

East African Community, African Regional Bodies

Protocols on Privileges and Immunities of the East African Community

Legislation as at 1 April 2015

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East African Community

Protocols on Privileges and Immunities of the East African Community

Not commenced

[This is the version of this document at 1 April 2015.]

PREAMBLE

WHEREAS the Republic of Burundi, the Republic of Kenya, the United Republic of Tanzania, the Republic of Uganda, and the Republic of Rwanda (hereinafter referred to as "the Partner States") are parties to the Treaty for the Establishment of the East African Community (hereinafter referred to as "the Community");

AND WHEREAS the Partner States recognize that the Community enjoys international legal personality;

AND WHEREAS the Partner States recognize and uphold the international character and the responsibilities of the Community and persons employed in the service of the Community;

AND WHEREAS the Partner States recognize the need to provide for the Community and persons employed in the service of the Community with such immunities and privileges as are necessary for the proper discharge of their functions under the Treaty;

AND PURSUANT to the provisions of Articles 73 and 138 of the Treaty for the Establishment of the East African Community;

HEREBY AGREE AS FOLLOWS:

Article 1 – Definitions

In this Protocol except where the context otherwise requires,

"**appropriate authorities**" means national, regional, municipal, or other authorities in the Partner States as may be appropriate in the context of this Protocol and in accordance with the laws, customs, and practices applicable in the Partner States;

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

"**Council**" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"**dependent**" means a spouse and a child of a person employed in the service of the Community;

"**International organization**" means an international organization accredited with diplomatic status in any of the Partner States;

"**Partner States**" means the United Republic of Tanzania, the Republic of Kenya, the Republic of Uganda, the Republic of Rwanda, Republic of Burundi, and any other country granted membership to the Community under Article 3 of the Treaty;

"**Persons employed in the service of the Community**" means all persons engaged in rendering service to the Community including staff of the Community, members of the East African Legislative Assembly and the Judges of the East African Court of Justice; and

"**Premises of the Community**" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the Community in the Partner States;

"**property**" means assets belonging to the Community.

Article 2 – Objective

The objective of this Protocol is to standardize the status, privileges, and immunities to be accorded by the Partner States to:

- (a) the assets and properties of the Community wherever situated in the Partner States; and
- (b) persons employed in the service of the Community.

Article 3 – Scope of the Protocol

The provisions of this Protocol shall apply to the:

- (a) immunity of the property and assets of the Community;
- (b) protection of funds of the Community;
- (c) tax exemptions for the Community;
- (d) facilities in respect of official communication; and
- (e) privileges and immunities of persons employed in the service of the Community.

Article 4 – Immunity of the property and assets

1. The Partner States shall accord the Community, its premises, property, and assets, wherever located immunity from legal process, except in any case where the Community has expressly waived its immunity, provided that no waiver of immunity shall extend to any measure of attachment of property and assets.
2. For the purposes of paragraph 1:
 - (a) the premises, property and assets of the Community shall be inviolable;
 - (b) the property and assets of the Community, wherever located and however held shall be immune from search, requisition, confiscation, expropriation, and any other form of interference whether by executive, administrative, judicial, or legislative action; and
 - (c) the archives of the Community and all documents belonging to or held by the Community wherever located, shall be inviolable.

Article 5 – Funds of the Community

1. The Partner States shall take all appropriate steps to protect the funds of the Community against attachment, theft, expropriation, and any other form of interference, whether by executive, administrative, judicial, or legislative action.
2. Without being restricted by the Partner States' financial controls, regulations, or moratoria of any kind—
 - (a) the Community may hold funds or currency of any kind and operate accounts in any Partner State;
 - (b) the Community shall be free to transfer its funds or currency from one Partner State to another or within any Partner State and to convert any currency into any other currency.
3. In exercising its rights under paragraph 2, the Community shall pay due regard to any representations made by the Government of a Partner State in so far as it is considered that effect can be given to such representations without detriment to the interests of the Community.

Article 6 – Tax exemptions for the Community

1. The Community, its income, assets, and other property are exempt from:
 - (a) all taxes on the property, income, and official transactions of the Community except charges for public utility services;
 - (b) customs duties on imports and exports in respect of articles imported or exported by the Community for its official use. provided that, the articles imported under such exemption shall not be sold or otherwise disposed of in the territory of the Partner State into which they were imported, except under conditions agreed with the Government of that Partner State;
 - (c) customs duties on imports and exports in respect of publications by the Community for official purposes, except payments for services rendered.
2. Each Partner State shall make appropriate arrangements for the remission or refund of the amount of any duty or tax payable or paid by the Community in respect of property bought for official use by the Community in the territory of such Partner State.
3. Any funds and property availed to the Community for its functions shall be exempt from the payment of taxes.

Article 7 – Facilities in respect of official communications by the Community

1. The Partner States shall ensure that the Community enjoys in the territory of each Partner State, for its official communications, treatment not less favorable than that accorded by the Government of that Partner State to other international organizations.
2. The Partner States shall not apply censorship to the official correspondence and official communications of the Community.
3. The Community shall have the right to use codes and to dispatch and receive its official correspondence by courier or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.

Article 8 – Privileges and immunities for persons employed in the service of the Community

1. The Partner States shall ensure that persons employed in the service of the Community enjoy in the territory of each Partner State, treatment not less favorable than that accorded by the Government of that Partner State to similar international organizations.
2. For the purposes of paragraph 1, persons employed in the service of the Community shall be accorded privileges and immunities accorded to similar international organizations in the Partner States in respect to:
 - (a) immunity from civil process in the performance of their official duties;
 - (b) matters of taxation on the salaries and emoluments;
 - (c) immunity, with their dependents, from immigration restrictions, alien registration and from national service obligations;
 - (d) privileges in respect of exchange control facilities;
 - (e) repatriation facilities, together with their spouses and members of their family forming part of the household, in time of crisis; and

- (f) customs duty and other taxes, on household and personal effects and other goods for personal use or use by the dependents, including goods necessary for their initial settlement, in accordance with the Customs law of the Community.
3. Without prejudice to their privileges and immunities it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of a Partner State where that person is employed and shall not interfere in the internal affairs of that Partner State.
 4. The names and designations of persons employed in the service of the Community in a Partner State shall be communicated to that Partner State at least once every year at the beginning of every calendar year.
 5. The Secretary General shall notify the Partner States where the person in the service of the Community is employed:
 - (a) of the appointment of that person and the termination of the employment of that person with the Community; and
 - (b) of the arrival in and final departure from the Partner State of a dependent and, where appropriate, the fact that a person becomes or ceases to be a dependent of that person.
 6. The privileges and immunities in this Article are granted to persons employed in the service of the Community in the interest of the Community and not for the personal benefit of the individuals concerned.
 7. The Secretary General may waive the immunity of any official in any case where, in the opinion of the Secretary General, the immunity would impede the course of justice and where the waiver will not prejudice the interests of the Community.
 8. In the case of the Secretary General, the members of the East African Legislative Assembly, the Judges of the East African Court of Justice, the Deputy Secretaries General and Chief Executives of the Institutions of the Community, the Council may waive the immunity where the immunity would impede the course of justice and where the waiver will not prejudice to the interests of the Community.

Article 9 – Cooperation with Partner States

1. The Community shall co-operate with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities conferred pursuant to this Protocol.
2. For purposes of paragraph 1, a Partner State may, in accordance with Article 4 and Article 8 paragraph 7 and 8, request for a waiver of immunity and privileges granted in this Protocol and the Community shall promptly examine such a request for a waiver of immunity made by a Government of a Partner State.

Article 10 – Settlement of disputes

1. The Partner States undertake to amicably settle any disputes arising from interpretation and application of this Protocol by mutual understanding.
2. Where Partner States are not able to settle such disputes under paragraph 1, the dispute shall be referred to the East African Court of Justice in accordance with the Treaty.

Article 11 – Amendment of the Protocol

This Protocol may be amended by the Partner State in accordance with Article 150 of the Treaty.

Article 12 – Entry into force

This Protocol shall enter into force upon ratification and deposit of the instruments of ratification with the Secretary General by all the Partner States.

Article 13 – Depository and registration

1. This Protocol and all instruments of ratification shall be deposited with the secretary general who shall transmit certified true copies therefore to all the Partner States.
2. The Secretary General shall register this protocol with the African Union, the United Nations, and such other organizations as the Council may determine.

IN WITNESS WHEREOF the undersigned have appended their signatures hereto:

DONE at ARUSHA, TANZANIA this _____ day of April 2015 in six originals all done in the English language and all of them being equally authentic.