) alternative corrective measures which may be available.

6. The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the IMF relating to foreign exchange, monetary reserves and balance of payments shall be accepted, and conclusions shall be based on the assessment by the IMF of the balance of payments and the external financial situation of the concerned Party adopting or maintaining the measure.

ARTICLE 132

Definition of the Parties and Fulfilment of Obligations

1. The Contracting Parties to this Agreement are the Republic of Kenya and any other Contracting Parties to the Treaty for the Establishment of the East African Community that accede to this Agreement in accordance with Article 144 of this Agreement, herein referred to as the "EAC Partner State(s)", on the one part, and the European Union, herein referred to as the "EU", on the other part.

2. For the purposes of this Agreement, the term "Party" shall refer to the EAC Partner State(s) or the EU as the case may be. The term "Parties" shall refer to the EAC Partner State(s) and the EU.

3. The EAC Partner State(s) may mandate one of their representatives to act on their behalf on all matters under this Agreement.

4. The Parties shall adopt any general or specific measures required from them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

ARTICLE 133

Contact Points

1. In order to facilitate communication relating to the effective implementation of this Agreement, the Parties shall each designate a contact point for the exchange of information upon the date of entry into force of this Agreement. The designation of contact points for the exchange of information is without prejudice to the specific designation of competent authorities under specific provisions of this Agreement.

2. At the request of the contact points for exchange of information, each Party shall indicate the office or official responsible for any matter pertaining to the implementation of this Agreement and provide the required support to facilitate communication with the requesting Party.

3. Each Party, as the case may be, shall, at the request of the other Party, and to the extent legally possible, provide information and reply promptly to any question from the other Party relating to an actual or proposed measure that might affect trade between the Parties.

ARTICLE 134

Transparency and Confidentiality

1. Each Party shall ensure that any laws, regulations, procedures and administrative rulings of general application as well as any international commitments relating to any trade matter covered by this Agreement are promptly published or made publicly available and brought to the attention of the other Party.

2. Without prejudice to specific transparency provisions in this Agreement, the information referred to under this Article shall be considered to have been provided when the information has been made available to the governments of the EAC Partner State(s) and the European Commission or to the WTO or on the official websites of the Parties that shall be publicly accessible without a fee.

3. Nothing in this Agreement shall require a Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private, except to the extent that it may be necessary to be disclosed in the context of a dispute settlement proceeding under Part VII. Where such disclosure is considered necessary by a panel established under Article 113 the panel shall ensure that confidentiality is fully protected.

ARTICLE 135 of the EPA (Annexed to the Agreement) shall be submitted to the Parties for authentication, signature or approval in accordance with their respective legal requirements.

Outermost Regions of the European Union

1. Taking account of the geographical proximity of certain outermost regions of the EU and the EAC Partner State(s) and in order to reinforce economic and social links between those regions and the EAC Partner State(s), the Parties shall endeavour to facilitate cooperation in all areas covered by this Agreement between those outermost regions of the EU and the EAC Partner State(s).
2. The objectives enunciated in paragraph 1 shall also be pursued, wherever possible, through fostering the joint participation of the EAC Partner State(s) and those outermost regions of the EU in the framework and specific programmes of the EU in areas covered by this Agreement.
3. The EU shall endeavour to ensure coordination between the various financial instruments of the EU's cohesion and development policies in order to foster cooperation between the EAC Partner State(s) and those outermost regions of the EU in the areas covered by this Agreement.
4. Nothing in this Agreement shall prevent the EU from applying existing measures aimed at addressing the structural social and economic situation of its outermost regions pursuant to Article 349 of the Treaty on the Functioning of the European Union.

ARTICLE 136

Relations with other Agreements

1. With the exception of development cooperation provisions contained in Title II of Part 3 of the Cotonou Agreement or the corresponding provisions of its successor agreement, in case of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement or the corresponding provisions of its successor agreement, the provisions of this Agreement shall prevail.

2. In case of any inconsistency between the provisions of Part V of this Agreement and the Cotonou Agreement or its successor agreement, the provisions of the Cotonou Agreement or the corresponding provisions of its successor agreement shall prevail.

3. Nothing in this Agreement shall be construed so as to prevent the adoption by either Party of any appropriate measures consistent with this Agreement and pursuant to the Cotonou Agreement or the corresponding provisions of its successor agreement.

ARTICLE 137

Relation with the WTO Agreements

The Parties agree that nothing in this Agreement requires them to act in a manner inconsistent with the WTO agreements.

ARTICLE 138

Notifications

Notifications required under this Agreement shall be made in writing and sent to the governments of the EAC Partner State(s) or to the European Commission as the case may be.

ARTICLE 139

Entry into Force

1. This Agreement shall be signed and ratified, or approved in accordance with the applicable constitutional or internal rules and procedures of the respective Parties.
2. This Agreement shall enter into force on the first day of the second month following that in which the Parties have notified each other of the completion of the internal legal procedures referred to in paragraph 1.
3. Notifications of the entry into force of this Agreement shall be sent, in the case of the EAC Partner State(s) to the relevant depositaries of this Agreement in the EAC Partner State(s), and in the case of the EU to the Secretary-General of the Council of the European Union, who shall be joint depositaries of this Agreement. Each depositary shall notify the other depositary upon receipt of the last instrument of ratification indicating the completion of their internal legal procedures for the purpose of the entry into force of this Agreement.

ARTICLE 140

Denunciation

1. Each EAC Partner State or the EU may give written notice to the other Party of its intention to denounce this Agreement.
2. Denunciation shall take effect one year after notification to the other Party.

ARTICLE 141

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty on the European Union and the Treaty on the Functioning of the European Union are applied and, on the other hand, to the territories of the EAC Partner State(s). References to "territory" in this Agreement shall be understood in that sense.

ARTICLE 142 - (VII) (1) Of the end signed plenipotentiary as duly and signed this Agreement.

Review Clause

1. This Agreement shall be reviewed after every five (5) years from the date of its entry into force.

For the European Union

2. As regards the implementation of this Agreement, a Party may make suggestions oriented towards adjusting trade-related cooperation, taking into account the experience acquired during the implementation of this Agreement.

FOR THE NEIGHBORHOOD OF NEWWE

3. Notwithstanding paragraph 1, the Parties agree that this Agreement may be reviewed in light of the expiration of the Cotonou Agreement or of its successor agreement.

ARTICLE 143

Amendment Clause

1. The Parties may agree, in writing, to amend this Agreement. A Party may submit proposals for the amendment of this Agreement to the EPA Council for consideration. The other Party may comment on the proposals for amendment within ninety (90) days from the date of receipt of the proposal.

2. Should the EPA Council adopt amendments to this Agreement, such amendments shall be submitted to the Parties for ratification, acceptance or approval in accordance with their respective constitutional or internal legal requirements.

3. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on such date as the Parties may agree.

ARTICLE 144

Accession of Contracting Parties to the Treaty for the Establishment of the East African Community

1. This Agreement shall be open to accession by any State that is a contracting party to the Treaty for the Establishment of the East African Community. A request for accession shall be submitted to the EPA Council.

2. The Parties shall review the effects of the accession of the State(s) referred to in paragraph 1 on this Agreement. The EPA Council may decide on any transitional or amending measures that might be necessary.

ARTICLE 145

Accession of new Members to the European Union

1. The EU shall notify the EAC Partner State(s) of any request for accession of a third country to the EU.
2. During the negotiations between the EU and the third country referred to in paragraph 1, the EU shall endeavour to:
 - (a) provide, upon request of the EAC Partner State(s), and to the extent possible, information regarding any matter covered by this Agreement; and
 - (b) take into account concerns expressed by the EAC Partner State(s).
3. The EU shall notify the EAC Partner State(s) of the entry into force of any treaty concerning the accession of a third country to the EU.
4. The EPA Council shall examine, sufficiently in advance of the date of accession of a third country to the EU, any effects which that accession may have on this Agreement. The Parties may, by decision of the EPA Council, put in place any necessary adjustments of this Agreement or transitional arrangements.

ARTICLE 146

Authentic texts

1. This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of those texts being equally authentic.
2. The Irish language version shall be authenticated by an exchange of diplomatic notes between the European Union and the Republic of Kenya after the signature and before the entry into force of this Agreement.

ARTICLE 147

Annexes and Protocols

The following Annexes and Protocols and Joint Statements to this Agreement shall form an integral part of this Agreement:

- | | |
|-------------------|--|
| Annex I | Customs Duties on Products Originating in the EAC Partner State(s) |
| Annex II | Customs Duties on Products Originating in the EU |
| Annex III(a) | EPA Development Matrix |
| Annex III(b) | Development Benchmarks, Targets and Indicators |
| Annex IV | Joint Declaration regarding Countries which have Established a Customs Union with the European Union |
| Annex V | Trade and Sustainable Development |
| Annex VI | Joint Declaration of the European Union and the Republic of Kenya on the Economic and Development Cooperation under this Agreement |
| Protocol 1 | On Mutual Administrative Assistance in Customs Matters |
| Joint Statement 1 | Joint Statement on Rules of Origin by the European Union and the Republic of Kenya |
| Joint Statement 2 | Joint Statement on Trade and Sustainable Development by the European Union and the Republic of Kenya |

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Done at ... on ...

For the European Union

For the Republic of Kenya

Authentic texts

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and those texts being equally authentic.

The Irish language version shall be authenticated to the extent that the European Union and the Republic of Kenya have agreed.

ANNEX III(a)

EPA DEVELOPMENT MATRIX 11 SEPTEMBER 2015

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
Northern Corridor No. 1 (Mombasa-Malaba-Katuna)	Mombasa Port Development (MPDP)	Kenya	Burundi, Uganda, Rwanda and Tanzania	Feasibility Studies and detailed designs completed and phase 1 ongoing & phase 2 funding is available	1 375,00				885,00	690,00	5 years	Modernise infrastructure at the port to allow larger vessels to call at the port and enhance trade - It includes development of new container terminal berth No. 23 at a cost of USD 300 million. The conversion of conventional cargo berths 11 to 14 into container berths at a cost of USD 73 million. Relocation of Kipevu Oil terminal at USD 152 million. Development of Dongo Kundu Free Port at a cost of USD 300 million. Dredging of the Channel USD 60 million

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Voi Dry port	Kenya	Burundi, Uganda, Rwanda and Tanzania	Feasibility study done	104,00					81,12	4 years	To decongest Mombasa Port and regional transit point. 97 acres of land available.
	Container Ship Hub development	Tanzania/Zanzibar	Kenya, Uganda	Project study is already completed	212,00						5 years	Enabling easier transshipment and good link along EAC coast wise and in land container ports destination
	Development of Kisumu Port and other Lake Victoria Ports											
	Development of new transport corridor from Lamu to Ethiopia and South Sudan	Kenya	Kenya, Rwanda, Uganda, Tanzania and Burundi	Initiated	22 000,00			30,00	21 170,00		5 years	Development of the Port of Lamu, Road Network, 3 International Airports, Oil Refinery, Pipeline and 3 Resort Cities for an efficient rail transport linking Lamu Port to South Sudan and Ethiopia

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Widening of the port basin and Construction of a container terminal in Bujumbura Port	Burundi	Burundi, Tanzania & Rwanda	Feasibility studies completed	19,00	-	-	-	19,00	14,82		This project will allow Bujumbura Port Construction of Breakwater at Port Entrance and Rehabilitation of Oil Terminal
	Shipyards construction at Bujumbura port	Burundi	Kenya, Tanzania, Uganda, Rwanda	Ongoing Feasibility studies available (within Ports Master Plan)	7,00	-	-	-	7,00	5,46		Improvement of equipment handling, construction of a warehouse, enlargement of docks, construction of a new port authorities building. Cost to be determined. Renovation of the fleet, construction of new vessels, improving navigation safety.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of Bukasa Port and associated ships to connect with Mwanza Port in Tanzania	Uganda	Uganda & Tanzania	Feasibility study to be undertaken	300,00	-	-	-	300,00	234,00	5 years	Will enable the easy access and connection to Tanzania
	Establish Off Dock Container Depots in Mombasa and Dar Es Salaam	Rwanda	Rwanda, Burundi, Kenya, Uganda and Tanzania	Feasibility studies completed for both Mombasa and Dar. Land acquisition in Mombasa is in the final stage while the process has not started in Dar es Salaam.	34,00	-	WB and TMEA	-	34,00	26,52	7 years	GoR is implementing this project as part of the integrated logistics facilities project seeking to transform the Logistics chain from the ports to the hinterland; reduce costs and improve operations.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Development of a New Port at Mwambani Bay Tanga and the Musoma Railway	Tanzania	Tanzania, Uganda	The feasibility study was completed in November, 2012. Following unsuccessful international competitive tender procurement Under Design build Finance (DBF) on 27 January 2015 it has been decided that the project will be undertaken in two phases starting with detailed designs independent of construction works. ToR for design is expected to be advertised in August 2015	500,00	-	-	-	500,00	390,00	3 years	The railway project is part of the Tanga (Mwambani) – Arusha - Musoma - New Kampala Railway and Maritime project, which also has a maritime component of developing high capacity new ports at Mwambani - Tanga, Musoma and Kampala. The line will open Tanga Development Corridor to the International gateway and promote cross border trade with neighbouring countries. The railway line will be used to transport agriculture and forest products, soda ash, phosphates and other mineral products to the market centres. The project will also stimulate evacuation of a huge nickel deposit which has been discovered at Dutwa, some 100 km east of Mwanza and a huge soda ash deposit at /near Lake Natron.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construct oil pipeline from Kigali to Bujumbura	Burundi	Rwanda & Burundi	Not initiated	-	-	-	-	-	-		Feasibility studies and construction not yet initiated. Costs to be determined by the study. BAD accepted (USD 579 368) the financial support in the framework of the EAC
	Construction of parallel pipeline from Nairobi to Eldoret to increase the pumping capacity	Kenya	Kenya, Uganda, Rwanda and Burundi	Feasibility study completed	194,74	-	-	-	194,74	151,90	5 years	Installation of a 14-inch diameter oil pipeline from Nairobi to Eldoret
	Extension of the Kenya-Uganda Petroleum Pipeline (KUPPE)	Kenya	Kenya & Uganda	Design /procurement initiated	144,94	-	-	-	144,94	113,05	5 years	Construction of Eldoret - Malaba - Kampala oil pipeline to ensure safety and supply of oil products to Uganda, install a 10 inch diameter oil pipeline in the reverse implemented by both countries.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
Central Corridor No. 2 (Dar es Salaam-Dodoma-Isaka-Mutukula-Masaka)	Development of Kisarawe Freight Station (KFS)	Tanzania	Tanzania, Uganda, Rwanda and Burundi	TPA is in the process of acquiring 1 760 acres for project development. The Contract for carrying out Feasibility Study was signed on 17th September 2014 and the Consultant now is at Interim stage of the study and expected to complete the study by end of September, 2015.	120,00	-	-	-	120,00	93,60	5 years	The project will increase capacity of the port of Dar es Salaam to handle traffic for Tanzania and neighbouring countries of Burundi, Rwanda and Uganda.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of a standard gauge railway line from Dar es Salaam - Isaka - Kigali /Keza - Gitega - Musongati (1 670 km).	Tanzania, Burundi and Rwanda	Tanzania, Burundi and Rwanda	Feasibility Study on construction of a standard gauge railway from Isaka - Kigali /Keza - Gitega - Musongati was completed under AfDB financing (USD 2,80 milion). Feasibility study for upgrading to standard gauge of Dar-Isaka line was completed by BNSF under USTDA & BNSF joint financing (USD 0,9 milion). Detailed Engineering study for the whole railway line (Dar es Salaam-Isaka-Kigali/Keza-Gitega-Musongati) was finalised in November 2014 under AfDB financing (USD 8,9 milion) Project coordinated by a Secretariat chaired by Tanzania and Rwanda hosting the project secretariat.	5 580,00	-	-	-	5 580,00	4 352,40	8 years	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
				A Transaction Advisor (CPSC) was recruited to package the project into PPPs and assist in finance negotiations. An EoI was requested in July 2015.								
	Upgrading to bitumen standard of Mutukula-Kyaka- Bugene – Kasulo (277 km)	Tanzania	Tanzania, Burundi, Rwanda and Uganda		124,00	-	-	-	124,00	96,72	5 years	Funding is sought for 124 km only

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Upgrading to bitumen standard of Mutukula-Kyaka- Bugene – Kasulo (277 km)	Tanzania	Tanzania, Burundi, Rwanda and Uganda		124,00	-	-	-	124,00	96,72	5 years	Funding is sought for 124 km only

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Development of berths 13 & 14 at Dar es Salaam Port	Tanzania	Burundi, Rwanda and Uganda	A Transaction Advisor (CPSC) was recruited to package the project into PPPs and assist in finance negotiations. An EoI was requested in July 2015.	400,00	-	-	-	400,00	312,00	3 years	Estimate cost is for construction and equipment procurement
	Improvements to Mwanza South, Kigoma and Kasanga ports	Tanzania	Tanzania, Kenya, Uganda, Rwanda and Burundi	Feasibility study for Mwanza Port Modernisation started in August, 2014 by Consultant Royal Haskoning and will be completed in March, 2015. Modernisation works to start after completion of studies	400,00	-	-	-	400,00	312,00	5 years	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	<p>Upgrading of Mpanda – Uvinza – Kanyani (252 km)</p> <p>The road section is part of the Western Corridor namely: Tunduma – Sumbawanga – Mpanda – Kigoma – Nyakanazi (1 286 km). Economic activities along this corridor include agriculture, tourism, mining, timberworks, fishing and gold smithing. Section of Tz's major western corridor, opening up central-western Tanzania and connecting with EAC and COMESA regions. It is an important linkage to the TANZAM, at Tunduma and Central Corridors, at Nyakanazi.</p>	Tanzania	EAC-SADC-COMESA	<p>A total of 50 km from Mpanda-Mishamo (Mpanda-Usumbili section (35 km)) is under procurement for works under GOT funding. The missing link which requires financing is the Usumbili-Mishamo-Uvinza-Kanyani 267 km. Feasibility Study and Designs completed by the GoT.</p>	203.46	0	0	0	1,46	202	5 years	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Dar es Salaam Southern Bypass Expressway (85,5 km) - Link Dar Port with proposed Kisarawe Dry Port and Mlandizi	Tanzania	Tanzania, EAC, COMESA	Feasibility study and design are ongoing under GOT financing	200	0	0	0	200	156,00	5 years	Expressway will decongest the central transport corridor and increase efficiency of traffic throughput into and out of Dar city.
	Upgrading to bitumen standard of Handeni - Kiberashi - Singida Road (460 km)	Tanzania	Tanzania, Rwanda and Burundi	Feasibility study and design are on-going under the Government of Tanzania financing	460,00	-	-	-	460,00	358,80	5 years	
	Dar es Salaam Southern Bypass Expressway (85,5 km)	Tanzania	Tanzania, Burundi and Rwanda	Feasibility study and design are on-going under the Government of Tanzania financing	200,00	-	-	-	200,00	156,00	5 years	Expressway will decongest the central transport corridor and increase efficiency of traffic throughput into and out of Dar city.
	Construction of Rumonge port (Feasibility studies and construction)	Burundi	Burundi Tanzania	Not initiated Feasibility studies available	6,00	-	-	-	6,00	4,68	2011/12 -2014/16	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Rehabilitation of Kayanza- Rusumo road (92 km)	Rwanda	Rwanda and Tanzania	The Government of Rwanda is mobilising funds from JICA and AfDB.	75,45	-	0,45	-	75,00	58,50	3 years	The project appraisal by JICA was completed in July 2015
	Rehabilitation of Musanze - Cyanika Road (24 km)	Rwanda	Rwanda and Uganda	Detailed study was initiated in March 2015. It is due to be completed in November 2015	26,20	-	0,20	-	26,00	20,28	3 years	No funding for works yet available
	Upgrading of Ngoma - Ramiro - Nyanza (130 km in 2 lots). Link to Central Corridor	Rwanda	Rwanda and Tanzania	The detailed study was completed in January 2015	170,00	-	0,50	-	169,50	132,21	4 years	No funding for works yet available
	Construction of a ferry boat on Lake Tanganyika	Burundi	Burundi & Tanzania	Not initiated	12,00	-	-	-	12,00	9,36	2012 - 2016	No funding for works yet available
	Rehabilitation of the National road 6, Muyinga -Kobero	Burundi	Burundi-Tanzania		104,00	-	-	-	104,00	81,12		

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Rehabilitation and extension of the National road 12 Gitega- Karuzi- Muyinga -Tanzanie	Burundi	Burundi- Tanzania	Detailed design done	89,60	-	-	-	89,60	69,89		
	Rehabilitation of the National road 18, Nyakararo - Mwaro - Gitega	Burundi	Burundi- Tanzania	Detailed design done	44,80	-	-	-	44,80	34,94		No funding for works yet available for Mwaro-Gitega
	Rehabilitation of the National road 7, Bujumbura - Nyakararo	Burundi	Burundi- Tanzania	Detailed design done	60,00	-	-	-	60,00	46,80		
	Rehabilitation and extension of the National road 1, Bujumbura- Kayanza,- Kanyaru Haut	Burundi	Burundi- Rwanda	Detailed design done	138,00	-	-	-	138,00	107,64		
101	Construction works for the Provincial road	Burundi			49,20	-	-	-	49,20	38,38		

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Extension of the National road 6 to Kayanza	Burundi	Burundi-Rwanda	Detailed design done on the section from Kobero to Muyinga	156,00	-	-	-	156,00	121,68		
	Rehabilitation for the National road 2, Bujumbura- Gitega	Burundi	Burundi-Tanzania		52,00	-	-	-	52,00	40,56		
	Rehabilitation and construction works for the National roads 16 & 17 Gitega-Bururi-Makamba – 127 km)	Burundi	Burundi-Tanzania		145,20	-	-	-	145,20	113,26		
	Feasibility study and Construction of Ruyigi-Gisuru-Gahumo(Burundi - Tanzania) 80 km	Burundi	Burundi & Tanzania	Not initiated	70,00	-	-	-	70,00	54,60		Costs to be determined by the study

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of a standard gauge railway line from Dar es Salaam - Isaka - Kigali /Keza - Gitega - Musongati (1 670 km)	Tanzania, Burundi and Rwanda	Tanzania, Burundi and Rwanda	Feasibility Study on construction of a standard gauge railway from Isaka - Kigali /Keza - Gitega - Musongati was completed under AIDB financing (USD 2,80 million). Feasibility study for upgrading to standard gauge of Dar-Isaka line was completed by BNSF under USTDA & BNSF joint financing (USD 0,9 million). Detailed Engineering study for the whole railway line (Dar es Salaam - Isaka - Kigali/Keza-Gitega-Musongati) will be finalised in February 2013 under AIDB financing (USD 8,9 million) Project coordinated by a Secretariat chaired by Tanzania and Rwanda hosting the project secretariat.	5 580,00	-	-	-	5 580,00	4 352,40	8 years	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
				<p>Feasibility studies by DBI of Germany and BNSF of USA were finalised.</p> <p>Currently a detailed engineering study financed by the AfDB to the tune of USD 8,9 million is underway to package the project into PPPs and undertake pre-investment/feasibility study on the priority interventions.</p> <p>Draft report expected in December, 2012 and final report in February, 2013</p>								

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Railway project Mombasa-Kampala-Kigali Standard gauge railway	Rwanda	Rwanda, Uganda, Kenya and Burundi	The construction of Mombasa-Nairobi section has started in November 2013. This section is mainly financed by the Exim Bank of China and the construction is implemented by China Road and Bridge Corporation (CRBC);	13 800,00	-		6 500	7 300,00	5 694,00	2014-2019 (Institutional framework, financing and design: 2 years; Construction: 3 years.)	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
				-The feasibility study for the Nairobi-Malaba section is been carried out by China Communications Construction Company (CCCC), to be completed in September 2015; The Preliminary Engineering Design for Malaba-Kampala section has been completed in August 2014. In March 2015, the Government of Uganda and China Harbour Engineering Company (CHEC) has signed an agreement for the construction of that section, including the northern route to Gulu and Nimule;								

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
				<p>- Uganda and South Sudan have started implementing jointly the Preliminary Engineering Design for the Tororo-Nimule-Juba section.</p> <p>- Uganda and Rwanda have started implementing jointly the Preliminary Engineering Design for the Kampala-Kigali section and spurs, to be completed in October 2015.</p> <p>Process for finance mobilisation has been initiated in the 3 countries.</p>								

Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
Rehabilitation of Nyanguge-Magui-Musoma road (184,2 km)	Tanzania	Tanzania & Kenya	Rehabilitation has been completed for the Simiyu/Mara Boarder to Musoma section of 85,5 km. The missing link which needs financing is Nyanguge Simiyu/Mara boarder section (80 km). Feasibility Study was completed in June 2008 and detailed engineering design was completed in 2009 under EU financing	115,00	0,67	-	-	114,33	89,18	5 years	The project could be financed from the 10th EDF resources (RIP).

Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
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Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
Kidahwe – Kibondo – Nyakanazi Road (310 km)	Tanzania	Tanzania, Burundi and Rwanda	A total of 100 km (50 km from Nyakanazi towards Kasulu and 50 km from Kidahwe towards Kasulu) are under construction to bitumen standard through GOT funding. The missing length which has no financing commitment for construction is 250 km. Procurement of consultant to undertake update of the feasibility study and detailed design of Kasulu to Nyakanazi section (210 km) and Feasibility study of Kasulu Mugina (45 km) (Tanzania-Burundi border) IPPP Financing is on going under NEPAD-	255,00	-	-	-	255,00	198,90	5 years	

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of Malindi Lungalunga Bagamoyo Road. (503 km)	5 %	Kenya and Tanzania	Feasibility studies and detailed engineering designs completed.	571,00				571,00	445,38	5 years	Feasibility studies and detailed engineering designs fully funded by AfDB. As a priority it links to corridor No. 1 and LAPSET.
	Tanga - Moshi- Arusha - Musoma Railway Line	Tanzania	Tanzania, Uganda and Kenya	Feasibility study ongoing (Cost 2 billion Tanzania shillings)	1 903,00	-	-		1 903,00	1 484,34	2012-2017	The project entails strengthening, upgrading and construction of railway line from Tanga to Musoma with spur to Lake Natron at Mto wa Mbu. The rail will establish a link between Uganda and port of Tanga.
	Rehabilitation of the existing Voi-Taveta Railway 110 km	Kenya	Kenya, Tanzania	Feasibility study done	18,00							
	Upgrading of airport facilities at Karume Airport, Pemba	Tanzania/Zanzibar	Kenya, Tanzania, Uganda	Feasibility study ready	12,12							

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
Power Generation (Energy)	Rusizi IV hydro power plant study and construction (285 MW)	Rwanda	Rwanda and Burundi	Pre-feasibility study completed. Feasibility studies to be undertaken	500,00	-	-	-	500,00	390,00		Negotiations with developers of Rusizi III are ongoing.
	Construction of Rusizi III power plant 145 MW	Rwanda	Rwanda & Burundi	All studies already completed. Negotiations with the private developer ongoing	405,00	2,82	-	-	402,18	313,70	2015-2019	To be developed under the PPP.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Liquified Natural Gas Joint Plant (100 MW)	Rwanda	Rwanda and Kenya	Kenya floated a tender for 700 MW power plant including a Floating Storage and re-gasification unit to be located in Mombasa county.(to consult with Rwanda) GoR through Mininfra developed a concept paper for a 1 000 MW project, and had follow-up discussions with Kenya.	900,00	-	-	-	900,00	702,00	Given the complexity of the project, especially the LNG floating, storage and gasification facility, construction time is of 2-3 years (excluding finance mobilisation and procurement)	A full assessment of the technical feasibility of all aspects of the project from the port to the power station to the transmission network. A full assessment of the financial feasibility of the project based on capital costs and projections of demand and prices of LNG. An assessment as to whether this project should be undertaken publicly with each of the countries committing funding or privately with each country guaranteeing a portion of the payment required by the private operator.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of transmission line from Uganda to Kenya to increase power supply to the Kenya national grid (127 km, 220 kV) Lessos- Tororo interconnector	Kenya	Uganda - Kenya	Feasibility study completed, Preparatory work, design and bidding documents prepared.	56,00	-	-	-	56,00	43,68	5 years	The project is regional in nature and it will enhance supply of power within the region. Estimated capacity 200 MW.
	Construction of transmission line from Tanzania to Kenya to increase power supply to the Kenya national grid (100 km, 400 kV) double circuit line between Isinya & Namanga)	Kenya	Kenya- Tanzania	Feasibility study completed, Preparatory work, design and bidding documents prepared.	55,00	-	-	-	55,00	42,90	5 years	Estimated capacity 1 300 MW

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	Power Interconnection Tanzania - Zambia - Kenya (TZK) Project. Extension of 292 km section from Iringa - Mbeya, 670 km section from Iringa - Shinyanga and 414,4 km from Singida - Arusha of 400 kV transmission line from Zambia to Tanzania and Kenya.	Tanzania	Tanzania & Kenya	Feasibility studies completed (Mbeya - Iringa, Iringa - Shinyanga and Singida - Arusha); Implementation ongoing for Iringa - Shinyanga	911,23	-	470,00	-	441,29	344,21	4 years	Development Partners World Bank, JICA, EIB, EDCF are ready to finance Iringa - Shinyanga (USD 470 million); Consortium of Lenders (WB/IDA, AfDB, JICA and French Development Agency (AFD)) have shown interest to finance Singida - Arusha (USD 242,09 million) and Mbeya - Iringa (USD 199,2 million) finance is being sought.

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	Transmission Lines; 1) Olwiyo-Nimule – Juba 400 kV Live (190 km) 2) Nkenda- Mpondwe-Beni 200 kV line (70 km) 3) Masaka – Mwanza 200 kV line (85 km)	Uganda	Uganda and Tanzania	Feasibility Study to be undertaken	162,00	-	-	-	162,00	126,36	4 years	
ICT AND TELECOMMUNICATION	Cross border connectivity(line to the eastern Africa submarine Cable) (Feasibility studies and construction)	Rwanda	Kenya, Uganda, Rwanda, Burundi and Tanzania	Updated status Sept. 2014 Long term lease for 2,4 Gbps to be supplied to Rwanda was signed. This capacity is insufficient given Rwanda's needs.	32,00	-	-	-	32,00	24,96	3 years	There is an urgent need to establish a dedicated dark fibre ring linking all 5 capitals in the EAC region, this will reduce the costs of traffic as well as increase capacity flowing across the countries

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Establishment of ICT Parks in Kenya and Rwanda (Rwanda Technopol)	Kenya	Kenya & Rwanda	5 000 acres of Land acquired and fenced for the construction of the ICT Park, Konza Technology City Master Plan approved, Master Delivery Partner 1 procured,, Power connected to the site office, Thwake dam construction ongoing, 10 boreholes drilled, construction of sales pavilion on going, a 10 km radius buffer zone created, construction of access road ongoing and ground-breaking done.	11 765,00				11 765,00	9 176,70	12 years	International investor Conference held, ground breaking ceremony conducted with 14 international ICT related companies beginning construction such as IBM, Microsoft, Google, Safaricom and Local Banks, the Government plans to implement the project through a PPP arrangement

15	15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29	29

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
		Kenya & Rwanda	EAC	Updated status Sept. 2014 A Masterplan, business plan and high-level architectural design has been completed for a 61,3 Ha Technology park Next phase 1. development detailed architectural designs 2. Development of physical infrastructure for the technology park 3. The construction of the regional centre of excellence is set to begin before end of this year (for 22 months).	230,00	-	-	-	230,00	179,40	2014-2019	Due to the high cost of the Technology park to GOR, we have been compelled to consider a phased approach which will take more than 10 years to complete. Should funds be available, we will be in position to deliver a Technology park in half the time (reflected in the implementation timelines)

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Setting up Regional Internet Exchange Point (RIXP)	Rwanda	Rwanda, Burundi, Kenya, Uganda and Tanzania	Preliminary (Initiation) phase	15,00	-	-	-	15,00	11,70	2013-2015	NEW. It will create the enabling infrastructure & services to break the regional dependencies on international operators, keeping regional traffic in the region.
	Regional Education and Research Network project (REduNet)	Rwanda	Rwanda and Tanzania	Pilot project initiated in Rwanda and Tanzania	20,00	-	-	-	20,00	15,60	2013- 2015	In the region, there is limited R&D and lack of Institution capacity to innovate. The project will create a dedicated cost-effective and high performance data network connecting Research and HLI to reach others and to Global research and education resources via UbuntuNet and Internet.
	Construction of combined fertilizer plant	Kenya	Rwanda, Burundi, Kenya, Uganda and Tanzania	Feasibility study undertaken	3,20						5 years	Facilitate access to affordable and quality fertilizer

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
CAPACITY BUILDING AND INSTITUTIONAL FRAMEWORK	Strengthening the Capacity and Technology Transfer In Sanitary and Phytosanitary Issues in the EAC Partner States to conform with International Standards The funds will be used for training standards and quality assurance officers, participation in the work of Codex, OIE and IPPC ("the three sisters"), and implementation of both regional and international SPS standards including establishment of accredited laboratories, disease free zone.	EAC	EAC	Preliminary Study completed	60,25	-	0,25	-	60,00	46,80	5 years	FAO Biosecurity project under UN Joint Program which contributed USD 247 256.

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Construction of fish feeder roads around Lake Victoria	Kenya	Kenya, Uganda and Tanzania	On going	7,10	-	-	-	7,10	5,54	3 years	
	Establishment of Standards and Quality inspection border posts (Namanga, Sirari, Holili and Tunduma)	Tanzania	Tanzania and Kenya	Ongoing	13,00	-	-	-	13,00	10,14	4 years	Implementation of this project will help to eliminate or reduce to a great extent incidences of illegal fishing practices, and improve biodiversity, fish catches and fish supply thus increasing government revenue from fishing activities.
Lake victoria projects	Rehabilitation and expansion of Port Bell with associated ferries to Kisumu and Mwanza	Uganda	Uganda, Tanzania and Kenya	Feasibility Study yet to be undertaken	157,89	-	-	-	157,89	123,15	4 years	Amounts contributed by other donors to be ascertained. AIDB has shown interest

	Project Sub-component	Location	Geographical Coverage	Current Status	Total Estimated Cost (million USD)	EU	Other Donors	EAC PS	Gap to be financed (million USD)	Equivalent in Euros (USD 1 = EUR 0,78)	Implementation Period	Comments
	Development of fisheries marketing infrastructure	Kenya	Kenya, Rwanda, Uganda, Tanzania and Burundi	ongoing	46,60						5 years	To increase exports; reduce post harvest losses; and increase fish from capture and culture
	Combating illegal and unregulated fishing	Kenya	Kenya, Rwanda, Uganda, Tanzania and Burundi	ongoing	46,60						5 years	Strengthening the monitoring control and surveillance systems
	Improve water transport on L. Victoria	Uganda	Uganda, Tanzania and Kenya	Feasibility study is ongoing	100,00	-	-	-	100,00	78,00	5 years	The project involves procurement of Navigation Aids to replace dilapidated ones.
AGRICULTURE AND LIVESTOCK	Establishment of disease free zones	Kenya	Kenya, Rwanda, Uganda, Tanzania and Burundi		4.10						5 years	to facilitate access of animal products to local, regional and external markets within international standards
				Total	71 520,68	3,49	471,40	6 531,46	62 777,77	32 221,32		

DEVELOPMENT BENCHMARKS, TARGETS AND INDICATORS

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
1. INFRASTRUCTURE						
1.1. Energy	Improve the access of EAC Partner States to modern, reliable, diversified and renewable sources of energy at competitive prices in order to facilitate intra and inter regional trade.	Existing energy installed capacity (hydro, bagasse, thermal, geothermal and natural gas) around 3 597 MW, yet the projected capacity is 18 744 MW in 2030 and 21 173 MW in 2033. Lack of a regional grid network linking all EAC Partner States	Production increased by 1 613 MW (40 % of the total expected production) Two high tension interconnection lines built and operational in the EAC region	Production increased by 3 225 MW (40 % of the total expected production) Four high tension interconnection lines built and operational in the EAC region Upgrade the built up infrastructure capacity Improved access to private sector units to at least 75 % Improved reliability of power supply to 95 %	Production increased by 6 773 MW (40 % of the total expected production: 21 173 MW) All the national power networks of EAC Partner States interconnected Improved access to private sector units to 100 % Improved reliability of power supply to 99 %	% change in amount of electricity generated in megawatts Reduction in cost of electricity Reduction in reliance on fossil fuel energy Number of new cross border interconnections the regional grid is fully operational % of new connections to private sector % of increased reliability of power supply

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
1.2. Transport	To improve national and regional interconnectivity in order to facilitate deepening of regional economic integration and improve the movement of people and goods.	The regional network comprises: about 178 737 km of roads, of which about 22 347 km are paved and 156 390 km are unpaved (2011)	Energy policies, legal and regulatory frameworks harmonised and attractive to investors	Partnership, linkages and joint ventures created Enhanced investment in R&D	Partnership, linkages and joint ventures developed Technology developed and transferred	Number of harmonised legal and regulatory policies Number of new credible investments (including PPP agreements) New technologies acquired Increased management capacity of energy nationally and regionally Increased reliability of power supply.
			Institutional, technical and administrative capacities of energy related institutions strengthened	Supply and Reliability of power improved	Stabilised power supply	% increase in the volume of intra and inter regional trade Reduction in transportation costs % increase of intra and inter regional traffic (road, railway, air and water) Reduction in turnaround times Kms of missing regional links built and regional corridors improved and maintained
			State of inter-modal infrastructure systems developed and improved:	State of inter-modal infrastructure systems developed and improved:	State of inter-modal infrastructure systems developed and improved:	
			4 % (600 km) reduction in the length of unpaved (gravel) roads in the East African Road Network	A 15 % (2 220 km) reduction in the length of unpaved (gravel) roads in the East African Road Network	A 22 % (3 240 km) reduction in the length of unpaved (gravel) roads in the East African Road Network	

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
		No standard gauge railway in the region. The EAC region comprises about 8 100 km of meter gauge rail out of which about 6 000 km is active. 5 major sea ports and several inland ports 11 international airports	2 new railway standard gauge links developed	3 new railway standard gauge links developed and 2 operational	4 new railway standard gauge links developed and 5 operational	
		3 priority ports are developed, expanded and/or modernised 3 priority airports are developed, expanded and/or modernised Regional transport policies and regulatory frameworks developed Institutional, technical and administrative capacities of transport related institutions strengthened	4 priority ports are developed, expanded and/or modernised 3 priority airports are developed, expanded and/or modernised Partnerships, linkages and joint ventures developed between economic operators	5 priority ports are developed, expanded and/or modernised 5 priority airports are developed, expanded and/or modernised Improved safety and reliability of the transport sector	Number of harbours developed, expanded and/or modernised Number of airports developed, expanded and/or modernised Number of new credible investments (including PPP agreements)	
					Improved movement of human and vehicular traffic (including flow of goods)	

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
1.3. Information & Communication Technology (ICT)	To develop and modernise ICT infrastructure in order to facilitate intra and inter regional trade and service delivery	All EAC Partner States are connected through fibre optic. However, ICT is expensive and only about 13 % of the population have access to internet and about 50 % of the population are mobile phone subscribers.	Seamless cross border ICT infrastructure developed 20 % of the population have access to internet and about 60 % of the population are mobile phone subscribers. Capacity building in human resources, improvement in service standards and institutional structures Legal and regulatory frameworks on ICT developed and harmonised	80 % of the business community is connected to high speed links 40 % of the population have access to internet and about 75 % of the population are mobile phone subscribers. Partnership linkages and joint ventures between economic operators developed Technology development, transfer and applications, R&D, innovation	Secured transactions and services (e.g. e-services, e-commerce, e-government, e-health) Internet access tariffs reduced by 60 % 60 % of the population have access to internet and about 90 % of the population are mobile phone subscribers.	Number of seamless cross border ICT infrastructure developed % increase in bandwidth % cost reduction for internet access % increase of business transactions online % of increase of telephone and mobile phone subscribers and internet users Number of new credible investments (including PPP agreements) % increase in number of ICT specialists

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
2. AGRICULTURE AND LIVESTOCK						
	To improve production and productivity	(To improve production and productivity of major crops (coffee, tea, and sugarcane) from 10,95 million tonnes	Increased production and productivity of crops and livestock by 15 %	Increased production and productivity of crops and livestock by 25 %	Increased production and productivity of crops and livestock by 30 %	Increased Regional food security Increased volume of agricultural exports % increase of agricultural production in the region Removal of NTBs in EAC
	To improve and develop agro-industry (value addition)	To increase production and productivity of livestock (cattle, sheep, goats, pigs, poultry) from 56,6 million, 32,3 million, 61,9 million, 7,9 million and 143 million respectively The % of value added exports is currently less than 10 %	Increased production and productivity of livestock (cattle by 10 %, sheep by 25 %, goats by 4 %, pigs by 20 %, poultry by 10 % The % of value added exports is increased to at least 20 %	Increased production and productivity of livestock (cattle by 15 %, sheep by 30 %, goats by 10 %, pigs by 25 %, poultry by 15 % The % of value added exports is increased to at least 50 %	Increased production and productivity of livestock (cattle by 20 %, sheep by 35 %, goats by 15 %, pigs by 30 %, poultry by 20 % The % of value added exports is increased to at least 75 %	Increased regional food security % increase of livestock production in the region Increased volume of livestock exports % increase of value addition of primary products traded to total exports Number of modern and competitive agro-based industries established

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
	To improve trade and market access for agricultural commodities	Presently intra-regional trade share in total regional market is about 10 % for most traded products	Increased intra-regional trade share to 30 % Enhanced development of financial markets to support agricultural insurance and finance by 30 % Established and coordinated regional marketing-information system	Increased intra-regional trade share to 50 % Enhanced development of financial markets to support agricultural insurance and finance by 50 % Improved marketing information system coverage to 20 %	Increased intra-regional trade share to 80 % Enhanced development of financial markets to support agricultural insurance and finance by 80 % Improved marketing information system coverage to 100 % Investment in Research and Development.	% increased agricultural exports contribution to GDP Number of financial institutions and insurance schemes established. Number of investment in agriculture insured. Regional agricultural marketing and information system in place Harmonisation of agricultural standards in EAC Quality assurance, grades and certification.
	To improve and develop agricultural infrastructure	Inadequate market infrastructure	Establishing new market infrastructure and upgrading existing ones to modern facilities by 20 %	Upgrading market infrastructure to modern facilities by 40 %	Upgrading market infrastructure to modern facilities by 100 %	Number of constructed and rehabilitated market facilities for agricultural products. Established and upgraded market infrastructure % Increase in volume and value of intra EAC trade using the established infrastructure

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
3. FISHERIES						
	To promote and develop regional and international trade on fish and fish products	The fish industry is underdeveloped. The ratio of value added of fisheries to GDP is 1,3 %	The ratio of value added of fisheries to GDP is increased to 4 % Quantity of fish and fishery products marketed increased by 30 %	The ratio of value added of fisheries to GDP is increased to 6 % Quantity of fish and fishery products marketed increased by 60 %	The ratio of value added of fisheries to GDP is increased to 13 % Quantity of fish and fishery products marketed increased by 85 %	% share increase of value added of fisheries to GDP % increase of quantity of fish and fisheries products produced and marketed increase in number of fish distribution outlets established increase in number of secured markets.
	Develop, upgrade and modernise fisheries and aquaculture infrastructure	Inadequate modern fisheries infrastructure	Existing fishing, fish handling and processing infrastructure upgraded and modernised	New modern fisheries infrastructure established and equipped: 3 fishing harbours 15 new boatyards 200 fish landing sites, 30 new fish markets, 15 fish processing industries and 300 cold chain facilities Volume of inland water bodies and deep sea fishing increased by 40 %	Volume of inland water bodies and deep sea fishing increased by 60 %; 5 new fishing harbours 25 new boatyards 400 fish landing sites 60 new fish markets 40 fish processing industries 500 cold chain facilities	Number of existing fish handling and processing infrastructure upgraded and modernised Number of new fishing harbours established Number of new landing sites established Increase in number of inland water bodies and deep sea fishing licences increase in number of cold chain facilities Increase in number and type of diversified value added fish and fishery products Number of modern fishing vessels acquired

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
	To ensure effective fisheries resources management, protection and conservation	Inadequate modern aquaculture infrastructure Limited data on fish stock potential and fisheries information.	Upgrade and modernise existing aqua farms, hatcheries and breeding centres so as to increase aquaculture production by 10 % Adoption of appropriate aquaculture technologies	Modernise aqua farms, hatcheries and breeding centres so as to increase aquaculture production by 20 %	Aquaculture production increased by 30 % of fisheries production	No. of new aqua farms constructed No. of new hatcheries and breeding centres constructed No. of existing aqua farms, hatcheries and breeding centres upgraded and modernised Appropriate aquaculture technologies adopted and developed
			Policy, legal and regulatory frame work on fisheries information sharing developed	Acquisition of facilities for data collection, processing & dissemination	Creation of a reliable, operational and comprehensive fisheries database and information management system	Functional FIS in place; Fisheries database established and operational Number and type of equipment procured; Number of publications produced and disseminated
		Fish stock potential in inshore waters and major lakes determined.	Fish stock potential in territorial and EEZ waters determined	Fish stock potential in marine and inland water bodies determined.		Number of water bodies with known fish stock potential

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
4. WATER RESOURCES MANAGEMENT 4.1. Water Resources	<p>To develop sustainable use and management of water resources in the region</p> <p>To develop water supply infrastructure for irrigation and other productive purposes</p> <p>To promote regional cooperation for the sustainable utilisation of trans-boundary water resources</p>	Existence information on illegal fishing practices and trade	Establishment of Monitoring, Control and Surveillance (MCS) system in the region	Operationalise regional MCS systems	Protection and conservation of critical habitats and aquatic biodiversity	<p>% decrease in illegal fishing & trade practices</p> <p>Number of critical habitats improved;</p> <p>Number. & type endangered and threatened fish species conserved</p> <p>Number and type of MCS equipment procured</p> <p>Improved aquatic biodiversity</p>
		<p>The use of water for agriculture production in the EAC is low</p> <p>Water supply infrastructure for irrigation purpose in the EAC region is low</p> <p>EAC regional cooperation on the utilisation of common water resources in place</p>	<p>Policy, legal and regulatory framework developed</p> <p>Water supply infrastructure feasibility studies, design and procurement undertaken.</p> <p>Review of policy, legal and regulatory framework</p>	<p>Capacity building undertaken institution framework developed.</p> <p>at least 5 water supply schemes constructed and operationalised</p> <p>Undertake capacity building on institution framework</p>	<p>Sustainable use and management of water resources enforced</p> <p>at least 10 water supply schemes constructed and operationalised</p> <p>Operationalised policies</p>	<p>Policy, legal, regulations and institutional framework in place.</p> <p>number of feasibility studies undertaken</p> <p>Number of water supply plants constructed and operationalised</p> <p>Policy, legal, regulations and institutional framework in place and operational.</p>

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
5. PRIVATE SECTOR DEVELOPMENT	To enhance private sector development, investment, supply capacities and competitiveness	EAC Private Sector Development Strategy	Relevant reforms in the institutional, policies, legal and regulatory frameworks made;	Increased MSMEs (%) integrated into the mainstream business activities;	Increased (%) number of EAC firms exporting products made in the EAC region to the EU market	EAC Investment Code operational.
		EAC Investment Code Model	Capacity for institutional support for private sector development and investment promotion built	New industries introduced and existing ones transformed	Increased FDI flows.	enhanced investment promotion and enterprise development
		Regional Competition Policy	Framework for creating and strengthening partnerships, joint ventures, sub-contracting, outsourcing and linkages created.	EAC Private Sector access to resources from EC financing institutions such as the EIB, CDE and CTA enhanced	Increased export volumes and earnings	Increased supply capacities, competitiveness, diversification and value addition
						Public-Private Partnership policy and regulatory framework % increase in FDI and % increase in partnerships attained

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
			<p>Establish appropriate administrative structures, including one-stop shops to support investments; EAC Public-Private Partnership Framework established</p>	<p>Access to affordable credit at lower interest rates</p>		<p>% increase in annual export earnings % increase in investment and business financing sourced from EU financial institutions Special funds created and accessed by the private sector to finance investment projects % increase in EU investments in the EAC; % increase in firm capacity utilisation; % increase in EAC exports to the EU market</p>
6. MARKET ACCESS ISSUES						
6.1. SPS,TBT	Develop capacity for compliance with trade related agreements	EAC SPS Protocol concluded	<p>EAC SPS Protocol and measures domesticated by all the EAC Partner States. Agricultural product identification, registration and traceability systems established Increased share of EAC intra-regional trade to 30 %</p>	<p>EAC SPS Protocol operationalised Increased share of EAC intra-regional trade to 50 %</p>	<p>Establishment of SPS centres of excellence for Food safety, animal & plant health Increased share of EAC intra regional trade to 80 %</p>	<p>% increase in Animal, Plant and Food safety through effective alert systems % increase in share of EAC intra-regional trade</p>

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
		1500 EAC standards benchmarked to international level harmonised out of 2500	1000 standards harmonised EAC participation in standards-setting bodies Develop EAC Technical Regulations regime Joint TBT monitoring committees established within 2 years of implementation of EPA Capacity building in TBT and SPS soft and hard infrastructure including: traceability, inspection, accreditation, risk analysis, standards and certification Harmonisation and notification of EAC Technical Regulations Information exchange	Adoption of International Standards System and product Certification Technology transfer	Accredited conformity assessment institutions	number of technical barriers reduced Mutual recognition tests and Certificates. Increased information disclosures in EAC Portal

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
6.2. Customs and Trade Facilitation	Harmonisation & implementation of customs legislation & procedures	EAC Customs Management Act in place All EAC PartnerStates are WCO members	Capacity building in customs soft infrastructure, systems and processes undertaken Decreased turn –around period for ships from 11-14 days in 2011 to 6 days in 2017 Average dwell time of loaded import container decreased to 4 days	Customs procedures and processes harmonised One stop border posts established Decreased turn –around period for ships to 3 days Average dwell time of loaded import container decreased to 2 days	turn-around time at border entry points shortened to 1 day. Average dwell time of loaded import container decreased to 1 day	Increase in number of Load/offload of containers per hour Reduce ship turn around time customs legislation & procedures fully harmonised and implemented

Area of Cooperation	Goals	Baseline (2013)	Targets			Performance indicators
			Short Term (3 years)	Medium Term (5 years)	Long Term (2033)	
7. EPA ADJUSTMENT COST						
7.1. EPA adjustment Measures	To address actual and potential EPA adjustment challenges resulting from the implementation of the EPA	EPA adjustment fund not established	EPA Adjustment fund established to cover transitionally the potential losses of government revenue arising from elimination and or substantial reduction in customs tariffs.	Assessment study on the potential losses of government revenues undertaken Agreed losses compensated Assessment for compensation for NFIC undertaken Assessment of compensation for loss of export earnings in the EAC undertaken	Enhanced capacity for macro-economic stability.	Amount of adjustment funds disbursed to cover losses of government revenues Compliance with macro-economic indicators of over 7 % GDP growth, sustainable budget deficit and inflation rates
7.2. Resource mobilisation	To mobilise jointly and individually funding for regional integration and the EPA development strategies	EDF, EU Member States, other development Partners, Private sector, and EAC Partner States contributions	EPA Fund established. Funds jointly and individually mobilised Feasibility studies conducted	EAC EPA Development projects (contained in the EPA Development Matrix) funded and implemented	Trade related infrastructure developed	Amount of financial resources committed by EAC Partner States, EU, other development Partners, and the private sector. Amount of resources utilised Number of projects and programmes implemented

Table of abbreviations used in Annex III(a) and III(b)

Abbreviation	
WB	World Bank
TMEA	TradeMark East Africa
GoR	Government of Rwanda
ToR	Terms of Reference
BAD	Banque Africaine de Développement (same as AfDB)
AfDB	African Development Bank
BNSF	BNSF Railway (formerly Burlington Northern and Santa Fe Railway)
USTDA	US Trade and Development Agency
CPSC	CPCS - Canadian Pacific Consulting Services
EoI	Expression of interest
Tz	Tanzania
GOT/GoT	Government of Tanzania
JICA	Japan International Cooperation Agency
NEPAD-IPPF	New Partnership for Africa's Development – Infrastructure Project Preparation Facility
CDE	Centre for the Development of Enterprise
CTA	Technical Centre for Agricultural and Rural Cooperation
NFIC	Net Food Importing Countries
TPA	Tanzania Ports Authority
HLI	High Learning Institutions

JOINT DECLARATION
REGARDING COUNTRIES WHICH HAVE ESTABLISHED
A CUSTOMS UNION WITH THE EUROPEAN UNION

The EU recalls the obligations of those States that have established a customs union with the EU to align their trade regime to that of the EU and, for certain of them, to conclude preferential agreements with those countries having preferential agreements with the EU.

In this context, the Parties note that the EAC Partner State(s) shall start negotiations with a view to concluding a bilateral agreement establishing a free trade area in accordance with Article XXIV of the GATT with States that:

- (a) have established a customs union with the EU; and
- (b) whose products do not benefit from the tariff concessions under this Agreement.

The EAC Partner State(s) agree to negotiate this in the future.

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 1

Context and Objectives

1. The Parties recall Agenda 21 and the Rio Declaration on Environment and Development adopted at the United Nations (UN) Conference on Environment and Development, held in Rio de Janeiro from 3 to 14 June 1992, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development held in Johannesburg from 26 August to 4 September 2002, the ILO Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference at its 97th Session, held in Geneva on 10 June 2008, (ILO Declaration on Social and Justice for a Fair Globalization), the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want" endorsed by UN General Assembly Resolution 66/288 adopted on 27 July 2012, the Outcome Document entitled "Transforming our world: the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals" (2030 Agenda) endorsed by UN General Assembly Resolution 70/1 adopted on 25 September 2015, and the ILO Centenary Declaration for the Future of Work, adopted by the International Labour Conference at its 108th Session held in Geneva on 21 June 2019.
2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing and affirm their commitment to promote the development of international trade and investment in a way that contributes to the objective of sustainable development.

3. The Parties recognise the urgent need to address climate change, as outlined by the Intergovernmental Panel on Climate Change (IPCC) in its special report entitled "Global Warming of 1.5°C", as a contribution to the economic, social and environmental objectives of sustainable development.
4. In light of the above, the objective of this Annex is to enhance the integration of sustainable development, notably its labour¹ and environmental dimensions, in the Parties' trade and investment relationship, including through strengthening dialogue and cooperation.

ARTICLE 2

Right to Regulate and Levels of Protection

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental and labour protection it deems appropriate and to adopt or modify its relevant law and policies. Such levels, law and policies shall be consistent with each Party's commitment to the internationally recognised standards and agreements referred to in this Annex.
2. Each Party shall strive to ensure that its relevant law and policies provide for, and encourage, high levels of environmental and labour protection, and shall strive to improve such levels, law and policies.

¹ For the purposes of this Annex, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO Declaration on Social Justice for a Fair Globalization.

3. A Party shall not weaken or reduce the levels of protection afforded in its environmental or labour law with the intention to encourage trade or investment.
4. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental or labour law with the intention to encourage trade or investment.
5. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour law with the intention to encourage trade or investment.
6. The Parties recognise each other's developmental policies and priorities with respect to their trade and investment aspirations in accordance with the Special and Differential Treatment provisions under the WTO Agreement and consistent with each Party's commitments to the internationally recognised standards and agreements under this Annex.

ARTICLE 3

Multilateral Labour Standards and Agreements

1. The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, as expressed in the ILO Declaration on Social Justice for a Fair Globalization.

2. In accordance with the ILO Constitution, adopted as Part XIII of the Treaty of Versailles, signed on 28 June 1919, and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in Geneva on 18 June 1998 (ILO Declaration on Fundamental Principles and Rights at Work), as amended at its 110th Session in 2022, each Party shall respect, promote and realise the principles concerning the fundamental rights at work, as defined in the fundamental ILO Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour¹;
- (c) the effective abolition of child labour;
- (d) the elimination of discrimination in respect of employment and occupation; and
- (e) a safe and healthy working environment.

3. Each Party shall make continued and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so.

4. The Parties shall periodically exchange information on their respective situations and advances with regard to the ratification of ILO Conventions or protocols classified as up-to-date by the ILO.

¹ In this context, the Parties underline the importance of the ratification of the Protocol of 2014 to the Forced Labour Convention, adopted by the General Conference of the ILO at its 103rd ILC session in Geneva on 11 June 2014.

5. Each Party shall effectively implement the respective ILO Conventions that the EAC Partner State(s) and the EU Member States have ratified.
6. Recalling the ILO Declaration on Social Justice for a Fair Globalization, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.
7. Each Party shall promote through its law and practices the ILO Decent Work Agenda as set out in the ILO Declaration on Social Justice for a Fair Globalization, in particular with regard to:
 - (a) decent working conditions for all with regard to *inter alia* wages and earnings, working hours, enhancing social security, other conditions of work and social protection;
 - (b) social dialogue on labour matters among workers and employers and their respective organizations, and with relevant government authorities.
8. Consistent with its commitments under the ILO, each Party shall:
 - (a) adopt and implement measures and policies regarding terms and conditions of employment, and occupational health and safety, including compensation in cases of occupational injury or illness;

- (b) maintain an effective labour inspection system.
9. The Parties shall work together to strengthen their cooperation on trade-related aspects of labour policies and measures, bilaterally, regionally and in international fora as appropriate, including within the ILO. Such cooperation may cover *inter alia*:
- (a) the implementation of fundamental, priority and other up-to-date ILO Conventions;
 - (b) decent work, including the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;
 - (c) the impact of labour law and standards on trade and investment and the impact of trade and investment law on labour.
10. The Parties shall give due consideration as appropriate, to the views provided by representatives of workers, employers and civil society organisations when identifying areas of cooperation and when carrying out cooperative activities.

ARTICLE 4

Trade and Gender Equality

1. The Parties recognise that inclusive trade policies contribute to advancing women's economic empowerment and gender equality, in line with Sustainable Development Goal 5 of the 2030 Agenda and the objectives of the Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference held in Buenos Aires in December 2017. The Parties acknowledge the important contribution by women to economic growth through their participation in economic activity, including international trade. The Parties commit to implement the provisions of this Agreement in a manner that promotes and enhances gender equality.
2. The Parties aim to strengthen their trade relations and cooperation in ways that effectively provide equal opportunities and treatment for women and men to benefit from the provisions of this Agreement, including in matters of employment and occupation, in accordance with their international commitments.
3. Each Party shall effectively implement its obligations under international agreements addressing gender equality and women's rights to which it is a party, including the Convention on the Elimination of all Forms of Discrimination Against Women, adopted by the UN General Assembly on 18 December 1979, noting in particular its provisions related to eliminating discrimination against women in economic life and in the field of employment. In this respect, the Parties reiterate their respective commitments pursuant to Article 3 of this Annex including regarding the effective implementation of the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.

4. Each Party shall strive to ensure that its relevant law and policies provide for, and encourage, equal rights, treatment and opportunities between men and women. Each Party shall strive to improve such law and policies, without prejudice to the right of each Party to establish its own scope and levels of protection for equal opportunities for men and women. Such law and policies shall be consistent with each Party's commitments to the internationally recognised standards and agreements referred to in this Article.
5. The Parties reiterate their commitments pursuant to Article 2 of this Annex in relation to their respective law aimed at ensuring gender equality or equal opportunities for women and men.
6. The Parties shall work together bilaterally or in other relevant fora as appropriate to strengthen their cooperation on trade-related aspects of gender equality policies and measures, including activities designed to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and benefit from the opportunities created by this Agreement. Such cooperation may cover *inter alia* exchange of information and best practices related to the collection of sex-disaggregated data and gender-based analysis of trade policies.
7. The Parties agree on the importance of monitoring and assessing, in accordance with their domestic procedures, the impact of the implementation of this Agreement on gender equality and equal opportunities provided for women in relation to trade.

ARTICLE 5

Multilateral Environmental Governance and Agreements

1. The Parties recognise the importance of international environmental governance, in particular the role of the UN Environment Assembly (UNEA) of the UN Environment Programme (UNEP), as well as multilateral environmental agreements (MEAs) as a response of the international community to global or regional environmental challenges and stress the need to enhance mutual supportiveness between trade and environment policies, rules and measures.
2. In light of paragraph 1, each Party shall effectively implement the MEAs, protocols and amendments that it has ratified.
3. The Parties shall periodically exchange information on their respective situations as regards the ratification of MEAs, including their protocols and amendments.
4. The Parties affirm the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is a party. The Parties recall that measures adopted or enforced to implement such MEAs may be justified pursuant to Part VIII of this Agreement.

5. The Parties shall work together to strengthen their cooperation on trade-related aspects of environmental policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the UN High-level Political Forum for Sustainable Development, the UNEP, the UNEA, MEAs, and the WTO. Such cooperation may cover *inter alia*:

(a) policies and measures promoting the mutual supportiveness of trade and environment including:

- sharing information on policies and practices and promoting initiatives to encourage the shift to a circular economy;
- promoting initiatives on sustainable production and consumption, green growth and pollution abatement;
- exchanging information on policies and practices, and promoting common positions, in the framework of MEAs;

(b) initiatives to encourage trade and investment in environmental goods and services, including by addressing related tariff and non-tariff barriers;

(c) the impact of environmental law and standards on trade and investment, or the impact of trade and investment law on the environment;

(d) other trade related aspects of MEAs, including their protocols, amendments and implementation.

6. The Parties will give due consideration, as appropriate, to the views or input from the relevant public and interested stakeholders for the definition and implementation of their cooperation activities, and they may involve such stakeholders further in those activities, as appropriate.

ARTICLE 6

Trade and Climate Change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade in pursuing this objective, consistent with the UN Framework Convention on Climate Change done at New York on 9 May 1992 (UNFCCC), the Paris Agreement under the UNFCCC, done at Paris on 12 December 2015 (Paris Agreement), and with other MEAs and multilateral instruments in the area of climate change.
2. In light of paragraph 1, each Party shall effectively implement the UNFCCC and the Paris Agreement.
3. The commitment to effectively implement the Paris Agreement pursuant to paragraph 2 includes the obligation to refrain from any action or omission which materially defeats the object and purpose of the Paris Agreement.
4. A Party may take appropriate measures relating to this Agreement in the event of a violation of the obligation under paragraph 3. Appropriate measures shall be taken in accordance with the procedure set out in Article 96 of the Cotonou Agreement or the corresponding provisions of its successor agreement, as provided by Article 136.3 of this Agreement.

5. In light of paragraph 1, each Party shall:

- (a) promote the mutual supportiveness of trade and climate policies and measures thereby contributing to the transition to a low-greenhouse-gas-emission, resource-efficient and circular economy, and to climate-resilient development;
- (b) facilitate the removal of obstacles to trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy and energy-efficient products and services.

6. The Parties shall work together to strengthen their cooperation on trade-related aspects of climate change policies and measures bilaterally, regionally and in international fora, as appropriate, including under the UNFCCC, the Paris Agreement, the Montreal Protocol on Substances that Deplete the Ozone Layer concluded at Montreal on 16 September 1987 (Montreal Protocol) and in the WTO and International Maritime Organisation (IMO). Such cooperation may cover *inter alia*:

- (a) policy dialogue and cooperation regarding the implementation of the Paris Agreement, such as on means to promote climate resilience, renewable energy, low-carbon technologies, energy efficiency, preparation and adoption of carbon pricing action including emission trading systems, sustainable transport, sustainable and climate-resilient infrastructure development and emissions monitoring;
- (b) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures of the IMO to be implemented by ships engaged in international trade;

- (c) supporting an ambitious phase-out of ozone depleting substances (ODS) and phase-down of hydrofluorocarbons (HFCs) under the Montreal Protocol through measures to control their production, consumption and trade, the introduction of environmentally friendly alternatives to ODS and HFCs, and the updating of safety and other relevant standards, as well as by combatting the illegal trade of substances regulated by the Montreal Protocol.

ARTICLE 7

Trade and Biological Diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, consistent with relevant MEAs to which they are a party, including the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992 (CBD) and its protocols, the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington, D.C. on 3 March 1973 (CITES), and the decisions adopted thereunder.
2. In light of paragraph 1, each Party shall:
 - (a) implement effective measures to combat illegal wildlife trade, including with respect to third countries as appropriate;

- (b) promote the long-term conservation and sustainable use of CITES-listed species and the inclusion of animal and plant species in the Appendices to the CITES where the conservation status of that species is considered at risk because of international trade, as well as conduct periodic reviews, which may result in a recommendation to amend the Appendices to the CITES, in order to ensure that they properly reflect the conservation needs of species threatened by international trade;
 - (c) promote trade in products derived from a sustainable use of biological resources in order to contribute to the conservation of biodiversity;
 - (d) promote the fair and equitable sharing of the benefits arising from the utilisation of genetic resources and traditional knowledge associated with genetic resources, in accordance with the Nagoya Protocol to the CBD done at Nagoya on 29 October 2010 (Nagoya Protocol);
 - (e) take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular to prevent the spread of zoonosis and invasive alien species.
3. The Parties shall work together to strengthen their cooperation on trade-related aspects of biodiversity policies and measures bilaterally, regionally and in international fora, as appropriate, including under the CBD and CITES. Such cooperation may cover *inter alia*:
- (a) initiatives and good practices concerning trade in products and services derived from the sustainable use of biological resources with the aim of conserving biological diversity;

- (b) responsible trade and the conservation and sustainable use of biological diversity, including the development and application of natural capital and ecosystem accounting methods, the valuation of ecosystems and their services and related economic instruments, and the mainstreaming of biodiversity in trade and trade processes;
- (c) combatting illegal wildlife trade, including through initiatives to reduce demand for illegal wildlife products and initiatives to enhance information sharing and cooperation, law enforcement, voluntary technological transfer, exchange programmes and capacity building;
- (d) access to genetic resources as well as the fair and equitable sharing of benefits from their utilisation consistent with the Nagoya Protocol.

ARTICLE 8

Trade and Forests

1. The Parties recognise the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations and the role of trade in pursuing this objective.
2. In light of paragraph 1, each Party shall:
 - (a) implement measures to combat illegal logging and related trade, including with respect to third countries as appropriate and promote trade in legally harvested forest products;

- (b) promote the conservation and sustainable management of forests and trade and consumption of timber and timber products harvested in accordance with the law of the country of harvest and from sustainably managed forests;
 - (c) exchange information with the other Party on trade-related initiatives regarding sustainable forest management, forest conservation, forest governance, initiatives designed to combat illegal logging, and other relevant policies of mutual interest and cooperate to maximise the impact and mutual supportiveness of their respective policies of mutual interest.
3. Recognising that deforestation is a major driver of global warming and biodiversity loss, the Parties shall exchange knowledge and experience on ways to encourage the consumption and trade in products from deforestation-free supply chains, minimising the risk that products associated with deforestation or forest degradation are being placed on their markets.
4. The Parties shall work together to strengthen their cooperation on trade-related aspects of sustainable forest management, improving forest conservation, minimising all forms of deforestation and forest degradation, improving traceability and chain of custody of forest products, promoting initiatives to enhance information sharing, fighting illegal logging and strengthening the role of forests in climate change mitigation, in the fight against biodiversity loss and in the circular economy and bioeconomy, bilaterally, regionally and in international fora as appropriate.

ARTICLE 9

Trade and Sustainable Management of Marine Biological Resources and Aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives.
2. The Parties acknowledge that illegal, unreported and unregulated (IUU) fishing undermines sustainable conservation and management of fish stocks, has a negative impact on the livelihoods of fishing communities and those trading in fish and fishery products. This confirms the need for action to combat and end IUU fishing and to address the problems of overfishing and unsustainable utilisation of fisheries resources.
3. In light of paragraphs 1 and 2, each Party shall:
 - (a) implement long-term conservation and management measures and sustainable use of marine living resources as defined in the UN Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement) done at New York on 4 August 1995, and the Food and Agriculture Organization of the UN (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas done at Rome on 24 November 1993 (Compliance Agreement), and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing done at Rome on 22 November 2009 (PSMA);

- (b) act consistently with the principles of UNCLOS, the Fish Stocks Agreement, the Compliance Agreement, the FAO Code of Conduct for Responsible Fisheries, adopted by Resolution 4/95 of 31 October 1995, and the PSMA, and participate, as appropriate, in the FAO initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels;
- (c) participate actively in the work of the Regional Fisheries Management Organisations (RFMOs) to which they are members, observers or cooperating non-contracting parties, with the aim of achieving good fisheries governance and sustainable fisheries, such as through the promotion of scientific research and the adoption of conservation and management measures based on best available scientific information, the strengthening of compliance mechanisms, the undertaking of periodical performance reviews and the adoption of effective control, monitoring and enforcement of the RFMOs' management measures and, where applicable, the adoption and implementation of catch documentation or certification schemes and port state measures;
- (d) implement effective measures to combat IUU fishing, including measures to exclude IUU products from trade flows, and cooperate in facilitating the exchange of information to ensure enforcing traceability;
- (e) promote the development of sustainable and responsible aquaculture, taking into account its economic, social and environmental aspects, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries;

- (f) promote the long-term conservation and sustainable use of CITES-listed species and the inclusion of aquatic animal and plant species in the Appendices to the CITES where the conservation status of that species is considered at risk because of international trade;
- (g) comply with the Convention on the Conservation of Migratory Species of Wild Animals done at Bonn on 23 June 1979 (Bonn Convention) and instruments under that convention, for sustainable conservation of migratory species, bycatch management and landing data.

4. The Parties shall work together to strengthen their cooperation and mutual benefits on trade-related aspects of fishery and aquaculture policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the WTO, RFMOs, FAO and under other multilateral instruments in this field, with the aim of promoting sustainable fishing practices and aquaculture and trade in fish and seafood products from sustainably managed fisheries and aquaculture. The Parties shall work closely together and accelerate their efforts to achieve UN Sustainable Development Goal 14 (life below water), which aims to conserve and sustainably use the oceans, seas and marine resources for sustainable development including through preventing and significantly reducing marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution, and through mainstreaming marine ecosystems conservation in sustainable blue economy policies.

ARTICLE 10

Trade and Investment Supporting Sustainable Development

1. The Parties recognise that trade and investment in goods and services that are related to the protection of the environment or contribute to enhancing social conditions and that fostering the use of sustainability schemes or other voluntary initiatives can meaningfully contribute to sustainable development.
2. To that end, the Parties have eliminated customs duties on environmental goods originating in the other Party pursuant to Articles 10 and 11 of this Agreement.
3. Furthermore, the Parties have made commitments to conclude negotiations on environmental services and manufacturing activities pursuant to Article 3 of this Agreement.
4. In light of paragraph 1, each Party shall promote and facilitate trade and investment in:
 - (a) environmental goods and services;
 - (b) goods that contribute to enhanced social conditions; and
 - (c) goods subject to transparent, factual and non-misleading sustainability assurance schemes such as fair and ethical trade schemes and eco-labels.

5. The promotion and facilitation of trade and investment referred to in paragraph 4, may include:
 - (a) awareness-raising actions and information and public education campaigns;
 - (b) adoption of policy frameworks conducive to the deployment of best available technologies;
 - (c) encouraging the uptake of transparent, factual and non-misleading sustainability schemes especially for SMEs;
 - (d) addressing related non-tariff barriers; and
 - (e) reference to relevant international standards, such as the ILO Conventions and guidelines or MEAs, as periodically updated by the relevant bodies.

6. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article bilaterally, regionally and in international and multilateral fora as appropriate *inter alia* through the exchange of information, best practices and outreach initiatives.

ARTICLE 11

Trade and Responsible Business Conduct and Supply Chain Management

1. The Parties recognise the importance of responsible business conduct and corporate social responsibility practices, including responsible supply chain management, and the role of trade in pursuing this objective.
2. In light of paragraph 1, each Party shall:
 - (a) promote responsible business conduct and corporate social responsibility, including responsible supply chain management, by providing supportive policy frameworks that encourage the uptake of relevant practices by businesses;
 - (b) support the adherence, implementation, follow-up and dissemination of relevant international instruments, such as the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted in Geneva in November 1977, the UN Global Compact and the UN Guiding Principles on Business and Human Rights endorsed by the Human Rights Council in its Resolution 17/4 of 16 June 2011.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility/responsible business conduct and shall promote joint work in this regard. In respect of relevant internationally recognized OECD Due Diligence Guidelines for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and its supplements, the Parties shall also implement measures to promote the uptake of such guidance. As members of the FAO Committee on World Food Security, the Parties shall also promote awareness of the Principles for Responsible Investment in Agriculture and Food Systems and the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.
4. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this article bilaterally, regionally and in international fora as appropriate, *inter alia* through the exchange of information, best practices and outreach initiatives.

ARTICLE 12

Scientific and Technical Information

1. When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account available scientific and technical information, relevant international standards, guidelines and recommendations.
2. Where there is a lack of full scientific certainty and there are threats of serious or irreversible damage to the environment or to occupational safety and health, a Party may adopt measures to prevent such damage, in accordance with the precautionary principle.

ARTICLE 13

Transparency

1. Each Party shall, with the aim of ensuring awareness and providing reasonable opportunities for interested persons and stakeholders to submit views, develop, enact and implement in a transparent manner:
 - (a) measures aimed at protecting the environment or labour conditions that may affect trade or investment; or
 - (b) trade or investment measures that may affect the protection of the environment or labour conditions.
2. Each Party shall give due consideration to communications and opinions from the public on matters related to this Annex. It may inform, where appropriate, the domestic advisory groups established pursuant to Article 15 of this Annex as well as the contact point of the other Party established in accordance with Article 14(5) of this Annex of such communications and opinions.

ARTICLE 14

Special Committee on Trade and Sustainable Development and Contact Points

1. The Parties hereby establish a Special Committee on Trade and Sustainable Development (hereinafter referred to as "the TSD Committee"), governed by Part VI of this Agreement, which shall:
 - (a) meet once a year, or without undue delay at the request of either Party;
 - (b) be co-chaired, at an appropriate level, by representatives of the Parties; and
 - (c) report to the EPA Council.

2. The TSD Committee shall:
 - (a) facilitate, monitor and review the implementation of this Annex;
 - (b) carry out the tasks referred to in Article 18 of this Annex;
 - (c) contribute to the work of the Committee of Senior Officials on issues covered by this Annex, including with regard to topics for discussion with the EPA Consultative Committee referred to in Article 108 of this Agreement;
 - (d) consider any other matter related to this Annex as the Parties may agree.

3. The TSD Committee may establish its own rules of procedure, in the absence of which the rules of procedure of the Committee of Senior Officials shall apply *mutatis mutandis*.
4. The TSD Committee shall publish a report after each of its meetings.
5. Each Party shall, upon the entry into force of this Agreement, designate a contact point within its administration to facilitate communication and coordination between the Parties on any matter relating to this Annex. Each Party shall notify the other Party of the contact details of its contact point. The Parties shall promptly notify each other of any change of those contact details.

ARTICLE 15

Domestic Advisory Groups

1. Each Party shall create a new or designate an existing domestic advisory group within a year after the date of entry into force of this Agreement. The domestic advisory group shall advise the Party concerned on issues covered by this Agreement. It shall consist of a balanced representation of independent civil society organisations including non-governmental organisations, business and employers' organisations as well as trade unions active on economic, sustainable development, social, human rights, environmental and other matters. The domestic advisory group may be convened in different configurations to discuss the implementation of different Parts and provisions of this Agreement.

2. Each Party shall meet with its domestic advisory group at least once a year. Each Party shall consider views or recommendations submitted by its domestic advisory group on the implementation of this Agreement.
3. In order to promote public awareness of the domestic advisory groups, each Party shall publish the list of organisations participating in its domestic advisory group as well as the contact point for that group.
4. The Parties shall promote the interaction between their respective domestic advisory groups, including their participation at the EPA Consultative Committee established pursuant to Article 108 of this Agreement.

ARTICLE 16

Dispute Avoidance and Settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Annex.
2. In case of a disagreement between the Parties regarding the application of this Annex, the Parties shall have recourse exclusively to the dispute resolution procedures established pursuant to Articles 17 and 18 of this Annex.

ARTICLE 17

Consultations and Mediation

1. Except as otherwise provided for in this Article, Articles 110 and 111 of this Agreement shall apply.
2. Consultations shall be held within twenty (20) days of the date of receipt of the request by the Party complained against and shall be deemed concluded within ninety (90) days of that date of receipt, unless the Parties agree to continue consultations.
3. If the consultations concern provisions which relate to multilateral agreements or instruments referred to in this Annex, the Parties shall take into account information from the ILO or from relevant organisations or bodies established under MEAs in order to promote coherence between the work of the Parties and that of such organisations or bodies. Where relevant, the Parties shall seek advice from such organisations or bodies, or from any other expert or body they deem appropriate. Each Party may also seek, if appropriate, the views of the domestic advisory groups established pursuant to Article 15 of this Annex or any other expert advice.
4. Any resolution reached by the Parties shall be made publicly available.

ARTICLE 18

Dispute Settlement

1. Except as otherwise provided for in this Article, Articles 112 to 115, Article 116(1), (3), (4) and (5), Articles 119 to 124, Article 125(2) and (3), and Articles 126 and 127 of this Agreement shall apply.

2. The TSD Committee set up pursuant to Article 14 of this Annex shall, not later than six (6) months after the entry into force of this Agreement, establish a list of at least fifteen (15) individuals who are willing and able to serve as arbitrators for disputes under this Annex. The list shall be composed of three sub-lists: one sub-list for each Party to serve as arbitrators; and one sub-list of individuals that are not nationals of either Party and who shall be available to act as Chairperson of the arbitration panel. Each sub-list shall include at least five (5) individuals. The TSD Committee shall ensure that the list is always maintained at this level, in accordance with the rules of procedure.
3. Arbitrators shall have specialised knowledge of or expertise in labour or environmental law, issues addressed in this Annex, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the code of conduct annexed to the rules of procedures to be adopted by the EPA Council within six (6) months after the entry into force of this Agreement pursuant to Article 125(4) of this Agreement.
4. If the arbitration panel is composed according to the procedure set out in Article 113 of this Agreement, the arbitrators shall be selected from the relevant individuals on the sub-lists referred to in paragraph 2 of this Article.
5. With regard to matters related to compliance with multilateral agreements and instruments referred to in this Annex, information or expert opinion requested by the arbitration panel pursuant to Article 121 of this Agreement should include information and advice from the ILO or relevant bodies or organisations established under the MEAs.

6. The Party complained against shall no later than twenty-one (21) days after the delivery of the arbitration panel ruling inform its domestic advisory group set up pursuant to Article 15 of this Annex of the compliance measures it has taken or envisages to take pursuant to Article 115(4) of this Agreement.

 7. The TSD Committee shall monitor the implementation of the compliance measures. The domestic advisory groups may submit observations to the TSD Committee in this regard.
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JOINT DECLARATION
OF THE EUROPEAN UNION AND THE REPUBLIC OF KENYA
ON THE ECONOMIC AND DEVELOPMENT COOPERATION
UNDER THIS AGREEMENT

The European Union, of the one part, and the Republic of Kenya, of the other part, (for the purposes of this Joint Declaration hereinafter referred to as "the Parties") agree that the following principles and procedures apply to this Agreement.

1. The Parties place great importance on the successful implementation of this Agreement, and on the continuing trade and development relationship between them. The Parties hold a productive relationship and look forward to further developing that relationship under this Agreement.
2. The Parties acknowledge that Part V of this Agreement on economic and development cooperation shall be interpreted and applied in accordance with the Cotonou Agreement or its successor agreement. The Parties agree that in case of any inconsistency between the provisions of Part V of this Agreement and the Cotonou Agreement or its successor agreement, the provisions of the Cotonou Agreement or the corresponding provisions of its successor agreement shall prevail. Any provision inconsistent with the above, shall not be applicable.

3. The Parties acknowledge the support of the European Union for development across a wide range of sectors, and reiterate their commitment towards rules-based and sustainable development. This value-based and trusted partnership aims to boost sustainable economic growth and decent work for all and to promote an inclusive green transition focusing on the digital, climate, energy, and transport areas, supported by smart, clean and secure investments from both the public and private sectors.

(a) Consistent with the Busan Partnership for Effective Development Cooperation done at Busan on 1 December 2011, the Parties agree to use and support as appropriate nationally or regionally owned delivery mechanisms, funds or facilities for channelling and coordinating resources for implementing this Agreement.

(b) The Parties recognise that the implementation of this Agreement may result in challenges, including from the impact of tariff reductions, to be addressed *inter alia* through economic and development cooperation actions undertaken by the European Union. The Parties meanwhile agree that there will be no specific financial compensation by the European Union and that the compensatory framework does not apply between the Parties. However, this matter may be proposed for review in the EPA Council at the request of the Republic of Kenya.

- (c) The Parties agree that the provisions relating to the matrix and benchmark in this Agreement and its Annexes will not be applicable. The Parties however agree that the Matrix, or parts of it, may be applied or borrowed to the extent applicable, taking into account the Parties' own investment priorities and benchmarks.
- (d) The Parties agree that the provisions relating to the EPA Fund, including those relating to its establishment and management do not apply between them.
- (e) The Parties agree that this Agreement, including references to the European Union budget, the European Development Fund, the Cotonou Agreement or its successor agreement, does not entail any financial obligations for either Party.

PROTOCOL 1
ON MUTUAL ADMINISTRATIVE ASSISTANCE
IN CUSTOMS MATTERS

ARTICLE 1

Definitions

For the purposes of this Protocol:

- (a) "goods" means all goods falling within the scope of the Harmonised System, irrespective of the scope of this Agreement;
- (b) "customs legislation" means any legal or regulatory provisions, applicable in the territories of a Party, governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (c) "Applicant Authority" means a competent administrative authority which has been designated by a Party for the implementation of this Protocol and which makes a request for assistance on the basis of this Protocol;
- (d) "Requested Authority" means a competent administrative authority which has been designated by a Party for the implementation of this Protocol and which receives a request for assistance on the basis of this Protocol;
- (e) "personal data" means all information relating to an identified or identifiable individual;
- (f) "operation in breach of customs legislation" means any violation or attempted violation of customs legislation.

ARTICLE 2

Scope

1. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular by preventing, investigating and combatting operations in breach of customs legislation.
2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information has the prior authorisation of that authority.
3. Assistance in recovery proceedings regarding duties, taxes or fines is not covered by this Protocol.

ARTICLE 3

Assistance on Request

1. At the request of the Applicant Authority, the Requested Authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.
2. At the request of the Applicant Authority, the Requested Authority shall inform it:
 - (a) whether goods exported from the territory of a Party have been lawfully imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods;
 - (b) whether goods imported into the territory of a Party have been lawfully exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the Applicant Authority, the Requested Authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
 - (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

- (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
- (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and
- (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

ARTICLE 4

Spontaneous Assistance

The Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- (a) operations which are or appear to be in breach of customs legislation and which may be of interest to the other Party;
- (b) new means or methods employed in carrying out operations in breach of customs legislation;
- (c) goods known to be subject to operations in breach of customs legislation;

- (d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation; and
- (e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

ARTICLE 5

Delivery and Notification

1. At the request of the Applicant Authority, the Requested Authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:
 - (a) to deliver any documents emanating from the Applicant Authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the Requested Authority, and, where appropriate;
 - (b) to notify any decisions emanating from the Applicant Authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the Requested Authority.
2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the Requested Authority or in a language acceptable to that authority.

ARTICLE 6

Form and Substance of Requests for Assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately. Requests may also be communicated in electronic form.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the name of the Applicant Authority;
 - (b) the measure requested;
 - (c) the object of and the reason for the request;
 - (d) the legal or regulatory provisions and other legal elements involved;
 - (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations; and
 - (f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the Requested Authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.
4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

ARTICLE 7

Execution of Requests

1. In order to comply with a request for assistance, the Requested Authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the Requested Authority when the latter cannot act on its own.
2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party.

3. Duly authorised officials of a Party may, with the agreement of the other Party involved and subject to the conditions laid down by the latter:
 - (a) be present to obtain in the offices of the Requested Authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the Applicant Authority needs for the purposes of this Protocol;
 - (b) be present at enquiries carried out in the latter's territory.

ARTICLE 8

Form in which Information is to be Communicated

1. The Requested Authority shall communicate results of enquiries to the Applicant Authority in writing together with relevant documents, certified copies or other items.
2. If requested, the information provided for in paragraph 1 may be in electronic form.
3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

ARTICLE 9

Exceptions to the Obligation to Provide Assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party concerned is of the opinion that assistance under this Protocol would:
 - (a) be likely to prejudice the sovereignty of an EAC Partner State or that of an EU Member State which has been requested to provide assistance under this Protocol; or
 - (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2); or
 - (c) violate an industrial, commercial or professional secret.
2. Assistance may be postponed by the Requested Authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the Requested Authority shall consult with the Applicant Authority to determine if assistance can be given subject to such terms or conditions as the Requested Authority may require.
3. Where the Applicant Authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the Requested Authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the Requested Authority and the reasons must be communicated to the Applicant Authority without delay.

ARTICLE 10

Information Exchange and Confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. Such information shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Party that received it, and in the case of the EU the corresponding provisions applying to the EU authorities¹.
2. Personal data may be exchanged only where the Party which may receive them agrees to ensure an adequate level of protection of such data in at least an equivalent way to the one applicable to that particular case in the Party that may supply them. To that end, the Parties shall communicate to each other information on their applicable rules and legal provisions.

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data (OJ EU L 8, 12.1.2001, p. 1).

3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.
4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

ARTICLE 11

Experts and Witnesses

An official of a Requested Authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE 12

Assistance Expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

ARTICLE 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of the EAC Partner State(s) and on the other hand to the competent services of the European Commission and the customs authorities of the EU Member States as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection.
2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

ARTICLE 14

Amendments

The Parties may recommend to the competent bodies amendments which they consider should be made to this Protocol.

ARTICLE 15

Final Provisions

1. This Protocol shall complement and not impede the application of any agreements on mutual administrative assistance which have been concluded or may be concluded between the Parties nor shall it preclude more extensive mutual assistance granted under such agreements.
2. The provisions of this Protocol shall not affect the obligations of the Parties under any other international agreement or convention.
3. The provisions of this Protocol shall not affect the provisions of the EU governing the communication between the competent services of the European Commission and the customs authorities of the EU Member States of any information obtained under this Protocol which could be of EU interest.

4. The provisions of this Protocol shall not affect the provisions of the EAC Partner State(s) governing the communication between the competent EAC Organs and the customs authorities of the EAC Partner State(s) of any information obtained under this Protocol which could be of interest to the EAC Partner State(s).
 5. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral Agreement on mutual assistance which has been or may be concluded between individual EU Member States and an EAC Partner State in so far as the provisions of the latter are incompatible with those of this Protocol.
 6. In respect of questions relating to the applicability of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Special Committee on Customs and Trade Facilitation.
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JOINT STATEMENT ON RULES OF ORIGIN
BY THE EUROPEAN UNION AND THE REPUBLIC OF KENYA

The European Union, of the one part, and the Republic of Kenya, of the other part, (for the purposes of this Joint Statement hereinafter referred to as "the Parties"),

RECALLING their shared values and the strong cultural, political, economic and cooperation ties which unite them;

RECALLING the Cotonou Agreement and its successor agreement;

RECALLING the Treaty Establishing the East African Community (EAC), signed in Arusha on 30 November 1999, and its Protocol on the Establishment of the East African Community Customs Union;

RECALLING the EU-EAC EPA;

REAFFIRMING their commitment to strengthen cooperation on bilateral, regional and global issues of common concern;

Confirm the text of Article 9 of this Agreement on rules of origin and agree that the Protocol on rules of origin of the EU-EAC EPA will be the basis for the future protocol on rules of origin to be adopted pursuant to Article 9(2) of this Agreement, including its structure, with some limited adjustments necessary in particular to take account of the bilateral nature of this Agreement. Each Party may make appropriate proposals for such adjustments, bearing in mind the future regional dimension of that protocol. Until such protocol on rules of origin is adopted by the Parties, and pursuant to Article 9(1) of this Agreement, each Party shall apply the rules of origin included in Regulation (EU) 2016/1076 of the European Parliament and of the Council (Market Access Regulation)¹ as the applicable law of the importing Party. The Parties will adopt a protocol on rules of origin pursuant to Article 9(2) of this Agreement covering both exports from the European Union and the Republic of Kenya as soon as possible after this Agreement becomes applicable. Discussions on such protocol will start immediately.

¹ Regulation (EU) 2016/1076 of the European Parliament and of the Council of 8 June 2016 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, economic partnership agreements (recast) (OJ EU L 185, 8.7.2016, p. 1).

JOINT STATEMENT
ON TRADE AND SUSTAINABLE DEVELOPMENT
BY THE EUROPEAN UNION AND THE REPUBLIC OF KENYA

The European Union, of the one part, and the Republic of Kenya, of the other part, (for the purposes of this Joint Statement hereinafter referred to as "the Parties"),

RECALLING their shared values and the strong cultural, political, economic and cooperation ties which unite them;

RECALLING the Cotonou Agreement and its successor agreement;

RECALLING the Treaty Establishing the East African Community (EAC), signed in Arusha on 30 November 1999, and its Protocol on the Establishment of the East African Community Customs Union;

RECALLING the EU-EAC EPA;

REAFFIRMING their commitment to strengthen cooperation on bilateral, regional and global issues of common concern;

DETERMINED to ensure that this Agreement fosters sustainability, so that economic growth goes together with the protection of decent work, the climate and the environment, in full adherence with the Parties' shared values and priorities, including support for the green transition and promoting responsible and sustainable value chains;

Commit, in the context of Article 3 of this Agreement, to further explore strengthening mutual mechanisms for the effective implementation and application of commitments on trade and sustainable development during the initial review period. Such exploration of the furtherance of mutual compliance may include implementation roadmaps, financial and technical assistance, and the encouragement of participatory approaches, as well as ways to address potential divergences in the implementation of agreed commitments.