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REPUBLIC OF KENYA

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- FIFTH SESSION

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

REPORT ON

THE CONSIDERATION FOR APPROVAL OF THE RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

DIRECTORATE OF DEPARTMENTAL COMMITTEES,
CLERKS CHAMBERS,
PARLIAMENT BUILDINGS
NAIROBI.

FEBRUARY 2021


THE NATIONAL ASSEMBLY
PAPERS LAID
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19 FEB 2021

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ABBREVIATIONS

CET	-	Common External Tariff
EAC	-	East African Community
EPA	-	Economic Partnership Agreement
EU	-	European Union
FPEAK	-	Fresh Produce Exporters Association of Kenya
KAM	-	Kenya Association of Manufacturers
KEPSA	-	Kenya Private Sector Alliance
KFC	-	Kenya Flower Council
KNCC&I	-	Kenya National Chamber of Commerce and Industry
SPS	-	Sanitary and Phytosanitary Standards
TBT	-	Technical Barriers to Trade
UK	-	United Kingdom

CHAIRPERSON'S FOREWORD

The Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development submitted to the National Assembly a memorandum on the Economic Partnership Agreement (EPA) between Kenya, a member of East Africa Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part. The Memorandum was tabled in the House on 22nd December 2020. Subsequently, the Memoranda and text of the Agreement were committed to the Departmental Committee on Trade Industry and Cooperatives (hereinafter referred to as "the Committee") by the Speaker of the National Assembly for consideration on suitability for ratification.

The EPA between Kenya -UK was signed on 8th December 2020 and a grace period of 90 days was agreed upon to be the period within which the EPA should be ratified by both Parties.

In considering the EPA, the Committee held a total of five (5) sittings including a comprehensive briefing session that was undertaken by the Ministry of Industrialization, Trade and Enterprise Development.

Article 118 (1)(b) of the Constitution provides for the need for Public Participation and section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies, (Daily Nation and the People daily) on 3rd February,2021 requesting for submissions of memoranda on the subject matter. By close of business on 11th February 2021, which was the deadline for submission, three memoranda had so far been received and analyzed by the Committee; consequently the Committee proceeded to finalize the report on this subject matter.

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings.

On behalf of the Committee, it is therefore my pleasant duty and privilege to lay the report on the consideration of the ratification of the Economic Partnership Agreement (EPA) between Kenya, a member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199 of the National Assembly.

Hon. Adan Haji Ali, Member of Parliament

Chairperson, Departmental Committee on Trade, Industry and Cooperatives

EXECUTIVE SUMMARY

The purpose of this report by the Departmental Committee on Trade, Industry and Cooperatives is to consider the ratification of the Economic Partnership Agreement (EPA) between Kenya, a member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part for House approval.

Kenya has been accessing the UK free market under the Kenya-European Union (EU) Trade Agreement in which the UK was the greatest importer of Kenyan goods but the United Kingdom (UK) exited from the European Union (EU) on **31st January, 2020.** According to the terms of the Withdrawal Agreement, the UK remained part of the EU customs union and EU Single Customs Territory until **31st December, 2020.** The Withdrawal Agreement signed between the UK and the EU put in place a Transition Period within which countries continued to trade with the UK under the existing EU trading regime until 31st December, 2020.

Given that disruption of accessing the UK free market and free quotas with the expiry of the Transition Period was eminent, Kenya started an Economic Partnership negotiation with UK that gave birth to an EPA that was signed on 8th December, 2020. The EPA replicates most of the provisions of the EAC-EU-EPA that facilitates **Duty-Free-Quota-Free** access of exports from EAC countries to the European market.

The two countries had an MOU that the EPA has to be ratified within ninety days from the date of signing the Agreement: meaning that the instrument has to be deposited at the depositories on or before 8th March, 2021.This informs why the EPA was tabled in the House in a special sitting held in 22nd December, 2020 and a memorandum seeking for approval of the EPA ratification and subsequently the Speaker referred the same to the Departmental Committee on Trade Industry and Cooperatives for consideration.

Pursuant to Article 118 (1) (b) of the Constitution on provides that "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees''* and Section 8(3) of the Treaty Making and Ratification Act of 2012, which 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". The Committee through the Clerk of the National Assembly placed advertisements in two local dailies, *the Daily Nation* and *the People's Daily* on 11th February 2021, calling for submissions of memoranda on the subject matter. The Committee received memoranda from the Kenya Private Sector Alliance (KEPSA), Ms. Laura Naliaka a trade and economics specialist while the other memorandum was from Econews Africa.

The Committee considered whether the EPA meets the threshold for ratification pursuant to Section 8(3) of the Treaty Making and Ratification Act of 2012, and came up with recommendation contained in this report.

This report highlights the Kenya – UK relations in regard to historical links, business to business as well as good trade and investment performance. It also provides a brief on the process that led to the Kenya-UK EPA negotiations, the historical perspective of the EPA, the status of the EPA negotiations, Kenya's position on the EPA, the ratification process including the aspect of public

participation and highlights of elements contained in the EPA. The last section of the report presents the number of parties to the Agreement, the Committee's observations and recommendation.

The Committee recommends that **the National Assembly approves the ratification of the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain and Northern Ireland of the other Part.**

1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Trade, Industry and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows:

a. *To 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. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*

c. *To study and review all the legislation referred to it;*

d. *To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

e. *To 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. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);*

g. *To examine treaties, agreements and conventions;*

h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

i. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

j. *To examine any questions raised by Members on a matter within its mandate. ,*

1.2 Committee Subject

a. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee: Trade, securities exchange, consumer protection, pricing policies, commerce, and industrialization including special economic zones, enterprise promotion and development including small and medium-size enterprises, intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.

b. In executing its mandate, the Committee oversees the Ministry of Industrialization, Trade and Enterprise Development and the State Department for Cooperatives.

1.3 Committee Membership

Hon. Adan Hajj Ali, MP, **Chairperson**
MP for Mandera South Constituency
Jubilee Party

Hon. Wangari Mwaniki, MP, **Vice Chairperson**
MP for Kigumo Constituency
Jubilee Party

Hon. William Cheptumo, MP
MP for Baringo North Constituency
Jubilee Party

Hon. Alois Musa Lentoimanga, MP
MP for Samburu North Constituency
Jubilee Party

Hon. Anab Mohamed Gure, MP
MP for Garissa County
Jubilee Party

Hon. Andrew Mwadime, MP
MP for Mwatate Constituency
ODM Party

Hon. Shariff Athman Ali, MP
MP for Lamu East Constituency
Jubilee Party

Hon. Daniel Maanzo, MP
MP for Makueni Constituency
Wiper Party

Hon. Fred Odhiambo Ouda, MP
MP for Kisumu Central Constituency
ODM Party

Hon. Christopher Nakuleu, MP
MP for Turkana North Constituency
Jubilee Party

Hon. Jones Mlolwa, MP
MP for Voi Constituency
ODM Party

Hon. Raymond Kipruto Moi, MP
MP for Rongai Constituency
KANU

Hon. Jared Okelo, MP
MP for Nyando Constituency
ODM Party

Hon. Gichimu Robert, MP
MP for Gichugu Constituency
Jubilee Party

Hon. Patrick Wainaina Jungle, MP
MP for Thika Town Constituency
Independent Member

Hon. Ayub Savula Angatia, MP
MP for Lugari Constituency
ANC Party

Nduati Joseph Ngugi, MP
MP for Gatanga Constituency
Jubilee Party

Hon. Wachira Rahab Mukami, MP
MP for Nyeri County
Jubilee Party

Hon. (Dr.) Wilberforce Oundo, Phd, MP
MP for Funyula Constituency
ODM Party

1.4 Committee Secretariat

The Committee secretariat comprises:

i.	Mr. Erick Nyambati	-	Clerk Assistant II	**(Head of Secretariat)**
ii.	Ms. Nuri Kitel Nataan	-	Clerk Assistant II	
iii.	Ms. Marlene Ayiro	-	Senior Legal Counsel	
iv.	Mr. Chelang'a Maiyo	-	Research Officer II	
v.	Mr. Joseph Ndirangu	-	Fiscal Analyst II	
vi.	Mr. Yaqub Ahmed	-	Media Relations Officer III	

1.5 Compliance with the procedure for approval of a treaty under the Treaty Making and Ratification Act, 2012

1) The procedure for ratification of treaties is provided for under section 8 of the Treaty Making and Ratification Act, 2012 (herein after referred to as "The Act".)

2) Section 8 of the Act provides that *where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.*

3) Subsection (3) 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 procedure.*

4) Section 7 of the Act provides as follows-

7. 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 promoted 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) implications on matters relating to counties;
(i) the summary of the process leading to the adoption of the treaty;
(j) the date of the signature
(k) the number of states that are party to the treaty;
(l) the views of the public on the ratification of the treaty;
(m) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
(n) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance the national interests or ensure conformity with the Constitution; and
(o) whether expenditure of funds will be incurred in implementing the treaty and an estimate, where the possible of the expenditure

2.0 CONSIDERATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA A MEMBER OF THE EAST AFRICAN COMMUNITY OF THE ONE PART AND UNITED KINGDOM OF GREAT BRITAIN AND NOTHERN IRELAND ON THE OTHER PART-

The Committee invited the Ministry of Industrialization, Trade and Enterprise development to apprise it on the EPA and a team led by Amb. John Weru the PS for Trade and Enterprise Development through written and oral submission informed the Committee as follows;

2.1 Background

5) Kenya – UK relations are underpinned by strong historical links, business to business as well as good trade and investment performance. Trade between the two countries has been fairly balanced. Kenya's exports to UK in 2019 marginally declined from Kshs. 40.2 billion (USD 402 million) in 2018 to Kshs. 40.1 billion (USD 40.1 million) in 2019, while imports from the UK increased from Kshs. 31.6 billion (USD 316 million) to Kshs. 35.3 billion (USD 353 million) during the same period.

6) According to the Economic Survey Reports for the period 2016-2019, the balance of trade has been in favor of Kenya. Current provisional trade data from the Kenya National Bureau of Statistics (KNBS) up to August 2020 shows Kenya's exports were valued at Kshs. 34.9 billion (USD 337.7 million), while imports are valued at Kshs. 18.9 billion (USD 185.2 million) at the average exchange rate of Kshs. 103 to 1 USD, and the trade balance of Kshs. 15.9 billion (USD 154.5 million) being in Kenya's favor

7) Kenya has been accessing the EU and by extension, the UK market on duty free and quota free basis on temporary conditions given under the EU Market Access Regulation (MAR) 1528/2007. UK has consistently ranked in the top five export destinations of Kenya with an annual average value of Kshs. 39 billion for the last 5 years (2015-2019). The major export products are coffee, tea, edible vegetables, cut flowers and fruits. The UK is among top Kenya's import sources with the following major imports; machinery, motor vehicles, pharmaceuticals, printed books and other paper products, electrical and electronic equipment.

8) The United Kingdom (UK) exited the European Union (EU) on 31st January 2020. According to the terms of the Withdrawal Agreement, the UK was to remain part of the EU customs union and EU Single Customs Territory until 31st December 2020.

2.2 Historical Perspective of the Kenya –UK Economic Partnership Agreement

9) Kenya has been accessing the EU and by extension, the UK market on duty free and quota free basis of successive Lome Conventions, the Cotonou Agreement and the temporary conditions given under the EU Market Access Regulation (MAR) 1528/2007. This arrangement was bound to be disrupted by the UK's exit from the EU.

10) The United Kingdom formally exited the EU on 31st January, 2020. According to the terms of the Withdrawal Agreement, the UK remained part of the EU customs union and EU Single Customs Territory until 31st December, 2020.

11) The Withdrawal Agreement that was signed between the UK and the EU had put in place a transition period within which countries continued to trade with the UK under the existing EU trading regime until 31st December, 2020. This window provided Kenya an opportunity to secure long-term duty free and quota free market access to the UK beyond 2020 when EU regulations ceased to apply in the UK by negotiating a trade arrangement. Noting the possibility of disruption in trade on expiry of the transition period, the Parties agreed to start negotiations of a long-term trading arrangement.

12) This agreement is thus titled "**The Economic Partnership Agreement between Kenya, a Member of the East African Community, of the one part and the United Kingdom of Great Britain and Northern Ireland, of the other part"** and is based on the EAC-EU-EPA text which seeks to replicate the effects of EPA agreed and initialed by the EAC and EU. The agreement with the UK pays fidelity to the EAC Customs Union Protocol and provides accession by the other EAC Partner States when ready.

2.3 Status of Kenya- UK EPA negotiations

13) Kenya and the UK began the EPA negotiations on 25thAugust, 2020 and the same were concluded on 3rd November 2020, which culminated in the signing of the Agreement on 8th December 2020.

14) The EPA negotiations with the UK were concluded after several rounds of negotiations culminating with the signing of the Kenya-UK EPA on 8th December 2020. In this regard, parties are required to ratify the Agreement. To avoid any trade disruptions, the two parties signed a three-month transition mechanism in the form of a Memorandum of Understanding (MOU) with effect from 1st January, 2021. There is need for the parties to have ratified the agreement before expiry of the three-month transition mechanism period.

15) There were two possible approaches to negotiating the EPA which approaches included the regional approach and the bilateral approach, ultimately the bilateral approach is what was adopted by the Parties.

16) **Regional Approach:** The UK preferred this approach so as to secure the regional market at one go through one Agreement. Kenya was in concurrence with this approach because of her commitments at the EAC and securing extended cumulation on rules of origin with the EAC. Negotiations were to be conducted using the same approach as the EAC-EU EPA. Consultations took place at the EAC level but there was no consensus regarding commencement and conclusion of such an agreement within the timeframe of the transition period provided in the UK-EU withdrawal agreement. Therefore, this approach was not successful in the first instance.

17) **Bilateral Approach**: This approach was adopted by Kenya because of the fast approaching deadline of the Brexit transition period and the need to secure duty free and quota free market access of Kenya's products to the UK. This approach was also premised on the past experience of the EAC-EU EPA, which has not entered into force due to reluctance by the other Partner States to sign and ratify. Article 37 (4) of the EAC Customs Union Protocol allows for partner states to separately conclude or amend a trade agreement with a foreign country provided the terms of such an agreement are not in conflict with the protocol. The

approach provides for other EAC Partner States to accede to the Agreement if and when they are ready to do so.

18) The National Assembly is therefore required pursuant to Section 8 of the Treaty Making and Ratification Act, 2012 to approve for the ratification of the Agreement, which is ratification, should be done on or before 8th March 2021.

3.0 ANALYSIS OF THE KENYA-UK ECONOMIC PARTINERSHIP AGREEMENT

The EPA contains one hundred and forty-six (146) Articles that have been summarized as follows:-

3.1 Outline of the Agreement

19) **Part 1 (Articles 1-4)** of the Agreement provides for the scope of the agreement, objectives, the rendezvous clause of the agreement that allows parties to discuss particular issue at a later date and principles which seek to strengthen integration in EAC region, ensuring asymmetry in favor of the EAC Partner State(s) in liberalization of trade and in the application of trade- related measure and trade defence instruments. Allowing the EAC Partner State(s) to maintain regional preferences with other African countries and regions without an obligation to extend them to the UK; and contributing to enhance the production, supply and trading capacities of the EAC Partner State(s).

20) **Part II (Articles 5-50)** of the Agreement which contains **VI** different titles that include inter-alia customs trade in goods which provide for duty-free and quota free market access conditions for goods originating in EAC Partner States(s) into the UK Market on a secure, long-term and predictable basis. Custom duties and free movement of goods, non- tariff measures, customs cooperation and trade facilitation, sanitary and phytosanitary measures, standards, technical regulations and conformity assessment, and trade defence measures.

21) **Part III (Articles 51- 56)** of the Agreement is on fisheries and contains **(III)** different titles that provide for general provisions, marine fisheries and inland fisheries and aquaculture development.

22) **Part IV (Articles 57-74)** of the Agreement is on Agriculture and contains different titles that provide for scope and definitions, Domestic Policy measures,

23) **Part V (Articles 75-102)** of the agreement that provides for economic and development cooperation, this part contains **X** titles that include inter-alia infrastructure, agriculture, private sector development, fisheries, water and environment, sanitary and phytosanitary measures, technical barriers to trade, customs and trade facilitation and resource mobilization.

24) **Part VI (Articles 103-108)** of the Agreement provides for institutional provisions that include the EPA council, powers of the EPA Council, Committee of senior officials, powers of the Committee of Senior Officials, EPA Consultative Committee.

25) **Part VII (Articles 109-127)** of the Agreement provides for dispute avoidance and settlement and contains **III** titles that include dispute avoidance, dispute settlement, common provisions and general exceptions.

26) **Part VIII (Articles 128-130)** of the Agreement provides for General Exceptions, security exceptions and taxation.

27) **Part IX (Articles 131-145)** of the Agreement provides for general and final provisions

3.2 Salient Features in the EPA

28) **Trade in goods:** the scope of Trade in Goods is defined by the market access offer in the Kenya-UK EPA. This offer was left largely intact as in the EAC-EU EPA, with exception of the tuna derogation which was varied to be proportionate with the agreement between the two parties. It entails the following:

29) **UK Offer to Kenya**: The UK offered Kenya duty free quota free market access for all products with exception of arms and ammunition. Further, the UK offered an automatic derogation for 681 tonnes of tuna loins per year subject to a review as the need arises.

30) **Kenya Offer to UK:** The Kenya offer is as follows: Kenya has committed to progressively liberalize eighty-two point six (82.6%) of trade with the UK over a period of up to 25 years with a moratorium period of 7 years. Caution has been taken in taking up this liberalization by ensuring that the economy is shielded from any negative effects.

a. Sixty-five point four (65.4%) of the trade that Kenya committed to liberalize, mainly raw materials and essential goods, are already zero rated under the EAC Common External Tariff, hence no impact to the economy.

b. Fourteen percent (14.6%) of the trade that Kenya committed to liberalize comprise intermediate products currently attracting CET rate of ten percent (10%). Rationale for liberalization of these products being enhanced competitiveness of industries that import such products from the UK.

c. Two point six (2.6%) of the trade that Kenya committed to liberalize, comprises of few finished products which attract CET rate of twenty-five (25%.) The rationale for offering these products for liberalization was: -That they are not strategic products as revealed by Kenya trade flows and therefore pose minimal threat to domestic industries.

d. The Infant industry clause in the EPA that allows Kenya to pick on any of the products under this category or under intermediate goods category and protect them from liberalization for a period of 15years.

31) **Rules of Origin**: Simplified Rules of Origin have been agreed with the UK that makes it easier for Kenya to export, into the UK market, a wide range of products. The negotiated flexibilities in the rules are supportive of agricultural and industrial development, laying emphasis on value addition for agricultural products. The agreed rules would achieve what successive Conventions (Lome and Cotonou) failed to achieve i.e. promote industrial development in Kenya. The flexibilities include single transformation for textiles products, cumulation with (sourcing raw materials from) other developing countries- hence promoting industrialisation in Kenya.

32) **Customs and Trade Facilitation:** The EPA has provided for an enabling customs and trade facilitation environment aimed at ensuring easy access of Kenya's products into the UK market. This is to be realized through a commitment by the Parties to reinforce cooperation in the Customs and Trade facilitation area, particularly with regard to relevant legislation and

procedures, administrative capacity of the relevant customs administrations and information sharing in order to meet the set objectives. The Parties agreed to accord the East Africa partner state flexibilities in terms of transitional periods and capacity building to smoothly implement the foreseen commitments on customs and trade facilitation.

33) **Trade Defence Measures:** The agreement provides for Trade defence measures, such as Safeguards, Antidumping and countervailing measures to take care of import surges and subsidised imports. This is an important tool for Kenya to use in protecting the domestic industry and agriculture Measures to mitigate any negative effects arising from EPA

34) The EPA has inbuilt measures that are aimed to cushion each Party from negative effects that may arise. This include:-

a. **The exclusion list** is one of the inbuilt mitigation measures in the Agreement, where products that Kenya considers strategic and sensitive have been excluded. This includes products such as cereals, dairy products, fisheries products among others.

b. **Long phased in period**: 15 years for the intermediate and 25 years for finished products that Kenya has committed to liberalize. This allows the industries likely to be negatively affected to build capacity through Economic Development Cooperation support that is inbuilt in the Agreement with the UK (Annex II B & Annex II C)

c. **Infant Industry Clause**: which allows Kenya to protect infant industries likely to be negatively affected by zero rated UK products for a maximum of 15 years. (Article 50 (4b).

d. **Trade Remedies Provisions-Safeguards, Countervailing Measures and Anti-dumping:** The Agreement provides for trade remedies to safeguard against unfair trade practices which lead to market distortion. This takes care of situations where there is unforeseen influx of imports and subsidised products from the UK. These measures are over and above the other protection measures such as exclusion from liberalisation of agricultural and strategic products and longer transition periods (Article 48, 49 & 50).

e. **Amendment Clause:** The EPA contains an amendment clause which provides flexibility to the Parties to seek for amendments on any provisions, including tariff liberalisation schedules, when need arises (Article 142).

f. **Mandatory 5 Year Review Clause:** The agreement provides for a comprehensive mandatory review of the entire agreement every 5 years. This will address the challenges that may arise during implementation of the Agreement or in response to change in dynamics (Article 141).

g. **Exit clause:** The Agreement provides for flexibility to the Parties to exit upon giving a one year written notice; and (Article 139).

35) **Sector for products which are not excluded from liberalisation**.

36) **Fisheries:** The chapter on fisheries which covers marine and inland fisheries provides a framework of cooperation in conservation, management and exploitation of marine fisheries

resources. The framework also provides a chance where Kenya can conclude a bilateral fisheries agreement with the UK on fisheries, as a strategy towards exploitation of the marine fisheries resources.

37) **Economic and Development Cooperation:** The agreement contains a comprehensive development cooperation chapter in which the UK commits to collaborate towards the resources required for development.

38) **Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Measures:** The EPA has provided a robust framework of cooperation between Kenya and the UK on SPS and TBT measures. The primary goal is to ensure transparency and objectivity in SPS and TBT measures in order to safeguard against introduction of ad hoc requirements that frustrate exports.

39) **Agriculture:** The EPA provides for cooperation between Kenya and the UK on agriculture development geared towards addressing challenges faced in agricultural sector. Under this chapter the EPA provides a guide on how to deal with subsidised agricultural products destined for Kenya's market. The UK committed not to grant export subsidies on products destined for the Kenya market on duty free basis. The agreement further provides for a Comprehensive Dialogue forum where any serious challenges faced by either Party in the implementation of the agreement will be discussed with a view to resolve them.

40) **Institutional Arrangement, Final Provisions and Dispute Settlement:** The agreement provides for the establishment of the requisite institutional structures to facilitate the implementation of the agreement. The structures established include EPA Council, Committee of Senior Officials, and Consultative Committee, among others. The Parties also agreed on Dispute Settlement mechanism aimed at avoidance of disputes and settlement of any dispute between the Parties concerning the interpretation and application of this Agreement. Final provisions are also agreed detailing aspects such as entry into force, provisional application, amendment and review mechanism and life span of the agreement among others.

41) **Areas of Future Negotiations/Rendezvous clause:** The following are areas of future negotiations as agreed by both Parties; Trade in services; Trade related issues namely (Competition policy; Investment and private sector development; Trade, environment and sustainable development; Intellectual property rights; Transparency in public procurement, and; any other areas that the Parties may agree upon.

42) **The number of states that are party to the EPAs:** The number of states that are members to the Kenya-UK EPA are currently two; The Republic of Kenya, a member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part. The Agreement has the provision for allowing other EAC member states to accede to it when they are ready.

43) **Reservations:** The EPA does not permit reservations or declarations during ratification. The agreement as it stands is complete with all its provisions having been agreed by the Parties.

4.0 PUBLIC PARTICIPATION AND STAKEHOLDERS ENGAGEMENT

44) Article 118 (1)(b) of the Constitution on provides that "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees* and Section 8(3) of the Treaty Making and Ratification Act 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.*

45) Consequently, despite the Ministry for Industrialization, Trade and Enterprise Development demonstrating that they carried adequate Public Participation while developing the EPA, the Committee through the Clerk of the National Assembly placed advertisements in two local dailies; Nation and People Daily, on 11th February 2020, calling for submissions of memoranda on the subject matter.

46) The Committee received three sets of written submissions on the Agreement from the Kenya Private Sector Alliance (KEPSA), one Laura Naliaka, a specialist in trade and economic affairs and from an entity known as Econews Africa.

4.1 Kenya Private Sector Alliance (KEPSA)

47) The KEPSA in expressing its support for the Economic Partnership Agreement stated in its submissions that it was of the view that the EPA provided an opportunity for Kenyan's in the agricultural sector to be able to expand their businesses and also invest in the sector that was bound to yield more returns to them. The stakeholder felt that this was Agreement was bound to inspire certainty in business in the Nation.

4.2 Ms. Laura Naliaka

48) Ms. Laura Naliaka the specialist in trade and economic affairs opined that the re-imposition of *Most Favoured Nations* (MFN) tariffs on trade between the UK and the EU could result to less trade between the two countries. The highest MFN tariffs reside in the agricultural products, a sector in which Kenya enjoys comparative advantage. Hence, Kenya could potentially fill the gap resulting from reduced trade between UK and EU by increasing its exports to the UK, under a framework such as the EPA which is currently being negotiated.

49) Ms. Laura Naliaka in her submissions further stated that Kenya was not a least developed country hence it was not eligible for the duty-free exports to the EU under Everything but the Arms agreement that the other EAC states enjoy. She averred that EAC (including Kenya) exports to the UK would expand principally in the grains and crop sector. She specifically opined that Brexit would entail an increase in EAC exports to the UK of around USD 115 million.

50) Ms. Laura Naliaka stated in her submissions that the very large subsidies from the EU that farmers received made it extremely difficult for African agricultural produce to enter the European market and was of the view that the scope for this matter t was one of the aspects that would be renegotiated by Kenya and UK which had ceased to be part of the EU, and this in her view was bound to benefit the local producers in Kenya.

4.3 Econews Africa

51) Econews Africa the third stakeholder sought to ascertain on the aspect of the Rules of Origin whether Kenyan produce transiting via the EU with no or limited value addition would be allowed to enter duty free into the UK, and which procedures and documentation would be required for the goods in transit.

52) Econews in its submission sought to know whether Kenyan products meeting EU standards would be admitted into the UK as well as the Scope of the trade agreement, what would the scope of this agreement be and the implications that the EPA would have on key sectors such as agriculture and manufacturing in Kenya. The stakeholder sought to establish any implications for regional integration and whether UK products would come into the country via Mombasa and find their way into other EAC Member States.

53) On the ratification process, Econews Africa submitted that the ratification process was flawed as the Government had already signed the agreement with the UK and the same was brought to parliament for 'ratification' as a rubberstamping process. They were of the view that Parliament ought to have been involved in the approval process from the onset of the negotiations to the culmination of the process.

54) Econews Africa challenged the process of ratification of agreements carried out in Kenya and contrasted the same with what was the practice in the United Kingdom, where the negotiations were said to be transparent and there was involvement of Parliament, the devolved administrations and legislatures, local government, business, trade unions, civil society, and the public from every part of the United Kingdom must be accorded an opportunity to engage with and contribute to the trade policy and sought to have Kenya to involve the stakeholders including Parliament in the processes culminating in the formulation of the agreement.

5.0 COMMITTEE OBSERVATIONS

The Committee having considered the Agreement observed as follows, **THAT:-**

55) **Constitutional Implication:** The EPA is not in conflict with any provisions of Kenya's the Constitution. It is consistent with its values, objectives and various statutes enacted to implement it.

56) **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. Upon ratification, the Agreement shall bind the Government of Kenya.

57) **Administrative Obligations:** Kenya and the UK 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.

58) **Financial Obligations:** Financial resources are required to finalize the activities leading to the ratification and implementation of the Agreement. Other Activities to be undertaken include the sensitization of the key stakeholders, in particular; Principal Secretaries; Chief Executive Officers (CEOs) of various public and private organizations; Non State Actors (Private Sector & Civil Society); and Targeted/specific sectors such as Agriculture, Fisheries.

59) **Ministerial responsibility:** the implementation of the EPA will be under the collective responsibility of the Office of the Attorney General and the Ministry of Industrialization, Trade and Enterprise Development.

60) **Reservations:** The EPA does not permit reservations or declarations during ratification. The agreement as it stands is complete with all its provisions having been agreed by the Parties.

61) **Protection of national interests:** The agreement provides for Trade defence measures, such as **Safeguards**, **Anti-dumping** and **countervailing measures t**o take care of import surges and subsidised imports. This is an important tool for Kenya to use in protecting the domestic industry and agriculture sector for products which are not excluded from liberalisation. The agreement is based on the EAC-EU-EPA text and seeks to replicate the effects of EPA agreed and initialled by the EAC and EU.

62) The EPA secures and maintains the UK market for Kenyan goods. It provides full duty free and quota free market access conditions for goods originating from Kenya being a member of EAC into the market of the UK on a secure, long term and predictable basis in accordance with the modalities laid down in the Agreement.

63) **Compliance:** The EPA meets the threshold for approval for the ratification of a treaty pursuant to the provisions of section 8 of the Treaty Making and Ratification Act 2012.

6.0 COMMITTEE RECOMMENDATION

The Committee recommends: -

THAT, pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the **House APPROVES the ratification of the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part.**

Signed .....**Date**16th Feb 2021

HON. ALI ADAN HAJI ALI, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ANNEX I

INDEX

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES

ATTENDANCE SCHEDULE/PAYMENT SCHEDULE

Clerk's Chambers
National Assembly
NAIROBI

Agenda: 1. Adoption of the report on Kenya-UK Trade Economic Partnership Agreement
2. Brief on Supplementary Budget Estimates I and Budget Policy Statement 2021.

Date: 16th February, 2021 **Time:** Start 3.30pm End 5.30pm

NO.	NAME	SIGNATURE
1.	Hon. Adan Haji Ali, MP - **Chairperson**	
2.	Hon. Wangari Mwaniki, MP – **Vice Chairperson**	
3.	Hon. William Cheptumo, MP	
4.	Hon. Alois Musa Lentoimaga, MP	
5.	Hon. Anab Mohamed Gure, MP	
6.	Hon. Andrew Mwadime, MP	
7.	Hon. Christopher Doye Nakuleu, MP	
8.	Hon. Daniel Maanzo, EBS, MP	
9.	Hon. Jared Okelo, MP	
10.	Hon. Sharif Athman Ali, MP	
11.	Hon. Jones Mlolwa, MP	
12.	Hon. Kipruto Moi, MP	
13.	Hon. Ayub Savula, MP	
14.	Hon. Gichimu Robert, MP	
15.	Hon. Kimani Patrick Wainaina Jungle, MP	
16.	Hon. Fred Ouda, MP	
17.	Hon. Ngugi Joseph Nduati, MP	
18.	Hon. Wachira Rahab Mukami, MP	
19.	Hon. Dr. Wilberforce Oundo, Phd, MP	

Committee Clerk NURI KITEL NATAAN CATI **Sign** **Date** 16.02.2020

Director, Committee Services **Sign** **Date**

FOR: CLERK OF THE NATIONAL ASSEMBLY

ANNEX II

ANNEX II

MINUTES OF THE 1ST SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 16TH FEBRUARY, 2021 IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING AT 3.30 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Daniel Maanzo, MP
3. Hon. Andrew Mwadime, MP
4. Hon. Jared Okelo, MP
5. Hon. Alois Musa Lentoimaga, MP
6. Hon. Jones Mlolwa, MP
7. Hon. Sharif Athman, MP
8. Hon. Kimani Patrick Wainaina Jungle, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP

APOLOGY

1. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
2. Hon. William Cheptumo, MP
3. Hon. Christopher Nakuleu, MP
4. Hon. Kipruto Moi, MP
5. Hon. Ayub Savula, MP
6. Hon. Fred Ounda, MP

INATTENDANCE

SECRETARIAT

1. Mr. Erick Nyambati - Clerk Assistant II
2. Ms. Nuri Kitel Nataan - Clerk Assistant II
3. Ms. Marlene Ayiro - Senior Legal Counsel

MIN.NO.NA/TRADE/2021/001: **PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/002: **CONSIDERATION AND ADOPTION OF THE REPORT ON ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART**

The Committee considered and adopted the report with the following observations and recommends.

Committee Observations

The Committee having considered the Agreement observed as follows, **THAT:-**

1) **Constitutional Implication:** The EPA is not in conflict with any provisions of Kenya's Constitution. It is consistent with its values, objectives and various statutes enacted to implement it.

2) **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. Upon ratification, the Agreement shall bind the Government of Kenya.

3) **Administrative Obligations:** Kenya and the UK 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) **Financial Obligations:** Financial resources are required to finalize the activities leading to the ratification and implementation of the Agreement. Other Activities to be undertaken include the sensitization of the key stakeholders, in particular; Principal Secretaries; Chief Executive Officers (CEOs) of various public and private organizations; Non State Actors (Private Sector & Civil Society); and Targeted/specific sectors such as Agriculture, Fisheries.

5) **Ministerial responsibility:** the implementation of the EPA will be under the collective responsibility of the Office of the Attorney General and the Ministry of Industrialization, Trade and Enterprise Development.

6) **Reservations:** The EPA does not permit reservations or declarations during ratification. The agreement as it stands is complete with all its provisions having been agreed by the Parties.

7) **Protection of national interests:** The agreement provides for Trade defence measures, such as **Safeguards**, **Antidumping** and **countervailing measures t**o take care of import surges and subsidised imports. This is an important tool for Kenya to use in protecting the domestic industry and agriculture sector for products which are not excluded from liberalisation. The agreement is based on the EAC-EU-EPA text and seeks to replicate the effects of EPA agreed and initialled by the EAC and EU.

8) The EPA secures and maintains the UK market for Kenyan goods. It provides full duty free and quota free market access conditions for goods originating from Kenya being a member of EAC into the market of the UK on a secure, long term and predictable basis in accordance with the modalities laid down in the Agreement.

9) **Compliance:** The EPA meets the threshold for approval for the ratification of a treaty pursuant to the provisions of section 8 of the Treaty Making and Ratification Act 2012.

Committee Recommendation

The Committee recommends: -

THAT, pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the **House APPROVES the ratification of the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other Part.**

MIN.NO.NA/TRADE/2021/003: ADJOURNMENT

The Chairperson adjourned the meeting at half past five. The next meeting will be held on notice.

SIGNED.....

(Chairperson)

DATE..... 17th Feb 2021

ANNEX III

ANNEX III

SECRET

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE 22 DEC 2020
DAY TUESDAY
LAID
CLERK-AT-THE-TABLE:
LEADER OF THE MAJORITY
R.M. TIAMITI MP

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

MEMORANDUM TO PARLIAMENT

ON

THE ECONOMIC PARTNERSHIP AGREEMENT

BETWEEN

REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART,

AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

(Submitted by the Cabinet Secretary for Industrialization, Trade and Enterprise Development)

DECEMBER, 2020

1.0 OBJECTIVES OF THE MEMORANDUM

The objectives of the Memorandum are to:

a) Appraise Parliament of the progress of the negotiations of the Kenya-UK Economic Partnership Agreement (EPA).

b) Request the Parliament to approve the ratification of the Kenya-UK EPA.

2.0 BACKGROUND OF THE ECONOMIC PARTNERSHIP AGREEMENT

2.1 The United Kingdom (UK) exited the European Union (EU) on 31st January 2020. According to the terms of the Withdrawal Agreement, the UK will remain part of the EU customs union and EU Single Customs Territory until 31st December 2020.

2.2 Kenya has been accessing the EU and, by extension, the UK market on a duty-free and quota-free basis on temporary conditions given under the EU Market Access Regulation (MAR) 1528/2007. The UK has consistently ranked in the top five export destinations with an annual average value of Ksh 39 billion for the last five years (2015-2019). The major export products are coffee, tea, edible vegetables, cut flowers, and fruits. The UK is among top Kenya's import sources with the following significant imports; machinery, motor vehicles, pharmaceuticals, printed books and other paper products, and electrical and electronic equipment.

2.3 The Kenya–UK Economic Partnership Agreement (EPA) negotiations begun in August 2020. The negotiations were based on the EAC-EU EPA text.

2.4 Kenya adopted a two-pronged approach in negotiating the EPA: -

a) **Regional Approach**: The UK preferred this approach to secure the regional market at one go through one Agreement. Negotiations were to be conducted using the same approach as the EAC-EU EPA.

b) **Bilateral Approach**: Kenya adopted this approach because of the Brexit transition period's fast-approaching deadline and the need to secure duty-free and quota-free market access to the UK. This was also amplified by the past experience of the EAC-EU EPA, which has not entered into force due to reluctance by the other EAC Partner States to sign and ratify. This approach allows the other EAC Partner States to accede to the Agreement if and when they are ready.

2.5 Article 37 of the EAC Customs Union Protocol allows Partner States to separately conclude or amend a trade agreement with a foreign country provided that the terms of such an arrangement are not in conflict with the protocol.

2.6 The Kenya-UK EPA negotiations were concluded after several rounds of negotiations culminating in the initialing of the text on 3rd November 2020. The process of legal scrubbing to clear the text for signature and ratification has been concluded.

2.7 The Agreement will enter into force when the two parties deposit the instruments of ratification. However, the Agreement can be implemented provided Kenya has deposited her instrument of ratification since the UK can provisionally implement the Agreement.

2.8 It is imperative that Kenya ratifies the Kenya-UK EPA in good time to allow notification of the ratification to the UK by 31st December 2020 to facilitate continued market access of

Kenyan products to the UK and subsequently avoid trade disruption.

3.0 THE PROCESS OF EPA NEGOTIATIONS

3.1 Kenya and the UK began negotiations in August 2020.A Secretariat, domiciled at the Ministry of Industrialization, Trade and Enterprise Development, was established to coordinate the activities leading up to the conclusion of the Kenya–UK trade negotiations.

3.2 On 25th and 26thAugust, 2020, Kenya and the UK began the first round of the negotiations virtually. Subsequently, several virtual rounds of negotiations have been held on various dates between August and November 2020.

4.0 OBJECTIVES OF THE KENYA-UK EPA

4.1 The EPA's overall objectives are to ensure sustainable development of Kenya and the other EAC Partner States; smooth and gradual integration into the global economy; and eradication of poverty.

The agreement seeks 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;

c) promote the gradual integration of Kenya and other EAC member states into the world economy, in conformity with its political choices and development priorities;

d) foster the structural transformation of Kenya and other EAC economies, and their diversification and competitiveness by enhancing their production, supply and trading capacity;

e) improve Kenya and other EAC Partner States capacity in trade policy and trade-related issues; and

f) establish and implement an effective, predictable and transparent regional regulatory framework for trade and investment in Kenya and other EAC Partner States, thus supporting the conditions for increasing investment, and private sector initiative.

4.2 The significance of the EAC/Kenya-UK EPA to Kenya's economy is underscored by the importance of the UK market to Kenya's economy. This importance is illustrated by Kenya's exports to the UK, where the UK accounted for an average of 31% of all Kenya's exports to the EU market of 28 countries. At this level, the UK has been the second most important destination market for Kenyan products in the EU after the Netherlands, with exports averaging KES 39billion between 2015 - 2019.

4.3 Analysis of the UK market potential for products that have been earmarked[1] for driving Kenya's National Export Agenda reveals great opportunity that can only be exploited through assured market access arrangement that is now provided by the EAC/Kenya-UK EPA. The market potential that awaits Kenya's exploitation is estimated at USD205 billion against Kenya's current level of exports, which stands at 0.2% of the total UK market size. The Government, through the National Export

[1] This is UK imports from the world, including Kenya, as derived from the ITC Trade Maps

Development Agenda, is aiming at enhancing Kenya's market share in the UK by 5% by 2025, which will translate to USD10.2billion or KES1.1trillion up from the current level of exports to the UK which as mentioned above stood at KES39billion *(refer Annex 1 for sectoral export potential in the UK)*. The EAC/Kenya-UK EPA will be instrumental in delivering the projected export growth.

4.4 In view of this, Kenya stands to gain substantially from the Agreement by securing the UK Market for Kenyan goods and the opportunity for the country to exploit the huge export potential for priority agricultural, manufactured, fisheries, and livestock products, as well as handicraft and value-added mineral products.

5.0 THE SCOPE

5.1 The agreement, which is essentially a trade in goods agreement, covers the following:

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
j) Annexes and Protocols to the above

6.0 HIGHLIGHTS OF PROTECTION OF NATIONAL INTERESTS IN THE EPA BETWEEN KENYA AND THE UK

6.1 Kenya stands to gain from signing and ratifying the Agreement to secure and maintain the UK Market for Kenyan Goods.

6.2 This will be achieved through:

a) **Duty-free and quota-free market access to the UK**: The Agreement offers Kenya duty-free and quota-free market access for all products, including manufactured/processed products;

b) **Rules of Origin**: Simplified Rules of Origin have been agreed with the UK, making it easier for Kenya to export, into the UK market, a wide range of products. The negotiated flexibilities in the rules support agricultural and industrial development, emphasizing value addition for agricultural products.

The agreed rules would achieve what successive Conventions (Lome and Cotonou) failed to achieve, i.e., promote industrial development in Kenya. The flexibilities include single transformation for textiles products, cumulation with (sourcing raw materials from) other developing countries- hence promoting industrialization in Kenya;

c) **Opening up of new areas for exports**: Maintain the secured market for industrial products under the UK EPA framework, which were restricted in the previous regime due to high tariffs and tariff escalation in the EU market;

d) **Negotiated understanding/platform** to discuss and resolve UK standards and SPS measures (Industrial and health

standards) that have continued to constrain Kenya's exports to the UK;

e) **Platform to address supply-side constraints** that hamper Kenya's ability to exploit UK market access opportunities, through the commitments to support the infrastructural and non-infrastructural development program/projects through the Framework for the UK -Kenya Strategic Partnership 2020-2025 and other UK institutions such as DFID;

f) **Secure investments and jobs** in the Horticulture, Fisheries, Chemical and other related sectors. Ratification of the EPA will save the country from losing employment of the youth and women, who are the majority of the labour force in enterprises producing for the UK market. An estimated 4 million people will have their jobs and livelihoods protected if EPA is ratified.

g) **Limited market opening for UK products:** Kenya is offering to open 82.6% value of total trade to the UK over an extended transition period (up to 25 years with a seven (7) year moratorium) constituting of mainly raw materials, capital goods, intermediate products and all other essential goods. The prolonged transition period protects infant industries. This was aimed at safeguarding agriculture, industry and Kenya's market interest in the region. Therefore, the exclusion list is the means by which the Government addresses the welfare loss and threats posed by EPAs on Agriculture and Industry. The products in the exclusion list include agricultural and industrial products; and

h) **Integrating marine and inland fisheries in EPAs.** The Agreement provides for a basis for negotiating a Fisheries Partnership Agreement (FPA) with the UK. The FPA would

unlock the enormous potential that exists in the Kenya marine fisheries.

7.0 EPA INBUILT MEASURES TO MITIGATE THE THREAT TO KENYA'S REGIONAL AND DOMESTIC MARKET FROM UK IMPORTS

7.1 The inbuilt measures to mitigate the threat to Kenya's regional and domestic market from UK imports include;

a) **Trade Remedies Provisions- Safeguards, Countervailing Measures and Anti-dumping:** The Agreement provides for trade remedies to safeguard against unfair trade practices which lead to market distortion. This takes care of situations where there is an unforeseen influx of imports and subsidized products from the UK. These measures are over and above the other protection measures, such as exclusion from the liberalisation of agricultural and strategic products and longer transition periods.

b) **Amendment Clause:** The EPA contains an amendment clause that provides flexibility to the Parties to seek amendments on any provisions, including tariff liberalization schedules, when the need arises.

c) **Mandatory 5 Year Review Clause:** The Agreement provides for a comprehensive mandatory review of the entire Agreement after every 5 years. This will address the challenges that may arise during the implementation of the Agreement, or in response to changes in trade dynamics.

d) **Exit clause:** The Agreement provides for flexibility to the Parties to exit upon giving a one-year written notice; and

e) **Relations with other EAC Partner States:** The Agreement allows for accession by the other EAC Partner States.

8.0 IMPLICATIONS ON MATTERS RELATING TO COUNTIES

8.1 Kenya's major exports to the UK are sourced from different counties; therefore, the EPA opens trade opportunities for Counties by providing a prime market for these products. The UK's huge market potential 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 the UK market opportunities.

9.0 POLICY AND LEGISLATIVE CONSIDERATIONS

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

10.0 REQUIREMENTS FOR IMPLEMENTATION OF THE EPA

10.1 Kenya and the UK 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.

11.0 FINANCIAL IMPLICATIONS

11.1 Financial resources are required to ensure full implementation of the Agreement to enable the country realize the objectives. Such resources will be budgeted for in the annual budgets of the responsible State Departments and agencies. Each County will also be expected to budget for the respective activities leading to the realization of the objectives of the Agreement.

11.2 The Ministry is in the process of rolling out a sensitization program, to the various stakeholders at the National and County levels on the opportunities arising from this Agreement.

12.0 MINISTERIAL RESPONSIBILITY

12.1 The EPA is to be implemented under the coordination of the Ministry of Industrialization, Trade and Enterprise Development. Focal areas such as agriculture, fisheries, economic cooperation and development will be led by responsible Cabinet Secretaries.

13.0 APPROVAL AND SIGNATURE

13.1 The Cabinet gave approval for signature on 2nd December and Kenya-UK EPA was signed on 8th December, 2020 in London, UK by the respective Ministers with responsibilities for Trade.

14.0 PARTIES TO THE AGREEMENT

14.1 Parties to this Agreement are Kenya, A member of the East African Community, and the United Kingdom of Great Britain and Northern Ireland. There is room for other EAC Partner States to accede to the Agreement.

15.0 STAKEHOLDER CONSULTATIONS

15.1 The Kenya-UK EPA negotiations elicited overwhelming interest from the private sector, especially exporters to the UK due to the UK market's importance. The stakeholders urged the Government to move with alacrity to conclude the agreement that provides predictable trading terms between the countries in view of Brexit.

15.2 The Ministry is in the process of rolling out sensitization programs to various stakeholders at the National and County levels on the opportunities arising from this Agreement.

16.0 RESERVATIONS

16.1 The EPA does not permit reservations or declarations during ratification. The Agreement as it stands is complete with all its provisions having been agreed by the Parties.

Signed :..... **Date: 8th December, 2020**

Betty C. Maina, CBS
Cabinet Secretary
Ministry of Industrialization, Trade and Enterprise Development

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 22 DEC 2020
DAY.
TUESDAY
LEADER OF THE MAJORITY
R-K-TIAMPATI

ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

PARTIES TO THE AGREEMENT

THE REPUBLIC OF KENYA

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

of the one part, and

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

(hereinafter referred to as the "United Kingdom" or the "UK")

of the other part

RECALLING their commitments within the framework of the Marrakesh Agreement Establishing the World Trade Organization (WTO), done at Marrakesh on 15 April 1994, hereinafter referred to as the "WTO Agreement";

HAVING REGARD TO the Agreement establishing the African, Caribbean and Pacific (ACP) Group of States, signed in Georgetown on 6 June 1975 and amended in 2003 (the Georgetown Agreement) and to the revised Georgetown Agreement, endorsed by ACP Heads of State and Government in Nairobi, in December 2019, which established the Organisation of African Caribbean and Pacific States;

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;

REITERATING their desire for a wider unity of Africa and the achievement of the objectives of The Treaty for the Establishment of the East African Community;

CONSIDERING that the EAC Partner State(s) and the UK have agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the 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 poverty eradication in the EAC Partner State(s);

REAFFIRMING also that the Economic Partnership Agreement (EPA) shall be consistent with the objectives and principles of the Joint Statement of the Parties on the Objectives and Essential and Fundamental Elements of this Agreement as set out at Annex III;

REAFFIRMING that the EPA 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 EAC Partner State(s)' economies 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 States, while maintaining special treatment for least developed EAC Partner States;

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

RECOGNISING that UK development cooperation in support of this Agreement shall continue to be guided by the internationally agreed aid effectiveness agenda and assessment of a government's commitment to the UK Partnership Principles, reducing poverty and achieving the Sustainable Development Goals; that UK development cooperation takes the form of financial and non-financial support; and that financial resources may be provided through a range of forms and means, including assistance provided through multilateral and regional organisations.

HAVE AGREED AS FOLLOWS:

PART I
GENERAL PROVISIONS

ARTICLE 1
Scope of the Agreement

The Parties hereby establish an EPA, that 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 and Protocols to the above.

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 and in accordance with Article 75;

(b) promote regional integration, economic cooperation and good governance in the EAC;

(c) promote the gradual integration of the EAC into the world economy, in conformity with its political choices and development priorities;

(d) foster the structural transformation of EAC economies, and their diversification and competitiveness by enhancing their production, supply and trading capacity;

(e) improve EAC capacity in trade policy and trade-related issues;

(f) establish and implement an effective, predictable and transparent regional regulatory framework for trade and investment in the EAC Partner State(s), thus supporting the conditions for increasing investment, and private sector initiative; 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 between them and reinforce, broaden and deepen cooperation in all areas relevant to trade and investment.

2. This Agreement also aims 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) through economic and trade cooperation in accordance with the objectives set out in Annex III; and

(c) establish the framework and scope of potential negotiation in relation to other issues including trade in services, trade-related issues and any other areas of interest to both Parties.

ARTICLE 3
Rendez-vous Clause

The Parties undertake to conclude the negotiations in the subject matters listed below, within five (5) years upon 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; and
  (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) the essential and fundamental elements of this Agreement, as jointly stated by the Parties in Annex III;

(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 UK; and

(e) contributing to enhance the production, supply and trading capacities 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 UK and the 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 UK 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)' markets for goods originating from the UK 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) fully benefit from the EPA.

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 the provisions of 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 the provisions of 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 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 in the Harmonised Commodity Description and Coding System (HS).

2. The Parties shall exchange all necessary information, within a period of three months after a tariff modification or a change in the HS, in respect of 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(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

For the purposes of this Part, the term "originating" means qualifying under the rules of origin set out in Protocol 1 to this Agreement.

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 UK free of customs duties, under the conditions set out in Annex I.

ARTICLE 11
Customs Duties on Products Originating in the UK

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

ARTICLE 12
Standstill

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 according to Articles 48, 49 and 50.

2. In order to preserve the prospect for the 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), which may be applied to a product originating in the UK 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 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 UK, 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 environment.

3. Such taxes should be enforced on a limited number of products for a limited period of time and shall be reviewed by the EPA Council for renewal after 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 entry into force of this Agreement, be accorded to the like product destined for the territory of the UK.

5. For the purposes of Articles 14 and 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 15[1].

ARTICLE 15
More Favourable Treatment Resulting from a Free Trade Agreement

1. With respect to the goods covered by this Part, the UK shall accord to the EAC Partner State(s) any more favourable treatment applicable as a result of the UK 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 UK any more favourable treatment applicable as a result of the EAC Partner State(s) becoming parties to a free trade agreement with any major trading economy after the signature of this Agreement. Provided that the UK can demonstrate that it has been given less favourable treatment than that

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

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 the provisions of this paragraph on a case by case basis.

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. The provisions of paragraph 2 shall not apply in respect of trade agreements between the EAC Partner State(s) with countries of the ACP Group, 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 purpose of this Article, a failure to provide administrative cooperation shall mean, *inter alia*:

(a) a repeated failure to respect the obligations 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;

(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 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 above 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. A temporary suspension shall be notified to the EPA Council without undue delay.

(c) Temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six (6) months, and may be renewed. 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) of this Article, the Party concerned 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 provisions of Protocol 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the Committee of Senior Officials to examine the possibilities 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 exports 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 entry into force of this Agreement. No new such measures shall be introduced in trade between the Parties. The provisions of this Article shall be without prejudice to the provisions of Title VI of this Part.

2. The provisions of 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 to the application of standards or regulations for the classification, grading or marketing of commodities in international trade.

ARTICLE 20
National Treatment on 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. The provisions of 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. The provisions of 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 the provisions of this Article and subsidies effected through governmental purchases of national products.

5. The provisions of 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
CUSTOMS COOPERATION AND TRADE FACILITATION

ARTICLE 22
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 of time 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 EAC Partner State(s)' customs administrations 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, subject to the provisions of Article 75, including paragraph 4 of that Article:
      (i) modernisation of customs systems and procedures, as well as 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 24(3);
      (v) capacity building which may include financial or 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); and
   (e) promote coordination between all related agencies, both internally and across borders.

2. Notwithstanding paragraph 1, the Parties shall provide each other mutual administrative

assistance in customs matters in accordance with the provisions of Protocol 2.

ARTICLE 24
Customs Legislation and Procedures

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, the substantive elements of the WCO Framework of Standards to secure and Facilitate Global Trade, the WCO data set and the HS Convention.

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

(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;
(c) the need to use a single administrative document or electronic equivalent, for the purposes of establishing customs declarations in the UK 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, notably on tariff classification and rules of origin, in accordance with the rules laid down in regional and/or national legislations;
(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 their equivalent; and
(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 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; and
(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 territory via 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 for goods in transit in 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 legislations.

5. The Parties shall promote and implement regional transit arrangements.

6. The Parties shall promote co-ordination 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, 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 or amended legislations and procedures 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 co-operation 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; and
(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

In view of the need to enhance the EAC Partner State(s)' capacity 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 transitional period of five (5) years after the entry into force of this Agreement to meet the obligations in Articles 23, 24 and25.

This transitional 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.

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 either 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 Protocol 1 on rules of origin;
(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; and
(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 Organization 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 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, whilst safeguarding human, animal and plant health or life 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 the EAC Partner State(s) in the Codex Alimentarius Commission, World Animal Health Organisation and International Plant Protection Convention;
(g) promote consultation and exchanges between the EAC Partner State(s) and UK 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) to establish and enhance the EAC Partner State(s)' capacity to implement and monitor SPS measures pursuant to the provisions of Title VI of Part V on Economic and Development Cooperation; and
(j) promote technology transfer.

ARTICLE 32
Rights and Obligations

1. The Parties reaffirm their rights and obligations under the international treaties and agreements relating to this Title to which they are party.

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 in gathering information needed to make informed decisions; and
(d) promote linkages, joint ventures, joint research and development between the EAC Partner State(s) and UK 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 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 to 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 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 the provisions of 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.

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.

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.

ARTICLE 38
Conformity Assessment

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

ARTICLE 39
Information Exchange and Transparency of Trade Conditions

Cooperation 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;
(c) advance notice to ensure that the EAC Partner State(s) are informed of new SPS measures that may affect EAC exports to the UK. This system shall build on existing mechanisms under WTO obligations, especially Article 7 of the WTO SPS Agreement; and
(d) promotion of transparency as regards the sampling, analysis and action following official controls on feed and food from either Party.

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 UK 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 (the "TBT Agreement").

2. For the purpose of this Title the definitions of the TBT Agreement shall 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 UK are parties, including those relating to the protection of environment and biodiversity in particular.

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

ARTICLE 43
Mutual Recognition Agreements

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

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

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

ARTICLE 46
Conformity Assessment

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

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

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 UK for the implementation of this Title is the Government of

the UK.

3. The EAC Partner State(s) shall in accordance with this Agreement, notify the UK of its respective Technical Regulatory Bodies.

TITLE VI
TRADE DEFENCE MEASURES

ARTICLE 48
Anti-dumping and Countervailing Measures

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent the UK 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 one 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. Either Party shall notify the exporting Party of the receipt of a properly documented complaint before initiating any investigation.

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

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

ARTICLE 49
Multilateral Safeguards

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent the EAC Partner State(s) and the UK 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 annexed to the Marrakesh Agreement establishing the WTO . For the purpose of this Article, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

2. Notwithstanding paragraph 1, the UK shall, in the 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 from any measures taken pursuant to Article XIX of GATT 1994, the

WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.

3. The provisions of 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 this period, the EPA Council shall review the operation of those provisions 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. The provisions of paragraph 1 shall be subject to the WTO Agreement on the Understanding on Rules and Procedures Governing the Settlement of Disputes.

ARTICLE 50
Bilateral Safeguards

1. After having examined alternative solutions, a Party may apply safeguard measures of limited duration which derogate from the provisions of Article 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; or

(b) disturbances in a sector of the economy, particularly where these disturbances produce major social problems, or difficulties which could bring about serious deterioration in the economic situation of the importing Party; or

(c) disturbances in the markets of like or directly competitive agricultural products[1] 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 4(b). Those safeguard measures of the importing Party may only consist of one or more of the following:

(a) suspension of the further reduction of the rate of import duty for the product concerned, as provided for under this Agreement;

(b) 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) introduction of tariff quotas on the product concerned.

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

4. (a) Without prejudice to paragraphs 1 to 3 where any product originating in the UK 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 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 5 to 8.

(b) The EAC Partner State(s) may take safeguard measures, in accordance with the procedures laid down in paragraphs 5 to 8, where a product originating in the UK 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.

5. (a) Safeguard measures referred to in this Article shall only be maintained for such a time as may be necessary to prevent or remedy serious injury or disturbances as defined in paragraphs 2 and 4.

(b) Safeguard measures referred to in this Article shall not be applied for a period exceeding two (2) years. Where the circumstances warranting 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, such measure may however be applied for a period not exceeding four years and, where the circumstances warranting imposition of safeguard measures continue to exist, 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 at 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 year since the expiry of the measure.

6. For the implementation of the above paragraphs, the following provisions shall apply:

(a) Where a Party takes the view that one of the circumstances set out in paragraphs 2 and/or 4 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 7 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.

7. Where exceptional circumstances require immediate action, the importing Party concerned, may take the measures provided for in paragraph 3 or 4 on a provisional basis without complying with the requirements of paragraph 6. Such action may be taken for a maximum period of one hundred and eighty (180) days where measures are taken by the UK and two hundred (200) days where measures are taken by the EAC Partner State(s). The duration of any such provisional measure shall be counted as a part of the initial period and any extension referred to in paragraph 5. 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 concerned and shall immediately refer the matter to the Committee of Senior Officials for examination.

8. 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.

9. 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. It is 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 UK 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) providing special and differential treatment;

(c) taking into account the best available scientific information for the resource assessment and management;

(d) ensuring functioning monitoring systems of the environmental, economic and social impacts in the EAC Partner State(s);

(e) ensuring conformity with existing national laws and relevant international instruments including the United Nations Convention on the Law Of the Sea (UNCLOS), regional and sub-regional agreements; and

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

2. These guiding principles should contribute to sustainable and responsible development of the living inland, marine resources, 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 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 of this Agreement.

TITLE II
MARINE FISHERIES

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) through

investment, capacity building and improved market access.

2. The objectives of cooperation are to:

(a) promote 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 States 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 Monitoring Control and Surveillance (MCS) necessary for combating Illegal, Unreported and Unregulated (IUU) fishing;

(e) promote 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 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 the artisanal and coastal fisheries.

3. The Parties shall promote the membership of all the concerned EAC Partner State(s) to the Indian Ocean Tuna Commission (IOTC) and other relevant fisheries organisations. The EAC Partner State(s) concerned, with the UK, shall coordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and 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 an EAC Partner State's EEZ, the Parties in consultation with the competent national authority and together with IOTC and, where relevant, other regional fisheries organisations, shall cooperate to 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 UK 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 the IOTC and any other relevant regional fisheries organisations will be observed. The EAC Partner State(s) and the UK shall set out minimum terms and conditions with respect to monitoring, control and surveillance of UK 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 all EAC Partner State(s) will use a compatible VMS. Those EAC Partner State(s) which do not have a VMS may be assisted by the UK to set up a compatible VMS.

(b) In addition to a compulsory compatible VMS system, all coastal EAC Partner State(s), in conjunction with the UK, will develop other mechanisms to ensure effective Monitoring, Control and Surveillance (MCS) and the UK may support the EAC Partner State(s) to put such an agreed system in place and assist in implementation.

(c) The UK 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 UK may 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 nationals in order to facilitate their effective participation in the fishing

industry. If the UK negotiates a bilateral fisheries agreement, employment of nationals of the EAC Partner State(s) shall be encouraged. The International Labour Organisation (ILO) Declaration on fundamental principles and rights at work shall apply as of right to seamen signed on UK 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 the concerned 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 as well as 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 meet international SPS measures, improve access to the market of the UK, 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 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 are those covered by Annex I of 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, equipments and tools used in the production and handling of agricultural products;
(e) sustainable agriculture technology means a technology designed with special consideration to its environmental, social and economic impacts;
(f) food and nutrition security implies 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 is defined as 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 is the consequence of natural calamities, e.g. drought, earthquake, landslide, volcano eruptions, floods, pests and diseases;

(i) small scale farmers are producers with limited resources and own small land holding 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 markets opportunity; and

(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 livelihoods 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 provision of gainful employment throughout the value chain of a modernised agricultural sector;

(d) develop modern and competitive agro-based industries;

(e) promote sustainable use and management of natural and cultural resources by developing environmentally friendly and sustainable technologies that improve the 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; and

(k) improve infrastructure within the EAC Partner State(s) for enhancing 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 EAC Partner State(s)' economies, as the main source of livelihood for the majority of the EAC Partner State(s)' population, as the primary factor to ensure food and nutrition security, potential sector for high growth and added value and 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, environmental characteristics and 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, promotion of value addition, agricultural trade and market development initiatives through appropriate instruments and 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-UK Comprehensive Dialogue on Agriculture and Rural Development Policy (the "Agriculture Dialogue") on all matters covered in this Part. The Agriculture Dialogue shall monitor the 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 established under Article 106.

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 the EAC Partner State(s), through the progressive removal of barriers and the provision of an appropriate regulatory and

institutional framework, 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 objectives of this Part.

Article 63
Sustainable Agricultural Development

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

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 avoiding 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 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 cooperate 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) biotechnologies; and
(j) risk assessment and management.

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 UK 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 UK shall not grant export subsidies for all agricultural products to the EAC Partner State(s), as from the entry into force of this Agreement.

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. This Committee may make recommendations to the EPA Council in accordance with Article 106.

Article 69
Production and Marketing of Agricultural Commodities

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

2. The Parties agree to cooperate 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); and
(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 them an opportunity to assess

the contribution of these 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). The objective of this Article therefore is to assist countries that are net food importers to develop programmes to ensure food security.

2. The Parties agree to support efforts to:
   (a) address constraints for food production, storage and distribution in the EAC region;
   (b) source food aid from within the EAC Partner State(s) and other African Regional Economic Communities as far as possible; and
   (c) improve coordination of food aid.

3. Parties agree to support efforts 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 support efforts to 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 need 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
Importance of Certain Sectors

1. The Parties recognise that:

   (a) provision of adequate access to food, clean and safe drinking water, health facilities, educational opportunities, housing, community participation and social integration is important for livelihood security of rural populations;
   (b) agricultural infrastructure development including production, processing, marketing and distribution plays a crucial role in the EAC Partner State(s)' social-economic rural development and regional integration;
   (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). Financing is required for agricultural technology development, agricultural credit and insurance, infrastructure development and markets as well as farmers' 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 livelihood security, agricultural infrastructure, technical support services, agricultural financing services and rural development as provided for in Title II of Part V.

Article 73
Exchange of Information and Consultation

1. The Parties agree to exchange experiences and information on best practices and consult on all issues in pursuit of the objectives of this Part.

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 the two Parties;
   (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; and
   (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 identified products.

PART V
ECONOMIC AND DEVELOPMENT COOPERATION

Article 75
General Provisions

1. The Parties reaffirm that development cooperation is a core element of their Partnership and an essential factor for the realisation of the objectives of this Agreement.

2. The Parties agree to consider the developmental needs of the EAC Partner State(s) and how they can increase production and supply capacity, foster structural transformation and competitiveness of their economies, enhance their economic diversification; add 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 informed by this Economic and Development Cooperation Part, in addition to the regional and national development strategies of the EAC Partner State(s). The cooperation shall include financial and non-financial support to the EAC Partner State(s). Financial support may be provided through a range of forms and means, including assistance provided through multilateral and

regional organisations.

4. Without prejudice to paragraph 3, the Parties agree that the cooperation provisions contained in this Part and in Parts III and IV of this Agreement reflect the ambition of the Parties and do not create any obligations on the UK to provide financial or non-financial support in specific areas identified.

5. The UK financing pertaining to development cooperation between the EAC Partner State(s) and the UK supporting the implementation of this Agreement shall be carried out within the framework for development cooperation as agreed in Annex III. This will be primarily guided by the principles of the internationally agreed aid effectiveness agenda and the UK Partnership Principles, and aims to reduce poverty and achieve the Sustainable Development Goals. 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.

6. For the purposes of the implementation of this Agreement, the Parties commit to jointly and individually mobilising resources with the guidance provided by the specific provisions of Title X on resource mobilisation.

7. Consistent with the Paris Declaration on Aid Effectiveness adopted in 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

1. The economic and development cooperation shall aim at:

   (a) enhancing the competitiveness of the EAC Partner State(s)' economies;
   (b) building up supply capacity and enabling the smooth implementation of this Agreement;
   (c) transforming the structure of the EAC Partner State(s)' economies by establishing a strong, competitive and diversified economic base through enhancing production, distribution, transport, marketing;
   (d) developing trade capacity as well as capacity to attract investment;
   (e) strengthening trade, investment policies and regulations; and
   (f) deepening regional integration.

Article 77
Areas of Cooperation

Economic and development cooperation shall include the following areas:

(a) infrastructure;
(b) agriculture and livestock;
(c) private sector development;
(d) fisheries;
(e) water and environment;
(f) market access issues:

(i) SPS;
(ii) TBT;
(iii) customs and trade facilitation in the EAC Partner State(s);
(g) EPA adjustment measures; and
(h) mobilisation of resources.

TITLE I
INFRASTRUCTURE

Article 78
Scope and Objectives

1. Cooperation in the development of physical infrastructure shall include particular transport, energy, information communication and 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 EAC Partner State(s)' durable and efficient transport systems;
(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. The Parties agree to cooperate in the following areas:

(a) management of transport systems;
(b) improvement, development and modernisation of infrastructure at all levels, including the development of inter-modal infrastructure networks;
(c) strengthening of 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) encouragement of partnerships, linkages and joint ventures between economic operators;
(f) improvement of safety and reliability of the transport sector, including meteorological forecasting, management of hazardous goods and emergency responses; and
(g) development of regional transport policies and 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.

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 a conducive environment for attracting investment in this sector.

3. 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; and
(h) partnerships, linkages and joint ventures.

Article 81
Information and Communications Technologies (ICT)

1. Cooperation in the ICT sector shall include: the development of ICT, competitiveness, 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 facilitation of trade through e-services, e-commerce, e-government, e-health, secure transactions and other socio-economic sectors.

3. 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 on ICT;
(d) technology development, transfer and applications, R&D, 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; and
(g) promotion and support for the development of niche markets for ICT-enabled services.

TITLE II
AGRICULTURE

Article 82
Scope and Objectives

1. Cooperation in this Title shall apply to crops and livestock including productive insects.

2. The Parties agree that the main objective of this Title is the 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 of Part IV.

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 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; and

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 (PMDT) and handling of agricultural products; and

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 agro-processing infrastructure;

iv. establishment of agro-meteorology centre in the EAC Partner State(s); and

v. development of modern market infrastructure for 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 food and nutrition security needs of the EAC Partner State(s);

iii. designing 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. designing 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 markets 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 EAC Partner State(s)' producers to secure premium prices for commodity exports.

(i) Rural Development

i. capacity building of farmer groups along the entire agricultural value chain;

ii. improving transport, communication and market facilities for agricultural inputs and outputs marketing;

iii. addressing socio-cultural barriers such as language differences, literacy levels, gender biases, 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 availability of adequate agricultural inputs to small scale farmers on a timely basis.

(j) Net Food 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, add value, off farm employment and adoption of new sustainable agricultural technologies among others 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

i. strengthening of innovation and transfer of technology, knowledge, R&D;

ii. developing and increasing use of mechanisation of the EAC Partner State(s)' agricultural sector;

iii. establishing agricultural input plants and distribution system within the EAC Partner State(s);

iv. promoting and strengthening investment in agricultural research, extension services, training and research-extension –farmers linkage;

v. establishing and strengthening regional centres of excellence including an agro-meteorology centre, biotechnology, analytical and diagnostic laboratories for crop, 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 EAC Partner State(s)' financial institutions serving 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 on private sector development shall include investment promotion and enterprise development.

2. The objectives of this Title are to:

(a) create a conducive environment for promotion of investment and private enterprises including development of new industries, Foreign Direct Investment (FDI) and technology transfer;

(b) enhance supply capacities, competitiveness and value addition;

(c) improve access to investment finance such as from relevant UK financing institutions;

(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 such as from the relevant UK institutions for promotion of investment in the EAC Partner State(s); and

(g) create and strengthen partnerships, joint ventures, subcontracting, outsourcing and linkages.

Article 85
Investment Promotion

The Parties agree to cooperate 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 the EAC Partner State(s) investment agencies and their UK counterparts;
(h) encouraging UK private sector investments in the EAC Partner State(s);
(i) supporting the establishment of financial frameworks and instruments adapted to investment needs of SMEs; 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) promotion of EAC-UK private sector business dialogue, cooperation and partnerships;
(b) efforts for Micro, Small and Medium size Enterprises (MSME) promotion and integration into the mainstream business activities;
(c) promotion of efficient production and marketing of the EAC Partner State(s)' firms;
(d) implementation of the EAC Partner State(s)' Private Sector Development Strategies (PSDS);
(e) promotion of a favourable environment for the development and growth of MSMEs;
(f) private sector organisations' capacities to comply with international standards;
(g) protection of innovations from piracy; and
(h) capacities of the EAC Partner State(s) for exploration, exploitation and marketing of natural resources.

TITLE IV
FISHERIES

Article 87
Scope of Cooperation

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

Article 88
Areas of Cooperation in Marine Fisheries

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.

2. The UK may 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 of this Agreement, 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 EAC Partner State(s)' EEZ, and 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 MSME and artisanal fisheries within the fisheries supply chain;

(e) value addition on fish; and

(f) R&D 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, enhance production capacity, improve competitiveness of fishing and related industries and services, downstream processing, development and improvement of port facilities, 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 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. This could, for example, be achieved by the creation of Research and Development (R&D) 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 implementation

of market promotion, value addition and reduction in post-harvest losses in fisheries products; and

(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 UK and training programmes in product development and branding.

(b) Infrastructure through:

(i) development and improvement of infrastructure for inland fisheries and aquaculture; and

(ii) facilitation of access to funding for infrastructure, including all type of equipment.

(c) Technology through:

(i) development of technical capabilities, including value-adding technology promotion, for example through fisheries technology transfer from the UK to the EAC Partner State(s); and

(ii) 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) development of inland fisheries and aquaculture regulations and monitoring control and surveillance systems;

(ii) development of appropriate legal and regulatory instruments on Intellectual Property Rights and building capacity for their implementation in international trade; and

(iii) protection of eco-labelling and intellectual property.

(e) Investment and finance through:

(i) 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; and

(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:

(i) measures to ensure that fish trade supports environmental conservation, and safeguards against stock depletion and the maintenance of biodiversity and 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 concerned neighbouring countries.

(g) Socioeconomic and poverty alleviation measures through:

(i) 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 UK; and

(ii) participation of marginal groups in the fishing industry, for example the promotion of gender equity in fisheries, and particularly developing capacity of women traders involved and 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 in this Title shall include natural resources, in particular water, environment and biodiversity.

2. The objectives of cooperation in 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 equitable and sustainable utilisation of natural resources;
(f) facilitate and encourage sustainable utilisation of shared resources; and
(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 protection of water catchment areas.

2. The objectives of cooperation in this area are to:

(a) develop 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; and
(c) develop water supply infrastructure for productive purposes.

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

(a) development of water supply infrastructure in the region;

(b) 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) promotion of technology development, transfer and applications, R&D, innovation, information exchange and networks;
(g) development of water pollution control, purification and conservation, wastewater treatment and sanitation; and
(h) promotion of sustainable irrigation schemes.

Article 92
Environment

1. Cooperation in the area of environment shall include protection and sustainable management of the environment, as well as 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 of the EAC Partner State(s) that use environmentally friendly technologies; and
(c) promote technology development, transfer and application, research and development, innovation and information exchange.

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

(a) 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) reinforcement of institutional and legal frameworks and the capacity to develop, implement, administer and enforce environmental laws, regulations, standards and policies;
(d) creation of partnerships, linkages, and joint ventures between economic operators;
(e) prevention and mitigation against natural environmental disasters, and the loss of biodiversity;
(f) promotion of technology development and adaptation, transfer and applications, R&D, and innovation;
(g) protection and management of coastal and marine resources, domestic and wild indigenous biological and genetic resources;
(h) development of alternative environmentally friendly activities and livelihoods;
(i) production and facilitating trade of 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) development of infrastructure facilities on environmentally friendly products;
(l) integration of local communities in the management of biodiversity, forestry, and wildlife resources;
(m) development of waste management and disposal of industrial and toxic wastes; and
(n) promotion of stakeholder participation in international environmental dialogue.

TITLE VI
SANITARY AND PHYTOSANITARY MEASURES

Article 93
Scope and Objectives

1. Cooperation in this Title shall include support and building capacity in harmonisation, zoning and compartmentalisation, conformity assessment, information exchange and transparency of trade conditions.

2. The objectives of cooperation in this Title are to:

(a) facilitate the Parties' inter-regional and intra-regional trade, whilst safeguarding human, animal and plant health or life 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 within the EAC Partner State(s);
(f) enhance the effective participation of the EAC Partner State(s) in the Codex Alimentarius Commission, World Organisation for Animal Health (OIE) and International Plant Protection Convention (IPPC);
(g) promote consultation and exchanges between EAC and UK 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 EAC Partner State(s)' capacity to implement and monitor SPS measures pursuant to this Article; and
(j) promote technology transfer.

3. 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) support the harmonisation of SPS measures within the EAC Partner State(s) and the setting up of national SPS coordinating committees and to 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 EAC Partner State(s)' SPS institutions and equivalent UK SPS institutions;

(f) support the implementation of the SPS Agreement, particularly, in strengthening the EAC Partner State(s) competent authorities, notification and enquiry points; and

(g) support information sharing and exchange.

Article 94
Harmonisation

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

2. The EAC Partner State(s) will develop, with the support of the UK, a programme 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 or areas of low pest or disease prevalence as potential sources of plant and animal products, taking into account the provisions of Article 6 of the WTO SPS Agreement.

Article 96
Special and Differential Treatment and Technical Assistance

1. The UK 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 to cooperate in relation to the following areas as 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; and

(e) the development of the EAC Partner State(s)' capacity for effective participation in the notification processes.

TITLE VII
TECHNICAL BARRIERS TO TRADE

Article 97
Scope and Objectives

1. Cooperation in this Title shall include the preparation, adoption and application of technical regulations, standards and conformity assessment procedures, as defined in the WTO Agreement on Technical Barriers to Trade (WTO TBT Agreement).

2. The objectives of cooperation in 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 the EAC Partner State(s) by harmonising standards, technical regulations and conformity assessment procedures applied in the EAC Partner State(s), in accordance with the WTO 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 UK standardisation, conformity assessment and regulatory institutions;
(e) enhance the market access for products originating in the EAC Partner State(s) through improvements in the safety, quality and competitiveness of their products;
(f) promote 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 WTO TBT Agreement;
(h) support the development of appropriate regulatory framework, policies and reform within the EAC Partner State(s) to meet internationally accepted practices; and
(i) assist the EAC Partner State(s) to implement the WTO TBT Agreement and to comply with the TBT requirements of their trading partners in the context of the WTO TBT Agreement.

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

(a) support the promotion of greater use of international standards, technical regulations and conformity assessments, including sector specific measures in the Parties' territories;

(b) support the EAC Partner State(s)' capacity building in the fields of standardisation, metrology, accreditation and conformity assessment procedures, including support in the upgrading and setting up of laboratories and relevant institutions as well as procurement of relevant equipment;

(c) support quality management and assurance in selected sectors of importance to the EAC Partner State(s);

(d) support the EAC Partner State(s)' standards and other technical regulatory bodies full participation in international standard setting bodies, and reinforcing the role of international standards as a basis for technical regulations;

(e) support the efforts by the EAC Partner State(s)' conformity assessment bodies to obtain international accreditation;

(f) development of functional links between the Parties' standardisation, conformity assessment and certification institutions;

(g) support 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) necessity and proportionality of regulatory measures and related conformity assessment procedures, which may include the use of suppliers' declarations of conformity;
(iii) 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) enforcement of technical regulations and market surveillance activities; and
(v) establishment of mechanisms and methods for reviewing technical regulations, standards and conformity assessment procedures;

(h) 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) 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 their technical regulations and making efficient use of regulatory resources;

(j) development of compatibility and convergence of the respective technical regulations, standards and conformity assessment procedures;

(k) promotion and encouragement of bilateral cooperation between the Parties' respective organisations responsible for metrology, standardisation, testing, certification and accreditation; and

(l) promotion of cooperation between the Parties and between the EAC Partner State(s) 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 these objectives. They agree that the EAC Partner State(s) will need transitional periods of time and capacity building to smoothly implement the provisions of this Title.

4. The objectives of cooperation in 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 EAC Partner State(s)' customs administrations to implement this Agreement and other international customs best practices; and

   (e) enhance cooperation between the Parties' customs authorities and other related border agencies.

5. 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 of 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.

(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; and

(e) promotion of coordination between all related agencies, both internally and across borders.

6. The Parties shall provide each other mutual administrative assistance in customs matters in accordance with the provisions of Protocol 1 on rules of origin and may cooperate in the following areas:

(a) 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) 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) 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).

2. The Parties also recognise that the implementation of this Agreement may result in potential challenges, *inter alia*, social, economic and environmental to the economies of the EAC Partner State(s). The Parties agree that these challenges may be addressed through economic and development cooperation actions.

3. Cooperation in 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 UK may:

(a) engage in an enhanced dialogue on fiscal adaptation measures and reforms;

(b) establish cooperation modalities to support fiscal reform.

2. To ensure that the economies of the EAC Partner State(s) take full advantage of this Agreement, the UK agrees to work with the EAC Partner State(s) to undertake appropriate cooperation activities aiming at:

(a) improving 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 with closure of firms 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); and
(f) addressing other possible areas of cooperation related to the implementation challenges of this Agreement.

TITLE X
RESOURCE MOBILISATION

Article 101
Principles and Objectives

1. Recognising the UK's commitment to support the implementation of this Agreement and the EAC Partner State(s) own efforts to financing 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 EAC Partner State(s)' development strategies.

2. The objective of joint resource mobilisation is to complement, support and promote in the 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 contained in this Agreement.

Article 102
Obligations

1. The EAC Partner State(s) may:

(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;
(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; and
(c) establish an EPA fund to channel EPA-related resources.

2. The EAC Partner State(s) shall formulate rules and regulations for the management of the Fund to ensure transparency, accountability and value for money in the utilisation of these resources. Without prejudice to other partners' contributions to the EAC EPA Fund, the UK may consider channelling resources and this will be made provisional on a successful assessment of the Fund by the UK.

3. The UK may commit resources taking particularly into account the supply side constraints of the

EAC Partner State(s) linked to the implementation of this Agreement, through:

(a) the UK Budget; or
(b) any other instrument enabling technical or financial support that will be used to implement the UK's Official Development Assistance (ODA), including assistance provided through multilateral and regional organisations.

4. The Parties shall jointly commit to work towards mobilising the following resources:

(a) funds of other donors (multilateral and bilateral donors);
(b) grants, concessional loans, public-private partnerships, and specialised facilities;
(c) any other ODA 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 Consultative Committee and any institutions and Committees as 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 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 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 in Part VII; and

(c) the examination of proposals and recommendations from the Parties for the review and amendment of this Agreement.

Article 105
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 that 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 after the entry into force of this Agreement the Rules of Procedure required for the establishment of the Arbitration Panel.

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
Committee of Senior Officials

1. A Committee of Senior Officials is hereby established upon 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 UK 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 in each 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 co-ordinating 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 upon the request of the EPA Council, or upon 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 to coordinate 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 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 their 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 such cases, the Committee 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 of the 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 of 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 consultation 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 after its establishment in agreement with the Committee of Senior Officials.

PART VII
DISPUTE AVOIDANCE AND SETTLEMENT

Article 109
Scope and Objective

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 and settle any dispute between the Parties concerning the interpretation and application of this Agreement in good faith and to arrive at, where possible, a mutually agreed solution.

TITLE I
DISPUTE AVOIDANCE

Article 110
Consultations

1. The Parties shall enter into consultations and endeavour to resolve any dispute concerning the interpretation and application of this Agreement in good faith 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 is made does not respond to the request for consultations within ten (10) days of the date of its receipt, or if consultations are not held within the timeframes laid down in paragraph 3 or in paragraph 4 above respectively, 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 above given 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 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 will 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 these time limits upon request of any of the Parties or on his own initiative, given 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 these proceedings, shall remain confidential.

TITLE II
DISPUTE SETTLEMENT

Article 112
Initiation of the Arbitration Procedure

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 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 its composition within the timeframe laid down in paragraph 2, each Party will select an arbitrator from the list of arbitrators established under Article 125 within five (5) days. If any of the Parties fails to appoint its arbitrator, upon request of the other Party, this 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 timeframe established in paragraph 2, 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 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 according to the rules of procedure.

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 in 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 answer clearly to the questions and observations of the Parties.

Article 115
Arbitration Panel Ruling

1. The arbitration panel shall:

   (a) 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;

   (b) notwithstanding subparagraph (a) above, where this 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 circumstances 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; and

   (b) may give a preliminary ruling, as soon as 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 the provisions of paragraphs 6 to 9 on the Reasonable Period of Time (RPT), 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 RPT 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 of the RPT. Such request shall be notified simultaneously to the other Party 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.

8. In determining the length of the RPT, 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 RPT may be extended by agreement of 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 RPT the Party complained against has not complied with paragraph 1 above, the complaining Party may take, upon notification to the other Party and the Committee of Senior Officials, appropriate measures in accordance with Article 117(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 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 above. 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 or some of its members being 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 above.

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 RPT 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 other Party, to adopt appropriate measures.

2. In adopting such measures, the complaining Party shall endeavour to select measures that least affects 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 UK 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 RPT, 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 violate the provisions of this Agreement have 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 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 request shall be notified to the other Party 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 can 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, or some of its members, being 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 above.

TITLE III
COMMON PROVISIONS

Article 119
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 of any such solution. If the solution requires approval pursuant to the relevant domestic procedures of either Party, the notification shall refer to this requirement, and the procedure shall be suspended. If such approval is not required, or upon notification of the completion of any such domestic procedure, the procedure 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 after the 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 from any source, including the Parties involved in the dispute, it deems appropriate for the arbitration panel proceeding. The arbitration panel shall also have the right to seek the relevant opinion of 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. Any information obtained in this manner must be disclosed to the Parties which may submit comments.

Article 122
Language of the Submissions

1. The written and oral submissions of the Parties shall be made in any official language of the Parties.

2. The Parties shall endeavour to agree on a common working language for any specific proceedings under this Part. If the 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 Party.[1]

Article 123
Rules of Interpretation

1. Arbitration panels shall interpret the provisions of this Agreement in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties.

2. The interpretations and rulings of the arbitration panel cannot add to or diminish the rights and obligations provided in the provisions of this Agreement.

Article 124

[1] For the purpose of this Article, the official languages are those listed in Article 145.

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 and conclusions that it makes. The Committee of Senior Officials shall make the arbitration panel rulings publicly available.

3. The arbitration panel ruling shall be final and binding on Parties.

Article 125
List of Arbitrators

1. The Committee of Senior Officials 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. 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 act as Chairperson to 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.

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 these names.

3. In case there is no list of arbitrators established under paragraph 1 above 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 shall 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 Procedures to be adopted by the EPA Council within six (6) months after the entry into force of this Agreement.

Article 126
Relations with WTO Dispute Settlement

1. Arbitration panels set up under this Agreement shall not adjudicate disputes on either Party's rights and obligations under the WTO Agreement.

2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO Agreement, 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 may 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 the Agreement and under the WTO Agreement in the two fora. In such case, once a dispute settlement proceeding has been initiated, the 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:

(a) dispute settlement proceedings under this Part are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 112 and are 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 are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO (DSU) and are deemed to be ended when the Dispute Settlement Body adopts the Panel's report, and the Appellate Body's report 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 Dispute Settlement Body of the WTO. 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
GENERAL EXCEPTIONS

Article 128
General Exception Clause

1. Subject to the requirement that such measures are not 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 UK 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 paragraph 4 of Article II and Article XVII of GATT 1994, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(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 1994 Contracting Parties and not disapproved by them or which is itself so submitted and not so disapproved[1];

(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. However, such measures shall 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; or

(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 UK 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.

Article 129
Security Exceptions

1. Nothing in this Agreement shall be construed:

(a) to require the UK 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 UK or the EAC Partner State(s) from taking any action which it considers necessary for the protection of its essential security interests:

[1] The exception provided for in this sub-paragraph extends to any commodity agreement which conforms to the principles approved by the Economic and Social Council in its resolution 30 (IV) of 28 March 1947.

(i) relating to fissionable materials or the materials from which they are derived;
(ii) 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 UK or the EAC Partner State(s) from taking any action in pursuance of its obligations under the United Nations Charter 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) above 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. They shall be in accordance with the conditions established in the WTO Agreement 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 of 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 143, herein referred to as the 'EAC Partner State(s)', on the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

2. For the purposes of this Agreement, the term 'Party' shall refer to the EAC Partner State(s) or the UK as the case may be. The term 'Parties' shall refer to the EAC Partner State(s) and the UK.

3. For the purposes of this Agreement, the term 'EAC Partner State' shall refer to a State that is a Contracting Party to both this Agreement and to The Treaty for the Establishment of the East African Community.

4. The EAC Partner State(s) may mandate one of their representatives to act on their behalf on all matters under this Agreement for which they have agreed to act collectively.

5. 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 designate a contact point for the exchange of information upon entry into force of this Agreement. The designation of a contact point for the exchange of information is without prejudice to the specific designation of competent authorities under

specific provisions of this Agreement.

2. On 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, on 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 UK or to the WTO or on the official, publicly and fee-free accessible website of the Parties.

3. Nothing in this Agreement shall require any 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 of this Agreement. Where such disclosure is considered necessary by a panel established under Article 113 of Part VII the panel shall ensure that confidentiality is fully protected.

Article 135
Relations with Annex III

Nothing in this Agreement shall be construed so as to prevent the adoption by either Party of any appropriate measures consistent with and pursuant to Annex III.

Article 136
Relations with the WTO Agreement

The Parties agree that nothing in this Agreement requires them to act in a manner inconsistent with their WTO obligations.

Article 137
Notifications

Notifications required under this Agreement shall be made in writing and sent to the Governments of the EAC Partner State(s) or the UK, as the case may be.

Article 138
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 the first day of the second month, or on such date as the Parties may otherwise agree, following notification from both of the Parties of the completion of the internal legal procedures referred to in paragraph 1.

3. Notifications under paragraph 2 shall be sent, in the case of the EAC Partner State(s) to the Government of Kenya and in the case of the UK to the Government of the UK[1], who shall be joint depositaries of this Agreement. Each depositary shall notify the other depositary upon receipt of the notification indicating the completion of the Parties' internal legal procedures for the purpose of entry into force.

4. The joint depositary arrangements above shall be reviewed as part of the review provided for in paragraph 2 of Article 143 (Accession of Contracting Parties to The Treaty for the Establishment of the East African Community).

5. Pending entry into force of this Agreement, the EAC Partner State(s) and the UK may provisionally apply the provisions of this Agreement.

6. Provisional application of this Agreement shall be notified to the depositaries. Such provisional application shall take effect ten (10) days, or on such date as the EAC Partner State(s) and the UK may otherwise agree, following the date on which the last notification is made to the depositaries of the completion of the internal legal procedures necessary for that purpose.

7. Where a provision of this Agreement is applied in accordance with paragraph 5, any reference in such provision to the date of entry into force of this Agreement shall be understood to refer to the date from which the EAC Partner State(s) and the UK agree to apply that provision in accordance with paragraph 6.

8. Notwithstanding paragraph 5, the EAC Partner State(s) and the UK may unilaterally take steps to apply this Agreement, before provisional application, to the extent feasible.

Article 139
Denunciation

1. A Party to this Agreement may give written notice to the other of its intention to denounce this Agreement.

2. Denunciation shall take effect one year after notification to the other Party.

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[1] Treaty Section, FCDO Legal Directorate, Foreign, Commonwealth and Development Office, WH.2.143, King Charles Street, London SW1A 2AH, United Kingdom

Article 140
Territorial Application

1. This Agreement shall apply, on the one hand, to the territories of the EAC Partner State(s), as defined in Article 132(1), and, on the other hand, to the United Kingdom of Great Britain and Northern Ireland and the following territories for whose international relations the UK is responsible to the extent that and under the conditions which the Treaty on European Union and the Treaty on the Functioning of the European Union applied to those territories before those treaties ceased to apply to the UK:

   (a) Gibraltar; and
   (b) the Channel Islands and the Isle of Man.

2. References to 'territory' in this Agreement shall be understood in this sense.

Article 141
Review Clause

1. This Agreement shall be reviewed after every five (5) years from the date of its entry into force.

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.

Article 142
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 143
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 eligible State on this Agreement. The EPA Council may decide on any transitional or amending measures that might be necessary.

3. Following the EPA Council's approval of the eligible State's application for accession, the eligible State may deposit an instrument of accession with the relevant depositary.

4. This Agreement shall enter into force in relation to the acceding State on the date its instrument of accession is deposited or on such other date as that State and the Parties to this Agreement agree.

Article 144

Amendments to Agreement Made on Accession

1. Upon accession of a State under Article 143:

   (a) the title of the Agreement shall be updated to include the State that has acceded to the Agreement and the words 'A MEMBER OF THE EAST AFRICAN COMMUNITY' shall be updated to 'MEMBERS OF THE EAST AFRICAN COMMUNITY';

   (b) the EAC Partner State(s) listed under 'PARTIES TO THE AGREEMENT' shall be updated to include the State that has acceded to the Agreement; and

   (c) all references to 'EAC Partner State(s)' in this Agreement, including its Annexes and Protocols, shall be updated to 'EAC Partner States'.

2. Upon accession of all the Contracting Parties to The Treaty for the Establishment of the East African Community, under Article 143:

   (a) the title of the Agreement shall be replaced with the following:

   ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EAST AFRICAN COMMUNITY PARTNER STATES, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

   (b) the EAC Partner State(s) listed under 'PARTIES TO THE AGREEMENT' shall be updated to include all the Contracting Parties to The Treaty for the Establishment of the East African Community.

Article 145
Authentic Texts

This Agreement is drawn up in English.

Article 146
Annexes

The Annexes and Protocols 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 UK
Annex III	Joint Statement of the Parties on the objectives and essential and fundamental elements of this agreement
Protocol 1	Concerning the definition of the concept of "originating products" and methods of administrative cooperation
Protocol 2	On mutual administrative assistance in customs matters

Done in **London** on this **8th December, 2020** in duplicate in English, all text equally authentic.

For the Government of the Republic of Kenya	**For the Government of the United Kingdom of Great Britain and Nothern Ireland**
Hon. Betty Chemutai Maina, CBS **Cabinet Secretary for Industrialization, Trade and Enterprise Development**	**Mr. Ranil Jayawardena, MP** **Minister for International Trade**

ANNEX IV

ANNEX IV

trialist, manufacturing nails, chain links and barbed wire at a factory in Miritini, Mombasa. He then transported the finished

been built in record time and that Nyachae's enterprise included a firm making nails, chain links, barbed wire and

sponsored lost to the Obure group

which they claimed Nyachae had build a vast business empire and was rallying the Gusii to overthrow the government.

of service", he gr of how he started ness in his 20s, w ery in Nyantura

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – FOURTH SESSION

INVITATION TO PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA

In the matter of consideration by the National Assembly
The Economic Partnership Agreement between the Republic of Kenya, a member of the East African Community of the one Part and the United Kingdom of Great Britain and Northern Ireland of the other Part.

Article 118 (1)(b) of the Constitution provides that *"Parliament shall facilitate Public Participation and involvement in the legislation and other business of Parliament and its Committees."* Further, Section 8 of the Treaty Making and Ratification Act, 2012 provides for the consideration and Ratification of Treaties by Parliament. Sub-section 3 states 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."*

In line with Section 8 of the Treaty Making and Ratification Act, 2012, the above mentioned Trade Agreement was submitted to the Speaker of the National Assembly and is now committed to the **Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting back to the House.**

Pursuant to Article 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 invites interested members of the public to submit any representations they may have on the Trade Agreement.

The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Building, Nairobi;** or emailed to **clerk@parliament.go.ke;** to be received **on or before Thursday 11th February, 2021 at 5:00 pm.**

The full text of the Trade Agreement and its accompanying Memorandum to Parliament may be accessed at **www.parliament.go.ke; the National Assembly under Papers Laid.**

MICHEAL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY

KISUM

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NOTIFICATION
CONSTITU

In the matter of co
Kisumu pursuant to
The Con

This is to notify the general public th Committee to facilitate public partic House in accordance with Standing O

Pursuant to Article 196 of the Cons members of the General Public, Civil invited to submit their oral, written m Constitutional Affairs, Good Governan

Date: 5th February, 2021

No.	Name of Draft Bill
1.	Constitution (Amendment)

Note:
Due to the current COVID – 19 pandem guidelines on Covid-19 mitigation.

Members of the public can also subn 2020 on or before **Monday 8th Febru**

ANNEX V

ANNEX V

Ahmad Kadir
As dealt
12/2/21

KEPSA
KENYA PRIVATE SECTOR ALLIANCE

The Voice of Private Sector in Kenya

Ref: 04/02-ADM/2021

Deputy Director/In-charge
RECEIVED
12 FEB 2021
Directorate of Departmental Committees

Mr. Chairman
For the attention of the relevant Committee
12/02/21

February 11, 2021

Mr. Michael Sialai, EBS
The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
Nairobi

Dear Mr. Sialai,

RE: ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE UNITED KINGDOM OF GREAT BRITAIN & NORTHERN IRELAND

Receive warm greetings from the Kenya Private Sector Alliance (KEPSA).

We write to you in response to your invitation to the public to make submissions on the UK-KE Economic Partnership Agreement, and hereby register our support to the same.

We are cognizant that the bulk of trade between the UK and Kenya is horticulture/agriculture based, and further that the agriculture sector is the mainstay of Kenya's economy, contributing 29.3% to the Gross Domestic Product (GDP) and accounting for 80% of national employment.

The EPA provides us with an opportunity to expand and invest more in our agricultural sector, and inspires certainty in business, especially during these times when businesses have faced massive disruptions due to the Covid-19 pandemic.

We remain hopeful that the agreement will be ratified as soon as possible to enable businesses to start enjoying the benefits of the economic partnership between the two countries.

We also continue to appreciate the support and cordial relationship between the National Assembly and KEPSA throughout the years.

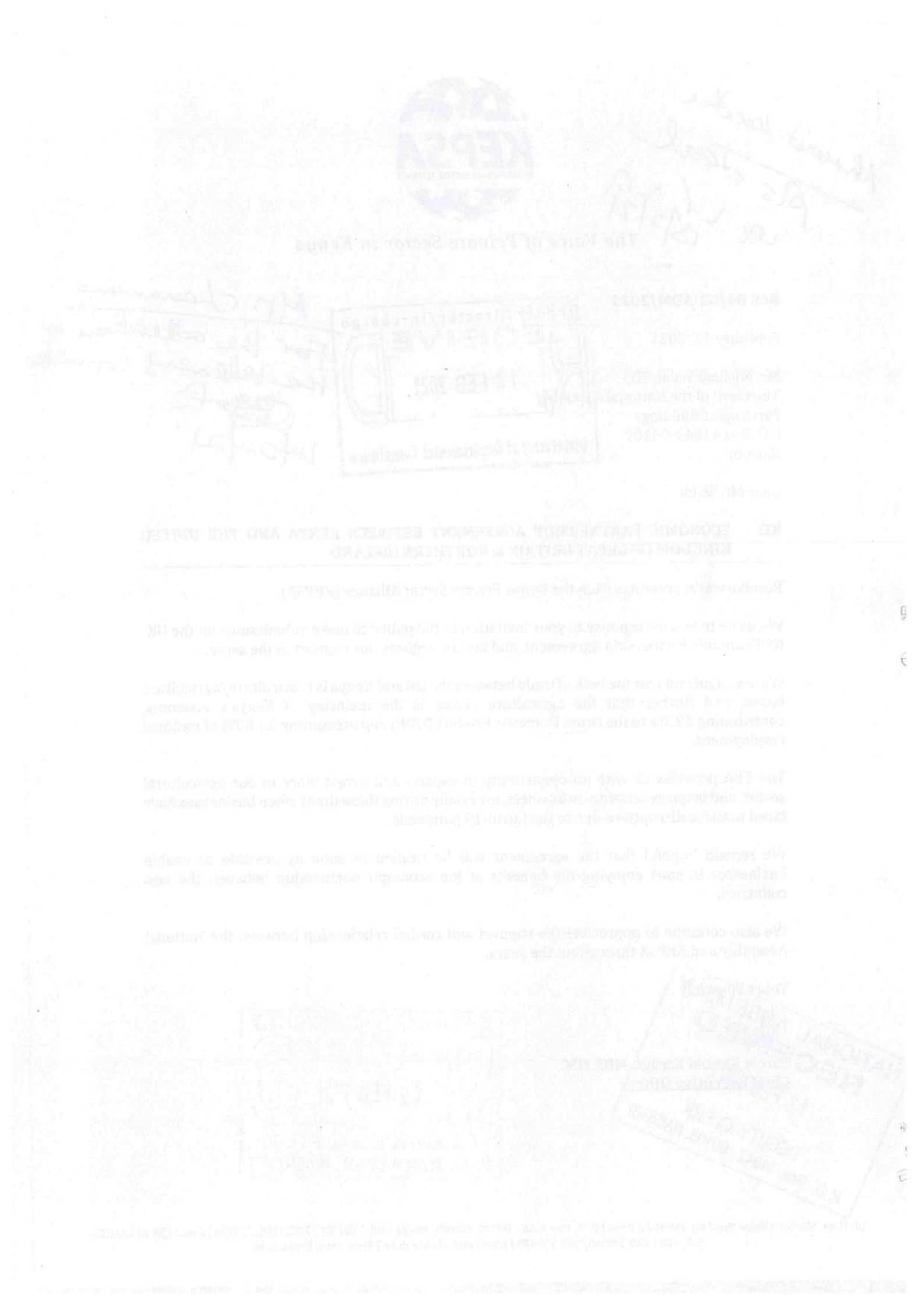
Yours Sincerely,

NATIONAL ASSEMBLY
RECEIVED
12 FEB 2021
DEPUTY CLERK
P.O. Box 41842 - 00100, NAIROBI

Carole Kariuki Karuga, MBS, HSC
Chief Executive Officer

NATIONAL ASSEMBLY
RECEIVED
12 FEB 2021
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

5th Floor, Shelter Afrique Building, Mamlaka Road | P. O. Box 3556 - 00100, Nairobi, Kenya | Tel: +254 20 2730371|2|2727936 | Fax: +254 20 2730374
Cell: +254 720 340949/735 999979 | Email: info@kepsa.or.ke | Web: www.kepsa.or.ke



Mr. Chemwno
To bring to the attention of the relevant Committee.
12/02/21

Ahmad kasha
pls deal
15/2/21

10th February 2021

Deputy Director/In-charge
RECEIVED
12 FEB 2021
Directorate of Departmental Committees

Mr. Michael R. Sialai
Clerk of the National Assembly
Parliament Buildings,
P.O. Box 41842-00100
Nairobi

Dear Mr. Sialai,

RE: ECONOMIC PARTNESHIP AGREEMENT BETWEEN REPUBLIC OF KENYA AND THE UNITED KINGDOM.

Fresh Produce Exporters Association of Kenya (FPEAK), Fresh Produce Consortium of Kenya (FPC Kenya) and Kenya Flower Council (KFC), being representatives of the horticulture industry hereby write to fully support the Economic Partnership Agreement (EPA) between the Republic of Kenya and the United Kingdom of Great Britain and Northern Ireland.

Horticulture exports earned Kenya Sh 151 billion in 2020, Sh144 billion in 2019 and Sh 153 billion in 2018. The United Kingdom remain among the most important destinations for Kenya's Fresh Produce as it accounts for over 30 % of all fresh produce exports from Kenya. On average, UK imports about 21,000 tonnes (13 %) of flowers, 8,000 tonnes (9 %) of fruits and 35,000 tonnes (43 %) of vegetables from Kenya annually.

The EPA provides for **quota free, duty free** entry of all products from Kenya. This provision is very important for continued business for the horticulture industry in Kenya.

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11 FEB 2021
DEPUTY CLERK
P. O. Box 41842 - 00100, NAIROBI

We therefore fully support the agreement as is currently done.

Yours Sincerely,

Hosea Machuki
Chief Executive Officer
Fresh Produce Exporters Association of Kenya

Okisegere Ojepat
Chief Executive Officer
Fresh Produce Consortium of Kenya

Clement Tulezi
Chief Executive Officer
Kenya Flower Council

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