



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 3 April 2009
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject : Council Decision on the signature and provisional application of the Agreement establishing a framework for an Economic Partnership Agreement between the European Community and its Member States, on one part, and the East African Community Partner States, on the other part

COUNCIL DECISION

of

**on the signature and provisional application of the Agreement
establishing a framework for an Economic Partnership Agreement
between the European Community and its Member States,
on one part, and the East African Community Partner States,
on the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 181 in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 12 June 2002, the Council authorised the Commission to open negotiations concerning Economic Partnership Agreements with ACP countries.
- (2) Negotiations for an agreement establishing a framework for an Economic Partnership Agreement between the European Community and its Member States and the EAC Partner States (Burundi, Kenya, Rwanda, Tanzania and Uganda) have been concluded and the Agreement was initialled on 27 November 2007.
- (3) Article 45(4) of the Agreement provides for its provisional application pending its entry into force.
- (4) The Agreement should be signed on behalf of the Community and applied, as concerns elements falling within the competence of the Community, on a provisional basis subject to its conclusion at a later date,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement Establishing a Framework for an Economic Partnership Agreement between, the European Community and its Member States, on one part, and the East African Community Partner States on the other part is hereby approved on behalf of the Community, subject to a Council Decision concerning the conclusion of the said Economic Partnership Agreement.

The text of the Agreement is attached to this Decision.

Article 2

1. For the purposes of Article 47(3) of the Agreement, the EPA Council shall be composed, on the one hand, of the Members of the Council and of representatives of the Commission and, on the other hand, of representatives of the EAC Partner States.
2. The position to be taken by the Community within the EPA Council and the Special Committee on Customs Cooperation shall be determined by the Council on the basis of a proposal by the Commission in accordance with the corresponding provisions of the Treaty.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the European Community subject to its conclusion.

Article 4

As concerns elements falling within the competence of the Community, the Agreement shall be applied on a provisional basis as provided for in Article 45(4) thereof, pending completion of the procedure for its conclusion. The Commission shall publish a notice providing information on the date of provisional application.

Done at Brussels,

For the Council
The President

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AGREEMENT
ESTABLISHING A FRAMEWORK
FOR AN ECONOMIC PARTNERSHIP AGREEMENT
BETWEEN THE EUROPEAN COMMUNITY
AND ITS MEMBER STATES, ON THE ONE PART,
AND THE EAST AFRICAN COMMUNITY PARTNER STATES
ON THE OTHER PART

PREAMBLE

THE REPUBLIC OF BURUNDI

THE REPUBLIC OF KENYA

THE REPUBLIC OF RWANDA

THE UNITED REPUBLIC OF TANZANIA

THE REPUBLIC OF UGANDA

(hereinafter referred to as "the EAC Partner States"),

on 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 ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

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,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

AND THE EUROPEAN COMMUNITY,

on the other part

Have decided to conclude this Agreement and to this end have designated their Plenipotentiaries:

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 Treaty establishing the East African Community (EAC) signed on 30 November 1999 and its Protocol on the Establishment of the East African Community Customs Union;

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

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, referred to as the "Cotonou Agreement";

HAVING REGARD TO the Treaty Establishing the European Community (EC);

HAVING ALSO REGARD TO the decision of the EAC Summit held in Kampala, Uganda on 14 April 2002 on the EAC negotiating as a bloc for the purpose of negotiation of an Economic Partnership Agreement (EPA) with the European Union and in the World Trade Organisation;

CONSIDERING that the EAC and the EC and its Member States are agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy with due regard to their political choices, levels of development and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the EAC;

REAFFIRMING also that the 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;

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, foster structural transformation of EAC 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 States;

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

COGNIZANT that substantial investment is required to uplift the standards of living of the EAC Partner States;

RECALLING the commitments of the Parties within the framework of the World Trade Organisation (WTO);

HAVE AGREED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1

Scope of the Agreement

This Agreement establishes a framework for an Economic Partnership Agreement (EPA).

ARTICLE 2

General EPA objectives

The objectives of the Economic Partnership Agreement are:

- (a) Contributing 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) Promoting regional integration, economic cooperation and good governance in the EAC;

- (c) Promoting the gradual integration of the EAC into the world economy, in conformity with its political choices and development priorities;
- (d) Fostering the structural transformation of EAC economies, and their diversification and competitiveness by enhancing their production, supply and trading capacity;
- (e) Improving EAC capacity in trade policy and trade-related issues;
- (f) Establishing and implementing an effective, predictable and transparent regional regulatory framework for trade and investment in the EAC Partner States, thus supporting the conditions for increasing investment, and private sector initiative; and
- (g) Strengthening the existing relations between the Parties on the basis of solidarity and mutual interest. To this end, consistent with WTO obligations, the 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.

ARTICLE 3

Specific objectives of this Agreement

1. Consistent with Articles 34 and 35 of the Cotonou Agreement, the objectives of this Agreement are:
 - (a) to establish an agreement consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 ("GATT 1994");
 - (b) to facilitate continuation of trade by the EAC Partner States under terms no less favourable than those under the Cotonou Agreement;
 - (c) to establish the framework, scope and principles for further negotiation on trade in goods, including rules of origin, trade defence instruments, customs cooperation and trade facilitation, sanitary and phytosanitary (SPS) measures, technical barriers to trade, as well as on agriculture and economic and development cooperation;
 - (d) to 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 any other areas of interest to both Parties;

2. The Parties undertake to continue the negotiations with a view to concluding a comprehensive EPA, which shall comprise the subject matters listed under Chapter V, no later than 31 July 2009.

ARTICLE 4

Principles

The principles of this Agreement on the basis of which further negotiations between the Parties shall be held with a view to reaching a full and complete EPA are the following:

- (a) Building on the *acquis* of the Cotonou Agreement;
- (b) Strengthening regional integration in EAC;
- (c) Asymmetry, in favour of the EAC Party, in the liberalization of trade and in the application of trade-related measures and trade defence instruments;
- (d) Allowing the EAC Partner States to maintain regional preferences with other African countries and regions without an obligation to extend them to the EC; and
- (e) Contributing to addressing the production, supply and trading capacity of EAC Partner States.

CHAPTER II

TRADE REGIME FOR GOODS

TITLE I

GENERAL PROVISIONS

ARTICLE 5

Objectives

The objectives of cooperation in the area of trade are:

- (a) The provision of full duty-free and quota-free market access conditions for goods originating in the EAC Partner States into the market of the EC Party on a secure, long-term and predictable basis in accordance with the modalities established in this Agreement;
- (b) The progressive and gradual liberalisation of goods market in the EAC in accordance with the modalities established in this Agreement; and
- (c) Preservation and improvement of market access conditions to ensure that EAC Partner States are better and not worse off.

TITLE II

FREE MOVEMENT OF GOODS

ARTICLE 6

Customs duty

For the purposes of eliminating customs duties on imports, a customs duty shall include any duty or charge of any kind imposed on or in connection with the importation of goods, including any form of surtax or surcharge in connection with such importation, but does not include:

- (a) charges equivalent to internal taxes levied on both imported and locally produced goods consistent with the provisions of Article 18;
- (b) anti-dumping, countervailing or safeguard measures applied in accordance with the provisions of Title IV; and,
- (c) fees or other charges levied in accordance with the provisions of Article 9.

ARTICLE 7

Classification of goods

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 Harmonised Commodity Description and Coding System ("HS").

ARTICLE 8

Basic Duty

For each product, the basic customs duty to which the successive reductions are to be applied shall be that specified in each Party's tariff schedule.

ARTICLE 9

Fees and other charges

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

ARTICLE 10

Customs duties on products originating in the EAC Party

Products originating in the EAC Party shall be imported into the EC free of customs duties, under the conditions set out in Annex I.

ARTICLE 11

Customs duties on products originating in the EC Party

Customs duties on imports of products originating in the EC Party shall be reduced or eliminated in accordance with the schedule of tariff liberalization in Annex II.

ARTICLE 12

Rules of origin

For the purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Protocol 1 to this Agreement. For the purpose of the comprehensive EPA, and during the period between the entry into force of this Agreement and the entry into force of the comprehensive EPA, the Parties shall review the provisions of that Protocol with a view to their further simplification. In such review the Parties shall take into account the development needs of the EAC Party and the development of technologies, production processes and all other factors, including on-going reforms of rules of origin, which may require modifications to the provisions of the Protocol. Any such modifications shall be effected by a decision of the EPA Council.

ARTICLE 13

Standstill

Except for the measures adopted according to Articles 19 and 21, the Parties agree not to increase their applied customs duties for products subject to the liberalisation schedule.

ARTICLE 14

Circulation of goods

1. Customs duties shall be levied only once for goods originating in the EC Party or in the EAC Party in the territory of the other Party.
2. Any duty paid upon importation into an EAC Partner State shall be refunded fully when the goods leave the EAC Partner State of first importation. Such products shall then pay the duty in the country of consumption.
3. The Parties agree to cooperate with a view to facilitating the circulation of goods and simplifying customs procedures.

ARTICLE 15

Duties and taxes on exports

1. The Parties 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 Party can impose a duty or tax in connection with the exportation of goods, with the authorization of the EPA Council, under the following circumstances:

- (a) to foster the development of domestic industry; or
- (b) to maintain currency value stability, when the increase in the world price of an export commodity creates the risk of a currency value surge.

3. Such taxes should be enforced on a limited number of products for a limited period of time, and reviewed by the EPA Council after 24 months.

ARTICLE 16

More favourable treatment resulting from a free trade agreement

1. With respect to the subject matter covered by this Chapter, the EC Party shall accord to the EAC Party any more favourable treatment applicable as a result of the EC Party becoming party to a free trade agreement with third Parties after the signature of this Agreement.

2. With respect to the subject matter covered by this Chapter, the EAC Party shall accord to the EC Party any more favourable treatment applicable as a result of EAC Party becoming party to a free trade agreement with any major trading economy after the signature of this Agreement.

3. The provisions of this Chapter 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 third Parties 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 Party with countries of the African, Caribbean and Pacific Groups, or other African countries and regions.
5. For the purposes of this Article, "free trade agreement" means an agreement substantially liberalizing trade and providing for the absence or elimination of substantially all discrimination between or among Parties thereto through the elimination of existing discriminatory measures and/or the prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time frame.
6. For the purposes of this Article, "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 paragraph 2, 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 paragraph 2¹.

¹ For this calculation official data by the WTO on leading exporters in world merchandise trade (excluding intra-EU trade) shall be used.

TITLE III

NON-TARIFF MEASURES

ARTICLE 17

Prohibition of quantitative restrictions

1. Unless otherwise provided in this Agreement, all prohibitions or restrictions on the importation, exportation or sale for exports between the Parties, other than customs duties, taxes, fees and other charges provided for under Article 6, whether made effective through quotas, import or export licenses or other measures, shall be eliminated upon the entry into force of this Agreement. No new such measures shall be introduced in trade between the Parties. The provisions of this Article shall be without prejudice to the provisions of Title IV of this Chapter.
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 18

National treatment on internal taxation and regulation

1. Imported products originating in the other 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 national products. Moreover, the Parties shall not otherwise apply internal taxes or other internal charges so as to afford protection to national production.
2. Imported products originating in the other Party shall be accorded treatment no less favourable than that accorded to like national products 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 nationality of the product.
3. No 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, no Party shall otherwise apply internal quantitative regulations so as to afford protection to national 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.

TITLE IV

TRADE DEFENCE MEASURES

ARTICLE 19

Anti-dumping and countervailing measures

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent the EC Party or the EAC Partner States, 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 EAC Partner States, the EC Party 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 on behalf of two or more EAC Partner States by a regional authority, 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 the Parties shall ensure that such measures are not applied simultaneously in respect of the same product by regional authorities on the one hand, and national authorities on the other.
5. The EC Party shall notify the exporting EAC Partner States 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 provisions of this Article shall not be subject to the Dispute Settlement provisions of this Agreement.

ARTICLE 20

Multilateral safeguards

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent the EAC Partner States and the EC Party from adopting measures in accordance with Article XIX of the General Agreement on Tariffs and Trade 1994, the Agreement on Safeguards, and Article 5 of the 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 EC Party shall, in the light of the overall development objectives of this Agreement and the small size of the economies of the EAC, exclude imports from any EAC Partner State from any measures taken pursuant to Article XIX of the GATT 1994, the WTO Agreement on Safeguards and Article 5 of the Agreement on Agriculture.
3. The provisions of paragraph 2 shall apply for a period of five years, beginning with the date of entry into force of the Agreement. Not later than 120 days before the end of this period, the EPA Council shall review the operation of those provisions in the light of the development needs of the EAC, with a view to determining whether to extend their application for a further period.
4. The provisions of paragraph 1 shall not be subject to the Dispute Settlement provisions of this Agreement.

ARTICLE 21

Bilateral safeguards

1. After having examined alternative solutions, the EC or EAC Partner States may apply safeguard measures of limited duration, under the conditions and in accordance with the procedures laid down in this Article.

2. Safeguard measures referred to in paragraph 1 above 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 agricultural like or directly competitive products¹ or 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). Those safeguard measures of the importing Party may only consist of one or more of the following:

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

4. Without prejudice to paragraphs 1, 2 and 3, where any product originating in one or more EAC States 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 EC Party's outermost regions, the EC Party 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, 2 and 3, where any product originating in the EC Party 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 an EAC Partner State, the EAC Partner State concerned may take surveillance or safeguard measures limited to its territory in accordance with the procedures laid down in paragraphs 6 to 9.

- (b) An EAC Partner State may take safeguard measures where a product originating in the EC Party as a result of the reduction of duties is being imported into its 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 years from the date of entry into force of this Agreement. Measures must be taken in accordance with the procedures laid down in paragraphs 6 to 9.

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

 - (b) Safeguard measures referred to in this Article shall not be applied for a period exceeding two 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 years. Where the EAC Party or an EAC Partner State applies a safeguard measure, or where the EC Party applies a 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 years and, where the circumstances warranting imposition of safeguard measures continue to exist, extended for a further period of four years.

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

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

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

- (a) Where a party takes the view that one of the circumstances set out in paragraphs 2, 4 and/or 5 exists, it shall immediately refer the matter to the EPA Council for examination;
- (b) The EPA Council may make any recommendation needed to remedy the circumstances which have arisen. If no recommendation has been made by the EPA Council aimed at remedying the circumstances, or no other satisfactory solution has been reached within 30 days of the matter being referred to the EPA Council, 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 Party or the EAC Partner State concerned shall supply the EPA Council 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 EPA Council 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, whether the EC Party, the EAC or an EAC Partner State as the case may be, may take the measures provided for in paragraph 3, 4 and/or 5 on a provisional basis without complying with the requirements of paragraph 7. Such action may be taken for a maximum period of 180 days where measures are taken by the EC Party and 200 days where measures are taken by the EAC or an EAC Partner State, or where measures taken by the EC Party 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 EPA Council 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 EPA Council without delay.

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

TITLE V

ADMINISTRATIVE PROVISIONS

ARTICLE 22

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 Title and underline their commitment to combat irregularities and fraud in customs and related matters.
2. Where the EC Party or the EAC Partner States have 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.

For the purpose of this Article 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.

4. 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 EPA Council of its finding together with the objective information and enter into consultations within the EPA Council, 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 EPA Council as above and have failed to agree on an acceptable solution within 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 months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the EPA Council. They shall be subject to periodic consultations within the EPA Council in particular with a view to their termination as soon as the conditions for their application no longer exist.

5. At the same time as the notification to the EPA Council under paragraph 4(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 23

Management of administrative errors

In case of error by the competent authorities in the proper management of the preferential system of export, and in particular in the application of the provisions of Protocol 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the EPA Council to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

ARTICLE 24

Customs Valuation

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

CHAPTER III

FISHERIES

TITLE I

GENERAL PROVISIONS

ARTICLE 25

1. The Parties recognise that fisheries constitute a key economic resource of the EAC Partner States, contribute significantly to the economies of the EAC Partner States and have great potential for future regional economic development and poverty reduction. It is also an important source of food and foreign exchange.
2. The Parties further recognise that fisheries resources are also of considerable interest to both the EC Party and the EAC Partner States, 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.
3. 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 States, while taking into consideration its long term sustainability, is through increasing value-adding activities within the sector.

ARTICLE 26

Objectives

The objectives of cooperation in fisheries are to:

- (a) promote sustainable development and management of fisheries;
- (b) promote and develop regional and international trade based on best practices;
- (c) create an enabling environment, including infrastructure and capacity building, for the EAC Partner States to cope with the stringent market requirements for both industrial and small scale fisheries;
- (d) support national and regional policies aimed at increasing productivity and competitiveness of the fisheries sector;
- (e) build links with other economic sectors.

ARTICLE 27

Scope

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

ARTICLE 28

Principles

1. The principles of cooperation in fisheries include:
 - (a) support for the development and strengthening of regional integration;
 - (b) preservation of the *acquis* of the Cotonou Agreement;
 - (c) provision of special and differential treatment;
 - (d) the need to take into account the best available scientific information for the resource assessment and management;
 - (e) functioning monitoring system of the environmental, economic and social impacts in the EAC Partner States;

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

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

ARTICLE 29

Preferential access

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.

TITLE II

MARINE FISHERIES

ARTICLE 30

Scope

The scope of this Title is the utilisation, conservation and management of marine fisheries resources to optimise the benefits from fisheries for the EAC region through investment capacity building and improved market access.

ARTICLE 31

Objectives

The objectives of cooperation are to:

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

- (b) Ensure a more equitable share of the benefits derived from the fisheries sector;
- (c) Ensure effective monitoring control and surveillance (MCS) necessary for combating illegal, unreported & unregulated (IUU) fishing; and
- (d) Promote effective exploitation, conservation and management of the living marine resource in the Exclusive Economic Zone (EEZ) and waters in which the EAC Partner States has jurisdiction based on international instruments, including UNCLOS (United Nations Convention on the Law Of the Sea), for the mutual social and economic benefit of the EAC Partner States and the EC Party.

ARTICLE 32

Areas of cooperation

1. To achieve the objectives of cooperation in fisheries within the described principles, cooperation will include fisheries management and conservation issues, vessel management and post harvest arrangements and financial and trade measures and development of fisheries and fisheries products and marine aquaculture.

2. The EC Party will 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. Furthermore, the EC Party contributes to the measures as described in the section concerning financial and trade measures, and on infrastructure development specific for fisheries and marine aquaculture.

(a) Fisheries Management and Conservation Issues

3. 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.

4. 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 fishery.

5. The Parties would promote the membership of all the concerned EAC Partner States to IOTC (Indian Ocean Tuna Commission) and other relevant fisheries organisations. These countries, with the EC Party, should coordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and facilitate relevant scientific research.

6. Where there is insufficient scientific evidence for the competent national management authority to determine limits and target levels of sustainable catch in an EAC Exclusive Economic Zone (EEZ), both parties in consultation with the competent national authority and together with IOTC and, where relevant, other regional fisheries organisations, shall support such scientific analysis.

7. 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.

8. In order to conserve and manage straddling stocks and highly migratory fish stocks, the EC Party and the EAC coastal States shall ensure compliance by vessels flying their flags with relevant national, regional and sub-regional fisheries management measures and related national laws and regulations.

(b) Vessel Management and Post Harvest Arrangements

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

- (i) A Vessel Monitoring System (VMS) will be set up for all EAC coastal Partner States, and all EAC Partner States will use a compatible VMS. Those EAC Partner States which do not have a VMS will be assisted by the EC Party to set up a compatible VMS.
- (ii) In addition to a compulsory compatible VMS system, all EAC coastal Partner States, in conjunction with the EC Party, will develop other mechanisms to ensure effective Monitoring, Control and Surveillance (MCS) and the EC Party will support EAC Partner States to put such an agreed system in place and assist in implementation.
- (iii) The EC Party and EAC Partner States 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 EC Party will support the costs of training observers.

- (iv) Common systems of reporting of fishing will be developed and used throughout the region, with minimum terms set for reporting.
- (v) 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). Both parties shall cooperate to develop and modernise landing or transhipment infrastructure in ports of EAC Partner States, including development capacity of fish products
- (vi) All vessels shall endeavour to use the facilities of the EAC Partner States and to make use of local supplies.
- (vii) 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.

10. The parties agree to cooperate in developing and implementing national/regional training programmes for EAC nationals in order to facilitate their effective participation in the fishing industry. Where the EC Party has negotiated a bilateral fisheries agreement, employment of EAC nationals shall be encouraged. The ILO (International Labour Organisation) declaration on fundamental principles and rights at work shall apply as of right to seamen signed on Community vessels.

11. Both parties shall undertake coordinated efforts to improve the means for preventing, deterring, and eliminating IUU (Illegal Unregulated and Unreported) 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 and should not be allowed to fish again in EAC Partner States' waters, unless prior authorisation has been obtained from both the flag State and the concerned EAC Partner States as well as, where relevant, the RFMO concerned.

(c) Financial and Trade Measures and Development issues

12. 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.

TITLE III

INLAND FISHERIES AND AQUACULTURE DEVELOPMENT

ARTICLE 33

Scope

The scope of this Title shall cover inland fisheries, coastal and aquaculture development in the EAC Partner States with respect to capacity building, technology transfer, SPS standards, investment and investment finance, environmental protection as well as legal and regulatory frameworks.

ARTICLE 34

Objectives

The objectives of cooperation in inland fisheries and aquaculture development will be to promote sustainable exploitation of inland fisheries resources, and enhance aquaculture production, remove supply-side constraints, improve fish and fish products quality to meet SPS standards in the market of the EC Party, improve access to the market of the EC Party, 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.

ARTICLE 35

Areas of cooperation

The areas of cooperation shall include EC Party contributions to the following:

- (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 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 EC Party and training programs in product development and branding.

(b) Infrastructure

- (i) Development and improvement of infrastructure for inland fisheries and aquaculture;
- (ii) Facilitation of access to funding for infrastructure, including all type of equipment.

(c) Technology

- (i) Both parties shall contribute to the development of technical capabilities, including value-adding technology promotion, for example through fisheries technology transfer from the EC Party to the EAC Partner States;
- (ii) Fisheries management capacity in the region to be enhanced, for example through research and data collection systems and contribution towards appropriate technologies on harvesting and post harvest management.

(d) Legal and regulatory

- (i) Support towards development of inland fisheries and aquaculture regulations and monitoring control and surveillance systems;
- (ii) Support to EAC Partner States in developing appropriate legal and regulatory instruments on Intellectual Property Rights and building capacity for their implementation in international trade;

- (iii) Eco-labelling and intellectual property protection.
- (e) Investment and finance
 - (i) Promotion of joint ventures and other forms of mixed investments between stakeholders in EAC Partner States and the EC Party, for example for the setting up of modalities for identifying investors for joint venture operations in inland fisheries and aquaculture;
 - (ii) Contributing to 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
 - (i) Both Parties shall contribute to measures to ensure that fish trade supports environmental conservation, and safeguards against stock depletion and the maintenance of biodiversity and cautious introduction of exotic species for aquaculture; for example, through the cautious introduction of exotic species to be introduced only in managed/closed spaces in consultation with all concerned neighbouring countries.
 - (g) Socioeconomic and poverty alleviation measures
 - (i) The Parties shall contribute to the promotion of small and medium scale fishers, processors, and fish traders by building the capacity of EAC Partner States to participate in trade with the EC Party.

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

CHAPTER IV

ECONOMIC AND DEVELOPMENT COOPERATION

ARTICLE 36

The EC Party and the EAC party reaffirm their recognition of development needs of the EAC region, and their commitment to ensure that EPA is a tool for development which will, promote and consolidate regional integration, and aid the integration of EAC into the global economy. The Parties agree to work together to define and address the development needs associated with the EPA in order to promote sustained growth, strengthen regional integration and foster structural transformation and competitiveness to increase production, supply capacity and value addition of the countries concerned.

The EC Party confirms it will contribute towards the resources required for development under the 10th EDF Regional Indicative Programme, Aid for Trade and the EU budget.

CHAPTER V

AREAS FOR FUTURE NEGOTIATIONS

ARTICLE 37

Rendez-vous Clause

Building on the Cotonou Agreement and taking account of the progress made in the negotiations of a comprehensive EPA text the parties agree to continue negotiations in the following areas:

- (a) Customs and trade facilitation;
- (b) Outstanding trade and market access issues including Rules of Origin;
- (c) Technical barriers to trade and SPS measures;
- (d) Trade in services;
- (e) 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;

- (f) Agriculture;

- (g) An elaborated dispute settlement mechanism and institutional arrangements;

- (h) Economic and Development Cooperation; and

- (i) Any other areas that the Parties find necessary.

CHAPTER VI

DISPUTE AVOIDANCE AND SETTLEMENT, INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

TITLE I

DISPUTE AVOIDANCE AND SETTLEMENT

ARTICLE 38

Consultations

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

2. A Party shall seek consultations by means of a written request to the other Party, 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 under the auspices of the EPA Council and shall be held within 40 days of the date of the submission of the request. The consultations shall be deemed concluded within 60 days of the date of the submission of the request, unless both 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 within 15 days of the date of the submission of the request, and shall be deemed concluded within 30 days of the date of the submission of the request.

ARTICLE 39

Dispute settlement

1. If consultations do not succeed in settling the dispute within the 60 days referred to in Article 38, either Party may request settlement of the dispute by arbitration by notifying the other Party and the EPA Council. The request for arbitration shall identify the measure at issue and the provisions of the Agreement that the complaining Party considers the measure not to be in conformity with. To this end, each party shall appoint an arbitrator within thirty days of the request for arbitration. In the event of failure to do so, either party may ask the Secretary-General of the Permanent Court of Arbitration to appoint the second arbitrator.

2. The two arbitrators shall in turn appoint a third arbitrator within thirty days. In the event of failure to appoint the third arbitrator, either party may ask the Secretary-General of the Permanent Court of Arbitration to appoint the third arbitrator.

3. Unless the arbitrators decide otherwise, the procedure applied shall be laid down in the optional arbitration regulation of the Permanent Court of Arbitration for International organizations and States. The arbitrators' decisions shall be taken by majority vote within three months.

4. Each party to the dispute shall be bound to take the measures necessary to carry out the decision of the arbitrators.

TITLE II

GENERAL EXCEPTIONS

ARTICLE 40

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 EC Party, EAC Party or an EAC Partner State of measures which:

- (a) are necessary to protect public morals or to maintain public order or public security;
- (b) are necessary to protect human, animal or plant life or health;
- (c) are necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

- (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
 - (iii) safety;
 - (iv) customs enforcement, or
 - (v) protection of intellectual property rights;
- (d) relate to the importation or exportation of gold or silver;
- (e) are necessary to the protection of national treasures of artistic, historic or archaeological value;
- (f) relate to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption of goods, domestic supply or consumption of services and on domestic investors;
- (g) relate to the products of prison labour;

- (h) are inconsistent with Article 18 on National Treatment, provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collection of direct taxes in respect of economic activities, investors or service suppliers of the EC Party or an EAC Partner State; or
- (i) are 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 all parties 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 discontinued as soon as the conditions giving rise to them have ceased to exist.

ARTICLE 41

Security exceptions

1. Nothing in this Agreement shall be construed:
 - (a) to require the EC Party or an EAC Partner State to furnish any information the disclosure of which it considers contrary to its essential security interests;

- (b) to prevent the EC Party or an EAC Partner State from taking any action which it considers necessary for the protection of its essential security interests
 - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
 - (ii) relating to economic activities carried out directly or indirectly for the purpose of supplying or provisioning a military establishment;
 - (iii) connected with the production of or trade in arms, munitions and war materials;
 - (iv) relating to government procurement indispensable for national security or for national defence purposes; or
 - (v) taken in time of war or other emergency in international relations; or
- (c) to prevent the EC Party or an EAC Partner State from taking any action in order to carry out obligations it has accepted for the purpose of maintaining international peace and security.

2. The Parties shall inform each other to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

ARTICLE 42

Taxation

1. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the EC Party or an EAC Partner State from distinguishing, in the application of the relevant provisions of their 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 EC Party or an EAC Partner State 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.

TITLE III

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

ARTICLE 43

Relations between this Agreement and the comprehensive Economic Partnership Agreement

This Agreement shall remain in force until the comprehensive EPA enters into force.

ARTICLE 44

Definition of the Parties and fulfilment of obligations

1. Contracting Parties of this Agreement shall be the Republic of Burundi, Republic of Kenya, Republic of Rwanda, United Republic of Tanzania, Republic of Uganda, contracting parties to the Treaty establishing the East African Community, hereinafter referred to as the "EAC Party", on the one part, and the European Community and its Member States or the European Community or its Member States in their respective areas of competency as derived from the Treaty establishing the European Community, and hereinafter referred to as the "EC Party", on the other part.

2. For the purpose of this agreement, unless otherwise expressly provided, the EAC Partner States agree to act collectively. Where individual action is provided for or required to exercise the rights and or comply with obligations under this Agreement reference is made to "EAC Partner State".

ARTICLE 45

Entry into force and denunciation

1. This Agreement shall be signed, ratified or approved in accordance with the applicable constitutional or internal rules and procedures of the respective Parties.
2. This Agreement shall enter into force the first day of the month following the deposit of the last instrument of ratification, acceptance or approval.
3. Notifications shall be sent to the Secretaries-General of the Council of the European Union and the East African Community Secretariat, who shall be the depositories of this Agreement.
4. Pending entry into force of the Agreement, the EC Party and the EAC Partner States agree to apply the provisions of this Agreement which fall within their respective competences ("provisional application"). 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 10 days after the latter of the receipt of notification of provisional application from the EC Party or from all the EAC Partner States.
6. Notwithstanding paragraph 4, the EC Party and EAC Partner States may unilaterally take steps to apply the agreement, before provisional application, to the extent feasible.
7. The EC Party or the EAC Party may give written notice to the other of its intention to denounce this Agreement.
8. Denunciation shall take effect one month after notification to the other Party.

ARTICLE 46

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and, on the other hand, to the territories of the EAC Partner States.

ARTICLE 47

EPA Council

1. The Parties hereby establish an EPA Council.
2. The EPA Council shall be responsible for the administration of all matters under this Agreement and for the fulfilment of any of the tasks mentioned in this Agreement.
3. The EPA Council shall be composed of representatives of the Parties. Each Party determines the organisation of its representation.

ARTICLE 48

Special Committee on Customs Cooperation

1. The Parties hereby establish a Special Committee on Customs Cooperation, composed of the representatives of the Parties. The Special Committee shall meet on a date and with an agenda agreed in advance by the Parties. The office of Chairperson of the Special Committee shall be held alternately by each of the Parties. The Special Committee shall report to the EPA Council established in Article 47.

2. The functions of the Special Committee shall, inter alia, be as follows:
- (a) monitoring the implementation and administration of the Protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation;
 - (b) providing a forum to consult and discuss on all issues concerning customs, including rules of origin, general customs procedures, customs valuation, tariff classification 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) any other issues agreed by the Parties.

ARTICLE 49

Relationship with other agreements

1. Nothing in this Agreement shall be construed so as to prevent the adoption by the EC Party, the EAC Party or an EAC Partner State of any measures including trade related measures under this Agreement deemed appropriate as provided for under articles 11b, 96 and 97 of the Cotonou Agreement and according to procedures set by these articles.

2. With the exception of development cooperation provisions contained therein, in case of any inconsistency between the provisions of this agreement and the provisions of Title II of Part 3 of the Cotonou Agreement, the provisions of this agreement shall prevail.
3. The Parties agree that nothing in this agreement requires them or the EAC Partner States to act in a manner inconsistent with their WTO obligations.

ARTICLE 50

Accession of new Members to the East African Community

1. The EPA Council shall be advised of any request made by a third State to become a member of the EAC. During the negotiations between the EAC and the applicant State, the EAC Party shall provide the EC Party with any relevant information and it in turn shall convey its concerns to the EAC Party so that it can take them fully into account. The EC shall be notified by the EAC of any accession to the EAC.
2. Any new Partner State of the EAC shall accede to this Agreement from the date of its accession to the EAC by means of a clause to that effect in the act of accession. If the act of accession to the EAC does not provide for such automatic accession of the EAC Partner State to this Agreement, the EAC Partner State concerned shall accede by depositing an act of accession with the Secretary-General of the East African Community, who shall send certified copies to the EC Party.

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

ARTICLE 51

Accession of new Members to the European Union

1. The EPA Council shall be advised of any request made by a third State to become a member of the European Union. During the negotiations between the Union and the applicant State, the EC Party shall provide the EAC Partner States with any relevant information and they in turn shall convey their concerns to the EC Party so that it can take them fully into account. The EAC Partner States shall be notified by the EC Party of any accession to the European Union (EU).

2. 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 States.

3. 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 52

Outermost regions of the European Community

1. Taking account of the geographical proximity of the outermost regions of the European Community and the EAC and in order to reinforce economic and social links between these regions and the EAC Partner States, the Parties shall endeavour to facilitate cooperation in all areas covered by this Agreement as well as facilitate trade and goods and services, promote investments and encourage transport and communication links between the outermost regions and the EAC Partner States.

2. The objectives enunciated in paragraph 1 shall also be pursued, wherever possible, through fostering the joint participation of the EAC Partner States and the outermost regions in framework and specific programmes of the European Community in areas covered by this Agreement.

3. The EC Party shall endeavour to ensure coordination between the different financial instruments of the European Community's cohesion and development policies in order to foster cooperation between EAC Partner States and the outermost regions of the European Community in the areas covered by this Agreement.

4. Nothing in this Agreement shall prevent the EC Party from applying existing measures aimed at addressing the structural social and economic situation of the Outermost region pursuant to Article 299(2) of the Treaty establishing the European Community.

ARTICLE 53

Authentic texts

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

ARTICLE 54

Annexes

The Annexes and Protocols to this Agreement shall form an integral part thereof and may be reviewed and or amended by the EPA Council.