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THE EAST AFRICAN COMMUNITY ONE STOP BORDER POSTS
ACT, 2016

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SCHEDULE

**THE EAST AFRICAN COMMUNITY ONE STOP
BORDER POSTS ACT, 2016**

An Act of the Community to provide for the establishment and implementation of one stop border posts in the Community, and for other related matters.

Date of assent 1st December, 2015.

Date of commencement See section 1(2).

ENACTED by the East African Community and assented to by the Heads of State:

**PART I
PRELIMINARY PROVISIONS**

1. (1) This Act may be cited as the East African Community One Stop Border Posts Act, 2016

Short title and commencement.

(2) This Act shall come into force on such date as the Council may, by notice in the Gazette, appoint.

Inter-
pretation.

2. (1) In this Act, unless the context otherwise requires—

“adjoining Partner State” means a Partner State whose officers perform border controls within the control zone in the host Partner State;

“border controls” means any border related control measures, checks and authorizations, without limitation, provided for in the national laws and regulations of the Partner States;

“Community” means the East African Community established under Article 2 of the Treaty;

“competent authorities” means any ministries or other government entities of the Partner States assigned responsibilities for border controls by their national laws;

“control zone” means the territory of the host Partner State within which officers of the adjoining Partner States effect border controls, including the exclusive use area;

“Council” means the Council of Ministers established by Article 9 of the Treaty;

“exclusive use area” means that area of the control zone dedicated for the exclusive use of the adjoining Partner State;

“facilitation agents” means any person other than an officer, providing services to the completion of border controls by passengers or freight in accordance with the national laws of the Partner States;

“Gazette” means the official Gazette of the Community;

“host Partner State” means the Partner State in whose territory the border controls of the adjoining Partner State are effected;

“law enforcement agency” means any person or agency empowered by the national laws of a Partner State to enforce those laws;

“National Gazette” means the official Gazette of any Partner State;

“officer” means a person responsible for conducting border controls in accordance with the national laws of the Partner States or the laws of the Community;

“one stop border post” means a border post established under section 4;

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

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“single window system” means a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export and transit related regulatory requirements;

“Treaty” means the Treaty for the Establishment of the East African Community.

Objective for the establishment of one stop border posts.

3. The objective of this Act is to enhance trade through the efficient movement of goods, persons and services within the Community.

PART II CONTROL ZONES

Establishment of one stop border posts.

4. The Partner States shall establish and implement one stop border posts at their common borders and may enter into such bilateral arrangements as shall be necessary for the purposes of implementing this Act.

Establishment and designation of control zones.

5. (1) The Partner States shall implement one-stop border processing arrangements by establishing and designating control zones at their respective common border posts.

(2) The control zones established and designated under sub section (1) may, at the discretion of the adjoining Partner States, be juxtaposed or straddled or wholly located in the territory of one Partner State or some other mutually agreed configuration.

(3) The control zones established and designated under sub section (1) shall be so arranged that, for each direction of travel, border controls shall be carried out in the Partner State of entry or, depending on the configuration, from a single stop location.

Limitations to effecting of border controls.

6. Subject to section 53, a border control shall not be carried out in the Partner State of exit except by express agreement of the adjoining Partner State where such border control is necessitated by configuration or other practical considerations.

7. (1) A control zone shall comprise the specifically demarcated and secured physical areas as shall be mutually agreed upon between the relevant Partner States.

Demarcation and security of control zones.

(2) Each Partner State shall publish the demarcation details of the control zone within its territory in the National Gazette.

(3) Each Partner State may amend the demarcation of the control zones within its territory and such amendment shall be communicated to the adjoining Partner State and the Secretary General in writing within thirty days of the date of amendment.

(4) The Partner State in whose territory the amendments take place shall publish such amendments in the National Gazette.

(5) The Secretary General shall publish the demarcation details of the control zone in the Gazette.

(6) The demarcated zones and any subsequent amendments shall come into effect upon publication in the National Gazette.

8. (1) The competent authorities of each Partner State shall display official signs to ensure that their exclusive use areas in the control zones are clearly identified.

Exclusive use areas within control zones.

(2) The officers of the adjoining Partner State shall control access and egress and keep order in their exclusive use area within the control zone of the host Partner State and shall, if the need arises, request assistance from the competent authorities of the host Partner State for this purpose.

(3) The officers or members of a law enforcement agency of the host Partner State shall not have access to the exclusive use area of the adjoining Partner State, except at the request or with the permission of the officers of that adjoining Partner State.

Traffic control.

9. The competent authorities of the Partner States shall adopt and enforce efficient movement of persons, goods and services along traffic control routes and procedures and traffic rules within and through the control zones.

Synch-ronized hours of operation.

10. The competent authorities of the adjoining Partner States shall adopt synchronized business hours for their respective operations in the control zones.

PART III CONDUCT OF BORDER CONTROLS

Officers to carry out border controls in host Partner State.

11. (1) The officers of the adjoining Partner State shall carry out border controls within the control zones in the host Partner State.

(2) The officers of the adjoining Partner State shall exercise border controls within the control zone in the territory of the host Partner State in accordance with the border control laws of the adjoining Partner State, including the exercise of any powers of arrest, search, seizure of property, detention of persons, and all such other powers as may be specifically provided for in the border control laws of the adjoining Partner State.

(3) For the purpose of enabling officers of each Partner State to carry out border controls at a one stop border post in the territory of one or more adjoining Partner States under this Act, the border control laws of each Partner State shall mutually have extra-territorial application.

12. (1) The exit formalities of the Partner State of exit shall be carried out before the entry formalities of the Partner State of entry and such formalities shall, to the extent possible, be carried out jointly and shall be sequenced as may be mutually agreed upon by both Partner States depending on practical considerations. Sequence of controls.

(2) The officers of the Partner State of entry shall not carry out border controls before the officers of the Partner State of exit have completed their border controls and, without prejudice to the approach adopted under subsection (1), such handover shall be by way of a final official stamp to that effect or electronic release received by the Partner State of entry.

(3) The officers of the Partner State of exit shall not carry out border controls after the officers of the Partner State of entry have begun their own border controls, except with the consent of the officers of the Partner State of entry, duly authorized to take such decisions, which consent shall not be unreasonably withheld.

13. (1) Notwithstanding section 12, the respective officers of the Partner States shall jointly conduct physical inspections and verifications, undertake searches, take samples of cargo and inspect means of transport, or where such is not reasonably practical, in immediate succession. Joint controls.

(2) Without prejudice to subsection (1), a Partner State may rely on the inspection and search results of the officers of the other Partner State, which results shall not be unreasonably withheld.

14. (1) Where in exceptional circumstances, in the course of border controls the sequence provided for in section 12 is modified, the officers of the Partner State of entry shall not proceed to conduct detentions, arrests or seizures until the border controls of the Partner State of exit are completed. Reversal of controls.

(2) Subject to sub-section (1), the officers of the Partner State of entry shall escort the person, vehicle, animal, merchandise or other goods for which the border controls of the Partner State of exit are not yet completed, to the officers of the Partner State of exit who may proceed to take such measures as they deem necessary.

Obligation to re-admit.

15. (1) Where the Partner State of entry declines to admit any person, vehicle, animal, merchandise, or other goods, or if such person decides not to pass through the border controls of the Partner State of entry, or send or take back any vehicle, animal, merchandise or other goods under his or her control, the authorities of the Partner State of exit shall accept back such person, vehicle, animal, merchandise, or other goods.

(2) Without prejudice to subsection (1), the competent authorities of the Partner State of exit may take any measures to deal with a person under that subsection in accordance with the national laws of the Partner State of exit and in a manner that does not impose obligations on the Partner State of entry.

Use of single window system.

16. (1) Each Partner State may, in carrying out its controls, utilise the single window system.

(2) The Council may, by regulations, prescribe guidelines for the utilization of the single window system.

Free transfer of money and goods to own territory.

17. The officers of the adjoining Partner State shall transfer sums of money levied on behalf of their Government in the host Partner State's control zone, as well as merchandise and other goods lawfully seized, to the adjoining Partner State.

Higher levels of trade facilitation

18. (1) Nothing in this Act shall prevent adjoining Partner States from agreeing to higher levels of trade facilitation at their common borders through the integration of their border control

structures between themselves including reliance on officers of one Partner State carrying out controls on behalf of the other Partner State in terms of that other Partner State's national laws.

(2) Higher levels of trade facilitation referred to under subsection (1) may include provision of such facilitation to vulnerable groups and persons with disabilities as the Partner States may determine.

(3) The powers to be exercised by officers in circumstances under subsection (1) shall be agreed upon between the relevant Partner States in bi-lateral arrangements under this Act.

PART IV APPLICATION OF BORDER CONTROL LAWS

19. (1) The laws relating to border controls of the adjoining Partner State shall apply in the control zone in the host Partner State and shall be effected by the officers of the adjoining Partner State in the same way as in their own territory.

Laws to apply in same way as in own territory.

(2) A breach of the laws relating to border controls of the adjoining Partner State which is detected in the control zone of the host Partner State shall be subject to the laws of the adjoining Partner State as if the breach had occurred in the territory of the adjoining Partner State.

(3) The officers of the adjoining Partner State may, under the border control laws of the adjoining Partner State, detain, question, search or arrest any person in the control zone of the host Partner State who is exiting the adjoining Partner State and may, in the course of conducting their border controls, escort such person to the adjoining Partner State.

Limitations to application of border control laws.

20. (1) The officers of the adjoining Partner State shall not, in the control zone of the host Partner State, arrest or detain a person exiting the host Partner State or escort such person to the territory of the adjoining Partner State.

(2) The officers of the adjoining Partner State may require a person exiting the host Partner State to report at the office of the adjoining Partner State or at the office of the host Partner State, in order that a statement may be taken from him or her; and in the former case, an officer of the host Partner State shall be notified and shall be present while a statement is taken and may participate in the questioning and remain present as long as the person in question so requests.

(3) Nothing in subsection (1) or (2) shall prevent an officer of the adjoining Partner State from passing on information to the host Partner State relating to any person or goods exiting the host Partner State which information can only be acted upon once such adjoining Partner State assumes jurisdiction over such person or goods within its own territory.

Consistent operational procedures.

21. The Partner States shall develop and implement operational procedures to facilitate the application of their border controls.

Information and communication technologies.

22. The Partner States shall develop and implement comprehensive mandatory information and communications technology requirements at their common borders to enable seamless, reliable and effective data exchange of high integrity and appropriate format within and between the various agencies of the adjoining Partner States operating at the common borders, including reliable, compatible and transparent cargo clearing and tracking systems within the territories of the Partner States.

PART V
APPLICATION OF CRIMINAL LAWS

23. Any act or omission by a citizen or resident or any other person who has not completed the exit procedures of a Partner State which occurs at a one stop border post in the control zone of an adjoining Partner State shall be regarded as if it had occurred within the territory of the Partner State of exit.

Criminal acts in terms of border control laws.

24. (1) Subject to section 8 (3), the law enforcement agencies of the host Partner State shall maintain peace, security, law and order, and deal with non border control related criminal offences committed in the control zone.

Criminal acts in terms of non border control laws.

(2) With respect to border control related criminal offences, the law enforcement agencies of the Partner States shall carry out independent border control activities in the control zone or assist border control officers in effecting their controls as mandated by their national laws.

(3) Nothing in this Act shall restrict the host Partner State from maintaining law and order and prosecuting offences committed within its territory.

25. Notwithstanding section 20, the law enforcement agencies of the adjoining Partner State may, in the control zone in the host Partner State, arrest a person exiting the host Partner State upon reasonable ground for suspecting that such person has committed an offence, except that—

Limitations to application of criminal laws.

(a) such arrest shall be authorized by a warrant issued by an authority or court of competent jurisdiction in the adjoining Partner State; and

(b) the name or description and particulars of the offence shall be made available by the competent authorities of the adjoining Partner State to the competent authorities of the host Partner State.

Assistance and joint operations to combat crime.

26. (1) The law enforcement agencies of the host Partner State shall, upon request, assist the law enforcement agencies of the adjoining Partner State in effecting their mandated controls in the control zone including, without limitation, the transfer of suspects and exhibits, the provision of secure holding cells and related facilities.

(2) The adjoining Partner States may agree to modalities for carrying out security related joint border patrols beyond the control zones and within defined limits in each adjoining Partner State's territory to combat cross-border crime.

PART VI CONDUCT OF OFFICERS

Officers to move freely in control zone.

27. The officers from the adjoining Partner State shall move freely in the control zone of the host Partner State for official purposes, and shall not be required to produce passports or visas and may pass through border controls of the host Partner State upon producing appropriate evidence of their identity and status.

Number of officers, names and designations.

28. (1) The Partner States shall determine the number of officers who shall perform duties in the adjoining Partner State, taking into account the passenger and vehicle volumes at any peak point in time.

(2) The competent authorities of the adjoining Partner State shall inform the competent authorities of the host Partner State in writing of the names and designation of the officers that shall be working within the control zone of the host

Partner State and, in the event of any change, the competent authorities of the adjoining Partner State shall promptly communicate such change to the competent authorities of the host Partner State.

29. (1) Every officer of the adjoining Partner State shall, while performing duties in the control zone of the host Partner State, wear the official uniform and visible distinctive insignia and visibly display the officially issued identification badges. Identification of officers.

(2) Where the officer is not required to wear uniform by virtual of his or her work, such officer shall display the officially issued identification badge.

30. (1) An officer of the adjoining Partner State shall not carry firearms except by special arrangements with the host Partner State. Carrying of weapons.

(2) In cases where a show or use of arms is required, an officer of the adjoining Partner State may enlist the assistance of the law enforcement agents of the host Partner State and such assistance shall not be unreasonably denied.

31. Each adjoining Partner State shall appoint an officer serving in the host Partner State to act as the main contact person for communication with the competent authorities of the host Partner State, and nothing in this section shall prevent officers representing individual border control agencies of the adjoining Partner State from collaborating and consulting with officers from their counterpart agencies of the host Partner State during the course of the day-to-day performance of their functions in the control zone. Contact person for communication.

32. (1) The authorities of the host Partner State shall grant protection and assistance to officers of the adjoining Partner State in the exercise of their functions in the control zone, as they grant the officers of the host Partner State. Protection and assistance to officers.

(2) The laws of the host Partner State relating to the protection of officers in the exercise of their functions shall apply equally to the punishment of offences committed against officers of the adjoining Partner State in the exercise of their functions.

Compensation for loss.

33. A claim for compensation for loss, injury or damage caused by or to an officer of the adjoining Partner State in the course of his or her functions in the control zone of the host Partner State shall be subject to the laws of the adjoining Partner State as if the circumstance giving rise to the claim had occurred in the territory of the adjoining Partner State.

Prosecution of officers.

34. An officer of the adjoining Partner State may be prosecuted for an offence committed by the officer in the control zone of the host Partner State in the course of his or her functions and, in such a case, such officer shall come under the jurisdiction of the adjoining Partner State, as if he or she had committed the offence in the adjoining Partner State.

Investigation of offences.

35. (1) The law enforcement authorities of the host Partner State shall investigate, record and communicate to the competent authorities of the adjoining Partner State, all the particulars and evidence of any offence alleged to have been committed in the control zone of the host Partner State by an officer of the adjoining Partner State.

(2) An officer of the host Partner State who investigates a matter under subsection(1) shall be a competent witness in proceedings of an offence committed in the control zone of the host Partner State to which he or she is an investigating officer or witness, involving a member of the public or an officer of the adjoining Partner State.

PART VII
FACILITIES IN THE CONTROL ZONE

36. (1) The Partner States shall provide comparable office and other accommodation within the facilities located in the host Partner State and shall not be subjected to any cost related to the occupation and maintenance of such premises.

Provision of facilities in control zones.

(2) The Partner States shall offer utilities on a reciprocal basis to the adjoining Partner State and staff facilities designed for officers of the host Partner State shall be shared with officers of the adjoining Partner State.

37. Subject to proper declarations being made and appropriate inventories being kept, all equipment which is necessary to enable an officer of the adjoining Partner State carry out official functions in the control zone of the host Partner State shall be freely transferable within the control zone and shall not be regarded as imports or exports on entry or exit.

Equipment for official use

38. (1) An officer of the adjoining Partner State shall, while exercising official functions in the host Partner State, be authorized to establish such communication links to the adjoining Partner State as may be required for such purpose including, but not limited to, the extension of his or her local area telecommunication and other networks into the control zone of the host Partner State.

Communication links to own territory

(2) The authorities of the host Partner State shall, where necessary, assist an officer of the adjoining Partner State to obtain telecommunications and other communication services subject to the prevailing commercial costs and conditions.

Harmonisation of structures and facilities

39. The Partner States shall harmonize the structures and facilities in the control zones through coordinated designs and procurement of related construction, maintenance and management services, and shall consult both internal and external public and private sector stakeholders for input regarding their requirements in the control zones.

Public use facilities

40. Notwithstanding anything to the contrary in this Act, the Partner States shall ensure that adequate and appropriate facilities are provided within their respective control zones to the public that utilize the one stop border post, including without limitation, special facilities for persons with disabilities, ablution, food, banking and other essential facilities.

PART VIII

CONDUCT OF FACILITATION AGENTS

Access to control zones by facilitation agents.

41. The facilitation agents of adjoining Partner States shall have reasonable access to the control zones for official purposes and shall not be required to produce any travel document or visas, but shall access the control zones using identity and status cards issued for that purpose by the adjoining Partner State.

Vetting, registration, names and particulars.

42. (1) The Partner States shall, in consultation with the national facilitation agents associations, agree on the criteria for the vetting, registration and the number of facilitation agents that shall be afforded access to the control zones under this Act.

(2) The competent authorities of the adjoining Partner State shall submit to the host Partner State in writing, the names and full particulars of the facilitation agents that shall be working within the control zone of the host Partner State and in the event of any changes the competent authorities of the adjoining Partner State shall promptly communicate such change to the competent authorities of the host Partner State.

43. Every facilitation agent shall, while in the control zone, wear his or her agency uniform and visibly display the identification badges issued for that purpose by the adjoining Partner State.

Identification of facilitation agents.

44. (1) Every facilitation agent shall, in the exercise of his or her functions in the control zone be subject to the laws of the host Partner State.

Laws applicable.

(2) Notwithstanding subsection (1), a facilitation agent shall provide his or her services in accordance with the border control laws of the Partner State under whose controls such facilitation agent is working.

45. Each Partner State shall, in consultation with the facilitation agents, determine the facilities which the Partner State shall accord to facilitation agents of the adjoining Partner State in the control zone within its territory, including the applicable terms and conditions attached to those facilities.

Facilities for facilitation agents.

46. Subject to proper declarations being made and appropriate inventories being kept, all equipment which is necessary to enable the facilitation agents of the adjoining Partner State carry out their functions in the control zone of the host Partner State shall be freely transferable within the control zone and shall not be regarded as imports or exports on entry or exit.

Equipment for official use.

47. Every facilitation agent from the adjoining Partner State shall, whilst in the exercise of his or her functions in the control zone of the host Partner State, be authorized to communicate with his or her national offices and to establish such communications as may be required for this purpose.

Communication with national offices.

Transfer of money.

48. A facilitation agent from the adjoining Partner State may, subject to the adjoining Partner State's exchange control laws and regulations, transfer any sums of money received for facilitation services in the host Partner State's control zone to the adjoining Partner State.

Access to electronic control systems.

49. The Partner States shall, for purposes of simplifying and expediting the clearance of commercial traffic through the one stop border posts, adopt the electronic control system for use by the facilitation agents and introduce appropriate and mandatory pre-clearance procedures.

PART IX
INSTITUTIONAL ARRANGEMENTS

Coordination and monitoring of one stop border posts

50. For the purposes of this Act, the Council shall mandate the relevant institutions of the Community to—

- (a) coordinate the establishment of one stop border posts within the Community to ensure uniformity of approach in the one stop border post concept between adjoining Partner States;
- (b) monitor the establishment of one stop border posts at the various borders within the Community to ensure full compliance with this Act;
- (c) set specific programmes for the establishment and implementation of one stop border controls at existing and future border posts within the Community;
- (d) initiate policies for the improvement of the efficiencies of the established one stop border posts and any related trade facilitation matters; and
- (e) perform such other functions as may be delegated by the Council.

PART X
GENERAL PROVISIONS

51. (1) Upon the coming into force of this Act, the border posts specified in the Schedule shall operate as one stop border posts in the Community. Transitional

(2) The Council may amend the Schedule.

52. (1) A Partner State may take temporary measures in the interests of defence, security, public safety, public order or public health. Temporary measures

(2) The temporary measures under subsection (1) shall not exceed a period of three months and shall include, but not limited to, the reversal of the sequence or location of controls or the temporary closure of the border posts within that adjoining Partner State's territory.

(3) A Partner State may, upon the expiry of the period specified under subsection (2), request the relevant Partner State for an extension for a further period of three months or for such further period as the Partner States may agree.

53. (1) An adjoining Partner State taking any temporary measures under section 52 shall, prior to taking such temporary measures, inform all the other Partner States without delay, through the exchange of diplomatic notes and notify the Secretary General. Rights of Partner States to take temporary measures

(2) In circumstances where prior notification is not practical, an adjoining Partner State taking such temporary measures shall simultaneously inform all the other Partner States of the temporary measures taken, through the exchange of diplomatic notes and notify the Secretary General.

(3) The adjoining Partner States shall take responsibility to expeditiously inform their officers working in the control zones about the temporary measures taken by a Partner State under section 52.

Disputes
between
Partner
States

54. (1) Where a Partner State fails to meet its obligations under this Act, any of the other Partner States may appeal to the Council in writing to have the matter resolved.

(2) Where the Council fails to resolve a matter referred to it, the matter may be referred to the East African Court of Justice.

Regulations

55. (1) The Council may make regulations providing for any matter which by this Act is required to be prescribed or which the Council considers necessary for giving effect to the purposes of this Act.

(2) Notwithstanding the generality of subsection (1), the Council shall make regulations—

(a) prescribing operational procedures for the harmonization of documents, mandatory pre-clearance of imported and transit goods and entrenchment of existing arrangements for people living around the common border;

(b) for the harmonisation of structures and facilities in the control zones.

Act to take
precedence

56. This Act shall take precedence over the Partner States' laws with respect to any matter to which its provisions relate.

SCHEDULE

s. 51

**COMMON BORDER POSTS IN THE EAC DESIGNATED
AS ONE STOP BORDER POSTS**

No.	Country A	Country B	Name in Country A	Name in Country B
1	Kenya	Tanzania	Taveta	Holili
2	Kenya	Tanzania	Isebania	Sirari
3	Kenya	Tanzania	Namanga	Namanga
4	Kenya	Tanzania	Lunga Lunga	Horohoro
5	Kenya	Uganda	Busia	Busia
6	Kenya	Uganda	Malaba	Malaba
7	Tanzania	Uganda	Mutukula	Mutukula
8	Burundi	Rwanda	Gasenyi	Nemba
9	Burundi	Rwanda	Ruhwa	Ruhwa
10	Burundi	Rwanda	Kanyaru	Akanyaru
11	Rwanda	Uganda	Kagitumba	Mirama Hills
12	Rwanda	Uganda	Gatuna	Katuna
13	Burundi	Tanzania	Mugina	Manyovu
14	Burundi	Tanzania	Kobero	Kabanga
15	Rwanda	Tanzania	Rusumo	Rusumo