

THE EAST AFRICAN COMMUNITY

BILL SUPPLEMENT**No. 3****31st October, 2004**

to the Gazette of East Africa No. 002 Vol. AT 01 dated 31st October, 2004
Printed by the Government Printer, Dar es Salaam by Order of Government

A BILL*for an Act Entitled***THE EAST AFRICAN TRADE NEGOTIATIONS ACT, 2004**

An Act to make provision for the East African Community to negotiate as a bloc in all Regional and Multilateral Trade Arrangements and to establish an East African Joint Trade Negotiation Commission as an Institution of the East African Community.

ENACTED BY the East African Community and assented to by the President of the United Republic of Tanzania, the President of the Republic of Kenya and the President of the Republic of Uganda.

1. This Act may be cited as the East African Trade Negotiations Act, 2004. Short title

2. In this Act, unless the context otherwise requires:- Interpre-
tation

"Assembly" means the East African Legislative Assembly established by Article 9 of the Treaty.

"Council" means the Council of Ministers of the Community established under Article 9 of the Treaty.

"Commission" means the East African Joint Trade Negotiation Commission as established and constituted under Section 3 of this Act;

"Community" means the East African Community as established by Article 2 of the Treaty;

"Directorate" means the Directorate of the Commission established under Section 8 of this Act;

"Director General" means the Director General for Trade Negotiations provided for under Section 8 of this Act;

"National Trade Negotiations Committee" means Trade Negotiations Committees established under Section 13 of this Act.

"Partner States" means Partner States as defined in the Treaty;

"Summit" means the Summit established by Article 9 of the Treaty;

"Treaty" means the Treaty for the Establishment of the East African Community.

Establi-
shment
and
Composi-
tion of the
Commis-
sion

3.-(1) There is established a Commission to be known as the East African Joint Trade Negotiation Commission.

(2) The Commission shall consist of the following members-

- (a) a Minister from each of the Partner States responsible for the East African Community Affairs;
- (b) a Minister from each of the Partner States responsible for trade;
- (c) three members from each of the Partner States who shall be persons qualified in international economics, trade, law or policy.

(3) Members of the Commission appointed under subsection (2)(c) of this Section shall be appointed by the Summit on the recommendation of the Council for a period of five years and shall be eligible for reappointment.

(4) The Chairperson of the Commission shall be the Minister responsible for Trade of the Partner State whose Minister for the time being is the Chairperson of the Council of Ministers. The Office of the Chairperson of the Commission shall simultaneously rotate with the Chairperson of the Council of Ministers

(5) The Secretary to the Commission shall be the Director General for Trade Negotiations.

(6) A person shall not qualify to be appointed as a member of the Commission if that person-

- (a) is not a citizen of a Partner State;
- (b) is of unsound mind;
- (c) is an undischarged bankrupt; or
- (d) is an officer in the service of the Community.

4.-(1) The office of a member of the Commission shall fall vacant upon-

Vacation
of office

- (a) resignation;
- (b) death;
- (c) removal from office by the Summit on written recommendation of the Council.

(2) A member of the Commission can only be removed from office on the following grounds-

- (a) for inability to perform the functions of his or her office, whether arising from infirmity of body or mind; or partiality in the discharge of duties; or
- (b) for failure to attend three consecutive meetings of the commission without permission in writing from the Chairperson of the Commission.

5. The Commission shall -

Functions
of the
Commis-
sion

- (a) conduct external trade related negotiations on regional and multilateral levels on behalf of the Partner States;
- (b) harmonize national trade positions into common negotiating positions;
- (c) subject to Article 37(4) of the Protocol Establishing the East African Customs Union, propose a harmonized and coherent negotiating position for individual Partner States in case the Partner States are not involved in the same forum of trade negotiations;
- (d) seek efficient and effective utilization of the available resources in the Partner States for effective discharge of its mandate;

- (e) conduct any research, commission any study or paper or consult any person in the discharge of its powers;
- (f) prepare a strategic and position paper on relevant issues relating to regional and multilateral negotiations affecting the Partner States; and
- (g) perform such other functions as may be assigned to it by the Summit, Council or as may be prescribed by Community Law.

Committees of the Commission

6.-(1) The Commission may appoint such Committees as it may determine to assist in the carrying out of its functions and may delegate to any committee such functions as it may consider fit and subject to such conditions as it may determine.

(2) A Committee shall have a Chairperson who shall be a member of the Commission and such other person as the Commission may determine.

(3) Subject to any directions that may be given by the Commission, a Committee may regulate its own procedure.

Proceedings of the Commission

7.-(1) Every decision of the Commission shall be by consensus;

(2) Where on any matter consensus cannot be obtained, the matter shall be referred to the Council for decision.

(3) In the event the Council fails to make a decision the matter shall be referred to the Summit.

(4) Both the Council and the Summit shall make their decision within thirty days.

(5) The Secretary shall cause to be recorded minutes of all proceedings of the Commission.

(6) The Secretary shall have custody of the minutes of the Commission.

The Directorate of the Commission

8. (a) the Commission shall have a Directorate which shall be responsible for the day to day operations of the Commission;

- (b) the Directorate shall have such departments as may be necessary to discharge the functions of the Commission;
- (c) the Directorate shall be headed by a Director General for Trade Negotiations who shall be appointed by the Council on such terms and conditions specified in the instrument of appointment;
- (d) The Director General shall be a person of high moral character and proven integrity, possessing the relevant qualifications; and
- (e) The Director General shall hold office for five years and be eligible for re- appointment for one further term.

9.-(1) The Commission shall have such other officers and employees as may be determined by the Council on recommendation of the Commission.

Other
officers
and
emplo-
yees of
the
Commis-
sion

(2) The officers and employees appointed under this provision shall hold office on terms and conditions that the Council may determine.

10.-(1) The negotiating mandate of the Commission shall be in writing and shall be issued from time to time by the Summit acting through the Council.

Negotia-
ting man-
date of
the
Commis-
sion

(2) Prior to signing and concluding the terms of any negotiated agreement, the Commission shall consult with the Council of Ministers of the Community to endorse the final text of the Agreement.

(3) The East African position on any issue for negotiation shall be developed by the Commission from the national positions.

(4) The Commission shall at least three times in a year submit a report on the status and progress of joint trade negotiations to the Council and the National Trade Negotiations committee of each Partner State.

(5) The Council shall present a report at every meeting of the Assembly on the progress of negotiations.

(6) The Commission shall submit an Annual Report on the status and progress of the negotiations to the Assembly.

Indepe-
ndence of
the
Commis-
sion

11.-(1) Subject to sub-section 2 hereunder, the Commission shall not, in the discharge of its functions, take directives from any person, national or regional organ or a Partner State except directives from the Summit communicated in writing through the Council.

(2) In the performance of its function, the Commission shall adhere to the provisions of the Treaty establishing the East African Community and any multilateral agreement to which all Partner States are party.

(3) The Commission shall not deviate from its negotiating mandate except as expressly instructed in writing by a directive of the Summit.

Remune-
ration of
members

12.-(1) A member of the Commission or any person attending any meeting of the Commission may be paid such remuneration or allowances as may be determined by the Council.

(2) The terms and conditions of service of any member of the Commission shall not be varied to the disadvantage of the member.

Relations
hip
between
the
Commis-
sion and
National
Trade
Negotia-
tion
Commis-
sion

13.-(1) For the purposes of this Act, each of the Partner States shall establish a National Trade Negotiation Committee.

(2) Each of the National Committees shall prepare a national position on each and every issue or item for negotiation at regional or multilateral level;

(3) The national positions shall be submitted to the Commission for discussion, harmonization and formulation of a common Position.

(4) The Commission may require the National Trade Negotiation Committees to prepare National Position on any issue for negotiation.

Representa-
tion of
the
Commis-
sion

14.-(1) The Commission shall establish a Liaison Office at the seats of regional and Multilateral Trade Organizations.

East African Trade Negotiations

(2) The Partners States shall integrate their respective delegations to the regional and multilateral trade negotiations into a single East African Delegation within six months from the commencement of this Act.

15. The financial year of the Commission shall be same as the financial year of the Community and Commission budget shall be prepared in accordance with the provisions of the Treaty.

Budget

16. On coming into force of this Act, the Summit shall within ninety days appoint the first members of the Commission.

Appointment of
the first
members
of the

