*This **document*** contains *the joint legal text for the main body of the agreement for the bilateral implementation between the EU and Kenya of the EU-EAC Economic Partnership Agreement.*

***DISCLAIMER**: This text may undergo modifications, including as a result of the process of legal and linguistic revisions, and is without prejudice to the final outcome of the Agreement between the EU and Kenya. The texts of the Agreement will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement.*

ECONOMIC PARTNERSHIP AGREEMENT

BETWEEN THE REPUBLIC OF KENYA, MEMBER OF THE EAST AFRICAN COMMUNITY,

OF THE ONE PART,

AND THE EUROPEAN UNION AND ITS MEMBER STATES,

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 KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE REPUBLIC OF CROATIA,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

AND

THE EUROPEAN UNION,

(hereinafter referred to as the "EU"),

of the other part

RECALLING their commitments within the framework of the World Trade Organisation, 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;

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

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

HAVING REGARD TO the Economic Partnership Agreement between the East African Community Partner States, of the one part, and the European Union and its member states of the other part, whose negotiations were finalised on 16 October 2014, hereinafter referred to as “EU-EAC EPA”;

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

HAVING REGARD TO the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU);

CONSIDERING that the EAC Partner State(s) and the EU and its Member States 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 the eradication of poverty in the EAC Partner State(s);

REAFFIRMING also that the Economic Partnership Agreement (EPA) shall be consistent with the objectives and principles of the Cotonou Agreement and, in particular, with the provisions of Part 3, Title II thereof, on Economic and Trade Cooperation, and its successor Agreement and the relevant provisions thereof;

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 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 State(s), while maintaining special treatment for least developed EAC Partner State(s);

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

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

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

ARTICLE 1

Scope of the Agreement

The Parties hereby establish an Economic Partnership Agreement (EPA). This Agreement covers:

(a) General Provisions

(b) Trade in Goods

(c) Fisheries

(d) Agriculture

(e) Economic and Development Cooperation

(f) Institutional Provisions

(g) Dispute Avoidance and Settlement

(h) General Exceptions

(i) General and Final Provisions

(j) Annexes, Protocols and Joint Statements 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;

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

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

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

(e) improve EAC Partner State(s)' capacity in trade policy and trade-related issues;

(f) establish and implement an effective, predictable and transparent regulatory framework for trade and investment in the EAC Partner State(s), thus supporting the conditions for increasing investment, and private sector 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, consistent with Articles 34 and 35 of the Cotonou Agreement and the corresponding provisions of its successor agreement to:

(a) establish an agreement consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 ("GATT 1994");

(b) facilitate continuation of trade by the EAC Partner State(s) under terms no less favourable than those under the Cotonou Agreement and its successor agreement ;

(c) establish the framework and scope of potential negotiation in relation to other issues including trade in services, trade-related issues as identified in the Cotonou Agreement and its successor agreement 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 from the entry into force of this Agreement:

(a) Trade in services;

(b) Trade-related issues, namely:

  (i) Competition policy;

  (ii) Investment and private sector development;

  (iii) Trade, environment and sustainable development;

  (iv) Intellectual property rights;

  (v) Transparency in public procurement;

(c) Any other areas that the Parties may agree upon.

ARTICLE 4

Principles

This Agreement is based on the following principles:

(a) building on the *acquis* of the Cotonou Agreement and its successor agreement;

(b) strengthening integration in the EAC Partner State(s);

(c) ensuring asymmetry, in favour of the EAC Partner State(s), in the liberalisation of trade and in the application of trade-related measures and trade defence instruments;

(d) allowing the EAC Partner State(s) to maintain regional preferences with other African countries and regions without an obligation to extend them to the EU; and

(e) contributing to 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 EU and EAC Partner State(s).

2. The objectives in the area of trade in goods are to:

(a) provide full duty-free and quota-free market access conditions for goods originating in the EAC Partner State(s) into the market of the EU on a secure, long-term and predictable basis in accordance with the modalities established in this Agreement;

(b) liberalise progressively and gradually the EAC Partner State(s) market(s) for goods originating from the EU in accordance with the modalities established in this Agreement; and

(c) preserve and improve market access conditions to ensure that 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 liberalisation schedule for each product.

ARTICLE 7

Classification of goods

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

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

ARTICLE 8

Fees and other charges

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

ARTICLE 9

Rules of origin

1. For the purposes of this Part, the term "originating" means qualifying as ‘originating’ under the applicable law of the importing Party.[1] [2]

2. The EPA Council shall by decision adopt a protocol governing the rules of origin at the latest 5 years after entry into force of this Agreement. Paragraph 1 shall cease to apply from the moment that such protocol becomes applicable.

3. If at the end of the 5 years the parties have not adopted the above mentioned protocol, the EPA Council shall assess the application of paragraph 1 and may decide to extend the aforementioned period.

ARTICLE 10

Customs duties on products originating in the EAC Partner State(s)

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

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

[2] Products originating in the EAC Partner State(s), when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the European Union under Protocol No 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities. The EAC Partner State(s) shall grant to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the European Union

ARTICLE 11

Customs duties on products originating in the EU

Products originating in the EU shall be imported into the EAC Partner State(s) under the conditions set out in the 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 in accordance with 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 EU upon its importation into the EAC Partner State(s). The Parties shall ensure that any such modification does not result in an incompatibility of this Agreement with the requirements of Article XXIV of GATT 1994.

ARTICLE 13

Movement of goods

1. Customs duties shall be imposed once for goods originating in one Party into the territory of the other Party.

2. Any duty paid upon importation into an EAC Partner State shall be refunded fully for the goods that leave the EAC Partner State of first importation to another EAC Partner State. The duty shall be paid in the EAC Partner State of consumption of the goods.

3. The Parties agree on cooperation to facilitate the movement of goods and simplify customs procedures.

ARTICLE 14

Export Duties and Taxes

1. A Party shall not institute any new duties or taxes in connection with the exportation of goods to the other Party that are in excess of those imposed on like products destined for internal sale.

2. Notwithstanding paragraph 1, the EAC Partner State(s) can impose, after notifying the EU, a temporary duty or tax in connection with the exportation of goods under the following circumstances:

(a) to foster the development of domestic industry;

(b) to maintain currency stability, when the increase in the world price of an export commodity creates the risk of a currency overvaluation or

(c) to protect revenue, food security and 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 EU.

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

ARTICLE 15

More favourable treatment resulting from a free trade agreement

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

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

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

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, established under Article 106 (hereinafter "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 rules of origin applicable for the purpose of this agreement 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 export between the Parties, other than customs duties, taxes, fees and other charges provided for under Article 6, whether made effective through quotas, import or export licenses or other measures, shall be eliminated upon the 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 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 EAC Partner States 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:

(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 including financial and technical assistance to the EAC Partner State(s),

(vi) any other area of customs as may be agreed by the Parties.

(d) establish, as far as possible, common positions in international organisations in the field of customs and trade facilitation, such as the WTO, World Customs Organisation (WCO), United Nations (UN) and United Nations Conference on Trade and Development (UNCTAD).

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

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

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 EU and in the EAC Partner State(s) respectively;

(d) modern customs techniques, including risk assessment, simplified procedures for entry and release of goods, post release controls, and audits;

(e) the progressive development of systems, including those based upon information technology, for export import and transit operations, to facilitate the exchange of information between economic operators, customs administrations and other agencies;

(f) the principle that penalties imposed for minor breaches of customs regulations or procedural requirements are proportionate and do not give rise to undue delays in their application in customs clearance;

(g) a system of binding rulings on customs matters, in particular on tariff classification and rules of origin, in accordance with the rules laid down in regional and/or national legislation;

(h) the need to apply fees and charges that are commensurate with the service provided in relation to any specific transaction, and not be calculated on an *ad valorem* basis. Fees and charges shall not be imposed on consular services in respect of trade in goods;

(i) the elimination of any requirement for the mandatory use of pre-shipment inspections as defined by the WTO Agreement on Pre-shipment Inspection, or their equivalent;

(j) the elimination of all requirements for the mandatory use of customs brokers, as well as transparent, non-discriminatory and proportionate rules for their licensing.

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

(a) take further steps towards the simplification and standardisation of documentation and trade formalities to enable the rapid release and clearance of goods;

(b) provide effective, prompt and non-discriminatory procedures enabling the right of appeal against customs and other agency administrative actions, rulings and decisions affecting imports, exports or goods in transit. Such procedures shall be easily accessible to all enterprises;

(c) ensure that integrity is maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments.

ARTICLE 25

Facilitation of transit movements

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

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

3. Without prejudice to legitimate customs controls, a Party shall accord no less favourable treatment for goods in transit from the territory of the other Party than that accorded to domestic goods.

4. The Parties shall operate bonded transport regimes that allow the transit of goods without payment of customs duties or other charges having an equivalent effect, subject to the provision of an appropriate guarantee in accordance with regional and/or national customs legislation.

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

6. The Parties shall promote coordination between all concerned agencies, both internally and across borders.

7. The legislation of the Parties shall draw upon international standards and instruments relevant to transit.

ARTICLE 26

Relations with the Business Community

The Parties agree to:

(a) ensure that all legislation, procedures and 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 legislation 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 cooperation between operators and relevant administrations via the use of non-arbitrary and publicly accessible procedures, such as Memoranda of Understanding, based upon those promulgated by the WCO;

(f) ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

ARTICLE 27

Transitional provisions

1. In view of the need to enhance 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 and 25.

2. 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 of Article 9;

(b) providing a forum to consult and discuss all issues concerning customs, including rules of origin, general customs procedures, customs valuation, tariff classification, transit and mutual administrative assistance in customs matters;

(c) enhancing cooperation on the development, application and enforcement of rules of origin and related customs procedures, general customs procedures and mutual administrative assistance in customs matters;

(d) enhancing cooperation on capacity building and technical assistance;

(e) any other issues agreed by the Parties in respect of this Title.

TITLE IV

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 30

Scope and definitions

1. The provisions of this Title apply to measures covered by the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures (the WTO SPS Agreement).

2. For the purpose of this Title, unless otherwise provided, the definitions of the WTO SPS Agreement, the Codex Alimentarius Commission, the World Animal Health Organisation and 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 life or health in accordance with the WTO SPS Agreement;

(b) address problems arising from SPS measures on agreed priority sectors and products giving due consideration to regional integration;

(c) establish procedures and modalities for facilitating cooperation in SPS matters;

(d) ensure transparency as regards SPS measures applicable to trade between and within the Parties;

(e) promote intra-regional harmonisation of measures with international standards, in accordance with the WTO SPS Agreement, and the development of appropriate policies, legislative, regulatory and institutional frameworks within the EAC Partner State(s);

(f) enhance the effective participation of EAC Partner State(s) in the Codex Alimentarius Commission, World Animal Health Organisation and International Plant Protection Convention;

(g) promote consultation and exchanges between the EAC Partner State(s) and EU institutions and laboratories;

(h) facilitate the development of capacity for setting and implementing regional and national standards in accordance with international requirements in order to facilitate regional integration;

(i) establish and enhance the 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 Party in gathering information needed to make informed decisions;

(d) promote linkages, joint ventures, joint research and development between the EAC Partner State(s) and EU institutions and laboratories.

ARTICLE 33

Scientific Justification of Measures

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

ARTICLE 34

Harmonisation

1. The Parties shall aim to achieve harmonisation of their respective rules and procedures for 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 Party for inspection, testing and other relevant procedures.

ARTICLE 36

Zoning and Compartmentalisation

The Parties shall recognise, on a case by case basis, designated areas, which are free from pests or diseases or areas of low pest or disease prevalence as potential sources of plant and animal products taking into account 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 Partner State(s) exports to the EU. This system shall build on existing mechanisms under WTO obligations, especially Article 7 of the WTO SPS Agreement.

(d) Promotion of transparency as regards the sampling, analysis and action following official controls on feed and food from either Party.

ARTICLE 40

Competent Authorities

1. The respective SPS authorities of the Parties shall be the Competent Authorities in the EAC Partner State(s) and the EU for the implementation of the measures referred to in this Title.

2. The Competent Authorities referred to in paragraph 1 shall have the roles conferred upon them under the WTO SPS Agreement.

3. The Parties shall notify each other of their respective Competent Authorities referred to in paragraph 1 and any changes thereto.

TITLE V

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT

ARTICLE 41

Scope and definitions

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

2. For the 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 EU or its Member States are parties, including in particular those relating to the protection of the environment and biodiversity.

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 infrastructures, 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 EU for the implementation of this Title is the European Commission.

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

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 EU or the EAC Partner State(s), whether individually or collectively, from adopting anti-dumping or countervailing measures in accordance with the relevant WTO agreements. For the purpose of this Article, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

2. Before imposing definitive anti-dumping or countervailing duties in respect of products imported from either Party, the Parties shall consider the possibility of constructive remedies as provided for in the relevant WTO agreements.

3. Where an anti-dumping or countervailing measure has been imposed by either Party, there shall be 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. The WTO rules on Dispute Settlement shall apply to any disputes related to anti-dumping or countervailing measures.

ARTICLE 49

Multilateral safeguards

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent the EAC Partner State(s) and the EU from adopting measures in accordance with Article XIX of the GATT 1994, the WTO Agreement on Safeguards, and Article 5 of the WTO Agreement on Agriculture annexed to the Marrakesh Agreement establishing the WTO (WTO Agreement on Agriculture). 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 EU 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(s) 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 that 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.

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

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

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

(b) an increase in the customs duty on the product concerned up to a level which does not exceed the customs duty applied to other WTO Members, and

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

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

5. (a) Without prejudice to paragraphs 1 to 3, where any product originating in the EU is being imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations referred to 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 6 to 9.

(b) EAC Partner State(s) may take safeguard measures, in accordance with the procedures laid down in paragraphs 6 to 9, where a product originating in the EU as a result of the reduction of duties is being imported into their territory in such increased quantities and under such conditions as to cause or threaten to cause disturbances to an infant industry producing like or directly competitive products. Such provision is only applicable for a period of ten (10) years from the date of entry into force of this Agreement. This period may be extended by the EPA Council for a period of a maximum of five (5) years.

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

(b) Safeguard measures referred to in this Article shall not be applied for a period exceeding two (2) years. Where the circumstances warranting imposition of safeguard measures continue to exist, such measures may be extended for a further period of no more than two (2) years. Where the EAC Partner State(s) apply a safeguard measure, or where the EU applies a safeguard measure limited to the territory of one or more of its outermost regions, such measure may however be applied for a period not exceeding four (4) 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 (1) year since the expiry of the measure.

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

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

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

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

(d) In the selection of safeguard measures pursuant to this Article, priority must be given to those which least disturb the operation of this Agreement;

(e) Any safeguard measure taken pursuant to this Article shall be notified in writing immediately to the Committee of Senior Officials and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

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

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

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

PART III

FISHERIES

TITLE I

GENERAL PROVISIONS

ARTICLE 51

Scope and Principles

1. The cooperation in fisheries trade and development shall cover marine, inland fisheries and aquaculture.

2. The Parties recognise that fisheries constitute a key economic resource of the EAC Partner State(s), contribute significantly to the economies of the EAC Partner State(s), and have great potential for future regional economic development and poverty reduction. They are also an important source of food and foreign exchange.

3. The Parties further recognise that fisheries resources are also of considerable interest to both the EU and the EAC Partner State(s), and agree to cooperate for the sustainable development and management of the fisheries sector in their mutual interests, taking into account economic, environmental and social impacts.

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

ARTICLE 52

Principles of cooperation

1. The principles of cooperation in fisheries shall include:

(a) supporting the development and strengthening of regional integration;

(b) preserving the *acquis* of the Cotonou Agreement and its successor agreement;

(c) providing special and differential treatment;

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

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

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

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

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

3. The Parties shall cooperate to ensure that financial and other support will be provided to improve the competitiveness and production capacity of the processing factories, the diversification of the fishing industry and 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 the sustainable development and management of fisheries;

(b) strengthen cooperation to ensure the sustainable exploitation and management of fisheries resources as a strong basis for regional integration, given the straddling and migratory species which are shared among coastal EAC Partner State(s), and given that no individual EAC Partner State has the capacity to ensure sustainability of the resource;

(c) ensure a more equitable share of the benefits derived from the fisheries sector;

(d) ensure effective Monitoring Control and Surveillance (MCS) necessary for combating Illegal, Unreported and Unregulated (IUU) fishing;

(e) promote the effective exploitation, conservation and management of the living marine resource in the Exclusive Economic Zone (EEZ) and waters in which the EAC Partner State(s) have jurisdiction based on international instruments, including UNCLOS, for the social and economic benefit of the Parties;

(f) promote and develop regional and international trade based on best practices;

(g) create an enabling environment, including infrastructure and capacity building, for the EAC Partner State(s) to cope with the stringent market requirements for both industrial and small scale fisheries;

(h) support national and regional policies aimed at increasing 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 EU, shall coordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and to facilitate relevant scientific research.

4. Where there is insufficient scientific evidence for the competent national management authority to determine limits and target levels of sustainable catch in 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 support such scientific analysis.

5. The Parties agree to take appropriate measures where an increase in effort results in catch levels above the target sustainable level established by the competent national authority.

6. In order to conserve and manage straddling stocks and highly migratory fish stocks, the EU and the EAC Partner State(s) shall ensure compliance by vessels flying their flags with relevant national, regional and sub-regional fisheries management measures and related national laws and regulations.

ARTICLE 55

Vessel Management and Post-Harvest Arrangements

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

(a) A Vessel Monitoring System (VMS) will be set up for the EAC Partner State(s), and all EAC Partner State(s) will use a compatible VMS. Those EAC Partner State(s) which do not have a VMS will be assisted by the EU to set up a compatible VMS.

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

(c) The EU and EAC Partner State(s) shall have the right of placing observers, whether in national or international waters, with the procedures concerning the deployment of observers being well stipulated. Observers are to be paid by the national governments, but all costs on board are to be met by the ship-owner. The EU shall support the costs of training observers.

(d) Common systems of reporting of fishing will be developed and used throughout the region, with minimum terms set for reporting.

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

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

2. The Parties agree to cooperate in developing and implementing national/regional training programmes for EAC Partner State(s) nationals in order to facilitate their effective participation in the fishing industry. Where the EU has negotiated a bilateral fisheries agreement, the employment of EAC Partner State(s) nationals shall be encouraged. The International Labour Organisation (ILO) Declaration on fundamental principles and rights at work shall apply as of right to seamen signed on European 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 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, and legal and regulatory frameworks.

2. The objectives of cooperation in inland fisheries and aquaculture development will be to promote sustainable exploitation of inland fisheries resources, and enhance aquaculture production, remove supply-side constraints, improve fish and fish products' quality to comply with international SPS measures, improve access to the market of the EU, address intra-regional trade barriers, attract capital inflows and investment into the sector, build capacity, and enhance access to financial support for the private investors for inland fisheries and aquaculture development.

PART IV

AGRICULTURE

ARTICLE 57

Scope and definitions

1. The provisions of this Part shall apply to crops and livestock, including productive insects.

2. For the purposes of this Part and Title II of Part V, the following definitions shall apply:

(a) agriculture includes crops, livestock and productive insects;

(b) agricultural products 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, equipment and tools used in the production and handling of agricultural products;

(e) sustainable agriculture technology means a technology designed with special consideration of 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 means adequate and sustainable access to income and resources to meet basic needs in an equitable manner (including adequate access to food, potable water, health facilities, educational opportunities, housing and time for community participation and social integration);

(h) natural disaster 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 market opportunities;

(j) sustainable development in the context of this Part includes the management and protection of the natural resource base for economic and social development in such a manner as to aim at meeting human needs for present and future generations.

ARTICLE 58

Objectives

1. The Parties agree that the fundamental objective of this Part is sustainable agricultural development which includes, but is not limited to, food and 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 modernised agricultural sector;

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

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

(f) contribute to competitiveness by promoting value addition throughout the supply chains to access markets;

(g) improve producers' revenue by developing the marketing of value added agricultural products in the marketplace;

(h) facilitate the adjustment of the agricultural sector and the rural economy, to cope with global economic changes;

(i) mobilise and increase the economic performance of small scale farmers, through capacity building of farmers' organisations;

(j) improve trade and market facilitation for agricultural commodities in order to increase foreign exchange earnings;

(k) improve infrastructure within EAC Partner State(s) for enhancing the production, productivity, marketing and distribution of agricultural inputs and products, with particular attention to storage, grading, handling, packing and transport.

ARTICLE 59

General Principles

1. The Parties recognise the importance of agriculture in the 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, as a potential sector for high growth and added value, and as a source of export earnings.

2. In view of the multi-functional role agriculture plays in the economy of the EAC Partner State(s), the Parties agree to use a comprehensive approach to agriculture as a basis for sustainable development.

3. The Parties agree to cooperate in promoting the sustainable growth of the agriculture sector, taking into account its multiple facets and the diversity of the economic, social, 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, the promotion of value addition, agricultural trade and market development initiatives through appropriate instruments, and the provision of appropriate regulatory framework to respond to changing market conditions. In this respect, the Parties resolve to work together to attract necessary investment into the EAC Partner State(s).

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

ARTICLE 60

Comprehensive Dialogue

1. The Parties shall establish an EAC Partner State(s)-EU Comprehensive Dialogue on Agriculture and Rural Development Policy (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.

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

ARTICLE 61

Regional Integration

The Parties recognise that the integration of the agricultural sector across EAC Partner States, through the progressive removal of barriers 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 populations in the EAC Partner State(s) in light of the changing world production and trade patterns as well as consumer tastes and preferences.

ARTICLE 64

Food and Nutrition Security

1. The Parties agree that the provisions of this Agreement shall enable the EAC Partner State(s) to implement effective measures to achieve food and nutrition security and sustainable agricultural development, and to develop commercial agricultural markets in the region to ensure food and nutrition security.

2. The Parties shall ensure that actions taken under this Part aim at enhancing food and nutrition security, and avoid the adoption of measures that could endanger achievement of food and nutrition security at the household, national and regional levels.

ARTICLE 65

Value Chain Management

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

ARTICLE 66

Early Warning Systems

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

ARTICLE 67

Technology

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

(a) sustainable irrigation and fertigation technologies;

(b) tissue culture and micro propagation;

(c) improved seed;

(d) artificial insemination;

(e) integrated pest management;

(f) product packaging;

(g) post-harvest handling;

(h) accredited laboratories;

(i) biotechnology;

(j) risk assessment and management.

ARTICLE 68

Domestic policy measures

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

2 The EU shall not grant export subsidies for all agricultural products to the EAC Partner State(s), as from the entry into force of this Agreement. This prohibition shall be reviewed by the EPA Council after 48 months.

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

ARTICLE 69

Production and Marketing of Agricultural Commodities

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

2. The Parties therefore agree to:

(a) strengthen Public-Private-Partnership in investments for production, processing and marketing of agricultural commodities;

(b) cooperate in developing capacities to access niche markets and facilitate compliance with commodity standards to meet such markets requirements;

(c) support diversification of agricultural production and export products in EAC Partner State(s);

(d) improve producers' revenue by developing the marketing of value added agricultural products in the market place.

ARTICLE 70

Monitoring

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

ARTICLE 71

Net Food-Importing Countries

1. The Parties recognise the importance of addressing the concerns of the net food-importing EAC Partner State(s). Therefore, the objective of this Article is to assist States that are net food importers to develop programmes to ensure food security.

2. The Parties agree to:

(a) address constraints on food production, storage and distribution in the EAC Partner State(s);

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

(c) improve the coordination of food aid.

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

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

(a) ensuring that all food aid transactions are 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) the provision of adequate access to food, clean and safe drinking water, health facilities, educational opportunities, housing, community participation and social integration is important for the livelihood security of rural populations;

(b) agricultural infrastructure development, including production, processing, marketing and distribution, plays a crucial role in the 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 the areas of livelihood security, agricultural infrastructure, technical support services, agricultural financing services and rural development, as provided for in Title II of Part V.

ARTICLE 73

Exchange of Information and Consultation

1. The Parties agree to exchange experience and information on best practices, and to 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 them;

(d) discuss policy and institutional changes needed to underpin the transformation of the agricultural sector, as well as the formulation and implementation of regional policies on agriculture, and rural development in pursuit of regional integration;

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

ARTICLE 74

Geographical indications

1. The Parties recognise the importance of geographical indications for sustainable agriculture and rural development.

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

PART V

ECONOMIC AND DEVELOPMENT COOPERATION

ARTICLE 75

General Provisions

1. In accordance with Articles 34 and 35 of the ACP – EU Partnership Agreement, signed in Cotonou on 23rd June 2000 as revised to-date and the corresponding provision of its successor agreement, the Parties reaffirm that development cooperation is a core element of their Partnership and an essential factor for achieving the objectives of this Agreement. The Parties agree that Annex VI to this Agreement prevails over the provisions of this Part of the Agreement.

2. The Parties agree to address the developmental needs of the EAC Partner State(s) by, increasing production and supply capacity, fostering the structural transformation and competitiveness of their economies, enhancing their economic diversification and increasing added value, in order to promote sustainable development and support regional integration.

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

4. In this regard, the financing relating to development cooperation between the EAC Partner State(s) and the EU for the implementation of this Agreement shall be carried out within the

framework of the rules and relevant procedures provided for by the Cotonou Agreement and its successor agreement and within the framework of the successive relevant instruments financed by the General Budget of the EU. In this context, taking into account the new challenges deriving from enhanced regional integration and competition on the global markets, the Parties agree that one of the priorities shall be to support the implementation of this Agreement. The Parties agree that financial instruments provided for in the Cotonou Agreement and its successor agreement shall be mobilised so as to maximise the expected benefits of this Agreement.

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

6. 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

The economic and development cooperation shall aim at:

(a) enhancing the competitiveness of the EAC Partner State(s)' economy (ies);

(b) building up supply capacity and enabling the smooth implementation of this Agreement;

(c) transforming the structure of EAC Partner State(s)' economies by establishing a strong, competitive and diversified economic base through enhancing production, distribution, transport and 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, subject to the provisions of Annex VI which prevail :

(a) infrastructure;

(b) agriculture and livestock;

(c) private sector development;

(d) fisheries;

(e) water and environment;

(f) market access issues, including:

  (i) SPS,

  (ii) TBT, and

  (iii) customs and trade facilitation in EAC Partner State(s);

(g) EPA adjustment measures; and

(h) the mobilisation of resources.

TITLE I

INFRASTRUCTURE

ARTICLE 78

Scope and Objectives

1. Cooperation in the development of physical infrastructure shall include in particular transport, energy, information and communications technology.

2. The objectives in this area are to:

(a) increase the competitiveness of the EAC Partner State(s);

(b) address supply-side constraints at institutional, national, and regional levels; and

(c) enhance the development of Public-Private Partnerships.

ARTICLE 79

Transport

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

2. The objectives in this area are to:

(a) improve national and regional connectivity, to deepen regional economic integration;

(b) develop, restructure, rehabilitate, upgrade and modernise 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. Subject to the provisions of Article 75, the Parties agree to cooperate in the following areas:

(a) the management of transport systems;

(b) the improvement, development and modernisation of infrastructure at all levels, including the development of inter-modal infrastructure networks;

(c) strengthening the institutional, technical and administrative capacities of the EAC Partner State(s) in standards, quality assurance, metrology and conformity assessment services;

(d) technology development and transfer, innovation, information exchange and networks, and marketing;

(e) the encouragement of partnerships, linkages and joint ventures between economic operators;

(f) the improvement of safety and reliability of the transport sector, including meteorological forecasting, management of hazardous goods, and emergency responses;

(g) the development of regional transport policies and the regulatory frameworks.

ARTICLE 80

Energy

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

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

(a) production, transmission and distribution capacity of existing energy sources, in particular hydropower, petroleum and biomass;

(b) diversification of the energy mix to include other potential sources of energy that are socially and environmentally acceptable and that reduce dependency on oil;

(c) development of energy infrastructure, including for rural areas;

(d) development of appropriate energy regulatory and policy reforms, including commercialisation and privatisation;

(e) regional and inter-regional interconnectivity and cooperation in the production and distribution of energy;

(f) capacity building in human resources, improvement in management, service standards, and institutional structures;

(g) technology development and transfer, Research and Development, innovation, information exchange, development of databases and networks;

(h) partnerships, linkages and joint ventures.

ARTICLE 81

Information and Communications Technologies (ICT)

1. Cooperation in the ICT sector shall include: the development of Information and Communication Technologies, 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;

(b) enhance the contribution of ICT in facilitating trade through e-services, e-commerce, e-government, e-health, secure transactions and other socio-economic sectors.

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

(a) ICT connectivity and cost-effectiveness at the national, regional and global levels;

(b) dissemination of new information and communication technologies;

(c) development of the legal and regulatory frameworks for 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;

(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 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 the rural economy to accommodate the effects of implementation of this Agreement, with special attention to small-scale farmers.

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

(a) Regional Integration

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

(b) Enabling Policies

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

(ii) building capacities in 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 the handling of agricultural products;

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

(d) Agricultural Infrastructure

(i) development of agricultural support infrastructure, including sustainable irrigation systems, water harvesting, storage and management, marketing, and grading;

(ii) development of research and training infrastructure, storage facilities, feeder and community access roads;

(iii) development of agro processing infrastructure;

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

(v) development of modern market infrastructure for the expansion of domestic and regional markets.

(e) Food and Nutrition Security

(i) capacity building of rural and urban communities for the promotion of improved livelihoods, eradication of poverty, and sustainable development;

(ii) diversification of agricultural production and development of products that address the food and nutrition security needs of the EAC Partner State(s);

(iii) design and implementation of programmes that lead to increased production and productivity in the agricultural sector, with special focus on small-scale farmers;

(iv) capacity development for national and regional food safety compliance; and

(v) 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 farmers' groups along the entire agricultural value chain;

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

(iii) addressing socio-cultural barriers such as language differences, literacy levels, gender biases and community health, that influence the nature of farming systems;

(iv) improving farmers' access to credit services and natural and cultural resource management; and

(v) developing relevant policy measures to support the availability of adequate agricultural inputs to small scale farmers on a timely basis.

(j) Net 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, adding value, off-farm employment and the 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

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

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

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

(iii) establishing agricultural input plants and distribution systems within EAC Partner State(s);

(iv) promoting and strengthening investment in agricultural research, extension services, training and links between research-extensions and farmers;

(v) as appropriate, establishing and strengthening regional centres of excellence, including an agro meteorology centre, biotechnology, analytical and diagnostic laboratories for crops, livestock and soils; and

(vi) improving access to services in plant and animal production, including livestock breeding services, veterinary services and plant protection services.

(m) Agricultural Financing Services

(i) strengthening rural financial services for small-scale producers, processors and traders;

(ii) developing regionally owned mechanisms or a fund for agricultural and rural development;

(iii) developing agricultural micro-financing institutions and insurance schemes;

(iv) facilitating access to credit from banks and other financial institutions for agro processors, traders and farmers; and

(v) supporting the 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 the 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 from EU financing institutions such as the European Investment Bank;

(d) build capacity and provide institutional support for private sector development institutions such as investment promotion agencies, apex bodies, chambers of commerce, associations, contact points and trade facilitation institutions;

(e) develop and/or strengthen a policy, legal and regulatory framework that promotes and protects investment;

(f) improve support and delivery mechanisms to the Private Sector from the joint ACP-EU institutions, including the Centre for the Development of Agriculture (CTA), among others, 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 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 EAC Partner State(s) investment agencies and their EU counterparts;

(h) encouraging EU private sector investments in the EAC Partner State(s);

(i) supporting the establishment of financial frameworks and instruments adapted to the 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) the promotion of EAC Partner State(s)-EU private sector business dialogue, cooperation and partnerships;

(b) efforts for Micro-, Small- and Medium-sized Enterprises' (MSME) promotion and integration into mainstream business activities;

(c) the promotion of efficient production and the marketing of EAC Partner State(s)' firms;

(d) the implementation of the EAC Partner State(s)' Private Sector Development Strategies (PSDS);

(e) the promotion of a favourable environment for the development and growth of MSMEs;

(f) private sector organisations' capacities to comply with international standards;

(g) the protection of innovations from piracy; and

(h) the capacities of EAC Partner State(s) for the 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 EU shall contribute to the mobilisation of the resources for the implementation of the identified areas of cooperation at national and regional levels, which will also include support for regional capacity building.

3. Subject to the provisions of Part III of this Agreement and Article 75, the Parties agree to cooperate, in the following areas:

(a) development and improvement of infrastructure for storage, marketing and distribution of fish and fish products;

(b) capacity building at the national and regional levels to meet SPS/TBT/Hazard Analysis Critical Control Points technical requirements, development of monitoring control and surveillance systems of 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 EU contributions to the following areas:

(a) Capacity building and export market development through:

(i) building capacity in industrial and artisanal production, processing and product diversification that strengthen the competitiveness of the region's inland fisheries and aquaculture. 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;

(iii) increasing capacity in the region through, for example, improving fisheries competent authorities, traders' and fishermen's associations in order to participate in fisheries trade with the EU Party, and training programs in product development and branding.

(b) Infrastructure through:

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

(ii) facilitating access to funding for infrastructure, including all types of equipment.

(c) Technology through:

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

(ii) the enhancement of fisheries management capacity in the region, for example through research and data collection systems and contribution towards appropriate technologies on harvesting and post-harvest management.

(d) Legal and regulatory framework through:

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

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

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

(e) Investment and finance through:

(i) the promotion of joint ventures and other forms of mixed investments between stakeholders in the Parties, for example for the setting-up of modalities for identifying investors for joint venture operations in inland fisheries and aquaculture;

(ii) providing access to credit facilities for the development of small- to medium-scale enterprises, as well as industrial-scale inland fisheries.

(f) Environmental and Stocks Conservation in Fisheries through measures to ensure that the fish trade supports environmental conservation, safeguards against stock depletion, the maintenance of biodiversity and cautious introduction of exotic species for aquaculture; for example, through the cautious introduction of exotic species to be introduced only in managed/closed spaces in consultation with all neighbouring countries concerned.

(g) Socioeconomic and poverty alleviation measures through:

(i) the promotion of small- and medium-scale fishers, processors, and fish traders by building the capacity of EAC Partner State(s) to participate in trade with the EU;

(ii) the participation of marginal groups in the fishing industry. For example, the promotion of gender equity in fisheries, and particularly developing the capacity of women traders involved or intending to engage in fisheries. Other disadvantaged groups with the potential to engage in fisheries for sustainable social economic development will also be involved in such processes.

TITLE V

WATER AND ENVIRONMENT

ARTICLE 90

Scope and objectives

1. Cooperation in this Title shall include natural resources, in particular water, the 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 the equitable and sustainable utilisation of natural resources;

(f) facilitate and encourage the sustainable utilisation of shared resources;

(g) promote public and private sector involvement in natural resource management.

ARTICLE 91

Water Resources

1. Cooperation in the area of water resources shall include irrigation, hydropower generation, water production and supply, and the protection of water catchment areas.

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

(a) develop the sustainable use and management of water resources in the EAC Partner State(s), so as to improve the livelihood of the population of the EAC Partner State(s);

(b) promote regional cooperation for the sustainable utilisation of transboundary water resources;

(c) develop water supply infrastructure for productive purposes.

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

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

(b) the development of the relevant legal and regulatory frameworks;

(c) integrated water resource management;

(d) capacity building in human resources, improvement in service standards, water management, and institutional structures;

(e) creation of partnerships, linkages, and joint ventures between economic operators;

(f) the promotion of technology development, transfer and applications, R&D, innovation, information exchange and networks;

(g) the development of water pollution control, purification and conservation, wastewater treatment and sanitation;

(h) the promotion of sustainable irrigation schemes.

ARTICLE 92

Environment

1. Cooperation in the area of environment shall include the protection and sustainable management of the environment, as well as the implementation of trade-related environmental policies.

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

(a) protect, restore and conserve the environment and biodiversity (flora, fauna and microbial genetic resources, including their ecosystems);

(b) develop industries in the EAC Partner State(s) that use environmentally friendly technologies;

(c) promote technology development, transfer and application, research and development, innovation and information exchange.

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

(a) the implementation of international environmental agreements, conventions and treaties;

(b) strengthening and promoting equitable and sustainable utilisation, conservation and management of environment and biodiversity, including forestry and wildlife resources;

(c) the reinforcement of institutional and legal frameworks and the capacity to develop, implement, administer and enforce environmental laws, regulations, standards and policies;

(d) the creation of partnerships, linkages and joint ventures between economic operators;

(e) the prevention of, and mitigation against, natural environmental disasters and the loss of biodiversity;

(f) the promotion of technology development and adaptation, transfer and applications, R&D, and innovation;

(g) the protection and management of coastal and marine resources, domestic and wild indigenous biological and genetic resources;

(h) the development of alternative environmentally friendly activities and livelihoods;

(i) the production and facilitation of trade in goods and services for which eco-labelling is important;

(j) information exchange and networking on products and their requirements, in terms of production process, transport, marketing and labelling;

(k) the development of infrastructure facilities on environmental friendly products;

(l) the integration of local communities into the management of biodiversity, forestry, and wildlife resources;

(m) the development of waste management, and the safe disposal of industrial and toxic wastes;

(n) the promotion of stakeholder participation in international environmental dialogue.

TITLE VI

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 93

Scope and objectives

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

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

(a) facilitate Parties' inter-regional and intra-regional trade, whilst safeguarding human, animal and plant life or health in accordance with the WTO SPS Agreement;

(b) address problems arising from SPS measures on agreed priority sectors and products, giving due consideration to regional integration;

(c) stipulate procedures and modalities for facilitating cooperation in SPS matters;

(d) ensure transparency as regards SPS measures applicable to trade between and within the Parties;

(e) promote intra-regional harmonisation of measures with international standards, in accordance with the WTO SPS Agreement, and the development of appropriate policies, legislative, regulatory and institutional frameworks in the EAC Partner State(s);

(f) enhance the effective participation of the EAC Partner State(s) in the Codex Alimentarius Commission, the World Organisation for Animal Health (OIE) and the International Plant Protection Convention (IPPC);

(g) promote consultation and exchanges between EAC and EU institutions and laboratories;

(h) facilitate the development of capacity for setting and implementing regional and national standards in accordance with international requirements in order to facilitate regional integration;

(i) establish and enhance EAC Partner State(s)' capacity to implement and monitor SPS measures pursuant to this Article; and

(j) promote technology transfer.

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

(a) support EAC Partner State(s) to comply with SPS measures, including the development of appropriate regulatory frameworks, policies, matters concerning the work of the relevant international standards-setting bodies, training, information events, capacity building, and technical assistance;

(b) as appropriate, support the harmonisation of SPS measures within the EAC Partner State(s) and the setting-up of national SPS coordinating committees, and 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 EAC Partner State(s) SPS institutions and equivalent EU SPS institutions.

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

(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. As appropriate, EAC Partner State(s) will develop, with the support of the EU, a program and timeframe for harmonising their SPS standards

3. The Committee of Senior Officials shall develop modalities to assist and to monitor the process of harmonisation within the regions, as appropriate.

ARTICLE 95

Zoning and Compartmentalisation

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

ARTICLE 96

Special and Differential Treatment and Technical Assistance

1. The EU agrees to provide technical assistance and special and differential treatment in accordance with Articles 9 and 10 of the WTO SPS Agreement.

2. The Parties shall cooperate to address the special needs of EAC Partner State(s) arising from the implementation of provisions of this Title.

3. The Parties agree that the following areas are priorities for technical assistance:

(a) the building of technical capacity in the public and private sectors of 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 EAC Partner State(s) comply with international standards;

(d) the support for the participation of EAC Partner State(s) in the work of relevant international standards-setting bodies;

(e) the development of 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 (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 EAC Partner State(s) by harmonising standards, technical regulations and conformity assessment procedures applied in the EAC Partner State(s), in accordance with the TBT Agreement;

(c) promote greater use of international technical regulations, standards and conformity assessment procedures, including sector-specific measures;

(d) develop functional links, joint ventures and joint research and development work between EAC Partner State(s) and EU standardisation, conformity assessment and regulatory institutions;

(e) enhance market access for products originating in EAC Partner State(s), through improvements in their safety, quality and competitiveness;

(f) promote the greater use of international best practices for technical regulations, international standards and conformity assessment procedures;

(g) ensure that the preparation, adoption and application of standards and technical regulations are transparent and do not create unnecessary obstacles to trade between the Parties, in accordance with the provisions of the TBT Agreement;

(h) support the development of appropriate regulatory frameworks, policies and reforms within the EAC Partner State(s), to meet internationally accepted practices;

(i) assist EAC Partner State(s) to implement the TBT Agreement and to comply with the TBT requirements of their trading partners in the context of the TBT Agreement.

3. Subject to the provisions of Article 75, 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 the 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 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) the necessity and proportionality of regulatory measures and related conformity assessment procedures, which may include the use of suppliers' declarations of conformity;

(iii) the use of international standards as a basis for setting up technical regulations, except where such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued;

(iv) the enforcement of technical regulations and market surveillance activities; and

(v) the establishment of mechanisms and methods for reviewing technical regulations, standards and conformity assessment procedures.

(h) 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 the relevant 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;

(l) promotion of cooperation between the Parties and between 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 EAC Partner State(s) will need transitional periods 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 the harmonisation of customs legislation and procedures at regional level;

(c) provide support to EAC Partner State(s) to strengthen trade facilitation;

(d) provide support to EAC Partner State(s)' customs administrations to implement this Agreement and other international customs best practices;

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

5. Subject to the provisions of Article 75, the Parties agree to cooperate in the following areas:

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

(b) development of joint initiatives in mutually agreed areas;

(c) support 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 EAC Partner State(s) in this area; and

(vi) any other area of customs as agreed on by the Parties to this Agreement;

(d) establishment, as far as possible, of common positions in international organisations in the field of customs and trade facilitation, such as the WTO, WCO, UN and UNCTAD;

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

6. The Parties shall cooperate in customs matters and on rules of origin as follows:

(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). The Parties agree that this specific challenge shall be addressed through the creation of a compensatory framework, subject to the provisions of Annex VI which prevail.

2. The Parties also recognise that the implementation of this Agreement may result in potential challenges, *inter alia* social, economic and environmental, to the economies of the EAC Partner State(s). The Parties agree that these challenges shall 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 EU shall, subject to the provisions of Annex VI which prevail:

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

(b) establish cooperation modalities to support fiscal reform;

(c) provide financial resources to cover transitionally the agreed losses of government revenue arising from the elimination of, and/or a substantial reduction in, customs tariffs.

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

(a) improving the competitiveness of productive sectors within EAC Partner State(s);

(b) improving productive and professional capacities of the workforce of EAC Partner State(s), including training of workers displaced by the closure of firms and/or equipping them with new skills for new activities etc.;

(c) supporting measures towards sustainable environment;

(d) building capacity to enhance macro-economic discipline;

(e) mitigating the possible impacts affecting food and nutrition security, rural development, livelihood security and export earnings in the EAC Partner State(s);

(f) addressing other possible cooperation areas related to the implementation challenges of this Agreement.

TITLE X

RESOURCE MOBILISATION

ARTICLE 101

Principles and objectives

1. Recognising the EU's commitment to support the implementation of this Agreement and the EAC Partner State(s)' own efforts to finance their development needs, the Parties agree to work both jointly and independently to mobilise financial resources to support the implementation of this Agreement, regional integration and 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, in particular the EPA Development Matrix, contained in this Agreement, subject to the provisions of Annex VI which prevail.

ARTICLE 102

Obligations

1. Subject to the provisions of Annex VI which prevail, the EAC Partner State(s) shall:

(a) commit resources from their financing mechanisms on a timely and predictable basis to support regional integration and the EPA related development strategies and projects as contained in the EPA Development Matrix;

(b) develop their development strategies with due regard for the right of the EAC Partner State(s) to determine the direction and the sequence of their development strategies and priorities;

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

(d) incorporate the priorities of the EPA Development Matrix in regional and national strategies.

2. Subject to Annex VI which prevail, 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 those resources. Without prejudice to other partners' contributions to the EAC EPA Fund, the channelling of the EU resources will be made provisional on a successful assessment of the Fund's operating procedures by the EU.

3. Subject to Annex VI which prevail, The EU shall commit resources on a timely and predictable basis taking particularly into account the supply-side constraints of the EAC Partner State(s) linked to the implementation of this Agreement, including financing gaps identified in the EPA Development Matrix,

(a) the EU Budget;

(b) any other instrument that will be used to implement the EU's Official Development Assistance (ODA).

In addition, the EU shall work towards mobilising resources from its Member States in a timely and predictable manner.

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 to any other 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 the 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, who shall take all the measures necessary to implement them in accordance with their respective internal rules.

3. The EPA Council shall establish and adopt within six (6) months after the entry into force of this Agreement the Rules of Procedure required for the establishment of an Arbitration Panel, as provided for in Articles 112 and 113.

4. For matters in which an EAC Partner State acts individually, the adoption of such decisions by the EPA Council shall require the agreement of the EAC Partner State concerned.

ARTICLE 106

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 EU at Senior Officials 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 coordinating their activities, as well as making recommendations for consideration by the EPA Council;

(c) submitting reports and recommendations on the implementation of this Agreement to the EPA Council, either on its own initiative or 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 coordinating such action with third party donors;

(iii) making recommendations on trade-related cooperation between the Parties;

(iv) keeping under periodic review the areas of cooperation set out in this Agreement, and making recommendations on the inclusion of new priorities, as appropriate; and

(v) reviewing and discussing cooperation issues pertaining to regional integration and the implementation of this Agreement.

ARTICLE 107

Powers of the Committee of Senior Officials

1. In the performance of its functions, the Committee of Senior Officials shall:

(a) establish as appropriate, give directives to and oversee any specialised committees, working sessions, task forces or bodies to deal with matters falling within its competence, and determine their composition, duties and 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 cases where such implementing power has been delegated to the Committee, it shall take decisions or make recommendations in accordance with the conditions laid down in Article 105; and

(c) consider any issues under this Agreement and take appropriate action in the exercise of its functions.

2. The Committee shall hold specific working sessions to perform the functions provided for in paragraph 1(a).

3. The Committee shall determine its own rules of procedure within three (3) months 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 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 in good faith any dispute between the Parties concerning the interpretation and application of this Agreement and, where possible, to arrive at a mutually agreed solution.

TITLE I

DISPUTE AVOIDANCE

ARTICLE 110

Consultations

1. The Parties shall enter into consultations and endeavour to resolve in good faith any dispute concerning the interpretation and application of this Agreement with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request to the other Party, copied to the Committee of Senior Officials, identifying the measure at issue and the provisions of the Agreement that it considers the measure not to be in conformity with.

3. Consultations shall take place, unless the Parties agree otherwise, in the territory of the Party complained against and shall be held within twenty (20) days of the date of the receipt of the request. The consultations shall be deemed concluded within sixty (60) days of the date of the receipt of the request of the Party complained against, unless the Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.

4. Consultations on matters of urgency, including those regarding perishable or seasonal goods shall be held as soon as is practically possible and in any event within fifteen (15) days of the date of the receipt of the request, and shall be deemed concluded within thirty (30) days of the date of the receipt of the request, unless the Parties agree to continue consultations.

5. If the Party to which the request is made does not respond to the request for consultations within ten (10) days of the date of its receipt thereof, or if consultations are not held within the respective timeframes laid down in paragraphs 3 and 4, or if consultations have been concluded and no agreement has been reached on a mutually agreed solution, either Party may request settlement of the dispute by arbitration in accordance with Article 112.

6. The Parties may agree to amend the time limits referred to in paragraphs 3 to 5, in light of the difficulties or complexities of the case experienced by either Party.

ARTICLE 111

Mediation

1. If consultations fail to produce a mutually agreed solution, the Parties may, by agreement, seek recourse to a mediator. Unless the Parties agree otherwise, the terms of reference for the mediation shall be the matter referred to in the request for consultations.

2. Either Party may proceed to arbitration under Article 112 without recourse to mediation.

3. Unless the Parties agree on a mediator within fifteen (15) days of the date of the agreement to request mediation, the Chairperson of the Committee of Senior Officials, or his or her delegate, shall select by lot a mediator from the pool of individuals who are on the list referred to in Article 125 and are not nationals of either Party. The selection shall be made within twenty five (25) days of the date of the submission of agreement to request mediation and in the presence of a representative of each Party. The mediator shall convene a meeting with the Parties no later than thirty (30) days after being selected. The mediator shall receive the submissions of each Party no later than fifteen (15) days before the meeting and notify an opinion no later than forty five (45) days after having been selected.

4. The mediator's opinion may include a recommendation on how to resolve the dispute consistent with the provisions of this Agreement. The mediator's opinion is non-binding.

5. The Parties may agree to amend the time limits referred to in paragraph 3. The mediator may also decide to amend those time limits upon request of any of the Parties or on his or her own initiative, in light of the difficulties experienced by the Party concerned or the complexities of the case.

6. The proceedings involving mediation, in particular all information disclosed and positions taken by the Parties during 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 the composition of the arbitration panel 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, that Party's arbitrator shall be selected by lot by the Chairperson of the Committee of Senior Officials, or the Chairperson's delegate from the sub-list of that Party established under Article 125.

4. Unless the Parties reach an agreement concerning the Chairperson of the arbitration panel within the 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 within thirty (30) days, and in any case no later than forty five (45) days, after its establishment. A Party may submit a written request for the arbitration panel to review precise aspects of the interim report, within seven (7) days of the notification of the interim report.

3. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate. The final arbitration panel ruling shall include a discussion of the arguments made at the interim review stage and shall 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 point (a), where that deadline cannot be met, the Chairperson of the arbitration panel shall notify the Parties and the Committee of Senior Officials in writing, stating the reasons for the delay and the date on which the panel plans to issue its ruling. Under no circumstance shall the ruling be notified later than one hundred and fifty (150) days from the date of the date of its establishment;

2. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel:

(a) shall notify its ruling within sixty (60) days from the date of its establishment;

(b) may give a preliminary ruling, as soon as 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 10 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 thereof. 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, the complaining party may take, upon notification to the other Party and the Committee of Senior Officials, appropriate measures in accordance with Article 118(2).

3. Where there is a disagreement between the Parties as to whether the Party complained against has brought itself into compliance with the provisions of this Agreement, either Party may request in writing the arbitration panel to rule on the matter. Such request shall identify the specific measure at issue and it shall explain clearly how such measure is incompatible or compatible with the provisions of the Agreement and the arbitration panel ruling.

4. The arbitration panel shall endeavour to notify its ruling within forty five (45) days of the date of the submission of the request referred to in paragraph 3. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel shall notify its ruling within thirty (30) days of the date of the submission of the request.

5. In the event that the original arbitration panel is, or some of its members are, unable to reconvene within fifteen (15) days, the procedures set out in Article 113 shall apply. In such cases, the time limit for notifying the ruling shall be eighty (80) days from the date of the submission of the request referred to in paragraph 3.

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 affect the attainment of the objectives of this Agreement, and shall take into consideration their impact on the economy of the Party complained against. In addition, where the EU has obtained the right to adopt such measures, it shall select measures which are specifically aimed at bringing into compliance the EAC Partner State whose measures were found to be in breach of this Agreement.

3. At any time after the expiry of the 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 has been withdrawn or amended so as to bring it into conformity with those provisions, or until the Parties have agreed to settle the dispute.

ARTICLE 118

Review of any measure taken to comply after the adoption of appropriate measures

1. The Party complained against shall notify the other Party and the Committee of Senior Officials of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to the application of appropriate measures by the complaining Party.

2. Where the Parties do not reach an agreement on the compatibility of the notified measure with the provisions of this Agreement within thirty (30) days of the date of the submission of the notification, the complaining Party shall request in writing the arbitration panel to rule on the matter. Such 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 is, or some of its members are, unable to reconvene, the procedures laid down in Article 113 shall apply. The period for notifying the ruling shall be sixty (60) days from the date of the submission of the request referred to in paragraph 2 of this Article.

TITLE III

COMMON PROVISIONS

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 thereof. If the solution requires approval pursuant to the relevant domestic procedures of either Party, the notification shall refer to that requirement, and the procedures 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 for the arbitration panel proceeding from any source it deems appropriate, including the Parties involved in the dispute. 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, who may submit comments.

ARTICLE 122

Language of the submissions

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

[1] For the purpose of this Article, the official languages are those listed in Article 146.

ARTICLE 123

Rules of interpretation

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

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

Arbitration panel rulings procedure

1. The arbitration panel shall make every effort to take any decision by consensus. Where a decision cannot be adopted by consensus, the matter at issue shall be decided by majority vote.

2. Any ruling of the arbitration panel shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the reasoning behind any findings, recommendations or conclusions that it makes. The Committee of Senior Officials shall make the arbitration panel rulings publicly available.

3. Arbitration panel rulings shall be final and binding on the Parties.

ARTICLE 125

List of Arbitrators

1. The Committee of Senior Officials shall, not later than six (6) months 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 be available to act as Chairperson of the arbitration panel. Each sub-list shall include at least five (5) individuals. The Committee of Senior Officials shall ensure that the list is always maintained at this level, in accordance with the Rules of Procedure.

2. Should any of the sub-lists not be established or not contain sufficient names of individuals at the time a notice is made pursuant to Article 113(2), the arbitrators shall be drawn by lot from the individuals who have been formally proposed for the respective sub-list by one or both of the Parties. If only one Party has proposed names, the three arbitrators shall be drawn by lot from among those names.

3. In case there is no list of arbitrators established under paragraph 1, or names of arbitrators proposed under paragraph 2, the Party initiating the process of arbitration shall request the Secretary-General of the Permanent Court of Arbitration to act as the appointing authority.

4. Arbitrators 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 the WTO Dispute Settlement

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

2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, where a Party has, with regard to a particular measure, initiated a dispute settlement proceeding, either under this Title or under the WTO Agreement, it shall not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. In addition, a Party shall not seek redress for the breach of an obligation which is identical under 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, as follows:

(a) dispute settlement proceedings under this Part shall be deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 112, and shall be deemed to be ended when the arbitration panel notifies its ruling to the Parties and to the Committee of Senior Officials under Article 115, or where a mutually agreed solution has been reached under Article 119.

(b) dispute settlement proceedings under the WTO Agreement shall be deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) of the WTO, and shall be 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

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 EU or the EAC Partner State(s) of measures:

(a) necessary to protect public security and morals or to maintain public order;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importation or exportation of gold or silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of GATT, 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 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;

(j) essential to the acquisition or distribution of products in general or local short supply, provided that any such measures shall be consistent with the principle that the EU or the EAC Partner State(s) are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement, shall be eliminated as soon as the conditions giving rise to them have ceased to exist.

[1] The exception provided for in this subparagraph 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.

ARTICLE 129

Security exceptions

1. Nothing in this Agreement shall be construed:

(a) to require the EU or the EAC Partner State(s) to furnish any information the disclosure of which it considers contrary to its essential security interests; or

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

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) relating to government procurement indispensable for national security or for national defence purposes;

(iv) taken in time of war or other emergency in international relations; or

(c) to prevent the EU or the EAC Partner State(s) from taking any action in pursuance of their obligations under the United Nations Charter for the maintenance of international peace and security.

2. The Committee of Senior Officials shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

ARTICLE 130

Taxation

1. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent a Party from distinguishing, in the application of the relevant provisions of its fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

2. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.

3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

PART IX

GENERAL AND FINAL PROVISIONS

ARTICLE 131

Balance of Payments Difficulties

1. Where a Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. It shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement of the International Monetary Fund (IMF), as applicable.

4. A Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Party and to the EPA Council and present as soon as possible, a time schedule for their removal.

5. Consultations shall be held promptly within the EPA Council, and such consultations shall assess the balance of payments situation of the concerned Party and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:

(a) the nature and extent of the balance of payments and the external financial difficulties;

(b) the external economic and trading environment;

(c) alternative corrective measures which may be available.

6. The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments shall be accepted, and conclusions shall be based on the assessment by the Fund 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. Contracting Parties of this Agreement are the Republic of Kenya and any other Contracting Parties to The Treaty establishing the East African Community, that accede to this Agreement in accordance with Article 144, herein referred to as the 'EAC Partner State(s)', on the one part, and the European Union or its Member States or the European Union and its Member States, within their respective areas of competence as derived from the Treaty on European Union and the Treaty on the Functioning of the European Union, herein referred to as the 'EU', of the other part.

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

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

4. The Parties shall adopt any general or specific measures required from them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

ARTICLE 133

Contact Points

1. In order to facilitate communication relating to the effective implementation of this Agreement, the Parties shall 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 European Commission or to the WTO or on the official, publicly and fee-free accessible websites 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

Outermost regions of the European Union

1. Taking account of the geographical proximity of the outermost regions of the European Union and the EAC Partner State(s) and in order to reinforce economic and social links between those regions and the EAC Partner State(s), the Parties shall endeavour to facilitate cooperation in all areas covered by this Agreement between the outermost regions of the EU and the EAC Partner State(s).

2. The objectives enunciated in paragraph 1 of this Article shall also be pursued, wherever possible, through fostering the joint participation of the EAC Partner State(s) and the outermost regions of the EU in the framework and specific programmes of the EU in areas covered by this Agreement.

3. The EU shall endeavour to ensure coordination between the various financial instruments of the EU's cohesion and development policies in order to foster cooperation between EAC Partner State(s) and the outermost regions of the EU in the areas covered by this Agreement.

4. Nothing in this Agreement shall prevent the EU from applying existing measures aimed at addressing the structural social and economic situation of its outermost regions pursuant to Article 349 of the Treaty on the Functioning of the European Union.

ARTICLE 136

Relations with other Agreements

1. With the exception of development cooperation provisions contained in Title II of Part 3 of the Cotonou Agreement or the corresponding provisions of its successor Agreement, in case of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement or the corresponding provisions of its successor Agreement, the provisions of this Agreement shall prevail.

2. In case of any inconsistency between the provisions of part V 'Economic and Development Cooperation' of this Agreement and the Cotonou agreement or its successor Agreement, the provision of the Cotonou agreement or the corresponding provisions of its successor Agreement shall prevail.

3. Nothing in this Agreement shall be construed so as to prevent the adoption by either Party of any appropriate measures consistent with this Agreement and pursuant to the Cotonou Agreement or the corresponding provisions of its successor Agreement.

ARTICLE 137

Relations with the WTO Agreements

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

ARTICLE 138

Notifications

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

ARTICLE 139

Entry into Force

1. This Agreement shall be signed and ratified, or approved in accordance with the applicable constitutional or internal rules and procedures of the respective Parties.

2. This Agreement shall enter into force on the first day of the second month following that in which the Parties have notified each other of the completion of the internal legal procedures referred to in Paragraph 1.

3. Notifications of entry into force shall be sent, in the case of the EAC Partner State(s) to the relevant depositories of this Agreement in each EAC Partner State(s), and in the case of the EU Party to the Secretary-General of the Council of the European Union, who shall be joint depositories of this Agreement. Each depository shall notify the other depository upon receipt of the last instrument of ratification indicating the completion of their internal legal procedures for the purpose of entry into force.

4. Pending entry into force of the Agreement, the EAC Partner State(s) and the EU may provisionally apply the provisions of this Agreement which fall within their respective competences. This may be effected either by provisional application, where possible, or by ratification of the Agreement.

5. Provisional application shall be notified to the depositories. The Agreement shall be applied provisionally ten (10) days following the date on which each relevant party notifies the other(s) of the completion of the internal legal procedures necessary for that purpose.

6. Where a provision of this Agreement is applied in accordance with paragraph 4, 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 relevant parties agree to apply that provision in accordance with Paragraph 4.

7. Notwithstanding paragraph 4, EAC Partner State(s) and the EU may unilaterally take steps to apply this Agreement, before provisional application, to the extent feasible.

ARTICLE 140

Denunciation

1. Each EAC Partner State or the EU may give written notice to the other Parties of its intention to denounce this Agreement.

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

ARTICLE 141

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty on the European Union and the Treaty on the Functioning of the European Union are applied and, on the other hand, to the territories of the EAC Partner State(s). References to 'territory' in this Agreement shall be understood in this sense.

ARTICLE 142

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.

3. Notwithstanding the provisions of paragraph 1, the parties agree that this Agreement may be reviewed in light of the expiration of the Cotonou Agreement and of its successor agreement. .

ARTICLE 143

Amendment Clause

1. The Parties may agree, in writing, to amend this Agreement. A Party may submit proposals for the amendment of this Agreement to the EPA Council for consideration. The other Party may comment on the proposals for amendment within ninety (90) days from the date of receipt of the proposal.

2. Should the EPA Council adopt amendments to this Agreement, such amendments shall be submitted to the Parties for ratification, acceptance or approval in accordance with their respective constitutional or internal legal requirements.

3. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on such date as the Parties may agree.

ARTICLE 144

Accession of Contracting Parties to 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 ("EAC partner States"). A request for accession shall be submitted to the EPA Council.

2. The Parties shall review the effects of the accession of the eligible EAC Partner State(s) on this Agreement. The EPA Council may decide on any transitional or amending measures that might be necessary.

ARTICLE 145

Accession of new Members to the European Union

1. Any new Member State of the EU shall accede to this Agreement from the date of its accession to the EU by means of a clause to that effect in the act of accession. If the act of accession to the Union does not provide for such automatic accession of the EU Member State to this Agreement, the EU Member State concerned shall accede by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send certified copies to the EAC Partner State(s).

2. The Parties shall review the effects of the accession of new EU Member States on this Agreement. The EPA Council may decide on any transitional or amending measures that might be necessary.

ARTICLE 146

Authentic texts

This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, Gaelic, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Kiswahili languages, each of those texts being equally authentic.

ARTICLE 147

Annexes and Protocols

The following Annexes and Protocols and Joint Statements to this Agreement shall form an integral part of this Agreement:

Annex I	Customs duties on products originating in the EAC Partner State(s)
Annex II	Customs duties on products originating in the EU
Annex III(a)	EAC EPA Development Matrix
Annex III(b)	Development Benchmarks, Targets and Indicators
Annex IV	Joint Declaration regarding countries which have established a Customs Union with the European Union
Annex V	Trade and Sustainable Development
Annex VI	Joint Declaration of the Parties on the Economic and Development Cooperation in this Agreement
Protocol 1	On mutual administrative assistance in customs mattes
Joint Statement 1	Joint Statement on Rules of Origin
Joint Statement 2	Joint Statement on Trade and Sustainable Development